

Alexandra Fay

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Academic Appointments

University of Tulsa, College of Law, Tulsa, OK August 2024-present
Assistant Professor of Law; Director of the Native American Law Center. Teaching federal Indian law, property, and advanced Indian law courses; faculty advisor to the Native American Law Concentration, the Native American Law Students Association, and the Asian Law Students Association.

Service Assignments: Appointments Committee (2025-2026), Adjunct Committee (2025-2026), Library Committee (2025-2026), Academic Affairs Committee (2024-2026), University Research Committee (2025-2027), Curriculum Committee (2024-2025).

Oklahoma Center for the Humanities, Tulsa, OK August 2025-present
University Fellow. Faculty fellow for the first year of the three-year project, *Sovereignty and Democracy in Indian Country*, funded by the Mellon Foundation. Year one focuses on Indigenous history in the Indian Territory and will culminate in a symposium and exhibition in 2026.

UCLA School of Law, Los Angeles, CA September 2022–August 2024
Richard M. Milanovich Fellow. Inaugural fellow for the Native Nations Law & Policy Center, co-taught the Tribal Legal Development Clinic, and coached the National NALSA moot court teams.

Education

Yale Law School, New Haven, CT
J.D.

Columbia University, New York, NY
B.A., *magna cum laude*, History
Honors: Phi Beta Kappa
Alan J. Willen Memorial Prize

Teaching and Research Interests

Federal Indian Law, Constitutional Law, Race and Law, Property, Federal Courts, Criminal Law, Legal History

Publications

Coordinated Sovereignty: Federal Tools for Resolving State/Tribe Conflict, 2026 WIS. L. REV. _ (forthcoming 2026).

- This article applies the constitutional framework articulated in *Tribes and Trilateral Federalism* to the work of legislative design. It identifies four models of federal legislation to manage the horizontal federalism problems that pervade Indian country governance, and it explores each model's strengths and weaknesses in the case study of reservation traffic enforcement, informed by the ongoing struggle for traffic safety and municipal funding in Eastern Oklahoma.

Courts of Indian Offenses, Courts of Indian Resistance, 124 MICH. L. REV. 777 (2026).

- This article studies the historical practice of the Courts of Indian Offenses, reservation courts unilaterally imposed by the Department of the Interior in the late nineteenth century. While the courts were formally designed to eradicate elements of Native culture, my archival study documents how local tribal actors coopted these institutions to serve other ends.
- [Reviewed on Jotwell](#) by Bethany Berger (August 2025) and [“highly recommended”](#) by Turtle Talk (March 2025)

Citizenship & Empire in Elk v. Wilkins, 102 WASH. U. L. REV. 1839 (2025).

- This article examines *Elk v. Wilkins*, the Supreme Court decision that denied Native people constitutional birthright citizenship. The article explores the decision in three modes: as racist paternalism, as respect for tribal sovereignty, and as the product of a major moment federal restructuring, in which the relationships between tribes, the states, and the federal government were all shifting. This article is part of the Washington University Law Review Symposium, “150 Years of *Minor v. Happersett*.”

Tribes and Trilateral Federalism: A Study of Criminal Jurisdiction, 56 ARIZ. ST. L. J. 54 (2024).

- This article situates tribal status in American federalism through a study of criminal jurisdiction. It identifies recent developments in concurrent jurisdiction on tribal land as manifestations of a longstanding federalism problem, in which the federal government must intervene to manage conflicting powers of tribes and states. The article recognizes tribal sovereignty as a constitutive element of American federalism and argues that tribal self-government is essential not only to public safety, but to the flourishing of our national pluralist democracy.

Revising the Indian Plenary Power Doctrine, 29 MICH. J. RACE & L. 1 (2024) (with Henry Ishitani).

- This article examines the central role of plenary power in *Haaland v. Brackeen*. The Indian law doctrine of plenary power has historically justified destructive federal intervention into internal tribal self-government; yet to uphold the constitutionality of the Indian Child Welfare Act, the Court chose to endorse plenary power once again, albeit reluctantly. This article argues that the *Brackeen* opinions signal a judicial will to reconsider the doctrine. It gives particular attention to Justice Gorsuch’s rejection of the doctrine and explores his alternative account of Congressional power.

Toward a Tribal Role in Groundwater Management, 11 AM. INDIAN L. J. 1 (2023).

- This article considers the Agua Caliente Band of Cahuilla Indians’ ongoing groundwater litigation in the context of climate change, California water policy, and the growing literature on tribal co-management. It considers the real feasibility of tribal power in the realm of state water management and ultimately calls for a reimagining of California’s Sustainable Groundwater Management Act regulatory framework to incorporate stronger forms of inter-sovereign co-management.

True Co-Management: Critical Approaches to Indigenous Food Sovereignty, 41 YALE L. & POL’Y REV. 233 (2023).

- This note examines the Inuit Circumpolar Council Alaska’s project to achieve Inuit food sovereignty through cooperative agreements between tribal, state, and federal agencies for the co-management of Arctic food resources. It employs approaches from political ecology and critical race theory to evaluate risks of Native participation in co-management and identify means to mitigate the colonial tendencies of American law and environmental policy.

Johnson v. M’Intosh, Plenary Power, and Our Colonial Constitution, CANOPY FORUM (March 29, 2023)

<https://canopyforum.org/2023/03/29/johnson-v-mintosh-plenary-power-and-our-colonial-constitution/>.

- This essay examines the legacy of *Johnson v. M’Intosh* on its bicentennial. It recounts John Marshall’s awkward constitutionalization of the doctrine of discovery and traces a throughline to present-day judicial discomfort with the doctrine of plenary power in federal Indian law.

On the Trust Relationship, 67 TULSA L. REV. v-Foreword (2025)

- The Foreword to the Symposium edition strives to synthesize the Symposium authors' many accounts of the mercurial and often baffling "trust relationship" describing the political relationship between tribes and the United States. The Symposium Editors asked me to write this framing piece after a year of working together on the Symposium.

Works-in-Progress

Hegemonic Procedure

- This working draft considers the primacy of procedure in the history of tribal legal development. It argues that legal process, rather than substantive law, is the real site of assimilation, and that to this day procedural conformity remains the cost of retained tribal legal authority.

Implementing McGirt (with Stephen Galoob, Will Thomas, and Jeffrey Zhang) (series of papers in progress)

- This series of articles offer a comprehensive interdisciplinary review of criminal practice in Oklahoma Indian country since the landmark decision of *McGirt v. Oklahoma* (2020). The project utilizes doctrinal expertise in federal Indian law and criminal law, political theory, empirical methods, and a newly assembled database drawing from the last five years of criminal cases in the federal district courts and state courts of Oklahoma to track the ongoing transformation of Oklahoma Indian country criminal practice.

Selected Presentations

"Courts of Indian Offenses, Courts of Indian Resistance" at the Gathering of Indigenous Legal Scholars (UCLA, 2024), the American Society of Legal History Annual Meeting (San Francisco, 2024), the Los Angeles Junior Scholars Workshop (Pepperdine, 2024), and New Voices in Criminal Law, Herff Chair of Excellence Symposium (University of Memphis, 2024).

"Heathens and Federal Paternalism in Indian Affairs" as part of the panel "A 'Minor' Problem: Abortion, Trans Rights, and Other Moral Panics" at the Law and Society Association Annual Meeting (Chicago, 2025).

"Citizenship and Empire in *Elk v. Wilkins*" at the Washington University Law Review Symposium commemorating the 150th Anniversary of *Minor v. Happersett* (2024).

"Revising the Indian Plenary Power Doctrine" at the Michigan Journal of Race & Law's "Indigenous Rights" panel (University of Michigan, 2024) and at the University of South Florida (2024).

"Criminal Jurisdiction in Indian Country: A Federalism Problem" at the Gathering of Indigenous Legal Scholars (ASU, 2023) and the Marquette Junior Scholars Workshop (2023).

"The Violence Against Women Act: Tribal Provisions" at Justice on the Rez, hosted by the Muscogee Creek Nation Office of the Attorney General (Tulsa, 2025).

"The Shifting Maze: The Changing Landscape of Indian Country Jurisdiction" at the Tulsa County Bar Association (2025) and the Tenth Circuit Year in Review (2025).

"Intervening in the Criminalization of Native Youth" at the Sovereignty Symposium (Oklahoma City University, 2024).

Bar Admission

California

Bar Number: 348576

Language Skills

Basic skills in Russian, Mvskoke, Spanish, Japanese