



**Musqueam
Indian
Band**



**PETER A. ALLARD
SCHOOL OF LAW**

THE UNIVERSITY OF BRITISH COLUMBIA

CALL for PROPOSALS

***Sparrow's Flight:* Revisiting the Supreme Court of Canada's Decision after 30 Years**

October 23 & 24, 2020

Hosted jointly by the Musqueam Indian Band and the Peter A. Allard School of Law, UBC

This **call for proposals** goes out to Indigenous community leaders, members, and activists, those engaged in legal struggles concerning Indigenous and Aboriginal rights, and to academics in varied disciplines whose work touches on the legal, social, and political implications of the entrenchment of Aboriginal rights in section 35 of Canada's *Constitution Act, 1982*.

In 1990, the Supreme Court of Canada issued its first decision on the rights of Aboriginal peoples under section 35. The decision in *R. v Sparrow* breathed life into the slim text that "recognized and affirmed" the "existing Aboriginal and treaty rights of the Aboriginal people in Canada." The fact that the first case to test this provision was a fishing rights case was no accident. Fisheries have long been a significant point of conflict between Indigenous peoples and the Canadian state. The fact that the case originated on the Fraser River, near one of its mouths at Musqueam, and involved Musqueam fishers, was also no accident. For millennia, the Musqueam had lived and fished at the mouths of one of the largest salmon bearing rivers on the Pacific, but decades of intensive commercial harvesting, calamitous damage to the river system, and a history of efforts to exclude Indigenous peoples from the fisheries, as well as the willingness of the Musqueam to use Canadian courts to advance their interests, led the parties to the Supreme Court of Canada.

In *Sparrow*, the Supreme Court recognized that the Musqueam had an "aboriginal right to fish for food and social and ceremonial purposes", that this right had not been extinguished, and that the charges against Musqueam fishers, including Ronald Sparrow, for fishing in violation of regulations under Canada's *Fisheries Act* infringed this right. The Court interpreted these rulings to mean that the Musqueam food, social and ceremonial fishery had priority over commercial and sport fisheries, subject only to conservation requirements. More generally, the Supreme Court ruled that the courts were to construe section 35 "in a purposive way" and that the provision demanded "a generous, liberal interpretation".

"*Sparrow's Flight*" takes the 30th anniversary of the Supreme Court's first statement on the constitutional entrenchment of Aboriginal and treaty rights as an opportunity to revisit the case, to reconsider its history, to understand its impact, and to explore its possibility. This call seeks contributions to a two-day conference, hosted jointly by the Musqueam Indian Band and the Allard School of Law, that revisit *Sparrow*. The aim is to create space for broad, meaningful discussions, and with that in mind this call goes out to Indigenous nations engaged in struggles over access to and control of fisheries, and to those whose work grapples with the colonial legacy that section 35 seems intended to address.

Please submit proposals of 250-500 words, outlining the proposed contribution to sparrow2020@allard.ubc.ca by **1 June 2020**.