

This week's assignments include Response 4 on Canby, Chapter V and VI and Discussion Forum 4 on Indian Pride 102: Treaties and Sovereignty (30 minutes). This week's reading and videos address the most important set of legal concepts and issues in U.S.-Indian relations: **tribal sovereignty and sovereign immunity, treaties and treaty rights**. Consider how/why these concepts and issues matter for Indian people as you complete the response paper and discussion forum

VIDEO: <https://www.youtube.com/watch?v=wpa4DK0vXyU&feature=relmfu>

Reading: William J. Canby's *American Indian Law in a Nutshell* (2015, Sixth Edition).

You have THREE assignments due:

- 1) Response 3 on Canby, Chapter V and VI (600)
- 2) Discussion Forum 4 on Indian Pride 112: Tribal Government Structure (30 minutes). (300)
- 3) respond to two students (300 EACH)

Instruction:

1) Response Papers: Response papers are required on all assigned readings. You must adhere to the following guidelines to receive full credit:

A. Papers must include two equal parts:

a review of the readings. A review is not a close reading of a couple of key issues, nor is it a string of quotes. It is a review or summary of the main argument and the key topics the author addresses.

Tip: Chapter titles and topics basically pose questions or give direction. Transform chapter titles and topics into questions to help focus your review. For instance, the main topics of Chapter III: The Special Relationship between the Federal Government and Tribes include the Evolution of the Relationship; Enforcement of the Trust Responsibility; Role of the BIA and DOI; Termination. So, ask yourself: how has the relationship evolved? How is the trust responsibility enforced? What is the role of the BIA and DOI? When, how, and why is the relationship terminated? Have I addressed all of these topics in my review? Have I answered all of these questions?

a thoughtful, critical analysis or reflection on how/why the issues addressed in the readings are important.

Tip: After you have completed the review/summary, think about what issues the reading has addressed. Are there particular issues that you find important? Did Canby make an argument that you disagree with or were confused by? Can you compare/contrast the legal struggles of tribes for sovereignty to the struggles of other

groups in the United States? Can you relate the readings to other courses you have taken? What takeaway points stand out to you?

B. Any citation—whether summarizing or quoting—from the course textbook ought to include the hardcopy page number or the electronic version location. Do not only include the chapter or subheading number.

Tip: Your citation should look like this (page number) and not like this (Chapter I).

C. Any citations to noncourse materials must include proper citations that follow the rules of a standard reference guide, such as Chicago or MLA.

Tip: Bookmark an online reference guide to proper citations, endnotes, and bibliographies so that you do not have to look it up every time you make a citation to noncourse material.

D. Papers that are more than 15% quotes from the readings will be marked down for excessive quotation (a percentage you can view through the originality report feature of Turnitin.com).

E. Papers must be formatted according to the following rules: 1" margins, singlespaced, standard font, a minimum of 1 page (600 words) and a maximum of 2 pages (1,000 words).

### Reading Response Checklist

- ☐ Have I reviewed/summarized the assigned chapter(s), addressing the full breadth of the chapter's argument and topics?
- ☐ Have I included proper citations for paraphrasing or quoting from the reading?

☐ Have I included full citations for nonclass materials that I have quoted or referenced?

☐ Have I analyzed and reflected upon the issues raised in the assigned chapter(s)?

☐ Have I formatted the paper properly: 1" margins, singlespaced, standard font, 12 pages total?

2) Online Discussion Participation: Discussion forum participation is required each week. You must adhere to the following guidelines in order to receive full credit:

A. You will write a short comment about the documentary and/or lecture and post it to the forum. The comment should be a minimum of 250 words and include at least two citations to the readings (following the rules for citation explained above

and in the plagiarism tutorial). Your comment should relate the readings to the information and issues addressed in the link(s). Your comment will be worth up to 4 points.

B. respond to two other students' comments. These responses should be about 150-200 words in length and provide at least one citation to the reading. The purpose of this discussion is not for you to evaluate or judge other students' opinions or writing, it is to continue working through the readings. Therefore, you want to avoid using phrases such as "you did a good/bad job." You want to work more towards using phrases that begin, "In the reading...." This way, you are engaging one another's ideas on the issues in the readings and videos and not passing judgment on one another's opinions or writing. You may disagree with one another's opinions, of course, as long as you express that disagreement respectfully. Each of these comments will be worth up to 3 points.

Student A

I really liked the quote by one of the first speakers who said "sovereignty doesn't depend on someone else recognizing your sovereignty, it's when you as a people recognize your ability to govern yourselves." I think this plays into the statement in the beginning of chapter 5 which talks about the inherent sovereignty of the Indian nations which, after all, have been

governing themselves for thousands of years before the colonists arrived (73). After a couple hundred years of persistent disenfranchisement it's something that some Indian tribes have almost forgotten. These tribes have been in a position where the federal government essentially dictates their lives for so long that it could be easy to forget that the government is not the origin of their sovereignty. That's why I think this quote is important, because it could help empower those who feel powerless.

JuniKae's interview with John Echohawk was interesting especially on the subject of abrogation. I understand that the concept of abrogation exists elsewhere other than just Indian treaties and statutes. Treaties made by the federal government with foreign nations also have the capacity to be abrogated (130). I think the problem here is the vast difference in power. The US government would think twice about simply breaking a treaty with any powerful country such as England or Russia, doing such a thing would affect their political standing. But when it comes to Indian treaties the federal government has shown that they are more than willing to abrogate treaties, sometimes even unintentionally because of congress passing some piece of legislation that conflicts with existing treaties (133). This is probably because they consider the Indian Nations so much weaker in the geopolitical sphere that there is no threat of damage to the United States reputation. I personally find this repugnant and think that the federal government should hold itself to higher standards, just because a group isn't a threat to you doesn't mean that their concerns don't matter.

Respond:

Student B

The words from Caleen Sisk-Franco, Leader of Winnemem Wintu Tribe, CA, was very impressive for me. She says that whether the federal government recognize the tribe and its sovereignty does not matter. She argues that the important factor that maintain the tribe's sovereignty is just practicing it by themselves. I was impressed by the words because she told me how mentally strong and patient the Indian tribes are. I tend to be sympathetic against Indian tribes when I am reading, but the true voice from the Indian people was somehow made me believe that Indians and U.S can reach to certain compromise so they benefits each other.

However, the facts about Indian's sovereignty explained in chapter 5 cannot be seen optimistically. For example, Canby addresses the case of *Montana v. United States*, in which the hunting and fishing right of non-Indians "on non-Indian-owned land within its reservation." (pg. 79). The court regarded this non-Indian person's action as an issue out of reach of the Tribal power and finally imposed additional "qualifications" to its ruling (pg.79). In this case, I don't think the Indian tribe could practice their way of ruling no matter what the government said. The tribe is treated pretty lightly. For another example, Canby addresses the *Duro v. Reina* case in which the Court judged that an Indian tribe's sovereignty doesn't include criminal jurisdiction over nonmember Indians on its reservation" (pg.81). I think the opinion from the tribe should have been respected since the case happened within its reservation even though the land was owned by a non-Indian person. It seems like

their sovereignty is limited by the federal government. I recognized again that the difficult part of practicing the tribe's sovereignty is dealing with the case which happened among Indians and non-Indians.

#### Respond: Discussion Forum Checklist

- ☐ Have I reviewed/summarized the assigned video(s) in 250 words with two citations to the reading?
  
- ☐ Have I commented on two other students' summaries in 150-200 words with one citation to the reading?
  
- ☐ Were my comments posted to the forum before the link closed?