

American Indian History Law and Government

AIS 475/ HIST 475

Professor: Cary Miller
Office Hours: M/W 1:00-2:00 and by appointment
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Office: 365 Holton Hall
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Class meets MW 4:30-5:45 in Holton 190

Course Description:

This course will examine the history of American Indian political systems and their interaction with United States Indian Policy. Properly stated, this class pursues Ethnohistory - using the cultural framework of Native Communities themselves to interpret the historical record. Over the course of the semester we will examine Indigenous systems of governance, European legal justifications for colonization, American Indian sovereignty and its responses to colonial powers, and the development of the Federal-Tribal relationship including the foundations and structures for modern American Indian sovereignty and treaty rights.

Course Objectives:

By the end of this course students will:

- 1) understand ethnohistory as a methodology;
- 2) be able to conduct critical interpretation of primary source materials;
- 3) develop an understanding of Indigenous systems of government;
- 4) develop an understanding of the historical context of American Indian sovereignty in the US;
- 5) develop improved research and writing skills.

Assignments:

Your grade will be determined as follows:

Midterm	25%
Research Paper	20%
Response Papers	10%
Discussion Instigation	10%
Final	25%
Class Participation	10%
	100%

Grading Scale:

Based on percentage correct:

A-	90-92	A	93-100		
B-	80-82	B	83-86	B+	87-89
C-	70-72	C	73-76	C+	77-79
D-	60-62	D	63-66	D+	67-69
F	59 or less				

Research Paper - Due Wednesday Nov. 16

For this assignment, choose a topic of interest to you concerning Native American law and government. You may focus on a historical policy, a contemporary issue, or a specific cultural practice. You have the option of submitting a typed outline of your paper including its thesis on **Oct. 27** for 5 pts extra credit awarded toward the midterm exam. (**Graduate students** must submit a typed outline and 5 page historiography for their paper as part of their midterm exam grade) This paper should be typed, double-spaced, 10 pages in length with one-inch margins and 12 point font. (**Graduate student** papers should be 25 pages in length and demonstrate graduate level critical analysis of primary and secondary sources contributing to an original thesis). Pages should be numbered, and endnotes and bibliography should be included. Chicago style is the approved format for the paper. History majors in particular may wish to get a copy of Kate L. Turabian's book *A Manual for Writers of Research Papers, Theses, and Dissertations, 7th ed.* You can also find a great deal of the endnote and bibliographic formatting examples from her book at <http://www.isr.bucknell.edu/img/assets/6535/turabian.pdf>

Exams: Midterm due Wednesday October 19; Final due Wednesday December 21 at 5pm.

Both exams for this course will be take-home short-answer and essay papers. Exams will be distributed one week prior to the due date. Exams, while restricted to the use of class assigned texts for your resources, must still conform to all formatting rules for papers identified above for the research paper. (**Graduate students** will receive a graduate level exam for this assignment that focuses on methodological issues. As noted above, as part of this exam, graduate students must submit a typed outline and five-page historiography on their research topic.)

Class Participation and Instigation:

Each class day will be divided evenly between lecture presentation and class discussion of readings, particularly analysis of the primary sources assigned. We will have a class email reflector to which all students are required to post at least one question the ideas expressed in the articles and primary sources raised for them by 5pm the day prior to the class meeting. (**Graduate students** are expected to submit one question per article assigned for the day's reading) For each class day there will be two student instigators whose job it is to read these questions and present two questions chosen from or based on the questions submitted to spark our discussions. The discussion period should help not only to clarify the readings in general, but also, by focusing in on important issues in the readings, should assist you in preparing for exams. All students are expected to attend class regularly and participate in class discussions. Student discussion instigators may choose to divide the day's readings between them so as to focus more specifically on the questions/issues pertaining to a given text. More than three absences will result in the loss of 1% of participation grade per absence.

Response Papers - Every Wednesday

Each Wednesday, a **one page** response paper addressing the readings assigned for that week is due. These are informal papers designed to help prepare you to discuss the texts in class. Please feel free to share first impressions, and unsubstantiated gut instincts about the texts and their writers as well as to pose questions to which you do not have the answer. These assignments need not conform to any particular essay format. I ask only that you use complete sentences and turn it in typed, double spaced, in 12 point font with one inch margins. These assignments will be collected at the end of each class session, so that you may refer to them for ideas, and to remind yourself in class of questions that came to you while you were engaged with the reading. There may, at times, be questions that you are uncomfortable raising in class, but would still like an answer to. Include these as well, and I will do my best to give you a complete response. These papers are not assigned a letter grade. Either they are complete, or they are not. Late papers will be given one half credit, unless there are extenuating circumstances. Since the value of these papers is to help you be prepared for class discussion, their value is greatly diminished if they are turned in late. Response papers will not be due the week of the midterm exam and the week the research paper is due. (**Graduate Student** response papers must indicate the thesis of the articles assigned and assess the strengths and weaknesses of the historical arguments they contain.)

General Stuff:

You are expected to be aware of the deadlines listed above and observe them. Late assignments (research paper) will be penalized 5% per class day, in other words, one full grade per week. Response papers will be given half credit if received late. The midterm and final will not be accepted late unless there is a major emergency such as a UFO abduction that caused you to "loose" the entire space of time you had the assignment. Please see our kind counseling staff for the revealing post abduction hypnosis sessions. Papers should be submitted in one of the following ways: a) turned in to me in class; b) placed in my mail box on the third floor of Holton Hall; c) sent to me electronically; or d) handed to me during office hours. **Do not slip papers under my door**, as I will not be responsible for losing them in that case. If you are submitting work by any method other than handing it directly to me please make a copy of the work for yourself in case for some reason your assignment does not make it into his hands.

Students with disabilities. Verification of disability, class standards, the policy on the use of alternate materials and test accommodations can be found at the following: <http://www4.uwm.edu/sac/SACltr.pdf>

Religious observances. Policies concerning accommodations for absences due to religious observance can be found at <http://www4.uwm.edu/secu/docs/other/S1.5.htm>

Students called to active military duty. Accommodations for absences due to call-up of reserves to active military duty can be found at the following sites:

Incompletes. A notation of "incomplete" may be given in lieu of a final grade to a student who has carried a subject successfully until the end of a semester but who, because of illness or other unusual and substantiated cause beyond the student's control, has been unable to take or complete the final examination or to complete some limited amount of term work. <http://www4.uwm.edu/secu/docs/other/S31.pdf>

Discriminatory conduct (such as sexual harassment). Discriminatory conduct will not be tolerated by the University. It poisons the work and learning environment of the University and threatens the careers, educational experience, and well-being of students, faculty, and staff. Find UWM policy details here: <http://www4.uwm.edu/secu/docs/other/S47.pdf>

Academic misconduct. Cheating on exams or plagiarism are violations of the academic honor code and carry severe sanctions, including failing a course or even suspension or dismissal from the University. http://www4.uwm.edu/acad_aff/policy/academicmisconduct.cfm

Complaint procedures. Students may direct complaints to the head of the academic unit or department in which the complaint occurs. If the complaint allegedly violates a specific university policy, it may be directed to the head of the department or academic unit in which the complaint occurred or to the appropriate university office responsible for enforcing the policy. <http://www4.uwm.edu/secu/docs/other/S49.7.htm>

Grade appeal procedures. A student may appeal a grade on the grounds that it is based on a capricious or arbitrary decision of the course instructor. Such an appeal shall follow the established procedures adopted by the department, college, or school in which the course resides or in the case of graduate students, the Graduate School. These procedures are available in writing from the respective department chairperson or the Academic Dean of the College/School. <http://www4.uwm.edu/secu/docs/other/S28.htm>

Other: The final exam requirement, the final exam date requirement, etc. <http://www4.uwm.edu/secu/docs/other/S22.htm>

Required Texts:

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*, Abridged Edition. Lincoln: University of Nebraska Press, 1984.

Pommersheim, Frank. *Broken Landscape: Indians, Indian Tribes, and the Constitution*. New York: Oxford University Press, 2009.

Harvard Project on American Indian Economic Development, *The State of the Native Nations: Conditions Under US Policies of Self-Determination*. New York: Oxford University Press, 2008.

Hoxie, Frederick ed. *Talking Back to Civilization: Indian Voices from the Progressive Era*. New York: Bedford/St Martin's Press, 2001.

Cobb, Daniel, and Loretta Fowler ed. *Beyond Red Power: American Indian Politics and Activism Since 1900*, Santa Fe: School for Advanced Research, 2007.

Selections from my book Ogimaag will be available on D2L.

Readings not in one of the above texts are available via library electronic reserve.

Schedule:

Sept. 7 Introduction: Indigenous Oral Tradition and Tribal Ethics

- Benton-Banai, Edward, "The Great Flood" *The Mishomis Book: The Voice of the Ojibway*, second edition, Minneapolis: University of Minnesota Press, 2010, pgs. 29-34.
- Miller, Cary, "Power in the Anishinaabeg World" *Ogimaag: Anishinaabeg Leadership 1760-1845*. Lincoln: University of Nebraska Press, 2010. p. 21-64.

Sept. 12 Indigenous Governing Systems

Readings:

- "Great Law of Peace, Gayanashagowa (1000-1525?)" in Wilkins, David ed. *Documents of Native American Political Development 1500-1933*. London: Oxford University Press, 2008 p. 14-37.
- Becker, Mary Druke, "Linking Arms: The Structure of Iroquois Intertribal Diplomacy" in Daniel Richter and James Merrell eds. *Beyond the Covenant Chain: The Iroquois and their Neighbors in Indian North America 1600-1800*. Philadelphia: Pennsylvania State University Press, 2003, pgs. 29 -39.
- Miller, Cary, "Ogimaag: Hereditary Leaders." In *Ogimmaag: Anishinaabeg Leadership 1760-1845*. Lincoln: University of Nebraska Press, 2010. p. 65-112
- White, Bruce M, "'Give Us a Little Milk': The Social and Cultural Significance of Gift Giving in the Lake Superior Fur Trade" *Minnesota History*, 48 (2) 1982 p. 60-71.
- Thwaites, ed. *Jesuit Relations and Allied Documents* vol 10 p. 210-235 and 254-261.
- "Description of Winnebago Government by Caleb Atwater, US Commissioner (1829)" in Wilkins, David ed. *Documents of Native American Political Development 1500-1933* London: Oxford University Press, 2008, p. 67-69.
- Hoig, Stanley, "Out of a Mystic Past" *The Cherokee and their Chiefs* Fayetteville: Univ. of Arkansas Press, 1998. p. 7-16.

Sept. 14 European Justifications for Colonization

Readings:

- "The Bull Inter Caetera (Alexander VI), May 4, 1493" in *European Treaties bearing on the History of the United States and its Dependencies to 1648*, Frances Gardiner Davenport, editor, Carnegie Institution of Washington, 1917, Washington, D.C., p. 75-78
- Bartolome de Las Casas, *A Short Account of the Destruction of the Indies*, ed. by Anthony Pagden. New York: Penguin Books, 1992, p. xii-xl.
- Wilkins, David E. and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press) p. 19-63.

Native Encounters with European Colonial Systems

Sept. 19 The Political Implications of Missions

Readings:

- "Laws of the Praying Town Indians (1640s-1670s)" in Wilkins, David ed. *Documents of Native American Political Development 1500-1933*. London: Oxford University Press, 2008. p. 37-38.
- Miller, Cary "Gechi-Midewijig: Midewiwin Leaders" in *Ogimaag: Anishinaabeg Leadership, 1760-1845*. Lincoln: University of Nebraska Press, 2010. P. 147-182.
- Richter, Daniel K. "Iroquois Versus Iroquois: Jesuit Missions and Christianity in Village Politics 1642-1686" *Ethnohistory* 32(1) 1985 1-16.
- Salisbury, Neal. "Embracing Ambiguity: Native Peoples and Christianity in Seventeenth-Century North America" *Ethnohistory* 50:2 (2003), p. 247-259.

Sept. 21 Spanish Colonies

Readings:

- Bartolome de Las Casas, *A Short Account of the Destruction of the Indies*, ed. by Anthony Pagden. New York: Penguin Books, 1992, pgs. 14-25; 57-64.
- Amy Turner Bushnell, "'Ruling the Republic of Indians' in Seventeenth-Century Florida," in Peter Mancall and James Merrell eds. *American Encounters: Natives and Newcomers From European Contact to Indian Removal 1500-1850*, First Edition, New York: Routledge Press, 2000 pgs. 311-323.
- Hackel, Steven. "The Staff of Leadership: Indian Authority in the Missions of Alta California," *The William and Mary Quarterly*. Third Series 54 (2) 1997 p. 347-376.

Sept. 26: Pueblo Revolt

Readings:

- Calloway, Colin G. "Rebellions and Reconquests" *One Vast Winter Count: The Native American West before Louis and Clark*. Lincoln: University of Nebraska Press, 2003, pgs. 165-211.
- Hackett, Charles W., ed., *Revolt of the Pueblo Indians of New Mexico and Otermin's Attempted Reconquest 1680-1682*. Albuquerque, New Mexico, 1942. Vol. 1: 23-26 (Declaration of Pedro Garcia, Indian of the Tagno nation), 60-61 (Declaration of one of the rebellious Christian Indians), 94-105 (Account of Otermin); vol 2: 232-242 (Declaration of the Indian Juan, Declaration of Josephe, a Spanishspeaking Indian), 245-252 (Declaration of Pedro Naranjo of the Queres Nation).

Sept. 28 English Encounters

Readings:

- Baker, Emerson W. and John G. Reid. "Amerindian Power in the Early Modern Northeast: A Reappraisal," *William and Mary Quarterly*, vol. 61:1 (Jan. 2004), 77-106.
- Pulsipher, Jenny Hale. "'Our Sages are Sageles': A Letter on Massachusetts Indian Policy after King Philip's War." *William and Mary Quarterly*, 3rd series, 58:2 (April 2001), 431-448.
- McCartney, Martha, "The Queen of Pamunkey: Diplomat and Suzeraine" in Gregory Waselkov and Thomas Hatley ed. *Powhatan's Mantle: Indians in the Colonial Southeast*. Lincoln: University of Nebraska Press, 2006 p. 243-266.
- Salisbury, Neal, "Toward the Covenant Chain: Iroquois and Southern New England Algonquians, 1637-1684" in Daniel Richter and James Merrell eds. *Beyond the Covenant Chain: The Iroquois and their Neighbors in Indian North America 1600-1800*. Philadelphia: Pennsylvania State University Press, 2003. pgs. 61-73.

Oct. 3 The Covenant Chain and Delegations to Petition the English King

Readings:

- Pulsipher, Jenny Hale, "'Subjects... Unto the Same King': New England Indians and the Use of Royal Political Power" *The Massachusetts Historical Review*. 5 (2003) pgs. 29-57.
- Haan, Richard L. "Covenant and Consensus: Iroquois and English 1676-1760" in Daniel Richter and James Merrell eds. *Beyond the Covenant Chain: The Iroquois and their Neighbors in Indian North America 1600-1800*. Philadelphia: Pennsylvania State University Press, 2003, p. 41-57.
- Oliphant, John, "The Cherokee Embassy to London, 1762" *The Journal of Imperial and Commonwealth History* 27 Dec. 2009 p. 1-26.
- Purdue, Theda, "Cherokee Relations with the Iroquois in the Eighteenth Century" in Daniel Richter and James Merrell eds. *Beyond the Covenant Chain: The Iroquois and their Neighbors in Indian North America 1600-1800*. Philadelphia: Pennsylvania State University Press, 2003, p. 135-149.

Oct. 5 French Alliance

Readings:

- Witgen, Michael "The Rituals of Possession: Native Identity and the Invention of Empire in Seventeenth Century Western North America" *Ethnohistory* 54 (4) p. 639-668.
- Usner, Daniel, "The Frontier Exchange Economy of the Lower Mississippi Valley in the Eighteenth Century" *The William and Mary Quarterly*, Third Series 44:2 (1987), pgs. 165-192.
- Bohaker, Heidi, "'Nindoodemag': The Significance of Algonquian Kinship Networks in the Eastern Great Lakes Region 1600-1701," *The William and Mary Quarterly* 63(1) p. 23-52.

Oct. 10 Intermarriage and the Political Place of Metis

Readings:

- Sleeper-Smith, Susan. "Women, Kin, and Catholicism: New Perspectives on the Fur Trade," *Ethnohistory* 47 (2), 2000, p. 423-452.
- Birzer, Bradley J. "Jean Baptiste Richardville: Miami Metis" in R. David Edmunds ed. *Enduring Nations: Native Americans in the Midwest*. Chicago: University of Illinois Press, 2008, p. 94-108.

Oct. 12 Imperial Wars of the 18th Century and Indian Alliance Systems

Readings:

- Middleton, Richard, "Pontiac: Local Warrior or Pan-Indian Leader?" *Michigan Historical Society Review* 32(2), 2006: 1-32.
- Eccles, W.J. "The Fur Trade and Eighteenth Century Imperialism," *William and Mary Quarterly*, 40 (1983) p. 341-362.
- Blackhawk, Ned. "The Displacement of Violence: Ute Diplomacy and the Making of New Mexico's Eighteenth Century Northern Boarderlands" *Ethnohistory* 54:4 (2007), p.723-755.
- Parmenter, John "After the Mourning Wars: The Iroquois as Allies in Colonial North American Campaigns, 1676-1760" *The William and Mary Quarterly* 3rd ser. 64, 2007, p. 39-82.
- Miller, Cary. "Mayosewininiwag: Military Leaders" in *Ogimaag: Anishinaabeg Leadership 1760-1845*. Lincoln: University of Nebraska Press, 2010. P. 113-146.

Oct. 17 American Indians and the American Revolution

Readings:

- Mann, Barbara Alice. "'The Vile Hands of the Savages'" in *George Washington's War on Native America*. Lincoln: University of Nebraska Press, 2009, p. 5-26
- Mann, Barbara Alice. "'Extirpate Those Hell-Hounds from off the Face of the Earth': The Sullivan-Clinton Campaign, 9 August – 30 September 1779" in *George Washington's War on Native America*. Lincoln: University of Nebraska Press, 2009, p. 51-110.
- Starna, William, "'The United States will protect you': The Iroquois, New York, and the 1790 Nonintercourse Act" *New York History*, 53 (2002), p.4-33.
- Tiro, Karim, "The Dilemmas of Alliance: The Oneida Indian Nation in the American Revolution" in John Resch and Walter Sargent eds. *War and Society in the American Revolution: Mobilization and Home Fronts* DeKalb: Northern Illinois University Press, 2007, p. 215-34.
- Jefferson, Thomas, et. al. Declaration of Independence
Broken Landscape. p.9-32.

Oct. 19 **Midterm Due**

Oct. 24 The Constitution, Expansion with Honor, and the War of 1812

Readings:

- Great Father p. 13-63
- The Criminal Code of Tenskwatawa (Shawnee Prophet) (1805?) in Wilkins, David ed. *Documents of Native American Political Development 1500-1933*. London: Oxford University Press, 2008, p. 48-49.
- US Constitution Transcript.
Broken Landscape. p.33-85.
- Owens, Robert M. "Jeffersonian Benevolence on the Ground: The Indian Land Cession Treaties of William Henry Harrison," *Journal of the Early Republic* V. 22:3 (2002), p. 405-35.

Oct. 26 The Rise of Southern Indian States and the Policy of Removal

Readings:

- Great Father p. 64-87; 94-107
- Broken Landscape, p. 87-124.
- "Laws of the Cherokee Nation" in Wilkins, David ed. *Documents of Native American Political Development 1500-1933*. London: Oxford University Press, 2008 p. 39-47.
- "Cherokee Constitution" in Wilkins, David ed. *Documents of Native American Political Development 1500-1933*. London: Oxford University Press, 2008 p. 56-66.

Oct. 31 American Expansion and Indian Affairs in the Great Lakes

Readings:

- Great Father p. 87-93
- Miller, Cary, "The Contest for Chiefly Authority at Fond du Lac" *Ogimaag: Anishinaabeg Leadership 1760-1845*. Lincoln: University of Nebraska Press, 2010. p. 183-226.
- Colbert, Thomas Burnell, "'The Hinge on Which All Affairs of the Sauk and Fox Indians Turn': Keokuk and the United States Government" in R. David Edmunds ed. *Enduring Nations: Native Americans in the Midwest*, Chicago: University of Illinois Press, 2008, p. 54-71.
- Doherty, Robert. "Old-Time Origins of Modern Sovereignty: State Building among the Keweenaw Bay Ojibway, 1832-

Nov. 2 American Expansion, Manifest Destiny, and the Civil War

Readings:

Great Father p. 108-151

Bilingual Treaty Statement, 1864, Wisconsin Historical Society Collections

Nichols, David A. "The Other Civil War: Lincoln and The Indians," *Minnesota History*, 44(1), 1974, p. 2-15.

Whaley, Gray H. "Oregon, Illahee, and the Empire Republic: A Case Study of American Colonialism, 1843-1858," *The Western Historical Quarterly*. 36:2 (2005), p. 157-178.

Nov. 7 Grant's Peace Policy and Indian Reservations

Readings:

Great Father p. 152-210

Sim, David, "The Peace Policy of Ulysses S. Grant" *American Nineteenth Century History* 9(3), 2008, pgs. 241-268.

Fisher, Andrew H. "They Mean to Be Indian Always: The Origins of Columbia River Indian Identity, 1860-1885" *The Western Historical Quarterly*, 32(4) 468-492.

Nov. 9 Indian Allotment Act and Boarding Schools

Readings:

Great Father p. 211-251

Broken Landscape p. 155-181.

Talking Back to Civilization p. 36-65

Ginde, Donald A. "Taking the Indian out of the Indian: U.S. Policies of Ethnocide through Education" *Wicazo Sa Review* 19:2 (2004) pgs. 25-32.

Nov. 14 Plenary Power and The Major Crimes Act

Readings:

Great Father p. 263-280

Talking Back to Civilization p. 29-35

Broken Landscape, p. 125-154.

Nov. 16 The Progressive Era and Challenges to Civilization Policy; **Research Paper Due**

Readings:

Great Father p. 280-310

Talking Back to Civilization 66-163

Nov. 21 Indian Reorganization Act

Readings:

Great Father 310-339

Beyond Red Power, p. 109-125.

Satz, "Tell Those Grey Haired Men What they Should Know: The Hayward Indian Congress of 1934." *Wisconsin Magazine of History* 77(3), 1994, pgs. 196-224.

Nov. 28 Termination

Readings:

Great Father 340-356

Beyond Red Power, p. 161-200.

Nov. 30 Red Power and Urban Activism

Readings:

Great Father, p. 357-373

Beyond Red Power, p. 142-160.

Cobb, Daniel M. "Philosophy of an Indian War: Indian Community Action in the Johnson Administration's War on Indian Poverty 1964-1968" *American Indian Culture and Research Journal* 22(2) 1998 p. 71-102.

D'Arcus, B. "Contested Boundaries: Native Sovereignty and State Power at Wounded Knee, 1973" *Political Geography*,

Dec. 5 Religious Freedom, Environmental Policy, and Treaty Rights

Readings:

State of the Native Nations 69-82; 95-110; 159-196

Beyond Red Power, p. 243-261.

Broken Landscape, p. 183-208.

Dec. 7 Self-Determination

Readings:

Great Father 374-392.

The State of the Native Nations 197-274.

Beyond Red Power, p. 228-242.

Broken Landscape, p. 211-257.

Dec. 12 Tribal Economic Development

Readings:

The State of the Native Nations p. 15-68; 83-94; 111-158.

Beyond Red Power, p. 262-279.

Dec. 14 Review

Wednesday Dec 21 Final Exam due at 5pm