



AMERICAN INDIAN LAW PROGRAM

University of Colorado Law School

Spring 2015 Newsletter



Welcome to the AILP at Colorado Law!

Dosha! The American Indian Law Program has had an eventful year, continuing in its tradition of providing students with an immersive Indian law experience, connecting with the community, and contributing to scholarship and dialogue on behalf of Native Americans and indigenous peoples throughout the world. We thank our supporters and colleagues, as well as the Tribes and indigenous peoples we work with to help in our mission to educate the next generation of tribal lawyers and advance research and service in Indian law.

Carla Fredericks,
Director of the American Indian Law Program

Inside this Issue:

2014 Annual Fall Conference

AILP-NALSA Fall Speaker Series

2014-2015 Course Offerings

NALSA Update

AILP Faculty and Student
Highlights

Native American & Indigenous
Studies Across Campus

AILP Clinic Update

Upcoming Events



Annual Fall Conference 2014



“Tribal Sovereign Immunity After *Bay Mills*”

On September 12, 2014, the AILP held a daylong conference and workshop discussing implications of the *Bay Mills* decision for practitioners, scholars, judges, and tribal communities.

In *Michigan v. Bay Mills* (May 27, 2014), the Supreme Court sustained tribal sovereign immunity against a state government's claims growing out of an Indian tribe's decision to locate a casino in a disputed location. The Court reaffirmed sovereign immunity as an inherent attribute of tribal self-government, such that lawsuits against tribes can be authorized only by Congress or by the tribes themselves.

The Court also opened the possibility of judicial abrogation immunity for off-reservation torts, and it recognized lawsuits for prospective relief against tribal officials, raising important questions for lawyers who advise tribes, and those interacting with them, in commercial activities and other contexts.

Speakers included leading scholars in federal Indian law and constitutional law, and lawyers who have represented tribes and other parties in immunity matters. Subjects will included review of precedents with particular focus on *Bay Mills*; the future of immunity; suits against tribal officers by analogy to *Ex parte Young*; experience with tribal immunity waivers; how waivers can and should be limited; and use of arbitration instead of courts.

The panels inspired lively discussion and we thank all that came and participated!

AILP-NALSA Fall Speaker Series

Native American Mascots in Sports

In October, the AILP and the NALSA hosted a lunch-time panel on the topic of Native American Mascots in Sports. The panel consisted of AILP program director Carla Fredericks, Native American Rights Fund attorney Melody McCoy, and Professor Kristelia Garcia, who teaches and writes on issues of Intellectual Property at the University of Colorado Law School and works with Silicon Flatirons Center for Law, Technology, and Entrepreneurship.

Indian Law “101”

In November, the AILP and the NALSA hosted a second lunch-time panel entitled Indian Law 101. The panel consisted of the AILP Faculty Professors Kristen Carpenter, Sarah Krakoff, and Carla Fredericks, and was designed to give a general overview of the practice of Indian Law for new students and scholars contemplating a career in the field.

NALSA Distinguished Speaker

Martha King Partner, Fredericks Peebles & Morgan LLP



In November, NALSA and the AILP hosted Martha King, Partner at the Fredericks Peebles & Morgan LLP law firm in Louisville, Colorado and member of the Kotzebue IRA Tribe, as the NALSA distinguished speaker. In her talk entitled **“The Modern Practice of Indian Law: Operating in and from Tribal Legal Spaces,”** Martha shared practice stories, advice, and inspiration from her more than 17 years of experience in the field of Indian Law with students, community members, and fellow practitioners alike.

Thank you Martha!

AILP Course Offerings

Each year the Colorado Indian Law Faculty adds new classes to the Indian Law curriculum, making Colorado Law one of the top American Indian Law programs in the country.



Clinic students dining with the Ute Mountain Ute attorneys in Cortez, CO.

Fall 2014

American Indian Law I –LAWS 7725 – Professor Charles Wilkinson

This is the foundational course in our American Indian Law curriculum, focusing on the federal statutory, decisional, and constitutional law that shapes the relationship among the tribal, state, and federal governments.

American Indian Law Clinic I – LAWS 7309—Professor Carla Fredericks

This course teaches the practice of federal and tribal Indian law. Students will represent individuals and Indian tribes in matters involving: the Indian Child Welfare Act, enforcement of federal and tribal rights, code development, and other topics in federal Indian law. This is the first segment of a two-semester course.

Cultural Property Law –LAWS 6602—Professor Kristen Carpenter

The course will examine the development of cultural property law as a general matter and with particular attention to indigenous peoples, whose claims have pushed the law to afford protections for subnational group rights. Topics cover both real and intangible cultural property, ranging from traditional lands and religious sites, to ethnobotany to genetic information.

Spring 2015

American Indian Law II - LAWS 7735 – Professor Sarah Krakoff

The follow-up to American Indian Law I, this course investigates the legal history and current legal status of Alaska Natives and Native Hawaiians. It also covers current topics such as tribal water rights, tribal fishing and hunting rights, tribal justice systems, religious freedom, and tribal natural resource and environmental management. Prerequisite: LAWS 7725.

Advanced Topics in American Indian Law - LAWS 8725-001 – Professor Richard Collins

The topic for the spring 2015 offering is **American Indian Religious Freedom**. It will provide students with an overview of constitutional and statutory religious protections through the lens of American Indian religious freedoms. Topics covered will include sacred sites, ceremonial protections, eagle feathers, and the Native American Church.

American Indian Law Clinic II– LAWS 7309—Professor Carla Fredericks

This course teaches the practice of federal and tribal Indian law. Students will represent individuals and Indian tribes in matters involving: the Indian Child Welfare Act, enforcement of federal and tribal rights, code development, and other topics in federal Indian law. This is the second segment of a two-semester course.

Native American Law Student Association Update

The Native American Law Students Association (NALSA) had a fantastic fall semester! The year began with our welcome potluck at the home of Professor Carla Fredericks and the American Indian Law Program's conference on tribal sovereign immunity after Bay Mills. We introduced our members to some local practitioners of Indian law during a lunch at the Native American Rights Fund, and co-hosted panels at the law school on American Indian mascots and Indian law 101. We celebrated Native American Heritage Month with our annual Harvest Feast in late November and welcomed Martha L. King of Fredericks Peebles & Morgan LLP as our NALSA Distinguished Speaker. This spring, we hosted an Indian law career panel featuring members of our Advisory Team, send participants to the National NALSA Moot Court Competition at the University of Arizona, and headed to Flagstaff in early April for the American Bar Association's Indian Law Conference.

- Courtney Cole, Cherokee-Choctaw, NALSA President



Clinical students Katie Finn and Zoe Osterman at special pre-meeting with UN Special Rapporteur.



NALSA & Oyate family at the Harvest Feast!



NAMY award winning Lone Wolf Drum Group at the Harvest Feast.



Courtney Cole presents at the annual conference.

AILP Faculty & Student Highlights



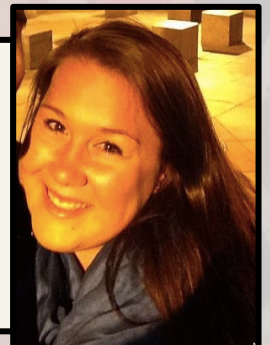
Professor Kristen A. Carpenter was awarded a University of Colorado LEAP Grant (Spring 2015) in support of field research toward a book project entitled *Beyond Preservation: Living Native Cultures*. She is also the Principal Investigator on a 3-year grant from the National Park Service to assess the NPS' treaty-based obligations to tribes in the inter-mountain region, a project on which Julia Guarino '13 has accepted the position of Research Associate. Her recent presentations include *American Indian Child Welfare in the Periods of Assimilation, Self-Determination, and Human Rights*, at the Annual Conference of the American Society of Legal History, November 6-9, 2014, and *Indigenous Peoples and the Jurisgenerative Moment in Human Rights*, at the Oklahoma Supreme Court's Sovereignty Symposium XXVI, June 5, 2014. This fall she co-authored with Getches-Wyss Fellow Jacquelyn Jampolsky JD/PhD '14, a book chapter entitled *Indigenous Peoples: From Energy Poverty to Energy Empowerment*, in Lakshman Guruswamy and Jason Aamodt, *International Energy And Poverty: The Emerging Contours* (forthcoming 2015). In Fall 2015, Professor Carpenter plans to teach *Indigenous Peoples in International Law* (currently before the faculty for approval); this is a new 3-credit class that will count toward the American Indian Law Certificate.

Professor Sarah Krakoff and 9 students in the Advanced Natural Resources seminar traveled to the Ute Mountain Ute Reservation and Navajo Nation during their spring break field trip. They met with alumni Celene Hawkins, Ute Mountain Ute Tribal Counsel's office, and Anne Mariah Tapp, Grand Canyon Trust Energy Program Director, to discuss air and water violations at the White Mesa Uranium Mill. The students also met with Navajo tribal members Sarana Riggs and Renae Yellowhorse who are leading a grassroots effort to fight off a proposed resort development on the rim of Marble Canyon at a site sacred to Navajo, Hopi, Zuni, and other Grand Canyon tribes. Additionally, professor Krakoff has some exciting publications to look out for, including *American Indian Law: Cases and Commentary*, 3d Ed., 2015, with Robert Anderson & Bethany Berger; *Sustainability and Justice*, in *Sustainability in the Climate Change Era* (ELI Press, Forthcoming, 2015); *Constitutional Concern, Membership & Race*, 9 *Florida Internat'l L. Rev.* 295 (2014); *Law, Violence & the Neurotic Structure of Indian Law*, 49 *Wake Forest L. Rev.* 743 (2014).



Professor Carla Fredericks is speaking at Columbia Law School on April 21, 2015 on her work on the Washington football team name issue. She will be in New York moderating and presenting a side event entitled "Indigenous Operationalization and Implementation UNDRIP's Free, Prior, and Informed Consent" for the 14th session of the UN Permanent Forum on Indigenous Issues, as well as attending the Forum and the UN Global Compact meetings. Her forthcoming article, *Plenary Energy*, has been accepted for publication in the Fall 2015 issue of the *West Virginia Law Review*.

Lauren Swan is an enrolled member of the Potawatomi Nation and comes to Colorado Law by way of Southern California. Lauren graduated from the University of California, San Diego with a BA in Political Science and History. She graduated from UCSD in just 3 years during which she participated in a co-ed pre-law fraternity and served as a resident adviser. After graduating, Lauren worked for 2 years at Morrison and Foerster LLP in the patent prosecution department. She is interested in a career in criminal defense, and is planning on working with the public defenders office in Colorado this summer. Lauren is also an avid fantasy football player and has kept almost every animal as a pet. We are so excited to have Lauren at Colorado and can't wait to see the incredible things she will do!



Native American and Indigenous Studies Across Campus

The **Center for Native American and Indigenous Studies (CNAIS)** is a campus-wide group, comprised of more than forty scholars who work on Native American and Indigenous issues. The group formed in 2011, meets at least once a semester for lunch, discussions, and informal research presentations. AILP faculty plays an integral role in NAIS events and program development, and there have been some exciting developments this year!

CNAIS received approval and two years of funding to formalize a Center of Native American and Indigenous Studies on campus, including a directorship position, operating budget, and a full time staff position.

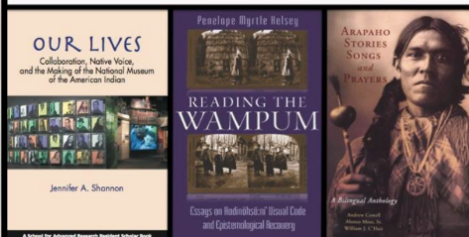
Additionally, interdisciplinary graduate and undergraduate certificates in Native and Indigenous Studies have been approved for students seeking to strengthen their knowledge and experience in this increasingly important area.

For more information, visit <http://www.colorado.edu/nativestudies/index.html>

Native American and Indigenous Studies Research Showcase

Come celebrate the recent accomplishments of our faculty!

Jennifer Shannon, Penny Kelsey, and Andrew Cowell will present their new books:



Tuesday November 18th

5:30-7:00 PM

Please join us in the British & Irish Studies Room (M549 Norlin Library). Catering will be provided.

This event is sponsored by the Center of Native American and Indigenous Studies, the Center of the American West, and the Departments of Anthropology, English, and Linguistics.

CNAIS Campus Events!

Native American and Indigenous Studies

Join us for this lunchtime research talk

Talk by visiting scholar Aurélie Roy

Lunch catered by Tocabe: An American Indian Eatery

"Training Indian Rights Lawyers in the Post-Civil Rights Era: An American Story"



Aurélie Roy

Aurélie A. Roy is a Ph.D. Candidate in History at Columbia University. Her dissertation examines Indian law practice and the protection of Indian sovereignty through the use of American and international law in the post-Civil Rights era.

Tuesday December 2nd

12:30-1:30 PM

McKenna 208 CU Boulder

Please RSVP to Penny Kelsey at penelope.kelsey@colorado.edu

Contact penelope.kelsey@colorado.edu with any questions. This event is sponsored by the Center for Native American and Indigenous Studies (CNAIS). Visit us at www.colorado.edu/nativestudies/

WINONA LADUKE

INDIGENOUS WOMEN TELLING A NEW STORY ABOUT ENERGY AND CLIMATE

Along with Nani Chacon and Adrian Manyoats

Tuesday, December 9 at 7:00 PM
University Theatre, CU Boulder

Free Admission

Winona LaDuke
Winona LaDuke (Anishinaabe) is an internationally acclaimed author, orator and activist. A graduate of Harvard and Antioch Universities with advanced degrees in rural economic development, LaDuke has devoted her life to protecting the lands and life ways of Native communities.

Nani Chacon
Nanihah "Nani" Chacon is a Painter, Muralist, Educator and Art Activist and Organizer. She was raised in Chinle, Arizona and Albuquerque New Mexico.

Adrian Manyoats
Adrian Manyoats is a Navajo activist who serves as project director for Eagle Energy. She is passionate about women and energy and environmental justice for all people.

Brought to you by
Inside the Greenhouse, an initiative on the CU campus for creative climate communication
www.insidethegreenhouse.net

Center for Science & Technology Policy Research
CU Department of Theatre & Dance
International Collective on Environment, Culture & Politics

American Indian Law Clinic Update

The American Indian Law Clinic is currently providing advice and counsel to several tribes and organizations, including the following:

- **United Nations Special Rapporteur on the Rights of Indigenous Peoples.** Students traveled to New York City in October to meet with the Special Rapporteur and are attending the United Nations Permanent Forum on Indigenous Issues in April/May 2015
- **The Spokane Tribe of Indians.** Clinic students met with the Spokane Tribe of Indians General Council in October 2014 related to ongoing work on tribal development issues
- **The Ute Mountain Ute Tribe.** Clinic students worked on several matters with the Ute Mountain Ute Tribe at the direction of Associate General Counsel Celene Hawkins '08, as well as traveled to the reservation to attend the Tribe's swearing in ceremony for new General Council members and met with tribal staff on projects
- **Yankton Sioux Tribe.** Clinic students worked with the tribe to develop a comprehensive set of tribal business law materials
- **8(a) contracting.** Students assisted several native-owned businesses with obtaining 8(a) certification
- **ICWA.** Students created education materials for use on the Pine Ridge Indian Reservation, in partnership with the Lakota Peoples Law Project, as well as represented an individual in family court proceedings



2014-2015 Clinic

Save the Dates!

**April 14, 2015
Wolf Law Building Room 304
12:00 – 1:00 pm
Native American Rights Fund
Heather Whiteman Runs Him**



**May 2, 2015
Wittemyer Courtroom
5:00 pm
United Nations Special Rapporteur
Victoria Tauli-Corpuz**



**November 5, 2015,
*45th Anniversary Continuing Legal Education &
Celebration with the Native American Rights Fund***



**TBA Winter 2016
University of Colorado Law School
Honoring the Career of Charles Wilkinson**



We hope you will join us!

Don't forget to follow us on facebook and twitter @CUAILP