

Advanced Topics in Indian Law:

Tribal Law

Fletcher

Mondays, 1:30-3:10 PM

Room 341

Required Texts:

Fletcher, American Indian Tribal Law (Aspen 2011)

Turtle Talk (always read Turtle Talk)

Assessment:

There will be a series of 12 short writing assignments. I will grade each on a scale of 1 through 5. Only 10 graded papers will count toward your grade. Alternatively, if you don't want to do two of them, don't. No final exam or final paper. [I am aware that the course description on the law school website says "final paper." Talk to me if that's what you want.]

I reserve the right to change grades based on a lack of class participation

Assignments:

Class #1 (1/12) – Introduction to Tribal Governance

Fletcher, chapter 1

Class #2 (1/26) – Tribal Justice Systems

Fletcher, chapter 2

Assignment due at beginning of class: Write a letter to the Senate

Committee in Indian Affairs generally describing the strengths and weaknesses of tribal justice systems. 2-3 pages.

Class #3 (2/2) – Tribal Constitutions

Fletcher, chapter 3

Assignment due at beginning of class: Draft a proposed amendment of an important constitutional provision of a tribe of your choice. Write a 1-3 page memo justifying the amendment.

Class #4 (2/9) – Tribal Membership

Fletcher, chapter 4

Assignment due at beginning of class: Draft an amendment to either an enrollment or disenrollment ordinance or constitutional provision. Write a 1-3 page memo justifying the amendment.

Class #5 (2/16) – Tribal Elections

Fletcher, chapter 5

Assignment due at beginning of class: Write a dissent to the *Chamberlain* opinion arguing that election disputes are nonjusticiable political questions.

Class #6 (2/23) – Civil Rights

Fletcher, chapter 6

Assignment due at beginning of class: Enviro Corp. is a non-profit organization dedicated to cleaning up the environment on your client's reservation (your client being the tribe). After a heated public tribal council meeting where a spokesperson for E.C. verbally abuses the council members, the tribal council votes to exclude E.C. and its people from the reservation. Draft an ordinance or resolution banishing McMertry, and a short memo (1-3 pages) defending the legal grounds for the substance and the process. The tribe does not have a written constitution, but has adopted resolutions in the past agreeing to comply with the Indian Civil Rights Act.

Class #7 (3/2) – Criminal Law and Procedure

Fletcher, chapter 7

Assignment due at the beginning of class: Draft a short memo to your tribal client explaining written consent by non-Indians to tribal criminal prosecution means, and whether it will pass federal constitutional muster.

Class #8 (3/16) – Domestic Relations

Fletcher, chapter 8

Assignment due at beginning of class: Draft a marriage equality ordinance for a tribe of your choice.

Class #9 (3/23) – Property

Fletcher, chapter 9

Assignment due at beginning of class: Draft a short memo to a tribal client on whether the tribe has jurisdiction over tribal member lands outside of recognized reservation boundaries.

Class #10 (3/30) – Contracts

Fletcher, chapter 10

Assignment due at beginning of class: You are the tribe's attorney general. You're hiring a second attorney. Present him or her with a written employment contract. Include provisions on governing law, dispute resolution, and limited waivers of immunity.

[Bonus! ILPC event this evening featuring Dean Nell Newton, Sam Deloria, and Tom Gede. Be there or be square.]

Class #11 (4/6) – Torts

Fletcher, chapter 11

Assignment due at beginning of class: Write a judicial opinion reversing the *Spirit Mountain Casino* decision on the grounds that the tribal tort claims ordinance violates relevant constitutional law.

Class #12 (4/13) – Procedure and Jurisdiction

Fletcher, chapter 12

Assignment due at the beginning of class: Write a short memo to a tribal constitutional reform committee on the question of whether tribal courts should be authorized to issue advisory opinions.

Class #13 (4/20) – Tribal Regulatory and Administrative Law

Fletcher, chapter 13

Assignment due at the beginning of class: Write a short memo to a tribal client arguing in favor of the right to paid counsel for all parties opposing tribal government in administrative processes.

Class #14 (4/27) – Tribal Economies

Fletcher, chapter 14

Assignment due at the beginning of class: Write a short memo to a tribal client on the legal authority of the tribe to tax the income of tribal members living outside of recognized reservation boundaries.