Course description:

This course will attempt to present and reveal, simultaneously, two different traditions. The European legal tradition, and the wisdom of Canada’s aboriginal peoples will be juxtaposed, and then contrasted, using cases where Canadian law is challenged by aboriginal culture, claims and practices. By examining landmark court cases dealing specifically with aboriginal peoples and issues, the course will attempt to highlight the true nature, limitations and evolution of Canadian Law, while opening a discussion of possible paths toward the future.

Required readings:


Additional resources:

- The Native Law Centre Library at the University of Saskatchewan, ‘Factums’: http://www.usask.ca/nativelaw/factums/


Evaluation:

The evaluation scheme will consist of the following items:

- 10 very short paper assignments (each a maximum 500 words in length) that are due in class on the Thursday of every week of classes, starting on the 22\textsuperscript{nd} January, and that are each worth 5% of your total course grade.

- A midterm essay paper assignment (maximum 2,000 words in length) that is due in class on 26 February, and that is worth 20% of your total course grade.

- A final research paper (maximum 3,000 words in length) that is due at noon, at my office (RB 2035), on 7 April, and that is worth 30% of your total course grade.

**Late papers are not accepted.**

Outline of weekly lectures and readings

Week 1 (6 and 8 January)

**The origins of the Canadian legal context: the Royal Proclamation (1763)**


Week 2 (13 and 15 January)


Week 3 (20 and 22 January)


- Susan M. Hill, ‘Travelling down the river of life together in peace and friendship, forever’ Haudenosaunee land ethics and treaty agreements as the basis for restructuring the relationship with the British Crown,’ in Leanne Simpson, Lighting the Eight Fire.
- Fred (Gopit) Metallic, ‘Strengthening our relations in Gespe’gewa’gi, the seventh district of Mi’gma’gi,’ in Leanne Simpson, Lighting the Eight Fire.

Week 4 (27 and 29 January)

The battles over jurisdiction: Nowegijick v. The Queen (1983)


Week 5 (3 and 5 February)

The fiduciary duty of the Canadian government: Guerin v. The Queen (1985)


Week 6 (10 and 12 February)

Conflicting sovereignties and the issues of membership: Corbiere (1999)
- Leanne Simpson, Oshkimaadiziig, the new people,’ in Leanne Simpson, Lighting the Eight Fire.
- Paula Sherman, ‘The friendship wampum: maintaining traditional practices in our contemporary interactions in the Valley of the Kiji Sibi,’ in Leanne Simpson, Lighting the Eight Fire.

Week 7 (24 and 26 February)

The Lion and the Ox, questions of fair treatment and equity: R. v. Gladue (1999)

Week 8 (3 and 5 March)


Week 9 (10 and 12 March)

Rights without sovereignty: Mitchell v. m.n.r (2001)

Week 10 (17 and 19 March)

**The limits of cooperation: Cree School Board v. Canada (2002)**

- Lorraine Mayer, chapter 19: ‘Astam animotahtak (Come, let's talk, have a discussion),’ in Sandra Tomsons and Lorraine Mayer, Philosophy and Aboriginal Rights.

Week 11 (24 and 26 March)

**Fiduciary duty and the obligation of consultation: Mikisew Cree First Nation v. Canada (2005)**


Week 12 (31 March and 2 April)

**The prospect of reconciliation without sovereignty**

- Sandra Tomsons and Lorraine Mayer, ‘Not a Conclusion,’ in Sandra Tomsons and Lorraine Mayer, Philosophy and Aboriginal Rights.
- Leanne Simpson, Nogojiwanong: the place at the foot of the rapids,’ in Leanne Simpson, Lighting the Eight Fire.

The final paper is due at noon at my office (RB 2035), on 7 April.