# ARTSSCI 4MN1/ Interdisciplinary Approaches to Justice:

**Territory and the Law**

2022-2023 (Term 2, Winter 2023)

## Course Instructor: Lev Marder

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## Class: 3, 10, 17, 24 March (all 2:30-4:20pm), LRW-3038 (Warner/Wilson Room)

## Office Hours: 1:30-2:20 on Fridays over zoom

## Course Description and Objectives:

Our sessions exploring legal decision-making will be grounded in local and global concerns over “territory and the law” and Indigenous land claims specifically, to understand where we live, how we make decisions concerning and on contested land, who benefits and should benefit from it, what is owed to whom, and what is or should be the role of the law and judges in answering these and other questions. Students will have the opportunity to experience legal-decision making through analysis of court decisions and conversations with legal experts. By the end of module, students will also have improved their communication and analytical skills through case study analysis and discussions, and presentation and research skills when they teach the class about a local issue in Week 3.

We have four in person sessions 2 hours each in length. Sessions 1+2 are theory and practice. Session 3 focuses on the local context and will be primarily driven by student concerns/input. Session 4, post-practice, students will be able to ask a local Indigenous land protection activist questions to further their understanding.

## Text:

*All course readings will be available through EDL.*

## Method of Evaluation:

In 4MN1, students need to receive a passing grade on all evaluations to pass.

1. Two post-class written reflections after the first two classes that in a single spaced half-page each reflect on the cases covered in class, as they raise concrete questions that in more metaphorical/theoretical ways were raised by the week’s readings. The first reflection is due on Sunday March 5th at 11:59pm by email and the second using the same method on March 12th. Both reflections have to be handed in to pass this evaluation.
2. Participation in class: participation that is engaged, attentive and respectful to opposing points of view, showing understanding of the material assigned for that week. This evaluation is for all four sessions.
3. Week 3 presentation to the class on the local issues. The presentation will be done in pairs, 15 minutes long, and further instructions will be shared during the first session.
4. Participation in the Q+A during the fourth session asking expert questions and then expanding on the responses through a written reflection (1/2 page, single spaced) due March 26th over email.

## Schedule for the four sessions:

1. March 3: In the first session on the “rule of law: what do equality and access to justice mean?”, the students and I will navigate the terrain and practice interpretative skills ourselves through a discussion of Kafka’s short story “Before the Law”, Will Kymlicka’s approach to group rights, combined with several court decisions concerning Indigenous Peoples access to justice (Beaver Lake Nation decision), which will allow students to begin practicing legal-decision making.

Readings: Franz Kafka’s short story “Before the Law”and Will Kymlicka’s “Three forms of group differentiated citizenship in Canada”

1. March 10: During the second session, we will add legal and Indigenous lenses to the understanding of legal-decision making by discussing Justice Wilson’s piece “We didn’t volunteer” and contrast that with indigenous perspectives on the Canadian law and judicial approaches to land claims. The contrast will enable us to pass judgment on the 2017 Ktunaxa Nation Supreme Court decision which pits Western land-development interests with Indigenous land claims in searching for what justice means when different ways of thinking clash.

Readings: Bertha Wilson, “We didn’t volunteer” and John Borrows “With or Without You: First Nations Law (In Canada)”

1. March 17: During the third session, we will apply the philosophical, legal, political, and Indigenous approaches we have been exposed to so far to understand our local context and specifically the competing industry/property land claims and Indigenous claims over the Haldimand Tract and students will take on the role of judges in practicing legal-decision making that considers both the interdisciplinary approaches and the complexity of the legal conundrum to define justice in the local context.
2. March 24: During the final session, tentatively Courtney Skye will join us as a guests to offer her perspective as someone personally and academically dealing with the questions we examine in this class and to answer student questions that will hone their understanding of legal decision-making when it comes to questions concerning justice and specifically as it affects the land they find themselves on, and how they and others benefit from it and should benefit from it.