

ETHN 189: Special Topics in Ethnic Studies - Sovereignty and Federal Indian Law

Mary Klann, PhD & Ross Frank, PhD

MWF 11-11:50 am

HSS 1305

Fall 2023

How to Contact Us:

Mary Klann

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Feel free to contact me via email or send a message through Canvas. I usually respond within 24 hours during weekdays, 48 hours on weekends. (I try very hard to avoid looking at emails on Saturdays.) If you don't hear back from me in 48 hours, please send a follow-up!

Where to Find Required Readings and Materials:

All required reading for this course will be available online, via PDF or link through our course Canvas site. This is a zero-cost course, you do not need to purchase any readings or materials to fully participate.

Student Hours: I will hold in-person student hours on **Mondays from 10-10:50 am** in Ridge Walk (Arts & Humanities) 0728 and via Zoom on **Tuesdays from 11:00 am - 12:00 pm**. You can find the link to join our Zoom meeting on our course home page on Canvas. These are open, drop-in meetings, no need to make an appointment first! If you can't make those times, email me and we can set up an appointment.

Ross Frank

Email: rfrank@ucsd.edu

I will respond within 24 hours, and feel free to remind me if I do not!

Student Hours: In person student hours are **Monday & Tuesday, 1:00-2:30pm** in my office (Social Science Building 227 - on Ridge Walk just south of RIMAC). The **Zoom** link (available on our Canvas homepage) will work during the same hours. Also, you may email me for an appointment at another day/time. Be sure to include 2 date/times and whether you would like email or Zoom.

Course Description

This course traces major developments in federal Indian law from the 19th century to the present. Students will examine how major court cases and policy decisions have structured, challenged, and/or reinforced the sovereignty of Native nations within what is now the United States. Students will engage with US and Native understandings of legal, political, financial, and geographical power. Moreover, the course will examine how Indigenous ways of understanding land, water, religion, family, and culture intersect and clash with law and policy as it is currently structured in the United States. Major cases continue to be decided at the Supreme Court level that impact the legal and cultural notions of tribal sovereignty. This course will provide an entry point into understanding the historical intricacies of tribal law and why they matter today.

Accommodation of Disabilities and Access Needs

Our hope is that this course is accessible to all students, including students with disabilities. If at any point during the course, you encounter a circumstance (mental, physical, cognitive, legal, personal, etc.) that affects your ability to fully access and participate in this course, you are welcome (but not required) to contact us to discuss your specific needs. You may also find that your educational needs may be served by receiving official accommodations from the Office for Students with Disabilities (OSD). For additional information, please [contact the OSD](#): 858-534-4382, osd@ucsd.edu. If you have any questions or if we can make a change that can improve your learning experience, please do not hesitate to reach out.

Basic Needs, Health and Well-Being

The [Hub Basic Needs Center](#) and the **Triton Food Pantry**, located at the Original Student Center, provide students with essential resources, including access to food, stable housing, and financial wellness resources.

UCSD's [Counseling and Psychological Services \(CAPS\)](#) is open for in-person and video and phone visits as well as urgent care visits. We're (still!) in a chaotic moment, and there is a lot of uncertainty. If you are feeling anxious or worried and it is affecting your ability to succeed in our class, please reach out for help! I will do what I can and refer you to other resources available.

Academic Integrity

This course encourages intellectual cooperation and discussion. We're working together to analyze sources, answer questions, and understand complex historical topics. Part of this process will involve proper citation, credit, and usage of primary and secondary documents. We'll work together to figure out the proper process for everything.

The [Academic Integrity Office](#) has a lot of resources for students about how academic integrity is governed and expected at UC San Diego. **We trust you to be honest with us about the work you are completing in this class.**

Names and Pronouns

In our Interactive Syllabus, please be sure to let us know what you'd like to be called, and if you would like to share them, your gendered pronouns. If at any point in the quarter you wish to communicate with us about this matter, please do not hesitate to do so.

Online and In-Person Learning

Collaboration

In this class, you will frequently engage with your classmates and us every week, both online and in-person. It will be our collective responsibility to make sure that our interactions (both virtual and face-to-face) are always respectful and supportive of the views, experiences, and expertise of others. Keep in mind that if a comment or action is inappropriate *in person*, it is also inappropriate *online*. To create a course culture of courtesy, collegiality, and cooperation, remember that we know more together than any one of us knows individually.



Online Learning and Technical Requirements

Our class will be conducted through Canvas and our course blog! If you have any questions or need assistance with Canvas, please visit the [IT Service website](#). There, you can find more information about the technical requirements for online learning. If at any point you're struggling to access any of the tools or platforms we'll use in this class, please reach out.

Here's the exact tools we will be using:

- **Canvas** (I recommend downloading the Canvas app if you have a smartphone)
- **Hypothesis** (collective annotation tool, you'll need to create a **free** account)
- **Padlet** (no need to create an account, I'll show you how to use this!)
- **Slido** (online polling app, no need to create an account for this one either)
- **Answer Garden** (online word cloud app, no need to create an account for this one either)
- **Google Docs and Slides** (I'll link through Canvas to the document/slides we'll be accessing)

If this looks like a lot of tools—it is!—but I promise to organize them in a way that is manageable. Slido and Answer Garden will be tools we'll use in-class and will also be linked through the Padlet. (In other words, some of these tools will be layered within one another and you won't have to manage multiple log-ins.)

Access to a reliable functioning desktop or laptop computer and internet connection will certainly help you complete this class successfully, but you **can** also access all of our course material through a smartphone or tablet. ***Please let us know if you have any difficulty accessing Canvas or other course tools if your primary device is your smartphone or tablet. We are working to make sure that course resources are easily accessible on mobile devices, but want to make sure we catch any problems!***

(Un)Grading Policy

This class is ungraded! What does that mean? There will be no grades assigned by either Professor Klann or Professor Frank for individual assessments and weekly participation activities. Why? Educational and psychological research has shown that grades diminish interest in learning. Also, grades tend to stress people out!¹ Our goal for everybody is to come away from this class feeling proud of what you

¹ We'll be getting into a bit of this research in Week 1 when we read Alfie Kohn's essay!

accomplished and having met your own learning goals. So, in this course, **you will be determining your own grade.**

How does it work?

We will provide feedback (lots of feedback) throughout the quarter on your assessments (I-Search Papers, and Unessay) and your class participation (annotations and in-class discussions/Padlets). You'll also receive comments and feedback regularly from your peers. But, your final grade in the course is up to you. (SERIOUSLY!) I want everybody to pass the class. Whether you want to go for an A, B, or C is your choice.

At the end of each assignment, you'll complete a "Declaration" quiz in Canvas. (It is called a "quiz," but it isn't testing you on anything. It is just a true/false checklist where you confirm that the assessment is completed.) Once you complete the quiz, you will see your points in the Canvas Gradebook. (The points are there for you to keep track of your progress in the course.) You'll also complete a Declaration at the end of each week to confirm that you've met the benchmarks for class participation.

After each assignment and twice during the quarter you'll also turn in Reflections. We'll ask you to reflect on what you learned, what you enjoyed about the process, and anything you'd like to change for next time. (The reflections will only be seen by Prof. Klann and Prof. Frank, so it is a good place to express concerns if you have them.)

This class is also highly collaborative. We are all learning "in public" in a sense in this course. You'll be sharing your thoughts and analysis with your peers and providing comments that help to further the discussion. You'll also be able to participate in conversations with me in the margins of the readings, on the Padlets, and in our class discussions.

Here's how the points will be calculated:

Weekly Class Participation: Annotating readings, responding to polls and word clouds and discussions, providing feedback for peers, engaging with course lectures	20 points/week = 200 points total
Reflection Padlets: Due twice during the quarter	25 points each = 50 points total
Class Participation Reflections	15 points each = 30 points total
Interactive Syllabus	15 points
I-Search Paper Plan	25 points
I-Search Paper	75 points
I-Search Paper Reflection	15 points
Unessay	75 points
Unessay Reflection	15 points

Total Points	500 points
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It is up to you how you want to accumulate those points! But, for your reference...

- To get an A, you'll need at least 450 points
- To get a B, you'll need at least 400 points
- To get a C, you'll need at least 350 points

Just to reiterate—you do the assignment, declare it, and you get the points. I'll never take any points away from you—you just get them for completing the thing. :)

Late Work Policy

There is an automatic two-day grace period for weekly class participation, assessments, peer reviews, and reflections. (**Basically any time there is a due date, you have up to two days to turn in whatever is due.**) On time assessments are always encouraged but you have two days after the scheduled due date to turn in your assignment with **no questions asked**. As for extensions, we have no problem granting them if you need them. Seriously, just ask! We are happy to work out a plan with you to submit what you need to, when you are able.

Joy in Learning

My main goal with this and all of the classes I teach is to cultivate an environment where we can enjoy the learning process. That doesn't mean we won't run into frustrating situations—the nature of primary source research can be very frustrating, and for many of us, these are new topics. We are bound to fail at some point! But ultimately, I want to provide space and time for **joy in learning** this quarter. (I give credit to a former student of mine for starting my thought process on how to intentionally build a class that incorporates joy. The student commented about how they wished there was more time for them to **enjoy** the learning process. I AGREE.)

Flexible deadlines and ungrading are two pieces of this process. Here's a few comments from previous students about these policies:

On flexible deadlines:

"It allowed me to **focus on the quality of my work** than stressing about a tight deadline."

On ungrading:

"I could learn the material and do the assignments **with a purpose of learning** rather than doing an assignment for the sake of a grade or for passing the class."

Assessments

Housekeeping Assignments:

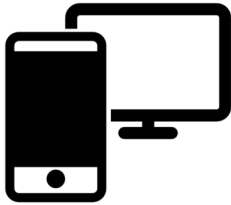
Interactive Syllabus: Read the interactive syllabus and answer the questions. **DUE: Sunday, October 8**

I-Search Paper Plan: Before starting your research, submit your planned research question for feedback from me and your peers. **DUE: Sunday, October 29**

Class Participation Reflections: Twice in the quarter, I'll ask you to reflect on your participation in weekly activities and readings. **DUE: Sunday, October 22 and Saturday, December 16**

Weekly Participation:

Participation in this course can be digital and/or in-person. We'll be meeting mostly in-person. On (most) Fridays, we'll be meeting asynchronously online as we annotate readings together. Our conversations about historical content and our readings will continue between modalities (online and in-person). There are six modules in the course, and each week will be clearly marked on our Canvas site. In the modules you will find:



- A link to all the **Google Slides** from our in-person sessions. (These will be posted before class but likely the same day as our class sessions.)
- A **Discussion Padlet** for each day we meet in-person. These Padlets will contain links to the polls/word clouds that I administered in class. If you have to miss class for any reason, you'll be able to view the podcast of the lecture slides and then participate in the same discussion questions as those in class answered. On Discussion Padlets, I'll also post additional resources that may

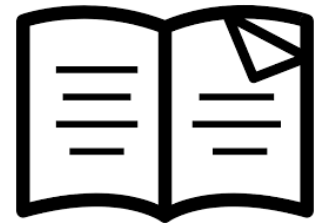
be of interest/relevant to our class discussions and lecture content.

- Links to **readings** which we will annotate together as a class. (See below for more on annotations.)
- **Class Participation Declaration** for the week.
- **Submission links** for any declarations for assessments due that week.

Recommended benchmark for class participation: Regular reading and reflecting, regular answering of polls and word clouds, and (with COVID-related caveats) regular in-class participation. You can expand on your opinions from the polls, ask questions about the material, react, and engage with your classmates and me in the annotations and in class. I understand your level of participation may vary week to week.

Annotations: We'll be collectively annotating readings using hypothes.is. There's no minimum or maximum number of annotations you're required to do, just thoroughly engage with the reading.

- Analyze and engage with the text. Explain briefly why you found something interesting, shocking, confusing, etc.
- Connect with your classmates' annotations, by either asking or answering questions, or adding onto their notes with your own thoughts and analysis.
 - If someone has already highlighted the phrase you wanted to comment on, reply to their post instead of adding your own.
- Emojis, GIFs, one word reactions, and "retweets" are encouraged!
- Check back in with the annotations after you've completed yours. The conversation can grow and change over the course of the week.



Weekly Class Participation Declarations DUE: Every Sunday night

Individual Research Projects

I-Search Paper: “I-Search” papers tell the story of the writer’s search for information about a particular topic. For this assignment, you will choose one case of particular interest to you that we haven’t covered in class and develop a research question about it. You will conduct primary source research to answer the question, but won’t actually write a formal research paper. Rather, you will develop a strong thesis statement, and describe how the sources you discovered will support that thesis. These papers are



meant to be written in the first person (i.e. use of “I,” “me,” “us,” is acceptable). More information will be distributed as the due date approaches. (4-6 pages, double-spaced. *Note: the page requirement for this assignment is flexible, but these papers should not be less than 4 pages.*) You’ll be sharing your papers with your classmates and giving feedback to your peers.

DUE: Sunday, November 19

REFLECTION DUE: Wednesday, November 22

Unessay: The last project of the semester will be an “unessay,” which basically means the format for this project is completely up to you! You’ll be using the deep research you’ve already completed on your topic for the I-Search Paper to tell a compelling historical story. How? A short podcast? A long-form essay? A website? Infographic? Series of Instagram posts? Lesson plan? We’ll talk about options, but the point is to pick the format that you think works best for your topic, and best for your individual skills and interests.

PROJECT DUE: Thursday, December 14

REFLECTION DUE: Saturday, December 16

Reflection Padlets

Reflection Padlets are spaces where we’ll draw connections between the individual research projects you’ll be working on with the I-Search Paper and the UnEssay. In these collaborative Padlets, you’ll reflect on the themes that stood out in the selection of your peer’s work that you read. These themes can be based on content, but they can also be based on connections in methodology and approach to sources.

Reflection Padlet #1 Due: Sunday, December 3

Reflection Padlet #2 Due: Saturday, December 16.



As a class, we might decide to change the syllabus due to unforeseen circumstances (like a global pandemic). If so, we’ll work together on a mutually acceptable solution. I promise to never add work, only to lessen the load, if needed.

Schedule of Weekly Topics, Readings, and Assessments

Week 0 - September 28 - October 1

Friday, September 29 - Course Introduction

Week 1 - October 2 - October 8

Interactive Syllabus Due October 8

Monday, October 2 - Introduction to Annotation and Ungrading

Alfie Kohn, "[The Case Against Grades](#)"

Wednesday, October 4 - Module 1: Land/Property (RF)

Friday, October 6 - Asynchronous Workday: Module 1: Land/Property

Matthew L.M. Fletcher (Grand Traverse Band of Ottawa and Chippewa Indians), "[Bizindan Miinawa \(Listen Again\)](#)," (September 13, 2023) Tribal Law Journal's Symposium on the 200th Anniversary of *Johnson v. McIntosh*

Week 2 - October 9 - October 15

Monday, October 9 - [Indigenous Peoples' Day] Module 1: Land/Property (RF)

Discuss annotations/questions from Week 1 Reading

Wednesday, October 11 - Module 1: Land/Property (RF)

Friday, October 13 - Asynchronous Workday: Module 1: Land/Property

City of Sherrill v. Oneida Nation of NY (Choose either Opinion or Dissent)

Week 3 - October 16 - October 22

Class Participation Reflection #1 Due October 22

Monday, October 16 - Module 1: Land/Property (RF)

Discuss annotations/questions from Week 2 Reading

Wednesday, October 18 - Module 2: Criminal Jurisdiction (MK) -Topic: Major Crimes Act (1885), *US v. Kagama* (1886)

Friday, October 20 - Asynchronous Workday: Module 2: Criminal Jurisdiction

Alexandra Harmon, "Telling Stories in Court," in *Reclaiming the Reservation: Histories of Indian Sovereignty Suppressed and Renewed* (Seattle: University of Washington Press, 2019): 261-294.

Week 4 - October 23 - October 29

I-Search Paper Plan Due October 29

Monday, October 23 - Module 2: Criminal Jurisdiction (MK) Topic: *Oliphant v. Suquamish Indian Tribe* (1978)

Discuss annotations/questions from Week 3 Reading

Wednesday, October 25 - Module 2: Criminal Jurisdiction (MK) Topic: Jurisdiction of Sexual Violence Cases (*Oliphant* & VAWA)

Explore resources from/linked through [Minnesota Indian Women's Sexual Assault Coalition](#) (and share facts/thoughts to Padlet)

Friday, October 27 - Asynchronous Workday: Module 2: Criminal Jurisdiction (MK)

McGirt v. Oklahoma (2020) via [annotatemcgirt.com](#) (Choose either Opinion or Dissents)

Week 5 - October 30 - November 5

Monday, October 30 - Module 2: Criminal Jurisdiction (MK) - *McGirt* (2020) & *Oklahoma v. Castro-Huerta* (2022)

Discuss annotations/questions from Week 4 Reading

Wednesday, November 1 - Module 3: Federal Obligations (MK) - *Winters v. United States* (1908)

Natalie Diaz (Gila River Indian Community), "The First Water Is the Body," in *Postcolonial Love Poem* (Minneapolis: Graywolf Press, 2020): 46-52.

Friday, November 3 - Asynchronous Workday: Module 3: Federal Obligations

Arizona v. Navajo Nation (2023) (Choose either Opinion or Dissent)

Week 6 - November 6 - November 12

Monday, November 6 - Module 3: Federal Obligations (MK) - *Arizona v. Navajo Nation* (2023)

Discuss annotations/questions from Week 5 Reading

Wednesday, November 8 - Module 3: Federal Obligations (MK) - Individual Indian Money Trusts & Trust Doctrine

Friday, November 10 - [Veterans Day] Module 3: Federal Obligations

Short reading! Bethany R. Berger, "Elouise Cobell," via [Cobell Scholar](#)

Week 7 - November 13 - November 19

I-Search Paper Due November 19

Monday, November 13 - Module 3: Federal Obligations (MK) - *Cobell v. Salazar* (2009)

Discuss *Cobell* case & annotations/questions from Week 6 Reading

Wednesday, November 15 - Module 4: Civil Jurisdiction (MK) - *Williams v. Lee* (1959), *Montana* (1981), & *Dollar General Corp vs. Mississippi Band of Choctaw Indians* (2016)

Matthew L.M. Fletcher, "Statutory Divestiture of Tribal Sovereignty," *The Federal Lawyer* (April 2017): 38-47. (Annotation optional - for reference)

Friday, November 17 - Asynchronous Workday: Module 4: Civil Jurisdiction

Haaland v. Brackeen (2023) (Choose Opinion, Concurring Opinion, or Dissent)

Week 8 - November 20 - November 26

I-Search Paper Reflection Due Wednesday, November 22

Monday, November 20 - Module 4: Civil Jurisdiction (MK) - ICWA

Discuss annotations/questions from Week 7 Reading

Wednesday, November 22 - Asynchronous Workday: Module 4: Civil Jurisdiction (MK) - IGRA

Jessica Cattelino on Indian Gaming, Renewed Self-Governance, and Economic Strength, in *Speaking of Indigenous Politics: Conversations with Activists, Scholars, and Tribal Leaders*, ed. J. Kēhaulani Kauanui (Minneapolis: University of Minnesota Press, 2018): 65-77.

Friday, November 24 - [Thanksgiving Holiday]

Stephanie Hall Barclay & Michalyn Steele, "Rethinking Protections for Indigenous Sacred Sites," *Harvard Law Review* 134, no. 4 (February 2021): 1294-1359.

Week 9 - November 27 - December 3

Reflection Padlet #1 Due December 3

Monday, November 27 - Module 5: Religion (RF)

Discuss annotations/questions from Week 8 Reading

Wednesday, November 29 - Module 5: Religion (RF)

Friday, December 1 - Asynchronous Workday: Module 6 (Repatriation)

White v. University of California - 9th District (Opinion and Dissent)

Week 10 - December 4 - December 10

Monday, December 4 - Module 6: Repatriation

Discuss annotations/questions from Week 9 Reading

Wednesday, December 6 - Module 6: Repatriation

Friday, December 8 - Meet in Person to Share Progress on Unessays

Finals Week - December 9 - December 16

UnEssay Due Thursday, December 14

Class Participation Reflection #2 Due Saturday, December 16

UnEssay Reflection Due Saturday, December 16

Reflection Padlet #2 Due Saturday, December 16