



(To be finalized on May 3, 2021)

JPI 201 H1S – Indigenous Politics in Canada
May 2021



“We’re all in the same boat” by Roy Thomas. Accessed at <https://museum.mcmaster.ca/about/news/a-documentary-on-canvas/>

STATEMENT ON ACKNOWLEDGEMENT OF TRADITIONAL LAND

We would like to acknowledge this sacred land on which the University of Toronto operates. It has been a site of human activity for 15,000 years. This land is the territory of the Huron-Wendat and Petun First Nations, the Seneca, and most recently, the Mississaugas of the Credit River. The territory was the subject of the Dish with One Spoon Wampum Belt Covenant, an agreement between the Iroquois Confederacy and Confederacy of the Ojibwe and allied nations to peaceably share and care for the resources around the Great Lakes. Today, the meeting place of Toronto is still the home to many Indigenous people from across Turtle Island and we are grateful to have the opportunity to work in the community, on this territory.

Revised by the Elders Circle (Council of Aboriginal Initiatives) on November 6, 2014. Available at <https://www.studentlife.utoronto.ca/fnh>

Course Description: This course introduces you to the legal and political relationship between Canada's Indigenous peoples and the Canadian state. The course begins with a brief history of the relationship from before contact with Europeans up to the mid-twentieth century. Then we switch gears and focus on the relevant legal and political touchstones of the relationship, beginning with the Hawthorn Report in 1966 to the present-day Indigenous blockade on Wet'suwet'en territory in British Columbia and the 1492 Land Back Lane blockade on Haudenosaunee territory in southern Ontario. You will gain a detailed knowledge of the pendulum-like legal and political relationship between the Canadian federal government and Indigenous communities. Basically, you will become more familiar with the language of contemporary Indigenous politics in Canada. We will focus on topics such as the constitutional discourse of Aboriginal rights, the meaning of the "nation-to-nation" treaty relationship, the culture of reconciliation in Canada, and, from Indigenous perspectives, the importance of spirituality in contemporary Indigenous life.

The course schedule:

Week 1 (May 3-7): Introduction and the Invention of Aboriginal Rights

Week 2 (May 10-14): Aboriginal Rights in Canada I

Week 3 (May 17-21): Oka to RCAP and The Truth and Reconciliation Commission

Week 4 (May 24–28): The Inuit, Metis and Aboriginal Rights in Canada II

Week 5 (May 31–June 4): INM and MMIWG

Week 6 (June 7-11): UNDRIP and Review

Course Learning Objectives:

- To develop a critical understanding of the legal and political relationship between Indigenous peoples and the Canadian state, especially from the 1969 White Paper on federal Indian policy to the present;
- To become familiar with the "inherent" and "delegated" approaches to understanding the source and meaning of Aboriginal and Indigenous rights and nationhood in Canada;
- To reflect upon, discuss, and write about what it means to listen to Indigenous peoples "in and on their own terms."

Required Text and Readings:

- R. Miller, *Skyscrapers Hide the Heavens*, 4th Edition, Toronto: University of Toronto Press, 2018.
- Here's a link to the book:
 - <https://utorontopress.com/us/skyscrapers-hide-the-heavens-fourth-edition-2>
- All other readings will be available on the Quercus class site.
- There is a fee of \$25 to access the Packback website.

A few resources:

Canada Supreme Court decisions website: <https://scc-csc.lexum.com/scc-csc/en/nav.do>

Indigenous Foundations (Indigenous Studies at UBC website for historical, legal, and political information on Indigenous issues): <https://indigenousfoundations.arts.ubc.ca/home/>

Evaluation:

1. Two Short Essays (2x25% = 50%)

1st Essay (500 words) Prompt: Discuss White and Red Paper liberalism. (Due May 17, 2021)

2nd Essay (500 words) Prompt: Discuss the relationship between the 1997 Delgamuukw decision and the Unist'ot'en roadblock on Wet'suwet'en territory.

2. Final essay due during Final Assessment period (35%)

Final essay (800-1000 words) Prompt: Now that you have some understanding of the legal and political relationship between Indigenous peoples and the Canadian state, are you more, or less, optimistic about the future of Indigenous politics in Canada?

3. Class Participation: Packback (15%)

I will be using Packback (<https://www.packback.co/>) this semester, which is a relatively new addition to my pedagogy. Please refer to the pre-class lecture to see how it works.

• **All essays will be submitted on Quercus using Turnitin.com. (See below for UofT's Turnitin.com policy)**

Course Policies:

Online communication policy: All online correspondence should be over e-mail. Please put JPI201 in the subject line, I will try to get back to you as soon as possible. If you have not heard back from me in two days, please don't hesitate to send me another e-mail; like you, I'm very busy during the semester.

Academic integrity:

Please familiarize yourself with the University of Toronto's Code of Behaviour on Academic Matters (<http://www.governingcouncil.utoronto.ca/policies/behaveac.htm>Links to an external site.). I like these quotes from the Preamble:

What distinguishes the University from other centres of research is the central place which the relationship between teaching and learning holds. It is by virtue of this relationship that the University fulfills an essential part of its traditional mandate from society, and, indeed, from history: to be an expression of, and by so doing to encourage, a habit of mind which is discriminating at the same time as it remains curious, which is at once equitable and audacious, valuing openness, honesty and courtesy before any private interests.

And later,

This Code is concerned, then, with the responsibilities of faculty members and students, not as they belong to administrative or professional or social groups, but as they co-operate in all phases of the teaching and learning relationship.

Such co-operation is threatened when teacher or student forsakes respect for the other--and for others involved in learning--in favour of self-interest, when truth becomes a hostage of

expediency. On behalf of teacher and student and in fulfillment of its own principles and ideals, the University has a responsibility to ensure that academic achievement is not obscured or undermined by cheating or misrepresentation, that the evaluative process meets the highest standards of fairness and honesty, and that malevolent or even mischievous disruption is not allowed to threaten the educational process.

The following quote is from the Quercus site on integrating turnitin.com into the course: Normally, students will be required to submit their course essays to Turnitin.com for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the Turnitin.com reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin.com service are described on the Turnitin.com web site. https://q.utoronto.ca/courses/46670/pages/integration-turnitin#h_9602525431531923949892

You are not required to use Turnitin.com. If you choose not to submit your papers through Turnitin.com please see me. You will have to turn in your outline and rough drafts and detailed bibliography along with the final draft of your paper.

Plagiarism is a very serious offence. Here's some good advice on how not to plagiarize: <https://advice.writing.utoronto.ca/using-sources/how-not-to-plagiarize/Links to an external site.> . If you have any doubts about your writing please come see me during office hours. For more information on writing at UofT visit the "Writing at the University of Toronto" website at <https://writing.utoronto.ca/Links to an external site.>.

Accessibility: The University of Toronto is committed to accessibility. If you require accommodations or have any accessibility concerns, please don't hesitate to see me during the first week of the semester. For more information visit <https://studentlife.utoronto.ca/department/accessibility-services/Links to an external site.>.

Religious observances: This is from the university's policy Religious Observances, Policy on Scheduling of Classes and Examinations and Other Accommodations: It is the policy of the University of Toronto to arrange reasonable accommodation of the needs of students who observe religious holy days other than those already accommodated by ordinary scheduling and statutory holidays." See <https://governingcouncil.utoronto.ca/secretariat/policies/religious-observances-policy-scheduling-classes-and-examinations-and-other/Links to an external site.>. Don't hesitate to see me if you have any concerns or questions about observing religious or spiritual practices.

Class Schedule

Note on weekly lectures: PART 1 lecture will be posted on Mondays by noon. PART 2 lecture will be posted on Thursdays by noon.

Week 1 (May 3-7, 2021): Introduction and the Invention of Aboriginal Rights

PART 1:

Topics:

- Delegated and Inherent Approaches to Indigenous politics
- On the importance of history in understanding Indigenous politics

Reading:

J.R. Miller, *Skyscrapers Hide the Heavens* (Introduction, Part One: Cooperation)

Optional reading:

Ken Coates, [“Gentle Confiscation: The Settlement of Canada and the Dispossession of the First Nations,”](#) from Paul Haveman, ed., *Indigenous Peoples and the Law: Comparative Perspectives* (Auckland: Oxford University Press, 1999), 141-161.

Royal Commission on Aboriginal Peoples, [“Conceptions of History”](#) Link to RCAP’s final report: [Final Report](#)

Good background paper on the White Paper:

Elisabetta A. Kerr, [“Trudeau’s White Paper and the Struggle for Aboriginal Rights in Canada”](#)

PART 2:

Topics:

- The White Paper of 1969
- The Red Paper of 1970
- Section 35(1)

Reading:

J.R. Miller, *Skyscrapers Hide the Heavens* (Part Two: Coercion)

Statement of the Government of Canada on Indian Policy 1969: [“The White Paper”](#)

The 1970 Red Paper (pages 1-25): [“Citizens Plus”](#)

[The Canadian Constitution](#)

Optional Reading:

Sally Weaver, [“The Problem”](#) from Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970*, University of Toronto Press, 1981.

Week 2 (May 10 - 14, 2021): Aboriginal Rights in Canada I

PART 1:

Topics:

- *Calder v British Columbia (AG)* [1973] SCR 313
- Theory of Minority Rights (Will Kymlicka)

Reading:

J.R. Miller, *Skyscrapers Hide the Heavens* (Part Three: Confrontation)
Calder v British Columbia (AG) [1973] SCR 313

- Full Case

Will Kymlicka, "[Justice and Minority Rights](#)" from Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, 1996

Optional Reading:

Duncan Ivison, "The Logic of Aboriginal Rights"

PART 2:**Topics:**

- R v. Sparrow [1990] 1 S.C.R. 1075
- Ontario (Attorney General) v. Bear Island Foundation [1991] 2 SCR 570 Syllabus
- Oka (1990)

NFB Films:

Alanis Obomsawin, *270 Years of Resistance*
Mark Zanis, *Acts of Defiance*

Optional reading:

Toby Morantz, "The Judiciary as Anthropologists: New Insights into Social Organization: The Teme-Augama Anishnabay Case"

Week 3 (May 17-21, 2021): Oka to RCAP and The Truth and Reconciliation Commission

PART 1:**Topics:**

- R. v. Van der Peet [1996] 2 SCR 507 Syllabus
- Delgamuukw v. British Columbia [1997] 3 SCR 1010 Syllabus
- Report of the Royal Commission on Aboriginal Peoples (1996) Summary

Reading:

James Tully, "A just relationship between Aboriginal and non-Aboriginal peoples"
John Borrows, "Frozen rights in Canada: Constitutional interpretation and the trickster"

PART 2:**Topics:**

- Indian Residential School Settlement Act (2006) – Apology (2008)
- Truth and Reconciliation Commission – Final Report (2015) <http://www.trc.ca/index.html>
- Meech Lake Accord (1987) – Charlottetown Accord (1992) – Kelowna Accord (2006)

Reading:

TRC, "Honoring the Truth, Reconciling for the Future" (pp. 1-133)
Gathering Strength (Govt's response to RCAP)
United Nations Declaration on the Rights of Indigenous Peoples
Bill C-15

Week 4 (May 24 – 28): The Inuit, Metis and Aboriginal Rights in Canada II

PART 1:

- The Inuit – Creation of Nunavut

Link to the Inuit on *Crown-Indigenous Relations and Northern Affairs Canada* website

https://www.rcaanc-cirnac.gc.ca/eng/1100100014187/1534785248701/download?download_frd=1

- Metis Nationhood – Powley and Daniels

Link to the Metis on *Crown-Indigenous Relations and Northern Affairs Canada* website

https://www.rcaanc-cirnac.gc.ca/eng/1100100014427/1535467913043/download?download_frd=1

Reading:

On the creation of Nunavut, McGill Blog
Chapters 9 and 10 of Skyscrapers (strongly recommended)
R. v. Powley [2003] - Syllabus
Daniels v. Canada [2016] - Syllabus
Jennifer Adese, "Reflections on the *Daniels* Decision"

PART 2:**Topics:**

- *Haida Nation v. British Columbia (Minister of Forests)* [2004] 3 SCR 511
- *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)* [2005] 3 SCR 388
- *Tsilhqot'in Nation v. British Columbia* [2014] 2 SCR 257

Reading:

Please read the Syllabi (If you feel ambitious, sure, read the cases!)

Haida Nation
Mikisew
Tsilhqot'in

Week 5 (May 31 – June 4): INM and MMIWG

PART 1:

Topics:

- Idle No More (2012) <https://idlenomore.ca>
- The National Inquiry into Murdered and Missing Indigenous Women and Girls Inquiry – Report (2015-19) <https://www.mmiwg-ffada.ca/final-report/>

Reading:

Ken Coates, Preface and Chapter 1, *#IdleNoMore and the Remaking of Canada Executive Summary of the National Inquiry Into Missing Indigenous Women and Girls Fact Sheet from NWAC*

Sylvia McAdam, Chapter on Idle No More

These are Optional, but worth listening to:

YouTube Video: [Idle No More: Protest to Change?](#)

YouTube Video: [The Legacy of Idle No More put InFocus | APTN InFocus](#)

Optional Reading:

Interim Report of the Inquiry Into Missing and Murdered indigenous Women and Girls

PART 2:

Topics:

- Wet'suwet'en Revisited <https://unistoten.camp/about/wetsuweten-people/>
- 1492 Land Back Lane

Reading:

Background Articles on the Wet'suwet'en blockades:

Alan Antliff, "The True Meaning of Decolonization"

Samantha Wright Allen, "A Real Lack of Leadership"

Jerome Turner, "Manufacturing Wet'suwet'en Consent"

Nadine Yousif and Marie-Danielle Smith, "What the Wet'suwet'en Want"

Memorandum of Understanding (Signed May 14, 2020)

Familiarize yourself with the Unist'ot'en site (Watch *Invasion* on the Unist'ot'en site)

Background articles on 1492 Land Back Lane:

Luke Ottenhoff, Standoff at 1492 Land Back Lane

Jorge Barrera, Beyond the Blockades

APTN Archives on 1492 Land Back Lane

Week 6 (June 7-11, 2021): UNDRIP and Review

PART 1:

Topics:

- Implementing UNDRIP
- Revisiting the Tsilhqot'in Decision

Readings:

UNDRIP

John Borrows article on Tsilhqot'in

PART 2:

Review for Reflective Essays