

COURSE OUTLINE		
<b>TERM: FALL 2021</b>	<b>COURSE NO: LAW 331</b>	
<b>INSTRUCTOR:</b>	<b>COURSE TITLE: Indigenous People and the Law</b>	
<b>OFFICE: LOCAL:</b> <b>E-MAIL: @capilanou.ca</b>	<b>SECTION NO(S):</b>	<b>CREDITS: 3.0</b>
<b>OFFICE HOURS:</b>		
<b>COURSE WEBSITE:</b>		

Capilano University acknowledges with respect the Lil'wat, Musqueam, Squamish, Sechelt, and Tsleil-Waututh people on whose territories our campuses are located.

### **COURSE PREREQUISITES/CO-REQUISITES**

LAW 101, LAW 110 and LAW 210, OR 45 credits of 100-level or higher coursework.

### **COURSE FORMAT**

Three hours of class time, plus an additional hour delivered through on-line or other activities for a 15-week semester, which includes two weeks for final exams. In addition to work done in the classroom, it is expected that students will do the required reading and assignments at home and will use on-line resources and materials provided in class.

### **CALENDAR DESCRIPTION**

Students will be introduced to the main legal topics involving First Nations in British Columbia and Indigenous people across Canada, including constitutional relations between governments, the Indian Act and Indigenous governance, citizenship, laws affecting Indigenous women, family law, treaty-making, and land and resource management issues.

### **COURSE NOTE**

LAW 331 is an approved Self and Society course for Cap Core requirements. LAW 331 is equivalent to LAW 430. Duplicate credit will not be granted for this course and LAW 430.

### **REQUIRED TEXTS AND/OR RESOURCES**

John J. Borrows & Leonard I. Rotman, eds, Aboriginal Legal Issues, 5th ed. (Markham: LexisNexis, 2018) ("**Borrows**")

Instructor materials will be posted on the course eLearn site

### **REFERENCE TEXTS:**

Mattias Åhrén, Indigenous Peoples' Status in the International Legal System, (Oxford: University Press, 2016)

Sébastien Grammond, Terms of Coexistence: Indigenous Peoples and Canadian Law, (Toronto: Carswell, 2013)

**COURSE STUDENT LEARNING OUTCOMES**

**On successful completion of this course, students will be able to do the following:**

1. Effectively describe and explain the relevant common law and statutory rules, principles and exceptions.
2. Prepare written and oral analyses of problems and cases.
3. Research the common law and statutory rules, principles and exceptions.
4. Work in study groups to analyze and synthesize the relevant common law and statutory rules, principles and exceptions.
5. Discuss current events relating to Indigenous interests on a local, national and international level.

**Students who complete this Self and Society course will be able to do the following:**

1. Identify potential root causes of local/global problems and how they affect local/global cultures, economies, politics and policies.
2. Analyze the impact of colonialism and racism on Indigenous peoples.
3. Synthesize a range of differing community perspectives on ethics and justice and explain how these perspectives can inform structural change.
4. Generate strategies for reconciling Indigenous and non-Indigenous relations.

**COURSE CONTENT**

<b>WEEKLY COURSE CONTENT</b>		
<b>WEEK</b>	<b>CONTENT</b>	<b>READINGS</b>
<b>1</b>	<b>INTRODUCTION TO INDIGENOUS TITLE</b> - Terminology - The Importance of Land - Doctrine of "Aboriginal Title" - The Royal Proclamation	<b>Borrows</b> , pp. 183-204  <i>Posted documents</i>
<b>2</b>	<b>THE COMMON LAW</b> - Fiduciary doctrine - Trust or not to trust - The "New" Relationship after <i>Guerin</i>	<b>Borrows</b> , pp. 404-440
<b>3</b>	<b>FEDERALISM &amp; FIRST NATIONS</b> - Overview of the Indian Acts - Division of powers - Section 88 of the Indian Act	<b>Borrows</b> , pp. 695-740
<b>4</b>	<b>INDIGENOUS WOMEN</b> - Matriarchies in British Columbia First Nations - Matrimonial Property - Status under the Indian Act - 'Corrections' in the law	<b>Borrows</b> , pp. 791-805, 805-815, 820-842 & 850-859.

WEEKLY COURSE CONTENT		
WEEK	CONTENT	READINGS
5	<b>INDIGENOUS RIGHTS</b> <ul style="list-style-type: none"> <li>- What are “rights?”</li> <li>- Inherent or contingent rights</li> <li>- Indigenous perspectives</li> <li>- <i>Jack and Charlie v. R.</i></li> </ul>	<b>Borrows</b> , pp. 93-114, 119-135.  <i>Posted</i>
6	<b>LAW AND TREATY-MAKING</b> <ul style="list-style-type: none"> <li>- the Canadian experience</li> <li>- the basic reasons for treaties</li> <li>- Indigenous perspectives</li> <li>- Modern case law</li> </ul>	<b>Borrows</b> , pp. 281-293, 301-320.
7	<b>MID-TERM EXAM</b>	
8-9	<b>THE LANDS ISSUE IN B.C.</b> <ul style="list-style-type: none"> <li>- law and land in British Columbia</li> <li>- the Colonial mindset</li> <li>- the early cases</li> <li>- Indigenous perspectives on lands, peoples and resources</li> <li>- two worlds</li> <li>- recent litigation: <i>Tsilhqot'in Nation</i></li> </ul>	<b>Borrows</b> , pp. 204-278.
10	<b>MÉTIS AND INUIT RIGHTS</b> <ul style="list-style-type: none"> <li>- the Métis people</li> <li>- Inuit self-government</li> <li>- ongoing issues</li> </ul>	<b>Borrows</b> , pp. 633-646, 679-689, 577-594.
11-12	<b>INDIGENOUS LAWS</b> <ul style="list-style-type: none"> <li>- new paradigms</li> <li>- Law, ancestry and territories</li> <li>- Law, jurisdiction and people</li> <li>- law and relationships</li> </ul>	<b>Borrows</b> , pp. 1-9, 54-88.  <b>pp. 597-622.</b>
13	<b>INTERNATIONAL INDIGENOUS LAW</b> <ul style="list-style-type: none"> <li>- Special topic on comparative law</li> <li>- Final Exam Review</li> </ul>	<i>Posted materials</i>
14-15	<b>FINAL EXAM PERIOD</b>	

**EVALUATION PROFILE:**

Midterm Exam	30%
Final Exam	30%
Case brief / Participation	10%
Projects	<u>30%</u>
<b>TOTAL:</b>	<b>100%</b>

**Participation**

Class and online activities will involve participation in presenting cases to the class, isolating the main facts and issues of the case presented. Typically there will be two cases each term, with 5% mark for each presentation.

**GRADING PROFILE:**

A+ = 90-100	B+ = 77-79	C+ = 67-69	D = 50-59
A = 85-89	B = 73-76	C = 63-66	F = 0-49
A- = 80-84	B- = 70-72	C- = 60-62	

**Incomplete Grades**

Grades of Incomplete "I" are assigned only in exceptional circumstances when a student requests extra time to complete their coursework. Such agreements are made only at the request of the student, who is responsible to determine from the instructor the outstanding requirements of the course.

**Late Assignments**

Assignments are due at the beginning of the class on the due date listed. If you anticipate handing in an assignment late, please consult with your instructor beforehand.

**Missed Exams/Quizzes/Labs etc.**

Missed exams, quizzes and/or tests are given at the discretion of the instructor. Make-up exams, quizzes and/or tests are given at the discretion of the instructor. They are generally given only in medical emergencies or severe personal crises. Some missed activities may not be able to be accommodated. Please consult with your instructor.

**Attendance**

Students are expected to attend all classes and associated activities.

**English Usage**

Students are expected to proofread all written work for any grammatical, spelling and stylistic errors. Instructors may deduct marks for incorrect grammar and spelling in written assignments.

**Electronic Devices**

Students may use electronic devices during class for note-taking only.

**On-line Communication**

Outside of the classroom, instructors will (if necessary) communicate with students using either their official Capilano University email or eLearn; please check both regularly. Official communication

between Capilano University and students is delivered to students' Capilano University email addresses only.

## UNIVERSITY OPERATIONAL DETAILS

### Tools for Success

Many services are available to support student success for Capilano University students. A central navigation point for all services can be found at: <https://www.capilanou.ca/student-life/>

**Capilano University Security: download the [CapU Mobile Safety App](#)**

### Policy Statement (S2009-06)

Capilano University has policies on Academic Appeals (including appeal of final grade), Student Conduct, Cheating and Plagiarism, Academic Probation and other educational issues. These and other policies are available on the University website.

### Academic Integrity (S2017-05)

Any instance of academic dishonesty or breach of the standards of academic integrity is serious and students will be held accountable for their actions, whether acting alone or in a group. See policy S2017-05 for more information: <https://www.capilanou.ca/about-capu/governance/policies/>

Violations of academic integrity, including dishonesty in assignments, examinations, or other academic performances, are prohibited and will be handled in accordance with the Student Academic Integrity Procedures.

**Academic dishonesty** is any act that breaches one or more of the principles of academic integrity. Acts of academic dishonesty may include but are not limited to the following types:

**Cheating:** Using or providing unauthorized aids, assistance or materials while preparing or completing assessments, or when completing practical work (in clinical, practicum, or lab settings), including but not limited to the following:

- Copying or attempting to copy the work of another during an assessment;
- Communicating work to another student during an examination;
- Using unauthorized aids, notes, or electronic devices or means during an examination;
- Unauthorized possession of an assessment or answer key; and/or,
- Submitting of a substantially similar assessment by two or more students, except in the case where such submission is specifically authorized by the instructor.

**Fraud:** Creation or use of falsified documents.

**Misuse or misrepresentation of sources:** Presenting source material in such a way as to distort its original purpose or implication(s); misattributing words, ideas, etc. to someone other than the original source; misrepresenting or manipulating research findings or data; and/or suppressing aspects of findings or data in order to present conclusions in a light other than the research, taken as a whole, would support.

**Plagiarism:** Presenting or submitting, as one's own work, the research, words, ideas, artistic imagery, arguments, calculations, illustrations, or diagrams of another person or persons without explicit or accurate citation or credit.

**Self-Plagiarism:** Submitting one's own work for credit in more than one course without the permission of the instructors, or re-submitting work, in whole or in part, for which credit has already been granted without permission of the instructors.

**Prohibited Conduct:** The following are examples of other conduct specifically prohibited:

- Taking unauthorized possession of the work of another student (for example, intercepting and removing such work from a photocopier or printer, or collecting the graded work of another student from a stack of papers);
- Falsifying one's own and/or other students' attendance in a course;
- Impersonating or allowing the impersonation of an individual;
- Modifying a graded assessment then submitting it for re-grading; or,
- Assisting or attempting to assist another person to commit any breach of academic integrity.

### **Sexual Violence and Misconduct**

All Members of the University Community have the right to work, teach and study in an environment that is free from all forms of sexual violence and misconduct. Policy B401 defines sexual assault as follows:

Sexual assault is any form of sexual contact that occurs without ongoing and freely given consent, including the threat of sexual contact without consent. Sexual assault can be committed by a stranger, someone known to the survivor or an intimate partner.

Safety and security at the University are a priority and any form of sexual violence and misconduct will not be tolerated or condoned. The University expects all Students and Members of the University Community to abide by all laws and University policies, including B.401 Sexual Violence and Misconduct Policy and B.401.1 Sexual Violence and Misconduct Procedure (found on Policy page <https://www.capilanou.ca/about-capu/governance/policies/>).

**Emergencies:** Students are expected to familiarise themselves with the emergency policies where appropriate and the emergency procedures posted on the wall of the classroom.