

POLS 3324 – INDIGENOUS LAW AND POLITICS

*Tuesdays and Thursdays: 1:30 – 2:50 pm
Education Building, Room 313*

INSTRUCTOR: Dr. Rebecca A. Reid
PHONE: 915-747-7970
EMAIL: rareid@utep.edu
OFFICE: 307 Benedict Hall
OFFICE HOURS: Tuesdays and Thursdays 10:30 – 1:00 pm,
or by appointment

LAND ACKNOWLEDGMENT

As members of the University of Texas at El Paso community, we acknowledge that we are meeting on unceded Indigenous land. We would like to recognize and pay our respects to the Indigenous people with long ties to the immediate region: Lipan Apache, Mescalero Apache, Piro, Manso, Suma, Jumano, Ysleta del Sur Pueblo, Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan de Guadalupe, and Tortugas Pueblo. We also acknowledge the nations whose territories include present day Texas: the Carrizo & Comecrudo, Coahuiltecan, Caddo, Tonkawa, Comanche, Alabama-Coushatta, Kickapoo, and the peoples of Chihuahua and northern Mexico from whom most/many of our students descend, such as the Rarámuri, Tepehuan, Wixarrika and Nahuatlaca peoples. Finally, we recognize all of the American Indian and Indigenous Peoples and communities who have been or have become a part of these lands and territories here in Paso del Norte, on Turtle Island. The University of Texas at El Paso honors your history and cultures and we seek greater awareness of the myriad ways in which your legacy can guide us in fruitful partnerships and mutually fulfilling relationships.

COURSE DESCRIPTION

This course offers an introduction to indigenous affairs and law. Students are challenged to critically analyze the roles and structures of colonization, law, political institutions, and political processes in terms of how they impact Indigenous and non-Indigenous communities. Through their examination of legal policy and case law, students will evaluate how law and courts have impacted indigenous sovereignty as well as how contemporary law can enable or restrict indigeneity, repatriation, legal pluralism, and rights advocacy.

UTEP EDGE

This course encompasses activities associated with UTEP EDGE, including 1) **communication** through class discussion, debate, and written assignments, 2) **problem-solving and critical thinking** through the class discussion and assignments, 3) **social responsibility** by critically evaluating and understanding the cause and effects of legal policy and principles of civic engagement, 4) **global awareness** through comparative approaches to indigenous law and policy, and 5) **teamwork** through moot court simulations, and 6) **leadership** by fostering analytical and

creative skills to accomplish shared goals. Student teaching modules incorporate student **research** and application across these areas and challenge students to think in innovative ways to analytically evaluate contemporary issues, generating viable solutions to complex legal and political problems.

LEARNING OUTCOMES

Over the course of the semester students will have:

- An understanding of the key elements of indigenous law and politics.
- The skills necessary to understand and evaluate contemporary political events and problems.
- Gained an understanding of a variety of areas of law and how courts operate within and across jurisdictions.
- Learned to think critically and analytically about legal and political issues and articulate arguments with empirical and legal justification.
- Developed writing and public speaking skills to communicate their arguments, evaluations, and policies with empirical and legal justification.
- Explored how political processes, institutions, and policies can create, maintain, or diminish inequalities.
- Demonstrate understanding of ethical implications of policies and processes, analyzing and evaluating the moral implications and repercussions of policies.
- Developed skills for team work and collaboration by learning to hold space for others, accomplishing shared goals and tasks, and demonstrating respect and value for a diversity of opinions, viewpoints, and perspectives.

COURSE REQUIREMENTS AND GRADING

Evaluation in this course will be based on the following components:

Critical Reflections	15%
Pop Quizzes	20%
Final Exam	25%
Team Presentation	25%
Team Presentation Reflection	15%

The grading scale is as follows:

90-100	A
80-89	B
70-79	C
60-69	D
59 and below	F

Critical Reflections

Critical Reflections are short written assignments that ask students to develop, communicate, and reflect upon their opinions. These assignments ask the student to engage in self-reflection and self-awareness, by helping student identify and evaluate their own beliefs, opinions, assumptions and their implications. As such, critical reflections are an extension of critical thinking. These assignments are evaluated based upon quality of student engagement, not by the content of the answers or level of uncertainty within responses.

Pop Quizzes

Pop quizzes consist of a short series of questions that evaluate student reading and comprehension of class material and assigned readings. These assignments thus allow the instructor to evaluate student completion of reading assignments, as well as identify and remedy any confusion in a timely manner.

Team Presentation

Students are required to develop a one presentation (akin to a teaching module) for their classmates focusing on one theme pertaining to Indigenous Peoples. The goal of each module is that other students gain an understanding of each topic, related laws/policies, political context(s), and implications or effects. Modules should include resources beyond those provided by the course to offer a deep investigative dive into the theme. Students are encouraged to be creative and innovative in how they wish to teach. These teaching modules are not required to follow a set format. Modules can be in the form of pdf or document files, video presentations, Powerpoint, Prezi, storytelling, and other options (as well as in combination). References must be included at the end of the module so that students can access the same materials used in the module for further inquiry.

Team Presentation Reflection

Each student is to complete a reflection assignment that discusses their engagement and learning in completing the team presentation. This assignment is reflective of student relationship(s) with the subject matter as well as with their teammates.

UNIVERSITY WRITING CENTER

The University Writing Center is a useful tool each of student should take advantage of in for all written/paper assignments. While not required, your paper will be improved following a consultation with the staff. The staff sees students through appointments or walk-ins, though appointments are preferred. For more information, go to: <http://uwc.utep.edu/index.php/hours-location>. For appropriate assignments, **I offer up to 10 points extra credit** if you consult the writing center. **In order to be eligible for this credit, you must show evidence of your consultation and evidence of the revisions suggested and those you made. You must also provide a reflection as to what you learned from the experience** (for instance, what types of errors do you systematically make and how can you correct them). Hence, credit will only be possible with adequate evidence and thoughtful reflection of the writing and revision process.

SPECIAL ACCOMODATIONS

If you have a disability and need classroom accommodations, please contact The Center for Accommodations and Support Services (CASS) at 747-5148, or by email to cass@utep.edu, or visit their office located in UTEP Union East, Room 106. For additional information, please visit the CASS website at www.sa.utep.edu/cass. CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.

ACADEMIC DISHONESTY

Absolutely no form of academic dishonesty will be tolerated. The University of Texas at El Paso prides itself on its standards of academic excellence. In all matters of intellectual pursuit, UTEP faculty and students must strive to achieve excellence based on the quality of work produced by the individual. In the classroom and in all other academic activities, students are expected to uphold the highest standards of academic integrity. Any form of scholastic dishonesty is an affront to the pursuit of knowledge and jeopardizes the quality of the degree awarded to all graduates of UTEP. It is imperative, therefore, that the members of this academic community understand the regulations pertaining to academic integrity and that all faculty insist on adherence to these standards.

Any student who commits an act of scholastic dishonesty is subject to discipline. *Scholastic dishonesty includes, but is not limited to, cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, and any act designed to give unfair advantage to a student or the attempt to commit such acts.* Proven violations of the detailed regulations, as printed in the Handbook of Operating Procedures (HOP) and available in the Office of the Dean of Students and the homepage of The Dean of Students at www.utep.edu/dos, may result in sanctions ranging from disciplinary probation, to failing a grade on the work in question, to a failing grade in the course, to suspension or dismissal, among others.

COUNSELING AND PSYCHOLOGICAL SERVICES

The center, located at 202 Union West, offers confidential counseling services in English or in Spanish. They also provide group and individual counseling for currently enrolled UTEP students, via in-person and Zoom. Student tuition includes free individual and/or group counseling and mental health services. For more information, go to: <https://www.utep.edu/student-affairs/counsel/>.

ADELANTE CHILD DEVELOPMENT CENTER

Child care is available for children of all students of the University. The Adelante Child Development Center is located at 314 W. Schuster and is managed and operated by Adelante Childcare, Inc. Children aged three months to 12 years are accepted, depending on space availability (Hourly, daily and weekly care are available and the Center offers a Summer Camp for school-age children). Age-appropriate early childhood developmental programs are offered in the curriculum. The Adelante Child Development Center is licensed by the Texas Department of

Protective and Regulatory Services. Financial assistance is available for qualifying parents through Child Care Services. For more information, please call: **915-532-1114** or **contact: studentaffairs.utep.edu/childcare**. If, for any reason, you cannot find a care-taker for your child(ren), you are welcome to bring them to class.

COVID STUDENT RESPONSIBILITIES

Please stay home if you have been diagnosed with COVID-19 or are experiencing COVID-19 symptoms. If you are feeling unwell, please let me know as soon as possible, so that we can work on appropriate accommodations. If you have tested positive for COVID-19, you are encouraged to report your results to covidaction@utep.edu, so that the Dean of Students Office can provide you with support and help with communication with your professors. The Student Health Center is equipped to provide COVID-19 testing.

The Center for Disease Control and Prevention recommends that people in areas of substantial or high COVID-19 transmission wear face masks when indoors in groups of people. The best way that Miners can take care of Miners is to get the vaccine. If you still need the vaccine, it is widely available in the El Paso area, and will be available at no charge on campus during the first week of classes. For more information about the current rates, testing, and vaccinations, please visit epstrong.org.

In short, if you feel ill, stay home.

GENERAL EXPECTATIONS

All students are expected to behave professionally in class and are held responsible for all material covered in the textbooks, articles, videos, and class discussions. If you miss a class, you are still responsible for the content of that day's information—which you can obtain from classmates and the assignments.

Disruptive behavior is not tolerated, including (but not limited to) inappropriate computer use, reading newspapers, inappropriate talking during lectures or discussions, using cell phones, and disrespecting classmates or the instructor. Additionally, all students are expected to attend class prepared and to show up on time. It is disrespectful to the instructor and the other students when individuals show up late or are not prepared to participate in the class discussion. The use of laptops is to be for class purposes only.

This class is designed to introduce new information and challenge students with new, and sometimes controversial, ideas, and arguments. This class is designed to be a safe, open environment to express ideas, arguments, and opinions for learning purposes. However, safe does not always mean comfortable. This class does not give you knowledge—i.e., knowledge and understanding are not transfused to students by simply sitting in class. Learning is an interactive process, requiring engagement with the material. Assignments are designed to assist you in learning processes, which consist of understanding material, remembering material themes and concepts, and being able to clearly (and correctly) communicate that material. Learning also entails developing your own insights, and applying them to better your own livelihood and authentic self.

CIVILITY AND RESPECT

Civility in the classroom and respect for the opinions of others is very important in an academic environment. It is likely you may not agree with everything which is said or discussed in the classroom, but courteous behavior and responses are expected. Our campus community reflects and is a part of a society comprising all races, genders, ethnicities, creeds, sexualities, ideologies, and social circumstances. It is fundamental to our mission to create an unbiased community and to oppose vigorously any form of racism, religious intolerance, sexism, ageism, homophobia, heterosexism, and discrimination against those with disabling conditions. All identity groups (genders, sexualities, races, ethnicities, nationalities, creeds, religions, socioeconomic classes, etc.) must be treated respectfully.

COURSE SCHEDULE

The following is a list of topics to be covered at each class meeting, and the readings, which should be completed in order to fully participate in class that day. You are required to read the material prior to the class. Literature not included in the textbook but listed on syllabus are the responsibility of students to locate and read. Academic articles can often be found via the UTEP library's website under the "Articles and Database" tab, where you can search repositories like JSTOR and Sage as well as individual journal titles. **Under no circumstance should you pay to access an article.** If you need help locating a specific article, email me and I will help you.

While I give specific days on which certain topics will be discussed, the calendar is subject to change. Any alterations to the course schedule will be clearly announced. As a general rule, the course will follow this order of topics, regardless of date changes, unless otherwise announced. *Readings due* are homework assignments due for that day in class.

January 17: Introduction: Courts, Law, and Policy

January 19: Colonization and Colonialism

Readings due:

Wolfe, Patrick. 2006. "Settler Colonialism and the Elimination of the Native." *Journal of Genocide Research* 8 (4): 387-409.

Lawrence, Bonita. 2009. "Gender, Race, and the Regulation of Native Identity in Canada and the United States: An Overview." *Hypatia* 18 (2): 3-31.

Lee, Tiffany S. 2009. "Language, Identity, and Power: Navajo and Pueblo Young Adults' Perspectives and Experiences with Competing Language Ideologies." *Journal of Language, Identity, and Education* 8 (5): 307-320.

January 24: Colonization and Colonialism

Readings due:

Bourassa, Carrie, Melissa Blind, Devin Bietrich, and Eric Oleson. 2015. "Understanding the Intergenerational Effects of Colonization: Aboriginal Women with Neurological Conditions—Their Reality and Resilience." *International Journal of Indigenous Health* 10 (2): 3-20.

Balestrery, Jean E. 2012. "Intersecting Discourses on Race and Sexuality: Compounded Colonization Among LGBTTTQ American Indians/Alaska Natives." *Journal of Homosexuality* 59 (5): 633-655.

January 26: Colonization, the Racial Contract, Intersectionality

Readings due:

Ferguson, K. 2016. "Why Does Political Science Hate American Indians?" *Perspectives on Politics* 14 (4): 1029- 1038.

DUE: Critical Reflection #1:

1. Who are you? What defines you, as a person?

January 31: Treaty-Making: Indigenous People during US Settlement

Readings Due:

Falleti, Tulia G. 2021. *Invisible to Political Science: Indigenous Politics in a World in Flux*. *The Journal of Politics* 83 (1): p. e5.

February 2: Treaty-Making: Indigenous People during US Settlement

Readings Due:

Wilmer, Franke 2016. "Indigenizing Political Science or Decolonizing Political Scientists?" *Perspectives on Politics* 14 (4): 1050.

Due: Critical Reflection #2:

1. What do you know about Indigenous Peoples?
2. Where and when did you learn about Indigenous Peoples?
3. What are common assumptions, stereotypes, or myths pertaining to Indigenous Peoples?
4. How do you define justice? How do you know justice has been achieved?

February 7: Indigenous Peoples, the Constitution, and Marshall Trilogy

Readings Due:

Blackhawk, Maggie. 2019. "Federal Indian Law as Paradigm within Public Law." *Harvard Law Review* 132 (7):1787- 1877.

February 9: Indigenous Peoples, the Constitution, and Marshall Trilogy

Readings Due:

Crepelle, Adam. 2021. "Lies, Damn Lies, and Federal Indian Law: The Ethics of Citing Racist Precedent in Contemporary Federal Indian Law" 44 *N.Y.U. REV. L. & Soc. Change*: 529- 579.

February 14: Indigenous Peoples: Removal, Allotment, and US Expansion

Readings Due:

Szarejko, Andrew A 2021. "Do Accidental Wars Happen? Evidence from America's Indian Wars." *Journal of Global Security Studies* 6 (4):

DUE: Critical Reflection #3:

1. Is the Constitution a "living document"?
2. What does the Constitution mean for those excluded by it?

February 16: Indigenous Peoples: Removal, Allotment, and US Expansion

Readings Due:

Krausová, Anna 2020. "Native nation building through the lens of political science." *Politics, Groups, and Identities* 8 (1): 86.

February 21: Indigenous Peoples, Termination of Treaties, and Assimilation

Readings Due:

Cordell, Rebecca Gleditsch, Kristian Skrede Kern, Florian G and Saavedra-Lux, Laura 2020. "Measuring institutional variation across American Indian constitutions using automated content analysis." *Journal of Peace Research* 57 (6): 777.

February 23: Indigenous Peoples, Termination of Treaties, and Assimilation

Readings Due:

Tallchief Skibine, Alex. 2021 “The Tribal Right to Exclude Others from Indian-Owned Lands” *American Indian Law Review* 45 (2): 261.

February 28: Indigenous Peoples, Self-Determination, and Devolution

Readings Due:

Kushner, Aaron. 2021. “Cherokee Political Thought and the Development of Tribal Citizenship.” *Studies in American Political Development* 35 (1): 1.

March 2: Indigenous Peoples, Self-Determination, and Devolution

Readings Due:

Herrick, Rebekah 2020. “Growing up on a reservation and American Indians’ political attitudes.” *The Social Science Journal* 57 (2): 135.

March 7: Indigenous Peoples in Contemporary United States

Readings Due:

Foxworth, Raymond, and Carew Boulding. 2021. “Discrimination and Resentment: Examining American Attitudes about Native Americans.” *The Journal of Race, Ethnicity and Politics*: 1-28.

Huyser, Kimberly R., Gabriel R. Sanchez, and Edward D. Vargas. 2017. “Civic Engagement and Political Participation Among American Indians and Alaska Natives in the US.” *Politics, Groups, and Identities* 5 (4): 642-659.

March 9: Indigenous Peoples in Contemporary United States

Readings Due:

Evans, Laura E., N. Dolšak, M.T. Plog, *et al.* 2020. “Native American Tribal Governments, Cross-sectoral Climate Policy, and the Role of Intertribal Networks”. *Climatic Change* 160: 35–43.

Reid, Rebecca A., and Todd A. Curry. 2021. “Explaining Indigenous Peoples’ Success in State Supreme Courts: Party Capability, Judicial Selection, and Representation.” *Journal of Law and Courts* 9 (1): 69- 87.

March 13- 17: Spring Break

March 21: No class

March 23: Indigenous Peoples of Mexico

Readings Due:

Speed, Shannon, and Jane Fishburne Collier. 2000. "Limiting Indigenous Autonomy in Chiapas, Mexico: The State Governments Use of Human Rights." *Human Rights Quarterly* 22 (4): 877– 905.

March 28: Indigenous Peoples of Mexico

Readings Due:

Sierra, María Teresa. 2005. "The Revival of Indigenous Justice in Mexico: Challenges for Human Rights and the State." *Political and Legal Anthropology Review* 28 (1): 52–72.

March 30: Indigenous Peoples of Mexico

Readings Due:

Cardenas, Alan, and Rebecca A. Reid. 2021. "Courts as Colonizers or Protectors? First Nations Before the Mexican Supreme Court." *Open Judicial Politics: An Empirical Reader*. 2nd ed. Oregon State University Open Textbook Initiative. < <https://open.oregonstate.edu/open-judicial-politics/chapter/courts-as-colonizers-or-protectors/>>

DUE: Critical Reflection #4:

1. Do Indigenous Peoples fare better in civil law systems compared to common law systems? Why or why not? What aspects specific to these legal systems assist (or hinder) indigenous rights and livelihoods?

April 4: Indigenous Peoples of Mexico

Readings Due:

Muñoz, Heraldo. 2013. "Indigenous Peoples' Political Inclusion Enriches Democracy in Latin America: Heraldo Muñoz." *United Nations Development Programme*.
<<https://www.undp.org/content/undp/en/home/ourperspective/ourperspectivearticl>

April 6: Indigenous Peoples of Mexico

DUE: Critical Reflection #5:

1. Many of the asylum seekers and refugees seeking to enter the United States are indigenous. How have experiences of colonization and governmental policies impacted contemporary immigration issues?
2. How should, if at all, US immigration policy acknowledge indigenous migrants? Why or why not?

April 11: Indigenous Peoples and International Law

Readings Due:

Suagee, Dean B. 1997. "Human Rights of Indigenous Peoples: Will the United States Rise to the Occasion?" *American Indian Law Review* 21 (2): 365- 390.

April 13: Indigenous Peoples and International Law

Readings Due:

Gordon, Seth. 2006. "Indigenous Rights in Modern International Law from a Critical Third World Perspective." *American Indian Law Review* 31 (2): 401- 424.

April 18: Indigenous Peoples and International Law

Readings Due:

Correia, Joel E. 2018. "Indigenous Rights at a Crossroads: Territorial Struggles, the Inter-American Court of Human Rights, and Legal Geographies of Liminality." *Geoforum* 97: 73–83.

April 20: Indigenous Peoples and International Law

Readings Due:

Williams, Jr., Robert A. 1990. "Encounters on the Frontiers of International Human Rights Law: Redefining the Terms of Indigenous Peoples' Survival in the World." *Duke Law Journal* 4: 660- 704.

April 25: Indigenous Peoples and International Law

Readings Due:

Evans, Laura. 2011. "Expertise and Scale of Conflict: Governments as Advocates of American Indian Politics." *American Political Science Review* 105 (4): 663-682.

Jacques, Peter, Sharon Ridgeway, and Richard Witmer. 2003. "Federal Indian Law and Environmental Policy: A Social Continuity of Violence." *Journal of Environmental Law and Litigation* 18 (2): 223- 250.

April 27: Indigenous Peoples and International Law

Readings Due:

Tuck, Eve, and K. Wayne Yang. 2012. "Decolonization is Not a Metaphor." *Decolonization: Indigeneity, Education & Society* 1 (1): 1- 40.

Sium, Aman, Chandni Desai, and Eric Ritskes. 2012. "Towards the 'Tangible Unknown': Decolonization and the Indigenous Future." *Decolonization: Indigeneity, Education & Society* 1 (1): 1-XIII.

May 2: Team Presentations

Team 1: MMIWG2S

Team 2: Indigenous Peoples, Climate Policy, and the Environment

May 4: Team Presentations

Team 3: Family Separation and ICWA

Team 4: Indigenous Peoples, Criminalization, Policing, and Prison Systems

Final Exam due May 10