

# INDIGENOUS STUDIES 3722G

## Indigenous Political and Legal Issues

Winter 2022

**Cross listed with Political Science 3398F/G.**

**Instructor:** Emily Beacock, PhD Candidate in Geography and Environment

**Contact:** [ebeacoc2@uwo.ca](mailto:ebeacoc2@uwo.ca) and through OWL Messages

**Office Hours** (on Zoom): Thursdays 12-1 or by appointment

**Zoom Info:** <https://westernuniversity.zoom.us/j/95200004921>

Meeting ID: 952 0000 4921

Passcode: law

**We acknowledge the Anishinaabek, Haudenosaunee, Lūnaapéewak and Attawandaron peoples, on whose traditional lands Western University sits and on whose land we live, work and learn.**

### 1. Course Description:

*Political and legal issues are inseparable in contemporary examinations of land use, self-determination, governance, individual and community rights. This course will examine the legal institutions and practices of traditional Indigenous cultures as well as contemporary practice.*

Course Format: online & asynchronous

3 lecture hours, 0.5 course

**Prerequisite:** 1.0 course from Indigenous Studies 2213F/G, Indigenous Studies 2218F/G, History 2201E, History 2205E, Law 2101, Political Science 2103A/B, Political Science 2230E, GSWS 2260, the former Anthropology 2218F/G.

**Antirequisite:** Political Science 3398F/G.

Unless you have either the requisites for this course or written special permission from your Dean to enroll in it, you may be removed from this course and it will be deleted from your

record. This decision may not be appealed. You will receive no adjustment to your fees in the event that you are dropped from a course for failing to have the necessary prerequisites.

## 2. Learning Outcomes:

This online course will provide students with the foundational **knowledge** and **skills** required to scholastically engage with Indigenous legal theory, politics and legal orders. In this course, students will:

- Develop basic knowledge of Indigenous and Canadian laws and legal orders, including foundational terminology.
- Consider the nature of law, what is and is not law, and learn how to talk about laws and legal orders.
- Better understand how law has been a tool of colonization; consider if and how law can be a tool of decolonization and Indigenous resurgence.
- Explore the tensions between Indigenous laws and Canadian state laws and political institutions, the historical and contemporary foundations of the legal orders in which we live, how law has and continues to function as a tool of colonization, and how it influences the legal and political systems in which we live.
- Consider legal, political, social, environmental and cultural issues past and present, as well as the possibilities and challenges of fighting for rights and recognition within and outside of the Canadian state legal system.
- Build skills in reading and analyzing legal and political documents as well as practice applying legal concepts and working from the strengths-based “legal toolbox” as they approach (de)colonization and resurgence.

## 3. Course Materials:

There is no textbook for this course. All readings are available online through the UWO library and/or are publicly available. See the notes after each reading for more information on how to find it.

The readings outlined in the syllabus are intended as preparatory or complementary to the lecture (and similarly to an in-person course) are to be completed outside of the 3 hours of “class time”.

Additional materials may be assigned for reading and review in your weekly activities. Those materials are meant to be read/used within the 3-hour “class time” window.

## 4. Communication

Course materials will be posted weekly on Wednesdays at midnight. Office hours are Thursdays 12pm-1pm (on Zoom), or by appointment.

OWL Announcements will be used to communicate important course information – please read the announcements regularly.

This course will use the OWL forum for discussions. These discussion forums will be monitored by the instructor.

Students should contact their instructor(s) using email. OWL Messages is checked infrequently. The instructor will aim to reply to student messages within 2 business days.

The instructor will use the official university e-mail address to contact a student. It is the responsibility of the account holder to ensure that e-mail received from the University at his/her official university address is attended to in a timely manner.

## 5. Evaluation:

<b>Assignment</b>	<b>Weight</b>	<b>Important Dates</b>	<b>Description</b> <b>(detailed descriptions will be posted in OWL)</b>
Weekly Activities (12)	30%	Due the next Monday before 11:55pm	Weekly activities designed to help you engage with course material without a classroom.
Discussion Groups (3)	10%	Due the last Friday of the month at 11:55pm (Jan 27 <sup>th</sup> , Feb 24 <sup>th</sup> , and Mar 24 <sup>th</sup> )	An opportunity to build connections with your peers, share and work through concepts and ideas. A discussion prompt will be posted at the start of Jan, Feb and Mar. Response is required by the last Friday of the month, and comment on another student's post before the last day of class.
Note: Week 12 activities and discussion groups will be due on the last day of class (April 8 <sup>th</sup> )			
Midterm quiz	20%	Available Mar 6 <sup>th</sup> at 11:55am Due March 10 <sup>th</sup> at 11:55pm	A take home, open-book quiz; some MC questions, some short and long answer writing.  This quiz is designed to take 2 hours.
Final Paper	30% +10% for peer review	Prompts will be posted by Feb 14 <sup>th</sup> Due for peer review on Mar 3 <sup>rd</sup> at 11:55pm Peer review assigned by 11:55am on Mar 13 <sup>th</sup> Peer review due March 17 <sup>th</sup> at 11:55pm.	An opportunity to apply course concepts and practice skills learned in class in a formal, academic paper, 2500-3000 words. Significant legal analysis and correct sourcing/citation is required. Students will submit their first draft by Week 9 for

		Final Paper due April 6 <sup>th</sup> at 11:55pm.	peer review; the final paper will be due in the last week of class.
Note: All due dates are in Eastern Time.			

### Assignment Guidelines:

A detailed assignment description and rubric will be posted in OWL for each assignment.

Please submit all written assignments as PDFs. This makes them easier to grade.

The instructor will provide general feedback on weekly assignments in the following lecture. Written feedback will be provided to each student on the Midterm Quiz and Final Paper. If you would like additional feedback on your assignments, please be in touch within 7 days of your grade release. The instructor will also visit and moderate Discussion Groups.

### UWO Grading Policies

Click [here](#) for a detailed and comprehensive set of policies and regulations concerning examinations and grading. The table below outlines the University-wide grade descriptors.

A+	90-100	One could scarcely expect better from a student at this level
A	80-89	Superior work which is clearly above average
B	70-79	Good work, meeting all requirements, and eminently satisfactory
C	60-69	Competent work, meeting requirements
D	50-59	Fair work, minimally acceptable
F	Below 50	Fail

## 6. Late Assignments & Accommodations

Life happens, and we all know a little flexibility helps. All students are given a 3-day automatic extension after an assignment due date. For example, if an assignment is due at 11:55pm on January 27<sup>th</sup>, it can be submitted without penalty until 11:55pm on Jan 30<sup>th</sup>. After the extension date, assignments may not be accepted without formal academic accommodations.

If you have an accommodation, please book a meeting with the instructor (in advance of the deadline) to discuss your needs. If there is an emergency, please get in touch with the instructor as soon as possible and be prepared to share documentation with the academic counselling office.

An assessment cannot be submitted after it has been returned to the class. An alternate assessment may be assigned OR the weight will be transferred to the final grade OR a grade of 0 will be assigned, at the discretion of the instructor. Grades will not be adjusted on the basis of need. It is important to monitor your performance in the course.

### Accommodation Policies

Students with disabilities work with Accessible Education (formerly SSD) which provides recommendations for accommodation based on medical documentation or psychological and cognitive testing. The accommodation policy can be found here: [Academic Accommodation for Students with Disabilities](#).

### **Academic Consideration for Student Absence**

Students will have up to two (2) opportunities during the regular academic year to use an on-line portal to self-report an absence during the term, provided the following conditions are met: the absence is no more than 48 hours in duration, and the assessment for which consideration is being sought is worth 30% or less of the student's final grade. Students are expected to contact their instructors within 24 hours of the end of the period of the self-reported absence, unless noted on the syllabus. Students are not able to use the self-reporting option in the following circumstances: - for exams scheduled by the Office of the Registrar (e.g., December and April exams) - absence of a duration greater than 48 hours, - assessments worth more than 30% of the student's final grade, - if a student has already used the self-reporting portal twice during the academic year.

If the conditions for a Self-Reported Absence are not met, students will need to provide a Student Medical Certificate if the absence is medical, or provide appropriate documentation if there are compassionate grounds for the absence in question. Students are encouraged to contact their Faculty academic counselling office to obtain more information about the relevant documentation. Students should also note that individual instructors are not permitted to receive documentation directly from a student, whether in support of an application for consideration on medical grounds, or for other reasons. **All documentation required for absences that are not covered by the Self-Reported Absence Policy must be submitted to the Academic Counselling office of a student's Home Faculty.**

For Western University policy on Consideration for Student Absence, see:

[Policy on Academic Consideration for Student Absences - Undergraduate Students in First Entry Programs](#)

and for the Student Medical Certificate (SMC), see:

[http://www.uwo.ca/univsec/pdf/academic\\_policies/appeals/medicalform.pdf](http://www.uwo.ca/univsec/pdf/academic_policies/appeals/medicalform.pdf).

### **Religious Accommodation**

Students should consult the University's list of recognized religious holidays, and should give reasonable notice in writing, prior to the holiday, to the Instructor and an Academic Counsellor if their course requirements will be affected by a religious observance. Additional information is given in the Western Multicultural Calendar.

## 7. General Classroom Policies

### Classroom Code of Conduct:

Please be professional, kind and courteous in all aspects of this course. This course may deal with concepts that are challenging or surface tensions between worldviews and perspectives of students and the instructor. Please use civil language in discussion groups,

### Use of Electronic Devices

Due to the nature of this online, asynchronous course and as all the assignments are intended to include research and the use of external resources, students are encouraged to use electronic devices throughout the course.

### Use of Recordings

Recordings of course materials are intended for educational purposes within the course. Please do not share lectures without the instructor's permission.

Recordings generated by students for assignments will be used for educational purposes within the course. Please do not share or repost without the students consent.

### On Collaboration

Collaboration is encouraged throughout this course. Students are encouraged to discuss concepts and share ideas. However, your writing and assignment submissions should be your own thoughts and words. The words on the page, how they are structured and how they shape your argument belong to you and should not be copied.

## 8. Academic Offenses

Scholastic offences are taken seriously and students are directed to read the appropriate policy, specifically, the definition of [what constitutes a Scholastic Offence](#).

All required papers may be subject to submission for textual similarity review to the commercial plagiarism detection software under license to the University for the detection of plagiarism. All papers submitted for such checking will be included as source documents in the reference database for the purpose of detecting plagiarism of papers subsequently submitted to the system. Use of the service is subject to the licensing agreement, currently between The University of Western Ontario and Turnitin.com ( <http://www.turnitin.com> ).

## 9. Western's Commitment to Accessibility

Western strives at all times to provide accessibility to all faculty, staff, students and visitors in a way that respects the dignity and independence of people with disabilities. Please contact the course instructor if you require material in an alternate format or if you require any other arrangements to make this course more accessible to you. You may also wish to contact Services for Students with Disabilities (SSD) at 519-661-2147 for any specific question regarding an accommodation. [Information regarding accommodation of exams](#) is available on the Registrar's website.

More information about "[Accessibility at Western](#)" is available.

10. Support Services:

[Western's Support Services](#)

[Academic Support at Western](#)

[Office of the Registrar](#)

If you or someone you know is experiencing distress, there are several resources here at Western to assist you. Please visit [Western's Health and Wellness website](#) for more information on mental health resources.

## 11. Weekly Schedule:

### Week 1 (Jan 11): Introductions and Basic Concepts

- Lecture: Introduction and Basic Concepts
- Citation 101 Module
- Learning Activities 1 (see OWL for more details)
- Discussion Prompt 1 (see OWL for more details)
- Readings:
  - *Napoleon, V. (2007). Thinking About Indigenous Legal Orders.* Available at: <https://fngovernance.org/research-and-publications/>

### Week 2 (Jan 18): Legal Foundations 1

- Lecture: *Foundations of law in what we know as Canada (Part 1)*
- Learning Activity 2
- Discussion Prompt 2
- Readings:
  - *Borrows, J. (2005). Indigenous Legal Traditions in Canada. Washington University Journal of Law & Policy, 19(January), 167–223.* Available on UWO library.

Note: January 17<sup>th</sup> is the last day to add a second-term half course or a second-term full course.

### Week 3 (Jan 25): Legal Foundations 2

- Lecture: *Foundations of law in what we know as Canada (Part 2)*
- Learning Activity 3
- Discussion Prompt 3
- Readings
  - Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research, 8(4), 387–409.* Available through the UWO library.
  - Wilson, G. (2017) Nunavik and the Multiple Dimensions of Inuit Governance, *American Review of Canadian Studies, 47:2, 148-161,* DOI: 10.1080/02722011.2017.1323995. Available through the UWO Library.
  - *Royal Proclamation of 1793.* Publicly available through the Government of Canada website.

### Week 4 (Feb 1): Treaty 1

- Lecture: Treaty through History and Space (Part 1)
- Learning Activity 4
- Discussion Prompt 4
- Readings
  - Peace and Friendship Treaties. Publicly available online.
  - Robinson Treaties. Publicly available online.



- Simpson, L. (2008). Looking after Gdoo-naaganinaa: Precolonial Nishnaabeg Diplomatic and Treaty Relationships. *Wicazo Sa Review*, 23(2), 29-42. Available on UWO library.

#### Week 5 (Feb 8): Treaty 2

- Lecture: Treaty through History and Space (Part 2)
- Learning Activity 5
- Discussion Prompt 5.
- Readings:
  - Pictou, S. (2015). Small 't' treaty Relationships Without Borders: Bear River First Nation, Clam Harvesters, the Bay of Fundy Marine Resource Centre and the World Forum of Fisher Peoples. *Anthropologica. [Journal of the Canadian Anthropological Society / La Société Canadienne d'Anthropologie]*. 57(2): pp. 457-467. Available at UWO library.

#### Week 6 (Feb 15): Rights and Title 1

- Lecture: Thinking about rights and title through law
- Learning Activity 6
- Discussion Prompt 6
- Readings:
  - King, H. and Pasternak, S. (2018). Canada's Emerging Indigenous Rights Framework: A Critical Analysis: <https://yellowheadinstitute.org/rightsframework/> (Review the Executive Summary and Report Takeaways)
  - Christie, G. (2017). Indigenous Legal Orders, Canadian Law, and UNDRIP. In [UNDRIP Implementation: Braiding International, Domestic and Indigenous Laws: Special Report](#). (2017). Centre for International Governance Innovation.

--Reading Week – Feb 18<sup>th</sup>-26<sup>th</sup> --

#### Week 7 (Mar 1): Rights and Title 2

- Lecture: Case law for rights and title issues
- Learning Activity 7
- Discussion Prompt 7
- Readings:
  - Borrows, J. (2017). Challenging Historical Frameworks: Aboriginal Rights, The Trickster, and Originalism. *The Canadian Historical Review*, 98(1), 114–135. <https://doi.org/10.3138/chr.98.1.Borrows> .Available on UWO library.
  - Sloan, K. (2016). Always Coming Home: Metis Legal Understandings of Community and Territory. *Windsor Yearbook of Access to Justice*, 33(1) 125-148. Available through UWO Library.

**\*Take Home Midterm Quiz: Mar 6-10<sup>th</sup> \***

## Week 8 (Mar 8): Case Study on Land

- Lecture: Thinking about land through the lens of Indigenous and Canadian law
- Learning Activity 8
  - Obamsawin, Alanis (1993) Kanehsatake: 270 Years of Resistance (film): [https://www.nfb.ca/film/kanehsatake\\_270\\_years\\_of\\_resistance/](https://www.nfb.ca/film/kanehsatake_270_years_of_resistance/)
- Discussion Prompt 8
- Readings:
  - McGregor, D. (2018). Mino-Mnaamodzawin: Achieving indigenous environmental justice in Canada. *Environment and Society*, 9(1), 7–24. <https://doi.org/10.3167/ares.2018.090102>

## Week 9 (Mar 15): Case Study on Wellbeing

- Lecture: Thinking about wellbeing through the lens of Indigenous and Canadian law
- Activity 9
- Discussion Prompt 9
- Readings:
  - Treaty 6 (just the text of the treaty, not the analysis that makes up the second half of this page)
  - Richmond, C. A. M., & Cook, C. (2016). Creating conditions for Canadian aboriginal health equity: the promise of healthy public policy. *Public Health Reviews*, 37(1), 2–2. <https://doi.org/10.1186/s40985-016-0016-5>

Note: March 14<sup>th</sup> is the last day to drop a second-term half course, or a second-term full course without academic penalty.

## Week 10 (Mar 22): Case Study on Culture

- Lecture: Thinking about culture and lifeways through the lens of Indigenous and Canadian law
- Activity 10
- Discussion Prompt 10
- Readings:
  - Corntassel, J., Chaw-win-is, & T'lakwadzi. (2009). Indigenous Storytelling, Truth-telling, and Community Approaches to Reconciliation. *English Studies in Canada*, 35(1), 137–159. <https://doi.org/10.1353/esc.0.0163> Available on UWO library.
  - Holder, C. Culture as an Activity and a Human Right: An Important Advance for Indigenous Peoples and International Law. *Alternatives* 33, 7-28. Available through UWO Library.

- R. v. Marshall. Publicly available online

### Week 11 (Mar 29): Learning and Practicing Indigenous law

- Lecture: Thinking about teaching, learning & practicing Indigenous law
- Activity 11
- Discussion Prompt 11
- Readings:
  - Napoleon, V., & Friedland, H. (1979). An Inside Job: Engaging with Indigenous Legal Traditions through Stories. *McGill Law Journal*, 7(2), 243–258.
  - Chartrand, L. (2015). *Indigenizing the Legal Academy From a Decolonizing Perspective (working paper)*. Ottawa.

### Week 12 (Apr 5): The Future of Indigenous Law (& Course Wrap Up)

- Lecture: Indigenous law futurisms, law and decolonization
- Activity 12
- Discussion Prompt 12
- Readings:
  - Mills, A. (2016). The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today. *McGill Law Journal*, 61.
  - Mitchell, A. (2018). Revitalizing laws, (re)-making treaties, dismantling violence: Indigenous resurgence against ‘the sixth mass extinction.’ *Social and Cultural Geography*, 00(00), 1–16. <https://doi.org/10.1080/14649365.2018.1528628>

Final Exams Monday to Saturday April 13<sup>th</sup> -30<sup>th</sup>

There is no final exam in this course; dates included for reference!