AALL Program of Note:
Piercing the Veil of Sovereignty

At FCIL’s program, Piercing the Veil of Sovereignty: The Sources of International Human Rights Law, you’ll learn how the major human rights institutions work, how to analyze human rights issues, and where relevant legal sources are most likely to be found. In the first part Marci Hoffman and Mary Rumsey will describe the charter-based and treaty-based bodies of the UN. In the second part Gloria Orrego Hoyos of Argentina will cover the OAS, Inter-American Commission, and Inter-American Court’s activities; and James Hart will describe the Council of Europe and the European Court of Human Rights. The program is co-sponsored by AALL and RIPS. Both parts will be on Sunday, July 22nd; the first will be from 1:15 to 2:45 in HCC room 312 and the second will be from 3:45 to 5:00 in the same room. Ms. Hoffman and Ms. Rumsey are the authors of INTERNATIONAL AND FOREIGN LEGAL RESEARCH (Martinus Nijhoff 2nd ed. 2012). Ms. Orrego Hoyos was the winner of the Schaffer Grant for Foreign Law Librarians last year and Mr. Hart is the author of The European Human Rights System, 102 Law Libr. J. 533 (2010).

James W. Hart
Associate Senior Reference Librarian
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Law and Policy Papers on Indigenous Governance

By Maria Protti,
Law Librarian, San Francisco, California

Last April at the University of California at Berkeley, I attended a thought-provoking lecture called “Changing Indigenous Political Action: From Rights to Governance and Back.” The speaker, Stephen Connell, is a Professor of Sociology and Public Administration at the University of Arizona. The lecturer took a new tack on the recognition of indigenous rights, and that is why I am sharing this with you. Connell really presented a new look on the subject of sovereignty that should be considered by anyone interested in Native Peoples Law.

Professor Connell made a case for his detailed research that indigenous efforts over the last twenty years have distinctively changed from an effort to secure sovereignty rights to a conscious effort to exercise secured governmental powers. Most of these efforts have entailed standing up to challenges of governance. In a nutshell, lots of action to preserve self-determination has moved from the judicial sphere of suing and defending lawsuits to the sphere of exercising governmental action. This has happened in a big way, not only in the U.S. but in Australia, Canada, and New Zealand.

Connell’s proposition will appear among the Joint Occasional Papers on Native Affairs (JOPNA) that can be accessed at <www.jopna.net>. This collection of papers is a joint venture of the Harvard Project on American Indian Economic Development and its sister organization the Native Nations Institute. The papers that appear on this site are some of the best research and policy papers gathered at one place on the net. For example, I did an extensive 200 hour plus search on materials on the legality of implementing the Federal Endangered Species Act within Indian Country. By far the most thoughtful material on the subject was found on this site. Featured papers now available include papers on fisheries, poverty and self-determination, enterprise economic development, and claims of self-rule.
Congress passed the Indian Civil Rights Act of 1968 (ICRA) in response to reports that tribal governments failed to protect the individual liberties of their members. The Act attempted to extend certain provisions of the U.S. Constitution, such as due process and free speech, to tribal members. The law failed to provide, however, a federal enforcement mechanism beyond the writ of habeas corpus. As such, it was left to the tribes to interpret and enforce the ICRA. In celebration of the fortieth anniversary of the ICRA, this collection of essays explores how tribes have interpreted the Act in accordance with their own societal norms.

The book begins with a short introduction into the history of the Indian Civil Rights Act, followed by Lawrence R. Baca’s personal account at the DOJ of the years leading up to and following passage of the Act. Part I deals with equal protection issues. Catharine A. MacKinnon analyzes the implications for sex discrimination following the Martinez decision. Gloria Valencia-Weber, Rina Wentzell, and Eva Petoskey give their personal reflections as indigenous women. Ann E. Tweedy examines tribal case law, codes and policies concerning sex discrimination. Kevin Noble Maillard discusses the equal protection issues with regard to cases involving people of African descent in Seminole Nation cases. Part II explores due process. Frank Pommersheim argues that due process is an essential requirement of tribal court legitimacy. Paul Spruhan looks at due process as applied in the Navajo Nation. Part III consists of a chapter by Matthew L.M. Fletcher on tribal interpretations of free speech and a chapter by Kristen A. Carpenter on religious freedom in Indian country. Part IV deals with criminal law in Indian country. Elizabeth Ann Kronk argues that the ICRA should be amended to allow for broader tribal court punishment authority as a means to create a safer Indian country. Carole Goldberg and Duane Champagne focus their chapter on civil rights violations in PL-280 states. The book concludes with Part V on the power and limits of the ICRA. Mark D. Rosen’s chapter analyzes tribal court interpretations of the ICRA to contrast those decisions to federal constitutional doctrines.

The authors of these essays address the complex nature of civil rights litigation in Indian country in the 40 years following the enactment of the Indian Civil Rights Act. The book’s greatest strengths are the personal narratives that illustrate civil rights issues from the perspective of scholars who lived through those developments. The background stories provide context to the ICRA and subsequent case law much in the same way as the Foundation Press “Stories Series” provides not only case law analysis but the history behind each case. The background allows for a more intimate understanding of how and why the law came into being, and how the law worked in practice. I would recommend this book to anyone interested in tribal civil rights issues and to any library with a Federal Indian Law collection.

Cate Kellett is a Catalog Librarian at Yale Law School.
Eugenia Charles–Newton Wins Diversity Leadership Award
(submitted by Faye Hadley)

Please congratulate Eugenia Charles-Newton, who is the recipient of this year’s Diversity Leadership Award. She is the newest law librarian to join Texas Tech School of Law Library. She brings with her experiences stemming beyond the law library setting. Eugenia has had much involvement working with American Indian policy and legislation. In 2004, she had the opportunity to work in the Arizona Department of Gaming where she served as a Tribal Liaison working with 21 federally recognized tribes who just negotiated the Arizona Tribal-State Gaming Compacts; a necessary provision under the Indian Gaming Regulatory Act. Then in 2009, she interned for Senator Tom Udall (NM) in Washington, D.C. where she worked extensively with the Senator and his staff on S. 797, the Tribal Law and Order Act, which was signed into law in July of 2010. Prior to arriving to Lubbock, Eugenia worked briefly as a Consultant for various Navajo Nation business entities, focusing primarily on issues that affected the Tribes agricultural and water industries. Eugenia is an enrolled member of the Dine (Navajo) Nation and was born and raised on the Navajo reservation.

Eugenia graduated from Arizona State University, magna cum laude, with a B.A. in English Literature and Political Science. She became the first Native American woman to receive the College of Liberal Arts & Science Award and was selected to be the University Convocation Speaker in 2005. She went on to receive her J.D. from the University of Kansas, School of Law in 2008 where she also earned a Certificate in Tribal Law and Policy. Immediately after graduating from law school, Eugenia began her Master’s degree program in Information Resources and Library Science and graduated in 2009.

Eugenia found her passion for law librarianship in her 2L year when she applied to be a student reference assistant at KU’s Wheat Law Library. She was enthralled with the vast knowledge that law librarians held and the skills they mastered maneuvering through complex databases. In her 3L year, she applied to the University of Arizona’s School of Information Resources and Library Science and became a Cohort member of the Knowledge River program; a unique library program that focuses on Latino and Native American communities.

Eugenia is a member of the American Association of Law Libraries (AALL), South- west Association of Law Libraries (SWALL), Research Instructional and Patron Services (RIPS-SIS) committee, and the Academic Law Library (ALL-SIS) committee. Her past involvements in other organizations involved being a student member of the Arizona Tri-Universities for Indian Education and a member of the Native American Law Students Association.
Popular Native American Archive Also Holds School History

http://indiancountrytodaymedianetwork.com/2012/02/06/popular-native-american-archive-also-holds-school-history-95580

(Submitted by Jolande Goldberg)

The most-used archive in the Washington State University Libraries is a collection of books, manuscripts, photos and artifacts from Nez Perce, Yakama and other Columbia Plateau Indian tribes. It was collected in the first half of the 20th century by Yakima rancher Lucullus V. McWhorter.

Wondering at the popularity of the materials, Trevor Bond—head of Manuscripts, Archives and Special Collections (MASC) in WSU Libraries—researched and wrote an essay about the McWhorter collection as part of his work toward a Ph.D. in public history. The essay is featured in the most recent (Spring 2011) issue of Pacific Northwest Quarterly, a peer-reviewed academic journal of history published by the University of Washington.

But Bond found more history than he perhaps expected. Woven through the McWhorter collection story are threads of historical “firsts” for WSU: It was among the first to relate the past from the Indian perspective and to preserve valuable materials via modern archiving practices.

Indian point of view

McWhorter maintained close relationships with individual Plateau Indians. For example, he befriended and collaborated with the Nez Perce Yellow Wolf to write the book “Yellow Wolf: His Own Story” (1940).

“It was the first published military account of the (1877) Nez Perce War from an Indian perspective,” Bond writes in his essay. McWhorter also collaborated with Mourning Dove on “Cogewea, the Half-Blood” (1927), the first novel ever published by a Native American woman. “McWhorter wrote the new western history in the 1930s and 1940s, long before recent converts found their way to believing that ‘Native Americans should have a voice in historical accounts,’ ” Bond writes, quoting Clifford Trafzer, editor of a 1998 collection of Columbia Plateau Indian narratives.

Vanguard of Northwest archiving

Bond also found that WSU’s (then the State College of Washington) vast McWhorter collection was among the first archives departments in the Pacific Northwest. Moreover, “the guide to the McWhorter Papers was a significant achievement for the fledgling archives program,” Bond continues. “It first appeared in 1958,… the first publication of a guide to a manuscript collection at WSC and likely the earliest in the Northwest.”

Collection consulted by many

Bond writes: “According to McWhorter’s biographer, Steven Ross Evans, ‘not only historians, but folklorists, ethnologists and anthropologists have taken advantage of this vast collection.’

Larger effort explores collectors of Indian culture

Bond’s essay is one chapter in his doctoral dissertation, which will explore collectors of Indian culture on the Columbia Plateau. “I will examine how American Indian cultural artifacts were collected and then deposited in multiple archival repositories. In a larger sense,” he said, “my project examines how knowledge is created and preserved; who owns history; and how the preservation of some collections (and not others) in turn influences what sources are available to historians.”
David H. Getches Collection Archives

(submitted by David Selden)

The William A. Wise Law Library at the University of Colorado has published the online “David H. Getches Collection.” This is a great resource for anyone who wishes to study the works of David Getches, which cover a wide variety of issues relating to water law, land law, and American Indian law. The digital collection includes links to over one hundred full-text copies of articles and other print resources, videos of his speeches, and a photo collection. One can browse through the lengthy bibliography or search through the full-text collection.

Visit the collection at
http://www.colorado.edu/law/lawlib/library_services/digital_collections/getches_collection/
KIA-KIX Schedule Update
(submitted by Cate Kellett)

In April, 2012, Dr. Jolande E. Goldberg, Senior Cataloging Policy Specialist at the Library of Congress, announced that the new classification schedule KIA-KIX: Law of the Indigenous Peoples in the Americas entered final draft stage. At this point, only subclasses KIA-KIK, encompassing the geographic boundaries of the United States and Canada, include detailed arrangement. The remaining subclasses in the schedule allow for future expansion for the rest of the Americas. The new schedule, including an introduction and hyperlinks to indigenous legal materials, was available online for review and comment until May 20 at http://www.loc.gov/catdir/cpso/kia_draft.html. The links are particularly useful because primary sources are difficult to find in this subject area.

As a newer cataloger with experience exclusively in law cataloging, I am especially excited that this new schedule for Indigenous Law will provide space for indigenous legal materials to be classed by jurisdiction. When you first study the classification of legal materials, you have to learn to think in terms of jurisdiction first, then area of law. This is so ingrained in my mind that it seems only natural that all legal materials within the K schedule should follow this pattern. Previously, all tribal legal materials were grouped together with Federal Indian Law into KF8220+. There was only one class number, KF8228, in which to arrange legal materials by tribe. The new schedule is more granular by providing separate spaces for each federally recognized indigenous group. Each tribe is arranged first by geographical area, then by its own class number or span of numbers.

I look forward to seeing the finished KIA-KIK schedule, which was slated for completion later this year. For more information on the Policy and Standards Division, visit http://www.loc.gov/catdir/cpso/queries.html. Past and future updates can be found at the Cataloging and Acquisitions homepage at http://www.loc.gov/aba.
Don’t miss:

AALL Native Peoples Law Caucus Annual Meeting

Sunday July 22, 2012 12:00pm - 1:00pm @

Sheraton-Clarendon B