

## Course Outline

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<b>COURSE:</b>	<b>LAWS 4603C – Transitional Justice</b>
<b>TERM:</b>	<b>Winter 2023</b>
<b>PREREQUISITES:</b>	<b>LAWS 2908 or PAPM 3000 and fourth-year honors standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesdays, 6:05am – 8:55pm</b> <b>Room: Southam Hall, Room 402</b> <b>Weekly, in-person</b>
<b>INSTRUCTOR:</b>	<b>Dr. Tiffany MacLellan</b>
<b>CONTACT:</b>	<b>Office Hours: By appointment (Zoom)</b> <b>Email: <a href="mailto:tiffanymaclellan@cunet.carleton.ca">tiffanymaclellan@cunet.carleton.ca</a></b>

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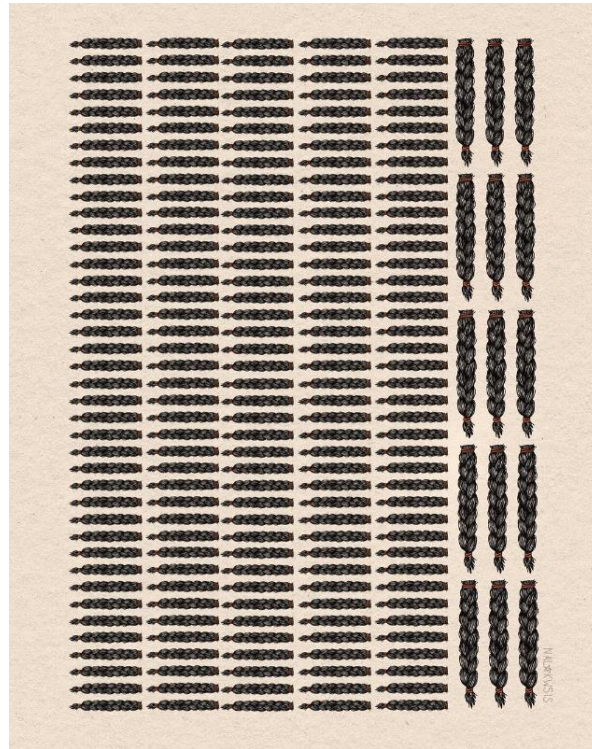
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### **CALENDAR COURSE DESCRIPTION**

Legal and ethical responses to human rights violations in the transition to democracy. Dilemmas of the rule of law; truth and reconciliation; prosecution and punishment; amnesty; retribution and revenge; restorative justice; administrative remedy; reparations; International case studies. Theoretical arguments about justice in context of country.

### **COURSE DESCRIPTION**

Criminal trials, truth and reconciliation commissions, and memorials are typical mechanisms that states and political communities resort to in their effort to attain justice after mass atrocity. These approaches to justice are typically framed in socio-legal literature as transitional because they are evoked during a period of political transformation. As such, transitional justice mechanisms are frequently configured as the means through which political communities can “break” from violent pasts, reconcile, and progress towards a future premised on respect for human rights. This course explores the practice and limitation of transitional justice mechanisms in Canada. It will focus on state-based as well as Indigenous and Inuit-led approaches to grappling with colonial violence.



Nalakwsi, *215 Braids* (2021) Digital Drawing  
Reproduced with permission from the artist.

### **REQUIRED TEXTS**

All course materials are available through Brightspace.

### **WORKING WITH INDIGENOUS KNOWLEDGE**

This course draws on Indigenous knowledge by incorporating two “Indigenous knowledge bundles” into two classes. The inclusion of this knowledge is made possible because Indigenous academics, Indigenous knowledge keepers and Teaching and Learning Services at Carleton University have invested time and energy into preparing knowledge and delivering it to you in a culturally relevant manner.

Indigenous knowledge has been mishandled, mis-used, and deployed – in whole or in part – by non-indigenous folks without the consent of Indigenous knowledge holders for centuries. It is imperative that all students engage all Indigenous knowledge bundle material provided in Brightspace, and in the order it is presented. We must respect the terms that come with the privilege of having access to this material.

### **EVALUATION**

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

**Participation (30%):** Much of the intellectual value of this course arises from in-class discussions. As this course is delivered in a seminar format, students are expected to prepare themselves by reading all materials prior to each class. The goal is to make the seminar a productive place to think through the material together, respectfully. Participation marks are earned by attending each seminar and by making meaningful contributions to class discussions. As this course is organized in seminar format, all students are expected to come to class prepared.

**Reading Responses (30%):** Each student is required to produce seven reading reflections over the course of the term. Each reflection should: 1) provide an accurate summary of the author's arguments in your own words (please use citations for indirect quotes); 2) feature a description of the key concepts used to mount the argument; 3) supply a critical analysis of the argument, and; 4) include 3 open ended questions that can be posed to the class. Each reading response will be marked on a "pass/fail" basis. To "pass," students will need to speak to all four elements identified above, and have uploaded their material prior to class. Each reflection is expected to be 2 pages long (double spaced).

While all students are encouraged to participate every week, I will specifically call on those that completed a response to one of the week's readings to help lead the class discussion.

**Due:** Materials must be uploaded to Brightspace prior to the class that features the reading you have responded to.

**Research Paper (40%):** Drawing on the theory, concepts and literature slated for this course, student are required to compare and contrast two artistic representations of residential school experiences from the list below:

Christi Belcourt – [Remembering the Past: A Window to the Future](#)

Kent Monkman - [Shame and Prejudice: A Story of Resilience](#)

Carey Newman – [Witness Blanket](#)

Adrian Stimson – [Old Sun](#)

Johnny Bandura – [They Weren't Just Children](#)

Each paper is expected to advance a clear argument, draw on academic research and course materials, identify the key debates, be well organized and properly cited. Papers should be no more than 3500 words. All assignments must use 12 point Ariel or Times New Roman font, be double spaced, and adhere to the citation rules set forth in the McGill or Chicago style manual. A final paper workshop will take place in class on April 4<sup>th</sup>.

**DUE:** April 11<sup>th</sup> at 5pm via Brightspace.

### **LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

Assignments submitted after the due date will be accepted at the cost of 3 marks per day.

The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

**Extensions for longer than 7 days will normally not be granted.** In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

### **SCHEDULE**

#### **Introduction: January 10<sup>th</sup>**

The first part of this class will be used to provide an overview of the course and correlative assignments. Students will also identify the readings that they will be required to respond to through-out the semester.

The second part of this class will be used to move through and engage an Indigenous Knowledge bundle that provides an overview of First Peoples in Canada.

**Bundle:** The First Peoples – A Brief Overview  
**Collaborators:** Kahente Horn-Miller and Knowledge Keeper Stephen Augustine  
**Recording Date:** Kahente Horn-Miller: March, 2018 at Carleton University’s Media Production Centre. Stephen Augustine: March, 2018, in Ottawa.

#### **What is Transitional Justice: January 17<sup>th</sup>**

Paige Arthur, “How ‘Transitions’ Reshaped Human Rights: A Conceptual History of Transitional Justice” 31 (2009) Human Rights Quarterly 321–67.

Ruti G. Teitel, “Transitional Justice Genealogy” 16 (2003) Harvard Human Rights Journal 69–94.

### **Limits of Transitional Justice: January 24<sup>th</sup>**

Stauffer, Jill. "Ethical Loneliness" and "Repair." In *Ethical Loneliness: The Injustice of Not Being Heard*, 9-33 and 34-68. New York: Columbia University Press, 2015.

Viebach, Julia "Transitional Archives: Towards a conceptualization of archives in transitional justice," *The International Journal of Human Rights* 25 (2021): 403-439.

### **Decolonization: January 31<sup>st</sup>**

Simpson, Audra, "The Sovereignty of Critique." *South Atlantic Quarterly* 119 (2020): 685–699.

Eve Tuck and K. Wayne Yang, "Decolonization is not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1 (2012): 1-40.

### **Decolonization and Transitional Justice: February 7<sup>th</sup>**

Park, Augustine, "Settler Colonialism, Decolonization and Radicalizing Transitional Justice," *International Journal of Transitional Justice* 14 (2020): 260-279.

Jennifer Matsunaga, "Two faces of transitional justice: Theorizing incommensurability of transitional justice and decolonization in Canada," *Decolonization: Indigeneity, Education & Society* 5 (2016): 24-44.

### **Colonization & Indian Residential Schools in Canada: February 14<sup>th</sup>**

During this week, you are required to work independently through all aspects of the following Carleton University Collaborative Learning Bundle (which is available on the course's Brightspace):

**Bundle:** Indigenous-Canada Relations  
**Collaborators:** Heather Dorries and Knowledge Keeper Aimée  
**Recording Date:** Heather Dorries: July, 2018 at Carleton University's Media Production Centre. Aimée Craft: August 2018 at Carleton University's Media Production Centre.

### **Reading Week: February 21<sup>st</sup>**

### **Indian Residential School Settlement Agreement: February 28<sup>th</sup>**

Indian Residential Schools Settlement Agreement: An Overview

<https://www.rcaanc-cirnac.gc.ca/eng/1100100015576/1571581687074#sect1>

Thielen-Wilson, L. (2014). Troubling the path to decolonization: Indian residential school case law, genocide, and settler illegitimacy. *Canadian Journal of Law and Society*, 29(2), 181-197.

### **Truth and Reconciliation Commission of Canada: March 7<sup>th</sup>**

Truth and Reconciliation Commission of Canada Honoring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada. Introduction (2015): 1-23.

Rosemary Nagy, "The Truth and Reconciliation Commission of Canada: Genesis and Design" *Canadian Journal of Law and Society* 29 (2014): 199–217.

Vanthuyne, Karine, "I Want to Move Forward. You Can Move Forward Too." Articulating Indigenous Self-determination at the Truth and Reconciliation Commission of Canada," *Human Rights Quarterly*, 43 (2021): 355-377.

### **Reparations and Compensation: March 14<sup>th</sup>**

Cindy Hanson, "Gender, Justice, and the Indian Residential School Claims Process," *The International Indigenous Policy Journal* 7 (2016): 1-18.

Matsunaga, Jennifer, "The Red Tape of Reparations: Settler Governmentalities of Truth Telling and Compensation for Indian Residential Schools," *Settler Colonial Studies* 11 (2021): 21-41.

### **Archives: March 21<sup>st</sup>**

Canada (Attorney General) v. Fontaine, 2017 SCC 47, [2017] 2 S.C.R. 205

McCracken, Krista (2019) "Challenging Colonial Spaces: Reconciliation and Decolonizing Work in Canadian Archives," *The Canadian Historical Review* 100(20): 182-201.

Milton, Cynthia E and Anne-Marie Reynaud, "Archives, Museums and Sacred Storage: Dealing with the Afterlife of the Truth and Reconciliation Commission of Canada," *International Journal of Transitional Justice* 13 (2019): 524–545.

### **Memorial Museums: March 28<sup>th</sup>**

Bell, Lynne. "Buffalo Boy Testifies: Decolonising Visual Testimony in a Colonial-Settler Society." *Humanities research* 15.3 (2009): 81–96.

Orange, Jennifer. "The Work That Remains: Continuing the Reconciliation Work of Legal Tribunals through Museums." *Canadian review of comparative literature* 45.4 (2018): 597–613.

Dewar, Jonathan. "Where Are the Children? and 'We Were So Far Away ...': Exhibiting the Legacies of Residential Schools, Healing, and Reconciliation." *The International Handbooks of Museum Studies* 2013: 85–111.

### **Final Paper Workshop: April 4<sup>th</sup>**

In this class we will review the elements of a great paper final paper, discuss expectations, and review style guides.

### **Concluding Thoughts: April 11<sup>th</sup>**

Carleton University, "Kinàmàgawin (Learning Together): Carleton University's Strategic Indigenous Initiatives Committee." <https://carleton.ca/indigenousoinitatives/wp-content/uploads/Kinamagwin.pdf>

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<b>Winter 2023 Sessional Dates and University Closures</b>	
<i>Please find a full list of important academic dates on the calendar website:</i> <a href="https://calendar.carleton.ca/academicyear/">https://calendar.carleton.ca/academicyear/</a>	
<b>January 9, 2023</b>	Winter term begins.
<b>January 20, 2023</b>	Last day for registration and course changes (including auditing) in full winter and late winter courses.
<b>February 20, 2023</b>	Statutory holiday. University closed.
<b>February 20-24, 2023</b>	Winter break. No classes.
<b>March 15, 2023</b>	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
<b>April 7, 2023</b>	Statutory holiday. University closed.
<b>April 12, 2023</b>	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
<b>April 15-27, 2023</b>	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
<b>April 27, 2023</b>	All final take-home examinations are due on this day.

### **COVID-19 PREVENTION MEASURES**

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs.



For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact [covidinfo@carleton.ca](mailto:covidinfo@carleton.ca)

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

## **ACADEMIC ACCOMMODATIONS**

### **Academic Accommodation**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

**Academic Accommodations for Students with Disabilities:** [The Paul Menton Centre for Students with Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

**Survivors of Sexual Violence**  
As a community, Carleton University is committed to maintaining a positive learning, working

and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation will be provided to students who compete or perform at the national or international level. Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

### **Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.

### **Department Policy**

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/student-experience-resources/>.