American Indian Law Fall 2009
Professor Carpenter – kristen.carpenter@colorado.edu
University of Colorado School of Law

Course Description
This course provides an introduction to American Indian law, i.e., the legal relationship between Indian nations and the United States, including implications of this relationship for states and individual citizens. Our study will begin with an historical overview of the development of American Indian law, and will then consider modern and contemporary issues. The focus will be on federal Indian law and we will also consider examples of tribal law and international law. Throughout the course, we will take a contextual approach -- considering legal problems as they affect American Indian peoples, lands, and resources – while reflecting on broader jurisprudential lessons for our legal system.

Course Materials
Required: Getches, Wilkinson & Williams, FEDERAL INDIAN LAW, 5th ed. (West 2005) and all readings posted on the class TWEN site. We will frequently use video, audio & internet materials, and invite guest speakers to class (possibly in addition to those noted below). I will often distribute “problems” to be completed in class.

Class Requirements
Attendance, preparation, and professionalism all count toward the class participation grade. Students are expected to attend each class and be prepared to discuss all assigned materials. I will call on students to present assigned cases and other assigned materials at the beginning of each class, after which volunteers will be welcome. Any student who is unable to attend or unprepared must notify the professor, via email, in advance of class.

Law School and University Policies

Grading
The course grade is based 20% on class participation and 80% on a 3-hour, limited open-book exam. Our exam is scheduled for Tuesday, December 8, at 1:15pm.

Other policies
Class Meetings: Tuesdays and Thursdays from 2:30 to 3:45 in Wolf 301. Please note that we will not meet on Thursday, Sept. 3, but there will be an alternative required activity in place of class time.
Website: Each day’s Powerpoints, problems & other relevant materials will be posted on the class TWEN site. You are responsible for reading class materials posted on the site as well as emails sent to the address you provide there.
Office hours: My office is #465 and my office hours are Wednesdays from 1-2 or by appointment. I am also glad to answer questions by email which is usually the best way to reach me.
Syllabus: I may announce changes to the attached syllabus from time to time.

Current Events
www.turtletalk.wordpress.com (Indian law blog)  www.indianz.com (daily Indian news site)
www.indiancountry.com (national Indian newspaper)  www.narf.org (Native American Rights Fund)
www.indianlaw.org (Indian Law Resource Center)  www.law.asu.edu/Programs/Indian/Jobs/
I. INTRODUCTION

1. American Indians & the Law, 1-37
   In class: Northeast Indian Nations (video clip)

II. DEVELOPMENT OF FEDERAL INDIAN LAW & POLICY

2. The Doctrine of Discovery, 39-62 (skim); 62-71 (read carefully)
   Johnson v. M’Intosh

3. Federal-Tribal Treaty Relationship, 72-93

4. No class meeting
   Watch Principal Chief Chad Smith’s Annual State of the Cherokee Nation address on streaming video.

5. Removal, 93-112
   Cherokee Nation v. Georgia

6. Removal II, 112-127
   Worcester v. Georgia
   In class: Five Tribes – Removal (video clip)

7. Status of Indian Treaties in US Law, 127-139
   Indian Canons, Washington, Winans

   Sandoval, Indian Country, *Pommersheim, The Reservation as Place

   Crow Dog, Major Crimes Act, Kagama & *Harring, Crow Dog’s Case

10. Allotment and Assimilation, 165-186
    General Allotment Act, Lonewolf

11. Reorganization, 186-199
    Indian Reorganization Act
    Guest Speaker: Padraic McCoy, Faegre & Benson (9/29)

12. Termination, 199-216
    Termination Act, PL 280, Menominee

13. Self-Determination, 216-235
    Nixon’s Message, Indian Self-Determination Act, Morton v. Mancari

III. TRIBAL SOVEREIGNTY IN THE MODERN ERA

A. Sovereignty & Property

14. Compensability in the Courts, 273-81, 365-76
    Tee-Hit-Ton, Sioux Nation
    In class: Paha Sapa: The Struggle for the Black Hills (documentary clip)

15. Claims & Tribunals, 281-95
    Indian Claims Commission, Dann v. U.S. (in Inter-American Commission)
    In class: Broken Treaty at Battle Mountain (documentary clip)

    Seminole, Navajo, Cobell
B. Sovereignty & Governance

Governance and Tribal Members

17. Inherent Sovereignty, 377-388, 414-418
   
   Talton, Wheeler, Williams
   In class: Plains People – Tribal Values & Governing Systems (video clip)

18. Federal Statutory Limitations on Tribal Governance, 388-406
   
   Indian Civil Rights Act, Santa Clara Pueblo v. Martinez
   In class: Cherokee Freedmen Problem

   
   MacDonald, Francisco, Johnson

20. Tribal Justice Systems: Criminal
   
   *Denver Post Series on Criminal Justice & Ute Reservations
   Guest Speaker: Former United States Attorney Troy Eid (11/12)

Governance and Non-Members

21. Civil Jurisdiction over Non-Members, 536-541, 619-39
   
   Montana, Strate, Hicks & *Plains Commerce (S.Ct. 2008)

22. Criminal Jurisdiction over Non-Members 509-536
   
   Oliphant, Lara & *Bressi v. Ford, (9th Cir. 2009)

C. Sovereignty & Economic Sustainability

23. Gaming, 722-737
   
   Cabazon & *Supplemental Reading

D. Sovereignty & Societal Welfare

24. The Indian Child Welfare Act, 653-78
   

E. Sovereignty & Culture

25. Sacred Sites, 738-756
   
   Lyng, Bear Lodge & *Navajo Nation (9th Cir. en banc 2008)
   In class: In the Light of Reverence (documentary clip)

IV. CONCLUSION:

26. Studying & Practicing Indian Law
   
   *Lupe, What to Expect if You are Hired as a Tribal Attorney
   *Anaya, The Ethical Dilemma of Doing Federal Indian Law
   *Strickland, “You Can't Rollerskate in a Herd of Buffalo Even if You Have All the Medicine”