

## **DARLENE JOHNSTON**

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### **CURRENT POSITION**

Assistant Professor and Aboriginal Student Advisor  
University of Toronto Faculty of Law, 2002 – present

### **PREVIOUS POSITIONS**

Adjunct Professor and Aboriginal Student Advisor  
University of Toronto Faculty of Law, 2001-2002

Land Claims Research Co-ordinator  
Chippewas of Nawash and Saugeen First Nations, 1992-2001

Assistant Professor, Common Law Section  
Faculty of Law, University of Ottawa, 1989-1992

### **EDUCATION**

LL.M., University of Toronto Faculty of Law, 2003

LL.B, University of Toronto Faculty of Law, 1986

B.A. Honours in History, Queen's University, 1983

### **TEACHING AND RESEARCH INTERESTS**

Aboriginal Law, Property Law, International Indigenous Law, Law & History

### **RESEARCH GRANTS**

Borden Ladner Gervais Student Fellowship Program for full-time summer research assistant to support the International Human Rights Clinic advocacy on behalf of the Maya Communities of Southern Belize.

Wright Foundation Grant, 2004, for attendance at International Law and Society Conference to present "Recovering Aboriginal Legal Traditions."

SIG Grant, 2004, for attendance at the International Conference *Mending the Past: Memory and the Politics of Forgiveness* to present "Aboriginal Traditions of Forgiveness."

Wright Foundation Grant, 2003, for summer research assistantship for project "Teaching Towards Aboriginal Law in Canada".

Wright Foundation Grant, 2003, for international travel to American Society for Legal History, Annual Meeting, Washington D.C.

University of Toronto Connaught Fund: New Faculty Start-Up Grant, 2002, for project on "Totemic Identity and Aboriginal Governance."

## **PUBLICATIONS**

### **Monographs**

*The Taking of Indian Lands in Canada: Consent or Coercion?* Saskatoon: University of Saskatchewan, Native Law Centre, 1989

### **Articles**

Dr. W.R. Fitzgerald & Darlene Johnston, "The Cult of Irocentrism and the Evolution of an Ontario Archaeological Myth" (2004) *Ontario Archaeology* (forthcoming)

"Native Rights as Collective Rights: A Question of Group Self-Preservation" (1989) 2 *Canadian Journal of Law and Jurisprudence* 19.

Also published in W. Kymlicka, ed., *The Rights of Minority Cultures* (Oxford University Press, 1995).

Also published in R.N. Bronaugh, ed., *Readings in the Philosophy of Constitutional Law* Fourth Edition, (Kendall/Hunt Publishing Co., 1992).

"A Theory of Crown Trust Towards Aboriginal Peoples" (1986) 18 *Ottawa Law Review* 307.

"The Quest of the Six Nations for Self-Determination" (1986) 44 *University of Toronto Faculty of Law Review* 1.

Also published in S. James Anaya, *International Law and Indigenous Peoples*, (Ashgate Publishing Ltd., 2002).

## **Book Chapters**

"Lo, How Sparrow Has Fallen" in *Access to Justice* (forthcoming 2004) UBC Press.

"When a Sacred Site might not be Considered Sacred: The Case of Hunter's Point, Georgian Bay, Ontario" with W.R. Fitzgerald and R.E. Romanowski in *Sacred Lands: Aboriginal World Views, Claims, and Conflicts* (Occasional Paper No. 43, Canadian Circumpolar Institute, University of Alberta, 1998).

"Aboriginal Rights and the Constitution: A Story Within A Story?" in *Canadian Constitutional Dilemmas Revisited* (Queen's University Press, 1997).

"First Nations and Canadian Citizenship" in W. Kaplan, ed., *Belonging: The Meaning and Future of Canadian Citizenship* (McGill-Queen's University Press, 1993).

## **WORK IN PROGRESS**

*Litigating Identity: The Challenge of Aboriginality* (working title, revising LL.M thesis for submission to University of Toronto Press as book manuscript)

"Aboriginal Traditions of Forgiveness" (working title: research and draft in progress for presentation to International Conference *Mending the Past: Memory and the Politics of Forgiveness*, sponsored by UQUAM and the Canadian Commission on UNESCO, Montreal, October 2004)

"Recovering Aboriginal Legal Traditions" (working title, draft abstract for submission to Indigenous Stream for International Law & Society Conference, University of Newcastle, Australia, December 2004)

## **SUBMISSIONS TO GOVERNMENT**

March 1991, House of Commons, Ottawa. Presentation to the Standing Committee on Aboriginal Affairs regarding the events at Kanesatake and Kahnawake during the summer of 1990 on behalf of the Indigenous Bar Association. Authored submission published at [1991] 2 *Canadian Native Law Reporter* 1. Several recommendations were incorporated into the Fifth Report of the Standing Committee on Aboriginal Affairs.

May 1989, House of Commons, Ottawa. Presentation to the Standing Committee on Aboriginal Affairs regarding the Post-Secondary Assistance Program on behalf of the Indigenous Bar Association. Co-authored submission published at [1989] 3 *Canadian Native Law Reporter* 16.

## CONFERENCE PRESENTATIONS

“Anishinabek Totemic Identity and Landscape” Presentation sponsored by the Indigenous Leadership Program at York University, February 26, 2004

“Totemic Identity and Governance” Presentation to the American Society for Legal History Annual Meeting held at Washington, D.C., November 14, 2003

“Of Treaties and Federalism” Presentation to the Indigenous Bar Association Conference *Indigenous Rights, Globalization and Federalism*, held at Vancouver, October 16 – 17, 2003

“Lo, How *Sparrow* has Fallen” Presentation to the Law Society of Upper Canada Symposium *Access to Justice*, held at Toronto, May 28 -29, 2003

“Whose Wrong is it Anyway?” presentation to conference *Achieving Human Rights in a Multicultural Society: Reparations, Human Rights and the Limits of Law*, Toronto, April 12, 2003.

“Champlain and the Contact Clock” presentation to Renaissance Society of America Conference Workshop *Champlain and His World*, Toronto, March 27, 2003.

“Litigating Identity: The Challenge of Aboriginality” presentation to *Inaugural University of Toronto Faculty of Law Diversity Workshop Series*, January 21, 2003.

“Re-considering the Marshall Trilogy” presentation to Indigenous Bar Association Annual Conference on *Self-Government: Inherent Rights and Institutional Development*, Toronto, October 18, 2002.

“Reading Yellowhead’s Wampum” presentation to *1850 Robinson Huron Treaty Nations Gathering* sponsored by Batchewana and Garden River First Nations, October 10, 2002.

“Aboriginal Rights and the Conquest Thesis” presentation to workshop *Re-visioning Canadian History* sponsored by the University of Toronto Department of History, Toronto, September 27, 2002.

“Totemic Identity and Governance” presentation to forum on *Urban Aboriginal Governance* sponsored by the Equity and Aboriginal Issues Committee of the Law Society of Upper Canada, Toronto, June 13, 2002.

“Killing the *Windigo*” presentation to workshop on *Restoring Memory: History and Narrative in Aboriginal Justice*, sponsored by the Canadian Political Science Association, Toronto, May 30, 2002.

"Understanding Totemic Identity" presentation to Interdisciplinary workshop on *Aboriginal Voices and Aboriginal Rights*, co-sponsored by the Canadian Political Science Association, Canadian Indigenous/Native Studies Association, Canadian Society for the Study of Practical Ethics and the University of Toronto Faculty of Law, May 28, 2002.

"After the Court Case is Over: the Challenge of Implementing Judicially-recognized Treaty Rights" presentation to *Encounter Canada Conference: Aboriginal Rights and Treaty Rights*, York University, March 2000.

"Traditional Knowledge and Aboriginal Rights" presentation to *Multidisciplinary Forum on Aboriginal Fishing* sponsored by the Aboriginal Law Section of the Canadian Bar Association Ontario and the Canadian Aquatic Resources Section of the American Fisheries Society, Wahta First Nation, September 1996.

"Aboriginal Perspectives on Legal Education" presentation to Council of Canadian Law Deans Conference on *Minority Access and Equity in Canadian Legal Education*, University of Ottawa Faculty of Law, November 1990.

"Does the International Labour Organization continue to have a role to play in the protection of Aboriginal rights?" presentation to the *Canadian Association of Statutory Human Rights Agencies Annual Conference*, Yukon College, Whitehorse, June 1990.

"The Oppression and Disenfranchisement of Native Peoples in Canada" presentation to the *Working Forum on Law and Apartheid*, University of Ottawa Faculty of Law, February 1989.

## TEACHING

### Courses Taught

- |             |                                                                   |
|-------------|-------------------------------------------------------------------|
| Spring 2004 | Property Law Small Group C                                        |
| Fall 2004   | Property Law Small Group C<br>Aboriginal People and Canadian Law  |
| Spring 2003 | Property Law Small Group C<br>Property Law Section II             |
| Fall 2003   | Property Law Small Group C<br>Aboriginal Peoples and Canadian Law |

## **Course Materials**

*Property Law*, redesigned course and created new materials in collaboration with Professor Austin, Two Volumes, 2003-2004

*Aboriginal People and Canadian Law*, redesigned course and created new materials, Three Volumes, 2003

*Property Law in its Cultural and Historical Canadian Context*, designed course and created new materials, One Volume, 2002

*Comparative Law of the Great Lakes in the Early Encounter Period*, designed course and created materials, Two Volumes, large proportion of primary-source documents, 2003

## **SERVICE**

### **Service to Faculty**

Aboriginal Student Advisor, 2002 - present  
Faculty Advisor, *Indigenous Law Journal*, 2003 – present  
Faculty Advisor, *Kawaskimhon Aboriginal Moot*, 2003 - present  
Member, Admissions Committee, 2002 - present  
Member, Diversity Committee, 2002 – present  
Member, June Callwood Selection Committee, 2003 - present

### **Service to Aboriginal Students**

Academic Support: supervised design and delivery of tutorial services  
Advisory support: references, crisis management, complaints, referrals  
Recruitment support: letters, telephone contact, interviews  
Organize Welcome Reception for Aboriginal Students  
Organize Guest Lecture by Aboriginal Legal Scholars and Practitioners  
Organized Guest Lecture by Professor Trish Monture, January 2003  
Liaison work with Career Development Office and with First Nations House

### **Service to Academic Community**

Member of Selection Committee for the Law Commission of Canada 2004 *Virtual Scholar in Residence Program – Indigenous Legal Traditions*

External Evaluator, Promotion and Tenure, Osgoode Hall Law School

Journal Submissions Review: University of Toronto Law Journal, Osgoode Hall Law Journal, *Indigenous Law Journal*, *Canadian Journal of Women and the Law*, Queen's Institute of Intergovernmental Relations

### **Service to Aboriginal Legal Community**

Expert witness on aboriginal lands and burials, recruited by the Ipperwash Inquiry to present report and opinion at commencement of hearings in July 2004

Member, Auditor General's Advisory Panel on First Nations Issues

Member, Board of Directors, Indigenous Bar Association Law Student Scholarship Foundation.

Member, Rotiio'taties, an association of Aboriginal Lawyers who advise the Law Society of Upper Canada on equity issues in legal education and practice

### **Public Relations**

"Law Professor Darlene Johnston turns anger into impact" by Paul Fraumeni, published in *Edge: Research, Scholarship and Innovation at the University of Toronto*, Fall 2003, Volume 4, Number 2

"Coming Home: Far from the bright lights of Toronto, U of T grads are making a difference – Darlene Johnston, Native Activist" by Susan Baillie published in *University of Toronto Magazine*, Winter 2004, Volume 31, Number 2