

SOC 3740 T02: Selected Topics in Criminology

Law, Justice, and Indigenous Peoples

The University of Manitoba • Department of Sociology and Criminology

Fall 2018 (3 cr. hrs.)

Professor: Dr. Jeremy Patzer **Telephone:** 204-480-1039
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Location: 308 Tier **Office:** 309 Isbister
Final Exam: In class test **Office Hours:** By appointment

Generally, the most effective way to get in touch with me is by email. I am often able to respond within 24-48 hours, barring periods of travel, conferences, unbearable mountains of marking, etc.

REQUIRED READING

There is no textbook for this course. The articles and chapters that form the reading list can be found on the course web site on UM Learn.

- *Materials which do not appear on the official reading list may be supplied in class, uploaded to UM Learn, or even assigned for home viewing (streaming documentaries, etc.) throughout the course. Students are just as responsible for keeping up with this content, as it will also appear on the tests.*

COURSE OBJECTIVES

In the context of settler-colonial relations, should the law be seen as an avenue for rectifying historical wrongs against Indigenous peoples, to be used in the search for justice? Or is it better seen as an instrument of dispossession and domination in the service of the settler state? To further raise the stakes, generations of Indigenous peoples in Canada have been subject to forms of legal regulation, legal control, and outcomes of legal policy and practice (whether intended or not) in ways which non-Indigenous peoples have not. To further complicate the issue, to speak of “the law” in a singular fashion is somewhat of a misnomer in that it is vast and multi-faceted. We will therefore straddle the divisions between areas such as criminal law, constitutional law, parliamentary legislation, and transitional justice. Ultimately, this course will reveal the law’s role as much more complex, ambivalent, and equivocal than the initial question would suggest.

GRADE DISTRIBUTION

A+	90 – 100%	C+	65 – 69%
A	80 – 89%	C	60 – 64%
B+	75 – 79%	D	50 – 59%
B	70 – 74%	F	0 – 49%

EVALUATION AND ASSESSMENT

Small Paper 1	(20%)	Oct 11
Test 1	(30%)	Oct 23
Small Paper 2	(20%)	Nov 20
Test 2	(20%)	Dec 6
Participation	(10%)	Throughout the course

Failure to complete any portion of the required coursework will result in a grade of zero for that portion.

IMPORTANT DATES

Sept 5: Fall term begins

Nov 19: Voluntary withdrawal deadline

Nov 12-16: Fall term break, no classes

Dec 7: Last day of classes for fall term

About the Forms of Assessment

PARTICIPATION (10%)

Class participation is a key component of the course. **Students are expected to have completed the pertinent readings prior to the lectures.** This will allow you to incorporate the lecture material quickly, make connections to the readings and your prior knowledge, and engage actively in class discussions. **Students are also expected to be present for each class, participate in class discussion, and be a non-disruptive member of the class** (e.g., avoid non-class-related internet use, non-class-related chatting, cell phone calls, texting, early departures). Participation scores are based upon all of these factors, along with small in-class activities and written responses. **Attendance will be taken on a regular basis. Students who regularly miss class without a valid reason will receive 0% for participation.** Please be aware of the University's policy on unexcused absences from the calendar's General Academic Regulations:

1. Attendance at Class and Debarment

Regular attendance is expected of all students in all courses. An instructor may initiate procedures to debar a student from attending classes and from final examinations and/or from receiving credit where unexcused absences exceed those permitted by the faculty or school regulations.

A student may be debarred from class, laboratories, and examinations by action of the dean/director for persistent non-attendance, failure to produce assignments to the satisfaction of the instructor, and/or unsafe clinical practice or practicum. Students so debarred will have failed that course.

TESTS

There will be two tests consisting of written answer questions, and perhaps some multiple choice or true/false questions.

SMALL PAPERS

Students will write two short papers of approximately four pages each (not including title page, references, etc.) I will give the topic for each in class. The papers should make use of and reference course materials. I will also create a list of recommended readings in UM Learn in order to help students enrich their research. The papers must be typed and formatted according to the **ASA, APA, or Chicago** style guide. No covers, etc.—just use a stapler!

Things You Should Know

MISSING DEADLINES AND TESTS

Assignment deadlines and tests can only be missed for legitimate medical reasons or family emergencies. If you are in a situation where you are likely to miss a deadline or test for a compelling reason, **contact me beforehand** so that we can discuss it, and please work on securing appropriate documentation from a legitimate source. Students who miss a test must provide proper documentation to be considered for re-scheduling.

Things You Should Know. Cont'd

“WHEN WILL WE GET OUR TESTS/ESSAYS BACK?”

A rule of thumb I employ is to endeavour to have tests and papers graded and returned by the two-week mark. Depending upon class size and evaluation methods for the course (proportion of written work vs multiple choice, etc.), this can sometimes be a challenge.

ACADEMIC INTEGRITY

Students should acquaint themselves with the university's policy on plagiarism, cheating, exam personation, (“Personation at Examinations” [Section 5.2.9] and “Plagiarism and Cheating” [Section 8.1]) and duplicate submission by reading documentation provided at the Arts Student Resources site: http://umanitoba.ca/faculties/arts/student_resources/student_responsibilities_integrity.html. Ignorance of the regulations and policies regarding academic integrity is not a valid excuse for violating them.

COPYRIGHTED MATERIAL & RECORDING CLASS LECTURES

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UNCLAIMED TERM WORK DISPOSAL

Any term work that has not been claimed by students will be held for four (4) months from the end of the final examination period for the term in which the work was assigned. At the conclusion of this time, all unclaimed term work will become property of the Faculty of Arts and be destroyed according to FIPPA guidelines and using confidential measures for disposal.

SPECIAL LEARNING NEEDS & ACCESSIBILITY

Students with special learning needs (who for legitimate reasons require extra time to write a test, or who require aids or other supports) should identify themselves to me at the beginning of term in order to arrange suitable accommodation, and contact Student Accessibility Services.

DISRUPTION

Disruptions due to excessive talking or early departures from the classroom are especially distracting to large classes. Please be considerate and respectful of the needs and rights of others in the class. Students should be aware that persistent disruption may result in disbarment from the course. Any student who has a legitimate reason for **leaving class early** should inform the instructor at the beginning of class. Students should also be aware that use of **electronic devices** for purposes other than taking notes and searching information/images related to the lecture is a distraction both to them, the students around them, and potentially the professor. Disruptive use of electronic devices may result in a ban against their use or, in extreme cases, disbarment from the course.

Reading List & Tentative Schedule

*These assigned readings will be posted on UM Learn, while other supplemental materials may be handed out in class or posted on UM Learn.

THE LAW'S MANAGEMENT OF COLONIAL DISPOSSESSION (~4.5 WEEKS)

- Reynolds, Jim. 2018. "Historical Background." Pp. 3-29 in *Aboriginal Peoples and the Law: A Critical Introduction*. Vancouver: Purich Books.
- Vowel, Chelsea and Darryl Leroux. 2016. "White Settler Antipathy and the *Daniels* Decision." *TOPIA: Canadian Journal of Cultural Studies* (36).
- Coyle, Michael. "Marginalized by Sui Generis? Duress, Undue Influence and Crown-Aboriginal Treaties." *Manitoba Law Journal* 32 (2009): 34-64.
- Niezen, Ronald. "Culture and the Judiciary: The Meaning of the Culture Concept as a Source of Aboriginal Rights in Canada." *Canadian Journal of Law and Society* 18, no. 2 (2003): 1-26.
- Borrows, John. 2015. "The Durability of Terra Nullius: *Tsilhqot'in Nation v. British Columbia*." *UBC Law Review* 48(3):701-42.
- Samson, Colin. 2016. "Canada's Strategy of Dispossession: Aboriginal Land and Rights Cessions in Comprehensive Land Claims." *Canadian Journal of Law and Society* 31(1):87-110.

CRIME AND CRIMINAL LAW (~4.5 WEEKS)

- Cunneen, Chris, and Juan Tauri. "Policing, Indigenous Peoples and Social Order." In *Indigenous Criminology*, 67-87. Bristol: Policy Press, 2016.
- Dafnos, Tia, Scott Thompson and Martin French. 2016. "Surveillance and the Colonial Dream: Canada's Surveillance of Indigenous Self-Determination." Pp. 319-42 in *National Security, Surveillance and Terror: Canada and Australia in Comparative Perspective*, edited by R. K. Lippert, K. Walby, I. Warren and D. Palmer. Cham, Switzerland: Springer International Publishing.
- Chan, Wendy and Dorothy Chunn. 2014. "Intersectionality, Crime, and Criminal Justice." Pp. 27-38 in *Racialization, Crime, and Criminal Justice in Canada*. Toronto: University of Toronto Press.
- Monchalin, Lisa. "Crime Affecting Indigenous Peoples: Over-Representation, Explanations, and Risk Factors." In *The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada*, 143-74. Toronto: University of Toronto Press, 2016.
- Hannah-Moffat, Kelly and Paula Maurutto. 2010. "Re-Contextualizing Pre-Sentence Reports: Risk and Race." *Punishment & Society* 12(3):262-86.

Williams, Toni. "Intersectionality Analysis in the Sentencing of Aboriginal Women in Canada: What Difference Does It Make?" In *Intersectionality and Beyond: Law, Power and the Politics of Location*, edited by Emily Grabham, Davina Cooper, Jane Krishnadas and Didi Herman, 79-104. Oxon, UK: Routledge-Cavendish, 2009.

Razack, Sherene. "Timely Deaths: Medicalizing the Deaths of Aboriginal People in Police Custody." *Law, Culture and the Humanities* 9, no. 2 (2013): 352-74.

Jiwani, Yasmin and Mary Lynn Young. 2006. "Missing and Murdered Women: Reproducing Marginality in News Discourse." *Canadian Journal of Communication* 31(4):895.

TRANSITIONAL JUSTICE, RECONCILIATION & UNDRIP (~3.5 WEEKS)

James, Matt. "Uncomfortable Comparisons: The Canadian Truth and Reconciliation Commission in International Context." *The Ethics Forum* 5, no. 2 (2010): 25-35.

Stanton, Kim. "Canada's Truth and Reconciliation Commission: Settling the Past?" *International Indigenous Policy Journal* 2, no. 3 (2011).

Green, Robyn. "Unsettling Cures: Exploring the Limits of the Indian Residential School Settlement Agreement." *Canadian journal of law and society* 27, no. 01 (2013): 129-48.

Jacobs, Margaret D. 2017. "Stimulating and Resisting Transborder Indigenous Adoptions in North America in the 1970s." Pp. 27-50 in *International Adoption in North American Literature and Culture: Transnational, Transracial and Transcultural Narratives*, edited by M. Shackleton. Cham, Switzerland: Palgrave MacMillan.

Lightfoot, Sheryl R. 2012. "Selective Endorsement without Intent to Implement: Indigenous Rights and the Anglosphere." *The International Journal of Human Rights* 16(1):100-22. doi: 10.1080/13642987.2012.622139.

Woolford, Andrew. "Governing through Repair: Historical Injustices and Indigenous Peoples in Canada." In *Facing the Past: Amending Historical Injustices through Instruments of Transitional Justice*, edited by Peter Malcontent, 303-20. Cambridge: Intersentia Ltd, 2016.