

**Treaty and Aboriginal Rights in Canada**  
**Department of Anthropology**  
**Lakehead University**  
**ANTH 3551**  
**Fall 2018**

**Instructor:** Frederico Oliveira, PhD  
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**Dates of Appointments:** September 4<sup>th</sup> to November 29<sup>th</sup>, 2018  
**Classes Hours:** Tuesdays and Thursdays 2:30 pm to 4:00 pm (OA2020)  
**Office:** OA3008  
**Office Hours:** Tue & Thu: 4-6pm (or by appointment)

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**Course Description and Objectives:**

The main purpose of this course is to introduce students to the complex set of relationships established historically between First Nations and the Crown/Canadian Government. The contemporary interactions can be considered modern in that it is vested in law, bureaucratic structures, economic development, natural resource exploration and sociocultural innovation. The results of these diversified types of relations deserve to be treated as a cumulative set of transformations and adaptations after centuries of interactions between the colonial power and First Nations. Even though these interactions have severely affected “traditional” lifeways, First Nation communities participate in conscious political discourses that actively have formed, and continue to form, an indigenous comprehension of contemporary issues.

The course comprises two parts. The first is a review of the colonial system imposed on First Nations and how these initiatives were efficient in terms of dispossessing First Nations of their lands, leading to treaty signing, economic separation from the Canadian society, and policies of assimilation. The first part also examines the consequences of these policies to the formation of a “theory of Aboriginal rights” and the notion of “Aboriginal title”. The second part is composed of case studies, historical and contemporary dealing with the colonization legacy and reflecting on the recent forms that the Canadian Government and the post-colonial ideologies develop their thinking vis-à-vis the place of the First Nations within Canada. The focus of the course will give preference to explore the indigenous understandings of the relationship with Canada. By the end of the course, successful students should be able to articulate the main issues regarding the legal history of Canada and associate such issues to the contemporary relationships between First Nations and the State.

**Course Readings:**

Asch, Michael (ed.)  
2002 Aboriginal and Treaty Rights in Canada. Vancouver: UBC Press

In addition there are a number of articles and book chapters that are required reading and are listed below for each week. All are available electronically on-line.

### **Course Requirements and Grading:**

Graded assignments include the following:

*Class Participation*  
20% of course grade

*Learning Journals*  
20% of course grade

*Group Presentation*  
30% of course grade

*Take-Home Final Exam*  
30% of course grade

***Class Participation:*** Reading (sometimes a lot) and attendance are critical to achieve a satisfactory grade and learning objectives in this course. Students are required to critically read all assigned materials prior to class and participate actively (in your own way) in class discussions and assignments. Students are allowed to have the maximum of two unjustified absences without penalty. Subsequent unjustified absences will result in the loss of 10 participation points for each absence and five unjustified absences will result in failing this course.

***Learning journals*** are intended to help you and the instructor to monitor the progress of your learning during the course of the semester. The learning journals will consist of a collection of “Ah-ha!” moments or interesting questions/comments you may have had about the reading materials. These moments can happen both in and out of class when something happens to elucidate our comprehension of a subject; they make us look at something in a different way, or suddenly help us connect ideas or topics that previously had no connection in our minds. Such moments can occur while reading, attending class, participating in a non-course related activity, talking or listening to someone, writing, dreaming or simply thinking. The idea is that students bring to their daily lives’ routines and observations some of the concepts and situations discussed in class. Students are expected to send electronically to the instructor their journals before the second class of each week. It is recommended that you have with you a hard copy so you can present your ideas to the class in the days you are assigned to. Learning journals will not be returned to the students.

Each week we will have four students presenting their journals to the class and we will have an open discussion of the main topics. Each student is expected to present their journals at least twice during the semester.

***Group Presentation*** – There will be a handout explaining in details this assignment.

**Take-Home Final Exam** – Students will be given a take-home exam covering the material discussed during the course. Typically, the exams will contain a number of questions, normally essay questions, and students you will be given some choice regarding which questions to answer.

### **Policies and Procedures:**

#### *Attendance:*

Students are expected to attend all classes, and actively participate in discussions in order to earn a satisfactory grade.

#### *Grading Policy:*

Assignments will be evaluated primarily on the basis of a student's understanding of the material presented in the course. Other factors that figure in evaluation of assignments include creative and critical insight, and writing (clarity, coherence, and organization).

#### *General Course Policies:*

Students are expected to maintain the highest standards of academic integrity.

1. Avoid disrupting class by arriving late, leaving early, and/or allowing your cell phone to sound in class. Repeated disruptions will result first in a warning and then in a 5% penalty to the student's final grade. If the student's behaviour is disturbing the learning environment of the class he/she will be asked to leave. If you have to leave early inform the instructor in the beginning of the class.
2. It is expected that students will be respectful of their fellow students, their instructor, and cultures and traditions which are not their own.
3. Plagiarism consists of passing off as one's own the ideas, words, writings, etc., that belong to someone else. In accordance with this definition, you are committing plagiarism if you copy the work of another person and turn it in as your own, even if you should have the permission of that person. This is serious issue. Violation of the university's policy will result in a grade penalty or failure of the course. This type of violation will stay in your academic record.
4. Assignments must be delivered in on time as hard copies (email attachments will not be accepted). Late-assignments must be handed under the door of instructor's office (OA3008). Students should make sure that late submissions are signed and dated by staff or security.
5. The final date to drop the course is November 9th, 2018.
6. Students are responsible for taking their own lecture notes. Course outline, journal articles and book chapters will be posted online on Desire2Learn at least one week prior to the due date. All the course readings aside from the textbook will be provided as scanned PDF documents, posted on Desire2Learn.

7. The main communication tool between the instructor and students is Lakehead University's e-mail account. Students are asked to check regularly (including before the class) their LakeheadU e-mail account and Desire2Learn for unforeseen changes to the class due to weather conditions or other reasons. As a general rule, student questions sent 24 hours prior to an assignment or test will not be replied. Students can reasonably expect a response in 1-2 days. Grades are supposed to be returned to the students at the maximum period of two weeks after the assignment is delivered.

8. Students are welcome to schedule personal appointments to discuss any topic related to their academic progress or course content.

9. This syllabus is subject to minor changes during the course of the semester.

### **Course Schedule**

**Week 1**  
**(Sept-4)**  
**(Sept-6)**

#### **Course Outline Presentation**

**Week 2**  
**(Sept-11)**  
**(Sept-13)**

#### **The Royal Proclamation and the Indian Act**

DICKASON, Olive P. & NEWBIGGING, William. (2010). *A Concise History of Canada's First Nations*. Toronto: Oxford University Press, pp. 109-116; 186-202.

MILLOY, John. "Indian Act Colonialism: A Century of Dishonour, 1869-1969". (2008). In: *Research Paper for the National Centre for First Nations Governance*. West Vancouver: National Centre for First Nations Governance, pp. 1-21.

BORROWS, John. (2002). "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 (Chapter 6), pp. 155-172.

**Week 3**  
**(Sept-18)**  
**(Sept-20)**

#### **Historical Treaties – I**

THE JAMES BAY TREATY: TREATY No. 9. (1905-1906). Reprinted in 1964 (Ottawa). *Government of Canada*, pp. 1-35.

MUSHKEGOWUK COUNCIL. (2012). The Real Agreements as Orally Agreed to: The James Bay Treaty No. 9. (*Presentation of the Mushkegowuk Council*), pp. 1-28.

ASCH, Michael. (2001). Indigenous Self-Determination and Applied Anthropology in Canada: Finding a Place to Stand. In: *Anthropologica*, Vol. 3, No. 2, pp. 201-207.

**Week 4**  
**(Sept-25)**  
**(Sept-27)**

## **Historical Treaties – II**

CUMMING, Peter & MICKEMBERG, Neil. (1972). *Native rights in Canada*. Toronto: Indian-Eskimo Association of Canada / General Publishing (Chapters 9 and 10), pp. 53-73

LONG, S, Jonh. (2010). *Treaty No. 9: Making the Agreement to Share the Land in Far Northern Ontario in 1905*. Montreal and Kingston: McGill-Queen's University Press (Introduction and Chapter 1), pp. 3-33.

VENNE, Sharon. (2002). "Understanding Treaty 6: An Indigenous Perspective". In: *Aboriginal and Treaty Rights in Canada* (Edited by Michael Asch). Vancouver: UBC Press (Chapter 7), pp. 155-172.

**Week 5**  
**(Oct-2)**  
**(Oct-4)**

## **Aboriginal Rights and the Justice System: Critical Approaches**

BELL, Catherine & ASCH, Michael. (2002). "Challenging Assumptions: The Impact of Precedent in Aboriginal Rights Litigation". In: *Aboriginal and Treaty Rights in Canada* (Edited by Michael Asch). Vancouver: UBC Press (Chapter 2), pp. 38-74.

LAROQUE, Emma. (2002). "Re-examining Culturally Appropriate Models in Criminal Justice Applications". In: *Aboriginal and Treaty Rights in Canada* (Edited by Michael Asch). Vancouver: UBC Press (Chapter 3), pp. 75-96.

**Week 6**

**(No Class: Family Day & Study Week, Oct 8-12)**

**Week 7**  
**(Oct-17)**  
**(Oct-19)**

**(Group Presentations)**

**Week 8**  
**(Oct-23)**  
**(Oct-25)**

## **Aboriginal Title and Modern Treaties**

MCNEIL, Kent. (2002). "The meaning of Aboriginal Title". In: *Aboriginal and Treaty Rights in Canada* (Edited by Michael Asch). Vancouver: UBC Press (Chapter 5), pp. 135-154.

ASCH, Michael & ZLOTKIN, Norman. (2002). "Affirming Aboriginal Title: A New Basis for Comprehensive Claims Negotiations". In: *Aboriginal and Treaty Rights in*

Canada (Edited by Michael Asch). Vancouver: UBC Press (Chapter 8), pp. 208-230.

**Week 9**  
**(Oct-30)**  
**(Nov-1)**

### **Case Study I: Northern Ontario and Natural Resource Development**

MACKLEM, Patrick. (2002). "The Impact of Treaty 9 on Natural Resource Development in Northern Ontario". In: *Aboriginal and Treaty Rights in Canada* (Edited by Michael Asch). Vancouver: UBC Press (Chapter 4), pp. 97-134.

**Week 10**  
**(Nov-6)**  
**(Nov-8)**

### **Case Study II: Fishing Rights and Traditional Ecological Knowledge**

HARRIS, Douglas. (2001). *Fish, law and colonialism: the legal capture of Salmon in British Columbia* (Chapter 4). Toronto: University of Toronto Press, pp. 186-215.

NADASKY, Paul. (2003). *Hunters and Bureaucrats: Power, Knowledge and Aboriginal-State Relations in the Southwest Yukon*. Vancouver & Toronto: UBC Press (Chapter TBD).

**Week 11**  
**(Nov-13)**  
**(Nov-15)**

### **Case Study III: Contemporary Land Conflicts, Development and Resource Management**

RUSSEL, Peter H. (2010). "Oka to Ipperwash: The Necessity of Flashpoint Events." In: *This Is an Honour Song. Twenty Years since the Blockades*. Ladner, Kiera L. and Leanne Simpson (Eds.). Winnipeg: Arbeiter Ring, pp. 29-46.

DEVRIES, Laura. (2011). *Conflict in Caledonia: Aboriginal Land Rights and the Rule of Law* (Chapter 5). Vancouver: UBC Press, pp. 81-109.

**Week 12**  
**(Nov-20)**  
**(Nov-22)**

### **Culture, Citizenship and Identity**

DICKASON, Olive P. & NEWBIGGING, William. (2010). *A Concise History of Canada's First Nations* (Chapter 13). Toronto: Oxford University Press.

WARRY, Wayne. (2007) *Ending Denial: Understanding Aboriginal Issues* (Chapters 2, 4, 5 & 6). Toronto: Broadview Press.

**Week 13**  
**(Nov-27)**  
**(Nov-29)**

### **Self-governance and Ethnic Nationalism**

CHRISTIE, Gordon. (2007). Aboriginal Nationhood and the Inherent Right to Self-Government. In: *Research Paper for the National Centre for First Nations Governance*. West Vancouver: National Centre for First Nations Governance, pp. 1-26.

JOHNSON, Harold. (2007). *Two families: treaties and government* (Chapter 5). Saskatoon: Purich Pub: 41-54.

ASCH, Michael. Self-government in the New Millennium. In: Nation to Nation.

## **Desire2Learn**

The course uses Desire2Learn for its course website. To access the course website, or any other Desire2Learn-based course website, go to the LU portal login page at <https://lakeheadu.desire2learn.com/> and log in using your LU username and password. Once you have logged in to the portal, look for the **mycourselink** module, where you'll find the link to our course website along with the link to all other Desire2Learn-based courses you are registered.

## **Accessibility Needs**

Lakehead University is committed to accessibility. If you require accommodations for a disability, or have any accessibility concerns about the course, the classroom or course materials, please contact Student Accessibility Services as soon as possible.