

THE OSGOODE CERTIFICATE IN FUNDAMENTALS OF INDIGENOUS PEOPLES AND CANADIAN LAW

October 28, November 4, 12, 16, 25, and December 1, 2021
6 Non-consecutive Days Over 6 Weeks
Online – Live and On Demand

Acquire the essential knowledge and practical strategies you need to effectively navigate legal issues involving Indigenous Peoples.

Join a truly expert faculty from across Canada – representing government, Indigenous and industry perspectives – and engage in in-depth discussions about foundational issues, including:

- The *Indian Act*: key issues for practitioners and policy makers
- Section 35 – understanding its purpose, framework and emerging issues
- History and development of modern day treaties: current policies, opportunities and challenges
- The most significant cases and key legal concepts from the last 40 years
- Duty to Consult & Accommodate – Crown, Proponent and Indigenous perspectives on implementation strategies across Canada

Register today at:

osgoodepd.ca/indigenous

Program Directors

Sandra A. Gogal
Cassels Brock & Blackwell LLP

Renée Pelletier
Olthuis, Kleer, Townshend LLP

Location

ONLINE – Live

*You will have online access
to the program for 120 days.*



The Osgoode Certificate in Fundamentals of Indigenous Peoples and Canadian Law

Take advantage of this unique opportunity to tap into the deep reservoir of practical, relevant knowledge and extensive experience of both faculty and your peers.

The *Osgoode* Certificate in Fundamentals of Indigenous Peoples and Canadian Law

was designed and is delivered by an expert faculty drawn from across Canada. This essential program will help you develop a comprehensive knowledge of the fundamental issues relating to Indigenous peoples and the law, while expanding your professional and personal networks.

Created to help you understand this complex and vitally important body of law, this intensive program is a deep dive into the **knowledge** and **practical strategies** you need to be able to work more effectively when dealing with these complex and rapidly evolving legal issues.

The aim of the program is to provide you with a practical understanding of Indigenous rights and title, the constitutional and legislative framework, reserve lands and developments on reserve, treaty interpretation, modern treaties and consultation and accommodation. After examining the history and current state of the law, we will reflect on what the future looks like.

Learn and connect with other professionals who work in this area, in an engaging online forum. There will be lots of opportunity for questions, lively debate and networking.



Topics Include:

- The historic narrative and constitutional framework
- Understanding historic treaties – the context, perspectives and contemporary realities
- Understanding (and working effectively with) Indigenous self-governance
- The relationship between the historic treaties and the role of the Crown, the division of powers, treaty rights and the *Indian Act*
- Modern day treaties using case studies and a Canada-wide comparative analysis
- The duty to consult and accommodate – its origins, recent case law developments and best practices
- Implementation of consultation across Canada, now and what's next?

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Who Should Attend

- Legal professionals practicing in the areas of Aboriginal law/Indigenous Peoples and the Law, natural resources, environmental and Constitutional law
- Government lawyers/officials – federal, provincial and municipal sectors
- In-House Counsel, particularly those working in the energy, resource and infrastructure development sectors
- Indigenous leaders, councillors and advisors
- Negotiators and mediators for industry, government and Indigenous communities

Drawing on the expertise of leading legal experts, government and industry representatives, including:

Program Directors



Sandra A. Gogal
Cassels Brock & Blackwell LLP



Renée Pelletier
Olthuis, Kleer, Townshend LLP

Advisory Board

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JFK Law Corporation, Victoria

Peter R. Lemmond
Counsel, Ministry of the Attorney General,
Crown Law Office – Civil

Naiomi W. Metallic
Burchells LLP, Halifax

Register today at:

osgoodepd.ca/indigenous

Program Faculty Includes

Robert H. Brent
Senior Counsel, Ontario Ministry of Energy,
Northern Development and Mines, Toronto

Karen Drake
Associate Dean (Students) & Associate
Professor, Osgoode Hall Law School, Toronto

Douglas R. Eyford, Q.C.
Eyford Partners LLP, Vancouver

Michael Fox
President, Indigenous Community
Engagement, Thunder Bay

Nuri G. Frame
Pape Salter Teillet LLP, Toronto

Brian J. Hebert
McKiggan Hebert Lawyers, Halifax

Larry Innes
Olthuis, Kleer, Townshend LLP, Yellowknife

Thomas Isaac
Cassels Brock & Blackwell LLP, Vancouver

Marla Israel
Director General, Policy Planning and
Coordination, Implementation Sector, Crown-
Indigenous Relations and Northern Affairs
Canada, Ottawa

Robert Janes
JFK Law Corporation, Victoria

Nancy J. Kleer
Olthuis, Kleer, Townshend LLP, Toronto

Diana Kwan
Senior Counsel Indigenous and Northern
Affairs Canada, Ottawa

Jason T. Madden
Pape Salter Teillet LLP, Toronto

Sara Mainville
Olthuis, Kleer, Townshend LLP, Toronto

Matt McPherson
Olthuis, Kleer, Townshend LLP, Toronto

Dr. Dwight Newman, Q.C., D.Phil.
Professor, Canada Research Chair in
Indigenous Rights in Constitutional and
International Law, College of Law at the
University of Saskatchewan

Jessica Orkin
Goldblatt Partners LLP, Toronto

Gillian Paul
Legal and Governance Advisor, Wolastoqey
Nation in New Brunswick

Mary Jean Rolando
Counsel, Crown-Indigenous Relations and
Northern Affairs & Indigenous Services,
Legal Services, Department of Justice Canada,
Ottawa

David Schulze
Dionne Schulze, Montreal

Paul Seaman
Gowling WLG (Canada), Vancouver

Derek A. Simon
Burchells LLP, Halifax

S. Ronald Stevenson
Juristes Power Law, Ottawa

John Topping
Director, Strategic Policy Development
Directorate, Policy Development and
Coordination Branch, Treaties and Aboriginal
Government Relations, Crown-Indigenous
Relations and Northern Affairs Canada, Ottawa

Amy Westland
Senior Counsel, Westaway Law Group, Ottawa

Michelle Wood
Counsel, Ontario Ministry of Natural Resources
and Forestry, Toronto

Agenda

MODULE 1

October 28, 2021
9:00 a.m – 5:00 p.m.
The Foundations

Overview of the Historic Narrative and Legal Implications

- The pre-existence of Indigenous peoples and the assertion of sovereignty
- Canada's creation, expansion and settlement
- Treaty making with Indigenous peoples (pre and post-Confederation)
- The ongoing national project of treaty making and reconciliation with Indigenous peoples
- Acknowledging the existence of Indigenous Laws

Understanding the Constitutional Framework

- The Royal Proclamation, 1763
- The Division of Powers and Section 91(24) of the *Constitution Act*, 1867
- The 1870 Order, the *Manitoba Act*, 1870, the Natural Resources Transfer Agreements and other constitutional instruments
- The *Constitution Act*, 1982
- The role of International Norms and Principles and the United Nations Declaration on the Rights of Indigenous Peoples

Understanding the Historic Treaties: Context, Perspectives and Contemporary Realities

The Relationship between the Historic Treaties and the Role of the Crown, the Division of Powers, Treaty Rights and the *Indian Act*

Faculty

Karen Drake, Associate Dean (Students) & Associate Professor, Osgoode Hall Law School, Toronto

Sara Mainville, Olthuis, Kleer, Townshend LLP, Toronto

Derek A. Simon, Burchells LLP, Halifax

S. Ronald Stevenson, Juristes Power Law, Ottawa

MODULE 2

November 4, 2021
9:00 a.m. – 5:00 p.m.
The *Indian Act*

An Overview of the History and Development of the *Indian Act* and its Ongoing Evolution

The *Indian Act*: Key Issues for Practitioners and Policy-Makers

- 'Status' registration under the *Indian Act*, including the *Descheneaux* case and Canada's response
- Legal issues for business operations as well as taxation on-reserve
- Issues surrounding the negotiation of self-government and other agreements with Bands under the *Indian Act*

Governance Institutions in Indigenous Communities: *Indian Act* Councils and Traditional Indigenous Governments

The *Land Management Act*

- Overview of the purpose of the Act and its intersection with the *Indian Act*
- Practical realities of its impact

Faculty

Sandra A. Gogal, Cassels Brock & Blackwell LLP, Toronto

Nancy J. Kleer, Olthuis, Kleer, Towns LLP, Toronto

Jessica Orkin, Goldblatt Partners LLP, Toronto

Mary Jean Rolando, Counsel, Crown-Indigenous Relations and Northern Affairs & Indigenous Services, Legal Services, Department of Justice Canada, Ottawa

Paul Seaman, Gowling WLG (Canada), Vancouver

David Schulze, Dionne Schulze, Montreal

MODULE 3

November 12, 2021
9:00 a.m. – 5:00 p.m.
The Aboriginal Rights Framework in Section 35

Section 35 Aboriginal Rights Framework

- The legal test
- The history, development and evolution of s.35 of the *Constitution Act*, 1982
- Understanding and identifying Aboriginal title and emerging issues

The Most Significant Cases and Key Legal Concepts from the Last 40 Years

- The key cases you need to know about and their practical implications for professionals working in this area

Faculty

Thomas Isaac, Cassels Brock & Blackwell LLP, Vancouver

Robert Janes, JFK Law Corporation, Victoria

Matt McPherson, Olthuis, Kleer, Townshend LLP, Toronto

Amy Westland, Senior Counsel, Westaway Law Group, Ottawa

MODULE 4

November 16, 2021
9:00 a.m. – 5:00 p.m.
The Modern Day Treaties

Evolution of the Treaty Making Process

- Anatomy of a modern day treaty
- Approaches to modern treaty making

An Overview of the History and Development of the Modern Day Treaties: Current Policies, Opportunities and Challenges

Understanding the Modern Day Treaties through Case Studies and a Comparative Analysis Across Canada

Key Emerging Issues in Modern Day Treaty Implementation and the Road Ahead

- Treaty implementation – moving beyond the colonial model
- Environmental assessments and land and water co-management
- Funding treaty implementation and self-government (Financial Transfer Agreements)
- Business and wealth creation
- Current and emerging issues in modern treaty implementation

Faculty

Douglas R. Eyford, Q.C., Eyford Partners LLP, Vancouver

Nuri G. Frame, Pape Salter Teillet LLP, Toronto

Larry Innes, Olthuis, Kleeer, Townshend LLP, Yellowknife

Marla Israel, Director General, Policy and Coordination at Crown-Indigenous Relations and Northern Affairs, Ottawa

John Topping, Director, Strategic

Policy Development Directorate, Policy Development and Coordination Branch, Treaties and Aboriginal Government Relations, Crown-Indigenous Relations and Northern Affairs Canada, Ottawa

MODULE 5

November 25, 2021
9:00 a.m. – 5:00 p.m.
The Duty to Consult and Accommodate

Understanding the Duty to Consult and Accommodate

- Origins of the Duty as a part of the Infringement Test
- Journey of the Duty since *Haida* and *Taku*
- An overview of recent developments and case law
 - Non-treaty context (*Haida*, *Taku*)
 - Historic treaty context (*Mikisew*)
 - Modern treaty context (*Little Salmon*)
- What we know and don't know about the duty

Introduction to Consultation: Who, What, Why (and Practical Strategies on How)

Implementation of Consultation Practices Across Canada

- Crown, community, industry and proponent perspectives on how the duty to consult is being implemented in different communities and industries

Faculty

Robert H. Brent, Senior Counsel, Ontario Ministry of Energy, Northern Development and Mines, Toronto

Michael Fox, President, Indigenous Community Engagement, Thunder Bay

Brian J. Hebert, McKiggan Hebert Lawyers, Halifax

Dr. Dwight Newman, Q.C. D.Phil., Professor, Canada Research Chair in Indigenous Rights in Constitutional and International Law, College of Law at the University of Saskatchewan

Gillian Paul, Legal and Governance Advisor, Wolastoqey Nation in New Brunswick

Renée Pelletier, Olthuis, Kleeer, Townshend LLP, Toronto

Michelle Wood, Michelle Wood, Counsel, Ministry of Natural Resources and Forestry, Toronto

MODULE 6

December 1, 2021
9:00 a.m. – 5:00 p.m.
Where We Are At and What's To Come

Understanding the United Nations Declaration on the Rights of Indigenous People

- Overview of UNDRIP
- Assessment of how it has been adapted and implemented in Canada

Exercising Jurisdiction

- Overview of the principles
- Case studies of community exercising jurisdiction over resources, assessments, etc.

Indigenous Child Welfare

Where Do We Go From Here?

- A multi-disciplinary panel will reflect on what has transpired in the past, assess where we are now and engage students in a forward thinking discussion about what is on the horizon.

Register today at:

[osgoodepd.ca/
indigenous](https://osgoodepd.ca/indigenous)

Registration Details

Fee per Delegate

\$3,495 plus HST

Newly Licensed (2017 – present): \$1,847.50 plus HST

Fees include attendance, electronic materials, and technical support. Participants will have access to the archived sessions of this program for 120 days from the date of completion. Visit www.osgoodepd.ca/financial-assistance for details about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days' notice, a \$150 administration fee will apply. No other refund is available.

For Further Program-Related Information, Please Contact:

Alison Hurst, Program Lawyer: ahurst@osgoode.yorku.ca

Certificate of Program Completion

You will receive a certificate upon completion of **The Osgoode Certificate in Fundamentals of Indigenous Peoples and Canadian Law**. To receive a certificate, participants **must attend all six program days** (either via webcast or on demand) and **receive a passing grade on the post-program multiple choice assessment**.

4 Convenient Ways to Register



Mail



Online



Fax



Call

Register today at:

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OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD Hours – LSO (ON): 31h 15m CPD (27h 15m Substantive; 2h Professionalism; 2h EDI)



This program is approved for LAWPRO Risk Management Credit

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.

What past participants have said:

“Coming into this course with extremely little understanding of the Canadian legal context or the relationship between it and our indigenous population, these sessions provided an excellent overview of key milestones in Canada’s history that have shaped today’s landscape.”

David Barrett
Director Sustainability,
Alamos Gold Inc.

“The best thing about the program was the quality and knowledge of the presenters, and how well the topics relate to the work we do in government every day.”

Janet Leader
Executive Assistant,
Office of the Assistant Deputy Minister,
Provincial Highways Management,
Ministry of Transportation

“The range of topics and breadth of speakers was very impressive. Furthermore the contacts I made via networking with students and faculty were invaluable.”

Megan E. Peck
Senior Counsel,
Assessment Review Board