

Syllabus

Native Americans in the 21st Century: Nation Building I

GSE EDU A101 and HKS DEV-501m

Via Zoom

January 2022 Intersession

Faculty: Prof. Joe Kalt, joe_kalt@hks.harvard.edu & Prof. Angela R. Riley,
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Days: January 10-14, 2022; 10 am – 4:30 pm, via Zoom

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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, melissa_yazzie@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% Tie Breaker
Final Examination	80%

The core question on the final examination is the following (no more than 4 pages):

This course has presented a number of themes and structures seen by your professors as applicable to the challenge of building healthy and prosperous Native nations today. By “themes and structures,” we mean material presented in the course such as: “Keys to Nation Building”; “cultural match”; “colonial v. human rights frameworks for sovereignty”; and the like. Undoubtedly, these themes and structures represent your professors’ 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(s) of academic and/or professional interest.

- 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? Even if not present in your particular area of interest, are there themes and structures in this course that you think have applicability to your area of interest? 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/workplace 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 or in my experience.” Explain.*

We are not asking you to review what you liked and/or disliked about this course. Instead, this is your chance to explore and think about the material in this course from your perspective, given your interests, your education and training, and/or your work experience. There are no “right” answers to this question that we are looking for, and there is certainly not a “this is what Joe and Angela are looking for” answer. Nor will your answer be graded on your writing style. Your answer will be graded on your insights and demonstrated thoughtfulness.

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

Native Americans in the 21st Century: Nation Building I

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Day 1

Readings:

- SONN, pp. 1-68, skim 95-103
- Riley, Angela R. & Sonia K. Katyal, “Aunt Jemima Is Gone. Can We Finally End All Racist Branding?,” *New York Times*, June 19, 2020
- Kiel, Doug, “Bleeding Out: Histories and Legacies of ‘Indian Blood’,” in Ratteree, K. and N. Hill, *The Great Vanishing Act: Blood Quantum and the Future of Native Nations* (Fulcrum Publishing, 2017), 80-97

Guest Presenters: *Introduction – Harvard in Indian Country*

- Jason Packineau (Mandan, Hidatsa, Arikara, Pueblo of Jemez, Pueblo of Laguna), Acting Executive Director, Harvard University Native American Program

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

- Norbert S. Hill (Oneida), ret. Dir. of Education, Oneida Nation; Dir, American Indian Graduate Center; V.P., College of Menominee; Dir., American Indian Science and Engineering Society; and Board Chair, National Museum of the American Indian

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
3. 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 2

Readings:

- RNN, Chapter 1 and 2
- 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/>
- Henson, E., M. Hill, M. Jorgensen & J. Kalt, *Emerging Stronger than Before: Guidelines for the Federal Role in American Indian and Alaska Native Tribes’ Recovery from the COVID-19 Pandemic*, COVID Response and Recovery Policy Brief #4, July 24, 2020, available at <https://ash.harvard.edu/publications/hpaied-policy-brief>
- United States Supreme Court, *Brief of Indian Law and Policy Professors as Amici Curiae Supporting Petitioner in U.S. v. Joshua James Cooley* (Docket No. 19-1414, January 15, 2021)
- (Skim) Henson, E., M. Jorgensen, J. Kalt, & I. Leonaitis, Assessing the U.S. Treasury Department’s Allocations of Funding for Tribal Governments under the American Rescue Plan Act of 2021, COVID Response and Recovery Policy Brief #7, Nov. 3, 2021, available at <https://ash.harvard.edu/publications/assessing-us-treasury-department%E2%80%99s-allocations-funding-tribalgovernments-under>
- Case Simulation: Blood Quantum Criteria for Tribal Citizenship: Tribes Tackling the Threat to Their Survival

Guest Presenters: *Issues at the Frontiers of Tribal Sovereignty*

- Hon. Sara Hill (Cherokee), Attorney General, Cherokee Nation
- Jennifer Weddle (Northern Cheyenne), Co-Chair of the American Indian Law Practice, Greenberg Traurig LLP

One Nation’s Story of Resurgence

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

“It’s Nation Building for All Tribes”

- Hon. Rebecca Crooks-Stratton, Secretary/Treasurer, Business Council, Shakopee Mdewakanton Sioux Community
- Hon. Rodney Butler, Chair, Mashantucket Pequot Tribal Nation

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. Frontiers of Sovereignty & Federal Policy
 - a. Taxation
 - b. Jurisdiction
 - c. Land Back
 - d. Funding
 4. Contemporary Native Nation Building
 - a. The Social Impetus
 - b. Cultural, Political, and Economic Necessities
 - c. The Inter-Community Debates
 - d. The Intra-Community Debates
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Day 3**Readings:**

- RNN, Chapters 3, 4, and 5
- SONN, Chapter 4
- Riley, Angela R., “Good (Native) Governance,” 107 *Columbia Law Review*. 1049 (2007)

Guest Presenters: *Sovereignty as a Strategy*

- Hon. Cheryl Anderson-Maltais, Chair, Wampanoag Tribe of Gay Head-Aquinnah
- Hon. Alfreda Mitre, former Chair and current Tribal Council Member, Las Vegas Paiute Tribe

Creating Excellence in Tribal Government

- Hon. Mutáwi Mutáhash (Many Hearts) Lynn Malerba, Chief, Mohegan Tribe

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, Political “Piracy”, and the Rule of Law
 - a. Contemporary Constitutionalism
 - b. Historical Foundations
 - c. Diversity of Forms
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DAY 4

Readings

- SONN, pp. 83-89
- RNN, Chapters 10
- 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
- Remarks of Txai Surui (Paiter Surui – Brazil) at Cop 26, Nov. 4, 2021, <https://www.youtube.com/watch?v=TP5Nbc5P0GM>

Guest Presenters: *Indigenous Peoples in International Law*

- Alexey Tsykarev (Finno-Ugric), Expert Member, United Nations Permanent Forum on Indigenous Issues and Chair, Center for Support of Indigenous Peoples and Civic Diplomacy (Russia)

“Field Trip” to a Tribal Court

- The Saint Regis Tribal [Healing to Wellness Court](#) (hosted by Hon. Carrie Garrow, Chief Judge, Saint Regis Tribal Court, Saint Regis Mohawk Tribe)

Indigenous Peoples and the Challenges of Climate Change

- Hon. Dr. Dalee Sambo Dorrough (Inuit-Alaska), Chair, Inuit Circumpolar Council
- Andrea Carmen (Yaqui Nation), Executive Director, International Indian Treaty Council
- Hindou Ibrahim (Mbororo), Coordinator of the Association of Peul Women and Autochthonous Peoples of Chad (AFPAT)

Topics:

1. Nation Building – The Primacy of Legitimacy
 - a. The Concept of “Cultural Match”
 - b. But Matching *What* Dimensions of Culture?
 - c. Implementing Cultural Legitimate Institutions and Strategies
 - d. Challenges of Amalgams and Change
 2. The Internationalization of the Nation Building Movement
 - a. The CANZUS Countries (Canada, Australia, New Zealand, US)
 - b. Human Rights and the Right to Self-Govern
 3. Building International Institutions and Their Capacities
 - a. The United Nations and Beyond
 - b. Indigenous Peoples’ Roles in Climate Policy
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DAY 5

Readings:

- SONN, 111-144, 197-216
- RNN, Chapters 7, 9; skim 6 and 8
- Case Simulation: Nebraska Sioux Lean Beef

Guest Presenters: ***Social Strengthening – Building Citizens by Taking Control of Tribal Education***

- Carnell Chosa, Ph.D. (Jemez), Co-Director, Leadership Institute at the Santa Fe Indian School
- Kate Anderson (Citizen Potawatomi), Dir. of Public Relations, Agua Caliente Band of Cahuilla Indians

Social Strengthening – Economic Development

- Hon. Greg Sarris (Miwok), Chair, Federated Indians of Graton Rancheria
- Terry Brockie (White Clay, Nakoda, Arapaho), Chief Executive Officer, Island Mountain Development Corporation of Fort Belknap

Core Native Values and Contemporary Leadership

- Hon. Regis Pecos (Cochiti), Co-Director, Leadership Institute at

the Santa Fe Indian School; Governor, Pueblo de Cochiti; Lifetime Member, Tribal Council of the Pueblo de Cochiti; and former Chief of Staff to the Speaker of the House, New Mexico House of Representatives

Topics:

1. Self-Determined Approaches to Public Services and Public Administration
 - a. Education
 - b. Health
 - c. Housing
 - d. Environment and Natural Resources
 2. Economic Development – Systems
 - a. Forms of Reservation Economies
 - b. Requirements of Alternative Systems
 - c. Cultural Match and Alternative Systems
 3. Leadership
 - a. Heterogeneous Cultural Foundations
 - b. Leader as “Moral Sharpshooter”
 - c. Leader as Educator
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