

Aboriginal Justice

Community Forum

Building A Community Network



Topic One

The Legal System: Canadian and Cree



Aboriginal Justice Strategy

The Aboriginal Justice Strategy (AJS) is part of the Department of Justice, Canada

AJS programs are:

- community-based
- offer alternatives to the administration of justice



Objectives of the AJS

- To support Aboriginal communities as they take greater responsibility for the administration of justice;
- To help reduce crime and incarceration rates in the communities that administer justice programs; and
- To improve Canada's justice system to make it more responsive to the justice needs and aspirations of Aboriginal people.



Learning Outcomes

Knowledge: Know that law is a social construct of the society in which it is implemented

Skill: Identify functions of law in society

Value: Respect the value of customary law and common law as source of law in Canadian and Cree society.



Background

- Definition
- Various Types Used in the World
- Canadian & Cree
- Proposed Actions & Policies
- Private & Public
- Substantive & Procedural



Definition of Legal Systems

- A system of rules that regulate behavior and the processes by which the laws of a country are enforced and through which redress of grievances is obtained.
- A system for interpreting and enforcing the laws



World Legal Systems

- Civil Law
- Common Law
- Customary Law
- Muslim Law



Legal Systems used in the World

| | |
|----------------------------------|--------|
| Mixed systems with Civil Law | 18.90% |
| Common Law systems | 12.21% |
| Mixed systems with Common Law | 15.70% |
| Customary Law systems | 0.87% |
| Mixed systems with Customary Law | 15.99% |
| Muslim Law systems | 0.58% |
| Mixed systems with Muslim Law | 9.59% |
| Talmudic Law | 0.29% |



Canadian Legal System

Common Law system:

Since Quebec belongs to the federal political structure, but have maintained distinct characteristics within that structure, Canada is referred to as having a mixed system with civil law.



First Nations

Mixed systems with
Customary Law
or
Customary Law



Private & Public Laws

Laws that govern people's private relationships. It includes contract law, property law, tort law, family law, and corporate law.

Laws that govern and regulate the interactions of the state and its subjects and include constitutional law, criminal law and administrative law.



Substantive & Procedural Laws

Prescribe a set of values defining rights and obligations.

Formulate how a society should enforce those rights and obligations.



Activating Activity 1: Interview Review

Purpose:

To develop a summary of the Radio Broadcast/Audio CD

Steps:

1. Review interview outline.
2. Hand out 2-column note work sheet
3. LISTEN-to radio broadcast, audio CD
4. THINK-individually make notes using the Two Column method
5. PAIR-with a partner, add to the ideas generated individually
6. SHARE-responses with the whole group using a flip chart or overhead projector



Radio Broadcast

Audio CD



Leisure Break

15 minutes



Activating Activity 2:

Vocabulary Development & Review

Purpose:

To provide an opportunity for participants to become familiar with selected legal terms and to understand legal terminology.



Activating Activity 2:

Vocabulary Development & Review

Steps:

1. Hand out worksheet A to participants.
2. Review the word list with the group for pronunciation.
3. Read out loud the instructions for completing the puzzle.
4. Allow participants time to complete the puzzle.
5. Review the solutions with the group.
6. Hand out worksheet B to participants.
7. Repeat steps 2 to 5.



Acquiring Section

Objectives:

- Know that the goal of a legal system is to provide justice to all. Justice includes fairness, equity, and equality under the law.
- Know that order is the function of the state, while freedom is the goal of the individual.
- Identify and apply criteria to make decisions about what is a good law and what is not a good law.
- Contemplate the degree to which personal freedom should be relinquished to achieve public security and safety.



Acquiring Activities

- Substantiating the Laws
 - Balancing Norms and Values
- Navigating the Laws
 - Who and Where
 - The Web of Enforcement
 - System of Resolution
 - Enacting a law



Substantiating the Laws

Participants will recall information identified in the background and interview section of this package. Participants should be aware of the common and customary laws of their community. Because MKO's goal is to lay the foundations for a self-governing legislative body to better serve the interests of their members, it would be reasonable to include customary laws unique to each First Nation community.



Activity 1:

Balancing Norms & Values

Steps:

- Divide participants into two groups.
- Provide participants with the worksheet: *Balancing Norms and Values*, to guide their discussion.
- Have each group identify a recorder and a presenter.
- Allow participants time to complete the worksheet.
- Have each group present their results to the group.
- Allow time for discuss and clarification of laws.
- Restate and rewrite the set of laws on a single sheet. (An overhead projector could be used here or flip chart paper)



Activity 2:

Navigating the Laws

Purpose:

- To determine where and for whom laws would be mandatory.
- To create the web for enforcement of the laws.
- To determine the system of resolution.
- To determine a process of enacting a law.



Activity 2:

Navigating the Laws

Steps:

1. Divide participants into four groups.
2. Provide each group with one of the four worksheets, so that each group will work on a different sheet.
3. Allow some time to review worksheets with the whole group (an overhead projector would be useful).
4. Have each group identify a recorder and presenter.
5. Ensure each group has paper and markers to work with.
6. Once enough time has passed, allow presenters time to review recorded material with their group for clarification.
7. Have presenters report to the whole group, starting with Worksheet A.



Activity 2:

Navigating the Laws

- Worksheet A: Who and Where
- Worksheet B: The Web of Enforcement
- Worksheet C: System of Resolution
- Worksheet D: Enacting a law



Applying Section

Objectives:

- To consolidate all the learning from previous sections and apply it to a scenario.
- To reformulate the determined process of resolution into practice.
- To extend knowledge to a real possible situation.



Activity 1: Case One

Purpose:

To identify the various steps required to resolve a breach of the newly enacted alcohol laws.



Activity 1: Case One

Steps:

1. Make a photocopy of the attached sheet of role Identification tags.
2. Cut all sixteen pieces, fold and place in a jar.
3. Have participants draw a piece of paper from a jar to identify their role
4. Provide participants with stickers or pins to show their identity
5. Have participants read Scenario.
6. Allow time for participants to define their position in the process.
7. Ensure the Recorder has paper and a pen to record the process
8. Provide the Community Critic with paper and pen to write down problems they see in the process.
9. Read the scenario to the group and begin process.
10. After the process has been completed, write out the steps recorded for everyone to see (overhead projector could be used)
11. Next have the Community Critic report what they perceived to be problems/issues in the process.
12. Allow time for some discussion and reflection.



Scenario

A breach has occurred of the newly enacted alcohol related laws. There hasn't been a provincial court held in the community for years and there is no intention by the province to return to the community. The RCMP has ceased entering the community; no outside lawyer is willing to come in the community and Chief and council are away on business. Since the laws have been enacted, there has been several occasions of hearings taken place to resolve each matter resulting in for the most part long term peace within the community. Now that the community has declared its sovereignty, it must deal with matters within its jurisdiction.



Ekosi!

The End

