



Aboriginal Law Reading List

Aboriginal Law – meaning the sphere of Canadian domestic law that deals with Indigenous peoples – is a complex and interwoven area of law that has roots in the assimilationist policies of early settler governments in what is now Canada, but also takes cues from resilient and ever-developing and growing Indigenous law and legal principles. It is an area of law that tries, with varying levels of success, to weave these two distinct and often contentious worldviews together across a shared history of a few hundred years. Lately this area of the law is infused with ‘reconciliation’, ‘UNDRIP’, and the reality of a landscape that has been deeply impacted by development.

If you’re interested in learning about the story of Aboriginal Law in Canada and where it sits today, take a look at the below reading list. This list does not tell the whole story – it’s a smattering of influential academic books, papers, novels, and Canadian case law. It is meant to be a starting point and a reference guide.

Just getting started?

- [Lynda Gray, First Nations 101](#)
- [Brian Slattery, What are Aboriginal Rights?](#)
- [Brian Slattery, The Legal Basis of Aboriginal Title?](#)
- [Jim Reynolds, Aboriginal People and the Law: A Critical Introduction](#)
- [Chelsea Vowel, Indigenous Writes: A Guide to First Nations, Métis, & Inuit Issues in Canada](#)

Major National Inquiries and Commissions

- [Report of the Royal Commission on Aboriginal Peoples](#)
- [Truth and Reconciliation Commission of Canada, Final Report of the Truth and Reconciliation Commission of Canada, Volume I, Summary: Honouring the Truth, Reconciling for the Future](#)
 - ◆ [Calls to Action Accountability: A 2022 Status Update on Reconciliation](#) prepared by Yellowhead Institute
- [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls](#)



Digging in a little deeper?

- [Sara Mainville, Hunting Down a Lasting Relationship with Canada – will UNDRIP Help?](#)
- [Jean Teillet, The North-West Is Our Mother: The Story of Louis Riel's People, the Métis Nation](#)
- [John Borrows, Larry Chartrand, Oonagh E. Fitzgerald and Risa Schwartz, eds., Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples](#)
- [Jim Reynolds, From Wardship to Rights: The Guerin Case and Aboriginal Law](#)
- [Joshua Nichols, A Reconciliation without Recollection? An Investigation of the Foundations of Aboriginal Law in Canada](#)
- [Land Back, A Yellowhead Institute Red Paper \(October 2019\)](#)

Seeking to understand how Indigenous law fits in?

- [Heather Borrows, Otter's Journey Through Indigenous Language and Law](#)
- [John Borrows, Canada's Indigenous Constitution](#)
- [Val Napoleon, Ayook: Gitksan Legal Order, Law, and Legal Theory](#)
- [Sylvia McAdam \(Saysewahum\), Nationhood Interrupted: Revitalizing nêhiyaw Legal Systems](#)
- [Rebecca Johnson & Lori Groot, Learning Indigenous Law: Reflections on Working with Western Inuit Stories](#)
- [Aaron Mills, The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today](#)
- [Leanne Betasamosake Simpson, As We Have Always Done: Indigenous Freedom Through Radical Resistance](#)
- [Leanne Betasamosake Simpson, Dancing on Turtles Back](#)

Interested in some specific histories and events?

- [Tanya Talaga, Seven Fallen Feathers: Racism, Death, and Hard Truths in a Northern City](#)
- [The Winter We Danced: Voices from the Past, the Future, and the Idle No More Movement](#)
- [Athlii Gwaii: Upholding Haida Law on Lyell Island](#)
- [Douglas C Harris, Territoriality, Aboriginal Rights, and the Heiltsuk Spawn-on-Kelp Fishery](#)
- [John Borrows, The Durability of Terra Nullius Tsilhqot'in Nation v. British Columbia](#)
- [Mark Kruse and Carrie Robinson, Injunctions by First Nations: Results of a National Study](#)



Interested in UNDRIP specifically?

- [United Nations Declaration on the Rights of Indigenous Peoples](#)
- [United Nations Declaration on the rights of Indigenous Peoples: Historical Overview](#)
- [Yellowhead Institute Special Report, the United Declaration on the Rights of Indigenous Peoples in Canada: Reflections on the B.C. Model](#)
- [Sarah Morales and Joshua Nichols, Reconciliation beyond the Box: The UN Declaration and Plurinational Federalism in Canada](#)
- [Government of Canada, Implementing the United Nations Declaration on the Rights of Indigenous Peoples Act](#)

In addition to the above reading list, please see a list of foundational Canadian court cases, many of which will be referenced in the above materials:

Section 35 Framework

R v Sparrow, 1990 CanLII 104 (SCC), [1990] 1 SCR 1075, <https://canlii.ca/t/1fsvj>

St. Catharines Milling and Lumber Co v R, [1888] UKPC 70, <https://canlii.ca/t/1ttxl> (helpful case summary can be found [here](#)).

Aboriginal Rights Defined

R v Van der Peet, 1996 CanLII 216 (SCC), [1996] 2 SCR 507, <https://canlii.ca/t/1fr8r>

R v Sappier; R v Gray, 2006 SCC 54, <https://canlii.ca/t/1q3tv> ,

Lax Kw'alaams Indian Band v Canada (Attorney General), 2011 SCC 56, <https://canlii.ca/t/fnr69>

Treaty Rights Interpretation

R v Taylor and Williams, 1981 CanLII 1657 (ON CA), <https://canlii.ca/t/g1hqq>

Simon v The Queen, 1985 CanLII 11 (SCC), [1985] 2 SCR 387, <https://canlii.ca/t/1fv04>

R v Sioui, 1990 CanLII 103 (SCC), [1990] 1 SCR 1025, <https://canlii.ca/t/1fsvg>

R v Marshall, [1999 CanLII 665 \(SCC\)](#), [1999] 3 SCR 456, <https://canlii.ca/t/1fqkq>

Quebec (Attorney General) v. Moses, 2010 SCC 17, <https://canlii.ca/t/29pt3>

Beckman v Little Salmon/Carmacks First Nation, 2010 SCC 53, <https://canlii.ca/t/2df7v>



Quebec (Attorney General) v. Moses, 2010 SCC 17, <https://canlii.ca/t/29pt3>

Restoule v Canada (Attorney General), 2018 ONSC 7701, <https://canlii.ca/t/hwqxxg>
(special report from the Yellowhead Institute featuring commentary from JFK lawyers can be found [here](#))

Aboriginal Rights Holders

Reference Re Eskimos, [1939] SCR 104, <https://canlii.ca/t/fslhl>

R v Powley, 2003 SCC 43, <https://canlii.ca/t/51pd>

Behn v Moulton Contracting Ltd., 2013 SCC 26, <https://canlii.ca/t/fxc12>

R v Desautel, 2021 SCC 17, <https://canlii.ca/t/jfjqc>

Duty to consult

Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73, <https://canlii.ca/t/1j4tq>

Mikisew Cree First Nation v Canada (Governor General in Council), 2018 SCC 40, <https://canlii.ca/t/hvhcj>

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