

Syllabus

Native Americans in the 21st Century: Nation Building I

GSE EDU A101 and HKS DEV-501m
January 2021 Intersession

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Days: January 12-15, 2021; 10 am – 4:30 pm (remote via Zoom)

Course Assistant: Megan Hill, megan_hill@hks.harvard.edu

COURSE DESCRIPTION: This course examines issues that leaders and decision makers face in contemporary Native nations and communities in the 21st century. These include matters in the critical areas of political sovereignty, education, economic development, constitutional reform, cultural and language maintenance and promotion, land and water rights, religious freedom, health and social welfare. Research finds that the viable approaches to such areas of *nation building* must be compatible with individual societies' cultures. This means that, because Indigenous societies are culturally heterogeneous, there are no "one size fits all" answers. The course utilizes case studies and simulations derived from field research and experience to engage students in the multidimensional settings that confront Native societies. Scholars and leaders from Native America and the Harvard University Native American Program provide selected presentations. Graduate and undergraduate students from all Harvard schools and departments are welcome (by cross-registration, as necessary; undergraduates should check with their tutors/FAS to ensure they can take the course for credit). Auditors are welcome. No prior knowledge of the field is required or presumed. Enrollment in the course is *not* limited; if you encounter information to the contrary, it is incorrect. Online registration is available through the Kennedy School and the Graduate School of Education; for cross-registration, go to <https://courses.harvard.edu/index.html>. If your school requires the approval of a written registration or cross-registration form, just forward the form to the Course Assistant, megan_hill@hks.harvard.edu and she will see that your form gets signed.

COURSE OBJECTIVES:

- To gain a basic understanding of the status and role of Native nations.
- To understand concepts and processes such as political sovereignty, social self-sufficiency, cultural self-determination, economic development, constitutional reform, land and water rights, civil rights, health, education and social welfare as they relate to Native nations.
- To identify and develop strategies for addressing the challenges of self-determination in Indian Country (and other developing societies).



WRITTEN WORK AND REQUIREMENTS: Successful work in this course consists of attendance and participation; writing 1 or 2 short (2-page) issue briefs, and a take-home final examination. Grading for the course is distributed as follows:

| Assignments | Weighting |
|--|-----------|
| Issue Briefs/Simulations/Participation | 20% |
| Final Examination | 80% |

The core question on the final examination is the following:

This course has presented a number of themes and structures seen as applicable to the challenge of building Native nations today. By “themes and structures,” we mean material presented in the course such as: “Keys to Nation Building”; four dimensions of cultural norms regarding authority; “cultural match”; and the like. Undoubtedly, these themes and structures represent particular presenters’, researchers’, and your professor’s particular training and perspectives. Now we ask you to think about how themes and structures from this course may or may not carry insight and implications for your particular area of academic and/or professional interest. Write a brief essay addressing the following two issues:

- 1. Are there themes and structures presented in this course that are similar to “themes and structures” already present in your particular area of academic and/or professional interest – albeit, perhaps phrased differently? How, if at all, do such themes and structures potentially contribute to and/or re-enforce themes and structures prominent in your area of primary academic or professional interest? In short, did any of the themes and structures seen in this course make you think along the lines of: “Wow! That could help people in my field if they looked at issues this way.” Explain.*
- 2. In what ways, if any, are there themes and structures presented in this course that are inadequate and/or inapplicable to your primary academic or professional field of interest? In other words, were there points in this course where you would have wanted to say something like: “This really doesn’t apply to my field” or “This material is really overlooking the importance of x, y and z in my field.” Explain.*

We are not asking you to review what you liked and/or disliked about this course. Instead, since many of you are unlikely to make your career in the specific area of Native affairs, we are offering you a chance to explore the implications of this course for your area of primary academic and/or professional interest.

COURSE MATERIALS: Several readings are drawn from two books: *The State of the Native Nations* (SONN) and *Rebuilding Native Nations* (RNN). Additional readings will be distributed via the CANVAS course site. SONN and RNN may be purchased at the Harvard Coop and online (e.g., at Amazon.com).



Readings and Class Topics

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Day 1

Readings:

- SONN, pp. 1-68, skim 95-103.
- RNN, Chapter 1.
- Riley, Angela R. & Sonia K. Katyal, “Aunt Jemima Is Gone. Can We Finally End All Racist Branding?,” *New York Times*, June 19, 2020.
- Galanda, Gabriel S., “Disenrollment and the Missing and Murdered”, *Indian Country Today*, Oct. 6, 2020, available at <https://indiancountrytoday.com/opinion/disenrollment-and-the-missing-and-murdered-QtCnJ-WQiEK9U6Gs52wUKA>

Guest Presenters: *Introduction – Harvard in Indian Country*

– Prof. Joe Gone (Aaniiih-Gros Ventre), Faculty Chair, Harvard University Native American Program

Issues in Tribal Citizenship – Who is the ‘Self’ in Self-Governance?

– Gabriel Galanda (Round Valley), Activist and Attorney

Topics:

1. The State of Native America
 - a. Population
 - b. Income
 - c. Health
 - d. Education
 - e. Language
 - f. Culture
 - g. Reservations
2. Legal and Policy Setting
 - a. The Powers of the Federally Recognized Tribes
 - b. U.S. Constitution and Treaties
 - c. Seminal Cases and Jurisdictional Boundaries
 - d. Sovereigns or Clubs?
 - e. Plenary Power of Congress



Day 2

Readings:

- SONN, pp. 83-89, 235-250.
- Chaudhuri, Jonodev, “Reflection on *McGirt v. Oklahoma*”, Harvard Law Review Forum, Nov. 20, 2020, available at <https://harvardlawreview.org/2020/11/reflection-on-mcgirt-v-oklahoma/>
- Cornell, Stephen, “Processes of Native Nationhood: The Indigenous Politics of Self-Government,” *International Indigenous Policy Journal*, Article 4, September 2015.
- Carpenter, Kristen & Angela R. Riley, “Indigenous Peoples and the Jurisgenerative Moment in Human Rights,” 102 *California Law Review*, (2014), available at https://29qish1lqx5q2k5d7b491joo-wpengine.netdna-ssl.com/wp-content/uploads/2014/10/07-Riley_Carpenter.pdf. Read pp. 175-180, 205-233; skim 180- 204, 233-34.
- Case Simulation – Blood Quantum Criteria for Tribal Citizenship: Tribes Tackling the Threat to Their Survival

Guest Presenters: *“McGirt” and the Frontiers of Tribal Sovereignty*

- Amb. Jonodev Chaudhuri, Muscogee (Creek) Nation
- Prof. Stacy Leeds, District Court Justice, Muscogee (Creek) Nation; Professor & Dean Emeritus, University of Arkansas School of Law;
- Hon. Sara Hill, Attorney General, Cherokee Nation

One Nation’s Story of Resurgence

- Hon. John “Rocky” Barrett, Chair, Citizen Potawatomi Nation

The Real Challenges of Native Nation Building

- Hon. Mark Macarro, Chair, Pechanga Band of Luiseño Indians
- Hon. Rodney Butler, Chair, Mashantucket Pequot Tribal Nation

Indigenous Rights & the Internationalization of the Nation Building Movement

- Hindou Ibrahim (Mbororo), Coordinator of the Association of Peul Women and Autochthonous Peoples of Chad (AFPAT)
- Prof. Kristen Carpenter, School of Law, University of Colorado; North American Member, United Nations’ Expert Mechanism on the Rights of Indigenous Peoples

Topics:

1. Challenges
 - a. Economic Development
 - b. Political Sovereignty
 - c. Cultural Self-Determination



2. The Role of History
 - a. Physical Realities of Location and Condition
 - b. Survival, Perpetuation and Reassertion
 - c. Identity through Shared History
 - d. Identity through Contemporary Representation of the Past
 3. Contemporary Native Nation Building
 - a. The Social Impetus
 - b. Cultural, Political, and Economic Necessities
 - c. The Inter-Community Debates
 - d. The Intra-Community Debates
 - e. International Trends
 4. Identity & Citizenship
 - a. Defining the “Self” in Self-Determination
 - b. Exo- and Endo-Stereotyping
 - c. Ends & Means/Values & Social Capital
 - d. Education, Language, Ceremony, Religion
 - e. Continuity in Change: The Primacy of *Self*-Determination
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Day 3

Readings:

- Riley, Angela R., “Good (Native) Governance,” 107 *Columbia Law Review*. 1049 (2007)
- SONN, pp. 83-89.
- RNN, Chapters 4, 5 (skim 6).

Guest Presenters: *Sovereignty as a Strategy*

- Hon. Diane Enos, former Chair, Salt River Pima Maricopa Indian Community
- Hon. Karen Diver, former Chair, Fond Du Lac Band of Lake Superior Chippewa; former Special Assistant to the President for Native American Affairs (Obama Administration)

Going Live to a Tribal Court

- The class will go live to a tribal court proceeding. The venue will be decided based on court docket schedules on January 14

Topics:

1. Nation Building – The Impediments
 - a. External Constraints and Impositions
 - b. Internal Disunion and Disorganization
 - c. Collective Action and the Critical Role of Dispute Resolution
2. Nation Building – The Goals
 - a. Strengthening Identity
 - b. Building Social Capital
 - c. Defending Sovereignty
 - d. Exercising Sovereignty
 - e. Providing for the Nation’s Well-Being
3. Nation Building – The Means
 - a. *The Attitude*
 - b. Political Self-Rule
 - c. Institutional Capacity – Administration and Judicial
 - d. Leadership
4. National Perpetuation and the Rule of Law
 - a. Contemporary Constitutionalism
 - b. Historical Foundations
 - c. Diversity of Forms
5. National Perpetuation and Cultural Match
 - a. Trust v. Norms/Social Capital v. Social Contract
 - b. Structure, Scope, Location & Source of Authority
 - c. Challenges of Amalgams and Change



Day 4

Readings:

- Case: Jorgensen, M.R., "Nebraska Sioux Lean Beef, Part A," Teaching Case for Oglala Lakota College, Harvard Project on American Indian Economic Development, Kennedy School, Harvard University, 1990.
- SONN, skim pp. 53-79, 159-218, 247-274.
- RNN, Chapters 10, 11.

Guest Presenters: *Social Strengthening – Tribes Take on COVID-19*

- Ethel Branch (Navajo), Executive Director, Yee Ha'ólníí Doo (Navajo & Hopi Families COVID-19 Relief Fund); former Attorney General, Navajo Nation
- Gwendena Lee-Gatewood, Chair, White Mountain Apache Tribe

Social Strengthening – Building Citizens by Taking Control of Tribal Education

- C.M. Danny Wells, Administrator, Division of Education, Chickasaw Nation

Intergovernmental Relations – Tribal-Tribal, Tribal-State, & Tribal-Federal

- Jennifer Weddle (Northern Cheyenne), Co-Chair of the American Indian Law Practice, Greenberg Traurig LLP
- Winona Singel (Little Traverse Bay Bands of Odawa Indians), Deputy Legal Counsel to the Office of the Governor of Michigan; Associate Professor & Associate Director of the Indigenous Law & Policy Center, Michigan State University College of Law.

Core Native Values and Contemporary Leadership

- Hon. Richard Luarkie, former Governor, Laguna Pueblo

Topics:

1. Economic Development – Systems
 - a. Forms of Reservation Economies
 - b. Requirements of Alternative Systems
 - c. Cultural Match and Alternative Systems
2. Self-Determined Approaches to Public Services and Public Administration
 - a. Education
 - b. Health
 - c. Environment
 - d. Intergovernmental Relations
3. Leadership
 - a. Heterogeneous Cultural Foundations
 - b. Leader as Educator
 - c. Seizing the Future

