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**INTERNATIONAL INDIGENOUS STUDIES
PROGRAM
INDG 343 Indigenous Law in Canada
Fall 2020**

Course Day/ Time:	Synchronous: Mondays 18:00-19:45
Delivery Method:	Online / web-based
Instructor:	Nathalie Whyte
Telephone:	403.400.5173
Office:	SS 721
Email:	nathalie.whyte@ucalgary.ca
Office Hours:	by appointment, via zoom or telephone Thursdays between 4-7pm or other times/days by appointment
Course Pre-Requisites:	None

COURSE DESCRIPTION:

Examination of the special legal and constitutional principles, provisions and instruments that have an impact on Indigenous individuals, governments and organizations. Topics covered may include Aboriginal rights, Treaty rights, self-government, fiduciary duties, the Royal Proclamation of 1763, the Indian Act, the 1982 Constitution, and pivotal court decisions.

COURSE OBJECTIVES & LEARNING OUTCOMES:

Aboriginal and Treaty rights law in Canada is a specialized area of law. This course will look at how Aboriginal and Treaty rights are addressed in Canadian common law. This course will aim to combine some of the theoretical (decolonization, critical legal theory) with the practical (procedure, process, case studies). Students will gain a general understanding of the laws in Canada as they apply to Aboriginal and Treaty rights, as well as various legal processes. Students will engage in a critical analysis of the Canadian legal system, and be able to identify some of its limits and constraints as well as future possibilities. Students will begin to learn legal reasoning skills and how to access resources to enable them to continue to learn in this area of law.

Course content may be provided through online class lectures, assigned readings, online "in-class" discussion, film, and/or guest lecturers (where possible).

REQUIRED TEXTBOOK(S):

Lorraine Land and Matt McPherson, eds. *Aboriginal Law Handbook*, 5th ed (Toronto: Thomson Reuters Canada Limited, 2018)

- This textbook is available for purchase at the campus bookstore, it is also available at the University Library – reserve/desk for 2-4 hour holds.

Other course readings will be posted to D2L

REQUIRED TECHNOLOGY:

This course will be a combination of synchronous (i.e., real-time/Zoom) and asynchronous (i.e., students complete on their own time such as discussion boards, watching videos, etc.) learning.

There is a D2L site for this course which contains required readings and other relevant class resources and materials (see d2L.ucalgary.ca). As such, reliable access to the following technology will be required:

- A computer with a supported operating system, as well as the latest security, and malware updates;
- A current and updated web browser
- Web cam
- Microphone and speaker, built in or external, or headset with microphone.
- Current antivirus and/or firewall software enabled
- Broadband internet connection.
- Most current laptops have a built-in webcam, speaker and microphone.

GUIDELINES FOR ZOOM SESSIONS

Zoom is a video conferencing program that will allow us to meet at specific times for a “live” video conference, so that we can have the opportunity to meet each other virtually and discuss relevant course topics as a learning community.

To help ensure Zoom sessions are private, do not share the Zoom link or password with others, or on any social media platforms. Zoom links and passwords are only intended for students registered in the course. Zoom recordings and materials presented in Zoom, including any teaching materials, must not be shared, distributed or published without the instructor’s permission.

The use of video conferencing programs relies on participants to act ethically, honestly and with integrity; and in accordance with the principles of fairness, good faith, and respect (as per the Code of Conduct). When entering Zoom or other video conferencing sessions (such as MS Teams), you play a role in helping create an effective, safe and respectful learning environment. Please be mindful of how your behaviour in these sessions may affect others. Participants are required to use names officially associated with their UCID (legal or preferred names listed in the Student Centre) when engaging in

these activities. Instructors/moderators can remove those whose names do not appear on class rosters. Non-compliance may be investigated under relevant University of Calgary conduct policies (e.g. [Student Non-Academic Misconduct Policy](#)). If participants have difficulties complying with this requirement, they should email the instructor of the class explaining why, so the instructor may consider whether to grant an exception, and on what terms. For more information on how to get the most out of your zoom sessions visit: <https://elearn.ucalgary.ca/guidelines-for-zoom/>

Please be prepared, as best as you are able, to join class in a quiet space that will allow you to be fully present and engaged in Zoom sessions. Students will be advised by their instructor when they are expected to turn on their webcam (for group work, presentations, etc.).

The instructor may record online Zoom class sessions for the purposes of supporting student learning in this class – such as making the recording available for review of the session or for students who miss a session. Students will be advised before the instructor initiates a recording of a Zoom session. These recordings will be used to support student learning only and will not be shared or used for any other purpose.

COURSE COMPONENT WEIGHTS AND DUE DATES:

COMPONENT	WEIGHTING	DUE DATES
Participation	15%	
Case Citations	10%	October 5 th
Case Brief	15%	October 26 th
Essay Topic and Outline	5% (pass/fail)	By October 26 th
Essay	35%	December 6 th
Self/Class Reflection	20%	December 8 th
Total	100%	

COURSE SCHEDULE & TOPICS: Generally, the format of each class will be that the instructor will upload a recorded seminar to D2L, for students to watch on their own time, and then each week the class will join together in real time for a zoom session. Please note - the schedule is tentative and may change as the need arises. In addition, further readings and resources may be posted to D2L.

September 14 Introduction to the Course

- Review course syllabus [synchronous]
- NFB Film: Kanehsatake: 270 Years of Resistance by Alanis Obamsawin (2 hours)

September 21 Terms, Legal Resources – Case Brief Exercise

- D2L: Margaret McCallum, Deborah Schmedemann, Christina Kunz. *Synthesis: Legal Reading, Reasoning, and Writing in Canada, 4th Edition*. LexisNexis Canada, 2017 Chapter 3

- D2L: *Canadian Guide to Uniform Legal Citation*, 9th ed (Toronto: Thomson Reuters, 2018), a.k.a. the *McGill Guide*
- Online: CanLII: Canadian Legal Information Institute online: <https://www.canlii.org/en/>

September 28 Colonization, Decolonization, Critical Legal Theory – Context and Analysis

- Textbook - Chapters 1 pp. 1-12, Chapter 9 pp. 211-217

At least one of the following (for synchronous group discussion):

- D2L - Peter McFarlane and Nicole Schabus eds. *Whose Land Is It Anyway? A Manual for Decolonization* edited by, 2017 Federation of Post-Secondary Educators of British Columbia.
- D2L - Monture-Angus, Patricia. *Locating Aboriginal Peoples in Canadian Law: One Aboriginal Woman's Journey Through Case Law and the Canadian Constitution*. Law Thesis (LLM) York University, Toronto: 1988 Chapters 1 and 5
- D2L - Tracey Lindberg. *Critical Indigenous Legal Theory*. PhD Thesis, Faculty of Law, University of Ottawa. Ottawa: 2007 PP. 109-129 (Indigenous Analysis)
- D2L - Carol Alyward. *Canadian Critical Race Theory: Racism and the Law*, Halifax: Fernwood Publishing, 1999, Chapters 1,4,5

October 5 The Canadian Legal Framework - Overview

- Textbook – Chapter 2 pp. 13-28, 34
- D2L: other readings may be posted

October 12 NO CLASS

October 19 Aboriginal and Treaty Rights

- Textbook – Chapter 3 pp. 45-66, 67
- D2L – other readings may be posted

October 26 Aboriginal and Treaty Rights – Modern Treaties and Treaty Making Processes

- Textbook – Chapter 3 pp. 66-67 Chapter 4 pp. 83-87, 89-95, 99-101
- D2L – other readings may be posted

November 2 The Law on the Duty to Consult

- Textbook – Chapter 7 pp. 157-176
- D2L – other readings may be posted

November 9 NO CLASS

November 16 The Law on the Duty to Consult

- Textbook – Chapter 7 pp. 157-176
- D2L – other readings may be posted

November 23 Land and Land Claims (TLE, Specific Claims)

- Textbook – Chapter 4 pp. 83-89, 95-99
- D2L – other readings may be posted

November 30 Child Welfare

- Textbook – Chapter 15 pp. 332-342
- D2L – other readings may be posted

December 7 Looking Ahead

- D2L – Sylvia McAdam (Saysewahum). *Nationhood Interrupted: Revitalizing nehiyaw Legal Systems*, Saskatoon: Purich Publishing Ltd. 2015 Chapters 5 and 6
- D2L – Arthur Manuel. *Unsettling Canada, a National Wake Up Call*, Toronto: Between the Lines, 2015 Chapters 1 and 17
- D2L – other readings may be posted

ASSIGNMENTS

There will be four assignments:

1. Case Citations (10%)

- You will search for requested cases and provide proper citations in accordance with the format/s and criteria provided to you in class (and posted to D2L).

2. Case Law Brief (15%)

- You will chose a case (relating to Aboriginal and Treaty rights law), and provide a case brief in a format and in accordance with the criteria provided to you in class (and posted to D2L).
- The Case Law Brief will be 1-2 pages.

3. Self Reflection / Class Reflection (20%)

- This will be a journaling exercise. The purpose of this exercise is to provide space for self-reflection regarding issues looked at in this class.
- Students will write 1-4 paragraphs following each class with their own observations, thoughts, comments on course readings, class discussions and/or questions will be posted on D2L for students to consider and respond to in order to complete this exercise.
- 1-4 paragraphs for each class, no more than 11 pages total.
- This is an informal writing exercise, your goal for this assignment is to provide your personal analysis and reflection after each class.

4. Essay (35%) and 1 page outline (5%)

- The essay will be 8 pages (excluding authorities) on a topic related to what is covered in the course.
- All students must have their topic approved by the instructor in advance. A 1 (one) page outline will also be submitted (**worth 5%**). This will be assigned a pass or fail and there will be no letter grade assigned for the outline, but its submission will help the student ensure they are on track.
- It is expected that at least one case and at least two secondary sources will be referenced in the list of authorities.
- Essays will be graded on a percentage scale mirroring the course's letter grade/percentage scale. Guidelines for what different quality essays can look like can be found below.

Format:

Topic and one page outline (5%):

- Include the topic of the essay – what will the essay address?
- The outline will identify the thesis statement or question/issue to be examined
- Include general positions/arguments to put forward
- Point form is acceptable

All Essays (35%) must be:

- Type written (except where an exception has been granted by the instructor)
- Double Spaced
- Size 12 Times New Roman Font
- Left and Right Margins set at 1" or 2.54 cm
- Top and Bottom Margins set at 1.25" or 3.17 cm
- 8 pages (excluding authorities which must be on a separate page)

The essay must contain:

- An introduction – which will include a thesis statement (what will be addressed)
- The body – which will contain the arguments supporting your thesis and will reference authorities. Use of transitioning sentences (that link one point to the next).
- A Conclusion – summarizes the ideas put forth in the essay, and is linked back to the thesis statement.
- Citations – must cite at least one case and at least two secondary sources. The case cited, must follow the proper citation format. The essay itself may follow the APA or MLA format, include pinpoint/page references. Consistency is important.
- List of Authorities – last page of document (page 9), which will list all caselaw and secondary sources referred to in the essay. Note the List of Authorities will not count as part of the 8 pages.

Submission of Assignments:

Please submit all assignments electronically the dropbox in D2L. Assignments may be submitted in Word or PDF format. Assignments should have a file name as follows: "First Name Last Name Assignment Number" (e.g., Alex Smith Assignment 2).

Assignments must be submitted by 11:59pm on their due date. It is the student's responsibility to keep a copy of each submitted assignment and to ensure that the proper version is submitted.

Please also note, D2L provides confirmations of successful uploads. The first in the form of a "check mark" on your screen, the second in a confirmation email. If you do not receive this, your assignment was likely not uploaded, please try again. Please keep the email as proof of upload. It is the student's responsibility to ensure assignments are uploaded successfully.

PARTICIPATION

The student's participation grade will depend on your active participation in class discussions and activities. Participation includes reading the assigned readings, watching assigned videos, participating in synchronous learning, discussion threads on D2L, and watching the class lectures, will all be considered when assigning a grade to each student for participation.

Please let the instructor know (by e-mail) ahead of time if you will be missing a class/synchronous learning, and the reason for the absence.

WRITING STATEMENT

Written assignments are often required in Indigenous Studies courses, including this one, and the quality of writing skills, including but not limited to such elements as grammar, punctuation, sentence structure, clarity, citation, and organization, will be considered in the determination of grades. Students are encouraged to make use of the services offered through Writing Support Services in the Student Success Centre (3rd floor of the Taylor Family Digital Library) or at <http://www.ucalgary.ca/ssc/writing-support>

MID-TERM EXAMINATION

None

FINAL EXAMINATION

None

GRADE SCALE:

The International Indigenous Studies Program uses the percentage conversion scale below. Your final grade will be converted to the University's official 4-point scale at the

end of term. The interpretation of the undergraduate university grading system can be found at <http://www.ucalgary.ca/pubs/calendar/current/f-1.html>.

A+	96-100
A	90-95.99
A -	85-89.99
B+	80-84.99
B	75-79.99
B-	70-74.99
C+	65-69.99
C	60-64.99
C-	55-59.99
D+	53-54.99
D	50-52.99
F	0-49.99

These are the grade ranges and specific numeric values I assign to letter grades on D2L. Any individual assignment grade is concerted to the mid-point value of the grade range and then weighted accordingly.

Although the A+ is solely an honorary grade that entails no additional points in the four-point system (described above), an A+ will be used to distinguish excellent work that exceeds expectations in style, intellectual depth and breadth, sophistication, creativity and originality.

LATE PENALTIES

Extensions will be granted for reasons that are extenuating and supported by appropriate documentation (see “Supporting Documentation and the use of Statutory Declarations” below). I require this documentation to be submitted 48 hours prior to the assignment’s deadline provided the extenuating reasons allow for this submission. Learning to manage one’s time is a key component of university life, and students are expected to plan out their term work accordingly.

Deadlines will be treated seriously. Late assignments, those without an extension granted by the instructor, will be docked 3 per cent per day including weekends. Assignments more than 7 days late will not be marked and shall receive a mark of 0%. This policy applies to all assignments. A description of the calculation of grades can be found below.

INSTRUCTOR GUIDELINES

If you have any questions about the readings, assignments or the course in general, please feel free to contact me. E-mail is best, and I will try to respond within 24-36 hours. If you call my cell, and you do not reach me directly, please do not leave a voicemail, send an e-mail instead.

All meetings will take place virtually via zoom or similar platform, please telephone or email to make an appointment. It is to the student’s advantage to keep such appointments.

It is expected students will participate in both the synchronous and asynchronous learning. If a situation arises that interferes with your attendance and learning, please let me know as soon as possible.

COURSE EVALUATIONS AND STUDENT FEEDBACK

Student feedback will be sought at the end of the course through the standard University

Student Ratings of Instruction (USRI) and Faculty course evaluation forms. A midterm evaluation may also be included to provide students an opportunity to provide feedback, for the instructor to adjust their approaches to teaching and learning, and to continuously improve the course. Students are welcome to discuss the process and content of the course at any time with the instructor.

IMPORTANT POLICIES AND INFORMATION

Supporting Documentation and the Use of a Statutory Declaration

As stated in the University Calendar:

Students may be asked to provide supporting documentation for an exemption/special request. This may include, but is not limited to, a prolonged absence from a course where participation is required, a missed course assessment, a deferred examination, or an appeal. Students are encouraged to submit documentation that will support their situation. Supporting documentation may be dependent on the reason noted in their personal statement/explanation provided to explain their situation. This could be medical certificate/documentation, references, police reports, invitation letter, third party letter of support or a statutory declaration etc. The decision to provide supporting documentation that best suits the situation is at the discretion of the student. Students cannot be required to provide specific supporting documentation, such as a medical note.

Students can make a Statutory Declaration as their supporting documentation (available at [ucalgary.ca/registrar](https://www.ucalgary.ca/registrar)). This requires students to make a declaration in the presence of a Commissioner for Oaths. It demonstrates the importance of honest and accurate information provided and is a legally binding declaration. Several registered Commissioners for Oaths are available to students at no charge, on campus. For a list of locations to access a Commissioners for Oaths, visit [ucalgary.ca/registrar](https://www.ucalgary.ca/registrar)).

Falsification of any supporting documentation will be taken very seriously and may result in disciplinary action through the Academic Discipline regulations or the Student Non-Academic Misconduct policy.

This statement is accessible at: <https://www.ucalgary.ca/pubs/calendar/current/m-1.html>

Please note that while the form of supporting documentation provided is at the discretion of the student, the instructor has the discretion not to accept the supporting documentation if it does not corroborate the reason(s) given for the exemption/special request.

Deferral of a Final Examination:

Deferral of a final examination can be granted for reasons of illness, domestic affliction, and unforeseen circumstances, as well as to those with three (3) final exams scheduled within a 24-hour period. Deferred final exams will not be granted to those who sit the exam, who have made travel arrangements that conflict with their exam, or who have

misread the examination timetable. The decision to allow a deferred final exam rests not with the instructor but with Enrolment Services. Instructors should, however, be notified if you will be absent during the examination. The Application for Deferred Final Exam, deadlines, requirements and submission instructions can be found on the Enrolment Services website at

<https://www.ucalgary.ca/registrar/exams/deferred-exams>.

Appeals:

If a student has a concern about the course or a grade they have been assigned, they must first discuss their concerns with the instructor. If this does not resolve the matter, the student then proceed with an academic appeal. The first step in an academic appeal is to set up a meeting with the Department Head. Appeals must be requested within 15 days of receipt of the graded assignment.

University Regulations:

Students are responsible for familiarizing themselves with the University policies found in the Academic Regulations sections of the Calendar at

www.ucalgary.ca/pubs/calendar/current/academic-regs.html.

Student Accommodations:

Students seeking an accommodation based on disability or medical concerns should contact Student Accessibility Services; SAS will process the request and issue letters of accommodation to instructors. For additional information on support services and accommodations for students with disabilities, visit www.ucalgary.ca/access/.

Students who require an accommodation in relation to their coursework based on a protected ground other than disability should communicate this need in writing to their Instructor.

The full policy on Student Accommodations is available at

<http://www.ucalgary.ca/policies/files/policies/student-accommodation-policy.pdf>.

Plagiarism And Other Forms Of Academic Misconduct:

Academic misconduct in any form (e.g. cheating, plagiarism) is a serious academic offence that can lead to disciplinary probation, suspension or expulsion from the University. Students are expected to be familiar with the standards surrounding academic honesty; these can be found in the University of Calgary calendar at <http://www.ucalgary.ca/pubs/calendar/current/k-5.html>. Such offences will be taken seriously and reported immediately, as required by Faculty of Arts policy.

For information on the Student Academic Misconduct Policy and Procedure please visit:

<https://ucalgary.ca/policies/files/policies/student-academic-misconduct-policy.pdf>

<https://ucalgary.ca/policies/files/policies/student-academic-misconduct-procedure.pdf>

Additional information is available on the Academic Integrity Website

at <https://ucalgary.ca/student-services/student-success/learning/academic-integrity>.

Required Access to Technology

Please see the University's resource page at https://ucalgary.service-now.com/it?id=kb_article&sys_id=86e7438013753ac06f3afbb2e144b031

Copyright Legislation:

As stated in the University of Calgary Calendar, Academic Regulations, "students are required to read the University of Calgary policy on Acceptable Use of Material Protected by Copyright and requirements of the copyright act to ensure they are aware of the consequences of unauthorised sharing of course materials (including instructor notes, electronic versions of textbooks etc.). Students who use material protected by copyright in violation of this policy may be disciplined under the Non-Academic Misconduct Policy." <https://www.ucalgary.ca/policies/files/policies/acceptable-use-of-material-protected-by-copyright.pdf> and <https://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>

Instructor Intellectual Property:

Course materials created by instructors (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the instructor. These materials may NOT be reproduced, redistributed or copied without the explicit consent of the instructor. The posting of course materials to third party websites such as note-sharing sites without permission is prohibited. Sharing of extracts of these course materials with other students enrolled in the course at the same time may be allowed under fair dealing.

MEDIA RECORDING

Please refer to the following statement on media recording of students:

https://elearn.ucalgary.ca/wp-content/uploads/2020/05/Media-Recording-in-Learning-Environments-OSP_FINAL.pdf

Freedom of Information and Protection of Privacy (FOIP):

FOIP legislation requires that instructors maintain the confidentiality of student information. In practice, this means that student assignment and tests cannot be left for collection in any public place without the consent of the student. It also means that grades cannot be distributed via email. Final exams are kept by instructors but can be viewed by contacting them or the main office in the Department of Political Science. Any uncollected assignments and tests meant to be returned will be destroyed after six months from the end of term; final examinations are destroyed after one year.

Faculty of Arts Program Advising and Student Information Resources:

For program planning and advice, please consult with the Arts Students' Centre by calling 403-220-3580 or email artsads@ucalgary.ca. You can also visit arts.ucalgary.ca/advising for program assistance.

For registration (add/drop/swap), paying fees and assistance with your Student Centre, contact Enrolment Services at (403) 210-ROCK [7625].

Important Contact Information:

Faculty of Arts Undergraduate Students' Union Representatives

Phone: 403-220-6551
Email: arts1@su.ucalgary.ca, arts2@su.ucalgary.ca, arts3@su.ucalgary.ca,
arts4@su.ucalgary.ca
Students' Union URL: www.su.ucalgary.ca

Graduate Students' Association
Phone: 403-220-5997
Email: askgsa@ucalgary.ca
URL: www.ucalgary.ca/gsa

Student Ombudsman
Phone: 403-220-6420
Email: ombuds@ucalgary.ca

Campus Mental Health Resources:

The University of Calgary recognizes the pivotal role that student mental health plays in physical health, social connectedness and academic success, and aspires to create a caring and supportive campus community where individuals can freely talk about mental health and receive supports when needed. We encourage you to explore the excellent mental health resources available throughout the university community, such as counselling, self-help resources, peer support or skills-building available through the following resources

SU Wellness Centre: <http://www.ucalgary.ca/wellnesscentre/>

Student Wellness Services:
<https://www.ucalgary.ca/wellness-services/services/mental-health-services>

Campus Mental Health Strategy: <https://www.ucalgary.ca/mentalhealth/>

Facebook Group for Indigenous Studies Program

<https://www.facebook.com/groups/UC.IIST/>

INDG Program Website

<http://www.ucalgary.ca/indg/>

Writing Symbols Lodge (Native Centre) Website

<https://www.ucalgary.ca/nativecentre>