

**Canadian Lawyers Abroad-Avocats canadiens à l'étranger**

**2011-2012 Student Chapter Theme Document**



**Indigenous Rights and Increasing Access to Justice for  
First Nations, Inuit and Métis Peoples**

**“There can be no peace or harmony unless there is justice”**

**- Report of the Royal Commission on Aboriginal Peoples**



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## **1) CLA Annual Theme 2011-2012:**

Every year, the CLA Student Chapter Program chooses an annual theme in an area relating to law and development. Student Chapters LEARN about the theme; THINK about steps Canada can take to address the issue; and ENGAGE in activities that raise awareness. In past years, topics have ranged from children's rights to the Millennium Development Goals. This year we have chosen to focus on Indigenous Rights and the steps that Canada can and should be taking to increase access to justice for First Nations, Inuit and Métis Peoples.

CLA believes that it is extremely important that all law students, as the future of the legal profession, be more knowledgeable about Indigenous rights and the challenges and barriers faced by Aboriginal Peoples in exercising these rights. This includes understanding the historical context, including residential schools and forced assimilation, and recognizing that the disadvantaged social and economic conditions in which Aboriginal Peoples live is a justice issue.

### **How to use the theme guide**

The purpose of this theme guide is to provide Student Chapters with a concise and organized document of key background information. Student Executives are encouraged to browse through the theme guide early in the year to plan ahead for events.

In this guide, the term "Aboriginal Peoples" is used as an all-encompassing term that includes Inuit, First Nations and Métis, as is consistent with the definition of Aboriginal Peoples in section 35(2) of the *Canadian Charter of Rights and Freedoms*.

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## 2) UN Declaration on the Rights of Indigenous Peoples

**“Today marks an important shift in our relationship and now the real work begins. Now is our time to work together towards a new era of fairness and justice for First Nations and a stronger Canada for all Canadians, guided by the Declaration’s core principles of respect, partnership and reconciliation.”**

- Assembly of First Nations National Chief Shawn A-in-chut Atleo on the signing by Canada of the UN Declaration on the Rights of Indigenous Peoples in 2010

It is important to recognize that the rights of Aboriginal Peoples are not only recognized in the domestic context but also in international instruments, in particular the UN Declaration on the Rights of Indigenous Peoples.

The United Nations General Assembly adopted the Declaration on September 13, 2007. This document gives prominence to collective rights of Indigenous Peoples, such as the right to self-determination and the right to control land. The Declaration states that Indigenous Peoples have the right “to the recognition, observance and enforcement of treaties” concluded with States or their successors. It also prohibits discrimination against Indigenous Peoples and promotes their full and effective participation in all matters that concern them.

Canada voted against the adoption of the Declaration (as did Australia, the United States and New Zealand) on the basis that resource rights as well as other claims referenced in the Declaration were incompatible with Canada’s constitutional framework.

The following are agreed upon features of Indigenous populations:

- Self-identification as indigenous
- Continuity with pre-colonial or pre-settler societies
- A common experience of colonialism and oppression
- Occupation or a strong link to a specific territory
- Distinct social, economic, and political systems
- Resolve to maintain and reproduce ancestral environments and distinctive identities

This definition is very inclusive and encompasses the diversity of Indigenous populations around the world.

On November 12, 2010, Canada endorsed the Declaration with the Honourable John Duncan, Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-status Indians stating that: "Canada has endorsed the Declaration to further reconcile and strengthen our relationship with Aboriginal Peoples in Canada."



### **For Further Information:**

- See the [United Nations Declaration on the Rights of Indigenous Peoples](#) for the full version of the Declaration
- See Government of Canada press release “[Canada Endorsing the United Nations Declaration on the Rights of Indigenous Peoples](#)”
- See this fact sheet by the United Nations Permanent Forum on Indigenous Issues (UNPFII) about [who are Indigenous Peoples?](#)
- See an article by the UNPFII for a [brief History of Indigenous Peoples and the International System](#)
- See the [Global Issues webpage on Rights of Indigenous People](#)
- Read about an initiative in New Zealand called the [Waitangi Tribunal](#)

### **3) Aboriginal Rights in the Canadian context**

#### ***What are Aboriginal Rights?***

Aboriginal rights are derived from two main sources:

- “Unextinguished or inherent rights” acknowledge that Canada’s Indigenous Peoples were not “conquered” by European settlers and, therefore, have inherent rights based on their historical occupation of their traditional lands (see [Haida Nation v. British Columbia](#)).
- Treaty rights are provided for in various treaties and agreements made between Indigenous Peoples and the Crown.

Both sets of rights are entrenched in section 35 of the [Constitution Act, 1982](#), which protects them from extinguishment by the Crown. Aboriginal rights are held collectively as a group.

It is important to note that s.35 of the *Constitution Act, 1982* does not create Aboriginal rights; those rights stand on their own, and derive from the fact that Aboriginal Peoples were the First Peoples of North America and were never conquered. The Constitution “recognizes and affirms” those rights and gives them constitutional protection. The Constitution protects “existing” rights, which has been interpreted by the Supreme Court as meaning those rights that existed and had not been extinguished in 1982. Since 1982, those rights cannot be unilaterally extinguished. Infringement of those rights is possible, under a strict justification test (see *Sparrow*).

#### ***I. Three main categories of Aboriginal Rights:***

##### ***a) Inherent Aboriginal Rights***

- Exist solely from the existence and custom of an Aboriginal community and are derived from their status as Indigenous Peoples.



- Generally characterized as those practices that are integral to the distinctive culture of a First Nation.
- Include, among others, fishing, hunting and trapping rights.
- The Supreme Court of Canada created a test used to determine existing Aboriginal rights under section 35(1) of the *Constitution Act, 1982* that continues to be applied (See [R. v. Van der Peet](#) for the case and the test).

The Government of Canada has recognized the inherent right of self-government in s.35 of the *Constitution Act, 1982*. A number of First Nations have already completed self-government agreements including; Yukon First Nations, Westbank First Nation, and the Sechelt Indian Band. A list of Self-Government Agreements in Canada can be found in pages 287-312 of [First Nations Governance Law](#). Many more First Nations have [commenced self government negotiations](#).

### **b) Aboriginal Title**

- Aboriginal title is a collective right amounting to entitlement of exclusive use and occupation of a territory. It is a distinct form of property right, owned by the collective and not any individual.
- Supreme Court of Canada has outlined criteria to establish the existence of Aboriginal title (see [Delgamuukw v. British Columbia](#)).
- An Aboriginal group's right to exclusive use and occupation of the territory is limited by the principle that use of the land cannot be inconsistent with the community's traditional relationship to the land (e.g., strip mining development may be viewed as inconsistent with the traditional use of the land as a hunting and fishing area).

After long-term negotiations between the Inuit Tapirisat of Canada, the Government of Canada and the Government of the Northwest Territories and receiving assent from a majority of voters in the Northwest Territories and Nunavut area, the Nunavut Agreement is signed in May of 1993. In June of the same year, the Nunavut Land Claims Agreement Act and the Nunavut Act are adopted by Parliament and receive Royal Assent. The Nunavut Territory and Government came into existence on April 1 1999.

### **c) Treaty Rights**

- Treaty rights are those rights contained or agreed upon during treaty negotiations between a First Nation and government.
- Treaty rights are distinguished in interpretation between historic and modern



treaties. [Historic treaties](#), most of which were signed between 1800 and the early 1900s, are given a larger and more liberal interpretation with ambiguities in wording resolved in favour of the Aboriginal party.

- [Modern treaties](#) are often interpreted much more literally and are primarily in the form of land claims. Examples: James Bay and Northern Quebec Agreement of 1975, Inuvialuit Agreement of the Western Arctic, Nisga'a Final Agreement.

## **II. Indian Act**

The [Indian Act](#) is federal legislation that is still in force, which was originally adopted in 1876 and modified over time. When originally adopted, the Act was the main instrument used in the government of Canada's policy toward "Indians" (i.e. Aboriginal citizens). That policy had two main objectives: the protection of Indians from exploitation and abuse (particularly the taking of their land) and the gradual "civilization" or assimilation of Indians into white society. Among other things, the *Indian Act* imposed a specific political structure on Indian bands, replacing the powers of traditional Indigenous political structures with a foreign European model. Today, the Act continues to serve to define who is recognized as a "status Indian" and sets out how Indian bands operate. The Act also sets out the legal framework in relation to Indian reserves and sets out rights and protections relating to both reserve and status Indians. Under the *Indian Act*, the federal government continues to play a central role in the management and control of First Nations government on reserves.

The National Chief of the Assembly of First Nations, Shawn Atleo, has called for the relationship between the First Nations and Canada to move beyond the *Indian Act* to a relationship that gives First Nations "the right to make the decisions that affect our lives and take responsibility for those decisions." National Chief Atleo wrote an [article](#) for the *Ottawa Citizen* critiquing the relationship between Aboriginal Peoples and the federal government that has been created by the *Indian Act*.

## **III. Honour of the Crown and its Implications**

The concept of the "honour of the Crown" arises from the historical relationship between the British Crown (and subsequently the Canadian government) and Aboriginal Peoples in Canada. It stipulates that the Crown is held to a standard of acting "honourably" in all dealings with Aboriginal Peoples. It continues to act as a legal principle that is intended to guide the treatment of Aboriginal Peoples. The implications of the Crown's "duty of honour" include:

- The need to promote reconciliation between the government and Aboriginal Peoples;
- Guiding government conduct both internally and in relation to third parties (i.e. industry) in areas that affect Aboriginal rights; and
- Interpreting treaties between Canada and Aboriginal Peoples [generously and liberally](#);



- Imposing a [duty to consult and accommodate](#) Aboriginal Peoples when their established or asserted rights may be affected by government action;
- Imposing a duty to have [sufficient justification for an infringement](#) of an Aboriginal right, through government regulation. (*R. v. Sparrow*)

#### ***IV. Duty to Consult***

The duty to consult arises whenever the Crown has knowledge of a potential Aboriginal right and is considering conduct that might affect that right (see: [Haida Nation](#)). A recent Supreme Court of Canada decision (see: [Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council](#)) provides further guidance to this principle by requiring that there be a direct, causal relationship between the action and potential adverse effect. Although the duty to consult applies only to the Canadian Government and Crown Corporations, private companies will often adhere to the principles to foster positive relationships in the communities in which they operate.

#### **For Further Information:**

- [Read](#) Aboriginal Affairs and Northern Development Canada's page on the Duty to Consult
- See [Gowlings](#) summary and analysis of the *Rio Tinto* decision
- Read an article by Professor Dwight Newman at the University of Saskatchewan for more information on the [duty to consult](#)
- See an [article](#) in *Lawyers Weekly* magazine on *Rio Tinto Alcan Inc.* the recent Supreme Court of Canada Case refining the duty to consult
- See the UBC Faculty of Law article: [The Canadian Constitutional Duty to Consult Aboriginal Peoples: \*Platinex v. Kitchenuhmaykoosib Inninuwug First Nation\*](#)
- For the *CBC* series on land claims, see [here](#)

### ***4) Aboriginal Persons and the Canadian Criminal Justice System***

#### ***I. Overrepresentation of Aboriginal Persons in the Canadian Criminal Justice System***

Established in 1991, the [Royal Commission on Aboriginal Peoples](#) (RCAP) concluded that "the justice system has failed Aboriginal people," the key indicator of which was their steadily increasing and disproportionate representation in Canadian correctional facilities.

According to the [Correctional Service of Canada](#):

- While forming less than 4% of the general Canadian population, Aboriginal offenders make up 20% of federal penitentiary inmates



- The federally incarcerated population in Canada declined by 12.5% from 1996-2004. In contrast, the number of Aboriginal persons in federal institutions increased by 21.7%
- The number of incarcerated First Nations women also increased by almost 90% in the last ten years

Restorative justice is a non-adversarial, non-retributive approach to justice that emphasizes healing in victims, meaningful accountability of offenders, and the involvement of citizens in creating healthier, safer communities.

The higher rates of incarceration for Aboriginal persons have been linked to the presence of social, political and legal issues that persist from generation to generation, as well as the presence of systemic discrimination within the political and social structures of Canadian society.

## ***II. Youth Criminal Justice Act***

The *Youth Criminal Justice Act* (YCJA) was passed by the House of Commons on February 4, 2002 and came into force on April 1, 2003 to replace the former *Young Offenders Act* (YOA).

### *Some of the Provisions applying to Aboriginal youth:*

- **Section 50 (1):** Fair and equal treatment in sentencing
- **Section 38 (2) (d):** All available reasonable sanctions other than custody should be considered with particular attention to the circumstances of Aboriginal youth.
- **Section 3 (1) (iv):** Within the limits of fair and proportionate accountability, interventions should reinforce respect for societal values, encourage the repair of harm done, be meaningful to the young person, respect gender, ethnic, cultural and linguistic differences and respond to the needs of Aboriginal young persons and of young persons with special requirements. (YCJA Declaration)

### **Impact on Aboriginal Youth since the introduction of the YCJA**

In 2000, there were 1,128 Aboriginal youth reported in custody across Canada, compared to 720 reported in 2003. Despite the substantial reductions in the number of Aboriginal youth in custody since 2000, Aboriginal youth continue to experience a significantly higher incarceration rate compared to non-Aboriginal youth. While the incarceration rate for non-Aboriginal youth is **8.2** per 10,000 population, the incarceration rate for Aboriginal youth is **64.5** per 10,000 population.

### **For Further Information:**

- See Fisher and Janetti (1991) "Aboriginal Youth in the Criminal Justice System" In: *Issues and Perspectives on Young Offenders in Canada* (ed.) John Winterdyk. Harcourt Brace Canada. Hamilton and Sinclair (1991) Report of the Aboriginal



Justice Inquiry of Manitoba, Volume 1: The Justice System and Aboriginal People.

### **III. *Alternative Approaches to Justice for Aboriginal Offenders***

#### **a) Gladue Principles**

- [\*R. v. Gladue\*](#) attempted to address the high incarceration rates of Aboriginal persons in Canada.
- It recognized the need to consider alternative means in sentencing Aboriginal offenders as sanctioned in 718.2(e) of the *Criminal Code*.
- It asserted that Aboriginal offenders are most adversely affected and least likely to be rehabilitated by incarceration. It also noted that incarceration was culturally inappropriate and not reflective of Indigenous principles of healing and justice.
- Gladue Principles require judges in the process of sentencing to consider the unique circumstances of the Aboriginal offender that led to his or her offence, and strongly consider alternatives to incarceration.
- Where the resources are available, Gladue Reports are prepared to assist in sentencing of Aboriginal offenders. This has yet to happen province-wide.

#### **b) Aboriginal Courts**

- Operate alongside various Provincial Court systems in Canada.
- Remediate aspects of racism and cultural bias faced by Aboriginal persons in the justice system and ensure that culturally appropriate remedies are considered and applied where possible.
- Have jurisdiction over traditional Aboriginal law however some courts also address matters of family and criminal law
- For more examples see: The Tsuu T'ina First Nation Court in Alberta; [The Gladue \(Aboriginal Persons\) Court in Toronto](#); and [The First Nations Court in Westminster, B.C.](#)

#### **c) Sentencing alternatives and other programs**

- Sentencing circles: At the request of a judge, a group usually comprised of the offender's and victim's family, elders and community members will meet and provide sentencing recommendations with the goal of restorative justice objectives.
- [Healing Lodges](#): An alternative form of incarceration, lodges offer services to offenders that incorporate Aboriginal traditions and beliefs and offer access to Aboriginal teachings and ceremonies, elders and other community members and interaction with nature.
- Diversion programs: They are offered at various stages of the criminal justice process where an accused will participate in a program and upon successful completion, the charge(s) will be either withdrawn or stayed.



**For Further Information:**

- See Territorial Judge Heino Lilles' article on [Circle Sentencing](#).
- The Department of Justice's [Aboriginal Justice Strategy](#) shows statistics on disproportionate incarceration rates of Aboriginal persons. See this [article](#) in the *Globe and Mail* for details.
- See the *Globe and Mail*'s article on [Nunavut](#) facing unique challenges and even more alarming statistics regarding incarceration than the national average
- The Department of Justice's summary and background on the Youth Criminal Justice Act [here](#)
- Read *Horizons* Magazine: "Hope or Heartbreak: Aboriginal Youth and Canada's Future" [here](#)
- [Report of the Aboriginal Justice Inquiry of Manitoba](#)
- [2011 Canadian Bar Association Resolution on Preserving Special Consideration of Aboriginal Persons in the Criminal Justice System](#)

***5) Economic and Social Justice for Aboriginal Persons***

**"The background factors which figure prominently in the causation of crime by Aboriginal offenders are by now well known. Years of dislocation and economic development have translated, for many Aboriginal Persons, into low incomes, high unemployment, lack of opportunities and options, lack or irrelevance of education, substance abuse, loneliness, and community fragmentation. These and other factors contribute to a higher incidence of crime and incarceration."**

- R. v. Gladue, para 67

**"It is not good enough to have political power, if you don't have economic power."  
Phil Fontaine, Former Chief of the Assembly of First Nations**

It is impossible to discuss the interaction of Aboriginal Peoples with the justice system without considering the historical plight or the economic and social situation of Aboriginal Peoples in Canada today.

***I. Residential Schools and Truth and Reconciliation Commission***

**"Today, we recognize that this policy of assimilation was wrong, has caused great harm and has no place in our country. The government of Canada sincerely apologizes and asks the forgiveness of the Aboriginal Persons of this country for failing them so profoundly. We are sorry."**

- From Prime Minister Stephen Harper's statement in the House of Commons on June 11, 2008



[Residential Schools](#) are widely cited as a cause of numerous (crime, poverty, addiction, family dysfunction) in Aboriginal communities due to their systemic method of assimilation, cultural alienation and family upheaval along with high instances of physical, sexual and mental abuse that was perpetrated on the Aboriginal students who were in many cases removed from their families and forced into these schools. These schools, which operated between 1880 and 1996, were a major instrument in the government's policy of assimilation. The objective was to remove the Aboriginal children from their communities so that they would lose their culture and grow up as "white" children. The [Indian Residential Schools Settlement Agreement](#), derived as a settlement of various class action suits on behalf of residential school survivors, was signed and approved by the courts and came into effect September 19, 2007.

Through the Agreement, the Truth and Reconciliation Commission of Canada was established with a mandate to learn the truth about what occurred in residential schools and to then inform Canadians of that truth. The Commission will document the truth by relying on records held by those who operated and funded the schools, testimony from school officials, and the experiences reported by survivors, their families, communities and anyone personally affected by the residential school experience and its subsequent impacts. At the end of its mandate, the TRC will have prepared a complete historical record on the policies and operations of the residential schools as well as a public report including recommendations. In addition, a national research centre will be established to provide a lasting resource about the residential school legacy.

Throughout the course of its mandate, the Commission hopes to guide and inspire Aboriginal peoples and non-Aboriginal Canadians in a process of truth and healing toward reconciliation and renewed relationships based on mutual understanding and respect.

See [here](#) for an article by *CBC* covering Prime Minister Stephen Harper's apology for residential schools.

## ***II. Missing or Murdered Aboriginal Women***

### *Fast Facts:*

- The Native Women's Association of Canada has documented at least 520 such cases since the year 2000. Most of these women are under the age of 30 and are victims of sexual violence
- About 170 Aboriginal women are missing and about 340 have been murdered
- Saskatchewan, Manitoba and British Columbia have the highest numbers of missing or murdered Aboriginal women
- This violence has been attributed to deeply entrenched patterns of racism and discrimination in Canadian society
- Serious concerns have been raised that these patterns have pushed Aboriginal women into situations of increased vulnerability to violence and denying many of these women adequate protection of police and the justice system



The infamous case of [Helen Betty Osborne](#) illustrates the ongoing neglect of legal enforcement toward Aboriginal women. On November 12, 1971, four non-Aboriginal men accosted Osborne, a high school student in The Pas, Manitoba, on the way to a dance one evening. She was beaten, sexually assaulted and stabbed to death in a cabin. Twenty years later, the Manitoba Aboriginal Justice Inquiry concluded that the most critical factor obstructing justice in Osborne's case was the failure of the non-Aboriginal community to bring forward evidence that would have assisted the investigation. The question also remains as to why the police waited more than 10 years to publicly seek the assistance of the community.

### **For Further Information:**

- See *Globe and Mail* [article](#) chronicling ongoing problem of 500+ missing women
- Sisters in Spirit Vigil [speech](#) by Senator Lillian Eva Dyck (2008)
- Read an article by the *Globe and Mail* on [Ottawa Failing the Education System](#)
- Read an Elizabeth Fry Society [Report](#) on Aboriginal Women and the Justice System
- *CBC* [Report](#) on Innu school system in Labrador
- *CBC* [article](#) on Poverty a factor in incarceration rates of Aboriginal persons
- *CBC* [article](#) on history of residential schools in Canada
- See the [Aboriginal Healing Foundation](#) for resources on helping Aboriginal persons heal from residential school abuses

### **III. Statistics**

- 60% of Aboriginal students on-reserve and 43% of Aboriginal students off-reserve have dropped out of high school, compared to 9.5% of non-Aboriginal Canadians
- Over 50% of children in foster care are Aboriginal
- The suicide rate is 11 times the Canadian average --- most being young Aboriginal persons
- A recent Canadian Medical Association Journal article documented that more than 70% of households in Nunavut experience food insecurity in the course of the year.
- If the United Nations Human Development Index was applied to the Aboriginal persons population in Canada, it would rank 73rd (currently occupied by impoverished Dominica) out of 174 nations. Overall, Canada rates 3rd
- In 2006, Statistics Canada reported 44 per cent of First Nations people on reserves lived in a home in need of major repairs, up from 36 per cent a decade earlier in 1996. For the Inuit, in 2006, it was 31 per cent, up from 19 per cent in 1996
- There is greater lack of access to clean running water on reserves, many of which are still under "boil water" advisories.
- The Statistics Canada Aboriginal Peoples Survey showed 14 percent of Métis had asthma (8 percent for general population), 6 per cent suffer chronic bronchitis at 6 per cent and one in a hundred suffer emphysema and tuberculosis



Despite these alarming statistics, there have been numerous improvements in several areas in recent years. The following are a few examples of positive achievements:

- In British Columbia, infant mortality, unintentional injuries, suicide and most other major causes of death rates in the Aboriginal population are improving steadily, often at [rates](#) of improvement that exceed the provincial average
- Aboriginal people saw better employment rates in 2006 than in 2001. In 2006, the employment rate for Aboriginal people in Canada of core working age (25-54) was 66%, up from 61% in 2001.
- Over the past decade, the share of Aboriginal people living in crowded homes has declined. In 2006, 11% of Aboriginal people lived in homes with more than one person per room, down from 17% in 1996.
- The National Aboriginal Achievement Fund has awarded 42.7 million dollars to 11,500 college and university First Nations, Inuit, and Métis students.
- The Akitsiraq Law School is a legal education program designed to increase the number of lawyers in Nunavut and the Arctic. The Akitsiraq I program graduated 11 students, 9 of who are practicing in the North.

**For Further Information:**

- See [speech](#) by Mary Simon, ITK President on “Inuit and Social Justice”
- Office of the Auditor General 2011 Status Report, [Chapter 4 on Programs for First Nations on Reserves](#)
- [The National Aboriginal Housing Association](#) releases reports on housing, homelessness for Aboriginal persons
- [The Canadian Centre for Substance Abuse](#) collects statistics on substance abuse information for First Nations, Inuit, and Métis
- See [this article](#) by Cindy Blackstock for a discussion of child welfare.
- See [here](#) for an article by the Canadian Council for Social Development on Aboriginal children in poverty
- Ottawa Life Magazine article [“First Nations Come Last”](#)

A number of organizations and groups are working toward the continuing improvement of these statistics and indicators. Despite the easy pessimism that comes from examining these facts, Mary Simon, President of the Inuit Tapariit Kanatami, has words of optimism for the future:

“Then, just as quickly, creeping doubts turn to inspiration as I spot a promising new patch of berries, and I am reminded that we live in a country that, like the berry patch, produces hope in the fullness of time.” (Mary Simon, Katherine Graham Lecture on Aboriginal Policy)



## 6) Suggested Activities

We suggest that Student Chapters work with Aboriginal law organizations active in their school or community. Suggested Student Chapter activities to raise awareness about the theme:

- Search out existing city-wide events to be promoted within the school such as:
  - A [Vigil](#) for Missing and/or Murdered Aboriginal Women
  - A Canadian Aboriginal Persons' [Festival](#)
- Show a film/documentary:
  - [“Our Land, My People”](#) (2008) (Amnesty International Film about justice for the Lubicon Cree)
  - [Aboriginal CBC Documentary 8<sup>th</sup> Fire](#): (to be aired in 2012)
  - [“Land of Oil and Water”](#), [“Overburden”](#) (2009) (two short films by Professors Warren Cairu and Neil Mackay on the ongoing issue of drilling oil sands on Aboriginal lands)
  - More Canadian short documentaries on Aboriginal persons found at the Winnipeg Film Group [here](#)
- Invite an Aboriginal elder, Aboriginal lawyer or law professor in the community to speak to students at an organized speaking engagement:
  - Lunch and learn
  - Expert debate
  - Information panel
- Invite some of our past CLA interns who have worked in Canada's North to share his/her experiences and discuss some of the important legal concerns
- Organize for members of your Chapter to attend events such as the [Indigenous Bar Association Conference on Reconciliation](#) (Sept. 30 and Oct. 1)

## 7) Glossary

- 1) **Aboriginal Peoples:** The Canadian Constitution recognizes three distinct groups of Aboriginal Peoples - Indians, Métis and Inuit. Aboriginal Peoples are also often referred to as “Indigenous” Peoples.
  
- 2) **Métis:** The Métis were originally the descendants of 18<sup>th</sup> century unions between European men (explorers, fur traders and pioneers) and Indian women, mainly on the Canadian plains, which now form part of Manitoba, Saskatchewan and Alberta. Within a few generations the descendants of these unions developed a culture distinct from their European and Indian forbears. In early times, the Métis were mostly nomadic. Later, they established permanent settlements centered on hunting, trading and agriculture. Under a test developed by the Supreme Court of Canada, members of the Métis community are individuals who self-identify as



Métis, have an ancestral connection to an identified historic Métis community, and are accepted by the modern Métis community.

- 3) **Inuit:** An Aboriginal group in northern Canada, who live above the tree line in the Northwest Territories, Yukon, Nunavut and in Northern Quebec and Labrador. Inuit make up some 80% of the population of Nunavut.
- 4) **Status and non-status Indians:** This is a statutory term as defined by the *Indian Act*. Status Indians are defined as anyone registered or entitled to be registered as an Indian under the *Indian Act*.
- 5) **First Nation:** This term became common in the 1970s to replace the term “Indian,” which in addition to being historically inaccurate, has sometimes taken on a derogatory connotation and can be offensive. “First Nations peoples” refers to the original inhabitants who lived in and occupied Canada prior to European contact and their descendants, other than the Inuit of Canada’s North. The majority of Canada’s First Nations peoples entered into treaties with the Crown from the 18<sup>th</sup> century until 1923 (the major exceptions being much of British Columbia and Northern Quebec). The term “First Nations” has also been used to replace the *Indian Act* term “band” in the name of Aboriginal community.

**Links to Aboriginal political organizations:**

- [Assembly of First Nations](#)
- [Congress of Aboriginal Peoples](#)
- [Native Women’s Association of Canada](#)
- [Inuit Tapiriit Kanatami](#)
- [Métis National Council](#)

**For Further Information:**

- See [Aboriginal Affairs and Northern Development Department](#)
- More information about the history of Métis on the Library and Archives Canada website [here](#)