

CRIM 3510 – Issues in Indigenous Justice

Lakehead University Orillia, Fall 2019

Instructor: Hilton Bertalan

Course Times: Tuesday and Thursday, 11:30am-1pm

Room: OA1022

Office Hours: Tuesday and Thursday, 1-2pm (or by appointment *or* spontaneous visit)

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D2L Link:

This course will critically examine the major historical and contemporary issues regarding Indigenous peoples, crime, and the criminal justice system. Some of the issues to be explored include: the impact and legacy of settler colonialism, the over-representation of Indigenous peoples at all levels of the criminal justice system, governmental and court-based policies and programs, police-based efforts at reform, the increasing role of Indigenous communities in implementing justice initiatives, issues regarding resource extraction and Indigenous communities, and acts of protest organized by, and in solidarity with, Indigenous communities. Particular attention will be paid to the rise of restorative justice (Indigenization, sentencing circles, healing programs, community-based sentencing) as a response to, and critique of, system-based approaches, and on the potential for enhancing social justice through criminal law reform.

Learning Objectives

- To think broadly and critically about (in)justice.
- Examine criminal justice institutions as they relate to Indigenous peoples and colonialist histories.
- Examine and assess Indigenous justice principles and practices.
- Reflect on how knowledge from the course might be mobilized, especially in terms of occupational pursuits.

Our Seven R's: These seven terms will guide our analysis and can be found throughout much of the readings. When we consider Indigenous justice, each of these could be in the front of our mind.

Reconciliation – What does it mean to reconcile with the past? How can this recognition be put into practice at a personal, political, and institutional level? Is it just about the past, or is there also a need to recognize the continuation of injustices?

Resistance – How have Indigenous peoples and their allies resisted? As we consider centuries of injustice, it is important to also consider the centuries of resistance. There is a diverse and sophisticated history of challenging economic and juridical systems, policies and practices.

Resilience – How have Indigenous peoples survived centuries of violence, land theft, cultural appropriation and attempts at assimilation? How have Indigenous communities held onto language, culture, knowledges, pride, and hope?

Restorative Justice – What are Indigenous approaches to justice? Can they reform or be incorporated into the Canadian criminal justice system, or do they necessarily challenge the very legitimacy of the Canadian system?

Resonance – Are the traces of the past present within the Canadian criminal justice system? How can issues of incarceration, systemic racism, missing and murdered Indigenous women and girls, poverty, substance abuse, etc. be understood through a consideration of the past?

Respect – How can we express our respect for the diversity and importance of Indigenous knowledges, forms of justice, experiences, histories, cultures and contributions?

Radical Indigenous Alternatives – In what ways are we able, willing, and obligated to engage with, and perhaps participate in, uniquely Indigenous theorizing, organizing, and thinking? Some forms of Indigenous resistance are a radical rejection of contemporary colonialism focused around the refusal of the dispossession of both Indigenous bodies and land. A radical approach rejects cultural resurgence as a mechanism for inclusion in a multicultural mosaic. Instead, it calls for place-based Indigenous alternatives to the logics of the settler colonial state.

Note: In our early communications, I will discuss what these each mean and how they relate to the course.

Course Readings

Readings are posted to D2L

Assignments and Evaluation

| Exams and Assignments | Value | Date |
|------------------------|-------|--------------|
| Whose Land? | 10% | September 17 |
| Critical Analysis | 20% | October 10 |
| Exploratory Reflection | 20% | October 29 |
| Exam | 25% | November 14 |
| Case Study | 25% | November 28 |

*Assignments should be posted to the course site

Whose Land?(10%)

Identify and describe the Indigenous peoples and cultures connected to the land on which you currently live and/or grew up. Identify the relevant treaty. Very briefly outline any legal cases or issues related to the land and Indigenous peoples. Discuss the importance of recognizing Indigenous territory. Consider the potential limitations of territorial recognition.

The purpose of this assignment is to think seriously about the significance of land, especially with regard to Canadian law and how it forms the basis of rights, identity, values, knowledge, and culture.

Exam (25%)

The exam will consist of concept definitions and short answer questions.

Critical Analysis (20%)

The main goal of the critical analysis is to encourage critical thinking while, at the same time, demonstrating a thorough understanding of the key concepts and argument through summary and analysis. It might help to imagine that you are the course instructor, and then think of ways to present the reading so that they are clear and accessible. The critical analysis should be a combination of summary and analysis. As a result, you are being graded on three things: **One**, clarity - this includes spelling, grammar, and sentence structure. I am looking for evidence that you have edited your work and that you are able to clearly articulate the author's argument. **Two**, you should explain what the author is looking at and what they are saying about it. Quote from the parts of the reading that you think best express the author's purpose/perspective. **Three**, say something about the reading. Here you can focus on the broader argument or take up a particular part of it - a certain component of the argument, a topic or issue taken up by the author, or a concept discussed in the reading. Or, you can discuss the reading as a whole. In this section, you are being graded on how well you discuss the strengths and/or limitations of the reading.

Exploratory Reflection (20%)

The main goal of the exploratory writing exercise is to clarify thinking, explore ideas, ask questions, reflect on learning, and search for connections between theory and practice. In this case, issues of writing style and structure are secondary, while evidence of in-depth and thoughtful engagement with course material is highly valued. Therefore, you are free to engage with the reading using a more personal or creative style. As well, while it should be clear that you are engaging with the reading, or some aspect of the reading, you do not need to cite the reading as much as you should for your critical analysis.

You may draw from personal experience. If you do, use your experience to enrich our understanding of the topic, to support the author's argument, or to challenge the author with a thoughtful consideration of your standpoint. In other words, rather than simply saying, "my experience doesn't correspond to what Monchalin is arguing," you would say something about why that difference is relevant to understanding the topic, concept, case, issue, or law.

Case Study (25%)

*You are free to draw from both required and supplementary readings.

Note: Monchalin and Razack both provide good examples of how to summarize the legal and criminological aspects of a case and then analyze the context, meaning, and significance of those facts and details.

1. Outline the case – what are the important details?
2. What is the legal, historical, political, and cultural context of this case?
3. What are the key legal issues and arguments?
4. What form, or forms, of justice are present in this case?
5. Offer a critical assessment of the case.

Course Schedule

| Date | Topic | Reading(s) |
|--------------|---|--|
| September 3 | Welcome to the course! Rights and Responsibilities | |
| September 5 | Key terms and ideas | <ul style="list-style-type: none"> • Lee Maracle: “What Do I Call You?” • Leanne Betasamosake Simpson, “Smallpox, Anyone” • Ally Bill of Responsibilities |
| September 10 | Myths and Histories | Lisa Monchalin Ch.1 |
| September 12 | Historical and Contemporary Colonialism | Thomas King, “Forget Columbus,” from <i>The Inconvenient Indian</i> |
| September 17 | Continued Whose Land? Assignment Due | Monchalin Ch.4 |
| September 19 | An Indigenous Perspective | Monchalin Ch.2 |
| September 24 | Canadian Legal History: Indigenous Treaties and Rights | Monchalin Ch.5 |
| September 26 | Continued | John Borrows and Michael Coyle, from: <i>The Right Relationship: Reimagining the Implementation of Historical Treaties</i> |
| October 1 | Indigenous Systems of Governance and Social Control | Monchalin Ch.3 |
| October 3 | Residential Schools and Intergenerational Trauma | Monchalin Ch.7 |
| October 8 | Violence Impacting Indigenous Women | Monchalin Ch.9 |
| October 10 | Review Critical Analysis Assignment Due | |
| October 15 | Fall Study Break | Absolutely... |
| October 17 | | No Reading! |
| October 22 | Indigenous Peoples and the State | Monchalin Ch.6 |
| October 24 | Over-Representation and the Criminalization of Indigenous Peoples | Monchalin Ch.8 |
| October 29 | Continued Exploratory Reflection Assignment Due | Razack, “Tombstone Data” |
| October 31 | Halloween and Cultural Appropriation | Bonus Exercise |
| November 5 | Rights and Titles | Monchalin Ch.10 |
| November 7 | Indigenous Justice Systems | Monchalin Ch.12 |
| November 12 | Indigenous Resistance | Crosby and Monaghan, “Northern Gateway Pipelines: Policing for Extractive Capitalism,” from <i>Policing Indigenous Movements</i> |
| November 14 | Exam | Good Luck! |
| November 19 | Decolonization | Maracle, “What can we do to help?” |
| November 21 | Continued | |
| November 26 | Healing and Decolonizing | Monchalin Ch.13 |
| November 28 | Submit Case Study | |

| Lakehead University Grading Scale | |
|-----------------------------------|---------|
| A+ | 90-100% |
| A | 80-89% |
| B | 70-79% |
| C | 60-69% |
| D | 50-59% |
| E Fail | 40-49% |
| F Fail | 1-39% |
| F Academic Dishonesty | 0% |

COURSE AND UNIVERSITY POLICIES

Course Drop Deadline

Please be aware that the deadline to drop this course is **November 8**.

Student Courtesy

I expect all students to be respectful in their interactions with any person involved with the course.

Term Work

Extensions of deadlines for completion of assignments may be granted to students on the basis of illness, accident, or other extreme and legitimate circumstances beyond their control. Consideration for deferrals will not normally be granted on the basis of vacation/travel plans or job-related obligations.

Academic Integrity

Plagiarism, cheating and academic dishonesty of any kind will not be tolerated. Being caught engaging in any such activities will result in disciplinary action either within the course or at the university level. A listing of University Regulations can be found at: <http://navigator.lakeheadu.ca/Catalog/ViewCatalog.aspx?pageid=viewcatalog&catalogid=21&chapterid=3506&loaduserredits=False>. The code of student behaviour and disciplinary procedures can be found at: <https://www.lakeheadu.ca/faculty-and-staff/policies/student-related/code-of-student-behaviour-and-disciplinary-procedures>.

The following rules shall govern the treatment of students who have been found guilty of attempting to obtain academic credit dishonestly:

- (a) The minimum penalty for a student found guilty of plagiarism, or of cheating on any part of a course will be a zero for the work concerned.
- (b) A student found guilty of cheating on a formal examination or a test, or of serious or repeated plagiarism, or of unofficially obtaining a copy of an examination paper before the examination is scheduled to be written, will receive zero for the course and may be expelled from the University.

Students disciplined under the Code of Student Behaviour and Disciplinary Procedures may appeal their case through the Judicial Panel.

Disability Accommodation

If you have a disability that requires accommodations, I strongly encourage you to make use of those accommodations. I am here to assist you, but need your help in ensuring I accommodate you properly. More generally, Lakehead is committed to maintaining a barrier-free environment so that students with disabilities can fully access programs, courses, services, and activities. Student Accessibility Services (SAS) coordinate services and facilitates reasonable academic accommodations for students with disabilities.

Academic accommodations are provided on the basis of documentation of a disability. Additional information is available at the following campus website:

<https://www.lakeheadu.ca/faculty-and-staff/departments/services/sas>

LAKEHEAD RESOURCES

If you find yourself having difficulty with the course material or any other difficulties in your student life, don't hesitate to ask for help! Come to me, or if it is about an issue beyond this class, please contact your academic advisors, or get help from any number of other support services on campus, including:

The Student Success Centre has many programs and support services in place to help you achieve your academic and personal goals while studying at Lakehead University. They provide academic support through tutoring services, career exploration, co-operative opportunities and leadership development. More information is available here <https://www.lakeheadu.ca/current-students/student-success-centre>.

The Lakehead Library provides access to resources, study rooms, and research support both online via chat and in person with more details available here <https://library.lakeheadu.ca/>.

Public Computer Labs are available on campus where you may write and/or print out your work. For more details go to <https://www.lakeheadu.ca/faculty-and-staff/departments/services/helpdesk/computer-labs>.

Student Life and Services offers health and wellness resources both on and off campus, as well as opportunities for involvement in health and wellness activities. More information is available here <https://www.lakeheadu.ca/current-students/student-services/or>.

Office of Human Rights and Equity. You have the right to an education that is free from any form of discrimination. A wide variety of resources are available here <https://www.lakeheadu.ca/faculty-and-staff/departments/services/human-rights-and-equity/resources>.

