

Parallel Paths Fiduciary Doctrine And The Crown Native Relationship In Canada

Developing A Cross Cultural Curriculum - Therese O'Donnell 2012-07-23

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Let Right Be Done - Hamar Foster 2011-11-01

In 1973 the Supreme Court of Canada issued a landmark decision in the Calder case, confirming that Aboriginal title constituted a right within Canadian law. Let Right Be Done examines the doctrine of Aboriginal title thirty years later and puts the Calder case in its legal, historical, and political context, both nationally and internationally. With its innovative blend of scholarly analysis and input from many of those intimately involved in the case, this book should be essential reading for anyone interested in Aboriginal law, treaty negotiations, and the history of the "BC Indian land question."

Protection of First Nations Cultural Heritage - Catherine Bell 2009-05-01

Indigenous peoples around the world are seeking greater control over tangible and intangible cultural heritage. In Canada, issues concerning repatriation and trade of material culture, heritage site protection, treatment of ancestral remains, and control over intangible heritage are governed by a complex legal and policy environment. This volume looks at the key features of Canadian, US, and international law influencing indigenous cultural heritage in Canada. Legal and extralegal avenues for reform are examined and opportunities and limits of existing frameworks are discussed. Is a radical shift in legal and political relations necessary for First Nations concerns to be meaningfully addressed?

White Man's Law - Sidney L. Harring 1998-01-01

In this sweeping re-investigation of Canadian legal history, Harring shows that Canada has historically dispossessed Aboriginal peoples of even the most basic civil rights.

Sovereignty Matters - Joanne Barker 2005-12-01

Sovereignty Matters investigates the multiple perspectives that exist within indigenous communities regarding the significance of sovereignty as a category of intellectual, political, and cultural work. Much scholarship to date has treated sovereignty in geographical and political matters solely in terms of relationships between indigenous groups and their colonial states or with a bias toward American contexts. This groundbreaking anthology of essays by indigenous peoples from the Americas and the Pacific offers multiple perspectives on the significance of sovereignty.

Developing a Cross-cultural Law Curriculum - Anthony O'Donnell (LLB.) 1997

This work makes the case that cross cultural issues are central to the purposes of legal education, and no longer can such issues be seen as an add-on to the traditional curriculum. The authors argue instead for a critical multiculturalism that is attuned to questions of gender, class, sexuality and social justice, and that must inform the whole law school curriculum.

Who Controls the Hunt? - David Calverley 2018-03-01

As the nineteenth century ended, the popularity of sport hunting grew and Ontario wildlife became increasingly valuable. Restrictions were imposed on hunting and trapping, completely ignoring Anishinaabeg hunting rights set out in the Robinson Treaties of 1850. Who Controls the Hunt? examines how Ontario's emerging wildlife conservation laws failed to reconcile First Nations treaty rights and the power of the state. David Calverley traces the political and legal arguments prompted by the interplay of treaty rights, provincial and dominion government interests, and the corporate concerns of the Hudson's Bay Company. A nuanced examination of Indigenous resource issues, the themes of this book remain germane to questions about who controls the hunt in Canada today.

Settler Economies in World History - 2013-01-08

Settler Economies in World History is a comparative, wide-ranging historical study of the experience of the modern settler societies that have followed a distinctive economic and institutional path to the present from their neo-European origins.

This is Not a Peace Pipe - Dale Antony Turner 2006-01-01

Explores indigenous intellectual culture and its relationship to, and within, the dominant Euro-American culture. This book also contends that indigenous intellectuals need to engage the legal and political discourses of the state, respecting both indigenous philosophies and Western European intellectual traditions.

Racisms in a Multicultural Canada - Augie Fleras 2014-04-29

In acknowledging the possibility that as the world changes so too does racism, this book argues that racism is not disappearing, despite claims of living in a post-racial and multicultural world. To the contrary, racisms persist by transforming into different forms whose intent or effects remain the same: to deny and disallow as well as to exclude and exploit. Racisms in a Multicultural Canada is organized around the assumption that race is not simply a set of categories and that racism is not just a collection of individuals with bad attitudes. Rather, racism is as much a matter of interests as of attitudes, of property as of prejudice, of structural advantage as of personal failing, of whiteness as of the "other," of discourse as of discrimination, and of unequal power relations as of bigotry. This multi-dimensionality of racism complicates the challenge of formulating anti-racism and anti-colonialist strategies capable of addressing it. Employing a critical framework that puts politics and power at the centre of analysis, this book focuses on why racisms proliferate, how they work in contemporary societies, and how the way we think and talk about racism changes over time. Specifically, it examines the working of contemporary racisms in a multicultural Canada that claims to abide by principles of multiculturalism and a commitment to a post-racial society.

Contract, Status, and Fiduciary Law - Paul B. Miller 2016

Bringing together leading theorists to analyse critically important philosophical questions at the intersection of contract and fiduciary law, this book demonstrates that the popular characterisations of the relationship between them are overly simplistic. By considering how both laws interact, and not just how they differ, it offers new insights into a range of topics including status relationships, voluntary undertakings and duties of loyalty.

Alberta Law Review - 2005

Law in Society: Navigating Legal Complexity (UUM Press) - Nor Azlina Mohd Noor 2021-11-14

Law in Society: Navigating Legal Complexity is a compilation of ideas written by the academic staff of the School of Law, Universiti Utara Malaysia. It is intended to reflect the dynamic nature of law and how it can coexist with society. This book is organized into three sections. It aligns its discussions by exploring the complexity of law in areas ranging from language, personal law, organization, nation-building, to Islamic finance and trade matters. As part of the editors' primary intention, it is hoped that as legal literature, this book would be fairly readable by the general public to access legal knowledge on a smorgasbord of topics.

Recovering Canada - John Borrows 2017-06-22

Canada is covered by a system of law and governance that largely obscures and ignores the presence of pre-existing Indigenous regimes. Indigenous law, however, has continuing relevance for both Aboriginal peoples and the Canadian state. In his in-depth examination of the continued existence and application of Indigenous legal values, John Borrows suggests how First Nations laws could be applied by Canadian courts, and tempers this by pointing out the many difficulties that would occur if the courts attempted to follow such an approach. By contrasting and comparing Aboriginal stories and Canadian case law, and interweaving political commentary, Borrows argues that there is a better way to constitute Aboriginal / Crown relations in Canada. He suggests that the application of Indigenous legal perspectives to a broad spectrum of issues that confront us as humans will help Canada recover from its colonial past, and help

Indigenous people recover their country. Borrows concludes by demonstrating how Indigenous peoples' law could be more fully and consciously integrated with Canadian law to produce a society where two world views can co-exist and a different vision of the Canadian constitution and citizenship can be created.

Between Law and Custom - Peter Karsten 2002-03-18

When British authorities established 'settler' colonies in North America and the Antipodes (New Zealand, Australia, South Africa, Fiji) from the early seventeenth to the late nineteenth centuries, they introduced law through parliamentary statutes and Colonial Office oversight, and they dispatched governors and judges to the colonies. These jurists set aside some aspects of English Common Law to meet the special conditions of the settler societies, but the 'Responsible Governments' that were eventually created in the colonies and the British immigrants themselves set aside even more of the English law, exercising 'informal law' - popular norms - in its place. Law and popular norms clashed over a range of issues, including ready access to land, the property rights of aboriginal people, the taking of property for public purposes, master-servant relationships and crown/corporate liability for negligent maintenance and operation of roads, bridges and railways. Drawing on extensive archival and library sources in England, the United States, Canada, Australia and New Zealand, Karsten explores these collisions and arrives at a number of conclusions that will surprise.

An Overview of Aboriginal and Treaty Rights and Compensation for Their Breach - Robert Mainville 2001-04-01

A pressing issue today is how to compensate Aboriginal peoples for the infringement of their rights. In this book, Robert Mainville examines Aboriginal and treaty rights in an historical and legal context, explaining their origins and reviewing major court decisions that have defined Aboriginal rights. The author points out that Aboriginal rights include more than Aboriginal title, and stresses the fiduciary relationship between the federal government and Aboriginal peoples. He also discusses the impact of the Canadian constitution on Aboriginal rights, and the limits to the government's ability to infringe upon Aboriginal and treaty rights. The heart of this book deals with the complex question of compensation for the infringement of Aboriginal and treaty rights. The author begins with the Canadian law of expropriation but argues that, while these principles can provide guidelines for compensation, expropriation law is inadequate to address the issue fully. He then examines American jurisprudence and concludes that the American experience, which involves complex legal maneuverings and narrowly applied principles, has not always led to justice for Native Americans. Against this background, Mr. Mainville sets out clear and practical principles for determining appropriate compensation when Aboriginal or treaty rights are breached. These principles include: considering the government's fiduciary obligation; applying uniform compensation principles

across the country; adequately assessing the impact of the breach on the Aboriginal community as a whole; considering the benefits derived by the Crown and third parties; the need for structured compensation schemes that do not necessarily meet mathematically accurate tests; and assessing third party responsibility for compensation.

Sovereignty's Promise - Evan Fox-Decent 2011-12-08

Arguing that the state and its people stand in a fiduciary relationship, Sovereignty's Promise puts forward a bold new account of political authority and its legal limits. In doing so it presents a fresh argument for common law constitutionalism and a novel theoretical framework for understanding the requirements of the rule of law.

Constitutional Odyssey - Peter H. Russell 2004-01-01

The first and second editions of Constitutional Odyssey, published in 1992 and 1993 respectively, received wide-ranging praise for their ability to inform the public debate. This third edition continues in that tradition.

Parallel Paths - Leonard Ian Rotman 1996

The author argues that the fiduciary obligations (akin to trust obligations) of the dominion government for Aboriginal people have been mistakenly interpreted as something similar to father-son relations. On the contrary, the author contends that if one properly interprets papal bulls, the Royal Proclamation, and historical treaties, it becomes clear that the true nature of fiduciary obligations is founded on nation-to-nation relationships.

Great Land Rush and the Making of the Modern World, 1650-1900 - John C. Weaver 2003-04-24

He also underscores the tragic history of the indigenous peoples of these regions and shows how they came to lose "possession" of their land to newly formed governments made up of Europeans with European interests at heart. Weaver shows that the enormous efforts involved in defining and registering large numbers of newly carved-out parcels of property for reallocation during the Great Land Rush were instrumental in the emergence of much stronger concepts of property rights and argues that this period was marked by a complete disregard for previous notions of restraint on dreams of unlimited material possibility. Today, while the traditional forms of colonization that marked the Great Land Rush are no longer practiced by the European powers and their progeny in the new world, the legacy of this period can be seen in the western powers' insatiable thirst for economic growth, including newer forms of economic colonization of underdeveloped countries, and a continuing evolution of the concepts of property rights, including the development and increasing growth in importance of intellectual property rights.

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