

ACTIVITY 2: LEARNING ABOUT INDIGENOUS LAW AND LEGAL ORDERS THROUGH STORY

Societies throughout the world have different sources, or authorities, of law. In this activity, students will explore authorities of law in Indigenous societies. Students will specifically look at stories and use laws found in a story to approach solving a problem.

Teacher Background:

- In order for law to be public and accessible to all, it must be recorded somewhere.
- Canada's legal system is recorded in three main forms: statutes, common law, and civil law.
 1. Statutes are written laws made by the government. These laws are written down in many books. These books belong to series such as the "Revised Statutes of Canada".
 2. Common law, used in most of Canada, comes from past court decisions made by judges. Judges can follow old decisions for similar problems or make new rules based on changes in society.
 3. Québec does not follow the common law system. Instead, it follows the *Civil Code of Québec*. The Civil Code is a long list of rules and regulations.
- Indigenous societies have always had ways of recording, as well as teaching and expressing their laws. The ways an Indigenous society records, teaches and expresses its laws are unique to the society. Indigenous societies may record their laws in place names, languages, oral histories and stories, traditions and practices, ceremonies, songs, dances, art, and relationships. People draw on these resources to better access and understand the law, and to apply the law to challenges of today.
- Sources of law are the foundations or authorities underlying the law. They are what people look to when making or justifying legal arguments.
- For this activity, we are going to focus on one of the places you can find Indigenous law: stories. Stories can be a resource of Indigenous law, legal principles, and legal processes. They contain lessons and can serve as models for problem solving. You can analyze stories for legal principles, the same way that you do a legal analysis for Canadian law.

- When we talk about stories in this context, we are not referring to “make-believe” or entertainment in the way stories are often understood in Western traditions. In many Indigenous worldviews, stories are an essential way of teaching, guiding, and passing on knowledge. They help us reflect, ask questions, and think more deeply about the issues we face. Stories are rooted in histories, languages, and ancestral connections. Storytelling—and the oral tradition more broadly—is a vital practice of Indigenous knowledge sharing.

Because stories carry teachings and responsibilities, they must be treated with respect. Not all stories are meant to be shared, and it is important to have permission from the storyteller or community before retelling them. The stories included in this guide and in the magazine have been shared with permission for teaching and learning.

Activity:

Part 1:

1. All laws come from a place of authority—someone or something that people listen to and respect. It is important to know where the law comes from so that people can understand, follow, and use the law. According to Dr. John Borrows, there are five main sources of Indigenous laws that ground legal thinking. His list is found on page 15 of *Truth Before Reconciliation: Indigenous Law and Legal Orders*.

Indigenous societies may record their laws in many different ways. Have your students explore pages 16 and 17 to discover some of the ways that Indigenous law is woven into every part of life. Ask your students: where is Indigenous law found? How is it communicated to members of society?

Part 2:

1. Explain to students that for the next part of the activity, they are going to focus on one of the places you can find Indigenous law: stories. As explained on page 20 of the magazine, “By asking questions of the stories, we can learn how people in the past thought about the problems and how they worked to solve them. When we draw on past stories or cases, they help solve the current problem or conflict by telling us what people have done before.”

Students are going to learn how to analyze stories for legal principles, processes, and decisions. They are going to read a story and identify the problem, facts, decision/resolution, and the reasons behind the decision.

2. Have students read pages 20-22. They will start by learning about the context of analyzing stories and then read an example, the story "Summer in a Bag."
3. As a class, work together to answer the following questions about "Summer in a Bag."

We have provided some potential answers for this section based on the problem, "How does a group of people living together respond to a catastrophe that affects everyone?" It is important to remember, however, that there is never only one right answer. Many problems can be brought to a story, and the facts and decisions that matter depend on the problem that is being asked. Legal reasoning is about interpretation and application based on context.

"Summer in a Bag" Story Analysis

| Section | Questions |
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| 1. Problem | <p>What is the main human problem in the story?</p> <ul style="list-style-type: none"> How does a group of people living together respond to a catastrophe (hard winter) that affects everyone (including non-human beings)? |
| 2. Facts | <p>What are the most important facts in the story that help you understand the problem?</p> <ul style="list-style-type: none"> One year there was no spring, and the people had a double winter. People began to worry about not having a summer. The snow was deep in the bush and even tall animals like the caribou and moose were having a hard time getting around. The caribou and moose would have been easy for the hungry people to hunt. The animals began to starve. It seemed no one would make it through the winter. |
| 3. Decision | <p>How is the problem resolved?</p> <ul style="list-style-type: none"> The group decides to take immediate action to protect the moose and caribou. The group decides to call a public meeting to consider the problem. The group decides to investigate the cause of the problem. The group decides to take spring back. The group decides that Squirrel should go take spring back. Squirrel and the others bring spring back in a bag. They conduct a ceremony before they open the bag. |

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| <p>4. Reasons</p> | <p>What is the reason behind the decision(s)? Is there an explanation in the story? Sometimes, the reasons are not necessarily explained, and we have to make an assumption about what the reason could be, so we divide this section into “said” and “unsaid” reasons.</p> <p>Said:</p> <ul style="list-style-type: none"> • The humans helped the animals survive because they needed them for their futures: “We will need them, so we should save them for the future.” • The people and animals held a public meeting and deliberated together because it was an issue that affected them all. <p>Unsaid:</p> <ul style="list-style-type: none"> • It is important to investigate and deliberate serious matters to come to a good decision. Impulsive responses to threats may lead to bad decisions. • Squirrel had the skills needed to steal spring back. Squirrel was willing to go. • Ceremony and gratitude (towards squirrel) are important procedural steps for resolving this problem. • Animals and humans share a common problem and work together to survive. |
| <p>5. Legal Norms/ Principles</p> | <p>What norms and principles are shown? How do they guide the outcome?</p> <p>Norms:</p> <p>Respect – Shown through the Elders’ advice not to overhunt the animals even when it was easy to do so.</p> <p>Responsibility – The community made decisions based on long-term survival, not just short-term needs.</p> <p>Collaboration – Humans and animals worked together to solve the problem of the missing spring.</p> <p>Gratitude – The community thanked Squirrel and held a ceremony to show appreciation.</p> <p>Principles:</p> <p>Respect all creation as equals – Animals, humans, and the land are all connected and deserve to be treated with care</p> <p>Protect / preserve the future – Preserve animal populations for future survival.</p> <p>Work together to solve shared problems – Both animals and humans participated in the decision-making.</p> <p>Honour contributions – The community recognized and celebrated Squirrel’s effort in bringing back spring.</p> |

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| 6. Legal Actors | <p>Who is involved in solving the problem? What role do they play?</p> <ul style="list-style-type: none"> • Elders – Offered wisdom and guidance, cautioned against overhunting, reminded people to think about the future. • Leaders – Helped organize the meeting and led the discussion about the missing spring. • Squirrel – Chosen (or volunteered) as the one to go retrieve the spring; took action and helped resolve the problem. • Community members (humans and animals) – Participated in the meeting and helped make the collective decision. • Other helpers – Accompanied Squirrel in the mission, showing teamwork. |
| 7. Legal Process | <p>What process is used to make the decision? (e.g., meeting, discussion, ceremony)</p> <ul style="list-style-type: none"> • Meeting – A large meeting was held where both humans and animals gathered to discuss the problem. • Investigation – One of the leaders found out what happened and looked into ways to solve the problem. • Deliberation – The group talked and thought carefully about the situation before making a decision. • Collective decision-making – Everyone, including humans and animals, participated in deciding the best way to bring back the spring. • Ceremony – A ceremony was held to welcome spring back and to thank Squirrel. |

4. After the class discussion, have students read page 23 for the analysis of the story.
5. Give students an opportunity to analyze another story using this same method. Hand out copies of "[The Story of Porcupine](#)" and the analysis document. Alternatively, you can play the following video, which features Kenthen Thomas telling the Story of Porcupine: <https://www.youtube.com/watch?v=3LNeGvNJwps&t=1s>

This story comes from the Secwépemc Nation and shares how two opposing groups of people might come together to resolve their differences.

6. As a class, review your answers to the questions together. Ask your students: What other questions would you have asked? Did you have a different interpretation than what was provided?

Part 3:

1. Having completed a legal analysis of two stories, students can now start to consider how they can apply what they learned in these stories to problems in their own lives.

Begin by asking students to reflect on what they learned in either "Summer in a Bag" or "The Story of Porcupine": What did you wonder about? What surprised you? How does this connect to your life? What types of problems would the lessons in this story help you solve?

2. Have students read page 24 in *Truth Before Reconciliation: Indigenous Law and Legal Orders*.
3. Provide students the situation on page 25 and give them a chance to apply what they learned in "Summer in a Bag" to the situation.

Divide the class into four groups and assign each group one of the following perspectives: the birds, the swimmers and boaters, the company, and the river. In their groups, have students prepare a short paragraph or bullet point list describing the problem from their perspective. Bring the class back together and have each group take turns sharing their concerns. Encourage a conversation to determine a process for coming up with a solution.

Remind students of the story "Summer in a Bag," and ask:

- How does this story share values and principles that could apply to our scenario? (e.g. respect for non-human beings, sustainability)
- What process was followed for finding a solution? Could any of that apply to this situation? (e.g. public meeting with humans and animals, consultation, consensus, ceremony).

Once students have determined a process to follow, encourage them to explore creative and collaborative solutions. Document the solution (the **decision** and the **reason**) through a poster or art piece, story, or poem.

4. Have students think about how the lessons in “Summer in a Bag” or “The Story of Porcupine” could apply to other examples in their lives or communities. Here are some sample situations you could present to students or consider researching other examples currently being discussed in your own community.

Remind students that this exercise is about finding ways that we are all going to live together and treat each other fairly and to find solutions to the problems we are encountering today. As you explore the scenarios, have students consider the following questions: How do you think about the situation? What process could you follow? How do you ensure all perspectives are accounted for? How might you solve the problem?

- Every time you go to the playground for recess, you find garbage everywhere. It doesn't seem like anyone is responsibly throwing out their waste. Animals are starting to eat the garbage, and some parts of the playground are now dirty and unsafe because of waste.
- At lunchtime, a lot of food ends up in the garbage, some of it completely untouched. Items like full apples, unopened drinks, or sandwiches are thrown away every day. At the same time, some students don't have enough food and often go without a full lunch. Rotting food is unsafe, and some students are allergic to some of the things being thrown out. The school has strict rules about sharing food. It seems like there could be a better way to handle all the extra food instead of throwing it away.
- In many Canadian cities, people are having a hard time finding a safe, affordable place to live. Rents are rising, and there aren't enough homes for everyone. Some reasons for the situation include high building costs, not enough government support for renters and homebuyers, and rules that make it hard to build new housing. In some neighbourhoods, people also resist change when affordable housing is planned nearby. Everyone agrees people need safe places to live—but how can we work together to address all these challenges?
- In 2014 and 2016, thanks in large part to Inuit oral history and knowledge, the wrecks of the British ships HMS *Erebus* and HMS *Terror*—from Sir John Franklin's 1845 expedition through the Northwest Passage—were discovered. The artifacts found at the wreck sites were initially considered the property

of the United Kingdom, since the ships were British. However, the sites themselves are located in Canada, and specifically within the territory of Inuit of Nunavut. How should we determine who are the owners of these artifacts and how can we ensure that they are being properly protected, cared for, and shared with the public?

This is based on a real situation. In 2018, the United Kingdom and Canada agreed that the wrecks themselves and any yet-to-be-discovered artifacts would belong to Canada. In turn, the Government of Canada and the Inuit Heritage Trust signed an agreement to be joint owners of the wrecks and any future discoveries. They created a Memorandum of Understanding outlining how they would work together to protect and share the artifacts. This includes commitments that the artifacts will be protected based on Inuit Qaujimajatuqangit (Inuit knowledge) and the principles of cultural resource management, and that when displayed, the artifacts will be presented from an Inuit perspective. You can learn more here: "[Government of Canada and Inuit Heritage Trust Sign Franklin Artifact Memorandum of Understanding](#)," Government of Canada, 16 April 2019.

5. Have students reflect on what they have learned about Indigenous law and legal orders by creating a mind map or visual summary of their learning. Encourage them to include pictures, definitions, key words, etc.

The Story of Porcupine

This story comes from the Secwépemc Nation and shares how two opposing groups of people might come together to resolve their differences. Secwépemc storyteller Sexwélecken told the story to anthropologist James Teit in 1900, who then retold it in his own prose and only in English. The Skeetchestn Elders Daniel Calhoun, Leona Calhoun, Amy Slater, Christine Simon, Garlene Dodson, Doris Gage, Ron Ignace, and Julianne Ignace have since retranslated the story into Secwepemctsin.

A large number of people lived together at one place. Their chief was Swan. At another place, one long day's journey away and beyond a high range of mountains, lived another band of people, who were sometimes called the Deer People. They consisted of the Deer, Caribou, Moose, Goat, Sheep, and others, and their chief was the Elk. The two groups of people had been enemies for a long time. They were interfering in each other's business all the time. That is why they had a hard time putting away food. Each people had a different kind of government and lived and worked differently. What one did well, the other did badly. The birds acted in some ways like mammals, and the mammals like birds. That is why they were all pitiful.

Swan wanted to fix how they could be good to each other, so that they would not interfere in one another's affairs anymore. Swan believed that the people were stubborn. That is why they were troublesome and were being a nuisance to one another.

One day in the wintertime, when the snow lay very deep on the mountains, Swan assembled his people, and, after explaining his plans to them, he asked if any one of them would carry his message of invitation to Elk. Whoever would undertake the journey was to receive a large present of dentalia.¹

Coyote volunteered to go, and prepared for the journey by putting on his finest clothes, embroidered moccasins, and all his dentalia and necklaces. At dusk he left the house, but, not wanting to face the deep snow, he ran around the underground house all night, admiring himself. Coyote was still running in the morning, when the people awoke. Swan asked him why he had not gone; and Coyote answered, "I was just playing and running around for practice. I will start tonight." When evening came, the people saw him leave, and watched him until he was out of sight. Coyote soon found the snow too deep, returned after dark, and lay down underneath the ladder where he fell asleep. When the people awoke in the morning, they found him

¹ Dentalia are tooth or tusk-like shells that are often used to decorate regalia or jewelry or are used for ceremonial purposes.

fast asleep, and Swan asked him why he had not gone. Coyote answered, "Oh! I was playing, became tired, and lay down to sleep. I will start tonight."

Then Swan asked the people who would be the fittest one to go. They all said, "The porcupine always walked in the snowy mountains in the deep snow, that is why he would be the fittest one." Porcupine was selected, and after sewing his moccasins all night, and dressing himself warmly, he left at daybreak. When Coyote saw him leave, he laughed, and said, "When even I could not go, how can such a poor, slow, short-legged creature be able to travel through the deep snow?" That night Porcupine reached Elk's house in an exhausted condition, and all covered with ice and snow. After warming himself, he delivered his message to Elk, and asked for sinew and awl with which to sew his moccasins. After he had done so, he left for home, bearing Elk's reply. Elk promised to visit Swan on the following morning together with all his people.

When Elk and his people arrived, Swan feasted them and when the feast was over, he and all his people knelt down before Elk. Swan shared his wisdom with them and told them how they could fix one another. This is how he gave Elk all his knowledge and his advice.

Then Elk and his people all knelt down before Swan, and Elk gave him all his ideas and knowledge. Each people gained full knowledge of the other, and together became able to plan on doing what was right. After this they lived much easier and happier than before and the methods of one party did not come into conflict with those of the other.

The laws made at the council are those which govern animals and birds at the present day. Porcupine got his rich present of dentalia, and was much envied by Coyote.

The Story of Porcupine Analysis

Problem: What is the main human problem that the story focuses on?

Facts: What facts matter?

Decision/Resolution: What is decided or how is the issue resolved?

Reasons: What are the reasons behind the decision? Is there an explanation in the story? If so, is it said? Unsaid?

What other questions or thoughts do you have about the story that may not fit in previous sections? What would you like to learn more about? Is there something you did not understand?

The Story of Porcupine Analysis - Answer Key

Problem: What is the main human problem that the story focuses on?

- How do two groups address conflict between their communities?
- What is the role of leaders in resolving conflicts between communities?

Facts: What facts matter?

- Once there were two groups who had been enemies for a long time. The birds' chief was Swan. The Deer People's chief was Elk. The two groups tried to make each other's lives as difficult as possible.
- Each group had a different type of government and lived and worked differently. What one did well, the other did badly.
- Chief Swan wanted to make things better for both parties and make peace, believing that their troubles came from ignorance.

Decision/Resolution: What is decided or how is the issue resolved?

- Swan brought their community together and asked whether someone would volunteer to send a message to Elk. Coyote volunteered, and then failed. Then Swan asked the people who would be the best person for the journey, and they chose Porcupine. Porcupine was successful.
- Elk and his people visited Swan and they knelt down before each other to share knowledge and advice. Together, the two leaders came up with a way to resolve the conflict.
- After that, the two groups were able to live easier and happier than before without conflict.

Reason: What is the reason behind the decision? Is there an explanation in the story? Is it said? Unsaid?

- **Said:**
 - » Swan and their community figured out how to overcome the problems because Swan thought their differences were caused by mutual ignorance. Swan asked the people to help pick the right person to obtain their support.

- **Unsaid:**

- » Elk responded positively to Swan's invitation to meet because Elk thought this would help solve their differences.
- » Leaders are responsible for attempting to resolve conflict between their peoples and others.
- » A council was held. To resolve differences, groups must come together in the spirit of respect and reciprocity. The two groups treated each other with respect and shared everything they knew with one another.

What other questions or thoughts do you have about the story that may not fit in previous sections? What would you like to learn more about? Is there something you did not understand?

- Porcupine was laughed at by Coyote, but Porcupine succeeded in their mission. This is a reminder that everyone has gifts and an important role to play in society.