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THE AILP NEWSLETTER

The American Indian Law Program at the University of Colorado Boulder

image: Vincent Ledvina, unsplash.com

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Dear Students, Colleagues, and Community:

Greetings from the traditional lands of the Arapaho, Cheyenne, and Ute peoples.

In 2021-2022, the AILP at Colorado Law eagerly returns to the classroom and the community as we begin (hopefully) to recover from the pandemic. Indigenous Peoples in the U.S. and around the world are counting on the next generation of law students to work as partners in advancing their wellbeing through education and advocacy.

This issue covers the appointment of Professor Sarah Krakoff as Deputy Solicitor in the U.S. Department of the Interior, our students' successful bid to host the 2022 National NALSA Moot Court Competition, the work of the American Indian Law Clinic and First Peoples Worldwide in Alaska, and updates from The Implementation Project, a joint endeavor with the Native American Rights Fund to realize the United Nations Declaration on the Rights of Indigenous Peoples. Check out Professor Anaya's remarks on a new social contract for Indigenous Peoples and my own reflections after serving on the UN's Expert Mechanism on the Rights of Indigenous Peoples. As the distinguished Professor Collins and Professor Wilkinson move into retirement (while still teaching and writing), we also welcome Chase Velasquez as a Visiting Professor in the American Indian Law Clinic!

The AILP extends a warm welcome to our new Dean Lolita Buckner Inniss and thanks outgoing Dean James Anaya for his amazing leadership.

We wish you all good health & great success this year.

Kristen Carpenter
Council Tree Professor of Law
Director of the American Indian Law Program



SARAH KRAKOFF

Secretary of the Interior Deb Haaland has named University of Colorado Law School Professor Sarah Krakoff deputy solicitor for parks and wildlife, a key role on the U.S. Department of the Interior leadership team.

In this role, Krakoff will represent the National Park Service and the Fish and Wildlife Service and work with Solicitor Robert Anderson and the other deputy solicitors to fulfill Haaland's mission for the Department of the Interior.

"As the Interior Department continues its work to address some of the most pressing challenges of our time, these talented and accomplished leaders will play a key role in helping advance the Department's mission," Haaland said in an April 30 news release. "I am thrilled to have these new team members join us at the Interior Department and look forward to working together to pursue a clean energy future."

"I am honored and could not be more excited to serve Secretary Haaland during this historic time in the Department of the Interior," Krakoff said.

Krakoff, who joined the Colorado Law faculty in 1999, is Moses Lasky Professor of Law. She is a nationally recognized expert in Native American law, natural resources law, and environmental justice. . .

(Spotlight continued on Page 11)



ARIEL BARBIERI-AGHIB

Ariel Barbieri-Aghib, a 2L at Colorado Law, is a student research assistant for the American Indian Law Program. Primarily assisting on the language rights work Professor Kristen Carpenter is involved with, she will be engaged in research for the Implementing Indigenous Peoples' Right to Language project that was recently selected to receive a 2021 Research and Innovation Seed Grant.

Q: Ariel, what was your focus as an undergraduate?

A: I studied international relations with a focus on Europe and the former Soviet Union. I also did two separate research projects on Indigenous language integration in public school education in Peru and Morocco.

Q: What made you interested in attending law school?

A: I became interested in law school when I realized the jobs I was working after graduating were not fulfilling. I wanted to find a way to help people, and law seemed like a straightforward way to continue my education and gain the practical skills advocate for others [using the] law.

Q: What sparked your interest in the American Indian Law Program?

A: I decided to come to Colorado Law because of the strong Environmental and American Indian law programs. I became interested in American Indian law after [my] research in college surrounding Indigenous languages, and I've recently become interested in Cultural Property law.

Q: Do you hope to pursue work in the American Indian law field after graduation?

A: I do! My dream would be to work at the intersection of Environmental law and American Indian law, since I see a lot of overlap between the two fields.

WELCOME CHASE VELASQUEZ

Tribal Attorney Chase Velasquez Joins Clinical Faculty as Visiting Professor, Interim Director of American Indian Law Clinic

Chase Velasquez, a tribal attorney with experience at the Navajo Nation Department of Justice and the San Carlos Apache Tribe's Department of Justice, has joined the University of Colorado Law School as a visiting clinical professor and interim director of the American Indian Law Clinic.

Velasquez is an enrolled member of the White Mountain Apache Tribe. He was raised on the Fort Apache Indian Reservation in northeastern Arizona.

"Colorado Law is well-respected for its advocacy on behalf of American Indians, tribes, and indigenous peoples," Velasquez said. "The American Indian Law Program faculty have distinguished themselves for impacting federal Indian law and international human rights through meaningful scholarship and offering students a unique perspective. I am excited to join Colorado Law because of the opportunity to contribute my practical experience as a tribal attorney while sharing my personal views as an Apache and Navajo on the contemporary challenges that Indigenous peoples face."

Since 2017, Velasquez has served as an assistant attorney general for the San Carlos Apache Tribe's Department of Justice. The Tribe is located approximately 100 miles east of Phoenix, Arizona. He advises the San Carlos Council, the Tribe's governing body, and its departments, programs, and committees on matters under federal, state, and tribal law. He also serves as the Tribe's special assistant U.S. attorney for the District of Arizona, where he assists with the federal investigation and prosecution of crimes under federal law on the San Carlos Apache Reservation in the U.S. District Court of Arizona.



Velasquez began his legal career as a legal fellow for the Indigenous Peoples Law and Policy Program at the University of Arizona, where he worked on legal and policy issues relating to constitutional law, federal Indian law, and international human rights law. He assisted with the legal representation of Maya Indigenous peoples and villages in Belize to secure and protect land rights.

Velasquez has also worked as an attorney for the Navajo Nation Department of Justice, where he advised the Nation's Departments of Economic and Community Development on commercial/industrial development, leases, corporate law, gaming, real estate, and procurement. He handled multi-million-dollar transactions for the Nation and chapter houses relating to construction and infrastructure. A former prosecutor for the Pascua Yaqui Tribe, Velasquez prosecuted felonies under the Tribal Law and Order Act, and crimes committed by non-Natives against Native victims, pursuant to the Violence Against Women Act.

Velasquez earned a BA in political science from the University of Arizona and a JD from the University of Arizona James E. Rogers College of Law.

Launch Event! United Nations Declaration on the Rights of Indigenous Peoples: Tribal Implementation Toolkit

1:15 - 2:30 MT
Monday, April 12, 2021 12:15- 1:30pm PDT



Realizing the promises
of the Declaration in the
United States through tribal
law and programs.

<https://un-declaration.narf.org/>

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jonisarahwhite.com

A collaboration between:

Colorado **Law**
UNIVERSITY OF COLORADO BOULDER

UCLA

School of Law
**Native Nations Law
& Policy Center**



NEW TOOLKIT HELPS INDIGENOUS PEOPLES REALIZE THEIR RIGHTS AT HOME

BY JULIA ROTH

An educational toolkit drafted by students and attorneys at the University of Colorado Law School, Native American Rights Fund (NARF), and UCLA Law School seeks to help American Indians, Alaska Natives, and Native Hawaiians use the United Nations Declaration on the Rights of Indigenous Peoples in their own laws and programs.

Adopted in 2007 by the United Nations General Assembly, the Declaration is a standard-setting document that commits to the individual and collective rights of Indigenous Peoples, including their self-determination. It calls on states to undertake legal reform that will remedy past violations and ensure current protections for Indigenous Peoples' rights. However, because the Declaration is not legally binding like a treaty, tribes have explored different avenues to make its promises a reality in the U.S.

The Tribal Implementation Toolkit, which will be available electronically on April 12, covers a range of issues, including land recovery, religious freedoms, language revitalization, and child welfare. It aims to help with these efforts by providing examples of how tribes have incorporated the Declaration into their own tribal codes, resolutions, and agreements.

"Many tribal leaders have asked for information about how they can support efforts to ensure that the United States honors the promises of the Declaration. Others would like to consider using the Declaration internally in tribal law and governance. In many ways these pursuits intersect, with tribal, national, and international law influencing one other," the toolkit states.

The toolkit responds to both questions—how to reinforce national implementation of the Declaration and how to use the Declaration in tribal governance—by highlighting the innovations of tribes themselves.

"Tribes have different budgets and needs. By providing specific examples of tribes of varying sizes and different regions implementing the Declaration, the toolkit will generate discussion on what's possible," said Colorado Law American Indian Law Program Fellow Kevin Miller ('20).

Several tribes, including the Seminole Nation, Pit River Tribe, and Cherokee Nation, have already adopted resolutions urging the U.S. to implement the Declaration nationally.

Others have looked internally to tribal governance.

The Muscogee (Creek) Nation translated the Declaration into the Muscogee language and adopted the Muscogee version into tribal law, which is binding in the jurisdiction. In Washington, several tribes worked with the attorney general's office to make the Declaration's standard of "free, prior, and informed consent" a safeguard of the office's dealings with tribal governments. A resolution of the Yurok Tribe references several articles of the Declaration as support for the tribe's rights to conserve the Klamath River, its ecosystem, and species. The Navajo Nation Human Rights Commission cites the Declaration, along with Navajo Fundamental Law, in matters ranging from employment rights to the protection of sacred sites.

The toolkit features these and other examples, while also providing sample resolutions that may be modified by tribal governments for their own purposes. Some tribes emphasize, for example, that "human rights" must accompany "human responsibilities" to one another and to the natural and spirit worlds.

Colorado Law students Aly Payan ('21), Taylor Schad ('21) (Cheyenne River Sioux), and Adam Spencley ('22) (Sault Ste. Marie) helped create the toolkit. Last summer, working with a group of students from UCLA Law School, the Colorado Law students conducted legal research under the supervision of previous American Indian Law Program Fellow Danielle Lazore-Thompson and UCLA's Tribal Legal Development Clinic Director Lauren Van Schilfegaarde. They identified examples where the Declaration has been cited in tribal laws, referenced in court proceedings, and used as inspiration for policy decisions. The students had opportunities to present their work to Colorado Law Professor Kristen A. Carpenter, UCLA Law Professor Angela R. Riley, and a team of attorneys from the Native American Rights Fund, for feedback.

For Schad, who serves as vice president of the Native American Law Students Association, working on the Declaration took on a personal dimension.

"I come from a tribe in South Dakota that has a very rich history with our ancestral lands and our treaty rights, and having a toolkit like this is just another way for my tribe to uphold and strengthen its rights on a grassroots level. It provides tribes with guidance in incorporating the Declaration into their own codes which will help strengthen their communities and sovereignty in the long run," she said.

The Colorado Law and NARF team first sought direction on implementation of the Declaration from tribal leaders, lawyers, judges, and scholars at a 2019 conference hosted at Colorado Law. This past year, the team worked with tribal leaders and lawyers from the Quinault, Shawnee, Euclidean, Muscogee, Pawnee, Pechanga, Graton Rancheria, and Yurok nations, among others, to ensure the toolkit reflected their concerns and interests. The National Congress of American Indians passed a resolution acknowledging the toolkit in 2020.

"Our goal was to make the toolkit responsive to the needs of tribal needs and partners. We wanted to bridge gaps between academia and the people doing the grassroots work on the ground," Miller said.

The toolkit will be formally released at a virtual April 12 launch event, which is open to the public. The Colorado Law/NARF legal team will hold virtual toolkit training sessions later this spring for tribes, and, once it is safe to do so, they plan to travel to different tribal reservations, meet with their leadership and members, and host local networking events to share information about the toolkit.

"Tribes have control over their lands and resources, and this toolkit will hopefully help guide them to further strengthen those rights and hopefully strengthen their relationship with the U.S., considering that the U.S. has lent its support to the Declaration," Schad said. "The U.S. has always called the Declaration an aspirational document and in my mind, tribes being able to incorporate the Declaration into their codes and legislation should really be one of the primary aspirations for utilizing this document."

This project is supported by a grant from the CU Boulder Office of Outreach and Engagement.

About the Colorado Law - NARF Partnership

The Native American Rights Fund and University of Colorado Law School formed the Joint Project to Implement the United Nations Declaration on the Rights of Indigenous Peoples in the United States in 2018. Led by Council Tree Professor Kristen A. Carpenter at Colorado Law and NARF Senior Staff Attorney Sue Noe, the project recognizes the potential for the Declaration to advance Indigenous Peoples' rights and supports implementation through education and advocacy. Carpenter has worked on implementing the Declaration around the world in her role as member of the United Nations Expert Mechanism on the Rights of Indigenous Peoples.

First Peoples Worldwide and American Indian Law Clinic Students Support the Gwich'in Steering Committee

CONTRIBUTED BY CHRISTINA STANTON



First Peoples Worldwide operates at the intersection of business, law and finance to work from a foundation of Indigenous values to achieve a sustainable future for all. Housed at the Center for Native American and Indigenous Studies, First Peoples partners closely with faculty from around the University of Colorado, including Leeds School of Business and the Law School.

With the work of American Indian Law Clinic's student attorneys, First Peoples has worked to elevate the rights of the Gwich'in people in the face of potential oil and gas development in the Coastal Plain of the Arctic Refuge. The Gwich'in Steering Committee, formed in the late 1980s to unify Indigenous voices and protect the sacred calving grounds in the Refuge. The Refuge, which is a sacred and ancestral land for the Gwich'in, was re-opened to oil and gas development through a rider to the 2017 Tax Act. Since then, the federal government fast-tracked lease sales and seismic exploration despite a growing public resistance. First Peoples built the capacity of the Gwich'in to meet with financial institutions and activate an international strategy, creating broader international awareness of the human rights violations that could occur should drilling take place. Not only do these efforts call upon international bodies to take action, but they also build the business case to deter financial institutions and other corporations from engaging in development.

The student attorneys in the 2019-2020 American Indian Law Clinic drafted and submitted a request to the United Nation's Committee on Elimination of Racial Discrimination (CERD) for early warning. In this request, they enumerated the rights violations by the U.S. Government. Twice, CERD has submitted inquiry to the U.S. in these matters – it is rare to receive a response once yet alone twice. CERD stated that there were grave concerns and asked the U.S. government to provide information as to how it is taking measures to guarantee the Gwich'in's right to free, prior, and informed consent (FPIC), to protect sacred sites, prevent violence against Indigenous women, mitigate the climate impact of drilling in the Coastal Plain, and "ensure effective remedies against instances of racial discrimination, including in the context of extractive industries." The student attorneys also assisted in drafting the filing with the Inter-American Commission on Human Rights and in elevating the human rights of the Gwich'in during the Universal Periodic Review. Each of these actions has helped to elevate the right of the Gwich'in and build international and corporate awareness of the implications of Arctic oil and gas development.

Although the possibility for development remains, there have been several recent wins based on collective advocacy efforts around this matter. The lease sales that occurred in January 2021 garnered less than 1% of projected income for leasing off these lands. Shortly thereafter, the Biden Administration issued an executive order to place a temporary moratorium on all federal government activity "relating to the implementation of the Coastal Plain Oil and Gas Leasing Programs." And finally, over thirty banks have refused to finance these projects -- including all major U.S. banks. First Peoples, with the research and work of clinical and advanced practicum law students, is proud to contribute to these efforts to protect the sacred lands and way of life of the Gwich'in.

Voting Rights

CONTRIBUTED BY CHRISTINA STANTON

First Peoples staff collaborated with American Indian Law Clinic Advanced Practicum students and three Native-led organizations - IllumiNative, Native Organizers Alliance, and Buffalo Nickel - to create voting resources tailored for Native voters in the 2020 General Election. The campaign, called Natives Vote, was developed in response to low voter turnout among Native Americans, Alaska Natives, and Native Hawaiians compared to other groups, and studies that indicated Native voters were skeptical of voting by mail.

The centerpiece of the campaign was a website called NativesVote2020.com, which provided information about the voting process in each of the 50 states plus DC. The information covered 42 topics and was curated to cover specific questions that Native voters would be more likely to have, including language support, how to get an address on a reservation in the state, and whether tribal IDs would be accepted at the polls. First Peoples staff and three students - Ryan Lolar, Joseph Holvey, and Erin Woolley - spent hundreds of hours researching state election laws to put together these answers for each state and uploading them in a user-friendly format to the site.



In addition, Native Organizers Alliance organized volunteers and hired staff to bring voter information to urban Native voters and voters on reservation, and IllumiNative created a huge online presence to reach out to potential voters. To aid these efforts, First Peoples staff created a number of FAQs, toolkits, and resources covering specific election issues like registration deadlines, voter intimidation, and voting by mail, which was distributed to potential voters via social media and in-person conversations.

The campaign was highly successful. Native voter turnout greatly exceeded recent elections and had a well-documented impact on the outcome of the election. There were also a historic number of Native Peoples elected to Congress and to state legislatures. More than 7,000 people used the voter registration tool on the Native Votes website, two online town halls had a combined 97,000 views, and social media posts had more than 110,000 likes and comments and more than 34.6 million total

Colorado Law Wins Bid to Host 2022 National Native American Law Student Association Moot Court Competition

Colorado Law's Native American Law Student Association submitted and won a bid for CU to host the National Native American Law Student Association's ("NNALSA") 30th Annual Moot Court Competition. Next year, Colorado Law will be the site for dozens of law students from across the country to convene and tackle an issue of law affecting Indigenous Tribes in the United States drafted by problem author Professor Kristen Carpenter.

NNALSA was founded in 1970 to support law students interested in the field of Federal Indian Law, Tribal Law, and traditional governance. In addition to facilitating opportunities for law students to network with other students, lawyers, judges, and experts in the field, NNALSA encourages practical education through its moot court and writing competitions. These competitions allow students the opportunity to consider, evaluate, and address delicate issues of law and policy prepared by the problem author, providing competitors an opportunity to hone their oral and written argument skills.

This year's NNALSA Moot Court Competition, hosted by the University of North Dakota School of Law and its NALSA chapter, took place virtually in response to the COVID-19 pandemic. Colorado Law's NALSA chapter will have the discretion to host either a virtual or in-person event for 2022, but intends to host the competition in-person barring lingering or future concerns over health and safety. In addition to student participants, the NNALSA Moot Court Competition requires volunteer judges to evaluate the briefs and arguments presented by competitors. If you are interested in volunteering as a judge, becoming a conference sponsor, or want to know other ways to get involved please contact American Indian Law Program Fellow Kevin Miller (kevin.i.miller@colorado.edu) for more information.



S. James Anaya speaks at virtual forum on International Day of the World's Indigenous Peoples.

On August 9, 2021, the United Nations marked the International Day of the World's Indigenous Peoples with a panel entitled, "Leaving no one behind: Indigenous peoples and the call for a new social contract." Former UN Special Rapporteur on the Rights of Indigenous Peoples '08-14 and Dean of Colorado Law '16-21 S. James Anaya was a featured speaker alongside María Fernanda Espinosa Garcés, former president of the UN General Assembly.

An expert in human rights, Anaya has raised Colorado Law's engagement on the world stage. His term as Dean of the Law School saw an increased offering of human rights-focused courses and the creation of an International Law and Human Rights Certificate program. As a convening institution under Dean Anaya's leadership, Colorado Law hosted a UN Permanent Forum conference, a session of the UN Expert Mechanism on the Rights of Indigenous Peoples, and hearings of the Inter-American Commission on Human Rights. These opportunities provided students with unprecedented access to education in international law and elevated the global profile of the University of Colorado. In 2021, Anaya returned to the law faculty as a Distinguished University Professor and Nicholas Doman Professor of International Law.

Per Nic Meloney, videojournalist with the CBC, Anaya discussed the historic power imbalance between Indigenous Peoples and the governmental systems "thrust upon them." These dynamics are root causes of the inequality and marginalization that Indigenous Peoples face today.

"I think establishing a new social contract would be a remedy to the lack of initial consent to be governed by the states that have grown up around them and would entail the construction of a new social order based on consensus and respect for those rights," Anaya said.



CONGRATS TO KEVIN MILLER '20

Kevin Miller has been appointed to a second term as the American Indian Law Program Fellow. In this capacity, Miller works extensively on The Implementation Project to realize the aims of the UN Declaration on the Rights of Indigenous Peoples, serves as a bridge between the American Indian Law Program and Native American Law Students Association helping to mentor students and plan events, and assists with fundraising, development, and communications. He is a tremendous asset to the AILP and Colorado Law community.



'Self-Determination and Resilience': Insights on Human Rights in Practice

BY KEVIN MILLER ('20)

From 2017 until 2021, Professor **Kristen A. Carpenter** served on the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). EMRIP is a subsidiary body of the U.N.'s Human Rights Council, charged with advising the council on the human rights of Indigenous Peoples. More specifically, EMRIP is mandated to "assist states and Indigenous Peoples in realizing the aims of the U.N. Declaration on the Rights of Indigenous Peoples."

Comprising seven individuals, EMRIP is tasked with advancing Indigenous Peoples' human rights around the world. During her two terms, Carpenter worked on matters involving Indigenous Peoples in Brazil, Canada, Democratic Republic of Congo, Finland, Japan, Kenya, Mexico, Russia, South Africa, Sweden, Thailand, and the United States. She provided advice on issues including Indigenous Peoples' rights in the context of migration and borders; free, prior, and informed consent; land; the well-being of children; and cultural rights.

Alexey Tsykarev, former EMRIP member from the Russian Federation and Eastern Europe, said that Carpenter was "strong and strategic, smart and open-minded, while speaking at the U.N. General Assembly, meeting ambassadors, drafting studies, and leading negotiations. She showed compassion and solidarity even with those who had different views; her sense of justice and ability to build on collective wisdom were a source of inspiration."

Carpenter notes that she could not have taken the position without the support of colleagues and students at Colorado Law.

Indigenous Peoples in International Law

Colorado Law has a decades-long commitment to federal Indian law, going back to American Indian alumni of the late 1960s and early 1970s including **Vine Deloria ('70)** and **Thomas Fredericks ('72)**. The late **Dean David H. Getches**, along with Professors **Rick Collins**, **Carla Fredericks**, **Sarah Krakoff**, **Jill Tompkins**, and **Charles Wilkinson**, established an unparalleled reputation for scholarship, teaching, and service to tribes in the U.S. through Colorado Law's American Indian Law Program.

With the arrival of Dean **S. James Anaya**, the law school embraced the internationalization of the field. Before becoming dean, Anaya served for six years as the U.N. Special Rapporteur on the Rights of Indigenous Peoples and authored major texts on Indigenous Peoples and self-determination. When the EMRIP position in North America opened, Anaya encouraged Carpenter to enter into the nomination and vetting process, including letters of support from Indigenous Peoples and interviews by a group of ambassadors based in Geneva.

Once appointed by the president of the Human Rights Council in 2017, however, Carpenter's first trip was not to an international destination but rather to Oklahoma. Judge **Greg Bigler** invited Carpenter to meet with Muscogee, Cherokee, Shawnee, Euchee, and Seminole ceremonial leaders who had been following activities at the U.N. since the 1970s when the Muscogee leader Philip Deere had gone to Geneva advocate for his people.

"For us as traditional people, the goal of engaging with the U.N. is to better protect our unique identity, culture, and society," Bigler said.

For Carpenter, the visit emphasized the importance of being grounded at home. "It was clear to me that while I might be traveling all over the world, I should keep the concerns and values of American Indian cultural leaders very close to my heart," she said.

Making a Difference

In 2019 Carpenter was elected to serve as EMRIP's chair-rapporteur, a role that exposed her to the challenges of diplomacy and the urgency of human rights. That summer, several Indigenous representatives who spoke at EMRIP's annual session faced reprisals in their home countries, including the killing of family members and destruction of their home villages. Carpenter held meetings with ambassadors from those countries, urging investigation and protection for the Indigenous human rights defenders. Some of her fellow EMRIP members also faced reprisals, losing their jobs at home or being denied entry into other countries.

"States are not always eager to have an international human rights body come into their sovereign territory," Carpenter said. "Even though EMRIP's mandate aims for constructive solutions, versus critical reports, it still took many discussions to arrive at a mutually amenable plan and then carry it out in a meaningful way."

In Mexico City, EMRIP worked with Indigenous Peoples and the government regarding the implementation of a new constitution, the first to explicitly adopt the U.N. Declaration on the Rights of Indigenous Peoples.

During a visit to an Indigenous community within the city boundaries, Carpenter recalled leaders taking out documents written in the Nahua language that dated back to the 1500s, raising the issue of how the new law would intersect with the old. In some of the Indigenous villages, women did not have access to information about political developments in Mexico City. EMRIP members brought these questions and other issues back to training sessions with government ministers to advance attentiveness to Indigenous rights.

In 2020, following two years of preparation, EMRIP facilitated a dialogue between the Yaqui people and the Swedish Museum of World Culture, which led to an historic agreement in principle to repatriate the Maaso Kova, a ceremonial deer head. The deer head had been acquired from the Yaqui decades earlier when they were relocated from their homelands by the Mexican army. Carpenter, drawing from her expertise in cultural rights, served as EMRIP's lead member on this matter.

"EMRIP's engagement produced advances for other Indigenous Peoples engaged in repatriation efforts, including endorsing the establishment of an effective international mechanism for repatriation based on the recognition of Indigenous Peoples' own laws governing the use and treatment of our sacred items in accordance with Article 11 of the U.N. Declaration," said Andrea Carmen, executive director of the International Indian Treaty Council...

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'Self-Determination and Resilience': Insights on Human Rights in Practice

BY KEVIN MILLER ('20)

(Continued from Page 09)

Bringing Human Rights Home

Together with counterparts at the Native American Rights Fund (NARF), Carpenter co-founded the NARF-Colorado Law Project to Implement the U.N. Declaration on the Rights of Indigenous Peoples in the United States. The project seeks to provide education and access regarding international human rights frameworks as tools in American Indian law challenges. Carpenter's role at the U.N. coupled with her relationships in tribal communities, helped bridge a gap between the human rights sphere as it exists in spaces like the U.N. and the realities lived by those in marginalized communities.

The NARF-Colorado Project also provides opportunities for Colorado Law students to gain practical experience in human rights.

Edyael Casaperalta ('18) attended sessions on the Tohono O'odham Reservation in Arizona and in Chiang Mai, Thailand, which contributed to EMRIP's study on Indigenous Peoples' rights in the global migration context. Casaperalta assisted with the first report of the NARF-Colorado Law Project, as well as its inaugural conference in 2018 that brought together lawyers and non-lawyers to discuss the needs of Indian country. Casaperalta was recently named senior policy advisor for the Rural Utilities Service Agency in the Department of Agriculture.

While students at Colorado Law, **Marissa Weber** ('19) and **Cierra White** ('19) attended EMRIP's annual session in Geneva. Weber went on to become an attorney with the International Criminal Court and is now an assistant district attorney in New York. White is a partner at a firm in Florida, licensed to practice before the Poarch Creek Tribal Court.

Alexandra Payan ('21) took Carpenter's Indigenous Peoples and International Law class. The syllabus that year included training from guest experts on conducting negotiation and dialogue in the international human rights context and a simulation in which students took on the roles of advocates for Indigenous Peoples and national governments.

"Professor Carpenter's personal expertise was both inspiring and incredibly helpful in understanding how and why Indigenous Peoples law should be conceptualized as a relevant matter in all areas of study and practice," said Payan, who has since worked on Indigenous Peoples' issues at the U.S. Agency for International Development.

In one of EMRIP's last engagements before the COVID-19 pandemic, **Noriana Franco Novoa** (LLM '20), together with former American Indian Law Program Fellow **Danielle Lazore-Thompson**, assisted with a seminar at the University of British Columbia regarding the repatriation of human remains and sacred objects. Novoa applied her experience as a lawyer in Colombia, as well as Spanish language skills, to help EMRIP draft a report urging that international covenants such as the UNESCO 1970 Convention should be interpreted consistent with the U.N. Declaration's recognition of Indigenous Peoples' rights to culture, religion, and property.

Current American Indian Law Program (AILP) Fellow **Kevin Miller** ('20) recently accepted Carpenter's offer to extend his fellowship through the 2021-22 academic year. They, along with Native American Rights Fund staff attorney Sue Noe, will travel to Indigenous communities in North America to engage in discussions with tribal leaders interested in better understanding how international human rights documents can be given power through tribal-level implementation.

The Colorado Law team, together with colleagues in CU Boulder's linguistics department, are also deeply involved in preparations for the U.N.'s International Decade on Indigenous Languages, which spans 2022-2032, again helping to ensure that Indigenous Peoples will have a seat at the table when it comes to international measures to advance language rights.

Reflecting on Human Rights and Relationships

"What surprised me most in my five years was just how much the world's Indigenous Peoples have in common, despite different local circumstances," Carpenter said. "From the Sami people of Norway to the Khoi and San of South Africa, the Karen people of Thailand to the Mapuche of Chile, and of course the many tribes here in the United States, Indigenous Peoples are closely tied to the land, to ceremonial ways of life, and the collective well-being of their people. They are resilient and determined, even after so many years of conquest and colonization, and in the face of the pandemic, to survive as distinct peoples."

And what about realizing human rights? There are no easy answers, Carpenter said.

"Indigenous Peoples are leaders in human rights both because their situation is often so tenuous and because they have such deep traditions of humanity and relatedness. They teach about healing past harms and fostering wellbeing for the future. But it's a long-term commitment. Indigenous Peoples embrace a concept of 'the Seven Generations' in which each person's responsibility is tied to their relatives in an intergenerational web looking forward and back. This is the model that I am trying to follow and share with my students," she said.



Noriana Franco Novoa (LLM '20), Kristen Carpenter, and former American Indian Law Program Fellow Danielle Lazore-Thompson at a cultural rights seminar in Vancouver, British Columbia.

SPOTLIGHT: Sarah Krakoff (Continued from Spotlight on Page 02)

Krakoff is a past recipient of CU Boulder's Hazel Barnes Prize, the school's highest faculty honor recognizing distinguished scholarship and teaching, and the Chase Community Service Award for her public service work with low-income communities.

She founded and directed the Acequia Assistance Project, which provides free representation to low-income farmers in the San Luis Valley. Before joining the Colorado Law tenure-track faculty, she directed the American Indian Law Clinic and secured permanent university funding to ensure the clinic's future.

Krakoff earned a bachelor's degree from Yale University and a Juris Doctor from the University of California, Berkeley. She began her legal career at DNA-Peoples Legal Services on the Navajo Nation, where she initiated its Youth Law Project with an Equal Justice Works fellowship.

IN THE NEWS

(VIA: The Native American Rights Fund)

We are happy to announce that The Native American Rights Fund (NARF) has been awarded a \$400,000 grant from the Henry Luce Foundation to support the NARF-Colorado Law Project to Implement the UN Declaration on the Rights of Indigenous Peoples (the Implementation Project)!

Native peoples in the United States and Indigenous Peoples around the world worked for decades to achieve the 2007 adoption of the Declaration on the Rights of Indigenous Peoples by the United Nation's General Assembly. The Declaration recognizes Indigenous Peoples' rights to survive as distinct peoples, with rights to self-determination and equality. The Declaration also recognizes Indigenous Peoples' rights to traditional knowledge, land, religion, culture, language, health, education, and governance, among others. Although the United States expressed support for the Declaration in 2010, Indigenous Peoples in the United States are still denied these important human rights. The Implementation Project is committed to achieving implementation of the Declaration's standards here in the United States.

NARF Staff Attorney Sue Noe discussed the important work the Luce Foundation grant will make possible: "The UN Declaration on the Rights of Indigenous Peoples offers a pathway for empowerment of tribal communities and legal reform in federal Indian law, consistent with international human rights standards, yet the Declaration will only be meaningful if realized in the lives of Indigenous Peoples. The critical funding generously provided by the Luce Foundation will support us in collaborating with tribal leaders and community members, in support of their goals and aspirations and to achieve the Declaration's implementation into binding law."

Colorado Law Professor Kristen Carpenter said, "The University of Colorado's American Indian Law Program is grateful to the Luce Foundation for supporting our collaboration with NARF. This funding will enable both faculty and student engagement in the practical work of human rights, including workshops in Indian Country. Together with NARF and tribes throughout the United States, we are committed to the worldwide movement toward self-determination, justice, and equality for Indigenous Peoples."



The Henry Luce Foundation seeks to enrich public discourse by promoting innovative scholarship, cultivating new leaders, and fostering international understanding. Established in 1936 by Henry R. Luce, the co-founder and editor-in-chief of Time, Inc., the Luce Foundation advances its mission through grantmaking and leadership programs in the fields of Asia, higher education, religion and theology, art, and public policy.



NALSA REPORT 2020-21

TAYLOR SCHAD '21, CU NALSA CHAPTER PRESIDENT

This year has been a very eventful and interesting year for our NALSA chapter as I am sure it has been for many. We started the summer off with drafting a letter of support for the Black Lives Matter movement and the Black Law Students Association at our law school. The rest of the summer and the beginning of the school year was focused on creating goals for our NALSA chapter for the year. The board knew we wanted to increase participation in NALSA for the 1Ls and 2Ls, have a logo by the end of the year, and support the other affinity groups at the school as well.

Our first big event happened on October 13, 2020, when we had a voting rights panel to discuss the different barriers that Native Americans face when accessing their right to vote. This panel included Jacqueline De León, a NARF attorney working on voting rights, Natalie Stites Means, a grassroots organizer and founder of the He Sapa Voter Initiative, and Sam Strong, Tribal Secretary for the Red Lake Nation. On October 29, 2020, we had a Halloween movie viewing event where we streamed Blood Quantum, a Native American made horror movie.

In honor of Native American Heritage Month, the NALSA board created a Voting Rights PSA detailing why we, as individuals, choose to vote. Our biggest and most successful event in the fall was probably our Virtual Community Gathering and Marketplace held, again, in honor of Native American Heritage Month. For this event we were able to secure Winona LaDuke as our keynote speaker

as well as the Little Bear Singers for a drum group along with various Native dancers.

The spring semester has started off on the same sort of trajectory, being that all of our events have been virtual. We started a Monday night viewing party of the CW show Trickster, based on a Native American high school student in Canada. On February 17, 2021, we held a virtual conversation with Congresswoman Sharice Davids in collaboration with the Womxn of Color Collective and OUTLaw at Colorado Law. The NALSA board also co-hosted an event with the Law School called "Race and Religion: A Case Study on Indigenous Peoples in the United States" on February 18, 2021. In honor of Women's History Month, we held a panel on March 10, 2021, to discuss the Missing & Murdered Indigenous Women crisis. This panel included grassroots advocate Tessa McLean, international advocate Lauren Schad, and Representative Ruth Buffalo from North Dakota.

I think we have successfully completed a lot of things this year and the board is very proud of the events we have been able to put on given the limited resources and virtual space we have been navigating.

To keep up with the Colorado Law chapter of NALSA and to see the different virtual events we have put on throughout the year please follow up on Facebook:

<https://www.facebook.com/CULAWNALSA/>

Introducing 2021-2022 CU NALSA Leadership

President: Siena Kalina,
Siena.kalina@colorado.edu

Vice President: William Raley,
william.rale@colorado.edu

Secretary: Emiliano Salazar,
Emiliano.Salazar@colorado.edu

Treasurer: Benjamin Bonner,
Benjamin.Bonner@colorado.edu



Race and Religion: Indigenous Peoples in the United States (February 18, 2021)

PROJECT ON INDIGENOUS LANGUAGES SELECTED AS 2020 RESEARCH AND INNOVATION SEED GRANT RECIPIENT



American Indian Law Program Director, Kristen Carpenter, and CU Linguistics Professor Dr. Andrew Cowell have partnered on a project to address the state of Indigenous languages in the United States.

The project, titled *Implementing Indigenous Peoples' Right to Language: Revitalization in the United States*, will analyze the historic context of Indigenous language rights in domestic law, the changing landscape of these rights over time, and aims to identify opportunities for the preservation and revitalization of Indigenous languages in the US.

As the United Nations Decade of Indigenous Languages approaches, Carpenter and Cowell have been selected as 2021 recipients for the 2021 Research and Innovation Seed Grant to help fund their research in this area. This project follows the 2019 Year of Indigenous Languages, where data compiled by experts from UNESCO and the United Nations suggested at least 40% of the 7,000 Indigenous languages used worldwide are experiencing some level of endangerment.

Experts in the field agree that the decline in Indigenous languages is, at least in part, a result of many of these languages not being taught in schools or used in the public sphere.

Carpenter and Cowell have both published academic pieces addressing Indigenous language rights, and their project will use the Seed Grant funding to expand on their past research and analyze what is needed for accessible preservation efforts in the US, potential avenues for language preservation using existing and emerging technology, and prospective policy changes that may help protect and revitalize these languages in the domestic context.

Project funding will become available July 1, 2021. The project will span up to 18 months, culminating in a research paper outlining their findings and recommendations. Carpenter and Cowell intend to adhere to the consultation and consent guidelines laid out in the UN Declaration on the Rights of Indigenous Peoples and will seek input from tribal leaders and Indigenous language experts.

Colorado Law, Native American Rights Fund Partner with World Intellectual Property Organization for Webinar Series

The University of Colorado Law School, the Native American Rights Fund, and the National Congress of American Indians recently collaborated on a two-part webinar series addressing the applications of, and gaps in, intellectual property rights protections for indigenous peoples' traditional knowledge and cultural expressions.

Professor Kristen Carpenter, director of Colorado Law's American Indian Law Program, and Sue Noe, staff attorney with the Native American Rights Fund, moderated the series which was held on September 10 and September 24, 2020. Designed to help Indigenous leaders, lawyers, and community members gain insight into how intellectual property laws impact self-determination, cultural revitalization, and economic development, each installment of the series was viewed live from around the world.

The first webinar, "Overview of Intellectual Property Law, Indigenous Peoples' Traditional Knowledge and Cultural Expressions," featured panelists from the World Intellectual Property Organization, the United States Patent and Trademark Office, UCLA School of Law, and the Arizona State University Sandra Day O'Connor College of Law. The second installment, "US Legal Protections for Traditional Knowledge & Traditional Cultural Expression, Gaps in Protection, and Indigenous Peoples' Initiatives," featured panelists from the United States Patent and Trademark Office, the United States Indian Arts and Crafts Board, Fordham Law's Fashion Law Institute, New York University, and a cultural practitioner from the Karuk Tribe of California.

Emerging human rights norms regarding indigenous peoples and intellectual property are becoming increasingly prominent as communities strive to protect their cultural heritage and practices.

You can access the webinars, related materials, and panelist contact information [here](#).



AILP COURSE OFFERINGS



Patrick Lee, Kristen Carpenter, and Kevin Miller, New Student Orientation (August 19, 2021).

FALL '21

American Indian Law I
Collins

American Indian Law Clinic
Velasquez

Indigenous Peoples in
International Law
Carpenter

Advanced Topics in
American Indian Law
(Seminar)
Carpenter

SPRING '22

American Indian Law II
TBA

American Indian Law Clinic
Velasquez

International Human Rights
(Seminar)
Anaya