

Question and Answer Summary

UNDRIP and the Arts

with Lou-ann Ika'wega Neel

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Q: I started a non-profit group, about four-five years ago. My challenge is finding the time and the way to adapt those bylaws to reflect our values. I've wanted to do that for years, but I'm so busy building capacity and trying to keep the organization going. Is there a team we can hire, or funding to help with that?

I haven't looked at whether there's funding specifically, although I suspect there might be under Canada Council categories for arts organizations and infrastructure development. This falls under infrastructure, so that's one possibility.

I'll be happy to share a draft once I've done the first version. Having a draft gives you another lens on what bylaws are meant to be, what they say, and how you can "indigenize" them, for the lack of a better term—make them particular to your nation. A working document can spark conversations. It could even be something like a Saturday afternoon tea where people weigh in. It doesn't have to cost a lot, but it's nice to have a template or starting point. I'll share that with you and others, and I'll make sure First Peoples' have samples as well.

Thank you for that question. There are so many nonprofits that want the same thing.

Q: Your presentation was very thought provoking. My first question touches on copyright infringement and drawing inspiration from previous artforms. Can you offer clarification on how to "learn" from other artwork ethically?

That's a big one. I'll answer that first piece - copyright infringement is taking someone's work, in whole or in part, and copying it for commercial purposes. That's an important clarification in the Copyright Act. I'm not thrilled about the other part in the Act that says if it's not for commercial purposes, or if it's for educational use and you're not seeking to make money, then it's not considered infringement. I don't think that's true, because copied work can drift away from the original creator. Eventually, someone

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down the line assumes it belongs to someone else and copies it again. That's one part that is not strong as it can be in the Act.

Drawing inspiration from previous art forms is different. If you mean drawing inspiration from artwork that came from your family, that's almost a requirement in many Indigenous artist families, that you draw inspiration from your heritage and follow cultural rules—like the rules of Formline—and then innovate from there. That's how we do it in our culture.

I suspect part of what you might be saying is when people say “Why did you create a chicken? There's no traditional chicken.” This is really interesting because this is exactly the kind of thing that the Canadian copyright actually protects - your freedom and intellectual property, whatever you create as an artist. You're not limited to traditional forms just because you're Native. There are nuances, but we need to clarify that cultural styles have parameters. I'm Kwakiutl and Kwakiutl has Formline and it has these characteristics. Someone once thought that I'm trying to copyright our culture. I'm not saying that; I'm asking how we can use the Copyright Act to our advantage for now until we figure out how to stop people from stealing our forms, which belong to us. How do we reconcile and address that.

Coastal styles are especially vulnerable because they make money, and theft is driven by profit. There's no simple answer—every nation needs to have these discussions to figure out protection. To learn ethically from others, the most important thing is to create original work. Inspiration doesn't mean copying. For example, I might look at watercolor paintings, which make me think about water, which leads to killer whales, and that inspires me to create a killer whale design. It's not a direct copy; it's part of the creative process. There are no easy answers—these are conversations for smaller groups, I think.

Q: Will you please share your thoughts on non-Indigenous folks using local Indigenous languages in formal contexts, for example, welcoming people to an event or a meeting?

This is a relationship-based question. The biggest piece is your relationship to the local Nation whose language you plan to use. It's great to use the actual place name or the name of the Nation. Sometimes I feel honored when non-Indigenous people use our language and torn at the same time. If we were in Alert Bay or Fort Rupert, my

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hometowns, I would expect them to use our language to show respect and that they took the time to learn how to say hello properly and the Nation's name.

When you're in Coast Salish territory and you use Kwak'wala, it throws me off. I would try to use the local language instead. It comes back to relationship—there's no one broad-stroke answer. Always talk about your relationship with the community, who your teacher is. Acknowledge who taught me how to acknowledge you properly and thank them. That's part of our relationships between communities and agencies. Very relational. Never get up and say a whole bunch of things in a language without saying who taught you and asked you to do that. That's how we differentiate between people using our language in a protocol or formal gathering space versus just taking it and naming their business. Two very different things.

Q: Do all Nations have the capacity to do what you are recommending?

No, and this is one of the most heartbreaking parts about it. However, there are ways we can adjust priorities within our own communities. A couple of thoughts:

First, not everything lands in a band office for them to deal with. Band offices typically have a very specific set of programs they receive funding to deliver. People outside our communities might not realize you can't just call a band office for the answer to everything, and they don't necessarily have staff to cover every issue.

From a community perspective, this is why I encourage people to think about setting up smaller groups and developing things like non-profits or co-ops. First of all, I'll say this and anyone can email me if I've got it wrong, but you don't need permission from a band to set up a non-profit on your reserve. Setting up a non-profit is something you have the freedom to do. The band doesn't have policies or laws that restrict this, and there's nothing in the registrar of companies that says if you're a status Indian living on reserve, you can't set one up.

It's actually really strategic to consider setting up several non-profits in any community, even small ones under 300 or 400 people. You can set up different non-profits with different mandates, enabling each to pursue different funding directions. When funding comes into the community, you can bring them together. Don't dismiss the idea of having more than one non-profit, co-op, or social enterprise.

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Also, leverage the support of the band. If the band only has a few dollars for something like a health and wellness art practice clinic or workshops, your local non-profit arts organization can apply for different funding to pick up where the band office funding leaves off, overlap slightly, or partner fully. It's strategic and works well.

The toughest part is finding people in our communities who want to be arts administrators. There's no shortage of artists, knowledge keepers, and fluent speakers who want these things to happen. We need more young people or those starting new careers to take on organizing the paperwork for a non-profit society. In my early teens for example, I started volunteering for our soccer club, which was a non-profit, and later went on our Kwakiutl Urban Society. There are many ways to do it.

There's no single course for this—maybe there should be. I'd like to work on creating an online course that trains more of our people to handle funding applications, proposals, project management, and final reporting. Keeping that cycle open is key.

Q: You mention that teaching grant writing brings you joy because it helps the next generation build their professional practice. How do you frame grant writing, not just as a technical skill, but as a direct act of empowerment and self-determination that utilizes the language of UNDRIP to claim necessary resources?

Fabulous question. I did a lot of this work for First Peoples back in 2008 or 2009. I traveled to 22 communities in 24 months delivering grant writing workshops. Anyone who took part will remember we didn't have UNDRIP to lean on back then, and I don't think we had the TRC either; that was coming out of the Royal Commission era. But I was working at First Peoples, and we were looking at how to make our arts program applications and guidelines easy to read and in plain English.

When I do grant writing workshops, I talk with participants about what they dream about and what they want to see in their community. We do genuine brainstorming—no idea is crazy, no idea is analyzed. Every idea goes up on a flip chart because you never know when a seemingly crazy idea is the solution. I've been humbled many times to find out ideas I didn't think would apply were the answer.

It's more of a reverse process: spend time thinking about what you want, especially in the company of other artists and arts administrators. Then turn that into UNDRIP wording or the grant program language they need to hear. It's easier when you have it

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in your heart and your initial descriptions written out together. It's easier to translate into forms than if you start with the form and try to answer point by point. Questions can be limiting—they try to be broad, but sometimes they're too broad. It relies on you to say "I think this question has four parts" and break it down, presenting your answers in a way that makes sense to you.

Bottom line: don't take application forms or program guidelines completely as written. Two things you can do: always call a program officer—many programs focused on Indigenous artists have Indigenous arts administrators, and I love when people call for clarification. Also, take time to say what you want to say; it will fit in later. Be open and feeling free, not constrained by the wording of the question. I hope that helps.

Q: What practices in the arts industry violate UNDRIP?

I touched on that earlier—our right to control past, present, and future iterations of our art. That means anyone, including museums, violates this when they take an artifact from storage, photograph it, and start selling t-shirts or ball caps in their gift shop. That is appropriation under the Copyright Act. It's covered by UNDRIP, mentioned by the TRC, and detailed by the Royal Commission. It's inappropriate whether it's a museum or anyone else doing it.

Many industries also set up licensing agreements. Read them carefully. If you don't understand the legal language, find someone to review it with you. These agreements often allow a producer—like Native Northwest or BOMA—to reproduce your design on anything they want for at least four years. In exchange, you might only receive a box of calendars, not royalties. Many agreements don't offer royalties, so beware and don't sign if it's not worth it.

Another warning: at the end of these contracts, it usually states that when you want to end the relationship, you must send a cancellation letter 30 days before the agreement ends. Many artists I know of in the 70s, 80s and 90s missed this deadline and got stuck in contracts where companies kept producing their work without paying royalties. Always read the agreement and get help if needed.

Q: Does the Artist's Resale Right apply to all the artworks that were stolen and then sold in the international art market?

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I sure hope so, and I will be demanding a seat at the table to have that discussion. I've actually been in that discussion with [CARFAC](#)—April Britski is the president. Her and I talked about that very early on when the Artist's Resale Right was being proposed, and it's taken years to get it passed.

I will be returning to the table about that because I really think it should happen. Why wouldn't it? The key will be finding how to weave together RCAP, TRC, and UNDRIP language, maybe some legal terms, and a slice of the Copyright Act to make that possible.

If that happens, our communities and families will need to have a serious discussion about where any proceeds will go. Are we going to set up trust accounts? A funding space for money to land? Will it go to individuals? It gets complex, but let's have the discussion because this is a good thing. It could fund arts organizations in our communities and cultural centers if we do it well.

Q: Our First Nation hired a consultant to create a video on the 4 frozen boys who died in 1937. My question is who has the copyrights - our community or consultant? Thank you for your valuable presentation.

If the consultant was just doing the filming, the story belongs to the community. In my work with Creative BC and film, I've learned that in order for a film to be fully produced and released, it must have what they call a chain of title. Before that, it's about copyright and intellectual property of the story holder.

If the consultant was hired, clarify their role: were they hired just to write it, to direct it, or to film it? Did they hire a cinematographer, audio crew, and others required to make a film? If it hasn't gone too far down the path, make sure the Nation retains ownership. If the Nation wrote the story or is collaborating with the consultant, hire them as an assistant to you as the Nation to write the story. That way, when the story is written, it belongs to the community and the people in the story.

This means clarifying copyright for the story, which will then be adapted to film. There are several steps in the sequence, but the most important one—if nothing has been signed yet—is to take the time now to ensure clear copyright on the story itself.

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Q: From a funder's perspective, we have silos and specific funding program buckets for artists and organizations to fit into. What are your recommendations for how and where funding agencies or arts funders draw the line?

I'm glad you asked that question because one of the things I found in a program I recently built from scratch, launched, and ran—a grant funding program for emerging filmmakers—was that it all came down to the advisory panel, your jury. Having an all-Indigenous jury is key. Make sure time is spent with your first jury going over your scoring matrix and how applicants will be graded. Sometimes systemic barriers exist in those processes, so remove them before they happen.

Hire the advisory panel in advance and get advice on your scoring matrix and decision-making process. Often, advisory panels only give advice to funders, recommending which projects to fund, but the final decision rests with the funding agency. That entire process, including recommendations and rationale, matters.

The silos can't remain silos much longer. Conversations with communities about what makes sense and updating those policies need to happen.

Q: UNDRIP affirms the right to self-determination. In your experience as a policy analyst, what is the single most critical change that Canadian arts funders or institutions must make to their policies and grant criteria to move from merely funding projects to genuinely upholding the artistic self-determination of Indigenous artists?

In a word, attitudes. I want to go back for a second, RCAP, TRC, and UNDRIP do not bestow any new rights; they simply reiterate what we've been saying all along. That's the starting place. We already know this is ours. It belongs to us, we're not giving it up, and we're not letting anyone take it either.

Because of that, any biases, stereotypes, or rhetoric put out over the last two centuries have shaped Canadian attitudes when it comes to policy about Indigenous people. All of that needs a wholesale reset. That's why I feel, while it's helpful at the start, we're beyond the starting point here with these cultural awareness sessions like First Nations 101 as a primer, but we need to dig deeper. If we know Residential schools happened, then the reserve system, then that we used to be partners and now we're not, and the Indian Act and its amendments—if you look at all of that and how it filters down into

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where we are now—then, as a funding agency or as a non-Indigenous Canadian, you might start to see biased, racist policies and realize Indigenous people are treated differently than every other Canadian.

Even when I hear phrases like “the public wants A, B, and C” - I’m a part of the public! Why is there an assumption that “the public” means all the white people, excluding Indigenous people. Attitude is what really needs to change, and individual Canadians need to make that commitment themselves. There’s plenty of information online, including web series from recent years. Once you have something different to talk about, you’ll find others to engage in these new conversations. So please do that.

Q: What practical steps can arts administrators take immediately to reduce systemic barriers in funding programs beyond writing the guidelines?

I’ve been saying this for a couple of years and wish someone would take my suggestion: all arts funders need a retreat—four days to brainstorm and create new solutions. It needs to be at Harrison Hot Springs so we can go in the hot tub, ha-ha!

We do need to spend some time together, those of us that in arts funding – wheter its language, arts, culture, heritage funding. While it’s nice to have the ability to use Zoom or Teams, it needs to be in person because sitting together, with a cup of tea and a flip chart in front of you and brainstorming. It’s a different exercise. There are many solutions I’ve heard over the years that never came to fruition and are worth revisiting.

I’m currently reviewing guidelines and asking: What systemic barrier is in here? What assumption underlies this requirement? Two things I recommend:

1. Arts organizations should fund more workshops with artists on grant writing and how to decipher the wording.
2. Hold sessions with arts administrators to stop writing such mysterious wording. Use plain English. We’re all artists—let’s keep it fun.

In closing, I’m sorry about having to talk so fast and fit so much into an hour. There are things I didn’t give enough justice to, but I wanted to put them out there and let you know I’m open to having these discussions. I’m on social media—Instagram and Facebook—if you want to connect that way, or through First Peoples. I would love to continue these discussions in our communities and encourage you to take some of these ideas and make use of them.

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1A Boat Ramp Road | Brentwood Bay, B.C. | V8M 1N9
P: 250-652-5952 | F: 250-652-5953 | E: info@fpcc.ca
www.firstvoices.com | www.fpcc.ca | www.maps.fpcc.ca