



INDIGENOUS POLITICS IN CANADA
POLS 2215 (Sec 01)
Winter 2024

We acknowledge that we are on the traditional unceded territory of the Mi'kmaq Nation

Course Schedule: Monday and Wednesday 4:05-5:25PM

Location: LSC-Common Area C236

Instructor: Dr. Natalie A. Ghosn, Esq. (she/her)

Email: nghosn@dal.ca

Office: TBA

Office Hours: By Appointment

COURSE DESCRIPTION

This course takes a law-based approach to the study of Indigenous Politics in Canada. It examines the special relationship between the Crown and Indigenous Peoples. The course features several prominent voices in Indigenous leadership and will be visited by multiple guest speakers throughout the semester. The course is divided into four main modules: Indigenous Politics in Canada; The Carceral State; Canadian Law and Treaty Rights; and A Critical Approach to the study of Indigenous Politics.

Some of the topics covered in this course include an introduction to Indigenous Politics in Canada; Federalism in Canada; The Role of the Government and Courts; Parliament, Electoral Democracy and Political Representation; An Indigenous Vision of Canadian Federalism; Colonial Law and the Construction of Indigenous Criminality; The Media, the Carceral State and Indigenous Representation; The Royal Proclamation of 1763; Indigenous Rights; Indigenous Title; Treaty Rights; Duty to Consult; Sources and Scope of Indigenous

Law; Living Legal Tradition; Learning from Bijuridicalism; Critiquing the University; and Goals Towards Reconciliation.

STATEMENT ON CLASSROOM CONDUCT AND FREEDOM OF SPEECH

Students are always encouraged to share their opinions and challenge accepted ways of thinking. By the same token, students should expect to have their own beliefs and values challenged, both by their instructor and by their classmates. The free exchange of ideas can be an uncomfortable, confusing, and even an upsetting experience, but it is vital to the learning process. As such, the learning process is only possible in an environment where all feel respected and dignified. A classroom is a community, one where every individual is an equal member. For this reason, uncivil, disrespectful, discriminatory, harassing, or disruptive communication and/or conduct are unacceptable and will not be tolerated.

ACCOMMODATIONS

As your professor, I will make every effort to accommodate any special needs or circumstances of my students. Dalhousie University provides accommodations to students with disabilities through Accessible Learning. Various services are available to help students achieve their academic and career goals. Accessible Learning can be emailed at access@dal.ca and their website is https://www.dal.ca/campus_life/academic-support/accessibility.html. If you need accommodation please contact your professor and Accessible Learning as soon as possible. A form to apply for accommodations can be found here https://www.dal.ca/campus_life/academic-support/accessibility/accommodations-requesting-accommodation.html.

ACADEMIC INTEGRITY/PLAGIARISM

Academic integrity is highly valued, students may not plagiarize the course readings or other sources under any circumstances. Learn to make proper citations for all direct references or quotations from any source used. Text notes may be placed either at the end of the essay or at the bottom of the page and must adhere to an established documentation style format. Students who plagiarize material in essays or are found to be cheating on the tests or exams in this course will receive a zero mark on the assignment and a repeated offence will result in a zero in the course grade. The instructor will write a letter to the Dean of Arts and to the Registrar documenting all incidents of cheating or plagiarism.

COMMUNICATING WITH THE INSTRUCTOR

Communicating with the Professor is best by email for shorter questions and by office hour appointment for longer questions.

ACADEMIC SUPPORT

The Writing Centre provides free academic writing support for students. You can make an appointment with the Writing Centre here https://www.dal.ca/campus_life/academic-support/writing-and-study-skills/our-services.html. The Writing Centre's email is writingc@dal.ca.

More information is available at https://www.dal.ca/campus_life/academic-support/writing-and-study-skills.html

IMPORTANT DATES

For a list of important dates please refer to the following link:

https://www.dal.ca/academics/important_dates.html?gad_source=1&gclid=Cj0KCQIA7OqrBhD9ARIsAK3UXh3hpeH8sTMNsW6XxEi3cCMB9DKRkTLy6-m2oGqQa9M5fwtGsuG5WUaAk9HEALw_wcB

COURSE MATERIALS/READINGS

* Course textbooks are available at the Dalhousie University Campus Bookstore

Course Textbook: *Canada's Indigenous Constitution* (2010)

- Author: John Borrows
- Publisher: University of Toronto Press
- ISBN: 9781442610385

Course Textbook: *Indigenous Justice: True Cases by Judges, Lawyers & Law Enforcement Officers* (2023)

- Editors: Lorene Shyba & Raymond Yakeleya
- Publisher: Durvile & UpRoute Books
- ISBN: 9781990735264

Other Course Materials: Other required course readings are available in PDF format on Brightspace listed in the content section under the corresponding date of the reading. On occasion, a *url* link to a reading is provided for on this syllabus.

*Please follow your syllabus for the schedule of readings.

COURSE REQUIREMENTS/ASSIGNMENTS

Critical Participation - 10% - Ongoing

Case Brief Assignment - 15% - Due February 14, 2024 (Submit electronically on Brightspace)

Group Presentations – 25% - In-Class March 4 and March 6, 2024 (Submit group PowerPoint presentation electronically on Brightspace)

Book Synopsis - 20% - Due March 18, 2024 (Submit electronically on Brightspace)

Final Exam - 30% - Date To Be Announced

MORE INFORMATION ON COURSE REQUIREMENTS/ASSIGNMENTS

*All assignments are due by 11:59PM on the due date.

Critical Participation - 10% - Ongoing

Critical participation is worth 10% of your final grade. Students are expected to come to class daily, read the assignments before class and be prepared to discuss them in class. They are also expected to join in class discussion and remain engaged during class time. Your participation grade will be composed of both attendance and substantive participation during class time.

Case Brief Assignment - 15% - Due February 14, 2024 (Submit electronically on Brightspace)

Students will write a case brief and concise analysis on a foundational case on Indigenous rights. A list of cases on Indigenous treaty rights will be provided to students. Students will pick one case from the list to brief. Detailed assignment requirement will be given in class.

Group Presentations - 25% - In-Class March 4 and March 6, 2024. The in-class group presentations are worth 25% of your final grade. Presentations will take place in class on in-class March 4 and March 6, 2024. Students will be assigned presentation date during class. The presentation challenges students to confront the objectives of Reconciliation in Canada examining real cases that have detrimentally affected our Indigenous communities. Groups will be assigned a social problem to address for their presentation. Solutions developed by students must include remedies be those political, legal or otherwise. Each group member must upload the group PowerPoint in the assignment Dropbox on Brightspace. Detailed instructions on presentation requirements will be given in class.

Book Synopsis - 20% - Due March 18, 2024 (Submit electronically on Brightspace)

The book synopsis is worth 20% of your final grade. The book synopsis will be 1000-1500 words in length. Standard formatting requirements will be required (double-spaced, Times

New Roman font, standard margins, page numbers, cover page, etc.). For this assignment students must pick three chapters from *Indigenous Justice: True Cases by Judges, Lawyers & Law Enforcement Officers* (Lorene Shyba and Raymond Yakeleya, 2023), briefly summarize and then explain how the real life fact patterns of the case in the chapter relate to the topics discussed in our course thus far. The synopsis must include proper citations and a works cited page. In-text citations are preferred; however, any standard citation style will be accepted. A LIST OF CHAPTERS that students can select from for this assignment will be provided in class. Additional detailed requirements will be given in class.

Final Exam - 30% - Date To Be Announced

The final exam is worth 30% of your final grade. The final exam will be composed of short answer essay style questions and is worth 30% of your final grade. All material covered in the course including course readings, course discussion, class lectures, documentaries or videos watched, guest lectures and classmate presentations are subject to be tested on the final exam.

Further information on the final exam will be provided during class.

Course Policies

- 1) Late Assignments: All assignments must be submitted on the due date at the stated time, unless accompanied by a doctor's note or other form of documentation. Late assignments will be penalized 2% per day, including on weekends up to 5 days. Papers and assignments submitted more than 5 days after the deadline will not be accepted. Exceptions to the 5 day late acceptance policy may be granted at Professor's discretion based on documentation submitted by student.
- 2) Handing in Assignments: Assignments should be handed in electronically via the assignment dropbox on Brightspace. Please do not submit your assignments via email.
- 3) E-mail: I encourage you to reach out to me via email for any help you require with course materials and assignments. I will respond to your email within 2 working days. **Students are required to use their Dalhousie e-mail account for course-related correspondence.**
- 4) Course Website: Brightspace will be used to post the course outline and reading materials. Class notes will not be posted on Brightspace.
- 5) Correct Use of Language: Correct use of language is one of the criteria included in the evaluation of all written assignments.

Grade Scale

Letter Grade	Grade Points	Percentage Points	Rating
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A+	4.30	90-100	Excellent
A	4.00	85-89	
A-	3.70	80-84	
B+	3.30	77-79	Good
B	3.00	73-76	
B-	2.70	70-72	
C+	2.30	67-69	Satisfactory
C	2.00	63-66	
C-	1.70	60-62	
D	1.00	50-59	Marginal
F	0.00	0-49	Failure or Withdrawal After Deadline

Course Outline and Readings

*This course outline is subject to change. Some class topics may take longer to complete than the day they are listed on the syllabus while others may take less course time. The syllabus is to be followed in chronological order.

January 8, 2024 – Introduction to the Course

INDIGENOUS POLITICS IN CANADA

January 10, 2024 – Introducing Indigenous Politics in Canada

Read: Section 25, Constitution Act (1982) available at <https://laws-lois.justice.gc.ca/eng/Const/page-12.html#h-50>.

Read: What is Section 35 of the Constitution Act? Available at <https://indigenousfoundations.arts.ubc.ca/constitution-act-1982-section-35/#:~:text=Constitution%20Act%20states%3A-,35.,and%20M%C3%A9tis%20peoples%20of%20Canada.>

January 15, 2024 – Federalism in Canada

Read: Hamilton, Robert “Indigenous Peoples and Interstitial Federalism in Canada” (Course Website).

January 17, 2024 – The Role of Governments and Courts

Read: The Role of Governments and Courts in entrenching Indigenous Legal Traditions, Chapter 7, p. 177-215 (Course Textbook).

January 22, 2024 – Guest Speaker, Cheryl Simon

January 24, 2024 – Parliament, Electoral Democracy and Political Representation

Read: Kirkby, Coel. “Reconstituting Canada: The Enfranchisement and Disenfranchisement of ‘Indians,’ circa 1837–1900.” *University of Toronto Law Journal* 69(4) (2019): 497–539 (Course Website).

January 29, 2024 – Guest Speaker, Naiomi Metallic

January 31, 2024 – An Indigenous Vision of Canadian Federalism

Read: McCrossan, Michael, and Kiera Ladner. “Eliminating Indigenous Jurisdictions: Federalism, the Supreme Court, and Territorial Rationalities of Power.” *Canadian Journal of Political Science* 49(3) (2016): 411–431 (Course Website).

Read: Papillon, Martin. “Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States.” *Publius: The Journal of Federalism* 42(2) (2012): 289–312 (Course Website).

THE CARCERAL STATE

February 5, 2024 - Colonial Law and the Construction of Indigenous Criminality

Read: Stark, Heidi Kiiwetinepinesiik. “Criminal Empire: The Making of the Savage in a Lawless Land.” *Theory & Event* 19(4) (October 12, 2016) (Course Website).

February 7, 2024 – The Media, the Carceral State and Indigenous Representation

Read: Cecillia, Brooke. “Cloaked Meaning and Moral Craftwork: Progress and Perpetual Problems in the News Coverage of Indigenous Peoples and Canada’s Justice System.” *Canadian Journal of Communication* 46(3) (2021): 587–612 (Course Website).

February 12, 2024 – Guest Speaker, Chief Sid (Glooscap Nation)

CANADIAN LAW AND TREATY RIGHTS

February 14, 2024 – The Royal Proclamation 1763

Read: Borrows, John. “Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government.” In *Aboriginal Treaty Rights in Canada: Essays of Law, Equality, and Respect for Difference*. Edited by Michael Asch. Vancouver: UBC Press, 1997. 155-172 (Course Website).

February 19-23 – No Classes, Winter Break

February 26, 2024 – Aboriginal Rights

Read: R v Sparrow, [1990] 1 SCR 1075 (Course Website).

Read: R v Van der Peet, [1996] 2 SCR 507, per Lamer CJ, paragraphs 1-94 (Course Website).

Read: R v Powley, 2003 SCC 43, [2003] 2 SCR 207 (Course Website).

February 28, 2024 – Guest Speaker, Rachelle McKay

March 4, 2023 – Group Presentations and Roundtable

March 6, 2024 – Group Presentations and Roundtable

March 11, 2024 – Aboriginal Title

Read: Tsilhqot'in Nation v British Columbia, 2014 SCC 44, [2014] 2 SCR 256 (Course Website).

March 13, 2024 – Treaty Rights

Read: R v Marshall, [1999] 3 SCR 456 (Course Website).

March 18, 2024 – Duty to Consult

Read: Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73, [2004] 3 SCR 511 (Course Website).

March 20, 2024 – Sources and Scope of Indigenous Law

Read: Sources and Scope of Indigenous Legal Traditions, Chapter 2, p. 23-55 (Course Textbook).

March 25, 2024 – Living Legal Traditions

Read: Living Legal Traditions, Chapter 1, p. 3-22 (Course Textbook).

March 27, 2024 – Learning From Bijuridicalism

Read: Learning from Bijuridicalism, Chapter 4, p. 107-118 (Course Textbook).

A CRITICAL APPROACH

April 1, 2024 – Critiquing the University

Read: Gaudry, Adam, and Danielle Lorenz. “Indigenization as Inclusion, Reconciliation, and Decolonization: Navigating the Different Visions for Indigenizing the Canadian Academy.” *AlterNative* 14(3) (2018): 218–227 (Course Website).

April 3, 2024 – Concluding Thoughts, Toward Reconciliation

Read: James, Matt. “Changing the Subject: The TRC, its National Events, and the Displacement of Substantive Reconciliation in Canadian Media Representations.” *Journal of Canadian Studies* 51(2) (2017): 362-397 (Course Website).