

THE OSGOODE CERTIFICATE IN FUNDAMENTALS OF INDIGENOUS PEOPLES AND CANADIAN LAW

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
- Consult & Accommodate – the fundamentals, plus Crown, Proponent and Indigenous perspectives on implementation strategies across Canada

PROGRAM DIRECTORS

Sandra A. Gogal
Cassels Brock & Blackwell LLP

Renée Pelletier
Olthuis Kleer Townshend LLP

REGISTRATION DETAILS

October 18, 25, November 1, 8,
15 and 22, 2023

Online (Live)

9:00 a.m. – 5:00 p.m. ET

Can't make the date?

*Registration includes 120-day
unlimited, online access to the
recorded program.*

Register today at:

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



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.

Register today at:
[osgoodepd.ca/
indigenous](https://osgoodepd.ca/indigenous)



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
- Métis Rights and Reconciliation
- The duty to consult and accommodate – its origins, recent case law developments and best practices
- Implementation of consultation across Canada, including current and developing practices in resource development, impact benefit agreements, participation agreements, cooperation agreements and revenue sharing agreements
- Reflecting on where are we now and what's next?

Register today at:

osgoodepd.ca/indigenous

Who Should Attend

- Legal professionals practicing in the areas of Aboriginal 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
- Community Leaders, councilors and advisors
- Negotiators and mediators for industry, government and Indigenous communities

Drawing on the expertise and experience of leading thinkers, lawyers, developers and executives, including:

Program Directors



Sandra A. Gogal
Cassels Brock & Blackwell LLP



Renée Pelletier
Olthuis Kleer Townshend LLP

Advisory Board

Keith B. Bergner
Lawson Lundell LLP, Vancouver

Christopher Devlin
DGW Law Corporation, Victoria

Peter W. Hutchins
Hutchins Legal Inc., Montréal

Thomas Isaac
Cassels Brock & Blackwell LLP, Vancouver

Robert Janes, K.C.
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](http://osgoodepd.ca/indigenous)

Program Faculty Includes

Robert H. Brent
Senior Counsel, Ministry of Indigenous Affairs,
Legal Services Branch (Toronto)

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

Douglas R. Eyford, K.C.
Eyford Partners LLP (Vancouver)

Michael Fox
President, Indigenous Community Engagement
(Thunder Bay)

Nuri G. Frame
Pape Salter Teillet LLP (Toronto)

John Gailus
DGW Law Corporation (Saanichton,
British Columbia)

Brenda Gunn
Professor, Faculty of Law,
University of Manitoba, Academic and
Research Director | Adjointe exécutive au
directeur académique et de recherche
National Centre for Truth and Reconciliation |
Centre national pour la vérité et la réconciliation

Brian J. Hebert
McKiggan Hebert Lawyers (Halifax)

Larry Innes
Olthuis Kleer Townshend LLP (Yellowknife)

Thomas Isaac
Cassels Brock & Blackwell LLP (Vancouver)

Robert Janes
JFK Law Corporation (Victoria)

Jake Kennedy
Director General, Policy & Partnerships
Branch (PPB), Implementation Sector
Crown-Indigenous Relations and Northern
Affairs Canada (CIRNAC) (Ottawa)

Nancy J. Kleer
Olthuis Kleer Townshend LLP (Toronto)

Diana Kwan
Principal, DK Consulting and Associate, JWR
Business Group, and former Senior Counsel
Indigenous and Northern Affairs Canada
(Ottawa)

Sunny LeBourdais
Director of Transformation, Qwelminté Secwépemc

Sara Mainville
JFK Law LLP (Vancouver)

Chief Scott McLeod
Nipissing First Nation

Matt McPherson
Olthuis Kleer Townshend LLP (Toronto)

Shyla O'Donnell
Operations Lead SOAR Professional Services
and former Executive Director of Wolastoqey
Tribal Council and Consultation Director for the
Wolastoqey Nation in New Brunswick

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)

Colin Salter
Pape Salter Teillet LLP (Toronto)

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
A/Director General, Policy Development
and Coordination, Treaties and Aboriginal
Government Relations Couronne-Autochtones
et Affaires du Nord Canada
Crown-Indigenous Relations and Northern Affairs
Canada (Ottawa)

Professor Jeffrey Warnock
Assistant Professor, Faculty of Law,
Western University (London)

Maggie Wente
Olthuis Kleer Townshend LLP (Toronto)

Cynthia Westaway
Senior Counsel, First Peoples Law (Ottawa)

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

Agenda

In addition to program day content, participants will be expected to complete a very modest amount of pre-program day work (approximately 4 hours of recorded lectures spread out over the 6 program days).

DAY 1

October 18, 2023
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 Professor, Osgoode Hall Law School (Toronto)

Sara Mainville

JFK Law LLP (Vancouver)

Derek A. Simon

Burchells LLP (Halifax)

S. Ronald Stevenson

Juristes Power Law (Ottawa)

DAY 2

October 25, 2023
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*
- Land tenure and permitted uses 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
- Opting out of the *Indian Act*

Faculty

John Gailus

DGW Law Corporation (Saanichton, British Columbia)

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 (Vancouver)

David Schulze

Dionne Schulze (Montreal)

DAY 3

November 1, 2023
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

Métis Rights and Reconciliation

Faculty

Brenda Gunn

Professor, Faculty of Law, University of Manitoba, Academic and Research Director | Adjointe exécutive au directeur académique et de recherche, National Centre for Truth and Reconciliation | Centre national pour la vérité et la réconciliation

Robert Janes, K.C.

JFK Law Corporation (Victoria)

Matt McPherson

Olthuis Kleer Townshend LLP (Toronto)

Cynthia Westaway

Senior Counsel, First Peoples Law (Ottawa)

DAY 4

November 8, 2023
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
- The Collaborative Fiscal Policy Development Process

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

Douglas R. Eyford, K.C.

Eyford Partners LLP (Vancouver)

Nuri G. Frame

Pape Salter Teillet LLP (Toronto)

Larry Innes

Olthuis Kleer Townshend LLP (Yellowknife)

Thomas Isaac

Cassels Brock & Blackwell LLP (Vancouver)

Jake Kennedy

Director General, Policy & Partnerships Branch (PPB), Implementation Sector, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) (Ottawa)

Colin Salter

Pape Salter Teillet LLP (Toronto)

John Topping

A/Director General, Policy Development and Coordination, Treaties and Aboriginal Government Relations Couronne-Autochtones et Affaires du Nord Canada, Crown-Indigenous Relations and Northern Affairs Canada (Ottawa)

DAY 5

**November 15, 2023
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)

Consultation: Implementation Challenges and Opportunities (including a discussion of the key issues identified by participants)

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 Indigenous Affairs, Legal Services Branch (Toronto)

Michael Fox

President, Indigenous Community Engagement (Thunder Bay)

Brian J. Hebert

McKiggan Hebert Lawyers (Halifax)

Shyla O'Donnell

Operations Lead SOAR Professional Services and former Executive Director of Wolastoqey Tribal Council and Consultation Director for the Wolastoqey Nation in New Brunswick

Renée Pelletier

Olthuis, Kleer, Townshend LLP (Toronto)

Michelle Wood

Counsel, Ministry of Natural Resources and Forestry (Toronto)

DAY 6

**November 22, 2023
9:00 a.m. – 5:00 p.m.**

Where We Are and What's To Come

Self-Governance – the Foundations

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: Challenges, successes, lessons learned for going forward

Indigenous Child Welfare

Where Do We Go From Here?

Faculty

Sandra A. Gogal

Cassels Brock & Blackwell LLP (Toronto)

Diana Kwan

Principal, DK Consulting and Associate, JWR Business Group, and former Senior Counsel Indigenous and Northern Affairs Canada (Ottawa)

Sunny LeBourdais

Director of Transformation, Qwelminté Secwépemc

Sara Mainville

JFK Law LLP (Vancouver)

Chief Scott McLeod

Nipissing First Nation

Renée Pelletier

Olthuis Kleer Townshend LLP (Toronto)

Maggie Wente

Olthuis Kleer Townshend LLP (Toronto)

Register today at:

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

Registration Details

Fee per Delegate: \$3,795 + TAX

Newly Licensed*: \$1,897.50 + TAX

**This fee applies to newly licensed regulated professionals within the past 2 years*

Fees include attendance, electronic materials, and technical support.

Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details.

OsgoodePD Bursary for Indigenous Learners

OsgoodePD offers financial assistance to individual learners who identify as Indigenous (defined as Status, Non-Status, Metis, and Inuit). A limited number of bursaries are available, and these will be awarded on a first-come, first-served basis. Applications open May 1, 2023. TO APPLY: osgoodepd.ca/indigenousbursary.

Financial Assistance

This program is eligible for OSAP funding. Federal and provincial job grants may be available. You may also apply for financial assistance with OsgoodePD. To learn more, visit: www.osgoodepd.ca/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 REQUIREMENTS

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 complete all six program days** (either via live ZOOM or on demand), complete pre-program work, and **receive a passing grade on the multiple choice assessments**.

Register today at:

osgoodepd.ca/indigenous



Email: osgoodepd@osgoode.yorku.ca



Phone: 416 597 9724



Mail: 1 Dundas Street West, 26th Floor, Toronto, ON, M5G 1Z3



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



Eligible CPD Hours: LSO (ON): 45h CPD (40h 15m Substantive; 2h 15m Professionalism; 2h 30m EDI)



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. This program is approved for LAWPRO Risk Management Credit.

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