

Tribal/Indigenous Law



Brief Overview

- Tribal Law is the legal system used in Native and Indigenous tribes. It consists of the constitutions, treaties, and ordinances unique to the tribe.
- Tribal law is crucial to the tribes because it helps govern and control the interactions between tribe members and the land.
 - Typically is a combination of Tribal laws and Western legal system philosophy



Countries Focused

- 
- United States
 - Canada
 - Australia
 - New Zealand

United States



1

Before Europeans

Before the Europeans arrived in the 16th century to America, Native Americans were the primary residents. There were several tribes all across America, and each tribe held unique cultural and governmental values due to their geographic location.

2

European Arrival

When the Europeans arrived, they encroached on Native American land and began to start a series of wars to take land away from them. Early 17th century marked several battles between the colonists and the American Indians, such as the Anglo-Powhatan Wars.

3

19th Century

Shortly after America broke away from Britain, it began to build its government. When establishing the constitution, it gave Congress powers to deal with Indian tribes, but Indian tribes still maintained their sovereignty. One of the tasks that the government did was passing a list of laws to get more land from the tribes.

4

Post Civil War

After the Civil War, the Indian Appropriations Act of 1871 emphasized that tribes are not sovereign and prevented any formation of treaties. It also resulted in more conflicts between the U.S. government and American Indian tribes, particularly those in the Midwest.

5

Citizenship

Congress passed the Indian Citizenship Act, granting citizenship to American Indians who did not receive citizenship before.

6

Land Ownership

In the 1934 Indian Reorganization Act, it decreased the power of the federal government and gave more power to the Indian governments. Later, the federal government gave more power to the states to get involved in tribal matters, especially taking control in civil and criminal matters involving Indians when it came to land, through the passage of Public Law 280 statute.

Canada



Canadian Legal Systems

Indigenous

Indigenous law is based on the First Nation tribes' cultures, rules, teachings, and conducts as well as relationship with the land and spirits.

Aboriginal

Aboriginal law makes up the courts and legislatures and focuses on the relationship between the Indigenous peoples of Canada and the government.



Arrival of Europeans

When the Europeans arrived in Canada, there were conflicts between the Europeans and the Indigenous populations. As a result, several treaties were negotiated between the two sides to prevent any violence.



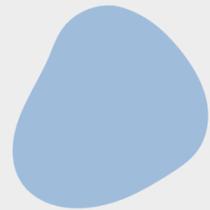
Treaties

The Proclamation of 1763 ensured that British settlers would make sure that Aboriginal Peoples are being protected and treated fairly. In terms of the land, Aboriginal Canadian land can only be sold or given to Britain and not the settlers.



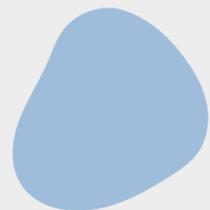
Independence

Shortly after Canada received its independence from Britain, it passed the 1867 Constitution Act. It claimed that the Canadian government has jurisdiction over the Aboriginals' land. The Canadian government began to gain more control over the Indigenous peoples, and it passed the Indian Act 1876, which focused on assimilating the Indigenous peoples.



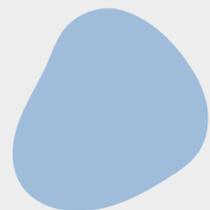
Reconciliation

The White Paper in 1969 helped take apart the Indian Act and provide additional federal assistance on economic relief and property ownership. In 1982, section 35 was implemented in the Canadian Constitution to recognize and protect the rights of the Aboriginal peoples



Land Back

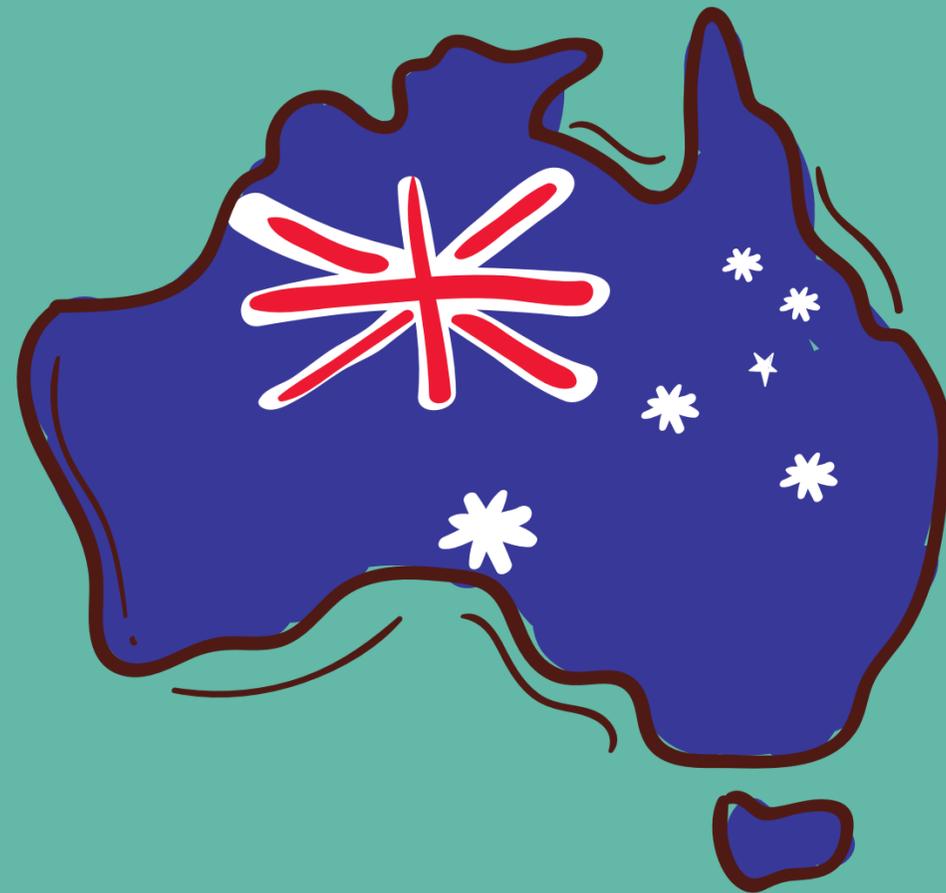
In 1999, the First Nations Land Management Act allowed First Nation tribes to manage their land, but they need to follow the provisions of the Indian Act on land management. Today, Aboriginal law has set up legal systems in the different tribes that combine both Aboriginal and Canadian law.



New Courts

For monetary issues regarding land ownership, Specific Claims Tribunals were established in 2008 to hear monetary problems of First Nations people.

Australia





Aboriginal People

- The native population in Australia is known as the Aboriginal people.
 - They have resided in Australia for 65,000 years before Europeans arrived in the late 18th century.
 - One of the first legal treaties that was passed in 1836 was the Letters Patent establishing the Province of South Australia, which formally recognized and respected the rights of the Aboriginal people.
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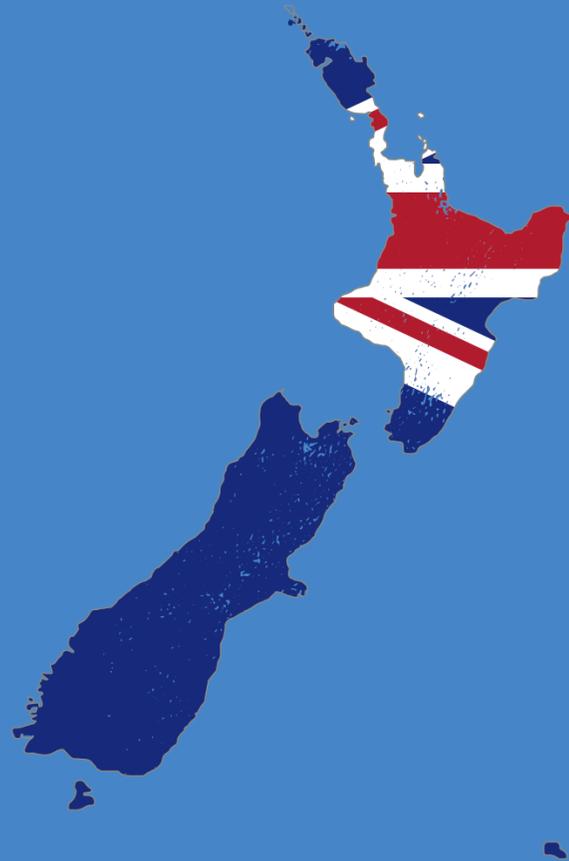
European Interaction

- However, once Britain formally colonized Australia, it began to expand and encroach on Aboriginal land and ignore their pleas of protecting their land. It was the “terra nullius” principle that Britain operated by, which means that no one claims any land.
 - This principle was eventually overturned in 1992 with the Mabo court decision, which recognized Aboriginal people’s land ownership.

20th Century

- In 1970, The Aboriginal Tent embassy was established for the purpose of giving the Aboriginal people their own sovereignty and power to have their own government.
- The Aboriginal Land Act was also passed, which led to the government returning the land to the Aboriginal people and allowing them to have their own independence managing the land.
- Aboriginal Development Commission Act was passed in 1980, which established a commission that dealt with land allocation and lend any money needed to support their business.
- After the Mabo decision in 1992, the Native Title act was passed to protect and recognize land ownership of the Aboriginal people.
 - It also resulted in the creation of the National Native Title Tribunal that served as a source for the Aboriginal people to negotiate and ensure security of their title. It is to promote further reconciliation between Australians and the Aboriginal people.

New Zealand



Maori

- Maori is the major Indigenous group in New Zealand.
- Maori law holds customary law, which is the traditions and customs of the Maori people.
 - Known as tikanga Māori, this system helped define how marriages should operate, trade and land rights for all individuals, conflict resolutions, and family relationships.
 - This system was in place before Europeans arrived in New Zealand.
- When Europeans began to colonize New Zealand, it struck an agreement between the Maori people.
 - In 1840, the Treaty of Waitangi was signed and focused on highlighting the relationship between the British Crown and the Maori people.
 - This led to the establishment of the Maori Land Court in 1865 that was established to hear concerns over Maori land.
- In 1975, the Waitangi Tribunal was established as a forum for the Maori people to solve problems that the Maori faced when it came to violation of their legal and natural rights.
- Recently in 2008, Rangatahi (Te Kooti Rangatahi) and Pasifika Courts, which are youth courts, were established to bring together the youth to learn about the justice system.