

Instruction and Assessment Units





UNIT 5: ABORIGINAL PEOPLES AND THE LAW

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Overview

This unit provides a focus on social injustices experienced by Aboriginal peoples in Canada. Using the law as a lens helps students understand how governments sometimes use their power to commit acts of injustice.

Prescribed Learning Outcomes

This unit can be used to help students achieve the following prescribed learning outcomes in whole or in part:

Defining Social Justice

A5 assess how belief systems can affect perspectives and decisions in relation to social justice issues

Recognizing and Analyzing Social Injustice

B2 analyse causes of social injustice

B3 describe consequences of social injustice

B4 analyse specific examples of injustice in Canada related to characteristics such as

- age
- marital or family status
- mental or physical ability
- political belief
- race and ethnicity
- religion and faith
- sex
- sexual orientation
- socioeconomic status

B5 analyse the roles played by legislation, the courts, public policy, and other forms of government action in promoting or failing to promote social justice in Canada





Introduction

Have the class read a law or legal decision pertaining to Aboriginal peoples in Canada, such as

- the *Charter of Rights and Freedoms*
- Hate Provisions sections of the *Criminal Code of Canada*
- the *Indian Act*
- specific court decisions (e.g., Calder 1973, Guerin 1984, Sparrow 1990, Delgamuukw 1991, Van der Peet 1995, Pawley 2004)

As a class, brainstorm the inherent beliefs and assumptions behind the language of the document. Have students conduct research online of other legislation and decisions regarding Aboriginal peoples. Students should summarize the law/judgment by answering the following questions:

- What was at issue, and what was the ideal outcome for each party?
- How has the law/decision affected the First Nation, the individual, and Canadian society?
- Did the belief systems of the dominant culture influence the legislation or decision? If so, how?

Upon completion of their research and summary, students will report their conclusions to the class. Each presenter will be expected to answer questions and lead a discussion on their chosen document if one arises.

At the conclusion of the presentations, summarize by expanding on the initial brainstorming session on inherent beliefs and assumptions in legal documents. By clustering similar items from various documents on the whiteboard or overhead, help students recognize patterns in Canadian law regarding Aboriginal peoples. The class will use these notes for the basis of an in-class essay at the next class session on the question, “How have the dominant belief systems in Canada affected our legal relationship with

Aboriginal peoples?” Students’ responses should demonstrate the ability to analyse the cause and effect relationship between cultural perspectives and our legal system.

Assess students’ presentations and essays using criteria such as those outlined in the assessment tool provided at the end of this unit (**Effects of Legislation on Aboriginal Peoples**).

Social Injustice in Canada

Introduce this unit by asking the class to name instances of social injustice that have occurred in Canada. Record the suggestions under the following five categories:

- Aboriginal peoples
- people who are LGBT
- racial and ethnic minorities
- women
- socioeconomics
- other (e.g., cultural practices, religion).

Divide the class into groups of six. Have groups generate their own lists of values and principles of social justice. When the list is compiled, have groups assign individual members the task of researching an example of injustice from one of the six categories, so that all six are covered by each group. When students have found their example they will analyse it in terms of the values and principles on their group’s list. Which principles of social justice were violated in this instance?

Upon completion, have students first share their example and analysis with their group. Students will then fill out a self-assessment on their collective work, applying the following criteria:

- inclusive list of values and principles of social justice
- appropriate examples for each category
- clear understanding of why each instance violated the values and principles of social justice.





Upon completion of this segment, the groups will present to the entire class and hand in their written reports for teacher assessment.

Consequences of Injustice

Begin by providing students with the following list of terms: alienation, poverty, prejudice, discrimination, persecution, patriarchy, inequity, racial profiling, incarceration rates, environmental degradation, homelessness, desensitization, apathy, mistreatment of animals, and reduced self-worth. For each term, have students write a definition, cite an example which shows clear understanding of the term, and describe the effects on victims of injustice and society.

Assess responses on the extent to which students

- accurately define terms
- show understanding of the concept by citing appropriate examples
- demonstrate an understanding of the consequences of injustice for all concerned.

The Courts, the Government, and Social Justice

Provide students with texts of the following documents

- the *Charter of Rights and Freedoms*
- Hate Provisions sections of the *Criminal Code of Canada*
- the *Indian Act*
- specific court decisions (e.g., Calder 1973, Guerin 1984, Sparrow 1990, Delgamuukw 1991, Van der Peet 1995, Pawley 2004)

In addition, provide selected case studies of legal decisions. Highlight sections of importance and allow adequate time for the class to read through all the material. Use the following questions to frame a discussion:

- What is the intent of each piece of legislation or legal decision?
- Are there aspects of it that promote social justice? What are they?
- Are there aspects of it that promote or perpetuate injustice? What are they?
- Are there loopholes or weaknesses in the human rights legislation?
- Are there people in our society who are not protected by human rights legislation?
- Do any of these documents contradict or conflict with each other? Explain.
- Which pieces of legislation does the most to promote social justice for Aboriginal people? Explain.
- Which legislation most perpetuates social injustice for Aboriginal people? Explain.

Have students take notes during the teacher-led discussion. Assist by recording the appropriate responses on the board. When each document has been thoroughly analysed, administer a written test based on the discussion questions.

Follow up by having students use their journals to reflect on how the laws of Canada promote social justice or perpetuate social injustice for Aboriginal peoples.





Assessment Instrument

Effects of Legislation on Aboriginal Peoples

Key: 4=excellent, 3=good, 2=fair, 1=unsatisfactory

| | Self-Assessment | Teacher Assessment |
|---|-----------------|--------------------|
| Presentation identifies the factors that influenced the words and spirit of the document. (e.g., religion, cultural values, political ideologies) | | |
| Presentation analyses the degree to which this legislation/ decision has been used to oppress or marginalize Aboriginal peoples. | | |
| Presentation demonstrates an understanding of how belief systems affect the relations between differing cultures. | | |
| Essay analyses the cause and effect relationship between cultural perspectives and our legal system. | | |

Comments:

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