American Indian Law
Professor Sarah Krakoff
Class Times: Monday/Wednesday, 9:30 a.m.-10:50 a.m.
Room 306

Course Description: In American Indian Law, you will learn about the legal relationship between American Indian nations and the United States, including implications for states and individual citizens. American Indian tribes have a legal status that is unique both within our legal system and throughout the world. The United States Supreme Court has affirmed that Tribes are sovereign nations with rights to self-governance. And yet the Court has also acquiesced in the unilateral Congressional abrogation of aspects of that sovereign status. In addition, the Supreme Court itself has also engaged in extensive common law decision-making regarding the scope of tribal sovereignty. The resulting complex legal framework affects not only tribes and individual tribal members, but non-Indians as well. To understand the complexities of the present, it is necessary to have some understanding of the historical situation that brought us here. The course will therefore begin with historical materials, followed by an overview of federal Indian policy periods, and then will proceed to examine the legal framework chronologically at first, and then by subject matter.

Class Participation: Class participation will count for up to ten percent of your final grade. I will have a sign-in sheet at the front of the room for every class. If you circle your name, that will indicate to me that you have done the reading, thought about the questions, and are ready to contribute to class discussion. You may come to class unprepared and not circle your name, but if you are unprepared for more than twenty percent of our regularly scheduled classes, you will be ineligible for any class participation points.

Papers and Exam: There will be an optional writing assignment mid way through the semester. If your grade on the writing assignment is higher than your grade on the final examination, it will count for one third of the final grade. The final examination will be open book, but it is ideal to study for it as if it is a closed book exam.

Introduction and Early Influences on U.S. Indian Policy

1. Overview and Demographics, Colonial Influences and Early Practices, pp. 1-28

Origins of Federal Indian law

2. Revolutionary Era, Constitutional Framing, and Johnson v. M’Intosh, pp. 28-43


Fluctuating Federal Policies

5. Reservation Period, Ebb of Treaty Making, and Rise of Plenary Power; Ex Parte Crow Dog; U.S. v. Kagama, pp. 77-103

7. The IRA Period, Termination, Self-Determination, pp. 128-162.

**Federal Power in Indian Affairs**


**Status and Boundaries: Definitions of Tribes, Indian Country, Indian Land Claims, and Criminal Jurisdiction**


**Tribal Sovereignty**


**State-Tribal Struggles Over Jurisdiction**


**Tribal Jurisdiction Over Nonmembers**


**Last Class: Looking Back and Looking Forward**

26. Advocacy and the Judicial Role, pp. 580-584; Perspective on American Indian Law, pp. 895-991.

**Disability Accommodation:** If you qualify for accommodations because of a disability, please submit to me a letter from Disability Services in a timely manner so that your needs be addressed. Disability Services determines accommodations based on documented disabilities. Contact: 303-492-8671, Willard 322, and www.Colorado.EDU/disabilityservices

**Religious Accommodation:** Campus policy regarding religious observances requires that faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. In this class, please let me know in advance of any such conflicts and I will work with the Dean’s office to accommodate them. See full details at http://www.colorado.edu/policies/fac_relig.html