

Treaty and Aboriginal Rights in Canada
Department of Anthropology
Lakehead University
ANTH 3551/INDI 3551
Fall 2020

Instructor: Frederico Oliveira, PhD
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Dates of Appointments: September 9 to December 7, 2020
Classes Hours: Mondays and Wednesdays 4pm to 5:30 pm
Office Hours: Mon & Wed (11am-12pm). Not in person.

Land Acknowledgment:

Lakehead University respectfully acknowledges its campuses are located on the traditional lands of Indigenous peoples.

Lakehead Thunder Bay is located on the traditional lands of the Fort William First Nation, Signatory to the Robinson Superior Treaty of 1850. Lakehead Orillia is located on the traditional territory of the Anishinaabeg. The Anishinaabeg include the Ojibwe, Odawa, and Pottawatomi nations, collectively known as the Three Fires Confederacy.

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.

Readings Sources:

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

First Peoples Law online portal: <https://www.firstpeopleslaw.com/>

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
10% of course grade

Learning Journals
40% of course grade

Film Review
15% of course grade

Take-Home Final Exam
35% of course grade

Class Participation: Attendance is mandatory. 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. Attendance will be verified using the polls and registration features of Zoom platform. Students taking the course from different time zones and under special circumstances will be assessed by an alternative assignment.

Learning journals (400-600 words) 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. Every week students must submit their journals until Tuesday at midnight. Students are allowed to miss one delivery without a penalty. This is an assignment for you to exercise your creativity, present subjective ideas and express feelings on topics involving Indigenous people. For you to achieve a satisfactory grade, learning journals will be evaluated following three specific criteria: a) all the readings for that week need to be contemplated in your journal; b) word limit must be strictly followed (that is why I want you to send it on a Word processor so I can verify the word count); c) clarity of ideas and coherence of the

arguments. Remember to submit your journals using the D2L internal e-mail system (not my regular LU email address).

Film Review: More details will be provided for this assignment.

Take-Home Final Exam – In the final weeks of class, 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 short essay questions. More details will be provided for this assignment.

Requirements for Internet Access

Since this course will be delivered remotely, students are required to have a reliable Internet connection. We will be meeting for class using the Zoom platform, which means each student will need to have access to a webcam (optional) and a microphone. Each week prior to the class, you will receive a link in your Lakehead email address to click, follow the instructions and join the online class. It is recommended that each student find a place where they can participate in class free of distractions in order to follow the lectures and engage actively in classroom discussions. We will make sure everyone is familiar with the basic use of Zoom for class discussions and lectures during the first class. I suggest that you keep your camera and microphone off during the whole class. Turn on your microphone and camera only when you have the intention to speak and contribute to class discussions.

Class Format

Considering the limitations posed by Covid-19 to face-to-face interactions, professors and students are learning and adapting to the new normal of a classroom environment. You should expect some adjustments on the go, but you can be sure that this course has been designed to meet the high standards of Lakehead University and to facilitate equal learning opportunities for local students and international students who are taking this course from a different time zone.

The first class of the week (initially scheduled for Monday at 4pm) will be pre-recorded and posted online, covering all the content of that week's readings. For this class you can watch it at your own time and pace, but I recommend that you reserve a fixed time slot not to compromise your study routine. The second class of the week (scheduled for Wednesday at 4pm) will be live and exclusively dedicated to explore more in-depth your critical thoughts on the reading material and the insights coming from the learning journals.

Policies and Procedures:

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:

1. Avoid disrupting class by joining in late or allowing background noise to disturb the dynamics of the class. 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.
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 on time. Penalties will be applied for late or not delivered assignments.
5. The final date to drop the course is November 6th, 2020.
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 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. 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 online 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.

Week 5
(Oct-5)
(Oct-7)

Historical Treaties – II

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 6

(No Class: Family Day & Study Week, Oct 12-16)

Week 7
(Oct-19)
(Oct-21)

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 8
(Oct-26)
(Oct-28)

Aboriginal Title and Modern Treaties

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.

TAIAIAKE, Alfred. (2000). *Deconstructing the British Columbia Treaty Process*.

Week 9
(Nov-2)
(Nov-4)

Film Week

Week 10
(Nov-9)
(Nov-11)

Case Study I: First Nations 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.

GUNN, Kate & MCIVOR, Bruce. (2020). "The Wet'suwet'en Aboriginal Title and Rule of Law: An Explainer". In: *Reconciliation on Trial: Wet'suwet'en Aboriginal Title and the Rule of Law*. First Peoples Law, pp. 5-12.

Week 11

Case Study II: Fishing Rights and Traditional Ecological Knowledge

(Nov-16)

(Nov-18)

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.

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

Week 12

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

(Nov-23)

(Nov-25)

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 4). Vancouver: UBC Press, pp. 81-109.

Week 13

Culture, Citizenship and Identity

(Nov-30)

(Dec-2)

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

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 **mycounselink** module, where you'll find the link to our course website along with the link to all other Desire2Learn-based courses you are registered.

Copyright

All the lectures will be recorded by the instructor and posted online for only academic and learning purposes. The recordings are made under the authority of sections 3 and 14 of *The Lakehead University Act, 1965*. Lectures and course materials, including power point presentations, outlines, and similar materials, are protected by copyright. You may take notes and make copies of course materials for your own educational use. The recordings are confidential and are intended only for the use of the course students and instructors. You may not record lectures, reproduce (or allow others to reproduce), post or distribute lecture notes, wiki material, and other course materials publicly and/or for commercial purposes without my written consent.

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.