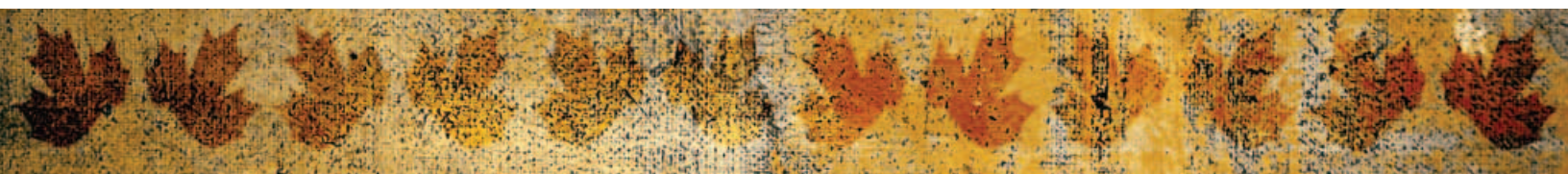
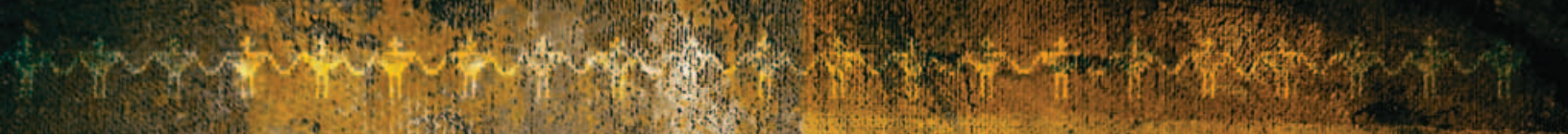


Truth and Reconciliation Quakers in Action



“The healing is happening – the reconciliation...I feel that there’s some hope for us not just as Canadians, but for the world because I know that I’m not the only one.”

-Survivor Alma Mann Scott (TRC Report Summary, 2015)



Truth and Reconciliation
**Quakers in Action: Two Years from the Closing of the TRC & the
10th Anniversary of the *UN Declaration on the Rights of Indigenous
Peoples***

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Truth and Reconciliation: A Guide for Canadian Quakers (2015):

<http://quakerservice.ca/TRCGuide2015>



For more information, or to arrange a CFSC visit to your Meeting, social concerns committee, or study group, please contact Quaker Indigenous Rights Coordinator, Jennifer Preston: Jennifer@quakerservice.ca or 416-920-5213

Produced February 2019

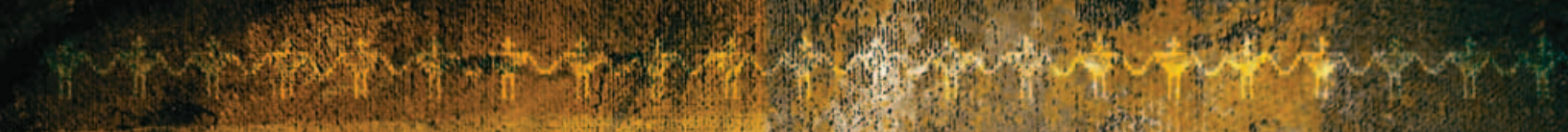
Minute from Canadian Yearly Meeting (CYM) 2016

Truth & Reconciliation 16-08-30

At Yearly Meeting 2015 Friends approved Minute 2015.08.33 calling on individual Friends to read the Report of the Truth and Reconciliation Commission (TRC) and the *Calls to Action*. The Minute asks Friends to listen expectantly to the Spirit for guidance on what steps they may be personally led to take. It also asks Monthly Meetings and Worship Groups to engage with the materials shared by the Indigenous Rights committee of Canadian Friends Service Committee (CFSC) and prayerfully consider what actions they may take in working for reconciliation in their communities. We committed to minute our progress for the year at this Yearly Meeting.

Much has happened since our last Yearly Meeting (2015):

- We now have a new federal government that has stated it accepts all of the TRC's *Calls to Action* and that it will implement the *United Nations Declaration on the Rights of Indigenous Peoples*. This has changed the dynamic and the tone of public discourse on Indigenous Peoples' rights in Canada.
- CYM and CFSC jointly issued a Quaker Response in March 2016 to Call to Action 48, and we submitted this to the TRC. We affirmed in our statement that we have "endorsed, celebrated and committed to implement the *UN Declaration on the Rights of Indigenous Peoples*" as stated in previous minutes (2010.08.50, 2009.08.70). We received a warm reply from Justice Murray Sinclair, Chair of the TRC, thanking us for our work. He particularly liked that we had committed to an annual review of our progress.
- CYM and CFSC also collaborated with other faith bodies, some of which were church parties to the Indian Residential Schools Settlement Agreement and some of which were not, in issuing a joint ecumenical statement on Call to Action 48. CFSC's Indigenous Rights coordinator participated in drafting. This was a worthwhile process in working to find common ground amongst faith bodies regarding their role in the reconciliation process.
- CFSC's Indigenous Rights committee educated Friends on such critical issues as free, prior, and informed consent; genocide; and intergenerational trauma.
- Meetings and Worship Groups have visited nearby Indigenous communities; organized discussion groups in partnership with local Indigenous Peoples; are attending educational events such as workshops and film screenings; are learning about and honouring Friends' role as Treaty partners; and are placing the *UN Declaration* in poster and booklet form in their Meetinghouses.
- Some individual Friends have been led to stand alongside Indigenous Peoples in defending their traditional territories, including civil disobedience resulting in arrest.



During the year, CFSC has explored the work of Reconciliation with many Meetings, Worship Groups and Half Yearly Meetings. As Friends engage in the work of reconciliation, we are committed to grounding our actions in our Spiritual practices, particularly of speaking to that of the Creator in everyone. Let Friends first listen to the concerns of Indigenous Peoples. We know it is not sufficient to be well-intentioned and make assumptions about what is best for Indigenous Peoples without asking what it is they want and need. All actions require the guidance of the Indigenous Peoples involved and need to be done with respect, cooperation and ongoing consultation.

We, as Friends, also need to be open to being challenged in our assumptions about the many destructive facets of colonial legacies and continuing racist practices and policies that constitute Canada's historical and contemporary realities. We acknowledge that part of our journey is to decolonize our own thinking and sit in the discomfort and pain of confronting where we need to deepen our understanding, bear witness, and transform our behaviour.

While Friends corporately have often been on the forefront of advocating for Indigenous Peoples' human rights, it is now time to prioritize this work and take it to the next level. Friends recognize that reconciliation requires us to continue to learn, grow, and establish and nurture relationships with Indigenous partners. We are a Society of Friends, and friendship entails a relationship greater than simply understanding our colonial history. As Friends, we commit to walking the path of friendship, following these instructive words:

I think about what I want for my children and grandchildren. What I want for them is to be loved and love other people in this country. Not to tolerate them, not to go to our respective corners and stop hurting each other, but to be wrapped up and engaged in each other's lives. - Douglas White, Kwulasultun (Coast Salish name), Tliishin (Nuu-chah-nulth name), Director of the Centre for Pre-Confederation Treaties and Reconciliation (VIU), former Chief of Snuneymuxw First Nation

For Canada to grow and heal we must be active participants in a paradigm shift, moving from colonialism to a new reality based on respect for Indigenous Peoples' Human Rights. We are reminded that we have CFSC's Indigenous Rights committee to assist us and provide resources for this work.

We ask Monthly Meetings and Worship Groups:

- To continue to **educate themselves**, including children and youth, about the doctrine of discovery, the ongoing effects of colonialism, the *UN Declaration*, residential schools and their legacy (including the TRC Report), the history of the land on which they live, and reconciliation efforts.
- To formally **acknowledge the traditional territories** where their Meetings are located and engage in processes of reflection on the meaning of this. Acknowledgments can be accomplished through signage, statements during the close of Meeting, and inclusion in information provided to any community groups who use Meeting House space.
- To find out about **current concerns of Indigenous Peoples** from those territories, including land appropriation or resource development, with which the Meeting could be engaged.
- To investigate projects of **cultural revitalization** that Indigenous Peoples are involved in and discern if there is an appropriate role (including funding) that Friends can play.
- To uphold and **support individual Friends involved with grassroots Indigenous rights work** and provide spiritual support to Friends led to this work. This might include offering committees of care and approving minutes of support.
- To **report back annually** through the Indigenous Rights committee of CFSC on actions taken. We ask CFSC to collate such information in their CYM report.



Canadian Friends visit the Samson Cree Nation on a visit to Maskwacis during CYM in Alberta in 2016.

Photo: Matt Legge



Queries for Reflection

1. Does my local Meeting know and acknowledge the traditional Territory on which we hold our worship and gatherings?
2. Do I challenge my assumptions about colonization and continuing racist practices and policies?
3. How can we follow leadings of the Spirit, both individually and in our Meetings, to actively ensure Canada decolonizes?
4. How is the journey of reconciliation consistent with Friends' testimonies and practice?
5. What is our role in furthering reconciliation and how can we follow leadings of the Spirit to deepen our engagement?
6. How can I be involved in respectfully supporting the current concerns of Indigenous Peoples near where I live and/or worship?
7. Do my actions support Indigenous self-determination and sovereignty? Am I "in solidarity" only because I already agree on this issue?
8. How am I learning about Indigenous Peoples? Is it through their own voices or is it through mainstream media that often silences dissenting or different voices?

What Friends are Doing: Reconciliation in Practice

In response to the 2016 CYM action point, which asked Friends across Canada to report back to Canadian Friends Service Committee on their annual reconciliation work, the following is a compilation of what Friends are doing and can do to become involved in reconciliation, organized according to the action points from the 2016 minute from the CYM gathering (pages 4-5 above). These examples of such activities cover many, but not all, of the details included in the Monthly Meeting and Working Group reports provided to CFSC in the spring of 2017.

We encourage Monthly Meetings and Worship Groups (MM & WG) to reach out to each other, to share learnings, practices, challenges, and growth from engaging in such actions. We can inspire and support each other as we continue the reconciliation journey and learn to be in right relation. Each MM & WG has a designated contact person for the actions listed below, and QIRC can connect you with that person if you wish to learn more and/or replicate the action at your local level.

We also encourage MM & WG to continue to send us reports of your activities for inclusion in future reports. You can read the current report online at <http://quakerservice.ca/ReconciliationReport2017>. Excerpts are below.

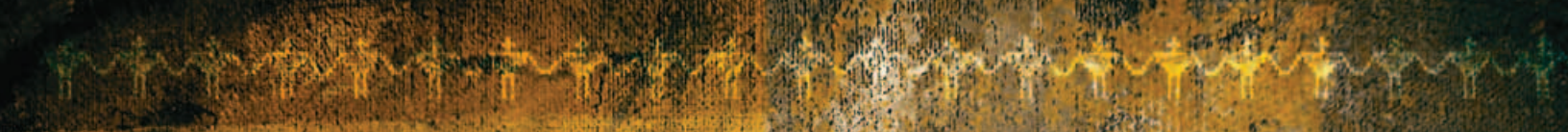
1. To continue to educate themselves, including children and youth, about the doctrine of discovery, the ongoing effects of colonialism, the UN Declaration, residential schools and their legacy (including the TRC Report), the history of the land on which they live, and reconciliation efforts.

Annapolis Valley MM established an Ad-hoc Truth and Reconciliation Committee, which among other activities, has been publishing a newsletter with relevant events and campaigns and creating a background document on the history of treaty relationships in the Annapolis Valley, and engaging in continued learning of right relationships.

Multiple MM's have supported and participated in **Blanket Exercises** as well as other events such as a 600km pilgrimage in support of the *UN Declaration*, reflection sessions using the CFSC materials on repudiating the Doctrine of Discovery as well as other events supporting reconciliation within Indigenous and Quaker communities.

Vancouver Island MM established a working group committed to education and sharing information on relations with First Nations, in response to the 2016 CYM minute.

Winnipeg MM printed and distributed over 5,000 pamphlets with TRC's 94 Calls to Action, among other actions.



2. To formally acknowledge the traditional territories where their Meetings are located and engage in processes of reflection on the meaning of this. Acknowledgments can be accomplished through signage, statements during the close of Meeting, and inclusion in information provided to any community groups who use Meeting House space.

Multiple MMs & WGs have acknowledged the traditional territory they live and worship on by posting on their Facebook pages, websites, brochures, and by adding plaques and signage to their Meetinghouses.

Ottawa MM recently approved revisions to its Guidelines for Use of the Meetinghouse that included specifics on how to provide free use of the premises for local Indigenous events, groups and organizations.

Two members of **Winnipeg MM** were instrumental in the formation and work of *Share the Gifts – Honor the Treaties*, a grassroots organization of Indigenous and non-Indigenous people who work towards honoring the Treaty relationships.

To learn which traditional territory you live or worship on: <https://native-land.ca/>

3. To find out about current concerns of Indigenous Peoples from those territories, including land appropriation or resource development, with which the Meeting could be engaged.

A coalition was formed between the Chippewas of the Thames First Nations and people in Beechville and the **Coldstream MM** to prevent the formation of a garbage dump that would leach into the Thames River.

Members of **Cowichan Valley MM** attended an awareness and fundraising presentation in Duncan by the Unist'ot'en in support of their traditional camp and healing lodge in the Wet'suwet'en matrilineal territory, preventing pipeline and tanker logistical support.

Many Friends have been engaging and working with members of Indigenous communities across Canada independently for decades in an effort to support Indigenous rights and interests such as supporting men who are standing up against violence against women, holding educational events, and more.

Ottawa MM has been supporting Centre 510, a drop-in center for homeless Indigenous people run by the local Friendship Centre, with annual Meeting and individual donations. One member of Ottawa MM has been coordinating the 100+ volunteers supporting Centre 510, and several Meeting members have been volunteering at 510 on a regular basis.

4. To investigate projects of cultural revitalization that Indigenous Peoples are involved in and discern if there is an appropriate role (including funding) that Friends can play.

Many Members have been coordinating and participating in projects of cultural revitalization with Indigenous communities. These efforts include youth summer camps, creating leadership workshops for Indigenous women, developing workshops on community resilience to suicide, and more.

Yonge St. MM sent four parcels of art supplies, accompanied by messages of support from people in the Meeting, to Attawapiskat after the youth suicide crisis in that community.

5. To uphold and support individual Friends involved with grassroots Indigenous rights and provide spiritual support to Friends led to this work. This might include offering committees of care and approving minutes of support.

We encourage Meetings to support individual Friends who are engaged with Indigenous rights' activities, especially when Friends have carefully discerned and are responding to leadings of the Spirit. Such Friends will have listened to Indigenous people and chosen to respond to requests for solidarity, which may include civil disobedience.

We thank Friends for their work and support of reconciliation and encourage more Friends to become involved. Please continue to send us your reports of MM and WG actions in support of Indigenous Peoples' human rights.



Laurie Buffalo hosted Friends at the Samson Cree Nation Pow Wow August 2016. Photo: Matt Legge

Resources from Quaker Concern

Truth-Telling about Colonial Legacies: Intergenerational Trauma and Resilience

By Heather Neun, Vancouver MM, member of CFSC's Indigenous Rights committee

CFSC has been very engaged in the work of the Truth and Reconciliation Commission (TRC) and continues work on reconciliation as an ongoing and long-term objective. The TRC's final report on Indian Residential Schools (IRS) challenges us to explore the legacy and truth of destructive colonial legacies. The TRC introduced Canadians to the profound dimensions of survivor trauma and the reality of intergenerational trauma. Residential school survivors and other experts testified about how this government policy caused terrible psychological and other harms, not only to the survivors and their families, but to their children and communities. We have begun to comprehend the consequences of the IRS chapter of Canadian history, and its reverberating effects. The next step is to explore an even longer and more full context of the traumas and losses making up Canada's colonial legacy.

Intergenerational trauma as well as individual or interpersonal psychological trauma and loss featured strongly in the testimonies during the TRC process. What is trauma and what significance does it have when applied to the traumatic events endemic to Indigenous Peoples' historical experiences?

Traumas deeply challenge the meaning of life. To begin discussing trauma, it's helpful to review several definitions, including:

<p>Psychological trauma is an emotional state of discomfort and stress resulting from memories of an extraordinary or catastrophic experience that shattered the survivor's sense of invulnerability to harm. This is qualitatively different from other negative life stressors because it "fundamentally shifts perceptions of reality."</p>

<p>Intergenerational trauma are traumatic events experienced by the survivor and transmitted to their family, children and possibly, subsequent generations.</p>

<p>Collective trauma is the legacy of numerous traumatic events directed over an extended period at groups with a shared identity, and encompasses the psychological trauma and social responses to those events. Collective trauma manifests uniquely in social and psychological ways. Despite its profound impact, the focus on individual trauma has tended to overlook the collective experience.</p>

<p>Historical trauma is when historical oppression and its negative consequences are transmitted. These trauma events are viewed as a part of a whole traumatic trajectory, as opposed to looking at the isolated effects of single events.</p>
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We are urged to integrate these trauma concepts and examine the collective nature of the many traumatic events experienced historically by Indigenous Peoples. Their historical experience contains numerous traumas that were intense and long-lasting. This makes it likely that Indigenous communities are “particularly vulnerable to individual and community dysfunction,” as Amy Bombay states. Research suggests the cumulative effects of the many traumas – or, as termed by M.Y.H. Braveheart, “soul wounds” – contribute profoundly to current well-being and are a contributing factor to documented social problems.

Recounting the destructive legacies of colonization

In addition to the residential school system, many historically oppressive and traumatic events impacted Indigenous Peoples:

- Widespread relocation from, and dispossession of, ancestral territories - with the resultant loss of the vital connection to the land that forms part of Indigenous Peoples’ worldview and cultural identity.
- Attempted decimation of traditional governance and community structures.
- Religious conversion and efforts at forced assimilation, including the prohibition of languages and traditional cultural practices.
- Racist and sexist *Indian Act* legislation that stripped Aboriginal women of their ability to transmit their identity to their children of unions with non-Aboriginal men – a policy never completely redressed with traumatic and untold loss of cultural identity.
- Harmful and discriminatory government policies, including: the Sixties Scoop which continued what the residential school system started; discriminatory funding and delivery of family and child services; and even today a child welfare system that removes Aboriginal children from their homes as a first resort.
- Secondary consequences associated with loss of culture, language and identity; poor physical and mental health outcomes; inferior socio-economic conditions and persistent intergenerational poverty; poor basic infrastructure and housing; and the increased vulnerability of women and girls to violence.



*Survivors of Indian Residential School walk for reconciliation at the closing ceremonies of the Truth and Reconciliation in Ottawa, June 2015
Photo: Ben Powless*



Accounting of the Consequences

Current research demonstrates that Indigenous Peoples are at higher risk to experience adverse childhood experiences than non-Indigenous people. The TRC's investigation concluded that:

- IRS endangered the life, health and well-being of the survivors as children;
- the abuses and the separation from families and communities caused lasting trauma for the survivors and their families;
- IRS threatened the mental health of students through asserting the inferiority of Aboriginal peoples, cultures, and languages;
- the likely immediate effects of these experiences lead to the potential for associated behavioural disturbances such as depression, anxiety, PTSD, substance abuse disorder.

This collective “massive loss” resulted in identity problems and other difficulties. The TRC concluded “the effects of this trauma were often passed on to the children of the residential school Survivors and sometimes to their grandchildren.” The IRS system disrupted the transmission of the traditional concept of family, practices, customs and traditions to the next generation(s). The Canadian Human Rights Tribunal (CHRT) recently stated:

First Nation families have been in the centre of a historical struggle between colonial government on one hand, who set out to eradicate their culture, language and world view, and that of the traditional family, who believed in maintaining a balance in the world for the children and those yet unborn. This struggle has caused dysfunction, high suicide rates, and violence, which have had vast -generational impacts.

In addition to the correlation between inter-generational trauma and mental health disorders, the Commission further implicated inter-generational transmission of trauma effects in other phenomena, such as family dysfunction, crisis interventions in child welfare, family violence, crime, and dramatic overrepresentation of Aboriginal children in foster care, among the sick, the injured, and the imprisoned.

While there has been less extensive examination of the consequences of historical and contemporary collective trauma, more recent research suggests that the cumulative effects of this ‘emotional and psychological wounding across generations,’ are “greater than the sum of the individual effects” (CHRT).

The CHRT described how IRSs have put the cultures, languages and very survival of Indigenous Peoples in jeopardy. But the potential effects of the loss of culture and language, and loss of identity, including pride, on mental health and well-being, have not yet been properly evaluated. The ongoing experience of stigmatization and

discrimination is also prominent in many facets of life. Limited attention has been paid to the psychological distress associated with this experience, but studies indicate an association with suicidal behaviours and ideation, alcohol abuse, and mental health disorders.

The Royal Commission on Aboriginal Peoples incorporated a historical understanding of the implications of collective trauma for the Aboriginal “soul wound” and for healing.

Healing, in Aboriginal terms refers to personal and societal recovery from the lasting effects of oppression and systemic racism experienced over generations. Many Aboriginal people are suffering not simply from specific diseases and social problems, but also from a depression of spirit resulting from 200 or more years of damage to their cultures, languages, identities and self-respect. The idea of healing suggests that to reach “whole health,” Aboriginal people must confront the crippling injuries of the past.”

All Canadians must acknowledge and confront these injuries of the past – the destructive legacies of colonization that have had such a determined trajectory to the present. Our collective legacy and the aspiration for reconciliation demands that we challenge the foundations of what brought us to this place and point in time.

CFSC is continuing to explore the legacy of the IRS, and engage Friends with our role in healing and reconciliation. We work with partners to promote decolonization of ourselves as well as Canada as a whole.

To read more about trauma explore:

- The National Centre for Truth and Reconciliation: <http://nctr.ca/reports.php>
- <http://www.sharingculture.info/what-is-historical-trauma.html>



At the United Nations in New York, CFSC Member Rachel Singleton-Polster with a delegation of Indigenous people from northern BC.



Trauma and Resilience – suggestions for further action

Learn about Indigenous organizations, communities, groups and individuals in your area that provide trauma healing and support, and explore ways in which your MM or WG can support their initiatives.

Individually or part of a reading group, read and reflect on:

- personal accounts of trauma and healing, such as:

One Native Life, by Richard Wagamese (Douglas & McIntyre, 2009)

Stolen life: The Journey of a Cree Woman, by Rudy Wiebe and Yvonne Johnson (First Vintage Canada, 1999)

They Called Me Number One: Secrets and Survival at an Indian Residential School, by Bev Sellars (Talonbooks, 3rd ed., 2012)

Up Ghost River: A Chief's Journey Through the Turbulent Waters of Native History, by Edmund Metatawabin, with Alexandra Shimo (Vintage Canada, 2015)

- teachings and reflections on trauma and healing, such as:

The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada, by Lisa Monchalin (University of Toronto Press, 2016)

Dancing On Our Turtle's Back: Stories of Nishnaabeg Re-Creation, Resurgence, and a New Emergence, by Leanne Betasamosake Simpson (ARP Books, 2011)

Indigenous Healing, Exploring Traditional Paths, by Rupert Ross (Penguin, 2014)

Indigenous Peoples' Right to Consent

By Rob Hughes, Vancouver MM and Clerk of CFSC's Indigenous Rights committee

Conflict between First Nations with governments and corporations particularly regarding proposals for new pipelines, have been increasing. The rights of Indigenous Peoples in these cases have not always been clearly stated. Terms such as “the duty of consultation and accommodation”, “free, prior and informed consent” (FPIC), and “veto” have been bandied about. What do these terms mean and how do they relate to each other?

The Royal Proclamation of 1763 declared that the Crown could only gain access to Indigenous Peoples' lands and resources by first obtaining their consent. In Canada, the duty of consultation and accommodation is based in section 35 of the *Constitution Act, 1982* and has been interpreted by the courts in a number of cases, most recently by the Supreme Court of Canada in *Tsilhqot'in Nation*. Integral to the duty of consultation and accommodation is the concept of upholding “the honour of the Crown.”

FPIC is a key principle of the *United Nations Declaration on the Rights of Indigenous Peoples* (the *Declaration*) and is an integral element of the right of self-determination. FPIC quite simply means the right of Indigenous Peoples to say yes or to say no to any development affecting their lands and territories. The Truth and Reconciliation Commission referred to the *Declaration* as the “framework for reconciliation” and calls on the government of Canada to “develop a national action plan, strategies, and other concrete measures to achieve the goals” of the *Declaration*.

FPIC is highlighted in *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions*:

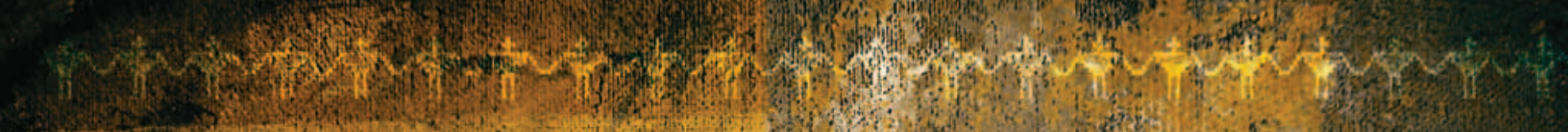
Indigenous peoples have the right to determine their own economic, social and cultural development and to manage, for their own benefit, their own natural resources. The duties to consult with indigenous peoples and to



At a CFSC co-sponsored educational event, Helen Knott, Treaty 8 defenders of the land, explains that British Columbia began clear-cut logging in preparation for the Site C dam without first obtaining free, prior and informed consent. In July, despite its stated commitment to fully implement the UN Declaration, which includes FPIC, the government issued permits for Site C construction to go ahead. Learn more at:

<http://quakerservice.ca/news/no-site-c/>

Photo: Matt Legge



obtain their free, prior and informed consent are crucial elements of the right to self-determination.¹

When the principles of FPIC and the legal duty of consultation and accommodation are compared, there is no incompatibility. FPIC can and should be used to inform the duty of consultation and accommodation.

When Canada finally agreed to endorse the *Declaration* in November 2010, it stated the *Declaration* was merely ‘aspirational’ and sought to limit its effect. This year, Canada officially adopted and promised to implement the *Declaration* fully and without qualification. International human rights law, including the *Declaration*, must always be applied in a domestic context. The *Declaration* is an instrument that gives principles to assist in the interpretation of Canadian law. It is incorrect to see conflict between FPIC and the duty of consultation and accommodation.

In March 2016, the UN Committee on Economic, Social and Cultural Rights recommended that Canada “fully recognize the right to free, prior and informed consent of Indigenous Peoples in its laws and policies and apply it in practice.”² In particular, the Committee added that:

... the State party establish effective mechanisms that enable meaningful participation of indigenous peoples in decision-making in relation to development projects being carried out on, or near, their lands or territories ... [and] that the State party effectively engage indigenous peoples in the formulation of legislation that affects them.³

Whether Indigenous Peoples have a “veto” has been raised as a scare tactic. The previous federal government expressed concern that FPIC meant granting a veto and used this as a rationale for not initially supporting the *Declaration*.

The word “veto” in Latin means “I forbid”. Paul Joffe highlights the differences between “veto” and “consent” in the context of proposed third party developments in or near Indigenous Peoples’ lands or territories, online at <http://quakerservice.ca/VetoandConsent>. He points out that the term “veto” implies an absolute, unilateral and arbitrary power, with no balancing of rights and is not used in the *Declaration*. Human rights are seldom absolute.

¹ Asia Pacific Forum of National Human Rights Institutions and Office of the United Nations High Commissioner for Human Rights, *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions* (APF and OHCHR, 2013), goo.gl/PHWrpS

² Committee on Economic, Social and Cultural Rights, *Concluding observations of the sixth periodic report of Canada*, UN Doc. E/C.12/CAN/CO/6 (4 March 2016) (advance unedited version), para. 14.

³ *Ibid.*

Canada's Supreme Court recognizes there are instances where Indigenous Peoples can block development. In discussing the duty of consultation and accommodation, the Court stated:

... the content of the duty [to consult] varied with the circumstances: from a minimum "duty to discuss important decisions" where the "breach is less serious or relatively minor"; through the "significantly deeper than mere consultation" that is required in "most cases"; to "*full consent of [the] aboriginal nation*" on very serious issues.⁴

The duty to consult is triggered "when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it."⁵ An important component of the duty to consult is a requirement that good faith be shown by both the Crown and the Aboriginal people in question.⁶ Both parties must take a reasonable and fair approach in their dealings.

As for the power to block, the Court has said:

Once title is established, it may be necessary for the Crown to reassess prior conduct in light of the new reality in order to faithfully discharge its fiduciary duty to the title-holding group going forward. For example, *if the Crown begins a project without consent prior to Aboriginal title being established, it may be required to cancel the project upon establishment of the title if continuation of the project would be unjustifiably infringing...* Similarly, if legislation was validly enacted before title was established, such *legislation may be rendered inapplicable* going forward to the extent that it unjustifiably infringes Aboriginal title."⁷

Because the term "veto" is limited to a negative blocking of action, it is actually a more restrictive power than the process encompassed in FPIC and the duty of consultation and accommodation. The courts have framed the latter in terms of positive actions and responsibilities.

The Crown's duty to consult imposes on it a positive obligation to reasonably ensure that aboriginal peoples are provided with all necessary information *in a timely way* so that they have an opportunity to express their interests and concerns, *and to ensure that their representations are seriously considered and, wherever possible, demonstrably integrated into the proposed plan of action.*⁸

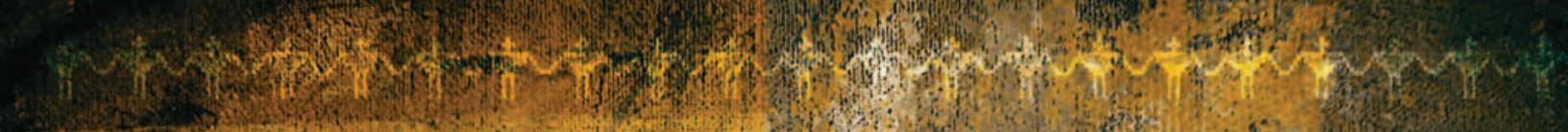
⁴ *Haida Nation*, para. 24 (emphasis added, quotes from *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, para. 168). [emphasis added]

⁵ *Haida Nation*, at para. 35

⁶ *Haida Nation*, at para. 42

⁷ *Tsilhqot'in Nation*, para. 92. [emphasis added]

⁸ *Halfway River First Nation v. British Columbia (Ministry of Forests)*, [1999] 178 D.L.R. (4th) 666 (B.C.C.A.), at para. 160. This paragraph was cited with approval in *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, [2005] 3 S.C.R. 388, para. 64 [emphasis added by Supreme Court of Canada].



This approach is more in keeping with an understanding of FPIC as the power of Indigenous Peoples to say “yes” to mutually beneficial developments that promote healthy and vital Indigenous Nations for the benefit of present and future generations as well as the power to say no to decisions that would compound the marginalization, impoverishment and dispossession to which they have been subjected throughout history. Rather than a mere blocking of decisions already made, the positive power to be consulted and included in the decision-making process is essential. While Quakers may often seem internally obsessed with process, particularly around decision-making, we know that the means to the ends are as important as the ends themselves and effectively determine what the ends will be. No corners can be cut in working to a fair and equitable result.

Previous governments have often had hostile and adversarial relationships with Indigenous Peoples. We have hopefully turned a corner in our governments’ and corporations’ lack of consideration of how Indigenous Peoples are impacted by decisions on resource development affecting their lands and territories and are entering a period of developing relationships based on respect for the rights of Indigenous Peoples as reflected in the *Declaration*, particularly in how FPIC is implemented. While the federal government has dragged its feet on implementing FPIC, the rest of the world has made progress: The International Finance Corporation (IFC) has adopted detailed FPIC requirements;⁹ International industry bodies such as the International Council on Mining and Metals have called on members to meet FPIC requirements;¹⁰ the United Nations Collaborative Initiative on Reducing Emissions from Deforestation and Forest Degradation (REDD+) in developing countries¹¹ as well as closer to home, The Forest Stewardship Council of Canada requires operators to achieve FPIC as an internationally recognized human rights standard that can deliver sustainable, equitable land use and business certainty;¹² Some major international corporations, including financial corporations and resource development corporations, have integrated FPIC into their own procedures.¹³

In December 2013, the UN Global Compact issued A Business Reference Guide to the UN Declaration on the Rights of Indigenous Peoples. The Guide indicated:

The concept of ... FPIC ... is fundamental to the UN Declaration as a measure to ensure that indigenous peoples’ rights are protected ... The concept of a State’s FPIC obligation is well enshrined in international law ... FPIC should be obtained whenever there is an impact on indigenous peoples’ substantive rights (including rights to land, territories and resources, and rights to cultural, economic and political self-determination).

There are many challenges ahead as hard decisions are made on each of the proposals for development, but we can see these as opportunities for reconciliation.

⁹ goo.gl/TNjDCG

¹⁰ Source: Position Statement on Mining and Indigenous People 2013 at goo.gl/injVxi

¹¹ Guidelines on Free, Prior and Informed Consent, goo.gl/S4FSTf

¹² Forest Stewardship Council of Canada Guidance on FPIC, goo.gl/ZcF2jc

¹³ See, for example, Free, Prior and Informed Consent Guide for RSPO Members, goo.gl/Sybpeq



Right to Consent – suggestions for further action

Individually and/or in a group in your MM or WG, engage in honest and committed personal reflection to bring to light your own understanding of the right to free, prior, and informed consent of Indigenous peoples.

Learn about Indigenous organizations, communities, groups and individuals in your area who are engaged in actions/campaigns involving the right to consent, and explore ways in which your MM or WG can support their initiatives.

Explore additional resources on FPIC, such as:

Indigenous Peoples, Title to Territory, Rights and Resources: The Transformative Role of Free Prior and Informed Consent, by Cathal M. Doyle (Routledge, 2017)

Yours, Mine, Ours: Unravelling the Doctrine of Discovery, edited by Cheryl Woelk and Steve Heinrichs (Intotemak, Mennonite Church Canada, 2016)

Video on FPIC: goo.gl/WyWWxL

Northern Public Affairs Journal on FPIC: goo.gl/5nguRQ

Truth and Reconciliation – Importance of Examining Genocide

By Jennifer Preston, CFSC’s Indigenous Rights program coordinator, and Paul Joffe, lawyer who specializes in Indigenous Peoples’ domestic and international human rights.

Reconciliation is an ongoing process – not a point in time. In order to achieve genuine reconciliation, the full truth must be determined. As part of CFSC’s commitment to the Calls to Action of the Truth and Reconciliation Commission (TRC), we are exploring with partner organizations the significance of genocide in the Indigenous context. An increasing number of researchers and commentators have concluded that genocide was committed against Indigenous Peoples in Canada, including through the Indian Residential Schools.¹⁴



Paul Joffe and Jennifer Preston giving a presentation in November 2015 in Nanaimo, British Columbia, about Truth and Reconciliation. Photo: Genevieve Singleton

Justice Murray Sinclair, TRC Chair, and Stuart Murray, outgoing president of the Canadian Human Rights Museum, have highlighted the need to include genocide in the discourse on colonization: “We need to take seriously the perspective that the entire process of colonization in Canada would fall within the definition of genocide as contained in the UN [Genocide] Convention. Confronting honestly and deeply such realities of colonialism in Canada is one of our most important human rights tasks.”¹⁵

The 1948 UN *Convention on the Prevention and Punishment of the Crime of Genocide* [Genocide Convention] was the first United Nations treaty devoted to human rights. According to the *Genocide Convention*, acts of genocide and complicity in genocide are criminal offences. Article 2 of the *Genocide Convention* provides:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

¹⁴ E.g, Andrew Woolford, Jeff Benvenuto, and Alexander Laban Hinton (eds.), *Colonial Genocide in Indigenous North America* (Durham and London: Duke University Press, 2014); and Hayden King and Erica Violet Lee, “The truth is there. But reconciliation is deeply complicated,” *Globe and Mail* (16 December 2015), goo.gl/uLyLqg.

¹⁵ Murray Sinclair and Stuart Murray, “Canada must confront the truth,” *Winnipeg Free Press* (1 November 2014) A13, goo.gl/qn3Jki.

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

It is important to note that only one of the above five acts necessarily involves “killing.” When we examine the colonization of Indigenous Peoples in Canada, we can see how genocide applies to the Indian residential school system and also the destruction of Indigenous economic, social, political, and spiritual institutions. Viewed in isolation, certain actions might not be called genocide. The combined and cumulative effect, however, creates a context for the critical concern of genocide.



Drummers at the March for Truth and Reconciliation, Ottawa 2015. Photo: Ben Powless

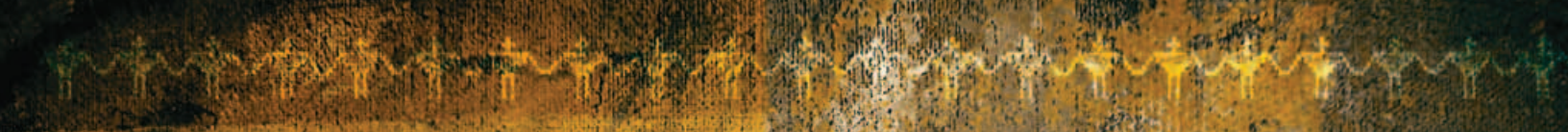
In order to prove genocide, one must demonstrate that there was a specific intent to destroy, in whole or in part, Indigenous Peoples as such. Negligence or recklessness is not sufficient.

Specific intent to destroy Indigenous Peoples as distinct peoples was expressed by Canada’s first Prime Minister, John A. Macdonald, who informed Parliament that a national goal was “to do away with the tribal system and assimilate the Indian people in all respects with the inhabitants of the Dominion...”¹⁶

An Indian Affairs Department official described the purpose of residential schools: “Every effort should be directed against anything calculated to keep fresh in the memories of children habits and associations which it is one of the main objects ... to obliterate.”

Specific intent is also found in the 1920 speech by Duncan Campbell Scott, deputy minister of Indian Affairs: “I want to get rid of the Indian problem. ... Our object is to

¹⁶ Quoted in John S. Milloy, *A National Crime: The Canadian Government and the Residential School System — 1879 to 1986* (Winnipeg, Manitoba: University of Winnipeg Press. 1999), at 6.



continue until there is not a single Indian in Canada that has not been absorbed into the body politic...”¹⁷

In its Summary Report of the Final Recommendations, the TRC concluded that Canada had committed “cultural genocide”:

For over a century, the central goals of Canada’s Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as ‘cultural genocide.’¹⁸

The Chief Justice of the Supreme Court of Canada, Beverley McLachlin, also concluded:

The most glaring blemish on the Canadian historic record relates to our treatment of the First Nations that lived here at the time of colonization. ... Early laws forbade treaty Indians from leaving allocated reservations. Starvation and disease were rampant. Indians were denied the right to vote. Religious and social traditions, like the Potlach and the Sun Dance, were outlawed. Children were taken from their parents and sent away to residential schools, where they were forbidden to speak their native languages, forced to wear white-man’s clothing, forced to observe Christian religious practices, and not infrequently subjected to sexual abuse.... “Indianness” was not to be tolerated; rather it must be eliminated. In the buzz-word of the day, *assimilation*; in the language of the 21st century, *cultural genocide*.¹⁹

In the final report, the TRC raised further concerns relating to genocide: “It is difficult to understand why the forced assimilation of children through removal from their families and communities — to be placed with people of another race for the purpose of destroying the race and culture from which the children come — is not a civil wrong even though it can be deemed an act of genocide under Article 2(e) of the *United Nations Convention on Genocide*.”²⁰

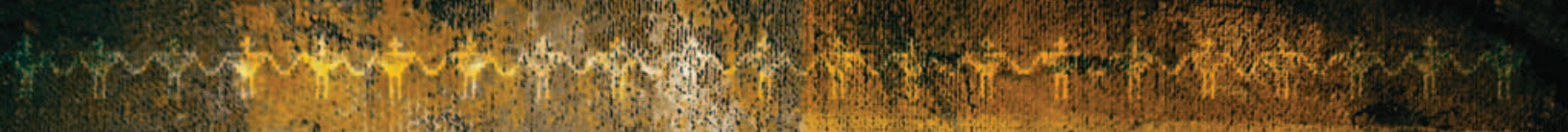
In Canada, genocide must be assured an effective legal remedy. Such an effective remedy should include reparation.

¹⁷ James R. Miller, *Legal Legacy: Current Native Controversies in Canada* (Toronto: University of Toronto Press, 2004) at 35.

¹⁸ 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*, May 31, 2015, at 1.

¹⁹ Rt. Hon. Beverley McLachlin, P.C., Chief Justice of Canada, “Reconciling Unity and Diversity in the Modern Era: Tolerance and Intolerance”, Lecture, Aga Khan Museum, Toronto, Ontario, May 28, 2015, goo.gl/vGBJwy, at 6.

²⁰ Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: Reconciliation*, Final Report of the Truth and Reconciliation Commission of Canada, (Montreal/Kingston: McGill-Queen’s University Press, 2015), Volume 6, at 48.



Recognizing the role of genocide and cultural genocide in the historical and contemporary context is part of the ongoing process of seeking justice and reconciliation. Intergenerational trauma continues to be transmitted to successive generations with devastating consequences. Greater understandings of past and ongoing genocidal actions could help clarify what remedial measures are necessary.

Such understandings could crystallize the urgency of fundamental reforms. Non-Indigenous governments have a responsibility to engage with Indigenous Peoples in any future decolonization process. A decolonization process would likely address key unresolved issues repeatedly raised by Indigenous Peoples. These include affirmation of Indigenous sovereignty, strengthening of Indigenous governments and other institutions, and revitalization of Indigenous cultures, languages and legal traditions.

The factual bases for demonstrating genocide still require significant research and reflection. As we continue our journey towards reconciliation, we must be willing to honestly engage with the hard truths in collaboration with Indigenous Peoples. This is both a responsibility and opportunity. It is up to all of us to open our hearts and minds to this crucial and compelling process.

Examining Genocide – suggestions for further action

Individually and/or in a group in your MM or WG, engage in honest and committed personal reflection to bring to light your own understanding of – and reactions to the concept of – genocide of Indigenous Peoples in Canada. Explore your understanding of what would be the consequences of accepting the concept of genocide as an accurate description of historical acts in Canada.

Explore further resources, individually and/or as a MM or WG, such as:

Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People, by Harold Ed. Neu, Dean Neu, and Richard Therrien (Zed Books, 2004)

Clearing the Plains: Disease, Politics of Starvation, and the Loss of Aboriginal Life, by James Daschuk (University of Regina Press, 2014)

Quaker Response on Call to Action #48 March, 2016
Truth and Reconciliation Commission of Canada:
Implementing the UN Declaration on the Rights of Indigenous Peoples

48. We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the United Nations Declaration on the Rights of Indigenous Peoples as a framework for reconciliation. This would include, but not be limited to, the following commitments:

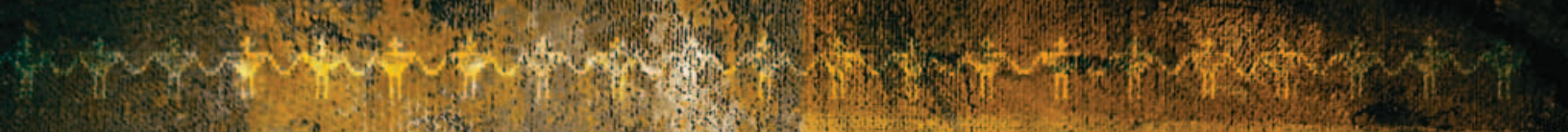
- i. Ensuring that their institutions, policies, programs and practices comply with the United Nations Declaration on the Rights of Indigenous Peoples.*
- ii. Respecting Indigenous Peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the United Nations Declaration on the Rights of Indigenous Peoples.*
- iii. Engaging in ongoing public dialogue and actions to support the United Nations Declaration on the Rights of Indigenous Peoples.*
- iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the United Nations Declaration on the Rights of Indigenous Peoples.*

Reconciliation, as Commissioner Chief Wilton Littlechild stated, asks all involved to “open your mind and be willing to learn, and to link arms with Indigenous Peoples as we work together to heal and secure a better future.”

Canadian Yearly Meeting (the national body) of the Religious Society of Friends (Quakers) has endorsed, celebrated and committed to implement the *UN Declaration on the Rights of Indigenous Peoples* (see <http://quakerservice.ca/UNDeclaration> and see Minutes at <http://quakerservice.ca/DeclarationMinutes>).

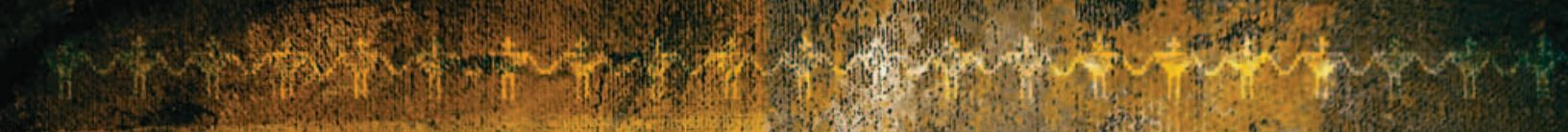
The *Declaration* affirms Indigenous Peoples' human rights including the right to self-determination and rights to their traditional lands, territories and resources, as well as protection from discrimination and genocide. It also recognizes the right of Indigenous Peoples to have meaningful control over their own lives including culture, religion, language, education and health. The *Declaration* instructs governments to obtain free, prior and informed consent when making decisions affecting Indigenous Peoples.

Canadian Quakers have issued a statement formally repudiating the **Doctrine of Discovery** (see Minutes at <http://quakerservice.ca/DiscoveryMinute>). Canadian Quakers have formally responded to the work of the TRC, and have committed to a progress report in one year's time (see Minutes at <http://quakerservice.ca/TRCMinute>).



Canadian Friends Service Committee (CFSC), the peace and justice body of Quakers in Canada, has ongoing work that responds to *Call to Action #48* in a multitude of ways, internationally, nationally, and locally, both within and beyond the Quaker community. For the past two decades, CFSC has participated in the development, adoption and implementation of the *UN Declaration*. Ongoing implementation of the *UN Declaration* takes many forms and ongoing commitments.

- The mandate of CFSC's Indigenous Rights work includes: focus on Indigenous Peoples' human rights including: **self-determination and land rights**; **spirituality**: acknowledging the right of Peoples to worship in the way of their own cultures and faith traditions; **implementation** of Indigenous rights as affirmed in the *UN Declaration*, and as protected under the Canadian Constitution.
- Quakers are encouraged to engage their local Meetings (Quaker term for congregation) in actions towards **reconciliation**, a major part of which is engaging with the *UN Declaration*. See this booklet for more information, Truth and Reconciliation: A Guide for Canadian Quakers at <http://quakerservice.ca/TRCGuide2015>
 - For example, local Quakers have organized discussion groups in partnership with local Indigenous Peoples, are attending educational events such as workshops and film screenings, and are displaying the *UN Declaration* in poster or booklet form in their Meeting Houses (places of worship).
- CFSC, in collaboration with the Coalition for the Human Rights of Indigenous Peoples, prints, distributes, and advertises pocket-sized booklets of the *UN Declaration* as **educational tools**. To date over 140,000 copies have been distributed. We compile many educational resources on the *UN Declaration* on our website: <http://quakerservice.ca/UNDeclaration>. For over 15 years CFSC has been a core member of this Coalition, a national group including Indigenous Peoples' and human rights organizations.
- CFSC volunteers and staff contribute to educational materials and policy briefs. These serve not only to inform Canadian Quakers, but also other faith and social action groups we work with. This year we are producing briefs on Indigenous Peoples' **right to free, prior and informed consent**, the legacy of **intergenerational trauma**, and the need to investigate **genocide** committed against Indigenous Peoples.
- As Quakers work individually towards reconciliation in their communities, CFSC acts as a resource centre and contact point. This includes: sharing information among worship groups across Canada, visiting Meetings for presentations, and pointing Friends to resources that might answer some of the challenging questions that the work of reconciliation poses.
- Staff work collaboratively in a variety of areas with Indigenous partners to support **implementation of the *UN Declaration***:

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- Internationally: CFSC carries the work on Indigenous Peoples' human rights for Quakers worldwide at the United Nations and other international bodies. Presently, this work includes attending meetings alongside Indigenous partners and others where we prepare joint statements, coordinate and facilitate dialogue, and raise awareness of Indigenous Peoples' human rights.
 - Nationally: CFSC is engaging with the federal government to assist in their plan to implement the *Declaration* nationally. Meetings with policy makers are taking place, and considerable educational efforts are being taken to ensure that implementation is full and meaningful.
 - CFSC staff coordinated and participated in two events at the **closing ceremonies of the TRC** in June 2015, including an educational panel on the *UN Declaration on the Rights of Indigenous Peoples*, which can be watched at goo.gl/nHYPRb. A panel also presented on the Doctrine of Discovery, which can be watched at goo.gl/1383fM. CFSC also helped to build linkages between the national and international implications of the TRC through work in coordination with the United Nations Office of the High Commissioner for Human Rights and the Office of the UN Secretary-General (see final at goo.gl/6GAT37).
 - CFSC's Indigenous Rights staff partnered with representatives of Indigenous organizations to co-edit the book *Realizing the United Nations Declaration on the Rights of Indigenous Peoples: Triumph, Hope, and Action* and have it published. CFSC intervened at the Supreme Court of Canada in the landmark case *Tshilgot'in Nation* where we argued that international human rights law, including the *UN Declaration*, must be used when cases involving Indigenous Peoples rights are before the Court.
 - CFSC continues to co-host and participate in public events advancing human rights education, with a particular focus on implementation of the *UN Declaration*. Such events are acts of implementation and take place in Indigenous and non-Indigenous communities as well as academic settings.
 - Representatives of the Religious Society of Friends (Quakers) are also engaging with other faith bodies in Canada in response to the TRC's *Calls to Action*. As Friends, we have a deep and longstanding commitment to working in solidarity with Indigenous Peoples. As a historic peace church, we place a high priority on this work. To be faithful to our spiritual commitment to a world of peace, we must work for justice, equality, non-discrimination and human rights.

