



Faculté des arts
Institut d'études canadiennes et autochtones

Faculty of Arts
Institute of Canadian and Aboriginal Studies

HIS4103 – SEMINAR IN ABORIGINAL STUDIES
SETTLER COLONIALISM AND INDIAN LAW IN CANADA
WINTER 2017

Professor: Dr. Daniel Rück
Email: drueck@uottawa.ca
Office Hours: Wed 13h-14h30 or by appointment.
Office Location: Desmarais Building 9152

Class Location: Thompson (THN) Room 133
Class Times: Thurs 14h30-17h30

COURSE DESCRIPTION

This seminar-style course explores the roots, context, implementation, and impacts of Canadian Indian law from the eighteenth to the twentieth centuries. Although readings touch on aspects of laws proper to Indigenous nations (Indigenous law), the majority of the course focuses on British, French, and Canadian colonial law targeting Indigenous peoples.

EMAIL COMMUNICATION

It is very important that you regularly check your university email account for course-related announcements. You may email me with simple questions, but *for anything requiring more than a one-sentence response, please visit me during office hours*. Please check the syllabus to see if it contains answers before emailing me with questions.

ASSIGNMENT SUBMISSION

Written assignments must be submitted in paper format at the beginning of class on the date due. An assignment will be considered late if it is submitted after the class has begun. I will not accept email submissions.

LATE ASSIGNMENTS

No extensions will be granted in advance. A penalty of 2% per working day will be deducted from late assignments. This penalty may be waived in the event of unforeseen emergencies such as illness (please note that a heavy work load for other classes or paid employment does not qualify as an unforeseen emergency). If your assignment is late and you believe you should not

be penalized, please attach a note of explanation along with any supporting documentation you think appropriate. The late penalty will be waived, in part or in whole, as seems justified.

DISPUTED GRADES

If you believe your grade for a particular assignment is incorrect you may resubmit the graded copy along with a written explanation for why you believe you should receive a different grade. The newly-assessed grade will replace the original. The new grade may be higher, lower, or unchanged.

PLAGIARISM AND ACADEMIC INTEGRITY

Plagiarism is considered academic fraud, and will be sanctioned in accordance with related University of Ottawa regulations: <http://www.uottawa.ca/academic-regulations/academic-fraud.html>. In order to avoid academic fraud, please read the Student Guide on academic integrity: <http://web5.uottawa.ca/mcs-smc/academicintegrity/documents/2011/academic-integrity-students-guide.pdf>

EVALUATION

- 20% Participation (details below)
- 20% Reading Response Assignments (details below)
- 15% Research Proposal
- 45% Research Project
 - 15% Presentation
 - 30% Paper

RESOURCES FOR STUDENTS

Mentoring Centre - <http://www.arts.uottawa.ca/eng/mentoring/>

The goal of the Mentoring Centre is to help students with their academic and social well-being. Regardless of where a student stands academically, or how far along they are in completing their degree, the mentoring centre is there to help students continue on their path to success.

Academic Writing Help Centre - <http://www.sass.uottawa.ca/writing/>

The AWHC is committed to helping students develop writing strategies and skills that will enable them to identify and correct their mistakes and help them to become better writers. It offers individual writing appointments, in-class presentations and workshops, and online writing resources.

Counselling Service- <http://www.sass.uottawa.ca/personal/>

The Counselling Service offers personal counselling, career counselling and study skills counselling.

Access Service - <http://www.sass.uottawa.ca/acces/>

The Access Service contributes to the creation of an inclusive environment by developing strategies and implementing measures that aim to reduce the barriers to learning for students who have learning disabilities, health, psychiatric or physical conditions.

READINGS

All other readings will be available online, through the library, or on blackboard.

COURSE OUTLINE

1. THURS JAN 12 INTRODUCTIONS

- Film: "Duncan Campbell Scott: The Poet and the Indians."
- Guest Speaker: Dr. James Cullingham

2. THURS JAN 19 SETTLER COLONIALISM AND THE INDIAN ACT

Required Readings

Chapters 4-6 in Monchalin, Lisa. *The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada*. Toronto: University of Toronto Press, 2016.

Tobias, John L. "Protection, Civilisation, Assimilation: An outline history of Canada's Indian policy." In *Sweet Promises: A Reader on Indian-White Relations in Canada*, edited by J. R. Miller, 127-144. Toronto: University of Toronto Press, 1991.

3. THURS JAN 26 ALGONQUIN HISTORY AND DECOLONIZATION

Required Readings

Tuck, Eve, and K. Wayne Yank. "Decolonization is not a metaphor." *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012): 1-40.

Chapters 1-2, Lawrence, Bonita. *Fractured Homeland: Federal Recognition and Algonquin Identity in Ontario*. Vancouver: UBC Press, 2012.

4. THURS FEB 2 INDIGENOUS LEGAL ORDERS

Required Readings

Napoleon, Val. "Thinking About Indigenous Legal Orders." Research Paper for the National Centre for First Nations Governance, 2007.

Video: Rick Hill - Hodinohso:ni Governance & the Great Law of Peace - Conversations in Cultural Fluency #4 - <https://www.youtube.com/watch?v=0DaNMtVANsA>

Borrows, John. "Indigenous Legal Traditions in Canada." *Washington University Journal of Law and Policy* 19, (2005): 167-223.

5. THURS FEB 9 PROPOSAL PRESENTATIONS

- **Proposals Due**

6. THURS FEB 16 EARLY TREATIES

Required Readings

- Borrows, John. "Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government." In *Aboriginal and Treaty Rights in Canada*, edited by Michael Asch. Vancouver: UBC Press, 1997.
- Simpson, Leanne. "Looking after Gdoo-naaganinaa: Precolonial Nishnaabeg Diplomatic and Treaty Relationships." *Wicazo Sa Review* 23, no. 2 (2008): 29-42.
- Beaulieu, Alain. "'An Equitable Right to be Compensated': The dispossession of the Aboriginal Peoples of Quebec and the emergence of a new legal rationale (1760-1860)." *Canadian Historical Review* 94, no. 1 (2013): 1-27.

FEB 19-25

READING WEEK – NO CLASS

7. THURS MAR 2 PRE-CONFEDERATION SETTLER-INDIGENOUS RELATIONS

- Harring, Sidney L. "'Entirely Independent in Their Villages': Criminal Law and Indians in Upper Canada " In *White Man's Law: Native People in Nineteenth-Century Canadian Jurisprudence*. Toronto: University of Toronto Press, 1998.
- Grabowski, Jan. "French Criminal Justice and Indians in Montreal, 1670-1760." *Ethnohistory* 43, no. 3 (1996): 405-429.
- Walters, Mark D. "According to the Old Customs of Our Nation': Aboriginal Self-Government on the Credit River Mississauga Reserve, 1826-1847." *Ottawa Law Review* 30, (1999): 1-45.

8. THURS MAR 9 TREATIES

- (selection) Treaty 7 Elders, Tribal Council, Walter Hildebrandt, Dorothy First Rider, and Sarah Carter. *The True Spirit and Original Intent of Treaty 7*. Montreal and Kingston: McGill-Queen's University Press, 1996.
- Borrows, John. "Ground-Rules: Indigenous Treaties in Canada and New Zealand." *New Zealand Universities Law Review* 22, no. 2 (2006): 188-212.
- Luby, Brittany. "'The Department is Going Back on These Promises': An examination of Anishinaabe and Crown understandings of treaty." *The Canadian Journal of Native Studies* 30, no. 2 (2010): 203-228.

9. THURS MAR 16 COLONIAL LAW AND INDIGENOUS DISPOSSESSION

Required Reading

(selection) Banner, Stuart. *Possessing the Pacific: Land, settlers, and indigenous people from Australia to Alaska*. Cambridge, Mass.: Harvard University Press, 2007.

Beaulieu, Alain. "'An Equitable Right to be Compensated': The dispossession of the Aboriginal Peoples of Quebec and the emergence of a new legal rationale (1760-1860)." *Canadian Historical Review* 94, no. 1 (2013): 1-27.

Smandych, Russell. "Colonialism, Settler Colonialism, and Law: Settler revolutions and the dispossession of Indigenous peoples through law in the long nineteenth century." *Settler Colonial Studies* 3, no. 1 (2013): 82-101.

10. THURS MAR 23 CONFEDERATION AND THE INDIAN ACT

Required Reading

Milloy, John. "The Early Indian Acts: Developmental Strategy and Constitutional Change." In *As Long as the Sun Shines and the Water Flows: A Reader in Canadian Native Studies*, edited by Ian L. Getty and Antoine S. Lussier, 56-64. Vancouver: UBC Press, 1983.

Taylor, John Leonard. "Canada's North-West Indian Policy in the 1870's: Traditional premises and necessary innovations." In *Approaches to Native History in Canada: Papers of a conference held at the National Museum of Man, October, 1975*, edited by D. A. Muise. Ottawa: National Museums of Canada, 1975.

Carter, Sarah. "Creating 'Semi-Widows' and 'Supernumerary Wives': Prohibiting Polygamy in Prairie Canada's Aboriginal Communities to 1900." In *Contact Zones: Aboriginal and Settler Women in Canada's Colonial Past*, edited by Katie Pickles and Myra Rutherdale, 131-159. Vancouver: UBC Press, 2005.

11. THURS MAR 30 IMPACTS OF THE INDIAN ACT & INDIGENOUS RESPONSES

Required Readings

Chapters 3-4 in Backhouse, Constance. *Colour-Coded: A Legal History of Racism in Canada, 1900-1950*. Toronto: University of Toronto Press and the Osgoode Society for Canadian Legal History, 1999.

Harris, Douglas. "The Nlha7káp̓mx Meeting at Lytton, 1879, and the Rule of Law." *BC Studies* 108, (1995-1996): 5-25.

Harring, Sidney L. "'There Seemed to Be No Recognized Law': Canadian Law and the Prairie First Nations." In *Laws and Societies in the Canadian Prairie West, 1670-1940*, edited by Louis A. Knafla and Jonathan Swainger, 92-126. Vancouver: UBC Press, 2005.

24. THURS APR 6 PRESENTATIONS

- **FINAL PAPERS DUE**

PARTICIPATION

Participating means regularly attending class and arriving on time. You are expected to have carefully read the assigned texts, be prepared to discuss them, and engage with your classmates and professor during class. Attempting to participate in the discussion without having done the readings will not result in elevated participation grades and may have the opposite effect. If you are anxious about speaking up or if you have another reason for not engaging, please let me know as soon as possible so that we can find solutions. Those students who are comfortable speaking and debating also have a responsibility to allow space for less assertive students to be heard.

Participation will be evaluated according to the following criteria:

A – Student makes frequent verbal contributions that reveal critical understanding of, and engagement with, assigned texts; builds on the insights of others and draws connections between issues and texts. Student attends class regularly and arrives on time.

B – Student makes regular verbal contributions and sometimes draws important connections between issues and texts; often demonstrates an adequate understanding of readings and sometimes offers insights that have a positive impact on the discussion. Student attends most classes and rarely causes disruptions by arriving late/leaving early.

C – Student sometimes makes verbal contributions that show familiarity with readings, but those that are offered do not often have a positive effect on the class discussion. Comments may be of a general or repetitive nature. Student may attend class irregularly and may cause disruptions by arriving late/leaving early.

D or F – Student rarely contributes to discussion and/or appears not to have completed the readings. Student may rarely or sporadically attend class and may disrespect others by frequently arriving late/leaving early.

*If there are special circumstances in your life that I should be aware of when evaluating your participation, please alert me to these as soon as possible.

READING RESPONSE ASSIGNMENTS

Students are expected to read all assigned texts (usually two or three) and to respond to each with a written reading response. You are expected to submit your reading responses printed or by email before the beginning of each class. Reading Responses should be structured according to the following example:

Heidi Mugibi – Student Number 99999999
September 21, 2016
Reading Response Assignment #1

Jones Chapter 1

- *Argument:* A summary of author's argument or purpose in your own words (50-100 words)
- *Response:* Your thoughtful response can mention something that struck you, something you disagreed with, or a point that raised further questions in your mind. You may also discuss it in context of other readings or happenings (200-300 words).
- *Discussion Question:* Think of a good discussion question that could be used to stimulate conversation in class.

Hussein Chapter 9

- *Argument:* A summary of author's argument or purpose in your own words (50-100 words)
- *Response:* Your thoughtful response can mention something that struck you, something you disagreed with, or a point that raised further questions in your mind. You may also discuss it in context of other readings or happenings (200-300 words).
- *Discussion Question:* Think of a good discussion question that could be used to stimulate conversation in class.

Bonnell CHA Article 2014

- *Argument:* A summary of author's argument or purpose in your own words (50-100 words)
- *Response:* Your thoughtful response can mention something that struck you, something you disagreed with, or a point that raised further questions in your mind. You may also discuss it in context of other readings or happenings (200-300 words).
- *Discussion Question:* Think of a good discussion question that could be used to stimulate conversation in class.

Each entry should be written in full sentences, single spaced, and should include clear headings according to the above specifications. Please ensure that everything you submit includes your name and the date submitted. Students are required to bring their reading response to class for the day the readings are assigned, and must submit them before class begins. No late reading responses will be accepted (for exceptions, see "Late Assignments" section)

Grades will be assigned as follows:

- *Complete* (10) understood the text and engaged with the material
- *Somewhat complete* (5) appears to have read or skimmed the text but engagement with text is limited, or have engaged adequately with one reading but not with the other. This grade will should be considered a warning—it will only be given out once and subsequent 'somewhat complete' responses will be given a 0 grade.
- *Incomplete* (0) response is either not submitted or does not show engagement with the readings