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FNSP 400 Practicum
December 20, 2012

The Louise Mandell Legal Research Collection: Annotated Bibliography

Annotated Bibliography

Books

1. Asch, Michael, ed. *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*. Vancouver: UBC Press, 1997. Print.

This collection of essays discusses the discourse that exists within the legal system; the colonization that persists within law does not allow for reframing and re-conceptualizing of the rights of Indigenous peoples. The essays go through the legal history of Canada as it relates to Aboriginal rights and discusses ideas for the future. The book contains extensive footnotes and an index at the back. Asch is a professor of Anthropology at the University of Alberta.

2. Bartlett, Richard H. and Jill Milroy, eds. *Native Title Claims in Canada and Australia: Delgamuukw and Miriuwung Gajerrong*. Oct. 1998, University of Western Australia. Perth: Centre for Commercial and Resources Law and Centre for Aboriginal Programmes, 1999. Print.

This book is a collection of papers presented at a public forum at the University of Western Australia in 1998. The papers included discuss the Delgamuukw decision and the Miriuwung and Gajerrong claim; the similarities and differences between the cases are discussed as well as the impact that each case can have on the other country. Bartlett is a law professor at the University of Western Australia and Milroy is the Dean of Indigenous Studies at the University of Western Australia.

3. Borrows, John. *Recovering Canada: The Resurgence of Indigenous Law*. Toronto: University of Toronto Press, 2002. Print.

Borrows's book goes through the ways that Canada has approached law and government and makes interjections of where Aboriginal law and government can intercede Western systems. Borrows draws on Anishinabek traditions and discourses to make conclusions about how Aboriginal law can change the Canadian law system through resurgence. The book gradually moves from an analysis of Canadian law to an "Indigenous Declaration of Interdependence." Bringing more and more Indigenous discourse into the conversation as the book progresses. The chapters in this book are a collection of articles that have been previously published. Borrows is a graduate of the University of Toronto Law School and is currently a professor of International Law and Human rights at the University of Minnesota; he specializes in Aboriginal Law. The book includes an extensive bibliography and notes in the back.

4. Borrows, John J. and Leonard I. Rotman. *Aboriginal Legal Issues: Cases, Materials & Commentary*. Toronto: Butterworths, 1998. Print.

This book was created as an overview of Aboriginal legal cases in Canada and to provide a text that students could use to better understand First Nations law. The authors include context of the legal cases in order for readers to better understand how Canadian law has shaped and affected Indigenous communities. Some of the major topics covered are: Aboriginal title, treaties, fiduciary law, Aboriginal rights, Inuit and Metis rights, Constitutional issues, Aboriginal women, governance, taxation, child welfare, and criminal justice.

5. Cassidy, Frank, ed. *Aboriginal Title in British Columbia: Delgamuukw v. The Queen*. Lantzville: Oolichan Books, 1992. Montreal: The Institute for Research on Public Policy, 1992. Print.

This book is the result of a conference that was held on September 10-11, 1991 in Victoria. The conference focused on the Delgamuukw decision and the book contains some of the presentations and background readings from the conference. The authors are mostly from law backgrounds and the articles rely heavily on legal theory. The book “examines the legal, historical, political, human, and international dimensions of this historic case” (back cover). The editor, Frank Cassidy, was an associate professor of Public Administration at the University of Victoria and a member of the Wet’suwet’en legal team. The book contains an appendix with an excerpt from *Delgamuukw v. The Queen* and information about the contributing authors.

6. Culhane, Dara. *The Pleasure of the Crown: Anthropology, Law, and First Nations*. Burnaby: Talonbooks, 1998. Print.

Culhane looks at the history of Aboriginal title in British Columbia, drawing on court cases (in particular the Delgamuukw v. Regina case) and history. The book also gives an analysis of the field of anthropology as it relates to law. Culhane is an associate professor of Anthropology at Simon Fraser University.

7. Elliott, David W., ed. *Law and Aboriginal Peoples of Canada*. North York: Captus Press, 1992. Print.

This book looks at the legal factors in determining Aboriginal rights, focusing on the influence of the Calder decision, treaties, and Constitution Act of 1982. Includes a list of further readings related to the subject matter.

8. Glavin, Terry. *A Death Feast in Dimlahamid*. Vancouver: New Star Books, 1990. Print.

Glavin’s book is an account of the Delgamuukw decision and the planning and conversations that led up to the court case. He takes a narrative approach to the case, describing the key people and process with a storytelling voice. The book gives insight into the culture of the Gitksan-Wet’suwet’en people and incorporates elements of oral storytelling. The book contains a bibliography in the back. Glavin is an author and journalist.

9. Glavin, Terry. *A Death Feast in Dimlahamid*. Vancouver: New Star Books, 1998. Print.

Glavin's book is an account of the Delgamuukw decision and the planning and conversations that led up to the court case. He takes a narrative approach to the case, describing the key people and process with a storytelling voice. The book gives insight into the culture of the Gitksan-Wet'suwet'en people and incorporates elements of oral storytelling. This is the newer addition of the previous text; it includes a chapter of the Delgamuukw decision by the Supreme Court. Glavin is an author and journalist.

10. Henderson, James (Sakej) Youngblood, et al. *Aboriginal Tenure in the Constitution of Canada*. Scarborough: Carswell, 2000. Print.

Henderson's book looks at how the Canadian Constitution sets out parameters on law, ownership, and land. The book takes readers through the definition and meaning behind "Common Law" in order to connect how the Canadian discourse has controlled the meaning of land ownership and sovereignty. The book discusses how the Aboriginal discourse on land and Colonial discourses from the Constitution can be bridged to allow for a new legality. The book contains an index of subject matter and a index of various cases mentioned. Henderson is a lawyer and works for the Native Law Centre.

11. Isaac, Thomas. *Aboriginal Law: Cases, Materials, and Commentary*. Saskatoon: Purich Publishing, 1995. Print.

This book is a introduction to topics that emerge within the study of Aboriginal law in Canada. Isaac goes through important cases in First Nations legal history and explains the relevance and importance of each case. The book focuses on Aboriginal title, treaty rights, relationship between the Federal government and the Provincial government, hunting rights, fishing rights, trapping rights, taxation, Aboriginal rights, self-government, and Aboriginal women. Accompanying the description of important court cases is commentary on how the decision was made and other factors that played into the case.

12. Knafla, Louis A. and Haijo Westra, eds. *Aboriginal Title and Indigenous Peoples: Canada, Australia, and New Zealand*. Vancouver: UBC Press, 2010. Print.

This book is a collection of essays on the various land claims, and Aboriginal rights cases that have emerged from Canada, Australia, and New Zealand. The book aims to draw connections between the different countries and hopes to encourage dialogue on various ways that Indigenous people can gain rights. Included in the text is a table of cases and a table of statutes. Knafla is a Professor emeritus at the University of Calgary in History; Westra is a professor of Greek and Roman Studies at the University of Calgary.

13. Kulchyski, Peter. *Unjust Relations: Aboriginal Rights in Canadian Courts*. Toronto: Oxford University Press, 1994. Print.

Kulchyski's book highlights important Aboriginal rights cases in Canada, giving context to the case before providing a transcript of the judgement. The book provides a timeline for how Aboriginal rights have been defined and how the concept has changed during the years within the legal system. Kulchyski is an Assistant Professor at Trent University in the Native Studies Department.

14. Lippert, Owen, ed. *Beyond the Nass Valley: National Implications of the Supreme Court's Delgamuukw Decision*. Vancouver: The Fraser Institute, 2000. Print.

This book contains the papers presented at two conferences that concentrated on the impact of the Delgamuukw case on Canada. The two conferences were held in 1998 and 1999 by the Fraser Institute. The papers discuss the impacts that the case has had in the different provinces and what the case means for the future. The book is also unique in that "it is the only book to bring together the Native and non-Native perspectives on the topic [Delgamuukw]" (back cover). Owen Lippert works at the Fraser Institute and writes for many newspapers and magazines.

15. Mallea, Paula. *Aboriginal Law: Apartheid in Canada?* Brandon: Bearpaw Publishing, 1994. Print.

This book offers an overview of Canadian Law as it relates to Indigenous rights and title. The book goes through the history of the relationship of First Nations with the government, including the structure of band governments. Mallea also gives an overview of Aboriginal rights with special attention given to the *Sparrow* case, a case that Louise Mandell worked on.

16. McNeil, Kent. *Emerging Justice?: Essays on Indigenous Rights in Canada and Australia*. Saskatoon: Native Law Centre, 2001. Print.

This book contains essays all written by McNeil concerning Aboriginal rights. Political concepts such as boundaries, sovereignty, constitutionalization, and title are interweaved throughout the book. McNeil uses case studies to build his arguments, analyzing the context and importance of various court cases and treaties. Included in the book is a table of cases, a table of statutes, and periodical abbreviations. McNeil is a Law Professor at the Osgoode Hall Law School and specializes in Indigenous rights.

17. Mills, Antonia. *Eagle Down Is Our Law: Witsuwit'en Law, Feasts, and Land Claims*. Vancouver: UBC Press, 1994. Print.

This book is the report that Mills gave when she was an expert witness at the *Delgamuukw v. The Queen* court case. The report is anthropological in nature, giving descriptions of laws and traditions that the Witsuwit'en people have to help the court realize the history of the land that is

disputed. The report was also created to demonstrate that the Witsuwit'en people have been on the land since before Settler arrival. This book is of great importance to realize the significance of the land and to better contextualize the decision in the *Delgamuukw* case.

18. Mills, Antonia, ed. *'Hang Onto These Words: 'Johnny David's Delgamuukw Evidence.* Toronto: University of Toronto Press, 2005. Print.

This book contains the transcriptions from the direct examinations of Johnny David by both Peter Grant and John Milne. These examinations come from the *Delgamuukw* case. The book contains an introduction by Mills, discussing the context of the case and the importance of the evidence. Mills is a professor in First Nations Studies at the University of Northern British Columbia.

19. Mills, P. Dawn. *For Future Generations: Reconciling Gitksan and Canadian Law.* Saskatoon: Purich Publishing Limited, 2008. Print.

Mills discusses the implications of *Delgamuukw* and the ways in which there can be understanding between Indigenous peoples and the Canadian government. The book focuses on the Gitksan Nation's efforts to gain Aboriginal rights. Included is a Gitksan Glossary, notes, and bibliography. Mills specializes in research related to oil and gas manufacturing and the influence on First Nations land property. She also is an adjunct professor at the Institute of Mining Engineering at UBC.

20. Monet, Don and Skanu'u (Ardythe Wilson). *Colonialism on Trial: Indigenous Land Rights and the Gitksan and Wet'suwet'en Sovereignty Case.* Gabriola Island: New Society Publishers, 1992. Print.

This book gives a multimedia approach to the *Delgamuukw* court case, using drawings, cartoons, photos, transcriptions, and background information to provide outsiders of the case with in-depth knowledge of how the case was structured and approached. The book makes it clear that the difficulty in the case was bridging the discourse that the Canadian legal system uses with the discourse of the Gitksan-Wet'suwet'en people. Monet is an "activist/cartoonist/court-jester" and Skanu'u is a Gitksan researcher.

21. Monture-Angus, Patricia. *Journeying Forward: Dreaming First Nations' Independence.* Halifax: Fernwood Publishing, 1999. Print.

Monture-Angus reflects on her own positioning within cultivating self-determination for Indigenous peoples in this book and relates her experiences with legal issues that are occurring in the courtroom. She expresses the need for court rooms to be more functional and the need for self-determination, not self-government, for decolonization. This book is both a personal story and a manifesto for how law is connected with self-determination. Monture-Angus also gives

summaries and explanations for the importance and relevance of First Nations court cases, including *Delgamuukw*.

22. Morellato, Maria, ed. *Aboriginal Law Since Delgamuukw*. Aurora: Canada Law Book, 2009. Print.

This book is a collection essays looking at various legal aspects of Aboriginal rights. The subject matter moves from legal principals to case studies of Aboriginal rights cases to Indigenous governance and finishes with discussion on treaties and claims. Louise Mandell's article entitled "The Ghost" appears in Chapter 4 of this book and discusses the continued effects that colonization has on the legal system. Morellato is a lawyer in Aboriginal law.

23. Newman, Dwight G. *The Duty to Consult: New Relationships with Aboriginal Peoples*. Saskatoon: Purich Publishing Limited, 2009. Print.

Newman discusses the meaning of "consultation" as it relates to the "duty" of the Canadian Government to negotiate with Indigenous peoples when their rights or title are at stake. The book offers context behind the legal term "duty to consult" and offers up ways that this term has been implemented in the law and in the reality of the lives of Indigenous peoples. Newman is a Associate Professor in Law at the University of Saskatchewan.

24. Nisga'a Tribal Council. *Citizens Plus: The Nishga People of the Naas River in Northwestern British Columbia*. New Aiyansh: Nishga Tribal Council, 1975. Print.

This book contains the history of the Nisga'a people and the history of land title and rights cases. It discusses the Nishga Tribal Council, leadership, and the position that the Nishga have taken on land rights.

25. *Papers Relating to the Implications of the Delgamuukw Decision*. 1997. Print.

This is a collection of essays, papers, and reports written by lawyers, individuals, and journalists. The anthology is split into three categories of "Summaries of the Delgamuukw Decision," "Responses to and Implications of the Delgamuukw Decision," and "Other related Materials." The summary and response sections mostly contain legal opinions and analyses of the case, while the other materials contain articles and stories found in the news. This collection provides the legal framework and understandings that resulted from the Delgamuukw decision. One legal analysis comes from the law firm of Mandell Pinder LLP.

26. Persky, Stan. *Delgamuukw: The Supreme Court of Canada Decision on Aboriginal Title*. Vancouver: GreyStone Books, 1998. Print.

Persky's text gives the full transcription of the Delgamuukw court decision as well as an in-depth commentary on the case. The book highlights the power and influence that Delgamuukw has on

understanding Aboriginal rights and title. Context, dissection of legal language, and insight into the legal system are elements of Persky's commentary. Persky is an author of many books and is a teacher of philosophy at Capilano College in Vancouver as well as a columnist in the *Vancouver Sun*.

27. Pinder, Leslie Hall. *The Carriers of No: After the Land Claims Trial*. Vancouver: Lazara Press, 1991. Print.

In this short book, Pinder gives an account of the proceedings of the Delgamuukw trial by showing the relationships between the Judge, lawyers, and Gitksan-Wet'suwet'en people. The account is personal as it is told in first person from Pinder's viewpoint. The content of this book was first presented at the British Columbia Library Association Annual General Meeting in 1991. Leslie Hall Pinder is a retired lawyer who specialized in First Nations law; she is now a writer.

28. Reynolds, James I. *The Breach of Duty: Fiduciary Obligations and Aboriginal Peoples*. Saskatoon: Purich Publishing Limited, 2005. Print.

Reynolds discusses the ways in which duty to consult, a duty required of Canada by the case *Guerin v. The Queen*, has been implemented by the Canadian Government. The government failed to uphold this duty in relation to land on the Msqueam reserve. This book discusses the failings of the law to guarantee Aboriginal rights and discusses how Aboriginal law has been implemented in other countries. Included is a table of statutes. Reynolds is a lawyer in Aboriginal rights in Canada and worked on the *Guerin* case.

29. Rotman, Leonard Ian. *Parallel Paths: Fiduciary Doctrine and the Crown-Native Relationship in Canada*. Toronto: University of Toronto Press, 1996. Print.

Rotman discusses the meaning behind the term "Crown-Native fiduciary relationship" in this text. "Fiduciary" implied duty and trust, two characteristics that have been lacking in the relationship between Canada and Indigenous people. Rotman brings in both theories and case studies to add to the discussion. Included in the book is a table of cases and a large appendix of important government documents related to Indigenous rights. Rotman works as a consultant and is a professor of Law at the University of Alberta.

30. Sharma, Parnesh. *Aboriginal Fishing Rights: Laws, Courts and Politics*. Halifax: Fernwood Publishing, 1998. Print.

Sharma's book looks at the history of Fishing rights for Aboriginal people, focusing on the influence of the Sparrow case. Sharma is a research analyst for the government.

31. Union of British Columbia Indian Chiefs. *Indian Water Rights in British Columbia: A Handbook*. Vancouver: Union of B.C. Indian Chiefs, 1991. Print.

This handbook provides a comprehensive look at water rights in British Columbia and was published as a resource for Nations looking at water rights. The book is broken down into three sections. The first section highlights the history of water rights and how laws have changed throughout the years. The second section looks at possible legal positions that First Nations can take to fight for water rights and the kinds of rights available. The last section provides a list of resources that discuss water rights.

32. Wa, Gisday and Delgam Uukw. *The Spirit in the Land: The Opening Statement of the Gitksan and Wet'suwet'en Hereditary Chiefs in the Supreme Court of British Columbia May 11, 1987*. Gabriola: Reflections, 1992. Print.

Wa and Uukw's book gives their own opening statements to the Supreme Court of British Columbia in the Delgamuukw v. The Queen court case in a written form. The book also goes into the background of the court case, the evidence cited during the trial, and the Court's decision. Wa is a Wet'suwet'en chief and Uukw is a Gitksan chief.

33. Walkem, Ardith and Halie Bruce, eds. *Box of Treasures or Empty Box?: Twenty years of Section 35*. Penticton: Theytus Books, 2003. Print.

This book discusses the implications that Section 35 in the Constitution Act have had on Indigenous rights and efforts for self-determination. A collection of essays, this book draws on the expertise and insight from a number of notable scholars. Walkem is an Indigenous rights lawyer and Bruce does work for the Union of B.C. Indian Chiefs.

34. Wilkins, Kerry, ed. *Advancing Aboriginal Claims: Visions/Strategies/Directions*. Saskatoon: Purich Publishing Limited, 2004. Print.

This book looks at ways in which Aboriginal claims can be achieved through litigation, focusing on various court cases and methods of law. Wilkins is a lawyer in Aboriginal rights and has also taught at the University of Toronto.

35. Woo, Grace Li Xiu. *Ghost Dancing with Colonialism: Decolonization and Indigenous Rights at the Supreme Court of Canada*. Vancouver: UBC Press, 2011. Print.

Woo asserts that colonialism is still prevalent in the court system, resulting in continued discrimination and misunderstandings between the Canadian Court System and Indigenous peoples; she provides analysis that focuses on the possibility of decolonizing law. Included are appendices of various figures, a section of notes, a bibliography, and various indexes. Woo used to work at the Law Society of British Columbia and taught at the University of Saskatchewan in the Legal Studies department.

Conferences

1. *Aboriginal Law - 1993*. 23-24 July 1993, Vancouver. Vancouver: The Continuing Legal Education Society of British Columbia, 1993. Print.

This conference discussed the legal components of different types of Aboriginal Law, including land claims, treaties, and self-government. The chapters go through the different aspects of each kind of law and discuss various cases and decisions. Included in the proceedings are the papers presented and the cases discussed. The conference was coordinated by Marvin R.V. Storrow, a barrister and solicitor who has worked on Aboriginal law cases, and Peter T. Burns, a dean emeritus to the Faculty of Law at the University of British Columbia.

2. *Aboriginal Law Conference*. 9 March 2001, Vancouver. Vancouver: The Continuing Legal Education Society of BC, 2001. Print.

This conference looked at different types of Aboriginal Law, including Aboriginal Title and treaties; much of the discussion relates to specific cases and the effects of these cases for the future. Louise Mandell spoke with Richard J.M. Fyfe on the paper entitled "The Logging Disputes - Analysis and Implications of Recent Cases." Fyfe gave an overview of the legal issues that pertain to logging disputes while Mandell discussed the Nisga' Treaty as presented in *B.C. Studies*. Included in the proceedings are the various papers presented and pertinent materials and articles. The conference was chaired by Barbara L. Fisher, a lawyer at Black Cassels & Graydon.

3. *Aboriginal Law in Canada: A National Conference May 4 and 5, 1995 at The Westin Bayshore Hotel, Vancouver, B.C.* Vancouver: Native Investment and Trade Association, 1995. Print.

This book contains the papers presented at the conference, all related to Aboriginal Law ranging from fiduciary obligations to Aboriginal rights to establishing self-government. Included in this publication is Louise Mandell's paper entitled "The Birth of the White Buffalo," discussing the impacts that the Western discourse and idea of land has had on court decisions regarding Aboriginal title. This conference was chaired by Alfred J. Scow, a former judge, and Dr. Andrew Thompson, a chair of the Ferguson Gifford First Nations Law Group.

4. Assembly of First Nations Land Rights Unit. *Assembly of First Nations Aboriginal Title & Comprehensive Claims: Conference Report*. 24-25 Feb. 1998, Winnipeg. [Ottawa?]: Assembly of First Nations Land Rights Unit, 1998. Print.

This is an overview of the Conference that occurred discussing Aboriginal title and claims; the conference focused on the Delgamuukw case and the impact that it has on Aboriginal law. Included in the report is the "Objective" for the conference, a "Summary" on the conference proceedings and the Delgamuukw decision, and a record of the presenters at the conference along with quotes. The final section of the report is the full text of the Opening Remarks by Vice Chief Herb George.

5. *Delgamuukw and the Aboriginal Land Question: Victoria Conference Center, September 10-11, 1991*. Victoria: University of Victoria, 1991. Print.

This conference discussed the various components and legal issues that arose from the Delgamuukw decision, including extinguishment, fiduciary obligations, and Aboriginal rights. The proceedings include Frank Cassidy's moderator speech, Michael Asch's commentary on Delgamuukw, excerpts from *Reasons for Judgment* on the case, and the various papers presented during the conference. The conference was moderated by Frank Cassidy, an associate professor of Public Administration at the University of Victoria and a member of the Wet'suwet'en legal team, and sponsored by the Office of the Hereditary Chiefs of the Gitksan and Wet'suwet'en People and the University of Victoria.

6. *Interim Measures During Treaty Negotiations*. 22 April 1994, Vancouver. Vancouver: Pacific Business & Law Institute, 1994. Print.

This conference discussed the interim measures that have been set-up in various communities by looking at what the treaty commission is, how interim measures are created within British Columbia, and some case studies with communities. Louise Mandell presented her paper entitled "The Treaty Commission." Included in the proceedings is the Treaty Commission Act, various First Nations' agreements. The conference was chaired by Jack Woodward, a lawyer and Adjunct Professor of Native Law at the University of Victoria.

7. Native Investment and Trade Association. *Aboriginal Law in Canada: The National Aboriginal Legal Conference*. 26-27 Sept. 1996, Vancouver. Vancouver: Native Investment and Trade Association, 1996. Print.

This conference discussed various aspects of Aboriginal law, including Aboriginal rights, fishing/hunting/trapping rights, traditional knowledge rights, and reserve rights. Louise Mandell gave a presentation on Aboriginal land rights, looking at how the approach to Aboriginal rights has changed through the years and discussing aspects of land rights (the text of her presentation is not included in the proceedings). Included in the proceedings are the speaker biographies and most of the presentations. The conference was chaired by John Borrows, a graduate of the University of Toronto Law School and a professor of International Law and Human rights at the University of Minnesota; he specializes in Aboriginal Law.

8. Native Investment and Trade Association. *Aboriginal Law in Canada 2001*. 18-19 Jan. 2001, Vancouver. West Vancouver: Native Investment and Trade Association, 2001. Print.

This conference discussed how Aboriginal law has been changing in the recent years and what this means for the future. Topics that were discussed were Aboriginal rights, consultation, the Delgamuukw decision, various court cases, and the progress in achieving Aboriginal justice. Louise Mandell gave a talk entitled "The Consultation Process" (the text of her presentation is not included in the proceedings). Included in the proceedings are the speaker biographies and

most of the presentations. The conference was chaired by Bob Freedman, Barrister and Solicitor at Hutchins, Soroka & Grant.

9. *The Delgamuukw Judgment: "We Are All Here to Stay:" Victoria Conference Centre, January 26, 1998.* Victoria: University of Victoria. Print.

This conference discussed the Judgment for the Delgamuukw case with a series of panel discussions on the topics of Aboriginal title and the effects of Delgamuukw. Louise Mandell participated as a panelist on the session entitled, "The Implications of Delgamuukw." Included in the conference proceedings are the Judgment itself, factums (from Blake, Cassels & Graydon, the Attorney General, Joseph Arvay, and Stuart Rush), biographies on panelists, and a list of the delegates. The conference was chaired by Frank Cassidy, an associate professor of Public Administration at the University of Victoria and a member of the Wet'suwet'en legal team, and sponsored by the Office of the Wet'suwet'en Hereditary Chiefs, the Gitksan Litigation Team, and the University of Victoria.

10. Union of British Columbia Indian Chiefs and Legal Services Society, Native Programs. *Implementing Delgamuukw: Legal Implications for Aboriginal Title Research in BC.* 1-3 Mar. 1999, Vancouver. Vancouver: Union of British Columbia Indian Chiefs, 1999. Print.

This conference discussed the various effects that the Delgamuukw Decision has on Aboriginal rights, Aboriginal title, consultation, anthropology and archaeology, and Traditional Knowledge. Included in the proceedings is the agenda, conference papers, and a list of online resources.

Legal Sources

1. British Columbia. Court of Appeal. *Reasons for Judgment: Between Delgamuukw and Her Majesty the Queen.* Vol 1. Vancouver: B.C. Court of Appeal, 1993. Print.

This book contains the Reasons for Judgment from Justice Macfarlane, Justice Wallace, Justice Lambert, and Justice Hutcheon on the Delgamuukw case at the B.C. Court of Appeals. Each Judge gives an overview to the case and to the rights involved in the decision. The purpose of this book is for the Justices to give their own thoughts and analysis of the case's decision. In the back is a map of the land in question.

2. British Columbia. Court of Appeal. *Reasons for Judgment: Between Her Majesty the Queen and William Alphonse, Harry Thomas Dick, Dorothy Marie Van der Peet, William Glandstone and Donald Gladstone, N.T.C. Smokehouse, Allen Jacob Lewis and Allen Frances Lewis and Jacob Kenneth Lewis, and Jerry Benjamin Nikal.* Vol 2. Vancouver: B.C. Court of Appeal, 1993. Print.

This book contains the Reasons for Judgment for seven different cases against Her Majesty the Queen; all the cases concern Aboriginal rights and title as well as issues of extinguishment, comprehensive claims, and self-government. Each reasoning contains concurring reasons as well

as some dissenting reasons. The reasons have been written by Justice Macfarlane, Justice Taggart, Justice Hutcheon, Justice Wallace, and Justice Lambert. The purpose of this book is for the Justices to give their own thoughts and analysis of the case's decision.

3. British Columbia. Supreme Court. *Reasons for Judgment: Between Delgamuukw and Her Majesty the Queen*. Vancouver: B.C. Supreme Court, 1991. Print.

This book contains the Reasons for Judgment from Chief Justice Allan McEachern on the Supreme Court's decision on the Delgamuukw case. This is an in-depth analysis of the court proceedings, Aboriginal rights and title involved, and the decision made. Included is a summary of the history of the Gitksan and Wet'suwet'en people, maps, and schedules. The purpose of this book is for McEachern to give his own thoughts and analysis on the case and the decision.

4. British Columbia Provincial Court. *Regina vs. Francis Haines: Proceedings*. Victoria: British Columbia Provincial Court, 17 May 1978. Print.

This source is the transcriptions of the court case Regina vs. Francis Haines, a case looking at Aboriginal Hunting rights. Louise Mandell was the lawyer for the defense. This is Volume 1 of transcriptions from the case.

5. Thompson, Andrew R. *West Coast Oil Ports Inquiry: A Statement of Proceedings*. Vancouver: West Coast Oil Ports Inquiry, 1978. Print.

This statement is a comprehensive summary of the inquiry's findings on oil ports and oil tankers on the coast. It reviews the issues surrounding oil ports, analyzes their findings, and provides recommendations for the future. George Manuel, Maxine Pape, and Louise Mandell participated in the inquiry process. Andrew R. Thompson was the Commissioner for the inquiry.

Pamphlets

1. *A Lay Person's Guide to Delgamuukw*. Vancouver: BC Treaty Commission, 1999. Print.

This is a pamphlet put together by the BC Treaty commission, summarizing the Delgamuukw case and decision. The pamphlet describes how the Delgamuukw decision impacted the treaty process and how the decision will affect Aboriginal rights and title in the future. The BC Treaty Commission is "the independent facilitator for treaty negotiations" between First Nations and the Canadian government.

2. *CRRF Facts About...Leading Aboriginal Rights Cases*. Toronto: Canadian Race Relations Foundation, 2001. Print.

This pamphlet looks at the major cases that have defined Aboriginal Rights in Canada. Included are descriptions of Guerin v. The Queen, Sparrow v. The Queen, Van der Peet v. The Queen, and

Delgamuukw v. British Columbia. The Canadian Race Relations Foundation strives to eliminate racism in Canada.

Papers and Reports

1. Allain, Jane and Jean-Denis Fréchette. Canada. Library of Parliament. Law and Government Division. Economics Division. *The Aboriginal Fisheries and the Sparrow Decision*. Ottawa: Library of Parliament, 1993. Print.

This report looks at the Aboriginal Fisheries Strategy (AFS) in relation to the Sparrow decision, noting how the AFS was established and how it has been implemented in the 1992 fishing season.

2. Alliance Tribal Councils. *A Summary of the Accomplishments by the Alliance of Tribal Councils of the CNR Twin Tracking Project over the 84/85 Fiscal Year*. British Columbia Alliance Tribal Councils, 1985. Print.

This report is a comprehensive summary of the CNR Twin Tracking Project and the Alliance of Tribal Councils involvement with the project. Included are reports, budgets, summaries, and correspondences that contain information about the background and progress of the project. Included is a set of questions for the Federal Environmental Assessment Review Office from Mandell, Pinder & Ostrove, written on behalf of the Alliance.

3. Cassidy, Frank, et al. *Using Oral History and Tradition to Resolve Outstanding Land Claims: Draft*. Ottawa: Indian Claims Commission, 1998. Print.

This is a report prepared for the Indian Claims Commission in order to look at the ways in which traditional knowledge have been included in court cases and ways in which the Commission can use traditional knowledge to analyze a specific claim. The report goes provides context on what the Indian Claims Commission is, what oral history is, the ways in which the law has used oral history, and ways of analyzing oral history. Included is an annotated bibliography on sources used. Frank Cassidy was an associate professor of Public Administration at the University of Victoria and a member of the Wet'suwet'en legal team.

4. Fisher, Barbara. *The Constitutional and Fiduciary Duties of the Provincial Crown: The Impact of Recent Decisions on the Duty to Consult & the Determination of Aboriginal Rights*. 2002. TS. Louise Mandell Legal Research Collection, Vancouver.

This report discusses the government's duty to consult with Aboriginal people in terms of use of lands and resources. For Fisher, the process of consultation is not well-defined, leaving room for misinterpretation. Fisher was a lawyer at Blake, Cassels & Graydon LLP in Vancouver.

5. Hunter, John J.L. "Haida in the City: Consultation and Accommodation of Aboriginal Claims in an Urban Setting." *Annual Meeting Conference of the Canadian Corporate Counsel*

Association, August 15, 2005, Vancouver; B.C. Vancouver: Hunter Voith Litigation Counsel, 2005. Paper.

This paper looks at the use of the obligation of “consultation and accommodation” by the government with Aboriginal rights in title on reserve and looks at the implications of using the obligation for urban centers where, in the past, the use of this obligation has been avoided. This paper was written for the annual meeting of the Canadian Corporate Counsel Association in 2005. Hunter is a senior litigation counsel at Hunter Litigation Chambers and is the President of the Federation of Law Societies of Canada.

6. Hurley, Mary C. Canada. Library of Parliament. Law and Government Division. *Aboriginal Title: The Supreme Court of Canada Decision in Delgamuukw v. British Columbia*. Ottawa: Library of Parliament, 2000. Print.

This report is an overview of the Delgamuukw case and provides context with summaries of previous court processes before Delgamuukw, analysis of the Delgamuukw decision in terms of legal application, and a commentary on the case. Included is a complete chronology of the events surrounding Delgamuukw.

7. Mandell, Louise. *Aboriginal Title Over the Buffalo Jump: Decision of the British Columbia Court of Appeal in the Tsilhqot'in Case*. 23 Aug. 2012. TS. Louise Mandell Legal Research Collection, Vancouver.

This analysis of the court’s decision in the Tsilhqot’in case discusses the implications of the court’s decision on Aboriginal rights and title. The court determined that Aboriginal rights can be over a “broad area,” but that Aboriginal title can only be granted to specific areas that have been used exclusively by a specific First Nation. Mandell is a retired lawyer in First Nations law and a long-time counsel to the UBCIC.

8. Mandell, Louise. *Recommended Referendum Ballot: A Legal Analysis*. 25 Feb. 2002. TS. Louise Mandell Legal Research Collection, Vancouver.

This analysis covers discusses the proposed referendum about treaty negotiations that British Columbia is proposing. The referendum includes questions regarding Aboriginal rights and Mandell proposes that these questions do not fall under the jurisdiction of B.C. Mandell is a retired lawyer in First Nations law and a long-time counsel to the UBCIC.

9. Mandell, Louise. *Speaking Notes of Louise Mandell QC: FNLC Meeting - November 25-26, 2008*. 25-26 Nov. 2008. TS. Louise Mandell Legal Research Collection, Vancouver.

This presentation by Mandell discusses the difficulty that the court has in providing an atmosphere for the advancement of Aboriginal rights and title. “The Ghost,” as Mandell terms it, is the the colonization that occurred in the past affecting the ability for things to move forward

today, despite the court's admittance that Aboriginal people do have rights. Mandell is a retired lawyer in First Nations law and a long-time counsel to the UBCIC.

10. Mandell, Louise. *Speaking Notes at SFU Convocation Address*. 13 June 2012. TS. Louise Mandell Legal Research Collection, Vancouver.

Mandell's notes for her convocation address at SFU contain insights into who Mandell is as a lawyer and a person; she gives advice to the younger generations on how to live life through love and joy and through respect. Mandell is a retired lawyer in First Nations law and a long-time counsel to the UBCIC.

11. Mandell, Louise. "The Union of British Columbia Indian Chiefs Fights Patriation." *Socialist Studies/Etudes Socialistes: A Canadian Annual* 2 (1984): 164-195. Print.

This article discusses the implications of patriation and the fight against it. Mandell outlines both the positions of First Nations and the positions of the Canadian Government on the subject as well as outlining the patriation cases in different provinces. Mandell is a retired lawyer in First Nations law and a long-time counsel to the UBCIC.

12. Mandell Pinder LLP. *Case Summary: Wewaykum Indian Band v. Canada (2002), D.L.R. (4th) 1 (S.C.C.)*. 09 Dec. 2002. TS. Louise Mandell Legal Research Collection, Vancouver.

This case summary outlines the *Roberts* case, or the case of Wewaykum Indian Band against Canada. The case concerns rights to reserve land and how reserve land was established in the past. Mandell Pinder LLP is a Vancouver-based law firm specializing in Aboriginal rights and title.

13. Mandell Pinder LLP. *Minister of Fisheries and Oceans v. David Suzuki et al., 2012 FCA 40: Overview*. 22 Feb. 2012. TS. Louise Mandell Legal Research Collection, Vancouver.

This overview on the case between the Minister of Fisheries and Oceans and David Suzuki discusses the application of the *Fisheries Act* in relation to the *Species at Risk Act* for the protection of wildlife, specifically killer whales. Mandell Pinder LLP is a Vancouver-based law firm specializing in Aboriginal rights and title.

14. Mandell Pinder LLP. *Osoyoos Indian Band v. Oliver (Town) 2001 SCC 85*. 13 Dec. 2001. TS. Louise Mandell Legal Research Collection, Vancouver.

This case summary discusses the court decision from the *Osoyoos Indian Band v. Oliver (Town)* case. This court concluded that when the public must use reserve land for "public purpose" only the minimal amount of land needed can be taken. Mandell Pinder LLP is a Vancouver-based law firm specializing in Aboriginal rights and title.

15. Mandell Pinder LLP. *Ross River Dena Council v. Canada (Attorney General)*, 2012 YKSC 4: *Case Comment*. 22 Feb. 2012. TS. Louise Mandell Legal Research Collection, Vancouver.

This case comment was prepared by Mandell Pinder LLP for UBCIC on the case between Ross River Dena Council and Canada. This case discusses how constitutional documents should be analyzed in the court in regards to new Aboriginal title laws. Mandell Pinder LLP is a Vancouver-based law firm specializing in Aboriginal rights and title.

16. Mandell Pinder LLP. *Ross River Dene Council Band v Canada 2002 SCC 54*. 15 Oct. 2002. TS. Louise Mandell Legal Research Collection, Vancouver.

This case summary outlines the case of the Ross River Dene Council Band vs. Canada. The case is crucial in determining the obligation that Canada has for reserve lands as well as lands recognized as once being occupied by First Nations. The decision determined that there are multiple ways of creating reserve land and that there are fiduciary obligations for Canada with such land. Mandell Pinder LLP is a Vancouver-based law firm specializing in Aboriginal rights and title.

17. Mandell Pinder LLP. *Specific Claims and Delgamuukw*. 1999. TS. Louise Mandell Legal Research Collection, Vancouver.

This report provides information on the effects that Delgamuukw has had on specific claims. The report outlines what the current litigation is in regards to specific claims. Mandell Pinder LLP is a Vancouver-based law firm specializing in Aboriginal rights and title.

18. Manuel, Arthur. *Indian Act Revision*. 1985. Print.

This report is a collection of notes and papers from different sources discussing the proposed revisions to the Indian Act including revisions to end discriminatory policies. The report discusses the complications associated with the revision, such as Canada's continued assertion of supremacy, as well as ways in which First Nations should assert self-determination. Also included are summaries of the Indian Act itself. Manuel is a Chief of the Secwepemc Nation.

19. McNeil, Kent. *Exclusive Occupation and Joint Aboriginal Title*. July 2003. TS. Louise Mandell Legal Research Collection, Vancouver.

This research report was written for the Hul'qumi'num Treaty Group to address issues that came up in Delgamuukw regarding joint Aboriginal title. The report is organized into four questions and McNeil provides legal analyses on these questions. McNeil is a Law Professor at the Osgoode Hall Law School and specializes in Indigenous rights.

20. McNeil, Kent. "The Onus of Proof of Aboriginal Title." *Osgoode Hall Law Journal* (1999). Print.

This paper argues against the court's assertion that "the onus of proof" is on Aboriginal people for proving title. and it provides an in-depth analysis of how to go about asserting title. McNeil describes the process of proving title and comes to the conclusion that Aboriginal people can prove title by proving land possession after Canada declared sovereignty. McNeil is a Law Professor at the Osgoode Hall Law School and specializes in Indigenous rights.

21. Moss, Wendy. Canada. Library of Parliament. Law and Government Division. *B.C. Aboriginal Title Case (Delgamuukw v. The Queen)*. Ottawa: Library of Parliament, 1991. Print.

This report gives an overview of the Delgamuukw decision, summarizing the claims, rulings, and findings. Moss then gives an analysis of the court's decision by looking at the language used and the meaning of sovereignty.

22. Okanagan Tribal Council. *Spotted Lake Proposal*. Westbank: Okanagan Tribal Council, 198?. Print.

This proposal is for the acquisition of Spotted Lake and the land surrounding it by the Okanagan Tribal Council. Spotted Lake is a sacred lake of healing for the Nations in the area and is currently privately owned; the owner wants to develop it in ways that would destroy the ecosystem and the power that the lake has. The Okanagan Tribal Council wants to purchase the land so that it may remain a sacred place. Included in the proposal are copies of legal documents; one document is a correspondence from William N. Vander Zalm to Louise Mandell, concerning the decision to not approve rezoning and the possible problems that could occur in the future.

23. Woodward, Jack and Albert Peeling. "Compensation." "*We are All Here to Stay:*" *The Delgamuukw Judgment in Victoria on January 26, 1998*. Victoria: University of Victoria, 1998. Print.

This paper was given at the "We are All Here to Stay" Conference on Delgamuukw; Woodward and Peeling discuss the legality of compensation in terms of how Canada can give back the rights and title that Aboriginal people deserve. The Sparrow and Delgamuukw cases are discussed. Woodward is a lawyer, specializing in First Nations law and an author of a book on Aboriginal law titled *Native Law*. Peeling was a lawyer at Woodward & Company.

Theses

1. Bush, Pamela Joanne. "See You in Court: Native Indians and the Law in British Columbia, 1969-1985." MA thesis. The University of British Columbia, 1987. Print.

This thesis outlines the reasons that First Nations go through the court system to achieve rights and title; Bush concludes that the court system is used to give Aboriginal rights, to challenge the Indian Act, and to assert hunting and fishing rights as well as land rights. Her thesis first looks at the history of Canada's relationship with Aboriginal people and then looks at governmental laws and authority, including analyses of court cases. Bush was a Masters student in the Political Science Department.

2. Evans, Aaron Blake. "Frozen Fish Rights: A Socio-legal Analysis of *R. v. Gladstone*, *R. v. Van der Peet* & *R. v. N.T.C. Smokehouse* (at the Supreme Court of Canada, 1995 - 96)." MA thesis. Simon Fraser University, 1998. Print.

This thesis looks at the ideologies that still shape court decisions on Aboriginal fishing rights cases. The four ideologies that Evans considers are: state sovereignty, liberal legalism, social evolution, and commercial fishing "status quo." He uses these ideologies to analyze the decisions that came out of *R. v. Gladstone*, *R. v. Van der Peet*, and *R. v. N.T.C. Smokehouse*. The influence of the Sparrow case is also discussed. Louise Mandell is acknowledged as having helped Evans with his research. Included are figures, maps, and a bibliography. Evans was a Masters student in the Sociology and Anthropology Department.

3. Leishman, Katherine Anne. "Lessons from *Delgamuukw v. The Queen*: The Comparative Potential of Litigation and Negotiation to Resolve Aboriginal Rights Conflicts." MA thesis. University of Victoria, 1996. Print.

Leishman's thesis argues that negotiation in any form, through either litigation or the BC treaty process, will not solve in any of the questions of Aboriginal rights and title. In thesis concentrates on the processes of litigation and negotiation, using *Delgamuukw v. The Queen* as a case study. Leishman was a Masters student in the Political Science Department at the University of Victoria.

4. Murray, Carol Elizabeth. "Oral History and the *Delgamuukw* Case." MA thesis. University of Alberta, 1993. Print.

This thesis concentrates on the validity of oral history as it relates to the Gitksan people and the oral narrative that was presented in the *Delgamuukw* case. The purpose of this thesis is to determine how the construction of meaning takes place in First Nations culture through oral testimonies. Murray gives a summary of the *Delgamuukw* case, followed by various ways in which oral testimony can be analyzed in different disciplines, followed by an analysis of Gitksan oral traditions, and concludes with the topic "the making of history." Two excerpts from *Reasons for Judgement* are included. Murray was a Masters student in the Anthropology Department at the University of Alberta.

5. Simpkins, Maureen Ann. "After *Delgamuukw*: Aboriginal Oral Tradition as Evidence in Aboriginal Rights and Title Litigation." Diss. University of Toronto, 2000. Print.

This dissertation examines the use of oral histories in the court system and analyzes the problems associated with using oral traditions alongside with written histories in granting Aboriginal rights and title. She identifies two areas in which the legal system needs to be improved to provide a space for the use of oral history: in asserting Aboriginal rights and title and “cross-cultural communication.” Included in her dissertation is a literature review on oral history and litigation, background on important court cases (such as Delgamuukw, Sparrow, and Van der Peet), methodologies, and interviews. Simpkins was a PhD candidate in Philosophy through the Department of Adult Education, Counseling Psychology and Community Development at the University of Toronto.

6. Solnick, Tim. “Power, Resistance and the Law in a British Columbia Land Title Trial.” MA thesis. The University of British Columbia, 1992. Print.

This thesis analyzes the ways in which the court system acts to assert colonialization in Aboriginal rights and title cases; Solnick considers the positions of the lawyers on the First Nations legal team, however, and concludes that working within in the colonial discourse to create means in First Nations can be recognized may work to actual decolonize the system. Solnick outlines the legal system and implications in his thesis and includes themes such as “othering” and “going Native” in his discussion. Solnick was a Masters student in the Geography Department at the University of British Columbia.

7. Toovey, Karilyn. “Decolonizing or Recolonizing: Indigenous Peoples and the Law in Canada.” MA thesis. University of Victoria, 2005. Print.

Toovey argues in her thesis that the legal system does not allow for Indigenous people to receive the rights and title that they inherently have; she discusses ways in which using the legal system is problematic for First Nations and shows some examples of alternative methods. Toovey was a Masters student in the Human and Social Development Department at the University of Victoria.

8. Walkem, Ardith Alison. “Bringing Water to the Land: Re-cognize-ing Indigenous Oral Traditions and the Laws Embodied within Them.” ML thesis. The University of British Columbia, 2005. Print.

This thesis considers the implications of using oral history in the courtroom and the ways in which oral traditions can be implemented into the legal system. Louise Mandell helped Walkem in this dissertation with analyzing oral traditions. Walkem was a Masters student in the Faculty of Law at the University of British Columbia and is a practicing lawyer in First Nations law.