



THE OSGOODE CERTIFICATE IN FUNDAMENTALS OF INDIGENOUS PEOPLES AND CANADIAN LAW

March 3, 10, 24, 31 & April 7, 2020
5 Non-consecutive Days over 6 Weeks
In Person, Webcast or On Demand

Do you have the knowledge and practical skills to effectively navigate legal issues involving Indigenous Peoples?

Join our expert faculty from across Canada – representing government, Indigenous and industry perspectives – as they deliver the crucial knowledge and strategies you need. Topics include:

- The most significant cases and key legal concepts from the last 40 years
- 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
- Duty to Consult & Accommodate – hear from Crown, Proponent and Indigenous perspectives

Register today at:

osgoodepd.ca/Indigenous-Peoples



Program Directors

Sandra A. Gogal
Miller Thomson LLP, Toronto

Renée Pelletier
Olthuis, Kleer, Townshend LLP

Location

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

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 specifically designed 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 content you need to be able to work more effectively when dealing with these complex legal issues.

A truly outstanding faculty of practicing lawyers, industry and government representatives, and academics drawn from across the country will concentrate on the core aspects of Indigenous Peoples and the law, focusing not just on the law itself, but also those practical considerations that are key to understanding the rapidly changing legal environment.

The aim of the program is to give you 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.



Topics Include:

- The historic narrative and constitutional framework
- Understanding historic treaties – the 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*
- Understanding modern day treaties using case studies and a Canada-wide comparative analysis, including First Nation, Inuit and Métis perspectives

- The duty to consult and accommodate – its origins, recent case law developments and current trends
- Consultation approaches and policies across Canada, including current and developing practices in resource development, impact benefit agreements, participation agreements, cooperation agreements and revenue sharing agreements and policies

Who Should Attend?

- Lawyers practising 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

Register today at:

osgoodepd.ca/Indigenous-Peoples

Drawing on the expertise and experience of leading lawyers, government and industry representatives, and academics, including:

Program Directors



Sandra A. Gogal
Miller Thomson LLP, Toronto



Renée Pelletier
Olthuis, Kleer, Townshend LLP

Program Faculty Includes

Robert H. Brent

Senior Counsel, Ontario Ministry of Energy, Northern Development and Mines

Sonia L. Eggerman

Formerly Crown Counsel, Constitutional Law Branch, Saskatchewan Justice, Regina, currently MLT Aikins, Regina

Douglas R. Eyford, Q.C.

Eyford Partners LLP

Manizeh Fancy

Senior Counsel, Crown Law Office – Civil, Ministry of the Attorney General

Nuri G. Frame

Pape Salter Teillet LLP, Toronto

John Gailus

Devlin Gailus Watson, Victoria

Brian J. Hebert

McKiggan Hebert Lawyers, Halifax

Derek Hoffman

Miller Thomson LLP, Saskatchewan

Larry Innes

Olthuis, Kleer, Townshend LLP, Yellowknife

Thomas Isaac

Cassels Brock & Blackwell LLP, Vancouver

Robert Janes

JFK Law Corporation, Victoria

Nancy J. Kleer

Olthuis, Kleer, Townshend LLP, Toronto

Patricia Lawrence

Senior Counsel, Westaway Law Group, Ottawa

Jason T. Madden

Pape Salter Teillet LLP

Sara Mainville

Olthuis, Kleer, Townshend LLP, Toronto

Julie Mugford

Senior Director, Modern Treaty Implementation Office, Crown-Indigenous Relations and Northern Affairs Canada

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

Kaitlin Ritchie

Olthuis, Kleer, Townshend LLP, Toronto

Mary Jean Rolando

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

David Schulze

Dionne Schulze, Montreal

Paul Seaman

Gowling WLG (Canada), Vancouver

S. Ronald Stevenson

Senior General Counsel, Department of Justice, Ottawa

Jean Teillet

Pape Salter Teillet LLP, Vancouver

John Topping

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

Michelle Wood

Counsel, Ministry of Natural Resources and Forestry, Ontario

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Robert Janes
JFK Law Corporation, Victoria

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

Naomi W. Metallic
Burchells LLP, Halifax

Agenda

* Registration begins at 8:30 a.m.

DAY 1

March 3, 2020
9:00 a.m. – 4:30 p.m.
The Foundations

Overview of the Historic Narrative

- 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

Manizeh Fancy, Senior Counsel, Crown Law Office – Civil, Ministry of the Attorney General

Sara Mainville, Olthuis, Kleer, Townshend LLP, Toronto

Jean Teillet, Pape Salter Teillet LLP, Vancouver

DAY 2

March 10, 2020
9:00 a.m. – 4:30 p.m.
The Historic Treaties, Treaty Rights and 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*

An Overview of 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

Faculty

Thomas Isaac, Cassels Brock & Blackwell LLP, Vancouver

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

Paul Seaman, Gowling WLG (Canada), Vancouver

David Schulze, Dionne Schulze, Montreal

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

DAY 3

March 24, 2020
9:00 a.m. – 4:30 p.m.
The Aboriginal Rights Framework in Section 35

Section 35 Aboriginal Rights Framework

- The history, development and evolution of s.35 of the *Constitution Act*, 1982
- Understanding how the s.35 case law "fits" together from a litigation and negotiation perspective, including the legal tests and "best practices" for litigating s.35 rights and claims
- Ethical and professionalism issues in advancing s.35 litigation
- What are the trends and emerging s.35 issues for Practitioners and Policy-Makers

First Nation Land Management Act and the First Nations Finance Authority

- Overview of the *First Nation Land Management Act* and related land code (including templates and best practices)
- The role and function of the FNFA, including how it finances and deals with security issues
- Finance Agreements: examples of what they should include, how they operate

Faculty

John Gailus, Devlin Gailus Watson, Victoria

Derek Hoffman, Miller Thomson LLP, Saskatchewan

Robert Janes, JFK Law Corporation, Victoria

Patricia Lawrence, Senior Counsel, Westaway Law Group, Ottawa

S. Ronald Stevenson, Senior General Counsel, Department of Justice

DAY 4

March 31 2020
9:00 a.m. – 4:30 p.m.
The Modern Day Treaties

Evolution of the Treaty Making Process

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, including First Nation, Inuit and Métis perspectives

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

- Participation in environmental assessments and land and water management issues
- Funding treaty implementation and self-government (Financial Transfer Agreements)
- Business and wealth creation
- Case law (existing and emerging) on interpreting and implementing Modern Day Treaties, including the Yukon Peel Watershed case
- Ongoing and emerging issues in modern treaty implementation

Luncheon Keynote Speaker

Reconciliation with the Métis: Recent Developments and the Road Ahead

Jason T. Madden, Pape Salter Teillet LLP, Toronto

Faculty

Douglas R. Eyford, Q.C., Eyford Partners LLP
Nuri G. Frame, Pape Salter Teillet LLP, Toronto
Larry Innes, Olthuis, Kleer, Townshend LLP, Yellowknife

Julie Mugford, Senior Director, Modern Treaty Implementation Office, Crown-Indigenous Relations and Northern Affairs Canada

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

DAY 5

April 7 2020
9:00 a.m. – 4:30 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 and Why?

An Overview of Consultation Approaches and Policies Across Canada

- Current and developing practices in resource development
- By proponents: impact benefit agreements, participation agreements, cooperation agreements
- By governments: revenue sharing agreements/policies, facilitating partnerships/ownership opportunities, economic participation policies

- By Indigenous groups: internal laws, policies and guidelines

Understanding the United Nations Declaration on the Rights of Indigenous People

The Crown, Proponent and Indigenous Perspectives on the Duty to Consult and Accommodate

- The key Challenges, Solutions and Strategies for dealing with them

Faculty

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

Sonia L. Eggerman, Formerly Crown Counsel, Constitutional Law Branch, Saskatchewan Justice, Regina, currently MLT Aikins, Regina

Brian J. Hebert, McKiggan Hebert Lawyers, Halifax

Sara Mainville, Olthuis, Kleer, Townshend LLP

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

Kaitlin Ritchie, Olthuis, Kleer, Townshend LLP, Toronto

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

Acquire the key knowledge and strategies you need in an engaging and interactive learning environment. There will be ample opportunity for discussion, questions and lively debate.

Register today at:
osgoodepd.ca/Indigenous-Peoples

Registration Details

Fee per Delegate

\$3,595 plus HST

Newly Licensed (2017 – 2020): \$1,847.50 plus HST

Government Rate: \$3,195 plus HST

Fees include attendance, program materials, lunch and break refreshments.

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 five program days** (either in person, via webcast or on demand) and **receive a passing grade on the post-program multiple choice assessment**.

4 Convenient Ways to Register



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 25m CPD (27h 55m Substantive; 3h Professionalism; 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.

What past participants have said:

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