

Course Outline

COURSE:	LAWS [3504 A] – [Law and Aboriginal Peoples]
TERM:	Fall 2024
PREREQUISITES:	1.0 credit in LAWS at the 2000 level.
CLASS:	Day & Time: Mondays 11:35 AM - 2:25 PM Room: Please check Carleton Central for current Class Schedule Classes are in-person.
INSTRUCTOR:	Sebastien Malette, Ph.D.
CONTACT:	Office: Loeb D591 Office Hrs: By appointment via Brightspace (Zoom) or in person. Office hour: Friday 1:45pm to 2:45pm. Telephone: 613-520-2600 x. 3681 (Communications by email are preferred) Email: Sebastien.malette@carleton.ca
BRIGHTSPACE:	https://brightspace.carleton.ca/d2l/home/290261

CALENDAR COURSE DESCRIPTION

The legal situation of aboriginal peoples in Canada. Topics include status, aboriginal rights, treaties, legislative jurisdiction and the constitutional framework, aboriginal claims, and self-government. Comparative references to aboriginal policy in other countries.

COURSE DESCRIPTION

The classes will consist of lectures, with opportunity for questions and discussion. Students will be expected to attend classes regularly, to answer questions, and to discuss the issues. Students must read the materials assigned, before the relevant class.

The object of LAWS 3504A is to provide an understanding of some basic elements of the law relating to Indigenous peoples in Canada, with an emphasis on the constitutional framework, the changing case law, Aboriginal rights and title. The course can touch only a part of this vast topic. It does not address important areas such as criminal justice and indigenous legal systems. Students should supplement LAWS3504 with other courses and readings on Indigenous issues.

LEARNING OUTCOMES

The learning outcomes include:

- To gain and demonstrate a critical understanding of key doctrinal elements of Canadian law relating to history of colonialism and Indigenous peoples in Canada.
- To gain and demonstrate a critical understanding of the readings attributed for this course.
- To provide a written critical assessment of the power and legal dynamics affecting Indigenous peoples in relation to rights, treaties, identities, reconciliation and Canadian constitutionalism.

REQUIRED TEXTS

Borrows, J., & Rotman, L. I. (2022). *Aboriginal legal issues: Cases, materials & commentary* (6th ed.). Markham, Ont.: LexisNexis. 9780433525424.

May also be purchased through the Carleton University Bookstore website:

<https://www.bkstr.com/carletonstore/home>

SUPPLEMENTARY TEXTS

Recommended only:

Grammond, S. (2013). *Terms of coexistence: Indigenous peoples and Canadian law*.

Lawrence, B. (2004). "Real" Indians and others: Mixed-blood urban Native peoples and indigenous nationhood. Vancouver: UBC Press.

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.

(1) In-class Attendance and Class Participation: 20%

3 short questions distributed during the semester will be made available through Brightspace. These questions will evaluate your comprehension of the weekly reading. It is the student's responsibility to transmit their answer through Brightspace on a WORD document, with name, student number, copy of the question and their short answer. No late submission will be accepted beyond the deadline set on Brightspace. It is also the student's responsibility to be present throughout the entire class session. Credit is not given for missed classes or portions of classes. In class discussions, quality (knowledge of readings and of thought) is more important than quantity.

(2) Course Paper: Due on Last class of the Term (5pm electronically by Brightspace): 40%

The course paper is central to LAWS 3504A, and research and communication skills are at least as important as substantive knowledge. Familiarize yourself with these instructions, heed suggestions made in class, and use the research and writing guides listed below. Look at the paper and electronic resources at MacOdrum Library, the reference works in the Department of Law and Legal Studies Law Resource Centre at D494 Loeb, Quicklaw, Westlaw, Carswell, and other electronic data bases, and internet search engines and other research tools. Make use of the Writing Tutorial Service at 520- 2600, extn. 6632.

2.A) Topics

All students must write a course paper on the topic to be assigned by the instructor.

Papers on other topics will not receive marks.

2.B) Format

The paper must be a maximum of 2500 words (about 12 typed or word-processed pages, excluding footnotes, etc.). It must be well-prepared, with proper citation, a presentation page, footnotes or endnotes, and bibliography. In all matters of legal citation and form, papers must comply with the McGill Guide (see below).

Content Important qualities are: good organization and use of sources, comprehensive, up-to-date treatment of the subject matter, originality (i.e., no quoting or paraphrasing of secondary sources without explicit acknowledgment), accuracy (in grammar, spelling,

and law), conciseness, reasoned analysis (discussion of pros and cons, comparisons, assessments, concrete examples, logical arguments, etc., rather than pure description or pure subjective opinion), and clarity, gender-appropriate language (e.g., avoiding use of male gender where both genders are relevant).

See also the research, writing, and citation guides listed below.

2.C) Originality

The paper must be researched and written entirely and exclusively by the student who submits it. All use of other peoples' words or ideas must be fully and clearly acknowledged.

Work (a) that contains plagiarism - from the web or elsewhere, or (b) that was previously or is concurrently submitted for credit in this course, or (c) that was or is submitted for credit in any other course, will be given no credit.

It is a very serious academic offence, subject to the penalties in the Department of Law's Policy and Procedure Statement below.

Avoid case headnotes. Keep quotations and paraphrasing to a minimum. Where you use words or thoughts of others, give full credit for every single word or thought you use. Identify all words of others in quotation marks or in indented single-space passages, and link these to acknowledgments in endnotes or footnotes. If you must paraphrase, use your own words and fully acknowledge all the original sources. All theories, views, and opinions of others must be fully acknowledged.

2.D) Presentation and Penalties

The paper must be a computer-printable document on standard-sized paper using WORD or PDF Outlet, with a title page but no cover. Pages must be numbered.

Papers are due on the last day of Term, 5pm, and must be uploaded via Brightspace. An assignment slot in the corridor outside the Departmental Office, Room C473, Loeb Building is available for emergency only (notify me by email for any emergency).

Students must keep an extra copy of the completed paper.

Marks will be deducted for failure to submit it on time - at the rate of 7% per day late, including weekends. Extensions will not be granted, except for reasons granted by the University policies and requirements. No credit is generally given for papers submitted after the University's final submission deadline.

2. E) Citation guides

The paper must follow the legal citation requirements in the McGill Guide (Canadian guide to uniform legal citation (2023) Thomson Reuters. For basic elements of the McGill Guide, see Department of Law and Legal Studies, Carleton University, Legal Style Sheet for Term Papers. and Queen's University, Legal Citation: Legal Research Materials and Queen's University, Legal Citation: Legal Research Materials.

(3) Final Examination (Brightspace quiz): 40%

Date and hour TBD in December 2024.

Length: 2 hrs. Online. choice of essay or multiple-choice questions, on all term work.

All components must be successfully completed in order to get a passing grade.

Students who cannot attend on-campus assessments in person may apply to write their exams remotely, if they meet certain criteria. More information for instructors and students is available at <https://carleton.ca/ses/distance-exams/>.

Assessment for the online Quiz will occur on campus outside of regular class time (which can include Friday evening, Saturday or Sunday).

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Please consult the policy for the paper above. 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 short-term extensions, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/academic-consideration-coursework-form/>.

Final exam deferrals must be applied for at the Registrar's Office. Please view the following link for more information and how to apply for a deferral: <https://carleton.ca/registrar/deferral/>

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student's control), please visit the following link: <https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

SCHEDULE

The topics are keyed to the headings in the Outline/Table of Contents at the beginning of the coursebook *Aboriginal Legal Issues*. Knowledge and understanding of coursebook material, the lectures, and handouts will help ensure that you can contribute to class discussions and pass the examinations. Sections of the following chapters will be identified in class, for readings. Please make sure to consult Brightspace to access extra reading material on each subject below.

Week 1. Sep 09**Intro: Course Outline. Decolonization and the Law**

Consult Brightspace for the readings

Week 2. Sep 16**Class 1: Governance and Colonialism**

Reading 1: Borrows, Chapter 1, Brightspace

Week 3. Sep 23**Class 2: Aboriginal rights: Sparrow and 1982**

Reading 2: Borrows, Chapter 2, Brightspace

Week 4. Sep 30**Class 3: Aboriginal Title: Part 1**

Reading 3: Borrows, Chapter 3 and consult Brightspace

Week 5. Oct 07**Class 4: Aboriginal Title: Part 2**

Reading 4: Borrows, Chapter 3 and consult Brightspace

Week 6. Oct 14

Thanksgiving Holiday: NO-CLASSES

Week 7. Oct 21

Fall Break: NO_CLASSES

Week 8. Oct 28**Class 5: Treaties: Part 1**

Reading 5: Borrows, Chapter 4 and consult Brightspace

Week 9. Nov 04**Class 6: Treaties: Part 2**

Reading 6: Borrows, Chapter 3 and consult Brightspace

Week 10. Nov 11**Class 7: Crown Obligations**

Reading 7: Borrows, Chapter 5 and consult Brightspace

Week 11. Nov 18

Class 8: Inuit Rights

Reading 8: Borrows, Chapter 6 and consult Brightspace

Week 12. Nov 25

Class 9: Métis Rights

Reading 9: Borrows, Chapter 7 and consult Brightspace

Week 13. Dec 02

Class 10: Federalism/issues

Reading 10: Borrows, Chapter 8 and consult Brightspace

Week 14. Dec 06

Class 11: Conclusion and revision

No reading

Fall 2024 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website: https://calendar.carleton.ca/academicyear/</i>	
September 4, 2024	Fall term begins.
September 17, 2024	Last day for registration and course changes (including auditing) for fall, and fall/winter courses.
September 30, 2024	Last day to withdraw from fall term and fall/winter courses with a full fee adjustment (financial withdrawal).
October 14, 2024	Statutory holiday. University closed.
October 21-25, 2024	Fall break. No classes.
November 15, 2024	Last day for academic withdrawal from fall courses.
	Last day to request formal exam accommodations for fall, and fall/winter examinations to the Paul Menton Centre for Students with Disabilities.
November 22, 2024	Last day for summative tests or examinations or formative tests or examinations totaling more than 15% of the final grade in the fall or fall/winter before the official examination period.
December 6, 2024	Fall term ends.
	Last day of fall term classes.
	Classes follow a Monday schedule.
	Last day for take home examinations to be assigned.
December 7-8, 2024	No classes or examinations take place.
December 9-21, 2024	Final examinations in fall term courses and mid-term examinations in fall/winter courses will be held.
December 21, 2024	All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.
December 24, 2024 – January 2, 2025	University closed.

University and Departmental Policies

DEPARTMENT POLICIES AND REGULATIONS

PLAGIARISM

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one’s own; and
- failing to acknowledge sources through the use of proper citations when using another’s work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course’s instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of “F” for the course.

STATEMENT ON STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

For more information, please consult <https://wellness.carleton.ca/>

Emergency Resources (on and off campus):

- <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Empower Me: 1-844-741-6389, <https://students.carleton.ca/services/empower-me-counselling-services>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

ACADEMIC ACCOMMODATIONS

Carleton is committed to providing academic accessibility for all individuals. You may need special arrangements to meet your academic obligations during the term. The accommodation request processes, including information about the Academic Consideration Policy for Students in Medical and Other Extenuating Circumstances, are outlined on the Academic Accommodations website (students.carleton.ca/course-outline).

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

Pregnancy Obligation and Family-Status Related Accommodations

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 about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>.

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 for a formal evaluation. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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 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/>.

Academic Consideration for Medical and Other Extenuating Circumstances

Due to medical and other extenuating circumstances, students may occasionally be unable to fulfill the academic requirements of their course(s) in a timely manner. The University supports the academic development of students and aims to provide a fair environment for students to succeed academically. Medical and/or other extenuating circumstances are circumstances that are beyond a student's control, have a significant impact on the student's capacity to meet their academic obligations, and could not have reasonably been prevented.

Students must contact the instructor(s) as soon as possible, and normally no later than 24 hours after the submission deadline for course deliverables. If not satisfied with the instructor's decision, students can conduct an "informal appeal" to the Chair of the department within three

(3) working days of an instructor's decision. We have created a webform specifically for appeals to the Chair, which can be found here: <https://carleton.ca/law/application-for-review-of-refusal-to-provide-academic-consideration/>. *Note: This form only applies to LAWS courses and is not the same as a formal appeal of grade.* More information about the academic consideration can be found [here](#).