

LOOKING AHEAD – ANSWER KEY

Arcand-Paul, B. 2021. “Indigenous laws are a critical part of Canada's legal landscape.” *Canadian Bar Association*. <https://www.nationalmagazine.ca/en-ca/articles/law/rule-of-law/2021/indigenous-laws-a-critical-part-of-canada-s-legal>

Gunn, K., & O'Neil, C. 2021. “Indigenous Law & Canadian Courts.” *First Peoples Law*. <https://www.firstpeopleslaw.com/public-education/blog/indigenous-law-canadian-courts>

Woodside, J. 2021. “Canada’s Supreme Court recognizes Wet’suwet’en law. So how is Coastal GasLink moving ahead?” *Canadas National Observer*. <https://www.nationalobserver.com/2021/12/02/news/canadas-supreme-court-recognizes-wetsuweten-law-coastal-gaslink?fbclid=IwAR0vn9DgrisAwC6MFq2i0UEPyXc1oBzkmOiwL7ViIyp3lxtWgUV7SbmXCjs>

<p>What reasons does Arcand-Paul give for saying: “A good start would be for Canada to reserve a spot—or three—for an Indigenous jurist on the Supreme Court of Canada.”?</p>	<p>Answers may vary, but the essence is in this quote from the article:</p> <p><i>“Now, as Canadian courts are increasingly applying, giving deference to or acknowledging Indigenous laws in their decisions—which is already occurring in areas such as elections, sentencing, and child and family services—the perspective of Indigenous Peoples about their own laws not only before the court but on the bench becomes critical. Indigenous laws must continue to be made by, and for Indigenous Peoples, or else the reconciliation that courts—as the guardians of Canada’s Constitution—have been tasked with, will become simply another forum for repeated colonization.”</i></p>
<p>According to Gunn and O’Neil, what is the difference between Indigenous Law and Aboriginal Law?</p>	<p>Answers may vary [in length], but any part of the below statements by the authors would be correct: [Red text is the nutshell difference.]</p> <p><i>“Aboriginal law, created by Canadian courts and legislatures, is about the legal relationship between Indigenous Peoples and the Crown within the Canadian legal system.”</i></p> <p><i>“Aboriginal law involves the interpretation of Indigenous rights recognized in the Canadian Constitution and other laws created by Canadian governments such as the Indian Act or self-government agreements. Most notably, this body of law includes defining the nature and scope of Aboriginal and Treaty rights under section 35 of the Constitution Act, 1982 and the Crown’s corresponding obligations to Indigenous Peoples.”</i></p> <p><i>“Indigenous law refers to Indigenous Peoples’ own legal systems. This includes the laws and legal processes developed by Indigenous Peoples to govern their relationships, manage their lands and waters, and resolve conflicts within and across legal systems. As with Canadian law, Indigenous law is developed from a variety of sources and institutions which differ across legal traditions.”</i></p>

What do the Gunn and O’Neil say about Land Rights?	<p>Students are likely to paraphrase the following text:</p> <p><i>“In Coastal GasLink Pipeline Ltd. v. Huson, members of the Wet’suwet’en Nation and their supporters argued their blockade constituted an expression of Wet’suwet’en law. The Court held that Indigenous laws are only effective under Canadian common law if they are first recognized through treaties, court declarations or statutory provisions. This decision, which represents a serious step backwards in the recognition of Indigenous law, might prove to be an outlier since it is inconsistent with Canadian courts’ treatment of Indigenous law in other higher court decisions.”</i></p>
How does Woodside describe the conflict?	<p>Answers will vary, but in a nutshell, he says:</p> <p><i>“The conflict is about the right to build a natural gas pipeline through the nation’s unceded land. Coastal GasLink reached agreements with First Nation band councils along the project’s route, including Wet’suwet’en bands, and British Columbia gave the company the green light to build in 2014. However, hereditary Wet’suwet’en chiefs oppose the project and their supporters are attempting to block access to the construction site.”</i></p>