

INDIAN NATIONS & INDIGENOUS PEOPLES



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MESSAGE FROM THE CHAIR

AS WE ENTER THE SECOND HALF OF 2021, WE HAVE DRAWN UPON OUR RESILIENCY, ADAPTABILITY, AND STRONG CULTURAL WAYS TO CONTINUE TO TEACH THE NEXT GENERATION OF LAWYERS TO SERVE TRIBAL COMMUNITIES. THIS SECTION SERVES AS A COMMUNITY FOR NATIVE AMERICAN LAW PROFESSORS AND THOSE IN THIS FIELD OF LAW. WE MAY BE FEW IN NUMBER, BUT WE CONTINUE TO BE A MIGHTY FORCE IN THE LAW. KEEP UP THE EXCELLENT WORK!

Greetings Colleagues,

In 2021, there has been an increasing insistence that our Indian Nations and Indigenous Peoples be recognized, be visible, and be included in national conversations, media, and in the legal field. To this end, we have seen push back from the National Congress of American Indians when news commentators state that

our culture is not part of American culture. A new sitcom premiered from the National Broadcasting Company (NBC) with Native actors, writers, humor and themes as part of mainstream television. These are but a few examples of the ongoing call in the United States for all Americans to become educated on the experiences of Native Americans.

There is a lack of statistics in the legal field for Native American attorneys, law professors, law graduates, law students and law applicants. In our field of law, there are approximately sixteen programs in the two hundred plus law school members of the Association of American Law Schools (AALS). We continue in all law schools to educate on the status of tribal enrollment/citizenship as necessary for identification. The Native American community has been susceptible to “box-checking” by those without tribal affiliation or with a family story seeking to benefit from scholarships and admission or sometimes in hiring decisions in law schools. In harmony with the [ABA Resolution on tribal citizenship on law school applications](#) dated August 8-9, 2011, Native American faculty members often must educate their law school admissions teams, administration, and colleagues on the difference between racial identification and political membership for American Indians.

This year's call for papers centers on the “The Native American Experience in Legal Academia: Striving for Academic Freedom and Equality to Realize the Common Good.” We will host a panel at the Annual meeting, January 5, 2022 at 11:00am EST, which will be held in a virtual format. We welcome abstract submissions for the panel until August 15 and are pleased that the Mitchell Hamline Law Review will publish selected articles. We are also co-sponsoring a panel on the ethics of social science research with the Law and Social Sciences Section.

From all of us that serve on the Section Board, thank you for your active engagement and dedication to teaching in our field. We look forward to seeing you at the Section panel during the annual meeting and throughout the year at conferences, meetings, and possibly in person.

INDIAN NATIONS & INDIGENOUS PEOPLES SECTION

CHAIR:

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(Sisseton-Wahpeton Dakota Oyate)
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Contact Us

Indian Nations & Indigenous Peoples
Website:

<https://www.aals.org/sections/list/indian-nations-and-indigenous-peoples/>

Email : SECTNA.aals@lists.aals.org

JUDICIAL UPDATES

Noteworthy Litigation

Monte Mills, Associate Professor of Law & Director, Margery Hunter Brown Indian Law Clinic, Alexander Blewett III School of Law, University of Montana; Executive Committee – INIP Section.

Lani Petrulo, Program Administrator, Native American Law and Sovereignty (NALS) Institute, Mitchell Hamline School of Law (Assisting the INIP Section).

UNITED STATES SUPREME COURT

Decided

***Brnovich v. Democratic National Committee*, 594 U.S. ____ (2021)**

(Argued March 2, 2021, decided July 1, 2021), opinion at:
https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf.

Arising from two consolidated cases, *Brnovich* addressed Voting Rights Act (VRA) and constitutional challenges to Arizona voting provisions that limit voting by out-of-precinct voters on election day and handling and transportation by certain individuals of another's completed early ballot.

In 1970, Arizona passed an out-of-precinct policy which requires election officials to reject ballots placed by voters that vote in the wrong precinct, including their votes for state and federal office. In 2016, Arizona passed a new law, H.B. 2023 which made it a felony for anyone other than an election official or a family member or caregiver to handle or collect a completed early voting or absentee ballot. The Democratic National Committee (DNC) challenged the new law based on the lack of evidence related to voting fraud which was the alleged purpose for passing H.B. 2023. The district court denied the preliminary injunction to prevent Arizona from enforcing both of these laws ahead of the 2016 election. But the DNC successfully appealed *en banc* to the Ninth Circuit, which invalidated the provisions, finding that they would have discriminatory impact on Native American, Hispanic, and African American voters, and that the ballot collection provisions demonstrated discriminatory intent under the VRA and Fifteenth Amendment.

On petition from both the State of Arizona and the Republican National Committee (RNC) regarding the applicability of the VRA, the Supreme Court granted certiorari in October 2020 and consolidated the cases. Oral arguments were held in March 2021, discussing a primary issue of what standard should be used to evaluate when discrimination occurs under Section 2 of the VRA.

In a 6-3 decision, the Supreme Court reversed the Ninth Circuit's decision, with the majority written by Justice Alito, joined by C.J. Roberts and Justices Thomas, Gorsuch, Kavanaugh, and Coney Barrett, holding that neither of the Arizona voting provisions violated the VRA, nor were they passed with racially discriminatory intent. However, the Court also declined to delineate a test to govern challenges to Section 2 of the VRA, but merely concluded that the provisions did not have discriminatory intent where they appear to work for 98% or more of voters to whom the provisions apply. Slip. Op. at 28.

***Yellen v. Confederated Tribes of the Chehalis Reservation*, 594 U.S. ____ (2021)**

(Argued April 29, 2021, decided June 25, 2021), opinion: https://www.supremecourt.gov/opinions/20pdf/20-543_3e04.pdf.

As a result of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), 15 U.S.C. 9001 *et seq.*, Indian tribes across the country were entitled to funds from the federal government. This suit resulted from a determination by the United States Department of the Treasury that Alaska Native Corporations (ANCs) authorized by the Alaska Native Claims Settlement Act (ANCSA) were also entitled to receive CARES Act funds. In setting forth entities eligible to receive funds from the CARES Act, Congress incorporated the following definition of "Indian Tribe" from the Indian Self-Determination and Education Assistance Act (ISDEAA):

any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians...

15 U.S.C. 5304(e).

After the Treasury Dept. determined that ANCs were eligible to receive CARES Act funds, the Chehalis and other tribes brought suit to challenge that determination. The district court granted summary judgment for the federal defendants, ruling that ANCs fit within the ISDEAA definition; but the U.S. Court of Appeals for the District of Columbia reversed, holding that ANCs are not eligible unless they are federally recognized as Indian tribes.

The Treasury Dept. and several ANCs then petitioned the U.S. Supreme Court for certiorari, which was granted in January 2021. Oral arguments were held in April, and the Justices appeared to side with the government, recognizing that ANCs were tribal governments and thus eligible for funding.

In a 6-3 decision, the Supreme Court reversed the D.C. Circuit and remanded the case, ruling that under the ISDEAA, ANCs do qualify as federally-recognized tribal governments, and thus are eligible to receive CARES Act funds. Justice Sotomayor authored the majority opinion, joined by C.J. Roberts, and Justices Alito, Breyer, Kavanaugh, and Coney Barrett, saying "The Court today affirms what the Federal Government has maintained for almost half a century: ANCs are Indian tribes." Slip. Op. at 28.



***United States v. Cooley*, 593 U.S. ____ (2021)**

(Argued March 23, 2021, decided June 1, 2021), opinion: https://www.supremecourt.gov/opinions/20pdf/19-1414_8m58.pdf.

In February 2016, an officer of the Crow Nation pulled over to assist a vehicle stopped on the side of a state highway running through the Crow Reservation. According to the officer, Joshua James Cooley, the driver had bloodshot, watery eyes and appeared to be non-Indian. While questioning Mr. Cooley, the tribal officer became concerned that Cooley might begin to use force and, therefore, removed Cooley from his vehicle, handcuffed him, and did a brief pat down. After finding the kind of empty plastic bags that are commonly used to distribute methamphetamine on Cooley's person, the officer then searched his vehicle and found methamphetamine. The officer also called for assistance from state and federal officers. The United States charged Cooley with various crimes and, in the District Court, Cooley moved to have the evidence suppressed, arguing that the tribal officer was in violation of the Indian Civil Rights Act (ICRA) because he lacked jurisdiction over Mr. Cooley after determining (or speculating) that Cooley was non-Indian.

Both the District Court and the Ninth Circuit agreed, but, in a unanimous opinion, the Supreme Court reversed, holding that the Crow Nation retains inherent sovereign authority to "search and detain for a reasonable time any person" who may or is believed to have committed a crime. The unanimous Court based its decision on the second exception from *Montana v. United States*, 450 U.S. 544, 566 (1981), with Justice Breyer writing for the majority that the exception "fits the present case, almost like a glove." The decision marks the first time a clear majority of the Court has upheld tribal authority under either of *Montana's* two exceptions (recognizing that a plurality upheld such authority in *Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation*, 492 U.S. 498 (1989)).

Denials of certiorari

***Seneca County v. Cayuga Indian Nation*, 978 F.3d 829 (2d Cir. 2020), cert. denied June 7, 2021.**

In the latest of a series of proceedings dating back nearly a decade, the Second Circuit granted the Cayuga Nation's motion for summary judgment on sovereign immunity grounds and affirmed the lower court's decision on October 23, 2020. The suit arose after the county attempted to foreclose on property owned by Cayuga Nation for nonpayment of local taxes. The court held traditional common law exceptions to sovereign immunity regarding immovable property do not apply and rejected the county's interpretation of the Supreme Court's holding in *City of Sherrill v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005), finding instead that tribal sovereign immunity bars foreclosure actions on lands purchased by a tribe on the open market.

***FMC Corp. v. Shoshone-Bannock Tribes*, 942 F.3d 916 (9th Cir. 2019), cert. denied Jan. 11, 2021.**

In a challenge to the authority of the Shoshone-Bannock Tribes to exercise jurisdiction over the FMC Corporation in a suit involving the clean-up of FMC's toxic waste on the Tribes' Reservation, the Ninth Circuit found that the "Tribes had regulatory and adjudicatory jurisdiction under both Montana exceptions, and that the Tribal Court of Appeals did not violate FMC's right to due process," while also determining that the Tribal Court's judgment "is enforceable under principles of comity." 942 F.3d at 944.

SELECTED LOWER COURT CASES

United States Courts of Appeal

***Confederated Tribes and Bands of the Yakama Nation v. Klickitat County*, __ F. 4th __, No. 19-35807 (9th Cir. 2021).**

(Argued November 20, 2020, decided June 11, 2021), opinion at: <https://law.justia.com/cases/federal/appellate-courts/ca9/19-35807/19-35807-2021-06-11.html>.

The Confederated Tribes and Bands of the Yakama Nation ceded more than 10 million acres of land for the rights reserved in the Treaty of 1855, including the right to exclusive use and benefit of the 1.4 million acre Yakama Reservation. The United States drew a Treaty Map at the time, including a depiction of a tract of land south of Mt. Adams, known as “Tract D” within the Reservation boundaries, which overlaps with Klickitat County, Washington. However, the map has since been lost.

The dispute between these parties arose when Klickitat County attempted to prosecute an enrolled member of the Tribe for acts that had occurred within Tract D. The Yakama nation and the federal government were supposed to share exclusive jurisdiction over criminal and civil offenses that occur on Reservation lands, pursuant to a proclamation by the Governor of Washington. The Yakama Nation sued the County seeking declaratory and injunctive relief barring the County from exercising criminal jurisdiction over Tribe members for offenses arising within the Reservation boundaries, including Tract D.

Klickitat County argued that: (1) the Yakama Nation did not reserve Tract D within the Yakama Reservation in the Treaty of 1855; and (2) even if it did, Congress subsequently changed the Yakama Reservation’s boundaries to eliminate Tract D’s reservation status in a 1904 Act to allot the Reservation. However, the Yakama Nation argued that there is no evidence within the 1904 Act of Congress’ clear expression of intent to change the Tribe’s Reservation boundaries, as required under existing Supreme Court case law. *Solem v. Bartlett*, 465 U.S. 463 (1984); *United States v. Dion*, 476 U.S. 734, 740 (1986). The district court issued a declaratory judgment in favor of the Yakama Nation, and Klickitat County appealed.



The Ninth Circuit Court of Appeals reviewed the Treaty’s meaning using a de novo standard and applied the federal Indian law canons of construction, which dictate that treaty terms must be construed as they would naturally be understood by the Indians and any ambiguities are to be resolved in their favor. *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515 (1832). The Ninth Circuit: (1) affirmed the district court’s interpretation that Yakama Reservation boundaries include the 121,465 acres within Tract D; and (2) held that Congress did not conclusively exclude Tract D from the Yakama Reservation through the 1904 Act.

Brackeen v. Haaland, 994 F.3d 249 (5th Cir. 2021) (en banc)

(Decided April 6, 2021), opinion at: <https://narf.org/nill/documents/20210406brackeen-opinion5th.pdf>

In a long, complex, and highly fractured decision (formerly *Brackeen v. Bernhardt*), the Fifth Circuit held that the Indian Child Welfare Act (ICWA), 25 U.S.C. 1901, and the 2016 Final Rule, 25 C.F.R. § 23, are constitutional, but split over various aspects of the law, its applicability in state courts, and where the decision might apply.

The plaintiffs were non-Indian families who disputed the constitutionality of ICWA, joined by the states of Texas, Indiana, and Louisiana in seeking to strike down ICWA as a law based on “race” rather than the legal and political relationship between tribal nations and the United States, as set forth in previous Supreme Court precedent. *Morton v. Mancari*, 417 U.S. 535 (1974). These parties sued the United States, particularly the federal agencies and officials that administered ICWA and the 2016 Final Rule, in this case, the Department of Interior (DOI) and Bureau of Indian Affairs (BIA).

In 2018, the district court found in favor of the plaintiffs, and among other things, ruled that ICWA's placement preferences, 25 U.S.C. § 1915, violated equal protection, the Act demonstrated a federal commandeering of states' authority in violation of the Tenth Amendment, and the BIA exceeded its statutory authority in promulgating regulations in violation of the Administrative Procedure Act. *Brackeen v. Zinke*, 338 F.Supp.3d 514 (N.D. Tex 2018). However, the ruling was largely reversed by a panel of the Fifth Circuit in *Brackeen v. Bernhardt*, 937 F.3d 406 (5th Cir. 2019).

In 2021, after granting a petition for rehearing *en banc*, the full Fifth Circuit ruled that some parts of ICWA were constitutional and other parts were not. It held that in some, limited circumstances the provisions of ICWA requiring that the state provide “active efforts” to reunify a family, or to put on a “qualified expert witness,” or to meet a heightened burden of proof may not apply.

Importantly, the Fifth Circuit decision is not binding on courts within the other federal circuits.

The Native American Rights Fund (NARF), TurtleTalk (Michigan State University College of Law), and the ICWA Defense Project (with funding from the Whitener Group) have put together [this helpful chart](#) breaking down how the decision may (or may not) affect ongoing ICWA cases.

United States District Courts

Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wis. v. Evers, et al, 2021 WL 1341819 (W.D. Wis. 2021)

(Decided April 9, 2021; Appeal to the Seventh Circuit Court of Appeals filed May 7, 2021) opinion at: <https://1.next.westlaw.com/Document/1123e97e09b9011ebbbbabec583fa227/View/FullText.html?VR=3.0&RS=cblt1.0&lrTS=20210708210840831&transitionType=Default&contextData=%28sc.Default%29&CobaltRefresh=2422>

Four Ojibwe Tribes with reservations in northern Wisconsin were established by the 1854 Treaty of La Pointe, including a provision by which the United States President could allot parcels of reservation land to private ownership by Individual Indians. These tribes include the Lake Superior Chippewa Indian Bands: (1) Lac Courte Oreilles; (2) Lac du Flambeau; Red Cliff; and Bad River.

The State of Wisconsin argues that any property allotted after 1887 is taxable pursuant to the General Allotment Act, 25 U.S.C. § 331 *et seq.*, with the understanding that reservation property under that Act is taxable. *County of Yakima v. Confederated Tribes & Bands of Yakima Indian Nation*, 502 U.S. 251 (1992). However, the Tribes contend that the

General Allotment Act does not apply to property on their reservations because their reservation land was allotted pursuant to the 1854 Treaty, and thus Indian-owned land on the reservations is not taxable. Additionally, the Tribes maintain that states and municipalities have no power to tax reservation lands unless the tribe has ceded jurisdiction over the land or unless Congress has authorized taxation with “unmistakably clear” intent. *Id.* at 258. The tribes have not done so and there is no evidence of Congress’ clear intent to authorize taxation.

The parties both moved for summary judgment on the question of whether Indian-owned property on the tribe’s reservations is taxable. The district court granted both motions, stipulating it would enter judgment and close the case, but would first stay enforcement of the judgment for 30 days to give the parties the opportunity to appeal. 2021 WL 1341819 at *12. The Tribes have filed an appeal to the Seventh Circuit Court of Appeal within the appropriate time frame.

State of Washington v. Vought, No. 2:21CV00002 (W.D. Wash., complaint filed Jan. 4, 2021).

On February 16th, 2021, the District Court for the Western District of Washington granted a motion for a preliminary injunction to a group of plaintiffs, including state, local, and tribal governments, that had brought a suit pursuant to the Administrative Procedures Act, 5 U.S.C. § 500 et seq., in an effort to halt the sale of the Federal Archives and Records Center in Seattle. The plaintiffs had alleged that the proposed sale of the Center would make important governmental records inaccessible to stakeholders across the Pacific Northwest.

The District Court ordered a preliminary injunction preventing the sale. *State of Washington v. Fairweather*, Dkt. No. 45 at 3 (Feb. 16, 2021). Following the injunction, the acting Office of Management and Budget (‘OMB’) Director, Shalanda Young, withdrew OMB’s consent and approval of the sale unless and until such sale were “preceded by meaningful and robust tribal consultation, consistent with the President’s January 26, 2021 Memorandum on Tribal Consultation.... [and] proceed through the appropriate administrative process.”



Cross v. Fox, 497 F.Supp.3d 432 (D.N.D. 2020).

(Motion to Dismiss granted October 28, 2020) order at: <https://turtletalk.files.wordpress.com/2020/10/23-dct-order-1.pdf>

The United States District Court for the District of North Dakota dismissed a suit challenging the voting requirements of the Mandan, Hidatsa and Arikara (MHA) Nation. In September 2020, Raymond Cross and Marilyn Hudson, both enrolled members of the MHA Nation who live in Arizona and suffer from medical ailments preventing travel, challenged the “return to the reservation to vote” requirement under tribal law. According to that requirement, non-residents would have to return to the reservation to vote in tribal elections while residents of the reservation could obtain absentee ballots.

A month later, in October 2020, the district court held that the federal Voting Rights Act does not apply to tribal elections and dismissed the action based on a lack of subject matter jurisdiction.

CALL FOR PAPERS: *THE NATIVE AMERICAN EXPERIENCE IN LEGAL ACADEMIA: STRIVING FOR ACADEMIC FREEDOM AND EQUALITY TO REALIZE THE COMMON GOOD*

There is sparse legal scholarship on the experience of Native American applicants, law students, faculty, and staff in law schools. Words such as resiliency, endurance and perseverance often come to mind when Native Americans discuss experiences in the legal academy. Anecdotally, at annual conferences, Native Americans in legal academia gather and share accounts of isolation, inequality, anti-tribalism, and discrimination occurring in law schools. For law students, they may face racist comments from peers due to faculty curricula choices, lack of context or understanding for tribal topics introduced by non-Native faculty, and isolation as one of a very few from a tribal community in their peer group. Native American law faculty may experience similar instances of being misunderstood, silenced or placed in the role of constant spokesperson for efforts on diversity unevenly shared by colleagues. Native American law faculty may also face standards not applied to other faculty, including in student evaluation comments. To be an inclusive space for the next generation of Native lawyers, this topic will provide an opportunity to discuss perspectives and recommendations on the Native American experience in the legal academy.

The theme of striving for academic freedom and equality allows for an in depth questioning of whether Native Americans are adequately and appropriately represented in legal curricula in the nation's two hundred plus law schools. Within this theme, legal scholarship is invited in this call for papers on topics related to the Native American experience in legal academia and best practices for inclusive spaces. The aspirational goal of realizing the common good is inclusive of Native American voices as students, faculty, and staff, and in curricula choices in law schools across the country.

The AALS Section on Indian Nations and Indigenous Peoples seeks articles, essays, and other works that engage with this theme. We encourage submissions from law professors, academics in other disciplines, and practitioners, including tribal judges and advocates.

Publication: Accepted papers will be published in the Mitchell Hamline Law Review. In addition to publication, selected authors may be invited to present at the Association of American Law Schools 2022 Annual Meeting.

Form and length of submission: Please submit a 2-page abstract that describes your project. Submissions may be articles (more than 20,000 words, or 80 double-spaced pages) or essays (typically 2,500-10,000 words, or 10-40 double spaced pages).

How to submit: Abstracts should be submitted electronically to kiralyn.locke@mitchellhamline.edu, copying Angelique EagleWoman at angelique.eaglewoman@mitchellhamline.edu.

Dates: The deadline for abstracts is August 15, 2021, but submissions will be accepted and reviewed on a rolling basis and may be accepted later if space and time permit. Authors will be notified of acceptance by September 1, 2021. Complete drafts are due January 1, 2022. Our selection process will reflect our awareness that many scholars face unusual and significant hurdles in finding time to do academic work this year. We encourage the submission of abstracts for work in the early stages and are committed to working with scholars to revise drafts prior to publication.

LUMINARY LAW PROFESSOR TAKING EMERITUS STATUS:



Regents Professor Emerita **Christine Zuni Cruz**, member of the Pueblo of Isleta and of Ohkay Ówingeh descent, taught at the University of New Mexico (UNM) School of Law from 1993-2020. She is a graduate of Stanford University, Antioch School of Law (Legal Tech. Cert.), and holds her J.D. from UNM School of Law. She served as Associate Dean for Institutional Climate and Equity, Associate Dean for Indian Law, and as Director of the Law and Indigenous Peoples Program. She established the Southwest Indian Law Clinic in 1994. She also served as

faculty editor and advisor to the Tribal Law Journal from its inception.

In 2020, she received the 2020 UNM Outstanding Faculty Award. She traveled as a U.S. State Department Speaker and Specialist to Bolivia and Brazil. Her research and teaching has taken her to Hawaii, Greenland, Ecuador, Libya, Mexico, Australia, Canada, and the South Pacific. She served a fifteen year appointment as an Associate Justice on the Pueblo of Isleta Appellate Court. Zuni Cruz is a recipient of the Derek Bell, Jr. Award and the Pincus Award from the American Association of Law Schools (AALS) and the Derek Bell Legacy Award from the Critical Race Studies in Education Association (CRSEA). She held the Arscott Chair at the University of Saskatchewan College of Law in 2014-15. Zuni Cruz lives at the Pueblo of Isleta with her husband, Robert Cruz (Tohono O’odham) and their two adult sons, Immanuel and Fabrice. She continues to research, write, and teach.

In 2020-2021, she received the Fulbright Canada Research Chair in Indigenous Law and Governance at McGill University. For the academic year 2022-2023, Professor Zuni Cruz will continue teaching at McGill University – Faculty of Law in Montreal, Quebec, Canada.

Some of her scholarship is available at [UNM-DR](#), on SSRN at: <http://ssrn.com/author=625793>, or the Tribal Law Journal at <https://digitalrepository.unm.edu/tlj/>.

NEWS: PROGRAM ACCOMPLISHMENTS

MITCHELL HAMLIN SCHOOL OF LAW, ST. PAUL, MINNESOTA

- Changed name from “Indian Law Center” to “Native American Law and Sovereignty (NALS) Institute”
- Hired on the first ever Program Administrator, Lani Petrulo (Native Hawaiian), J.D., Lewis & Clark Law School

UPCOMING EVENTS – SAVE THE DATE

Fall 2021

❖ **NNALSA & AALS-INIP Webinar**

Tuesday, August 3, 2021 @ 3:00PM – 4:30PM (CST)

“On the Native American Law Student Experience”

National Native American Law Student Association (NNALSA); Indigenous Nations & Indigenous Peoples Section (INIP) of the American Association of Law Schools (AALS)

Registration link to follow.

❖ **1st Annual AALS-INIP Social Virtual Networking Event**

Friday, August 6, 2021 @ 1:00PM – 2:00PM (CST)

“Connecting U.S. and Canadian Indigenous Law Professors”

AALS – INIP Section

Register at: <https://us02web.zoom.us/meeting/register/tZ0kcO2sqT4jH9xAOUvwM4tyBzH83DAE8CI8>

❖ **39th Public Lands Conference: Forging a Climate of Justice: Reconnecting People & Place**

September 30 – October 1, 2021 @ 7:30AM – 4:30PM (MDT)

Featuring Keynote Address on 9/30 by U.S. Dept. of Interior Secretary Deb Haaland or agency designee.

Alexander Blewett III School of Law, University of Montana

Missoula, MT

Register at: <https://www.eventbrite.com/e/39th-public-land-law-conference-tickets-156911970929>

❖ **A Critical Look at the Indian Child Welfare Act: Revisiting its History and Recognizing its Relevancy to Current Practice**

Institute to Transform Child Protection & Native American Law and Sovereignty (NALS) Institute

Co-Sponsored by the Minnesota American Indian Bar Association (MAIBA)

Mitchell Hamline School of Law

St. Paul, MN

Note: The dates and times for this event are forthcoming.

❖ **18th Annual MSU ILPC/TICA Conference**

November 4 – 5, 2021

Featuring Keynote Speaker: Asst. Secretary for Indian Affairs – Bryan Newland, this conference aims to provide timely information to those working in house for tribes.

Indigenous Law and Policy Center & the Tribal In-House Counsel Association

Michigan State University College of Law

For more information: <https://www.indigenouslawconference.com/>.

Winter/Spring 2022

❖ **AALS INIP Section Panel: “The Native American Experience in Legal Academia: Striving for Academic Freedom and Equality to Realize the Common Good.”**

Wednesday, January 5, 2022 @ 11:00AM (EST)
American Association of Law Schools Annual Meeting (Virtual)

Registration information to follow.

❖ **8th Annual “Wiring the Rez”**

February 10 – 11, 2022
Sandra Day O’Connor College of Law, Arizona State University
Phoenix, AZ

❖ **“Beyond NAGPRA”**

February 28 – March 2, 2022
Sandra Day O’Connor College of Law, Arizona State University
Tempe, AZ

Note: For more information, please contact Trevor Reed at t.reed@asu.edu.

❖ **30th Annual National Native American Law Student Association (NALSA) Moot Court Competition**

University of Colorado Law School
Boulder, CO

Note: The dates for this event are forthcoming.

❖ **Colorado River Compact Centennial**

The conference will heavily focus on tribal rights related to the Colorado River Compact.
March 17-18, 2022
S.J. Quinney College of Law, University of Utah
Salt Lake City, UT

Note: There is no website or registration at this point. For additional information, you can contact Jan Nystrom jan.nystrom@law.utah.edu or Chrystal Beagley chrystal.beagley@law.utah.edu.



SECTION MEMBER ACCOMPLISHMENTS

Troy J.H. Andrade, Associate Professor of Law and Director, Ulu Lehua Scholars Program
University of Hawai'i at Mānoa William S. Richardson School of Law

Promotions: Became an Associate Professor of law (with tenure) as of August 1, 2020.

Law Review/Journal Articles

Troy J.H. Andrade, *E Ola Ka 'Ōlelo Hawai'i: Protecting the Hawaiian Language and Providing Equality for Kānaka Maoli*, 6 UCLA INDIGENOUS PEOPLES' J.L. CULTURE & RESIST. 3 (2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3817167.

Troy J.H. Andrade, *Hawai'i '78: Collective Memory and the Untold Legal History of Reparative Action for Kānaka Maoli*, 24 U. PA. J.L. & SOC. CHANGE 85 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3853345.

Michael Blumm, Jeffrey Bain Faculty Scholar & Professor of Law, Lewis and Clark Law School

Law Review Articles/Journals

Michael C. Blumm & Cari Baermann, Environmental Law Symposium, *The Belloni Decision: A Foundation for the Northwest Fisheries Cases, the National Tribal Sovereignty Movement, and an Understanding of the Rule of Law*, 50 ENVTL. L. 347-386 (2020), <https://turtletalk.blog/2020/07/21/environmental-law-review-symposium-on-50th-anny-of-sohappy-belloni-decision/>.

Michael C. Blumm & Lizzy Pennock, *Tribal Consultation: Toward Meaningful Collaboration with the Federal Government*, 33 COLO. NAT. RESOURCES, ENERGY & ENVTL. L. REV. 1 (forthcoming 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3841809.

Book

MICHAEL C. BLUMM, ELIZABETH KRONK WARNER & MONTE MILLS, NATIVE AMERICAN NATURAL RESOURCES LAW (4th ed. Teachers Update, 2021).

Kristen Carpenter, Council Tree Professor of Law and Director, American Indian Law Program, University of Colorado

Awards: United Nations Human Rights Council, Expert Mechanism on the Rights of Indigenous Peoples, Member from North America (term ending 2021).

Law Review/Journal Articles

Kristen Carpenter, *Living the Sacred: Indigenous Rights and Religion*, 134 HARV. L. REV. 2103-2156 (2021), <https://harvardlawreview.org/2021/04/living-the-sacred-indigenous-peoples-and-religious-freedom/> (book review)

Kristen Carpenter & Alexey Tsykarev, *Indigenous Peoples and Diplomacy on the World Stage*, 115 AJIL UNBOUND 118-122 (2021), <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/indigenous-peoples-and-diplomacy-on-the-world-stage/0818AF53B9163630398F31254FB03A9E>.

Angela R. Riley & Kristen A. Carpenter, *Decolonizing Indigenous Migration*, 109 CALIF. L. REV. 63-139 (2021), <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=2427&context=articles>.

Other Publications:

Kristen A. Carpenter, *Religious Freedoms, Sacred Sites and Human Rights in the United States*, in UNDRIP IMPLEMENTATION: COMPARATIVE APPROACHES TO IMPLEMENTATION OF THE U.N. DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES 57-65 (2020), [https://lawweb.colorado.edu/profiles/pubpdfs/carpenter/CarpenterReligiousFreedoms\(2020\).pdf](https://lawweb.colorado.edu/profiles/pubpdfs/carpenter/CarpenterReligiousFreedoms(2020).pdf).

Kristen Carpenter, Angela Riley, et al., *Tribal Implementation Toolkit*, NARF-Colorado Law Project to Implement the UN Declaration on the Rights of Indigenous Peoples (UCLA Law School 2021), <https://un-declaration.narf.org/wp-content/uploads/Tribal-Implementation-Toolkit-Digital-Edition.pdf>

Grant Christensen, Professor of Law, University of North Dakota Law School

Promotions/Lateral Move: Promoted from Associate Professor to Professor of Law – University of North Dakota (Spring 2021). Moving from University of North Dakota to Stetson Law School (Starting August 2021).

Law Review/Journal Articles

Grant Christensen, *Indigenous Perspectives on Corporate Governance*, __ U. PA. J. BUS. L. __ (2021) (forthcoming) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3665930.

Grant Christensen, *Predicting Supreme Court Behavior in Indian Law Cases*, 26 MICH. J. RACE & L. 65 (2021) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3197007.

Grant Christensen, *The Wrongful Death of an Indian: A Tribe's Right to Object to the Death Penalty*, 68 UCLA L. REV. DISC. 404 (2020) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3692737.

Book

GRANT CHRISTENSEN & MELISSA TATUM, *READING AMERICAN INDIAN LAW: FOUNDATIONAL PRINCIPLES*, (Cambridge University Press 2020).

Angelique EagleWoman, Professor of Law and Co-Director of the Native American Law and Sovereignty (NALS) Institute, Mitchell Hamline School of Law

Appointments/Promotions: Became a Co-Director of Native American Law and Sovereignty (NALS) Institute (formerly the Indian Law Program) (December 2020). Appointed as an Associate Justice on the Sisseton-Wahpeton Supreme Court of Appeals (November 2020).

Law Review/Journal Articles

Angelique EagleWoman, *Jurisprudence and Recommendations for Tribal Court Authority due to Imposition of U.S. Limitations*, 47 MITCHELL HAMLINE L. REV. 342 (2021),

<https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1236&context=mhhr>

Angelique EagleWoman, *Permanent Homelands through Treaties with the United States: Restoring Faith in the Tribal Nation-U.S. Relationship in Light of the McGirt Decision*, 47 MITCHELL HAMLINE L. REV. 640 (2021),

<https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1246&context=mhhr>.

Columns

Angelique EagleWoman, *It's Time to Rectify the 1975 DeCoteau Decision, Disestablishing the Sisseton-Wahpeton Reservation*, INDIAN COUNTRY TODAY (Jul. 15, 2020) <https://indiancountrytoday.com/opinion/its-time-to-rectify-the-1975-decoteau-decision-disestablishing-the-sisseton-wahpeton-reservation>.

Angelique EagleWoman, *Looking Forward to New Leadership in 2021: Uplifting Tribal Nations and Our Treaty Partner, the United States*, INDIAN COUNTRY TODAY (Jan. 15, 2021), <https://indiancountrytoday.com/opinion/looking-forward-to-new-leadership-in-2021?redir=1>.

Angelique EagleWoman, *Two Recent U.S. Supreme Court Decisions Signal a Return to Upholding Treaty Guarantees and Inherent Tribal Sovereignty*, MINN. WOMEN LAW. J. (Jun. 28, 2021),

<https://mwlawyers.org/page/WERSummer2021Feat7?fbclid=IwAR2tAVwpDWBxT9T4x6kHcxz-1XCacGIuA0CtRo3FD64fJRmjd9cIaP0SI>.

Angelique EagleWoman, *Why Indigenous Treaty Rights on Fishing, Trade Require Federal Protection*, THE LAWYER'S DAILY – CANADA (Nov. 3, 2020), https://125fb491-d5f2-4b4a-8195-d4eb64f18cc7.filesusr.com/ugd/d039dc_42022879340e4e829d5fa371d36dba21.pdf.

Angelique EagleWoman, *Why Tribal Casinos Are Not Subject to State COVID-19 Restrictions: Legal Filing Shows Widespread Ignorance of Federal Law*, MINNESOTA REFORMER (Feb. 1, 2021),

<https://minnesotareformer.com/2021/02/01/a-recent-lawsuit-shows-widespread-ignorance-of-indian-law-opinion/>.

Matthew L.M. Fletcher, Foundation Professor of Law & Director, Indigenous Law and Policy Center, Michigan State University College of Law

Appointments/Promotions: Serving as the Inaugural Visiting Professor for the Indigenous Law Center at U.C. Hastings College of Law (2021-2022). Serving as a visiting professor at the University of Michigan Law School (2021-2022). Served as a visitor at Michigan State University College of Law and Stanford Law School (2020-2021).

Law Review/Journal Article

Matthew L.M. Fletcher, *Muskrat Textualism*, 115 NW. U. L. REV. ____ (forthcoming 2022),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3767096.

Books

MATTHEW L.M. FLETCHER, *THE GHOST ROAD: ANISHINAABE RESPONSES TO INDIAN HATING*, (Fulcrum Publishing, 2020), <https://fulcrum.bookstore.ipgbook.com/the-ghost-road-products-9781682752333.php>.

Matthew L.M. Fletcher, *Snapping Turtle Goes to War, in TRICKSTER: NATIVE AMERICAN TALES, A GRAPHIC COLLECTION* (10th Anniversary ed., 2021), <https://catalog.aspencaat.info/GroupedWork/ad4d6fab-d21e-95c6-59db-0d0c46ed4060/Home>.

Other Accomplishments:

Along with Wenona T. Singel and Kaighn Smith, Jr., Professor Fletcher received final approval on the Restatement of the Law of American Indians. Final publication should come in 2022. (Note: The Washington Law Review (April 2020) and Wisconsin Law Review (November 2021) have agreed to host symposia on the Restatement.)

Professor Fletcher joined the editorial board of the Cohen Handbook of Federal Indian Law.

In the *United States v. Cooley*, 141 S. Ct. 1638, 1646 (2021), the Supreme Court's majority opinion cited Matthew L.M. Fletcher, Kathryn E. Fort, & Wenona T. Singel, *Indian Country Law Enforcement and Cooperative Public Safety Agreements*, 89 MICH. BAR J. 42 (2010). Opinion at: https://www.supremecourt.gov/opinions/20pdf/19-1414_8m58.pdf.

Carole Goldberg, Distinguished Research Professor, Jonathan D. Varat Distinguished Professor of Law Emerita, University of California, Los Angeles School of Law

Books

DUANE CHAMPAGNE & CAROLE GOLDBERG, CAPTURED JUSTICE: NATIVE NATIONS AND PUBLIC LAW 280, (Carolina Academic Press 2nd ed. 2020).

DUANE CHAMPAGNE & CAROLE GOLDBERG, A COALITION OF LINEAGES: THE FERNANDEÑO TATAVIAM BAND OF MISSION INDIANS, (University of Arizona Press 2021).

Hillary Hoffman, 2020 Richard Brooks Distinguished Faculty Scholar, Professor of Law, Vermont Law School

Appointments/Promotions: In December 2020, Professor Hoffman was elected to the American Law Institute.

Articles/Book Chapters

Hillary M. Hoffman, *The Constitutionality of Federal Regulation in Indian Country*, THE REG. REV. (Mar. 2021), <https://www.theregreview.org/2021/03/24/hoffmann-constitutionality-federal-regulation-indian-country/>.

Hillary M. Hoffman, *Tribal Ecological Knowledge and the Transition to Ecological Law*, in FROM ENVIRONMENT TO ECOLOGICAL LAW (Routledge 2021), https://privpapers.ssrn.com/sol3/papers.cfm?abstract_id=3486975.

Book

HILLARY M. HOFFMAN & MONTE MILLS, A THIRD WAY: DECOLONIZING THE LAWS OF INDIGENOUS CULTURAL PROTECTION (Cambridge Univ. Press 2020), <https://www.cambridge.org/us/academic/subjects/law/us-law/third-way-decolonizing-laws-indigenous-cultural-protection?format=HB>.

Presentations (chronological):

Hillary Hoffman, *Restructuring Environmental Federalism: Indigenous Nations and the Future of Environmental Governance, Indigenous Peoples, Native Nations, and Environmental Law and Policy*, University of Miami Law School (Feb. 9, 2021).

Hillary Hoffman & Monte Mills, *The Environment-Cultural Disconnect: Protecting Indigenous Cultures in an Exclusionary Context*, Fall 2020 Robert H. McKinney Family Environmental Law Lecture, Indiana University Robert H. McKinney School of Law, Indianapolis, IN (Oct. 29, 2020).

Media Mentions (chronological):

Hillary Hoffman, *Recommendations for President Biden Regarding Indigenous Rights in the United States*, in *The Biden Agenda*, CAMBRIDGE U. PRESS BLOG, (Feb. 2021), <http://www.cambridgeblog.org/2021/03/the-biden-agenda/>.

Hillary Hoffman, (quoted in) *Biden Taps American Indian Law Scholar as Interior Solicitor*, Bloomberg Law (Apr. 7, 2021), <https://news.bloomberglaw.com/us-law-week/biden-taps-american-indian-law-scholar-as-top-interior-lawyer?context=search&index=3>.

Hillary Hoffman, (quoted in) *Biden's Pause on New Oil and Gas Leases May Not Apply in This Everglades Preserve*, Southerly Magazine (Feb. 2021), <https://southerlymag.org/2021/03/09/bidens-pause-on-new-oil-and-gas-leases-may-not-apply-in-this-everglades-preserve/>.

Aila Hoss, Assistant Professor of Law, Native American Law Center, University of Tulsa College of Law

Law Review/Journal Articles

Aila Hoss, *COVID-19 and Tribes: The Structural Violence of Federal Indian Law*, 2 ARIZ. ST. L. J. ONLINE 162 (2020), <https://arizonastatelawjournal.org/wp-content/uploads/2020/11/Hoss-Final.pdf>.

Aila Hoss, *Indiana's Indian Laws: Indigenous Erasure and Racism in the Land of the Indians*, 30 KAN. J. L. & PUB. POL'Y 184 (2021), https://lawjournal.ku.edu/wp-content/uploads/2021/04/3_Hoss_Indiana_V30_I2.pdf.

Other Articles/Columns

Heather Tanana & Aila Hoss, *Beyond the Pandemic: Historical Infrastructure, Funding, and Data Challenges in Indian Country*, in COVID-19 POLICY PLAYBOOK: LEGAL RECOMMENDATIONS FOR A SAFER, MORE EQUITABLE FUTURE (Mar. 2021) https://static1.squarespace.com/static/5956e16e6b8f5b8c45f1c216/t/6058f10a388f524ad5f09561/1616441610616/Chp12-Tanana_COVIDPolicyPlaybook-March2021.pdf.

Aila Hoss, *Changing the Narrative in Federal Indian Law*, Oklahoma Center for the Humanities (Dec. 10, 2020), <https://humanities.utulsa.edu/changing-the-narrative-in-federal-indian-law/>.

Aila Hoss, *Critical Race Theory and the Trust Responsibility*, THE REGULATORY REVIEW (Mar. 23, 2021), <https://www.theregreview.org/2021/03/23/hoss-critical-race-theory-trust-responsibility/>.

Aila Hoss & Heather Tanana, *Upholding Tribal Sovereignty and Promoting Tribal Public Health Capacity During the COVID-19 Pandemic*, Assessing Legal Responses to COVID-19 (Aug. 2020), https://static1.squarespace.com/static/5956e16e6b8f5b8c45f1c216/t/5f445c11d10a1b0c4024a9c9/1598315537385/Chp10_COVIDPolicyPlaybook-Aug2020.pdf.

Heather Tanana, Julie Combs & Aila Hoss, *Water is Life: Law, Systemic Racism, and Water Security in Indian Country*, 19(S1) HEALTH SEC. (2021), <https://www.liebertpub.com/doi/pdf/10.1089/hs.2021.0034>.

Briefs

Julie Combs & Aila Hoss, *Tribal Opioid Litigation: February 2021 Update*, Issue Brief Prepared for the Great Lakes Inter-Tribal Epidemiology Ctr. (2021), <https://static1.squarespace.com/static/5930883f17bffc9deb98d/t/603034db745a8c5aa9ce35a4/1613771995876/Tribal+Opioid+Litigation+FINAL.pdf>.

Aila Hoss, *Tribes are Public Health Authorities: Protecting Tribal Sovereignty in Times of Public Health Crisis*, Issue Brief Prepared for the Great Lakes Inter-Tribal Epidemiology Center (2021), <https://static1.squarespace.com/static/5930883f17bffc9deb98d/t/5ff396bd9d513670e3c76471/1609799358131/Tribes+are+Public+Health+Authorities+FINAL.pdf>.

Presentations (chronological)

Aila Hoss, *Health and the Body Politic: Undermining Democracy, Undermining Health*, Northeastern U. Health L. Symp. (Apr. 16, 2021), <https://www.youtube.com/watch?v=bi9zLejYQk&t=1s>.

Aila Hoss, *Working with Tribal Governments: Effective Public Health Partnerships*, Great Lakes Inter-Tribal Epidemiology Center (Feb. 19, 2021).

Aila Hoss, *Water Pollution and the Impacts on Human Health* American University Washington College of Law Sustainable Development Law & Policy Brief Symposium: Water Infrastructure, Equity, and Environmental Justice (Feb. 11, 2021).

Aila Hoss, *Tribes are Public Health Authorities: Protecting Tribal Sovereignty in Times of Public Health Crisis*, Great Lakes Inter-Tribal Epidemiology Center (Jan. 22, 2021).

Aila Hoss, *Opioid Use Disorder Law and Policy: Impacts on American Indians and Alaska Natives*, Bristol Bay Health Corporation (Jan. 15, 2021).

Aila Hoss, *COVID-19 and Tribes: The Structural Violence of Federal Indian Law*, Arizona State University Law Journal/Academy for Justice (Dec. 14, 2020).

Aila Hoss, *Opioid Use Disorder Law and Policy: Impacts on American Indians and Alaska Natives*, Great Lakes Inter-Tribal Epidemiology Center (Dec. 11, 2020).

Aila Hoss, *McGirt v. Oklahoma*, Rogers State University (Nov. 5, 2020).

Aila Hoss, *McGirt's Civil Jurisdiction Implications*, U. of Tulsa Native American L. Student Ass'n (Nov. 4, 2020), <https://www.facebook.com/watch/?v=372931760644244>.

Aila Hoss, *Tribal Public Health Law*, Great Lakes Inter-Tribal Epidemiology Center (Oct. 23, 2020).

Aila Hoss, *Federal Indian Law at a Crossroads: Examining the Impact of McGirt v. Oklahoma*, U. of Tulsa (Sept. 24, 2020), <https://www.tualumni.com/s/1174/bp20/wide.aspx?sid=1174&gid=1&pgid=5190&crd=0&calpgid=13&calcid=664>.

Aila Hoss, *Governance and Decision-Making in a Pandemic*, Pub. Health L. Summit: COVID-19 Response and Recovery (Sept. 17, 2020), <https://phlsummit.pathable.co/meetings/virtual/MqLc5fKDjSCFD4XtH>.

Aila Hoss, *COVID-19 in Indian Country: Past Policy, Current Responses, and Future Implications*, Network for Pub. Health L. (Aug. 18, 2020), <https://www.networkforphl.org/resources/covid-19-in-indian-country-past-policy-current-responses-and-future-implications/>.

Aila Hoss, *Oklahoma Tribal Lands: Understanding the Recent Supreme Court Decision*, University of Tulsa (Aug. 13, 2020).

Elizabeth Kronk Warner, Jefferson B. & Rita E. Fordham Presidential Dean and Professor of Law, S.J. Quinney College of Law at the University of Utah

Law Review/Journal Articles

Elizabeth Kronk Warner, *Renewable Energy Depends on Tribal Sovereignty*, ___ KANS. L. REV. __ (2021).

Uma Outka & Elizabeth Kronk Warner, *Making America A Better Place for All: Sustainable Development Recommendations for the Biden Administration*, 51 ENVTL. L. REP. 10310, 10319 (2021), https://scholarship.law.columbia.edu/faculty_scholarship/2752/.

Elizabeth Kronk Warner, *Living in Two Worlds, Taking Our Space: Women of Color and Antiracism in the Legal Academy*, RUTGERS L. REV. (forthcoming 2021).

Elizabeth Kronk Warner & Heather Tanana, *Indian Country Post McGirt: Implications for Traditional Energy Development and Beyond*, HARV. ENVTL. L. REV. (forthcoming 2021), <https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1223&context=scholarship>.

Elizabeth Kronk Warner, Kathy Lynn & Kyle Whyte, *Changing Consultation*, 54 U.C. DAVIS L. REV. 1127 (2020), https://lawreview.law.ucdavis.edu/issues/54/2/articles/files/54-2_Warner_Lynn_Whyte.pdf.

Book

Elizabeth Kronk Warner, *The Indigeneity of Environmental Justice: A Case Study*, in The Cambridge Handbook on Environmental Justice and Sustainable Development (Sumudu Atapattu, Carmen G. Gonzalez, and Sara Seck, eds.) (2021).

Other Publications

Elizabeth Kronk Warner, *Complicated Environmental Regulation in Indian Country*, THE REG. REV. (March 15, 2021), available at: <https://www.theregview.org/2021/03/15/kronk-warner-environmental-regulation-indian-country/>

Elizabeth Kronk Warner & Geoff Davis, *Effective, Equitable Renewable Energy Development in Indian country*, FORBES (Feb. 4, 2021), <https://www.forbes.com/sites/sorensonimpact/2021/02/04/effective-equitable-renewable-energy-development-in-indian-country/?sh=6dd8c9e63920>.

Elizabeth Kronk Warner, Kyle Whyte, *Changing Consultation for the Better: Two Case Examples*, EDRBLOG.ORG (Oct. 26, 2020), <https://law.utah.edu/changing-consultation-for-the-better-two-case-examples/>.

Elizabeth Kronk Warner, Kyle Whyte & Kathy Lynn, *Changing Consultation for the Better: An Ethics and Partnership Perspective*, EDRBLOG.ORG (Oct. 12, 2020), <https://law.utah.edu/changing-consultation-for-the-better-an-ethics-and-partnership-perspective/>.

Matthew Tokson & Elizabeth Kronk Warner, *A Tribute to Ruth Bader Ginsburg*, ATTORNEY-AT-LAW MAG. (Oct. 5, 2020), available at: <https://attorneyatlawmagazine.com/a-tribute-to-ruth-bader-ginsburg>.

Elizabeth Kronk Warner & Kimberly Mutcherson, *Incorporating Anti-Racism Principles into Lawyer Licensure*, 4 RAISING THE BAR 4 (AccessLex Institute Spring 2021), available at: <https://www.accesslex.org/resources/raising-the-bar-spring-2021>.

Presentations (chronological):

Elizabeth Kronk Warner, Co-Panelist, *Antiracist Lawyering: How All Attorneys Can Build a Racial-Justice-Centered Practice*, PLI [Virtual] (May 19, 2021).

Elizabeth Kronk Warner, *Leading Social Change to End Violence*, University of Utah's Gender-Based Violence Consortium's Symposium [Virtual] (April 16, 2021).

Elizabeth Kronk Warner & Heather Tanana, *Indian Country Post-McGirt: Implications for Traditional Energy Development and Beyond*, Harvard Environmental Law Review Environmental Justice Symposium [Virtual] (April 15, 2021).

Elizabeth Kronk Warner, *Ethics Session*, 2021 Annual Federal Bar Association Indian Law Conference [Virtual] (April 9, 2021).

Elizabeth Kronk Warner, *Indian Law 101*, Federal Bar Association and myLawCLE [Virtual] (April 5, 2021).

Elizabeth Kronk Warner, *Commentators Panel – Diversity, Pluralism, and Repair: The Way Forward*, 20th Annual Women and the Law Conference hosted by Thomas Jefferson School of Law (April 2, 2021).

Elizabeth Kronk Warner, *Real Talk Mentoring: A Conversation with Elizabeth Kronk Warner*, University of Kansas [Virtual] (March 25, 2021).

Elizabeth Kronk Warner, *Taking Our Space: Women of Color and Antiracism in Legal Academia*, Rutgers Law Review [Virtual] (March 5, 2021).

Elizabeth Kronk Warner, *Native American Rights and Original Territory*, Environmental and Energy Law at George Washington University School of Law [Virtual] (Feb. 26, 2021).

Elizabeth Kronk Warner, Final Round Judge, 2021 Hillis Clark Martin & Peterson Appellate Advocacy Competition, University of Washington School of Law [Virtual] (Feb. 22, 2021).

Elizabeth Kronk Warner, *Raping Indian Country*, Confronting Violence Against Indigenous Women and Peoples Symposium, Wisconsin Journal of Law, Gender & Society [Virtual] (Feb. 5, 2021).

Elizabeth Kronk Warner, *Faculty Focus (discussing various leadership opportunities available to law faculty)*, AALS [Virtual] (Nov. 17, 2020).

Elizabeth Kronk Warner, *Land Back: A Critical Conversation About Reconciliation*, University of Utah [Virtual] (Nov. 16, 2020).

Elizabeth Kronk Warner, *McGirt's Civil Jurisdiction Implications*, University of Tulsa NALSA Chapter [Virtual] (Nov. 4, 2020).

Elizabeth Kronk Warner, *First Nations Panel*, Global Forum on Rights of Nature and the Right to a Healthy Environment [Virtual] (Oct. 1, 2020).

Elizabeth Kronk Warner, *The Art of Self Promotion*, Aspiring Law Teachers Workshop, SEALS Annual Conference (Aug. 3, 2020).

Elizabeth Kronk Warner, *Designing your Teaching Package*, Aspiring Law Teachers Workshop, SEALS Annual Conference (Aug. 2, 2020).

Kirsten Matoy Carlson, Professor of Law, Wayne State University Law School

Promotion: Promoted to Full Professor, Wayne State University (June 2021).

Articles/Book Chapters

Kirsten Matoy Carlson, *Epilogue*, in *DECOLONIZING PREHISTORY: DEEP TIME AND TOPOLOGICAL KNOWLEDGE IN NORTH AMERICA* (Gesa Mackenthun & Christen Mucher, eds., University of Arizona Press 2021).

Laurel R. Davis-Delano, Renee V. Galliher, Kirsten Matoy Carlson, Arianne E. Eason & Stephanie A. Fryberg, *White Opposition to Native American Sovereignty: Association with "the Casino Indian Stereotype" and Perceived Conflict of Interest*, 17 DU BOIS REV. 55 (2020), <https://doi.org/10.1017/S1742058X20000119> (peer reviewed).

Columns

Kirsten Matoy Carlson, *Supreme Court Affirms Tribal Police Authority over Non-Indians*, THE CONVERSATION (Jun. 3, 2021), <https://theconversation.com/supreme-court-affirms-tribal-police-authority-over-non-indians-162050>.

Kirsten Matoy Carlson, *Supreme Court Upholds American Indian Treaty Promises, Orders Oklahoma to Follow Federal Law*, THE CONVERSATION (Jul. 10, 2020), <https://theconversation.com/supreme-court-upholds-american-indian-treaty-promises-orders-oklahoma-to-follow-federal-law-142459>.

Robert J. Miller, Professor, Willard H. Pedrick Distinguished Research Scholar, & Director, Rosette LLP American Indian Economic Development Program, Sandra Day O'Connor College of Law at Arizona State University

Law Review/Journal Articles

Robert J. Miller & Torey Dolan, *The Indian Law Bombshell: McGirt v. Oklahoma*, 101 B.U. L. REV. ____ (forthcoming 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3670425.

Robert J. Miller, *Nazi Germany's Race Laws, the United States, and American Indians*, 94 ST. JOHNS L. REV. ____ (forthcoming 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3541009

Robert J. Miller & Olivia Stitz, *The International Law of Colonialism in East Africa: Germany, England, and the Doctrine of Discovery*, 32 DUKE J. COMP. & INT'L. L. ____ (forthcoming 2021-22), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3798893.

Other Article

Robert J. Miller, *McGirt v. Oklahoma: The Indian Law Bombshell*, 68 FEDERAL LAWYER 32-38 (March/April 2021), <https://www.fedbar.org/blog/magazine/march-april-2021/>

Other Accomplishment

Professor Miller has also signed a contract with the University of Oklahoma Press to co-write a book on the *McGirt* case with history Professor Robbie Ethridge of the University of Mississippi.

Monte Mills, Associate Professor of Law & Director, Margery Hunter Brown Indian Law Clinic, Alexander Blewett III School of Law, University of Montana

Promotions: This spring, Professor Mills was recommended by the Provost for promotion to full Professor with Tenure and the University of Montana Board of Regents will vote on that recommendation this fall.

Law Review/Journal Article

Monte Mills & Martin Nie, *Bridges to a New Era: A Report on the Past, Present, and Potential Future of Tribal Co-Management on Federal Public Lands*, 44 PUB. LAND & RESOURCES L. REV. 49 (2020), <https://scholarship.law.umt.edu/cgi/viewcontent.cgi?article=1741&context=plrlr>.

Other Article

McGirt and the Rebuilding of Tribal Nations Colloquium, Harvard Project on American Indian Economic Development & University of Oklahoma Native Nations Center (2021), <https://sites.google.com/g.harvard.edu/mcgirt-rebuilding-nations/home>.

Trevor Reed, Associate Professor of Law, Sandra Day O'Connor College of Law, Arizona State University

Law Review/Journal Articles

Trevor Reed, *Fair Use as Cultural Appropriation*, 109 CALIF. L. REV. ____ (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3456164.

Trevor Reed, *Indigenous Dignity and the Right to be Forgotten*, 46 BYU L. REV. 1119 (2021), <https://digitalcommons.law.byu.edu/lawreview/vol46/iss4/9/>.

Trevor Reed, *Creative Sovereignities: Should Copyright Apply on Tribal Lands?* 67 J. COPYRIGHT SOC'Y U.S.A. ____ (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3736137.

Presentations (chronological):

Trevor Reed, *Copyright and Our Ancestors' Voices*, Roger Williams School of Law Cultural Misappropriation Webinar (Mar. 23, 2021), <https://www.youtube.com/watch?v=pHDGnqNvRaY>.

Trevor Reed, *Intellectual Property in Indian Country*, Washington State University Foley Institute of Public Policy Webinar (Dec 10, 2020), <https://www.youtube.com/watch?v=V9PR9yWtb2w>.

Trevor Reed, *Fair Use as Cultural Appropriation*, University of Washington School of Law (May 6, 2021) and Am. Library Ass'n Copy Talk Webinar (Sep. 30, 2020), <https://www.ala.org/advocacy/copyright/copytalk>.

Trevor Reed, *Cultural Expression, Copyright and Tribal Sovereignty*, Indigenous Peoples & IP for Indigenous Leaders, Lawyers, and Community Members Webinar, Native American Rights Fund, University of Colorado Boulder, and National Congress of American Indians (Sep. 10, 2020), <https://www.youtube.com/watch?v=f-ax5et1F10&t=5811s>.

Trevor Reed, *Creative Sovereignities: Should Copyright Apply on Tribal Lands?*, Chicago-IP Colloquium (Mar. 16, 2021), Mosaic IP Conference (Oct. 30, 2021), Intellectual Property Law Scholars Conference (Aug. 12, 2020).

Angela R. Riley, Professor of Law and Director, Native Nations Law and Policy Center, UCLA School of Law

Appointment: Became a Visiting Professor, Harvard Kennedy School of Government (January 2021) (co-teaching Nation Building with Prof. Joe Kalt)

Law Review/Journal Articles

Angela R. Riley & Kristen A. Carpenter, *Decolonizing Indigenous Migration*, 109 CALIF. L. REV. 63 (2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3349437.

Angela R. Riley, *Joint Dedication to Professor Emeritus Frank Pommersheim & Justice Steven L. Zinter*, 65 S.D. L. REV. 1 (2020), <https://static1.squarespace.com/static/574dfd3c1bbee008cb2d6203/t/5f930fe1433fe40827cbeb6a/1603473401066/Joint+dedication+to+Professor+Emeritus+Frank+Pommersheim.pdf>.

Other Articles/Columns

Angela R. Riley & Sonia. Katyal, *Aunt Jemima Is Gone. Can We Finally End All Racist Branding?*, N.Y. TIMES (Jun. 18, 2020), <https://www.nytimes.com/2020/06/19/opinion/aunt-jemima-racist-branding.html>.

Angela R. Riley, Sonia K. Katyal, & Rachel Lim, *The Jeep Cherokee Is Not a Tribute to Indians. Change the Name*, WASH. POST (Mar. 7, 2021), <https://www.washingtonpost.com/opinions/2021/03/07/jeep-cherokee-name-change-native-americans/>.

Presentations (chronological):

Angela R. Riley, Commentator, *The Other American Law*, Stanford Law School (May 11, 2021).

Angela R. Riley, Panelist, *Peace, Justice and Strong Institutions: the Role of Indigenous Peoples in Implementing Sustainable Development Goal 16*, Taipei Economic and Cultural Office Webinar (Apr. 21, 2021).

Angela R. Riley, Panelist, *Decolonizing Indigenous Migration: Violence, Settler Capitalism, Gender and Law*, U.C. Berkeley Center for Race & Gender Webinar (Apr. 5, 2021).

Angela R. Riley, Moderator, *Righting Wrongs: Truth and Healing for Indigenous Communities through Law and Policy*, American Constitution Society CLE (Feb. 5, 2021).

Angela R. Riley, Panelist, *A Historic Supreme Court Victory for Oklahoma Tribes: The McGirt Decision and its Impact*, School of Advanced Research (Oct. 28, 2020).

Angela R. Riley, Panelist, Legislative and Litigation Update, 20th Annual California Indian Law Conference & Honoring Celebration (Oct. 15, 2020).

Angela R. Riley, Panelist, Whither the Court: The Allan C. Lebow Annual Supreme Court Review CLE, UCLA (Oct. 1, 2020).

Angela R. Riley, Panelist, Indigenous Perspectives on IP and TK & TCES, Indigenous Peoples & Intellectual Property for Indigenous Leaders, Lawyers, and Community Members Webinar, Native American Rights Fund, University of Colorado Law School & National Congress of American Indians (Sept. 10, 2020).

Addie Rolnick, San Manuel Band of Mission Indians Chair & Faculty Director, Indian Nations Gaming & Governance Program, University of Nevada Las Vegas William S. Boyd School of Law

Promotions: Appointed San Manuel Band of Mission Indians Chair and Faculty Director of the Indian Nations Gaming & Governance Program. Appointed Associate Director of the Program on Race, Gender & Policing.

Other Accomplishment: Appointed to National Academy of Sciences, Engineering and Medicine Ad Hoc Committee on Reducing Racial Inequalities in the Criminal Justice System.

Ezra Rosser, Professor of Law & Associate Dean for the Part-Time and Evening Division, Washington College of Law, American University

Promotions/Appointments: Became Associate Dean for the Part-Time and Evening Division at American University Washington College of Law (Fall 2020-Present). Became Co-Editor for the Journal of Legal Education (July 2020 – present).

Book

EZRA ROSSER, JULIET BRODIE, CLARE PASTORE & JEFFREY SELBIN, POVERTY LAW, POLICY, AND PRACTICE, (Wolters Kluwer 2nd ed. 2021), <https://www.wklegaledu.com/Brodie-PovertyLaw2>.

Alexander T. Skibine, S.J. Quinney Professor of Law, S.J. Quinney College of Law, University of Utah

Law Review/Journal Articles:

Alex Tallchief Skibine, *Textualism and the Indian Canons of Statutory Construction*, ___ MICH. J.L. REFORM ___ (forthcoming 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3813569.

Alex Tallchief Skibine, *The Tribal Right to Exclude Others from Indian-Owned Lands*, ___ AM. INDIAN L. REV. ___ (forthcoming), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3706460.

Michalyn Steele, Professor of Law, J. Reuben Clark Law School, Brigham Young University (BYU)

Awards: Received the Francis R. Kirkham Professorship in Law award (2020-2021). Received the Brigham Young University Early Career Scholarship Award (2020).

Appointment/Promotion: Appointed Associate Dean for Research and Academic Affairs in June 2021.

Law Review/Journal Article:

Stephanie Barclay & Michalyn Steele, *Rethinking Protections for Indigenous Sacred Sites*, 134 HARV. L. REV. 1294 (2021), <https://harvardlawreview.org/wp-content/uploads/2021/02/134-Harv.-L.-Rev.-1294.pdf>.

Victoria Sutton, Associate Dean for Digital Learning and Graduate Education, Paul Whitfield Horn Distinguished Professor & Director, Center for Biodefense Law, Texas Tech University School of Law

Law Review/Journal Article:

Victoria Sutton, *Lost in Translation: A Translation that Set in Motion the Loss of Native American Spiritual Sites*, 7 INDIGENOUS PEOPLES' J.L. CULTURE & RESIST. ____ (forthcoming, 2021).

Book

Victoria Sutton, *Decolonizing the Foundations in American Indian Law: Revisiting the Foundation Trilogy*, (Vargas Publishing 2021), <https://www.amazon.com/Decolonizing-Foundations-American-Indian-Law/dp/0996818685>

Heather J. Tanana, Assistant Professor (Research) & Wallace Stegner Center Fellow, S.J. Quinney College of Law at the University of Utah

Awards: Utah State Bar, Utah Minority Bar Association, Jimi Mitsunaga Excellence in the Law Award (2020)_Utah State Bar, Energy, Natural Resources & Environmental Law Section Lawyer of the Year (2020)

Law Review/Journal Articles:

John C. Ruple and Heather J. Tanana, *Debunking the Myths Behind the NEPA Process*, 35 NAT. RESOURCES & ENVT. 1 (2020).

Elizabeth Warner Kronk and Heather Tanana, *Indian Country Post-McGirt: Implications for Traditional Energy Development and Beyond*, 45 HARV. ENVTL. L. REV. 249 (2021).

Heather Tanana, *Learning from the Past and the Pandemic to Address Mental Health in Tribal Communities*, ARIZ. ST. L. J. ONLINE (2020), <https://arizonastatelawjournal.org/wp-content/uploads/2020/12/Tanana-Final.pdf>.

John Ruple and Heather Tanana, *NEPA at 50: An Empirical Analysis of NEPA in the Courts*, 66 ROCKY MT. MIN. L. INST. 10 (2020).

Heather Tanana & John Ruple, *Synching Science and Policy to Address Climate Change in Tribal Communities*, ____ NAT. RESOURCES & ENVT. __ (forthcoming 2021).

Other Articles:

Heather Tanana and Aila Hoss, *Beyond the Pandemic: Historical Infrastructure, Funding, and Data Access Challenges in Indian Country*, 2 COVID-19 POLICY PLAYBOOK: LEGAL RECOMMENDATIONS FOR A SAFER, MORE EQUITABLE FUTURE 75 (Mar. 2021).

https://static1.squarespace.com/static/5956e16e6b8f5b8c45f1c216/t/6058f10a388f524ad5f09561/1616441610616/Chp12-Tanana_COVIDPolicyPlaybook-March2021.pdf.

Heather Tanana (lead author), et al., *Universal Access to Clean Water for Tribes in the Colorado River Basin*, Water & Tribes Initiative (2021), https://drive.google.com/file/d/11_a5wZNFJE-1xw94K5K4f2cwLDAuUzaW/view.

Aila Hoss and Heather Tanana, *Upholding Tribal Sovereignty and Promoting Tribal Public Health Capacity During the COVID-19 Pandemic*, 1 COVID-19 POLICY PLAYBOOK: ASSESSING LEGAL RESPONSES TO COVID-19 77 (Aug. 2020), https://static1.squarespace.com/static/5956e16e6b8f5b8c45f1c216/t/5f445c11d10a1b0c4024a9c9/1598315537385/Chp10_COVIDPolicyPlaybook-Aug2020.pdf.

Other Publication:

Robin Craig, John Ruple, Heather Tanana, and Connor Arrington, *Pakistan Water Management, The Legal and Institutional Framework: Lessons Learned and Opportunities for Improvement* (University of Utah 2020).

Presentations (chronological):

Heather Tanana, *Tribal Access to Clean Water: Public Health Emergency*, American Planners Association (May 5, 2021).

Heather Tanana, Moderator, Lessons and Opportunities from Tribal Resource Management, American Bar Association, Environmental Law Conference, Wildfire and Other Disasters (Apr. 29, 2021).

Heather Tanana, *NEPA: What Is It and Why Should I Care?*, Symposium of the American Indian, Northeastern State University (Apr. 13, 2021).

Heather Tanana, Panelist, Leaders in Rural & Tribal Health, SURGE: Symposium for Underserved, Rural & Global Health Education, University of Utah, (Apr. 9, 2021).

Heather Tanana, Panelist, Environmental Justice & Water, University of Denver Civil Rights Summit (Mar. 5, 2021).

Heather Tanana, Panelist, COVID-19 and Vulnerable Populations, Academy for Justice Symposium, Arizona State University (Dec. 14, 2020).

Heather Tanana, *The Law & Ethics of Medical Research*, Medical Research as Public Health Initiative, S.J. Quinney College of Law, Law Review Symposium (Nov. 20, 2020).

Heather Tanana, Panelist, The POWER Act: How You Can Make a Difference, U.S. District Court for the District of Utah CLE (Sep. 29, 2020).

Heather Tanana, *COVID-19 and its Impacts in Indian Country*, S.J. Quinney College of Law (Sep. 24, 2020).

Heather Tanana, Panelist, COVID through a Health Equity Lens, State of Reform (September 15, 2020).

Heather Tanana, Panelist, COVID-19 in Indian Country: Past Policy, Current Responses, and Future Implications, The Network for Public Health Law (August 18, 2020).

SECTION RESOLUTION



AALS Indian Nations and Indigenous Peoples Resolution #21-01 and Co-Sponsors

Title: Supporting the Nomination and Confirmation of Rep. Deb Haaland as the Next United States Secretary of the Interior

WHEREAS, we, the members of the AALS Indian Nations and Indigenous Peoples Section, are educators in American law schools on the subjects of tribal law and sovereignty, federal Indian law, the treaty relationships between Tribal Nations and the United States, the role of the executive branch in fulfilling the treaty and trust obligations of the United States, including agencies within the Department of the Interior such as the Bureau of Indian Affairs and other federal agencies, and the protection of Indigenous homelands held in trust by the United States, for which the Department of the Interior is responsible; and

WHEREAS, despite the central role that the Department of the Interior plays in protecting, enhancing, and fulfilling the United States' trust and treaty obligations to Indian nations and Indigenous peoples, an Indigenous person has never led the Department as Secretary of Interior; and

WHEREAS, President-Elect Joseph R. Biden has selected Congresswoman Deb Haaland to serve as the Secretary of the Department of the Interior; and

WHEREAS, the nomination and confirmation of Congresswoman Haaland to serve as Secretary would be historic because she is a member of the Pueblo of Laguna and, as an Indigenous woman, would be the first Indigenous person to serve in a cabinet position and the first to hold the position of Secretary of the Interior; and

WHEREAS, Congresswoman Haaland is eminently qualified for the role, as demonstrated by the attainment of her J.D. from the University of New Mexico School of Law, her experience in public service, and her membership on numerous Congressional Committees and Caucuses, including but not limited to: Vice Chair of Committee on Natural Resources, Chair of Subcommittee on National Parks, Forests, and Public Lands, Member of Subcommittee for Indigenous Peoples of the United States, Member of House Armed Services Committee, Member of House Subcommittee on Readiness, Co-Chair Native American Caucus, Vice Chair Equality Caucus, Vice Chair on Families and Children Living in Poverty for the Majority Leader Task Force on Poverty and Opportunity, Vice Chair Democratic Women's Working Group, Deputy Whip for the Congressional Progressive Caucus, Member Bipartisan Task Force to End Sexual Violence, Member Bipartisan Caucus on Women's Issues, Member Safe Climate Caucus, Member of the United for Climate and environmental Justice Congressional Task Force, and others.

NOW, THEREFORE BE IT RESOLVED, that we, the members of the AALS Indian Nations and Indigenous Peoples Section, enthusiastically support the nomination and confirmation of Congresswoman Deb Haaland to the post of Secretary of the Interior and we encourage the President-Elect and United States Congress to swiftly take any and all actions necessary to nominate and confirm her so that she can begin her important and historic work as soon as possible.

BE IT FURTHER RESOLVED, that this resolution be preserved in the records of the Section and be displayed on the [Section website](#).

Adopted this 14th day of January 2021.

Co-Sponsoring Sections:

Section on Agriculture and Food Law
Section on Minority Groups
Section on Women in Legal Education

Newsletter Editor: Trevor Reed (Hopi), Section Chair-Elect
with Lani Petrulo (Native Hawaiian), Program Administrator, NALS Institute, Mitchell Hamline School of Law