

Federal Indian Policy and Law
SWK/NAS ~~333~~ 335

I. Course description.

Investigates the relationships between Native Americans and the Euro-American in terms of how the Natives were perceived and the impact this has had on Colonial and Federal policies relating to Native populations. Emphasis is on the historical, political and cultural aspects of the relationship.

II. A Course objectives: Students will be able to:

Knowledge

- a. Understand the historical basis for Native and federal relationship.
- b. Understand the role of the Bureau of Indian Affairs and Indian Health Service relative to tribal nations.
- c. Understand the range of policies and laws impacting Native peoples and nations from the colonial period to contemporary federal positions.
- d. Understand Native peoples/nations response to colonial and federal intervention.
- e. Develop a familiarity with case law pertaining to Native peoples/nations.

Values

- a. Appreciate the positions/values of all parties in regard to colonial/federal policies and Native peoples/nations.

Skills

- a. Critically reflect on federal policies including Native political, social, economic and cultural initiatives.

II.B. Generalist practice consists of an eclectic knowledge base, professional values (manifested in the NASW Code of Ethics), application of a wide range of skills), ability to work/intervene in various target systems (individual, family/group, organization, community), working in an organizational setting (including supervision), application of professional roles/functions, ability to critically reflect in the practice setting and finally, application of the planned change process (problem solving, systems, strengths perspectives). K. Kirst-Ashman & G. Hull, Generalist Practice with Organizations & Communities. (2002)

Goals of the Social Work Program

1. Prepare students for beginning level generalist practice with individuals, families, small groups, organizations, and communities.
2. Prepare students to practice with diverse populations.
3. Promote professional student identities incorporating social work ethics and values.
4. Prepare students for continued professional growth and development.
5. Understand and apply the knowledge, and skills for professional social work practice.

Program Objectives

1. Understand and relate the historical antecedents of the social work profession with contemporary issues and future trends (FPO: 3,5,1).
2. Apply the problem-solving and systems perspectives when intervening with individuals, families, small groups, organizations and communities (FPO: 1, 3, B6, 8).
3. Understand and apply social work values and ethics in the context of professional practice (FPO: 2, 3, 5).
4. Appreciate and exhibit professional use of self in generalist practice and the appropriate use of supervision (FPO: 3, 4, 9, 10, 11).
5. Understand/assess/employ appropriate social and organizational change within a social work organization, and social work delivery system (FPO: 1, 3, 5, 8, 12).
6. Analyze social policies and services effecting clients, social workers, and social agencies (FPO: 3, 8, 9, 10).
7. Apply principles, concepts and theories of evaluation to undergraduate generalist social work practice (FPO: 1, 3, 9).
8. Employ social work interventions sensitive to diverse, oppressed and disenfranchised populations (FPO: 1, 3, 4, 10, 11).
9. Apply the strengths perspective when working with individuals, families, small groups, organizations, and communities (FPO: 1, 3, 4, 6, 10).
10. Apply critical thinking skills when working with individuals, families, small groups, organizations, and communities (FPO: 1, 3, 8, 11, 12).

III. Required Texts

- a. a. Tyler, L., Federal Indian Policy, University Press of Pacific, 1976
- b. b. Jaimes, State of Native America, South End Press, 1992
- c. c. Getches, Wilkinson, & Williams. Federal Indian Law, 4th ed. 1998

IV. Schedule

Week 1- Jan. 15

- a. Introduction & get acquainted. Course requirements. Philosophy of education
- b. Conceptual framework for studying/analyzing Federal Indian policy
- c. Introduction of critical thinking model
- d. Overview of Indian policy

Week 2—Jan. 22

- a. Read Tyler Chapter 1 & 2
Chapter 1—Definition of Indian policy, Similarity amid change, Congress & Indian Policy, Aristotelian Theory of Natural Slavery, Practical application of legal concepts, Spanish Indian program, French Indian program, Dutch Indian program, English Indian program.

Chapter 2---Treaty precedents, role of religious organizations, Continental Congress, Constitutional Convention, Formation of Indian policy under the

constitution, Factory System, Federal Criminal Jurisdiction in Indian Country, Civilization & Education of Indians, Creation of Office of Indian Affairs.

- b. Tape: Black Hills—Who Owns the Land
- c. Read in Jaimes, Chapter II International Law and Politics

Week 3—Jan. 29

- a. Read Tyler, Chapter 3, 4, 5
Chapter 3—Impact of Louisiana Purchase On Indian Affairs, Removal, Indian Trade & Intercourse Act, Inheritance from Spain & Mexico,
Chapter 4—Reservations for Indian Tribes, development of Reservation system, Experiments with allotments for individual Indians, Indian Peace Commission, So-called Peace Policy, Soldiers to keep Indians on reservations, Experimentation with Indian policy, Beginnings of an Educational Program, Law & Order on reservations,
Chapter 5—General Allotment Act, Indian Health, New Declaration of Policy, Background to Further reform (1922-28), Rhoades—Scattergood administration, Incorporation & Indian Claims,
- b. Tape—White Man's Indian
- c. Read in Jaimes, Chapter XIII American Indian Education in the US and Chapter V The Earth is Our Mother—Struggles for American Indian Land and Liberation in Contemporary US.

Week 4—Feb. 5

- a. Read Tyler Chapters 6, 7, & 8
Chapter 6—Tribal Reorganization, New Deal for Indians, First years, New Deal Establishment, National Congress of American Americans.
Chapter 7—Indian Relocation and Tribal Termination, Indian Employment & Relocation, Post war prospects, Tribal Termination Finding the roots, Termination 53-58, Other legislation of the period, Consultation or Consent, Cooling off period.
Chapter 8—Indian Policy and American Life (1960s), From Termination to Self-Determination, Relocation Assistance becomes Employment Assistance, Economic Development for Indian Communities, Change in Federal Involvement with Indian programs.
- b. Online: Native America Calling—Termination

Week 5—Feb. 12

- a. Read Tyler Chapters 9, 10
Chapter 9—Self-Determination through Indian Leadership (1968—72), Indian leadership for Indian programs, Indian Preference, Involvement of Indians with Federally funded Schools, Native Americans as an urban minority, Indian eligibility for Federal services.
Chapter 10—Indian Policy Goals for the early 1970's,
- c. b. Read in Jaimes Chapter III Self Determination and Subordination—Past,

Present and Future.

Week 6—Feb.19

- a. Indian Child Welfare—History, Impact and current issues.
 - 1. Online—Native America Calling--ICWA
- b. Indian Gaming--<http://www.nativecalling.org/archives/list2001.html>—Is casino wealth dividing tribes members?

Week 7—Feb. 26

- a. Native Graves Protection & Repatriation Act
- b. Eagle feathers
- c. Religious Freedom
- d. Trust funds
- e. Selected issues—Water rights
 - a. a. Read in Jaimes, Chapter VI American Indian Water Rights—Blood of Life in Native America and Chapter VII In Usual and Accustomed Places—Contemporary American Indian Fishing Rights Struggles.
- f. Read in Jaimes, Chapter IX Trouble in High Places—Erosion of American Indian Rights to Religious Freedom in US and Chapter XIV Great Pretenders—Further Reflection on White Shamanism

Week 8—Mar. 5

- a. Exam

Week 9—Mar. 12 Spring Break

Week 10—Mar. 19

- a. a. Kennewick Man Continued – Who is a Native American? – Nova videotape
- b. b. Read text of NAGPRA statute; District Court case by Judge Jelderks

Week 11—Mar. 26

- a. a. Getches 93-128 – Legal basis for the Removal of Indians West of the Mississippi
- b. b. Getches 129-139 – Legal underpinnings for the Federal/Tribal Treaty Relationship
- c. c. Getches 63-372 – Foundations of Indian property theory

Week 12—April 2

- a. a. Getches 258-372 – The Federal Tribal Trust Relationship; Rights/Powers of Trustee (Federal Government) and Beneficiary (American Indians) arising thereunder

Week 13—April 9

- a. a. Getches 418-504 – State & Federal Incursions on Tribal Sovereignty
- b. b. Getches 373-418 – Tribal Sovereignty – legal status of tribal government structures
- c. c. Getches 635-659 – Tribal Justice; Courts, Cases, Structure, Political Reality

Week 14—April 16

- a. a. Getches 620-635 – Natural Resources Protection/Management in Indian Country
- b. b. Getches 683-739 – Environmental Protection/Management in Indian Country
- c. c. Getches 860-901 – Wildlife Protection/Management in Indian Country

Week 15—April 23

- a. a. Getches 754-790 – Protection of Tribal Religious Exercise & Protection of Tribal Cultural Property

Week 16—April 30

- a. a. Comparative Module – Indigenous Peoples' Rights under Foreign Law & International Law – Video of Prof. Esteban's Lecture at the Law School on constitutional status of aboriginal populations; Treaty handouts & foreign constitution handouts

V. Evaluation and grading

Combined Policy & Law requirements.

Federal Indian Policy module requirements.

- a. There is one exam worth 100 pts which is at midterm. A review is scheduled before the exam.
- b. Each student is required to engage in a debate/presentation of one of two topics—see schedule above for topics. Debate/presentation is worth 100 points.

Federal Indian Law module requirements

- a. a. Students are required to read and brief cases covered in class. Students will present the facts, issues, arguments, reasoning, policy choices and resolution (holding) of each case. Students will be assigned to brief specific cases for each class session. Professor Kelly will employ the Socratic Method with students to explore the meaning of case law in significant depth. 100 pts will be allocated by the professor for student participation in class discussion and student preparation and performance on case discussion.
- b. b. There is one exam worth 100 pts which is at the end of the semester. The exam will be a balanced combination of multiple choice, short answer and essay.

Grading. The following grading assignment policy is adhered to---**Total points: 400**

93%-100%=A

87%--92%=B+

83%--86%=B

77%--82%=C+
63%--72%=D

73%-76%=C
62% or below=F

Note: Points received for both Policy and Law modules will be added together to obtain a letter grade based on the percentages above.

Attendance Policy: Attendance is mandatory. You are permitted to miss two classes during the entire semester; thereafter, 5 points are deducted from your point total.

Plagiarism policy. This course adheres to the university plagiarism policy. Please consult the student handbook for details.

Bibliography

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Christine Miller et al., *Women of the First Nations* (Winnipeg: University of Manitoba, 1996)

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- Ronald N. Satz, *American Indian Policy in the Jacksonian Era* (Lincoln: University of Nebraska, 1975)
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