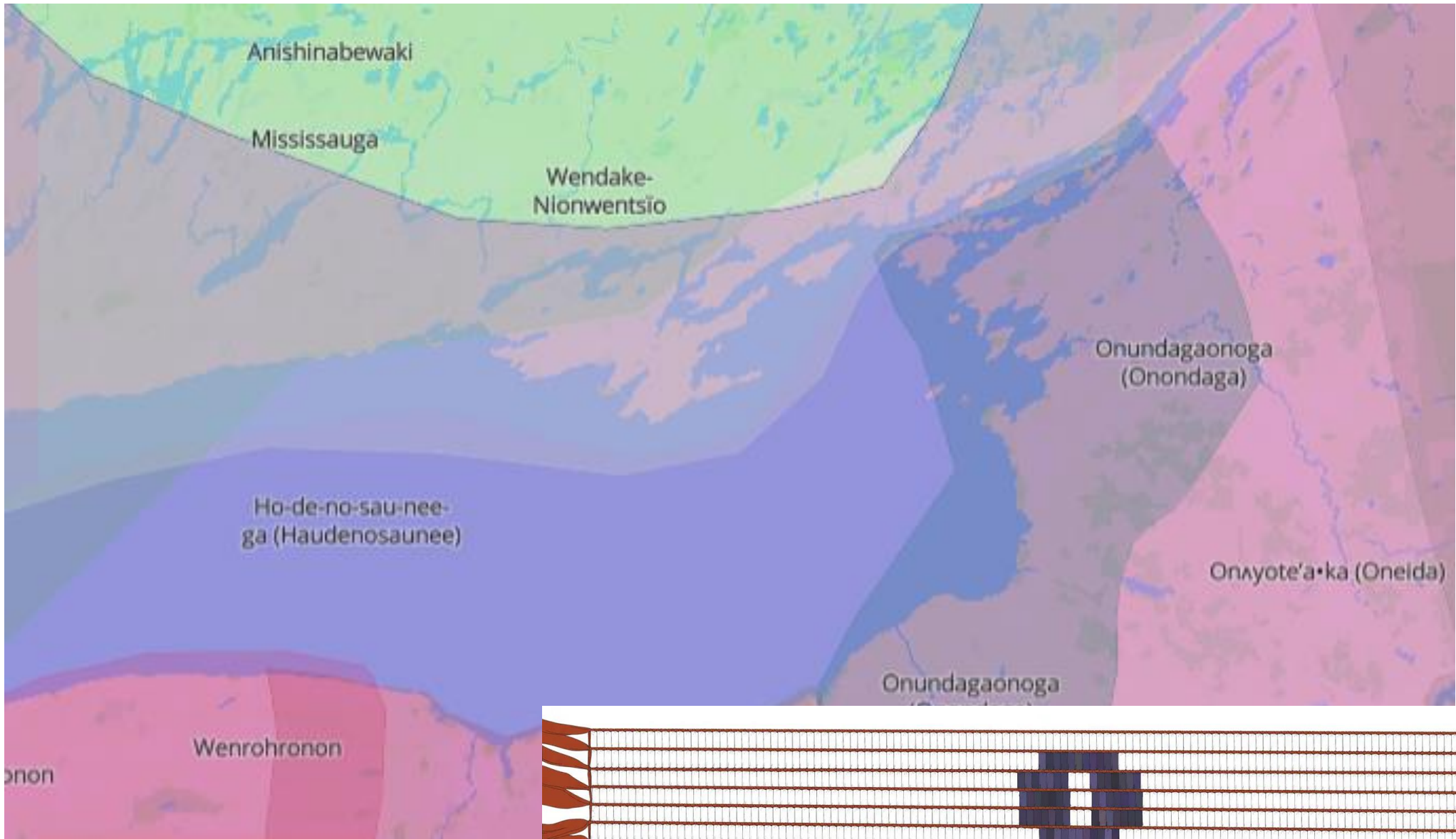


Researching Indigenous Laws and Canadian Aboriginal Law: Context, Strategies, and Collection Development

Clare Asquith Finegan
and Amy Kaufman



<https://native-land.ca/>

<https://talkingtreaties.ca/treaties-for-torontonians/dish-with-one-spoon/>

MUSQUEAM tə sʔa:nʔ syəθəs About this map
Canadian Heritage / Patrimoine Canadien

MAP LAYERS
 STORY LINES
 ALL PLACE NAMES
 Water
 Land

5. sənaʔqʷ

6 / 9
 ʔiʔ niʔ wəʔ təʔəm kʷə təw kʷin
 məsteyəxʷ niʔ ʔə ʔ sənaʔqʷ.

"And a few people raked herring at sənaʔqʷ
 (Kitsilano Point)."

Spoken by Vanessa Campbell

The Musqueam, Squamish and Tsleil-waututh

Coast Salish Peoples

sənaʔqʷ - local place name

totí:lt - to learn or learn something

kw'ókw'eleqʷ – To be curious

<https://www.firstvoices.com/>



“Indigenous” is an umbrella term for First Nations (status and non-status), Métis and Inuit. “Indigenous” refers to all of these groups, either collectively or separately, and is the term used in international contexts, e.g., the ‘United Nations Declaration on the Rights of Indigenous Peoples’ (UNDRIP). Recently, it has been associated more with activism than government policy and so has emerged, for many, as the preferred term”

Indigenous Terminology Guide | Queen’s University. (n.d.).
<https://www.queensu.ca/indigenous/ways-knowing/terminology-guide>

Shuvinai Ashoona, Composition (People, Animals, and the World Holding Hands, 2008

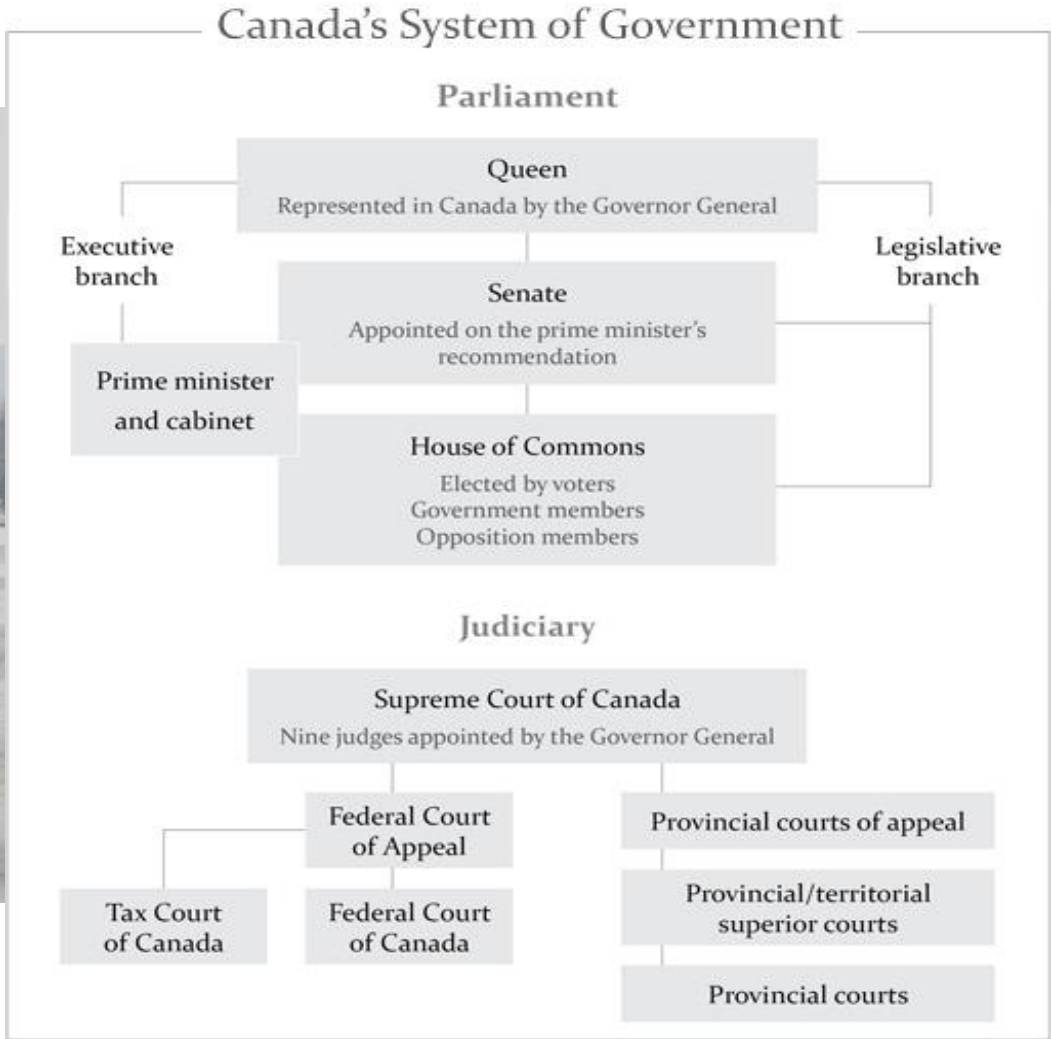
A close-up photograph of a woven basket, likely made of bamboo or similar natural fibers, with a white feather resting on it. The basket's weave is a complex, repeating pattern of light and dark brown strands. The feather is positioned diagonally across the lower half of the frame, with its base showing the intricate structure of the barbs.

Aboriginal Law and Indigenous Law

Aboriginal law is a body of law, made by the courts and legislatures, that largely deals with the unique constitutional rights of Aboriginal peoples and the relationship between Aboriginal peoples and the Crown. Aboriginal law is largely found in colonial instruments (such as the *Royal Proclamation* of 1763, the *Constitution Acts* of 1867 and 1982 and the *Indian Act*) and court decisions, but also includes sources of Indigenous law.

Indigenous law consists of legal orders which are rooted in Indigenous societies themselves. It arises from communities and First Nation groups across the country, such as Nuu Chah Nulth, Haida, Coast Salish, Tsimshian, Heiltsuk, and may include relationships to the land, the spirit world, creation stories, customs, processes of deliberation and persuasion, codes of conduct, rules, teachings and axioms for living and governing.

Canadian Legal System



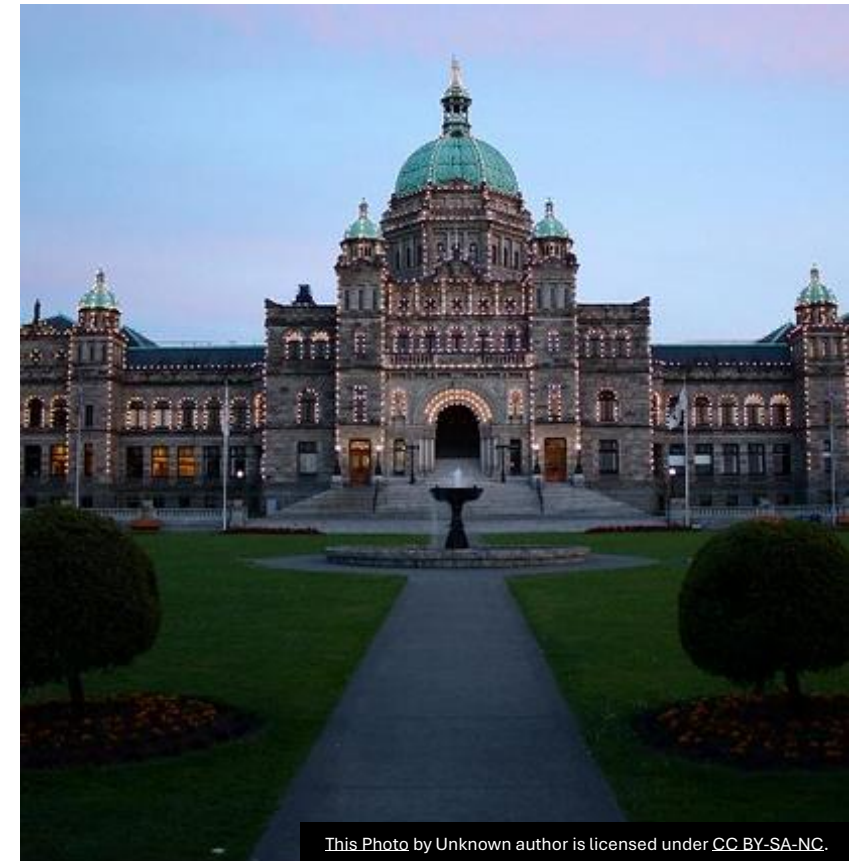
How to find current and historical acts

Federal

- Our Commons/LEGISinfo <https://www.parl.ca/legisinfo/en/overview>
- Parliamentary Historical Resources <https://parl.canadiana.ca/>
- Justice Laws (official) <https://laws-lois.justice.gc.ca/eng/>

Provincial/BC

- BC Legislative Assembly <https://www.leg.bc.ca/parliamentary-business/bills-and-legislation>
- Historical debates (1970) <https://www.leg.bc.ca/documents-data/debate-transcripts/40th-parliament/5th-session>
- BC Laws (not official) <https://www.bclaws.gov.bc.ca/>
- CanLii Federal and Provincial <https://www.canlii.org/en/>



The Shortest history of the Indian Act

To be federally recognized as an Indian either in Canada or the United States, an individual must be able to comply with very distinct standards of government regulation... The Indian Act in Canada, in this respect, is much more than a body of laws that for over a century have controlled every aspect of Indian life. As a regulatory regime, the Indian Act provides ways of understanding Native identity, organizing a conceptual framework that has shaped contemporary Native life in ways that are now so familiar as to almost seem “natural.”

–Bonita Lawrence

- **1867** British North American Act formal imposition of European laws and policies
 - Canadian Constitution created self-defined authority to create the Indian Act
- **1876** first passing
 - legislation to support the government securing of Indigenous land, assimilation into European culture
- **1884** The “Potlatch Law” & Section 141
 - Banning of potlatches and the passing down of community traditions through oral history
- **1951** First "major" overhaul of the Act
- **1969** The white paper
- **1970's – 2024** Bill C-31 and the activism in revitalizing Indigenous legal governance



An Indian Act Shooting the Indian Act, 1997, By Lawrence Paul Yuxweluptun

Truth and Reconciliation Commission Report

- The Truth and Reconciliation Commission of Canada (TRC) created through a legal settlement between Residential Schools Survivors, the Assembly of First Nations, Inuit representatives and the parties responsible for creation and operation of the schools: the federal government and the church bodies.
- The TRC's mandate was to inform all Canadians about what happened in residential schools and documented the truth of Survivors, their families, communities and anyone personally affected by the residential school experience.
- The TRC concluded its mandate in 2015.

<https://nctr.ca/about/history-of-the-trc/truth-and-reconciliation-commission-of-canada/>



Lyle Wilson, Haisla Artist

United Nations Declaration on the Rights of Indigenous Peoples Act/UNDRIP



Qeluc' (To Spin) / Bodies of Knowledge by Eliot White-Hill (Kwulasultun), 2023

UNDRIP is another legal tool empowering the revitalizing of Indigenous law.

In 2019 Bill 41 (The Declaration Act) received Royal Assent and affirms that UNDRIP applies to the laws of BC. The act sets out 3 principles for its interpretation but most notably is the first:

"The diversity of Indigenous Peoples in BC must be considered, particularly their distinct languages, cultures, customs, practices, rights, legal traditions, institutions, governance structures, relationships to territories, and knowledge systems (what has come to be referred to as a 'distinctions-based approach')"



“So Much Depends Upon Who Holds the Shovel,” by Christi Belcourt

Pre-sentencing reports

"Despite accounting for approximately 5% of the adult population, Indigenous Peoples continue to be overrepresented in the federal correctional system, accounting for 28% of all federally sentenced individuals and 32% of all individuals in custody; and Indigenous women account for 50% of all federally incarcerated women."

The Correctional Service of Canada

Gladue reports/principles a sentencing principle recognizing the racism and systemic discrimination that Aboriginal people face in and our the justice system.

Indigenous Courts and Justice programs in BC

First Nations/Indigenous Courts are criminal sentencing courts that use restorative justice and traditional ways to reach balance and healing.

Native court workers provide information and guidance to Indigenous peoples charged with an offence at all stages of the criminal justice process.

Indigenous Justice Centres provide Indigenous Peoples with access to free legal and outreach services if they are facing a criminal or child protection issue.

The BC Law Institute established the Reconciling Crown Legal Frameworks Program to support the alignment of BC's Crown legal framework with Indigenous laws.



'Qa'ToBeTogether / Interwoven Landscape by Eliot White-Hill (Kwulasultun), 2023

Courthouse Libraries BC initial steps



- TRC working group
 - Identifying how to align library practices
 - Indigenous subject headings
 - Collections
 - Artwork and welcome signs
- Outreach
 - Work with Indigenous Justice Centres
 - Native court workers
 - Law Matters programming

Pattern Board by Andy Everson (Kwakwaka'wakw), 2015

A row of books on a library shelf. The books are standing upright, and their spines are visible. The titles of the books are partially legible. A white, hand-drawn style border frames the central text. The background is slightly blurred, focusing attention on the text and the book spines.

Indigenous Legal Materials in Libraries

ABORIGINAL JUSTICE and the CHARTER

JESSE WENTE **UNRECONCILED**

GROUNDED
AUTHORITY

THE MI'KMAW, WOLFE LAKE, AND ASSASSINQUODDY NATIONS'
CONFEDERATION WITH GREAT BRITAIN, 1725-1779

ELIKKEWAKE COMPACT

THE MI'KMAW, WOLFE LAKE, AND ASSASSINQUODDY NATIONS'
CONFEDERATION WITH GREAT BRITAIN, 1725-1779

ELIKKEWAKE COMPACT

TRUDY SAUL AND BERNIE FRANCIS

MARIE BATTISTE, EDITOR

BUCK THE LAW AND THE LAND

TREATY

KIB
2420

KIB
2424

KIB
2424

KIC
3375

KIC
4394

KIC
5300.5

KIC
5300.5

KIC
5300

KIC
5832

KID
7
T74

Library
Resources to
Support
Research into
Indigenous laws
and legal orders

“I use the term ‘**legal system**’ to describe state-centred legal systems in which law is managed by legal professionals in legal institutions that are separate from other social and political institutions. For example, Canada and other nation states have such central legal systems.

In contrast, I use the term ‘**legal order**’ to describe law that is embedded in non-state social, political, economic, and spiritual institutions. For example, Gitksan, Cree, and Dunne za peoples have legal orders. Indigenous law is a part of and derives from an Indigenous legal order.”

--Val Napoleon, “Thinking about Indigenous Legal Orders” in René Provost and Colleen Sheppard, eds, *Dialogues on Human Rights and Legal Pluralism* (Dordrecht: Springer, 2013) 229 at 231.

Indigenous Legal Materials and Libraries



1. Resources that require deep knowledge and full cultural immersion

2. Resources that require some community connection

3. Resources that are publicly available



See Hadley Friedland, “Reflective Frameworks: Methods for Accessing, Understanding and Applying Indigenous Laws” (2012) 11:1 *Indigenous Law Journal* 1 at 11-12.

Hannah Claus, *words that are lasting*, located in the atrium of the Faculty of Law, Queen’s University, Kingston, Canada, <https://law.queensu.ca/about/about-the-art-in-our-atrium>

Indigenous law beyond the classroom

Queen's researcher, Lindsay Borrows, is bridging boundaries between Indigenous legal traditions, language revival, and the broader legal community.

Lindsay Borrows, an assistant professor in Queen's University's Faculty of Law, is spearheading a shift in the teaching and understanding of law by bringing land-based and Indigenous community-engaged education into the heart of legal discourse. Her goal: to demonstrate that we can be enriched by an understanding of law that transcends textbooks and what can be learned in the classroom.



Lindsay Borrows is an expert in Indigenous law and language.


By Justine Pineau
September 27, 2023



Sara Mainville—a lawyer at JFK Law LLP, a graduate of Queen's Law, and a member of Couchiching First Nation in Treaty 3—speaks to participants on the topic "Written Guides to Live within Anishinaabe Inaakonigewin (Law)."

A Closer Look at Subject and Collecting Levels

Areas to be collected to support **advanced** study:

- 
- Canadian law
 - Indigenous law and legal orders

Areas to be collected to support **initial** study:

- International law
- Legal philosophy
- Political and legal thought
- Law and EDII
- Feminist legal studies
- Conflict analytics

Areas to be collection to support to **foundational** study:

- Government
- Legal education and pedagogy
- Legal skills
- Legal materials related to other common law countries



Whose Land is This, Anyway?

Welcome to Home on Native Land, a self-guided course about Indigenous Justice in Canada. Through a series of 10 videos, cartoons & lessons, you'll take a walk down the back alley of history -- and the frontlines of legal action.

<https://homeonnativeland.com/>

Indigenous Canada

TAKE ONLINE FOR FREE

Take the course for free by choosing the audit option on Coursera.

[Learn More & Register](#)

GET A CERTIFICATE

Pay a modest fee to receive a certificate of completion at the end of the course.

[Learn More & Register](#)

TAKE FOR CREDIT

University of Alberta students can sign up for NS 201 for credit.

[Learn More](#)

About the Course

Indigenous Canada is a 12-lesson Massive Open Online Course (MOOC) from the [Faculty of Native Studies](#) that explores the different histories and contemporary perspectives of Indigenous peoples living in Canada.

From an Indigenous perspective, this course explores complex experiences Indigenous peoples face today from a historical and critical perspective highlighting national and local Indigenous-settler relations.

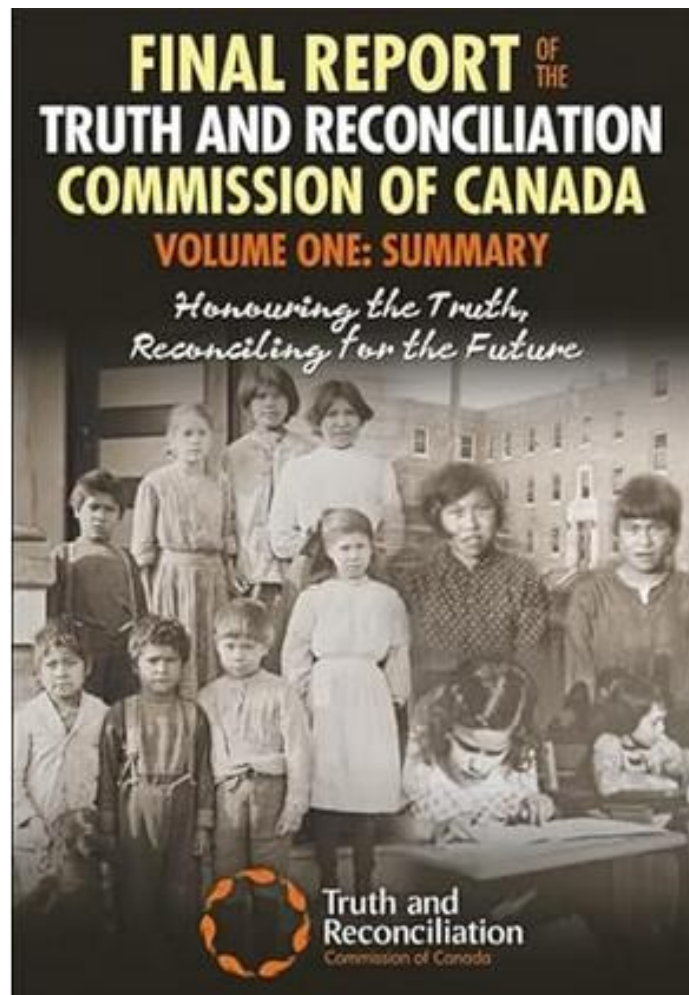
Indigenous Canada is for students from faculties outside the Faculty of Native Studies with an interest in acquiring a basic familiarity with Indigenous/non-Indigenous relationships.

[Registration is now open](#)

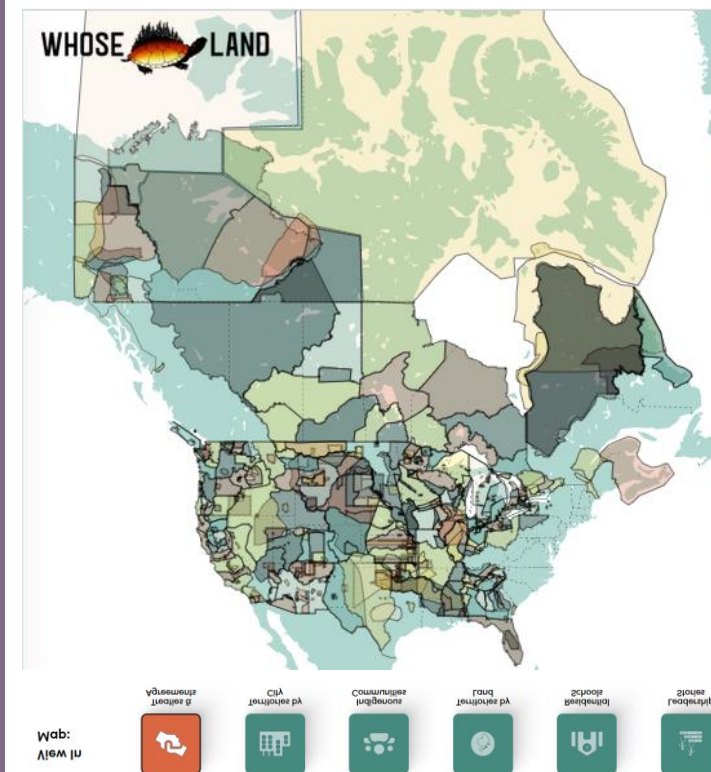
Presented by:



<https://www.coursera.org/learn/indigenous-canada>



<https://nctr.ca/records/reports/>



<https://www.whose.land/en/>

Work with vendors to maximize your chance of seeing material related to Indigenous laws and legal orders

Purchasing Query Cart defaults Ranking: Title

Secondary School Textbook
Young Adult

+ ☰ ✕ ▶

Interdisciplinary Studies in Law Law, Technical Indigenous studies

LC Classification in HV6250-6250.4 - Victims of crimes. Victimology
HV6251-6773 - Crimes and offenses
HV6774-7220.7 - Crimes and criminal classes
HV7231-9960 - Criminal justice administration

OR

LC Classification in K - Law in general. Comparative and uniform law. Jurisprudence
KB2-4855 - Religious law in general. Comparative religious law. Jurispru
KBM1-4855 - Jewish law. Halakhah
KBP - Islamic law KBR - History of canon law
KBU - Law of the Roman Catholic Church. The Holy See
KG - Latin America - Mexico and Central America - West Indies. Ca
KH - South America
KI-KIQ - Law of Indigenous peoples of the Americas

+ ☰ ✕

Part of our Rialto profile

Visit websites of
Indigenous-
focused presses
and Indigenous-
owned
distributors

Spotlight on Indigenous and Indigenous-Focused Presses

- Gabriel Dumont Institute
- Highwater Press
- The Indigenous Law Centre
(University of Saskatchewan)
- Inhabit Media**
- Nunavut Arctic College Media
- Pemmican Publications
- Purich Books
- Saskatchewan Indigenous Cultural
Centre
- Theytus Books
- Turtle's Back Publishing
- Where can I find these titles?



Inhabit Media

Inhabit Media Inc. is the first Inuit-owned, independent publishing company in the Canadian Arctic. They aim to promote and preserve the stories, knowledge, and talent of the Arctic, while also supporting research in Inuit mythology and the traditional Inuit knowledge of Nunavummiut (residents of Nunavut, Canada's northernmost territory). Their authors, storytellers, and artists bring traditional knowledge to life in a way that is accessible to readers both familiar and unfamiliar with Inuit culture and traditions.

Examples of Books Published by Inhabit Media



Arctic Crime and Punishment by Kenn Harper

Call Number: E99.E7 H363 2015 LAW

Publication Date: 2015

In this second volume of *In Those Days: Collected Writings on Arctic History*, Kenn Harper shares the tales of murderers, thieves, and fraudsters--as well as the wrongfully accused--in the early days of Northern colonization. In the nineteenth and twentieth centuries, settler and Inuit ideas of justice clashed, leading to some of the most unusual trials and punishments in history.



Inuit Kinship and Naming Customs by Pelagie Owljoot (Editor)

Call Number: E99.E7 I5786 2013 LAW

Traditionally, Inuit do not call each other by their given names. Instead, they refer to each other using a system of kinship and family terms. Calling each other by kinship terms is a way to show respect and foster closeness within families. Children were named after their elders and ancestors.

<https://guides.library.queensu.ca/indigenous-and-indigenous-focused-presses>



Filters

Grade Twelve

Grade Levels

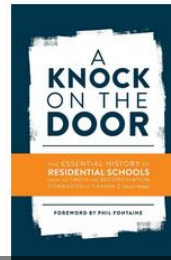
- Preschool
- Kindergarten
- Grade One
- Grade Two
- Grade Three
- Grade Four
- Grade Five
- Grade Six
- Grade Seven

Justice & Law

Showing 1 - 24 of 77 products

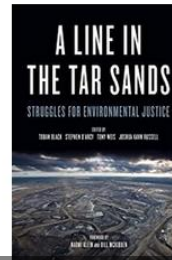
Sort by: Alphabetically, A-Z ▾

View



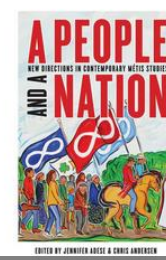
\$17.95

A Knock on the Door: An Essential History of Residential Schools
SKU: 9780887557859



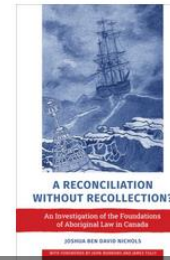
\$35.95

A Line in the Tar Sands: Struggles for Environmental Justice
SKU: 9781629630397



\$29.95

A People and a Nation: New Directions in Contemporary Métis Studies
SKU: 9780774865074



\$49.95

A Reconciliation without Recollection?
SKU: 9781487521875

<https://goodminds.com/>

Look for ways to work with Indigenous faculty and students

<https://guides.library.queensu.ca/Aboriginal-and-Indigenous-law>


QUEEN'S UNIVERSITY LIBRARY
Queen's University Library / Research Guides / Aboriginal Law & Indigenous Laws / Haudenosaunee Laws and Legal Traditions


Aboriginal Law & Indigenous Laws

- A note on terms
- Indigenous Laws & Legal Traditions
 - Anishinaabe Laws and Legal Traditions
 - Cree Laws and Legal Traditions
 - Haudenosaunee Laws and Legal Traditions**
 - Inuit Laws and Legal Traditions
 - Métis Laws and Legal Traditions
 - Mikmaq Laws and Legal Traditions
 - Musqueam, Squamish, and Tseil-Waututh Laws and Legal Traditions
 - Secwépmc Laws and Legal Traditions
 - Wendat Laws and Legal Traditions
 - Witsuwit'en Laws and Legal Traditions
 - Gitanyow Laws and Legal Traditions

Haudenosaunee Laws and Legal Traditions

 **Basic Call to Consciousness by Akwesasne Notes et al.**
Call Number: E99.I7 B23 2005 EDUCATION
ISBN: 1570671591
Publication Date: 2005
A collection of essays produced by Sotsisowah John Mohawk on behalf of the Haudenosaunee Confederacy Chiefs in order to explain the nature of Haudenosaunee thought to the Western world.

 **The Clay We Are Made Of: Haudenosaunee land tenure on the Grand River by Susan M. Hill**
Call Number: ebook
Publication Date: 2017
Also available at Stauffer Library Reserve - 3 hour loan E99.I7 H59 2017

 **The History and Culture of Iroquois Diplomacy: an Interdisciplinary Guide to the Treaties of the Six Nations and Their League by Francis Jennings and William N. Fenton**
Call Number: E99.I7 H63 1995 LAW
Publication Date: 1995
The book was developed through the efforts of the Newberry Library's project to document all Haudenosaunee (Iroquois) treaties. It provides a handy reference for treaties, treaty events, participants, and a glossary of metaphors used in Haudenosaunee political rhetoric. The chapters discuss treaty diplomacy, alliances, the Iroquois in Canada, Function of wampum in councils, Treaty Events from earliest known in 1613 to 1913; treaty calendar, gazetteer, and a list persons participating in treaties. Contributors include Francis Jennings, William N. Fenton, Mary Druke, Michael Foster, Robert Surtees, and David R. Miller.

 **Iroquois Culture and Commentary by Doug George-Kanentiio**
Call Number: E99.I7 G46 2000
Publication Date: 2000