Integrating Legal Concepts into Grade Six Social Studies

Reference Guide

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Introduction

With the introduction of a new social studies curriculum in Alberta, an opportunity exists to develop student-level support resources directly related to the elementary curriculum. The new curriculum provides specific opportunities for the integration of legal concepts into the curriculum at grades three, six, and nine. The implementation of the new curriculum is being staged over several years. Grades three, four, and seven have been completed. Grades five and eight will be implemented in 2007, followed by grades six and nine in 2008.

The grade six curriculum focuses on Democracy: Action and Participation, with specific learning outcomes related to such topics as the role of the justice system in democratic and constitutional rights, the role of citizens in participative decision making, and historical models of democracy. Core textbooks are already in production for grade six. There is still a need and opportunity, however, to develop supplementary resources to support and integrate law-related learning into the grade six curriculum.

In its 2006–2009 business plan, Alberta Justice identified access to justice information and education as an important initiative. As part of that initiative, the department stated:

> The Ministry will continue to work with partners to find better ways of informing Albertans about the justice system, including the development of new strategies and working with Education and other stakeholders to develop justice education resources for Alberta classrooms. Recognizing the importance of the rule of law in the operation of government, this core business is central to the department's role in seeing that public affairs are administered according to law.

Alberta Justice saw the new social studies program of studies as an opportunity to continue its commitment to the education of Albertans through the development of up-to-date and authoritative resources to support the integration of law and justice issues into the classroom. Similarly, in 2003, Alberta Justice funded the development of a website that supports the grade three curriculum (www.justice.gov.ab.ca/education/ajs_in_your_community/home.htm).

In fall 2006, Alberta Justice funded a second project related to the social studies program of study. This reference document has been completed as part of the project that will develop student support resources and related teaching resources for the new grade six social studies curriculum.

The *Law for Alberta Classrooms* Project

Any resources created during this grade six project will be made available on *Law for Alberta Classrooms*.

The *Law for Alberta Classrooms* project will create and populate a website for Alberta teachers that will gather appropriate law-related information and resources to support various programs of study within the Alberta curriculum. This larger project has been funded by the Law Society of Alberta and the Alberta Law Foundation.

Purpose of this Document

This document provides information essential to the creation of appropriate resources for grade six social studies. It explains inquiry-based learning, provides information about the research that supports inquiry-based learning, describes the systematic process that is basic to inquiry learning, and makes the connection between resources, inquiry-based learning and the general and specific skills outcomes required by the grade six social studies program of studies.

This document also identifies specific areas in the curriculum that could serve as entrance points for the teaching of legal concepts. It provides the results of an examination of curriculum and identifies which legal concepts have potential for supplementary enrichment of the curriculum.

Appendix 2 provides the template that will be used to create new resources or to evaluate existing resources for grade six social studies.

This document serves as a reference guide and informs the process of resource design and content creation.

Methodology

Approach

The approach taken to gather and process information included (a) gathering information from appropriate documents and articles, (b) organizing findings, (c) discussing the project with educators, and (d) making broad recommendations regarding the type and quality of resources that might be considered.

Gathering Information

Information was examined pertaining to the Alberta social studies curriculum outcomes, to instructional practices, to the related legal concepts, and to existing resources with potential for the new curriculum.

Information Pertaining to Social Studies Curriculum Outcomes

Alberta Education's 2005 *Social Studies Kindergarten to Grade 12 Program of Studies* provided background information about the philosophy, vision, and outcomes of the Alberta social studies program. The program of studies for grade six outlines general and specific outcomes that students are expected to demonstrate. The specific outcomes include (a) values and attitudes, (b) skills and processes, and (c) knowledge and understandings.

Information Pertaining to Instructional Practices

The skills and processes outcomes of the social studies program of studies refer to "dimensions of thinking" and ask that students "acquire and develop thinking strategies that assist them in making connections to prior knowledge, in assimilating new information, and in applying learnings to new contexts" (Alberta Education, 2005, p. 8). The 2004 Alberta Learning document *Focus on Inquiry* informed us of the inquiry process, and we connected this process to the required "dimensions of thinking" as outlined in the program of studies.

Focus on Inquiry and the program of studies, along with recommended readings from both sources, provided the background we needed to understand appropriate outcomes and instructional practices that need to be considered when creating the proposed resources.

Information Pertaining to the Related Legal Concepts

The objectives listed in outcome 6.1 were analyzed by a lawyer to determine which legal concepts were pertinent to each objective and could serve as a

potential entry point. At this point, no attempt has been made to analyze the legal concepts with respect to their suitability for grade six learning levels.

Information Related to Existing Resources

We conducted a preliminary search of online libraries such as the University of Alberta Curriculum Library, the Alberta Library, and the LearnAlberta Online Reference Centre . We used the *Access to Justice Network* (www.acjnet.org) as a basic tool to identify web-based resources. We also conducted a general web search for related resources. Except for resources produced by public legal education organizations and governments, it was difficult to identify trustworthy and up-to-date websites. The searches were conducted by a professional librarian and were time-consuming. Teachers seeking resources may not have the time for such a search and, therefore, could be missing valuable resources.

Organizing Findings

We needed to process and connect our findings. We began looking for curricular entry points for appropriate law-related resources for grade six. From the general outcomes, we identified outcome 6.1, *Citizens Participating in Decision Making,* as an appropriate entry point. We also focused on the specific outcome related to skills and processes as we connected instructional practice (specifically inquiry learning), content, and the type of resources that might be appropriate for our purpose.

Discussing the Project with Educators

We discussed our method of resource planning with a group of grade six teachers and with the Social Studies Curriculum Implementation Coordinator of the Alberta regional professional development consortium "Learning Network"**.** We received feedback from this group.

Suggested Approaches

Using the information gathered, we recommended several types of resources that might fit into specific stages of the inquiry process, reflect the general and specific outcomes of the grade six social studies program of studies, and be related to law in Alberta.

Outcomes, Skills, and Processes

Background

When creating resources for social studies, it is important to understand that "students bring their own perspectives, cultures and experiences to the social studies classroom. They construct meaning in the context of their lived experience through active inquiry and engagement with their school and community" (Alberta Education, 2005, p. 5).

The Alberta social studies program of studies outlines general and specific outcomes for each grade level. *General* outcomes identify what students are expected to know and be able to do at the end of each grade or course. *Specific* outcomes identify (a) values and attitudes, (b) knowledge and understanding, and (c) skills and processes within the general outcomes. This project focuses on the specific outcomes for (c) skills and processes that, for organizational purposes, the program of studies groups into the following categories:
- Dimensions of thinking
- Social participation as a democratic practice
- Research for deliberate inquiry
- Communication

So that students connect social studies activities to their own experiences and perspectives, an issue- or problem-based instructional approach is recommended. This approach engages students in active inquiry and enables them to assimilate and demonstrate the above specific skills.

When creating appropriate resources for grade six social studies, it is important to understand (a) the definition of inquiry, (b) the research that informs inquiry-based learning, (c) the inquiry approach as a systematic process, and (d) the connection between the resources, inquiry-based learning, and the specific skills outcomes listed in the grade six social studies curriculum.

Inquiry-Based Learning

Inquiry-based learning is a process where students are involved in their learning, formulate questions, investigate widely and then build new understandings, meanings, and knowledge. That knowledge is new to the students and may be used to answer a question, develop a solution, or support a position or point of view. The knowledge is usually presented to others and may result in some sort of action (Alberta Learning, 2004).

The Inquiry Approach as a Systematic Process

Inquiry-based learning is a powerful approach to instruction that provides opportunities for students to develop skills for life, work with problems that may have multiple solutions, deal with challenges to their understandings, and provide a process as they search for solutions, now and in the future.

A systematic approach to the development of these skills is essential in order to prepare students for problem solving and lifelong learning. A systematic approach ensures that students have the opportunity to engage in inquiry, learn an overall process and understand that this general inquiry process can be transferred to other inquiry situations. When students learn through the systematic inquiry approach from primary grades through high school, they are able to practice and internalize essential inquiry skills and these skills evolve from grade to grade and course to course.

There are clear characteristics in a classroom when teachers emphasize inquiry-based learning. These characteristics include:
- Inquiry is in the form of authentic problems within the context of the curriculum and/or community.
- The inquiry capitalizes on student curiosity.
- Data and information are actively used, interpreted, refined, digested, and discussed.
- Teacher, students, and teacher-librarian collaborate.
- Community and society are connected with the inquiry.
- The teacher visibly models the behaviours of an inquirer.
- The teacher uses the language of inquiry on an ongoing basis.
- Students take ownership of their learning.
- The teacher facilitates the process of gathering and presenting information.
- The teacher and students use technology to advance inquiry.
- The teacher embraces inquiry as both content and pedagogy.
- The teacher and students interact more frequently and more actively than during traditional teaching.
- There is an identifiable time for inquiry-based learning (Drayton & Falk, 2001).

Language Associated with Inquiry

Metacognition
In the inquiry process, metacognition means becoming aware of one's own thinking processes (thinking about thinking) and acknowledging and understanding the feelings associated with each of the phases (Alberta Learning, 2004, p. 81).

Constructivist Teaching and Learning
Inquiry learning is based on the theory that students are active learners who build or construct their understandings as they use information. *Focus on Inquiry* provides the following explanation:

> Constructivist learning theory supports a view of inquiry-based learning as an opportunity for students to experience learning through inquiry and problem solving, characterized by exploration and risk taking, by curiosity and motivation, by engagement in critical and creative thinking, and by connections with real-life situations and real audiences (p. 80).

Brooks and Brooks (1993) describe constructivist teachers as facilitators of learning and empowerers of students engaged in problem solving. They identify eleven characteristics of constructivist teachers:

1. Constructivist teachers encourage and accept student autonomy and initiative.
2. Constructivist teachers use raw data and primary sources, along with manipulative, interactive, and physical materials.
3. When framing tasks, constructivist teachers use cognitive terminology such as "classify," "analyze," "predict," and "create".
4. Constructivist teachers allow student responses to drive lessons.
5. Constructivist teachers inquire about students' understandings of concepts before sharing their own understandings of those concepts.
6. Constructivist teachers encourage students to engage in dialogue, both with the teacher and with one another.
7. Constructivist teachers encourage student inquiry by asking thoughtful, open-ended questions and encouraging students to ask questions of each other.
8. Constructivist teachers seek elaboration of students' initial responses.
9. Constructivist teachers engage students in experiences that might engender contradictions to their initial hypotheses and then encourage discussion.
10. Constructivist teachers allow wait time after posing questions.
11. Constructivist teachers provide time for students to construct relationships and create metaphors.

Infusion of Technology

The new program of studies places emphasis on media literacy skills and the infusion of technology within the inquiry process. The document indicates that

> Technology encompasses the processes, tools and techniques that alter human activity. Information communication technology provides a vehicle for communicating, representing, inquiring, making decisions and solving problems. It involves the processes, tools and techniques for:
> - gathering and identifying information
> - re-representations of dominant texts
> - expressing and creating
> - classifying and organizing
> - analyzing and evaluating
> - speculating and predicting.
>
> Selected curriculum outcomes from Alberta Learning's Information and Communication Technology (ICT) Program of Studies are infused throughout the social studies program of studies and are indicated by this symbol ☺ Further information regarding the Information and Communication Technology Program of Studies is contained within that program of studies (Alberta Education, 2004, p. 10).

Alberta Education Inquiry Model

Focus on Inquiry presents a model for inquiry based on over 30 years of research from around the world. The model represents the following phases of inquiry and can be found at www.education.gov.ab.ca/k_12/curriculum/bySubject/focusoninquiry.pdf.

Inquiry Phases and Skills	At Every Phase
Phase one: Planning • *Establishing a topic area for inquiry* • Identifying possible information sources • Identifying audience and presentation format • Establishing evaluation criteria	**Reflecting on the Process**
Phase two: Retrieving • Developing an information retrieval plan • Locating and collecting resources • Selecting relevant information • Evaluating information • Reviewing and revising the plan for inquiry	**Reflecting on the Process**
Phase three: Processing • Identifying a focus for inquiry • Choosing pertinent information • Recording information • Making connections and inferences • Reviewing and revising the plan for inquiry	**Reflecting on the Process**
Phase four: Creating • Organizing information • Creating a product • Thinking about the audience • Revising and editing • Reviewing and revising the plan for inquiry	**Reflecting on the Process**
Phase five: Sharing • Communicating with the audience • Presenting new understandings • Demonstrating appropriate audience behaviour	**Reflecting on the Process**
Phase six: Evaluating • Evaluating the product • Evaluating the inquiry process and inquiry plan • Reviewing and revising the personal inquiry model	**Reflecting on the Process**

Resource Creation

A Resource Development Template (Appendix 2) provides a framework for the resource developer. Other considerations should be that the resource
• is learner centred
• pays attention to learning styles
• fosters the use of metacognition
• develops emotional literacy
• is designed to support students during their work
• reflects the goals of inquiry and the program of studies
• is written at the appropriate reading level
• includes the infusion of technology

Focus on Inquiry Model

For the purpose of this document, the following tables illustrate the correlation between the inquiry process and the expected skills outcomes listed in the Alberta grade six program of studies. Using the skill sets as guides, we then list appropriate teaching skills and types of appropriate resources that might be considered.

Figure 1: Planning—Focus on Inquiry Model Stage One

Inquiry Learning Skill: Planning
- Establishing a topic area for inquiry
- Identifying possible information sources
- Identifying audience and presentation format
- Establishing evaluation criteria
- Outlining a plan for inquiry
- Reflecting on the process

Social Studies 6 Skills Outcomes Related to Planning
Dimensions of Thinking
1. develop skills of critical thinking and creative thinking:
- generate original ideas and strategies in individual and group activities

2. demonstrate skills of decision making and problem solving:
- collaborate with others to devise strategies for dealing with problems and issues

Social Participation as a Democratic Practice
1. demonstrate skills of cooperation, conflict resolution, and consensus building:
- demonstrate the skills of compromise in order to reach group consensus
- work collaboratively with others to achieve a common goal
- record group brainstorming, planning and sharing of ideas, using technology

Research for Deliberative Inquiry
1. apply the research process:
- formulate questions to be answered through the research process
- formulate new questions as research progresses
- design and follow a plan, including a schedule, to be used during an inquiry process
- making revisions to the plan as necessary, and
- reflect on and describe the processes involved in completing a project

Communication
1. demonstrate skills of oral, written and visual literacy:
- express reasons for their ideas and opinions, in oral or written form
- listen to others in order to understand their perspective

Possible Resource Focus to Assist Planning
1. A resource that could be included in a student's list of "possible information sources"
2. A list of possible inquiry questions relevant to law and a curricular entry point
3. A list of issues that could be starting-off points for inquiry

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Figure 2: Retrieving—Focus on Inquiry Model Stage Two

Inquiry Learning Skill: Retrieving
- Developing an information retrieval plan
- Locating and collecting resources
- Selecting relevant information
- Evaluating information
- Reviewing and revising the plan for inquiry
- Reflecting on the process

Social Studies 6 Skills Outcomes Related to Retrieving
Dimensions of Thinking
1. develop skills of critical thinking and creative thinking:
- assess significant local and current affairs from a variety of sources, with a focus on examining bias and distinguishing fact from opinion
- seek responses to inquiries from various authorities through electronic media

2. develop skills of historical thinking:
- use primary sources to interpret historical events and issues
- use historical and community resources to understand and organize the sequence of historical events
- organize information using tools such as databases, spreadsheets or electronic webbing

3. demonstrate skills of decision making and problem solving:
- propose and apply new ideas, strategies and options to contribute to decision making and problem solving, supported with facts and reasons
- consider multiple perspectives when dealing with issues, decisions making and problems solving

Social Participation as a Democratic Practice
1. demonstrate skills of cooperation, conflict resolution and consensus building:
- record group brainstorming, planning and sharing of ideas, using technology
- extend the scope of a project beyond classroom collaboration, using communication technologies such as the telephone and e-mail

Research for Deliberative Inquiry
1. apply the research process:
- formulate questions to be answered through the research process
- use graphs, tables, charts and Venn diagrams to interpret information
- design and follow a plan, including a schedule, to be used during an inquiry process,
- make revisions to the plan as necessary
- access and retrieve appropriate information from the Internet, using a specific search path or from given uniform resource locators (URLs)
- organize information, using tools such as databases, spreadsheets or electronic webbing
- reflect on and describe the processes involved in completing a project

2. develop skills of media literacy:
- recognize that information serves different purposes and that data from electronic sources may need to be verified to determine accuracy or relevance for the purpose used (Alberta Education, 2005).

Possible Resource Focus to Assist Retrieval
1. A community resource that students would use to understand and organize the evolution of law in Alberta.
2. A resource demonstrating how opinions that contribute to decision making and problem solving can be supported with facts and reasons
3. A resource that demonstrates multiple perspectives when dealing with legal issues, decisions making and problems solving
4. A resource students can use for evidence to support student opinions

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Figure 3: Processing—Focus on Inquiry Model Stage Three

Inquiry Learning Skill : Processing
- Identifying a focus for inquiry
- Choosing pertinent information
- Recording information
- Making connections and inferences
- Reviewing and revising the plan for inquiry
- Reflecting on the process

Social Studies 6 Skills Outcomes Related to Processing
Dimensions of Thinking
1. develop skills of critical thinking and creative thinking:
- critically evaluate ideas, information, and positions
- re-evaluate personal opinions to broaden understanding of a topic or an issue

2. demonstrate skills of decision making and problem solving:
- select and use technology to assist in problem solving
- use data gathered from a variety of electronic sources to address identified problems
- solve problems requiring the sorting, organizing, classifying and extending of data, using such tools as calculators, spreadsheets, databases or hypertext technology
- use graphic organizers, such as mind mapping/webbing, flow charting, and outlining, to present connections and ideas in a problem-solving environment

Social Participation as a Democratic Practice
1. demonstrate skills of cooperation, conflict resolution and consensus building:
- demonstrate the skills of compromise in order to reach group consensus
- work collaboratively with others to achieve a common goal

2. develop age-appropriate behaviour for social involvement as responsible citizens contributing to their community:
- demonstrate commitment to the well-being of their community by drawing attention to situations of injustice where action is needed

Research for Deliberative Inquiry
1. apply the research process:
- determine reliability of information filtering for point of view and bias
- include references in an organized manner as part of research
- use a variety of technologies to organize and synthesize researched information
- reflect on and describe the processes involved in completing a project

Communication
1. demonstrate skills of oral, written and visual literacy:
- respond appropriately to comments and questions, using language respectful of human diversity

2. develop skills of media literacy:
- detect bias present in the media
- examine and assess diverse perspectives regarding an issue presented in the media
- analyze significant current affairs
- identify and distinguish points of view expressed in electronic sources on a particular topic
- use selected presentation tools to demonstrate connections among various pieces

Possible Resource Focus to Assist Processing
1. A resource that demonstrates commitment to the well-being of a community by drawing attention to situations of injustice where action is needed
2. A resource to illustrate point of view and bias
3. A resource that highlights current affairs related to law

Figure 4: Creating—Focus on Inquiry Model Stage Four

Inquiry Learning Skill: Creating
- Organizing information
- Creating a product
- Thinking about the audience
- Revising and editing
- Reviewing and revising the plan for inquiry
- Reflecting on the process

Social Studies 6 Skills Outcomes Related to Creating
Dimensions of Thinking
1. develop skills of critical thinking and creative thinking:
- generate original ideas and strategies in individual and group activities

2. develop skills of historical thinking:
- organize information using tools such as databases, spreadsheets or electronic webbing

3. demonstrate skills of decision making and problem solving:
- collaborate with others to devise strategies for dealing with problems and issues
- use graphic organizers, such as mind mapping/webbing, flow charting and outlining, to present connections among ideas and information in a problem-solving environment
- solve issue-related problems, using such communication tools as a word processor or e-mail to involve others in the process
- generate alternative solutions to problems, using technology

Social Participation as a Democratic Practice
1. demonstrate skills of cooperation, conflict resolution and consensus building:
- demonstrate the skills of compromise in order to reach group consensus
- work collaboratively with others to achieve a common goal
- record group brainstorming, planning, and sharing of ideas, using technology

Research for Deliberative Inquiry
1. apply the research process:
- reflect on and describe the processes involved in completing a project

Possible Resource Focus to Assist Creating
1. A resource that enables collaboration with others to devise strategies for dealing with problems and issues
2. A resource that encourages the use of graphic organizers, such as mind mapping/webbing, flow charting, and outlining, to present connections among ideas and information in a problem-solving environment
3. A resource that demonstrates oral and written literacy in making a point

Figure 5: Sharing—Focus on Inquiry Model Stage Five

Inquiry Learning Skill: Sharing
- Communicating with the audience
- Presenting new understandings
- Demonstrating appropriate audience behaviour
- Reflecting on the process

Social Studies 6 Skills Outcomes Related to Sharing
Dimensions of Thinking
- collaborate with others to devise strategies for dealing with problems and issues
- use graphic organizers, such as mind mapping/webbing, flow charting, and outlining, to present connections among ideas and information in a problem-solving environment

Social Participation as a Democratic Practice
1. demonstrate skills of cooperation, conflict resolution and consensus building:
- work collaboratively with others to achieve a common goal

Communication
1. demonstrate skills of oral, written, and visual literacy:
- express opinions and present perspectives and information in a variety of forms such as oral or written presentations, speeches, or debates
- express reasons for their ideas and opinions, in oral or written form
- use skills of informal debate to persuasively express differing viewpoints regarding an issue
- respond appropriately to comments and questions, using language respectful of human diversity
- communicate effectively through appropriate forms, such as speeches, reports, and multimedia presentations, applying information technologies that serve particular audiences and purposes

2. develop skills of media literacy:
- use selected presentation tools to demonstrate connections among various pieces of information

Possible Resource Focus to Assist Sharing
1. A resource that enables sharing through Web 2.0 technologies such as blogging, online posting, e-pals, web pages, and online media presentations.

Curriculum Entry Points

An examination of selected curriculum outcomes was undertaken to determine potential entry points for the infusion of legal concepts into the grade six program. Outcome 6.1 was selected as the most promising. Related legal concepts have been identified and some links to that legal information have been provided.

During the next phase of the project, we will undertake further expansion of those topics that seem most promising and are not already well covered by other sources.

Objective 6.1.1

Specific Outcome
6.1.1 Students will recognize how individuals and governments interact and bring about change within their local and national communities.

6.1.1 (a)
Students will recognize and respect the democratic rights of all citizens in Canada

Related Legal Concepts

What is the definition of democratic rights? The *Canadian Charter of Rights and Freedoms*, which is part of the *Constitution Act 1982*, describes democratic rights as the right to participate in a democracy by exercising the right to
- vote
- participate in political activities
- be elected to political office

Before the *Charter*, there was no formal recognition of the right to vote. In some cases the government had even been able to deny the right to vote to certain segments of the population, such as Chinese and Japanese Canadians and prisoners. Chinese and Japanese Canadians both attained the right to vote before the *Charter* became law.

Probably the most famous Canadian case about the right to vote is the Persons case, which established in 1929 that women were "persons" within the *British North America Act* and therefore had the right to vote.

http://canadaonline.about.com/cs/women/a/personscase.htm

http://canadaonline.about.com/gi/dynamic/offsite.htm?zi=1/XJ&sdn=canadaonline&cdn=newsissues&tm=8&gps=74_62_1276_749&f=10&su=p284.5.420.ip_&tt=2&bt=1&bts=1&zu=http%3A//www.collectionscanada.ca/famous5/053002_e.html

More recently, the Supreme Court of Canada found in 2002 that under the *Charter* prisoners had the right to vote. In *Sauve v. Canada*, it was found that a previous law that had denied prisoners the right to vote was unconstitutional under the *Charter*.

The *Charter* goes on to further define that democratic rights include the requirement that federal and provincial government elections must take place every four years. A parliament may sit longer than four years only in the time of war or rebellion and two-thirds of the House of Commons must agree to the longer time. This exception existed prior to the *Charter* and was used in 1916.

Section five of the *Charter* requires that the federal and provincial parliaments each sit at least once per year. This provision reflects the democratic principle that government must be answerable to the people. If a parliament must sit at least once a year, opportunity is given for questions to be asked about the government. A sitting of parliament usually refers to a one-time sitting. A session of parliament takes place over a longer period of time, sometimes more than a year. A session involves many sittings and is commenced by a Speech from the Throne, in which the monarch or the representative of the monarch reads out a speech describing the intentions of the government for the next session of parliament. In Canada, the representative of the monarchy is the governor general for the federal parliament and the lieutenant-governor for the provincial parliaments. Once a session of parliament ends, any bills that have not been passed must be reintroduced when a new session opens and go through the process from the beginning to become law.

Aboriginal Perspective
The government of Canada adopted a policy of aboriginal self-government in 1995. Under the federal policy, aboriginal groups may negotiate self-government arrangements over a variety of subject matter, including government structure, land management, health care, child welfare, education, housing, and economic development. Negotiations occur between aboriginal groups, the federal government, and, in areas affecting its jurisdiction and interests, the relevant provincial or territorial government.

Aboriginal self-government has been defined as the ability of aboriginal governments to pass laws and make decisions about matters that affect their communities and lands, including the establishment of new governing structures and institutions, in partnership with all orders of government in Canada.

Key aspects of aboriginal self-government include that

- significant national and provincial laws, such as the *Criminal Code*, will prevail over aboriginal law
- the *Charter* will apply to all aboriginal governments
- the right of self-government is an inherent aboriginal right under the Constitution

Self-government arrangements may take many forms based on the diverse historical, cultural, political, and economic circumstances of the aboriginal groups, regions, and communities involved.

6.1.1 (b)
Students will value the role of the *Canadian Charter of Rights and Freedoms* in protecting individual and collective rights and freedoms

Related Legal Concepts

The *Charter* is part of the Canadian Constitution and was passed in 1982 as part of the *Constitution Act*. A useful URL for further information is
http://laws.justice.gc.ca/en/const/annex_e.html#democratic

The *Charter* sets out basic rights of Canadians regarding democracy, legal issues, fundamental freedoms, mobility, equality, and language. Before the *Charter* existed, there was little formal law relating to individual and collective rights. Some provinces had passed documents similar to a bill of rights to apply provincially, but their effects were varied and had no effect where federal law governed. The *Charter* has been significant in establishing a written framework for individual and collective rights in the Canadian constitution.

The role of the Charter
The *Charter* applies only to government laws and actions (including the laws and actions of federal, provincial, and municipal governments and public school boards), and sometimes to the common law. It does not apply to private activity including actions between private individuals or between private individuals and corporations. For example, if I sue you in court for damages because your car crashed into mine, you cannot use any arguments based upon any rights under the *Charter* to defend the legal action. If the police came to the accident and arrested you for impaired driving, however, you could raise arguments based upon your rights under the *Charter* to defend against the criminal charge. If your employer dismisses you from your job, you cannot use rights under the *Charter* against your employer in a lawsuit for wrongful dismissal, but if a law limits the rights you have under the *Charter*, you can seek a declaration from court that your rights have been infringed and that the law is therefore unconstitutional.

The Charter and the doctrine of parliamentary supremacy
Traditionally we have three branches of government:
- executive (Queen, Queen's Privy Council for Canada, Governor General, Prime Minister, and Cabinet)
- legislative (parliament)
- judicial (courts)

Parliamentary supremacy means that the elected legislature or parliament has the ultimate authority over all other branches of government, primarily through the power to make laws. The doctrine dates back to times when the people overthrew monarchs who had absolute power to govern, in favour of elected representatives from the people. The *Charter* gives the courts the power to conduct extensive judicial review of Canadian laws—arguably decreasing the limits of parliamentary supremacy in Canada and increasing individual and collective private rights. On the other hand, federal and provincial legislatures do retain the right to pass a law that contravenes the *Charter* in certain areas for up to five years. Governments also retain the right to amend the law, including law made by court decisions, which in turn may come under further legal scrutiny.

Limits to the Charter
The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms it sets out subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. This means that the government (which includes the courts) can limit the application of the freedoms in the *Charter* as long as the limitation can be justified by what is acceptable within society. The Supreme Court of Canada has dealt with this issue many times and developed many tests to determine whether a freedom can or should be limited.

For example, in *R. v. Big M Drug Mart Ltd.*, a drug store in Calgary had been forced to close on a Sunday because an Alberta law stated that stores were not to open on Sundays. The store owners said that this law infringed their rights of conscience and religion, which were protected under the *Charter*. The Court found that the law was an infringement of the right of freedom of religion. In making its decision, the Court said that limitations on rights must be motivated by an objective of sufficient importance. Moreover, the right must be limited to the smallest possible extent.

The rights set out in the Charter

- **Fundamental freedoms**
  - freedom of conscience and religion
  - freedom of thought, belief, opinion, and expression
  - freedom of peaceful assembly, which has been found to be closely related to freedom of expression
  - freedom of association: the right to establish and belong to any kind of an association. It is probably most important in the context of trade unions. In some situations, the right has included the right not to associate.

  Fundamental freedoms belong to everyone in Canada, regardless of whether they are a Canadian citizen, or an individual or corporation.

- **Mobility rights**
- **Legal rights**
  - life, liberty, and security of the person;
    - security against unreasonable search and seizure
    - the right not to be arbitrarily detained or imprisoned
    - rights on arrest or detention
    - the right to be informed without unreasonable delay of offence with which one is charged
    - the right not to be subject to cruel or unusual punishment
    - the right not to self-incriminate when giving evidence
    - the right to an interpreter in court proceedings

- **Equality rights**, which include the ideals that everyone is equal under the law with no discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

- **Language rights**, which are guaranteed under a number of sections in the *Charter*. In particular, English and French are guaranteed as the official languages of Canada.

- **Minority language education rights,** including the right to be educated in French or English, even if it is the minority language in your area. (See francophone section below.)

Enforcement of rights under the Charter

Section 24 of the *Charter* explains how rights under the *Charter* can be enforced and is divided into two parts.

1. Anyone whose rights or freedoms under the *Charter* have been denied or infringed can apply to a court for an appropriate remedy.
2. If, during a court proceeding, it is found that any evidence was obtained in a way that denied or infringed a *Charter* right, the evidence can be excluded if it is established that its use would bring the administration of justice into disrepute. For example, if drugs were found at the home of an accused by a police search that was found to be unreasonable under the search provisions

of the *Charter* and the judge in the case felt that to include the evidence found by the illegal search would reflect badly upon the work done by the justice system, the judge could decide that any evidence related to the search could not be brought up in court. The Supreme Court of Canada has said that when a judge is deciding whether to exclude evidence, he or she should consider the seriousness of the *Charter* violation, whether the admission of the evidence would affect the fairness of the trial, , and how excluding the evidence would affect the administration of justice.

Who does the Charter apply to?

See *The Role of the Charter* earlier in this document.

The "notwithstanding" clause
In some circumstances, the *Charter* does allow for federal and provincial governments to declare a law to apply even though it may violate a section of the *Charter*. This allowance is called the notwithstanding clause. Mobility rights, democratic rights, and language rights under the *Charter* can never be overridden by another law, but other rights in the *Charter* can. Such a federal or provincial law can apply for only five years, which is the longest time a parliament can exist. If people do not like the law, they then have the opportunity to let the government know by how they vote.

Use of the notwithstanding clause is quite exceptional, but it has been used by some provinces: Quebec, for example, used it to outlaw the posting of commercial signs in any language other than French. Criticism from the United Nations Human Rights Committee, however, persuaded Quebec to remove the law. Alberta used the clause to try to ensure that the definition of marriage included only marriage between opposite sexes, but it was later found that marriage was a matter for the federal government to make laws and therefore the Alberta law was invalid.

Francophone Perspectives
The aspects of the *Charter* that most closely relate to the francophone perspective are those of language rights and minority-language education rights.
- **Language rights**. Certain sections of the *Charter* guarantee French as one of the official languages of Canada. It is further stated that French can be used in the Parliament of Canada; that all records, statutes, and journals of Parliament must be printed and published in French; that French can be used in any court proceeding; and that members of the public have the right to communicate with and receive information from the government of Canada or a parliamentary office in French.

- **Minority-language education rights**: The *Charter* guarantees the right to be educated in French even if it is the minority language in your area. The right is clarified by the statement that the number of people entitled to the right is an important factor in deciding whether a government can afford to provide the facilities for minority language education. If the number of children were small, the government might be justified in saying that spending public money would not be justified. In a 2000 case in Prince Edward Island, the Supreme Court said that 49 children justified the building of a school, rather than bussing them to another location, because if the school were built, more children might attend. This section of the *Charter* has also assisted parents in some locations to establish francophone school boards where the number of children wanting minority language education was high. (See school board information below.)

In 1977, the *Charter of the French Language* was passed in Quebec stating that French was the only official language of Quebec. The *Canadian Charter of Rights and Freedoms* has made some parts of the *Charter of the French Language* unconstitutional. The most well-known case involved French-only commercial signs. The *Charter of the French Language* had said that signs in Quebec could be in French only. The Supreme Court of Canada said that Quebec could state that French signs could be more visible, but it could not state that signs could be in French only.

Aboriginal Perspectives
- The *Constitution Act 1982* (s. 35) specifically recognizes and affirms the First Nations, Métis, and Inuit people of Canada as included within the term "aboriginal" and recognizes aboriginal past and future treaty rights equally to males and females. The Supreme Court has stated that before 1982, aboriginal rights existed at common law only.
- Section 25 of the *Charter* states that the *Charter* is not to be enforced in any way that diminishes aboriginal rights, including any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763, and any rights or freedoms that exist by way of land claims agreements or may exist in the future. The Royal Proclamation of 1763 was proclaimed by George III and created a boundary between British colonies and American Indian land. It is seen today as the basis for aboriginal land claims in Canada.
- Any changes proposed to the rights and guarantees given to aboriginal people under the *Constitution Act* would require a constitutional conference attended by all premiers and the prime minister, to which representatives of aboriginal peoples would be invited.

Collective Rights under the Charter

Collective rights that can be identified in the *Charter* are the rights relating to freedom of association, expression, and peaceful assembly. The rights are usually associated with rights of organized labour.

- Freedom of expression includes the right to free speech and is very important in a democratic society. Expression is any activity that conveys or tries to convey meaning, except for violence or threats of violence. Forms of expression that have been protected are commercial expression, such as advertising and labour expression, such as picketing activities.
- Freedom of peaceful assembly is the right found to be closely related to freedom of expression.
- Freedom of association is the right to establish and belong to any kind of an association. It is probably most important in the context of trade unions. In some situations, the right has included the right not to associate.

Individual Rights under the Charter

- **Freedom of conscience and religion**. For a claim of freedom of religion to succeed, a person must show that the practice in question is connected to a religious belief. For example, in *Multani v. Commission scolaire Marguerite-Bourgeoys* in 2006, the Supreme Court of Canada said that it was unlawful for a Quebec school authority to forbid a non-violent Sikh child from wearing a kirpan (small traditional knife) to school as the ban was against the freedom of religion.
- **Mobility rights** establish the right of Canadian citizens to enter, stay in, and leave Canada and the right of permanent residents to move to, work in, and live in any province. This section of the *Charter* has been seen as protecting Canadian unity and contributing to the equality of all residents. If the rate of employment in a province is lower than the national rate, the *Charter* does allow a provincial program or law to exist that provides employment opportunities for those who are socially or economically disadvantaged.
- **Legal rights** give protection and rights primarily in circumstances where law enforcement agents, such as the police exercise their powers. The rights include those of life, liberty and security of the person; security against unreasonable search and seizure; the right not to be arbitrarily detained or imprisoned; rights on arrest or detention; the right to be informed without unreasonable delay of offence with which one is charged; the right not to be subject to cruel or unusual punishment; the right not to self-incriminate when giving evidence; the right to an interpreter in court proceedings.
  The legal rights sections of the *Charter* have been considered by the courts many times, mostly in connection with criminal cases. Some issues that have been decided include:

- The right to life does not include the right to commit suicide.
- The right to security of the person protects rights to privacy of the body and its health and the "psychological integrity" of an individual. It has been an important right in cases dealing with the right to abortion.
- The rights to life, liberty, and security of the person are important when considering cases involving breaches of the principles of natural (fundamental) justice. Natural justice includes principles such as the right to a fair unbiased hearing, the right to know the case against you, the right to silence, and the right to cross-examine.
- The right that protects against unreasonable search or seizure is measured against a person's reasonable expectation of privacy.
- Rights on arrest and detention include the right to contact a lawyer and to be told that you have the right to do so.
- Section 11 sets out nine important rights: to be informed of an offence, to be tried within a reasonable time, not to be compelled to be a witness, to be presumed innocent, not to be denied reasonable bail, to trial by jury, not to be found guilty unless your action was an offence, and not to be tried again.
- The risk of execution upon extradition is contrary to the rights of life, liberty, and security of the person.
- Extradition may not be permitted if there is a risk of torture upon which is a violation of the rights to life, liberty, and security of the person and the right not to be subject to cruel and unusual punishment.

- **Equality rights** include the ideals that everyone is equal under the law, with no discrimination based on race, national, or ethnic origin, colour, religion, sex, age or mental or physical disability. The equality section applies only to people and not to corporations. The Supreme Court has found in several cases that the grounds for discrimination set out in the *Charter* can be expanded where they are analogous. Discrimination has been successfully claimed in cases involving a pregnant employee, citizenship, and sexual orientation.

    For example, in *Vriend v. Alberta* in 1998, the Supreme Court found that a teacher dismissed from his job because he was homosexual was allowed to make a claim under Alberta Human Rights laws even though sexual orientation was not listed as one of the reasons upon which a claim could be based. The Alberta law was in violation of the equality sections of the *Charter* because it omitted sexual orientation as a ground for discrimination.

- **Language rights**. A number of sections in the *Charter* guarantee language rights. In particular, as indicated above in Francophone Perspectives, English and French are guaranteed as the official languages of Canada. Also, protection for language rights may already exist by virtue of custom or another law, for example, aboriginal languages.

- **Minority-language education rights** in the *Charter* deal with the right to be educated in French or English, even if it is the minority language in your area, as stated in the francophone section above.

6.1.1 (c)
Students will recognize the influence of historical events and legislation on democratic decision making in Canada

Related Legal Concepts
When Canada became a nation in 1867, it inherited a history of democracy from Great Britain. Key events in that history include:
- **Magna Carta 1215**. This was the document originally signed by King John of England under duress from his barons. It existed in different forms over the years as successive monarchs changed it, but it is considered as the basis for constitutional rule today in many countries, as it sought to limit the powers of the king. Another enduring feature of the *Magna Carta* is the right of habeas corpus—essentially the right not to be arbitrarily detained by powers of the state. This right is reflected today in the *Canadian Charter*.
- **Bill of Rights 1689**. When the Stuart monarchy ended, William of Orange took the British throne through the rights of his wife Mary by invitation of the British Parliament. The Bill of Rights was passed by Parliament to limit the powers of the monarch. The Bill included such rights as the freedom to elect members of Parliament without interference from the king, freedom from cruel and unusual punishments, and freedom to petition the king.
- **Act of Settlement 1701**. This act settled succession to the English throne and Commonwealth countries. It forever bars Roman Catholics and those who marry Roman Catholics from ascending the throne. The Act also stipulates various rules for the monarch to abide by.

Significant points in Canadian history relating to democracy:
- **Royal Proclamation 1763**. This proclamation was passed during the reign of King George III to organize the North American colonies ruled by the British. It included land taken from France. The Proclamation established a boundary between the colonies and land occupied by aboriginal North Americans. The Proclamation is seen as the basis for land claims by aboriginal peoples and is specifically mentioned in the *Charter*.
- **Quebec Act 1774**. After the victory of Britain in the Seven Years War, France gave up its territories in North America in exchange for Guadeloupe. The *Quebec Act* was passed by the British Parliament to set out matters related to government in the area then called Quebec (which at the time included areas in the United States). Key features included the retention of civil law as

opposed to common law (but the retention of British criminal law) and the guarantee that the Catholic faith could be practised.

- **Constitutional Act 1791**. This act of the British Parliament created Upper and Lower Canada. Upper Canada retained British law and government institutions and Lower Canada retained French civil law and government institutions. Representative governments were established in Upper and Lower Canada, each with an appointed upper house.
- **Act of Union 1840**. After the rebellions in Lower and Upper Canada the *Union Act* joined the two areas and established the Province of Canada. There were now two new areas, called Canada East and Canada West.
- **British North America Act 1867.** This act of the British Parliament established the Dominion of Canada. Until 1867 Canada had been called "British North America". There are a series of British North America Acts from 1867 to 1975, but the 1867 act was significant in establishing the Government of Canada and its institutions, such as the justice system, the federal system, the House of Commons and the Senate, and the tax system. Subsequent acts added powers such as the power to create new provinces. Canada East became the province of Quebec.
- **Statute of Westminster 1931.** This act of the British Parliament applied to all the dominions (current or former territory of Great Britain) including Canada. The Act made it possible for the dominions to pass their own laws. Until the constitutions of each dominion were repatriated, however, formal assent for each law was still required from Great Britain. The constitution of Canada required the intervention of the British Parliament in certain areas. Repatriation meant that these restrictions would be removed and then the Statute of Westminster would be in full effect in Canada.
- **Canada Act 1982.** This act finally severed all ties between the British Parliament and Canada. It was the last request by Canada for the British Parliament to amend Canada's constitution. The Act includes the *Constitution Act 1982*, which in turn includes the *Charter of Rights and Freedoms*.

Francophone Perspectives
- **Quebec Act 1774.** After the victory of Britain in the Seven Years War, France gave up its territories in North America in exchange for other property. The *Quebec Act* was passed by the British Parliament to set out matters related to government in the area then called Quebec (which at the time included areas in the United States). Key features included the retention of civil law as opposed to common law (but the retention of British criminal law) and the guarantee that the Catholic faith could be practised.
- **Constitutional Act 1791**. This act of the British Parliament created Upper and Lower Canada. Upper Canada retained British law and government institutions and Lower Canada retained French civil law and government

institutions. Representative governments were established in Upper and Lower Canada, each with an appointed upper house.

- **British North America Act 1867.** This act created the Province of Quebec.

Aboriginal Perspectives

A list of significant dates and events in aboriginal history is set out by Indian and Northern Affairs Canada.

- Before 1899: www.ainc-inac.gc.ca/ks/4010_e.html
- 1900–1980: www.ainc-inac.gc.ca/ks/4020_e.html
- After 1980: www.ainc-inac.gc.ca/ks/4030_e.html
- Historic Treaty Information Site: www.ainc-inac.gc.ca/pr/trts/hti/site/maindex_e.html

6.1.1 (d)
Students will value citizens' participation in a democratic society

Related Legal Concepts

The ways in which citizens can participate in a democratic society is by exercising their rights to

- vote
- participate in political activities
- be elected to political office

6.1.1 (e)
Students will value the contributions of elected representatives in the democratic process

Related Legal Concepts

The role and contribution of elected representatives in the democratic process is explained below at 6.1.5.

Objective 6.1.2

6.1.2 Students will demonstrate an understanding of the fundamental principles of democracy by exploring and reflecting upon questions and issues.

6.1.2 (a)
How does Canada's justice system help protect your democratic and constitutional rights?

Related Legal Concepts

The system of justice in Canada comprises both common law and civil law. Common law is based upon the English legal tradition and embraces the concept of legal precedent. This means that when judges hear cases and make decisions they establish precedents for subsequent court cases to follow depending upon the hierarchy of the courts. For example, a decision of a Court of Appeal binds lower courts in the same province and is of persuasive authority to other provincial courts of appeal, but can be overruled by the Supreme Court of Canada.

Civil law is derived from Roman law and exists in Quebec by virtue of the French presence in Quebec when the area was colonized. In modern times, civil law is generally characterized by the fact that the law is set out in a code, which is then interpreted by judges.

The justice system also separates the law into criminal and civil law. In this context, civil law means the law that deals with the relationships of individuals and corporations to each other. Criminal law deals with the system of criminal justice as administered by the state. For example, the law relating to divorce is a matter of civil law.

The structure of the Canadian court system is explained at this Justice Canada website: www.justice.gc.ca/en/dept/pub/trib/page3.html#provincial.

Many factors built into the Canadian justice system protect your constitutional and democratic rights. Some of these factors are the result of direct legislative action, such as the *Charter of Rights*, and others are the product of long-standing tradition, custom, and judgments by the courts. These factors include:

- Independence of the courts. The courts make up the judicial branch of government. Judicial independence is achieved by giving judges long appointments and ensuring they act free from other government interference. This helps ensure that judges are impartial. In 1997 the Supreme Court of Canada found there was a guarantee of judicial independence in the 1867

Constitution Act. As a result, judicial compensation committees now recommend the salaries of all Canadian judges.

- The presumption of innocence. This important right is now set out in the *Charter* and declares that "any person charged with an offence has the right ... to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal". The presumption places the burden of proof of guilt on the prosecution. The presumption endures through any appeal process that an accused may be entitled to.

- The principles of natural justice. These principles are part of a legal philosophy that attempts to ensure that fair and just processes are used in legal proceedings. They include the right to a fair unbiased hearing, the right to be heard, the right to cross-examine, and the right to know the case against you. The principles are upheld in Canadian jurisprudence.

- Rules of evidence. These have developed over hundreds of years as part of the common law. Some of the rules are now contained in statutes, but the vast majority are contained in court rulings. Many of the rules reflect the principles of natural justice referred to above and other rules deal with new situations as they arise, such as those presented by new technologies, for example, DNA evidence. The rules are complex, but endeavour to ensure that matters relating to civil and criminal litigation are dealt with fairly and justly. For example, in criminal law there are rules of evidence dealing with when a judge or jury may know about an accused's criminal history. In both civil and criminal law, there are rules relating to the exchange of evidence that must occur before a hearing.

- Protection against violation of and interference with rights. The *Charter* now sets out provisions that seek to protect against such violations, for example the right not to be subject to unreasonable search and seizure and the right to life, liberty, and security of the person.

- Rights of appeal. The justice system contains within it a hierarchy of courts, such that cases can be appealed all the way to the Supreme Court of Canada. There are limitations on the right to appeal depending upon the forum in which a case originated and leave to appeal must often be sought from the higher court before an appeal can go ahead.

- Accessibility of the justice system by all. In theory, the system of justice in Canada is available to everyone. In modern days, however, the financial cost is a real limitation on that access. By numerous schemes and plans, governments try to ensure justice is accessible to all, such as providing funding for public legal education, Legal Aid, agencies that can assist the public (such as Family Law Information Centres), and alternative dispute resolution mechanisms, such as mediation.

Francophone Perspective

French civil law had been guaranteed in Quebec by the *Quebec Act 1774* and the *Constitution Act 1791*, although British criminal law was retained. A new *Civil Code of Quebec* became law in 1994 and all other federal laws in Canada were revised to make sure that they complemented the *Civil Code of Quebec*. The Code has ten books and is revised to take into account changing aspects of society. It was recently amended to allow for same-sex and unmarried-couple civil unions. The Code also reflects the provisions of the *Charter* as described in the introduction to the Code, so that protections afforded by the *Charter* are available.

Aboriginal Perspective

Although aboriginal communities are included within the Canadian system of justice, they have customs and traditions of their own, some of which are incorporated today into alternative forms of justice in the mainstream system. Processes such as sentencing circles are used in aboriginal communities.

Objective 6.1.4

6.1.4 (a)
How are representatives chosen to form a local government (i.e., electoral process)?

Related Legal Concepts

The electoral process in Alberta for local or municipal government is governed by principles of democracy, the *Local Authorities Election Act*, and the *Municipal Government Act*. It encompasses the following concepts:

- Every Canadian citizen has a democratic right to be nominated for political office if they have lived in the relevant electoral area for the past six months and are not ineligible to stand for reasons set out in the legislation, for example, if they are currently employed by the municipality.
- The municipality is divided into electoral areas which may be called wards or constituencies.
- Candidates nominated for election must fulfil formal processes to stand for election, for example, payment of deposit.
- An election is run according to procedures set out in the *Local Authorities Election Act* and the *Municipal Government Act*.
- Candidates that poll the majority of votes are elected. The "first past post" system is used. In some local governments, candidates represent political parties. More often in Alberta, local governments are non-partisan.

6.1.4 (b)
What are the responsibilities of local governments (i.e., bylaws, taxes, services)?

Related Legal Concepts

- Section 3 of the Alberta *Municipal Government Act* states that the responsibility of a municipality is to provide for good government; provide services, facilities, or other things necessary or desirable for all or part of the municipality; and develop and maintain safe and viable communities.
- In order to carry out these responsibilities, municipalities are given powers such as the power to collect some taxes; the power to pass bylaws, which are local laws that apply only in the municipality; and the power to enter into contracts.

Aboriginal Perspectives

- In August 1995, the Government of Canada adopted an approach to negotiating practical and workable arrangements with aboriginal people to implement their inherent right to self-government.

- Under the federal policy, aboriginal groups may negotiate self-government arrangements over a variety of subject matter, including government structure, land management, health care, child welfare, education, housing, and economic development. Negotiations are between aboriginal groups, the federal government and, in areas affecting its jurisdiction and interests, the relevant provincial or territorial government.

- Because aboriginal groups have different needs, negotiations will not result in a single model of self-government. All self-government agreements are based on the following key principles:

  - The inherent right of self-government is an existing aboriginal right under the Canadian Constitution. Self-government will be exercised within the existing Constitution. It should enhance the participation of aboriginal people in Canadian society.

  - The *Canadian Charter of Rights and Freedoms* will apply as fully to aboriginal governments as it does to all governments in Canada.

  - Because of federal fiscal constraints, all federal funding for self-government will be achieved through the reallocation of existing resources.

  - Where all parties agree, certain rights in self-government agreements may be protected in new treaties under section 35 of the Constitution, as additions to existing treaties or as part of comprehensive land claims agreements.

  - Federal, provincial, territorial, and aboriginal laws must work in harmony. Laws of overriding federal and provincial importance, such as the *Criminal Code,* will prevail. The interests of all Canadians will be taken into account as agreements are negotiated.

  - Self-government arrangements may take many forms based on the diverse historical, cultural, political, and economic circumstances of the aboriginal groups, regions, and communities involved.

6.1.4 (c)
How are local governments structured differently in rural and urban settings?

Related Legal Concepts

The Alberta *Municipal Government Act* classifies different kinds of municipalities as follows:

- Local urban governments are cities, towns, villages, or summer villages. Eligibility to be a town, village, or city is based on size and population (Ss. 80-82 MGA). See the following website for specific details: www.municipalaffairs.gov.ab.ca/ms_TypesMunicipalitiesAlberta.htm#urban
- Local rural governments are Municipal Districts or Specialized Municipalities. Both may include in their boundaries summer villages, villages, and towns with or without their own councils (s. 77 MGA).
- A Municipal District and a Specialized Municipality typically covers a large area. A Specialized Municipality is an area where urban and rural populations exist under one local government, for example, the County of Strathcona.
- Every kind of local government is governed by the *Municipal Government Act* and therefore has a council and the ability to operate in the same way. Differences in structure are generally as a result of the population size covered by the municipality. For example, the cities of Edmonton and Calgary have large numbers of full time councillors, staff, officers, departments, and committees to run their organizations, whereas a village or a summer village might have a few part-time councillors and fewer staff to run their organization.

6.1.4 (d)
What role is played by school boards within local communities (i.e., public, separate , Francophone)?

Related Legal Concepts

The separate school system was guaranteed by section 93 of the *British North America Act 1867*. Separate schools are religious denominational schools, usually Roman Catholic or Protestant. The *Alberta Act 1905* continued the right of minority faith communities—Catholic or Protestant—to establish a separate school district. The *Canadian Charter* upholds the rights and privileges in the *Constitution Act 1867* with regard to separate and denominational schools. The Alberta *School Act* sets out procedures to be followed in establishing a separate school district. Public school systems are elementary or secondary schools supported and administered by public authority.

The Alberta *School Act* delegates certain powers to local school boards, which can be public, separate, and/or francophone. Some of the decisions that school boards can make include
- planning for the jurisdiction and setting priorities for the system in light of community wishes, available resources, and sound educational practice
- setting goals for the jurisdiction and ensuring that education stays in step with today's world

- evaluating the school board superintendent
- adopting an annual budget for the school system
- making policy to guide the administration and employees toward district goals
- communicating with the community and staff on behalf of the jurisdiction
- educating others, with the goal of ensuring that education is given a high priority by the public and making the community aware of the jurisdiction's achievements
- gathering information in order to make sound decisions
- adjudicating in policy disputes

   (Adapted from the Alberta School Boards Association website www.asba.ab.ca)

Francophone Perspective

- Section 23 of the *Canadian Charter* provides that all Canadian citizens living in a minority linguistic setting are entitled to have education in the official language of the minority. Therefore, both English and French citizens have the right to have primary and secondary education in the language of their language. This applies wherever there are enough children to warrant the provision of such education using public funds.
- The 1988 Alberta *School Act* grants parents who qualify under Section 23 of the *Charter* the right to have their children educated in French as a first language.
- In 1990, the Supreme Court of Canada found that a sufficient number of minority-language rights children could justify the need for a minority-language school board. The Court found that the *Charter* speaks to community and culture as well as language.
- In 1993, Section 5 of the Alberta *School Act* recognized a citizen's right, as decided by the Supreme Court and stated in the *Charter*, to govern francophone education.
- Between 1994 and 2000, francophone education in Alberta was structured into four regional francophone school districts operated by francophone authorities. A francophone school board is the same as a separate or public school board in terms of powers and composition.

Aboriginal Perspective

- Some aboriginal programs exist as charter schools within the public system.

Objective 6.1.5

6.1.5 (a)
How is the provincial government structured?

Related Legal Concepts

The provincial government is structured as a parliamentary democracy. See the following website for more information:
www.assembly.ab.ca/pub/gdbook/Part1/page1.htm

6.1.5 (b)
What is the role and status of the Lieutenant-Governor within the provincial government?

Related Legal Concepts

The lieutenant-governor within the provincial government is the titular head of the provincial government in place of the monarch. Visit these websites for more on the role of the lieutenant-governor:
- www.lieutenantgovernor.ab.ca/index_2.cfm?choice=role
- www.gg.ca/gg/rr/index_e.asp

6.1.5 (c)
What are the responsibilities of the provincial government (i.e., laws, taxes, services)?

Related Legal Concepts
- The *British North America Act 1867* set out the division of powers between the federal government of Canada and the provinces.
- Provinces are responsible for areas that include primary and secondary education, health and social services, property and civil rights, provincial and local courts, and municipal institutions. Some areas of shared responsibility depend on their provincial or interprovincial nature, for example, transportation and agriculture.
- In order to govern in the areas of responsibility, the provinces have the power to collect taxes and pass laws.

6.1.5 (d)
How are representatives chosen at the provincial level of government (i.e., electoral process)?

Related Legal Concepts
www.assembly.ab.ca/pub/gdbook/Part2/page4.htm

Representatives at the provincial level of politics are called members of the legislative assembly or MLAs. The areas that MLAs represent are called constituencies. Candidates for constituencies are nominated by local political party associations. A constituency may therefore have a number of candidates participating in an election depending on the number of political parties. It is also possible to stand as an independent candidate. Formal steps must be taken to stand as a candidate in an election, for example, payment of deposit. The provincial election is run subject to the rules of the Alberta *Election Act*.

The winner of each constituency election is the person who receives the most votes. The political party with the largest number of seats forms the government. This is the "first past post" system as compared to proportional representation. The leader of the party with the most seats becomes the premier of the province.

6.1.5 (e)
What is the difference between an MLA and a cabinet minister?

Related Legal Concepts
A cabinet minister is an MLA appointed by the premier to have special responsibilities, often for a government department.

6.1.5 (f)
What are the responsibilities of members of the legislative assembly (MLAs)?

Related Legal Concepts
MLAs can have a variety of jobs and functions depending upon whether they are in government or opposition, whether they are a cabinet minister, a back bencher, or a shadow minister and whether they are nominated to government committees. In all situations they represent their constituents.
For more detail, visit www.assembly.ab.ca/pub/gdbook/Part2/page5.htm.

Summary

Several law-related resources are currently available in a variety of formats that indicate that they are designed for use at or near the grade six level. Most of these were developed prior to the new social studies program and do not reflect the program's foundational approaches. Some resources have potential for classroom use, but do not specify which grade level they were developed for or what relationship they have to the Alberta program of studies. Others suggest classroom activities, but fail to address the inquiry method of learning. Still others are out of date with respect to the law and current teaching methodologies, nor do they include a multi-cultural perspective. Generally, the resources available follow traditional teaching methods and do not lend themselves to the critical learning expected within the new social studies. Some excellent resources are available, particularly in the area of local government, which topic was addressed in the previous program of studies.

Significant need and opportunity still exist for student support resources and related teaching resources that are law related, classroom ready, and technologically sound. These resources would help meet the need for practical, lesson-friendly, authentic resources to supplement the textbook and teaching guides currently available for grade six.

Generally, the resources developed through this project must
- be based on the inquiry method
- reflect the overall program foundations
- provide for a variety of learning styles
- allow for the infusion of technology, while recognizing the diversity in classrooms regarding their access to technology
- where possible, reflect the aboriginal, francophone, and pluralistic perspectives
- be classroom ready, engaging, and authentic

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Appendix 1.
Grade Six Social Studies – Outcome 6.1

Extracted from Alberta Education's 2003 *Social Studies 5,6,8 and 9*, p. 27–36.
www.education.gov.ab.ca/k_12/curriculum/bySubject/social/default.asp

Students will
6.1.1 recognize how individuals and governments interact and bring about change within their local and national communities:

- recognize and respect the democratic rights of all citizens in Canada (C, I)
- value the role of the *Canadian Charter of Rights and Freedoms* in protecting individual and collective rights and freedoms (I, PADM)
- recognize the influence of historical events and legislation on democratic decision making in Canada (TCC, PADM)
- value citizens' participation in a democratic society (C)
- value the contributions of elected representatives in the democratic process (PADM)

Students will
6.1.2 demonstrate an understanding of the fundamental principles of democracy by exploring and reflecting upon the following questions and issues:

- What is democracy (i.e., justice, equity, freedoms, representation)? (C, PADM)
- What are the similarities and differences between direct and representative democracy? (PADM)
- What are rights and responsibilities of citizens living in a representative democracy? (C, PADM)
- How does Canada's justice system help protect your democratic and constitutional rights? (C, PADM)

Students will
6.1.3 analyze how the democratic ideals of equity and fairness have influenced legislation in Canada over time, by exploring and reflecting upon the following questions and issues:

- How does the *Canadian Charter of Rights and Freedoms* protect the individual rights and freedoms of all Canadians? (I, PADM)
- Why is the *Canadian Charter of Rights and Freedoms* entrenched in the Canadian Constitution? (C, I, PADM)

Students will
6.1.4 analyze the structure and functions of local governments in Alberta by exploring and reflecting upon the following questions and issues:

- How are representatives chosen to form a local government (i.e., electoral process)? (PADM)
- What are the responsibilities of local governments (i.e., bylaws, taxes, services)? (PADM)
- How are local governments structured differently in rural and urban settings? (PADM)
- What role is played by school boards within local communities (i.e., public, separate, Francophone)? (PADM)

Students will
6.1.5 analyze the structure and functions of Alberta's provincial government by exploring and reflecting upon the following questions and issues:

- How is the provincial government structured? (PADM)
- What is the role and status of the Lieutenant-Governor within the provincial government? (GC, PADM)
- What are the responsibilities of the provincial government (i.e., laws, taxes, services)? (PADM)
- How are representatives chosen at the provincial level of government (i.e., electoral process)? (PADM)
- What is the difference between an MLA and a cabinet minister? (PADM)
- What are the responsibilities of Members of the Legislative Assembly (MLAs)? (PADM)

C Citizenship
CC Culture and Community
I Identity
TCC Time, Continuity and Change
ER Economics and Resources
GC Global Connections
LPP The Land: Places and People
PADM Power, Authority and Decision Making

Appendix 2. Grade Six Social Studies Resource Development Template

This template has been developed by the authors to serve as a writers' guide to creating student support resources (Part A) with accompanying teacher resources (Part B) to address targeted outcomes of the new Alberta social studies program of studies. The general headings on the templates follow specific criteria for resource evaluation as outlined in Alberta Education's policy 3.2.2 (Alberta Education, 2005).

Resource Development Template

Part A:
Student Support Resource—Activities, Projects, or Lessons

The following resource template reflects the skills and processes stated in the social studies program of studies. The template refers to student support resources and, if appropriate, may be used as a guideline for creating individual lessons, inquiry activities, problem-based learning, and other activities designed to meet curricular outcomes.

I. Background
- The resource provides easily accessible background to the activity or lesson in order to engage students.
- The resource connects to an appropriate curriculum entry point.

II. Activities
- The activities are outlined clearly and the students have an understanding of the entire process and expectations.

III. Information Sources
- Appropriate information sources and resources are listed and are readily available.

IV. Presentation Format
- The resource clearly outlines the presentation format expected of students

V. Assessment
- The resource clearly outlines assessment procedures and, if appropriate, includes formative and summative assessment.

Resource Development Template

Part B:
Teaching and Learning Resource

I. Curriculum Congruency
- The resource reflects the program rationale and philosophy of the subject's program of studies.
- The resource is aligned with the targeted outcomes of the particular grade or course for which the resource is designed.

II. Instruction Design
- The content is organized to meet the educational purpose of the specific course. The content
  - reflects the appropriate level of reading, viewing, and ICT implementation
  - addresses a variety of learning styles
  - is organized to align with suggested program-of-studies course time allotments
  - is designed to engage students in their learning
- The methodology used within the resource reflects the philosophy of the course. When appropriate, the resource provides opportunity for
  - inquiry learning
  - critical and creative thinking
  - historical and/or geographic thinking
  - social participation as a democratic process through cooperation, conflict resolution, and consensus building
  - oral, visual, written, and media literacy
  - formative and summative assessment

III. Canadian Content
- If appropriate, the resource presents multiple Canadian perspectives, including aboriginal and francophone.
- The resource presents Canadian expressions, spellings, and so on.

IV. Recognizing Diversity and Promoting Respect
- The resource fosters understanding and respect for all groups and individuals.
- The resource promotes critical thinking related to diversity.

V. Technical Design
- The technical design of analog, digital, and multimedia resources complies with Alberta Education's technology standards.

VI. Functional Design
- The function and features of digital resources are age and skill appropriate.

VII. Final Form
- The resource is classroom ready and user friendly to both students and teachers.
- The resource, background information, and information sources supporting the resource are readily available.

Appendix 3. Grade Six Social Studies Selected Resource List

This selected list was compiled to provide a sense of what resources already exists related to the legal topics addressed in the new program of studies for grade six. The purpose of this review was to develop a sense of the kinds, numbers, and focus of current materials.

The resources are listed in relation to the outcomes identified earlier.

Respect for Democratic Rights

Canadian Civil Liberties Association. *The fundamentals of our fundamental freedoms*. Retrieved February 26, 2007, from www.ccla.org/schools/fooff_e.pdf.
Provides some background material: booklet on basic rights and freedoms, such as due process of law, dissent, security of the person, and personal privacy, and what the purposes are behind them.

The resource is appropriate in that it
- is issue based
- presents opportunities for student discussion

The resource is lacking in that it
- does not reflect the philosophy of the new program of studies

British Columbia Civil Liberties Association. *Citizenship teaching module*. Retrieved February 26, 2007, from www.bccla.org/citizenship/index.html.
Includes lesson plans created for British Columbia students. Topics include citizenship, democracy, civil liberties, and citizenship participation.

The resource is appropriate in that it
- uses case studies in each lesson
- lists several activities as well as recommended resources
- has solid content

The resource is lacking in that it
- is at an inappropriate grade level
- is not engaging for grade six

Bain, C., Aliphat, S., Des Rivieres, D., Jarvis, G. & Scully, A. (1996). *Citizenship: Rights and responsibilities.* **Scarborough, ON: Prentice Hall.**

A textbook with case studies and student activities about constitutional and *Charter* rights, and group and individual rights.

The resource is appropriate in that it
- addresses Alberta Social Studies Topic 6.1
- reflects appropriate reading level
- is engaging and time friendly
- includes visual and media literacy
- includes some aboriginal perspective

The resource is lacking in
- inquiry learning and critical thinking
- social participation in a democratic process
- ICT implementation
- recognizing diversity
- addressing learning styles

Role of the *Charter*

John Humphrey Centre. *Youth guide to the charter.* **Retrieved February 26, 2007, from http://johnhumphreycentre.org/files/guide_e.pdf.**

A booklet on the *Charter* and its importance, history, purpose, and effect on our lives. It has both an FAQ format and an explanation of the text of the *Charter*. Created with co-sponsor the Alberta Teachers' Association.

The resource is appropriate in that it
- may serve as an information source rather than a support resource
- may be suitable for academically strong grade six students

Collective Rights

The Indian and Metis Curriculum Advisory Committee. *Treaties.* **Retrieved February 26, 2007, from www.saskschools.ca/~aboriginal_res/treaty6.htm.**

Contains lesson plans. Uses online materials from the Office of the Treaty Commissioner and *Aboriginal Peoples: Building for the future* (Reed, Kevin. (1999). Oxford University Press. [Canada]) to explore the history of treaties and how different groups perceive them.

The resource is appropriate in that it
- is suitable for grade six skill levels
- provides an aboriginal focus

The resource is lacking in that it
- relies heavily on the Saskatchewan curriculum
- has many broken links and does not appear to be updated regularly

Heritage Community Foundation. *The making of Treaty 8 in Canada's Northwest.* Retrieved February 26, 2007, from www.albertasource.ca/treaty8/eng/default.htm.
Describes the history of the treaty and its effects today. Multimedia format includes many photographs from the time and videos of interviews discussing the continuing effects.

The resource is appropriate in that it
- is bilingual
- is technically strong
- could be used as an information source
- provides an aboriginal focus

The resource is lacking in that it
- has a reading level higher than grade six

Historical Events and Legislation

Heritage Community Foundation. *The Famous Five.* Retrieved February 26, 2007, from www.edukits.ca/famous/lessons.html.
Contains lesson plans and background material, including information for students and teachers on the Famous Five and their effect on society and rights. Photographs and documents help show what life was like for women at the time and how the legislation was changed. Includes lesson plans for teachers as well as an area meant for the students to explore.

The resource is appropriate in that it
- is technically strong
- has visual organizers that are good for information gathering and processing
- has opportunities for various learning styles
- uses the inquiry approach
- builds on media-literacy skills

Participation in Democracy

Alberta Education. *Balancing the options: Wildlife park*. **Retrieved February 26, 2007, from www.learnalberta.ca/content/tlfbowp/index.html?launch=true.**

A student-focused multimedia site about decision making and democratic resolution within local government. Students play the role of a local official who needs to create a fair resolution to a community dispute about a new wildlife park.

The resource is excellent in that it meets all the requirements of the new program of studies.

Flaig, L. A.A., & Galvin, K. E. (1997). *Finding your voice … you and your government*. **Edmonton, AB: Reidmore Books.**

Provides an introduction to Canadian citizenship and explores ancient, aboriginal and modern Canadian local, provincial, and federal governments. Textbook format with suggested questions and activities.

The resource is appropriate in that it
- addresses Alberta Social Studies Topic 6.1
- is strong in Canadian content
- incorporates excellent visuals and is overall engaging
- has some historical and aboriginal perspective

The resource is lacking in
- appropriate reading level; it appears to be higher than grade six
- addressing learning styles
- addressing inquiry learning and critical thinking opportunities; has traditional Q and A approach

Burley, T. (1998). *Government matters*. **Scarborough, ON: Prentice Hall.**

Textbook that looks at government as a general concept and at the specific responsibilities of different levels of government in Canada.

The resource is appropriate in that it
- addresses Alberta Social Studies Topic 6.1
- reflects appropriate reading level
- is engaging and time friendly
- includes the outline of a research process that lends itself to inquiry and critical thinking
- includes some multicultural perspective
- includes some historical perspective and social participation

The resource is lacking in
- ICT implementation
- recognizing diversity (although there is some attempt)
- addressing learning styles

Botting, D., Botting, K., Osborne, K., Seymour, J., & Swystion, R. (1985). *Politics and you***. Scarborough, ON: Nelson Canada.**

Uses case studies in examining political situations that can be part of the student's daily life.

The resource is appropriate in that it
• addresses Alberta Social Studies Topic 6.1
• is engaging for students
• is strong in Canadian content

The resource could easily be updated from the traditional approach it encompasses to include
• ICT implementation
• learning styles
• inquiry learning and critical thinking rather than question and answer techniques
• multiple perspectives

Role of Elected Representatives

Doyle, J. (1999) *Critical challenges in law and government***. Richmond, BC: The Critical Thinking Cooperative.**

Book provides resources and ideas for a mock parliament session where students play the role of MPs in debating various issues.

The resource is appropriate in that it
• addresses Alberta Social Studies Topic 6.1
• is strong in Canadian content

The resource is lacking in
• engaging and appropriate reading material and presentation
• ICT implementation
• learning styles
• inquiry learning and critical thinking opportunities
• opportunities for authentic assessment

Responsibilities of Local Government

Alberta Municipal Affairs. (1999). *Teaching about local government in Alberta.* **Edmonton, AB: Alberta Municipal Affairs.**

Teacher resource guide content centring on the community, the people who work in local government, and the issues they face. It includes background and student activities about democratic principles and rights and responsibilities.

The resource is appropriate in that it
- addresses Alberta Social Studies Topic 6.1
- is strong in Alberta content
- includes student activities and blackline masters

The resource is lacking in
- ICT implementation
- addressing learning styles
- inquiry learning and critical thinking opportunities
- authentic assessment
- student engagement

Role of School Boards

Alberta Learning. (2001). *Teaching about local government: School boards.* **Edmonton, AB: Alberta Learning.**

Teacher resource designed to provide background materials and lesson activities about school boards and include trustees in the process.

The resource is appropriate in that it
- addresses Alberta Social Studies Topic 6.1
- is strong in Alberta content
- includes social participation in the democratic process

The resource is lacking in
- engaging reading material and questioning
- ICT implementation
- assignments to address various learning styles
- inquiry learning and critical thinking opportunities
- opportunities for authentic assessment

Provincial Government Structure

Alberta Education. *Virtual visit: Step inside the Alberta legislature.* **Retrieved February 26, 2007, from www.learnalberta.ca/content/ssvv/default.html.**

Student activity: create an avatar and go on a virtual tour of the Alberta Legislature. Both guided tours and single exploration are available.

The resource is appropriate in that it
- is very engaging for students
- could serve as background information
- is technically strong

The resource is lacking in that
- advanced software is necessary