

Established in September 2005, the Centre for Human Rights and Legal Pluralism (CHRLP) was formed to provide students, professors and the larger community with a locus of intellectual and physical resources for engaging critically with the ways in which law affects some of the most compelling social problems of our modern era, most notably human rights issues. Since then, the Centre has distinguished itself by its innovative legal and interdisciplinary approach, and its diverse and vibrant community of scholars, students and practitioners working at the intersection of human rights and legal pluralism.

CHRLP is a focal point for innovative legal and interdisciplinary research, dialogue and outreach on issues of human rights and legal pluralism. The Centre's mission is to provide students, professors and the wider community with a locus of intellectual and physical resources for engaging critically with how law impacts upon some of the compelling social problems of our modern era.

A key objective of the Centre is to deepen transdisciplinary collaboration on the complex social, ethical, political and philosophical dimensions of human rights. The current Centre initiative builds upon the human rights legacy and enormous scholarly engagement found in the Unjem

ABSTRACT

This article seeks to share what I have come to un

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PRELIMINARY MATTERS

INDIGENOUS TREATY PARADIGMS

PROBLEMS WITH COURTS AS TREATY ARBITERS



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R. Va dl Pll,

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Sarah Morales, "Locating Oneself in One's Research: Learning and Engaging with Law in the Coast Salish World" (2018) 30:1 CJWL 144 at 149.

, [1996] 2 SCR 507 at para 49, 137 DLR (4th) 289 [

]. See also

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Indigenous Treaty Paradigms

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Peter Jones / Kahkewaquonaby, "Councils" in

(London: A.W.

Bennett, 1861) 105.

See Heidi Kiiwetinepinesiik Stark, "Respect, Responsibility, and Renewal: The Foundations of Anishinaabe Treaty Making with the United States and Canada" (2010) 34:2 Am Indian Culture & Research J 145 ("the Anishinaabe understood the entire council deliberations as the treaty" at 149).

Kawbawgam, "The League of the Four Upper Algonquian Nations" in Arthur P Bourgeois, ed,

(Detroit: Wayne State University Press,

1994) 112.

Williams, note 44 at 76.

Cardinal & Hildebrandt, note 11 at 31. See also Mills, note 14 ("

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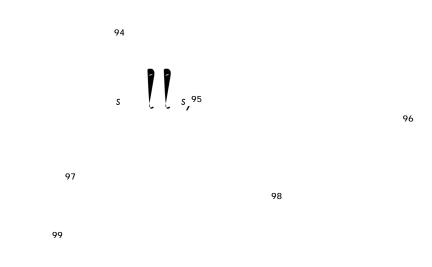
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Principles of Reconciliation

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Imposed Nature

, 79 DLR (4th) 185, 1991 CanLII 2372 (BC SC).

See , note 7 ("Aboriginal treaties constitute a unique type of agreement and attract special principles of interpretation" at 78(1)). See also , [1999] 1 SCR 393 at para 24, 170 DLR (4th) 385 []; note 6 at para 78;

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to my own justice system? Your courts, of whatever jurisdiction, competent or not, are still your courts. A court of competent jurisdiction would have to be a court established by treaty" at 98–99).

See Jeremy Webber,

(Oxford: Hart Publishing, 2015) (the Supreme Court was created by statute in 1875 and became the final court of appeal in 1949 (at 120); Indigenous people with status under the Indian Act gained the right to vote in 1960 (at 177)).

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Contractarian View of Treaty

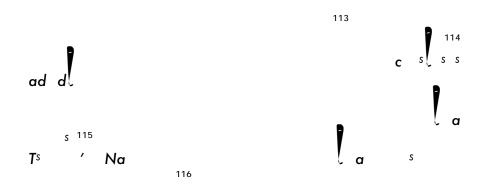
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Sovereignty

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Location Within a Liberal Legality

What Courts Can Do

Li	ing	he Trea	Rela ic	nship:	The	Role	of Co	r ş	in	Trea
			Re i	ali a i	on T	oda				

Incorporation of Indigenous Law into Jurisprudence, Increasing Representation

See ("[t]he provisions that establish co-

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See Gunn, note 137 ("[t]o implement UNDRIP, Canadian constitutional law must shift in its approach to defining Indigenous peoples' rights toward ensuring that the rights are defined according to Indigenous peoples' legal traditions" at 141).

Mills, , supra note 14 at 28.

See Finch,

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Conclusion

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Bibliography

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