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 an overview of federal policies towards Indian tribes, and then will proceed to examine the legal framework chronologically at first, and then subject by subject.

Course Materials

“Deloria Hand-out”: Excerpts from Vine Deloria, Jr. & Clifford Lytle, American Indians, American Justice. (Available in the Faculty Assistant’s office on the third floor as of 8/9/05.)


“Blood Struggle Hand-out”: Excerpts from Charles Wilkinson’s Blood Struggle. (To be handed out in class.)

Grading

Your grade will consist of two or three factors, depending on whether you opt to write the paper: (1) a final examination, (2) in-class participation, and (3) an optional paper. The final will be open book, meaning you may consult any written materials you wish, with the exception of commercial outlines. Class participation will consist of two elements: a “present and prepared” policy, and required in-class presentations. Please see the “Class Participation Policy,” available on the TWEN site, for details regarding both. I will provide details about the optional paper before the mid-point of the semester. If you choose not to write the paper, the final examination will count for 90% of your grade and in-class participation will count for 10%. If you do choose to write the paper, the final examination will count for 60% of your grade, the paper will count for 30%, and in-class participation will count for 10%.

Assignments

You will generally read one assignment per class. Even if we do not finish discussing the readings assigned for class, please assume that you should complete the next assignment for the following class unless I say otherwise. From time to time, additional reading or reference materials will be assigned or recommended. Generally they will be available through links to the TWEN site, without the necessity of purchasing any other books or materials. It is part of your responsibility in this class to check both the TWEN site and your e-mail regularly.
READING ASSIGNMENTS, PART I

Introduction


Development of Federal Indian Law and Policy

2. The Doctrine of Discovery: Casebook 36-37; 39-71 (Johnson v. M’Intosh)

3. The Federal-Tribal Treaty Relationship: Casebook 72-93

4. Removal: Casebook 93-127 (Cherokee Nation v. Georgia; Worcester v. Georgia)

5. Status of Indian Treaties: Casebook 127-139 (Washington, Winans)


8. Indian Reorganization Act Period: Casebook 186-199

9. Termination: Casebook 199-216 (Menominee); Blood Struggle Hand-Out


Note on Accommodations for Disabled Students: If you qualify for accommodations because of a disability, please see Dean Trujillo early in the semester so that your needs may be addressed. Disability Services determines accommodations based on documented disabilities (303-492-8671, Willard 322, www.colorado.edu/sacs/disabilityservices).