

## READING AMERICAN INDIAN LAW

The study of American Indian law and policy usually focuses on federal statutes and court decisions, with these sources forming the basis for most textbooks. Virtually ignored is the robust and growing body of scholarly literature analyzing and contextualizing these primary sources. *Reading American Indian Law* is designed to fill that void. Organized into four parts, this book presents 16 of the most impactful law review articles written during the last three decades. Collectively, these articles explore the core concepts underlying the field: the range of voices including those of tribal governments and tribal courts, the role property has played in federal Indian law, and the misunderstandings between both people and sovereigns that have shaped changes in the law. Structured with flexibility in mind, this book may be used in a wide variety of classroom settings including law schools, tribal colleges, and both graduate and undergraduate programs.

**GRANT CHRISTENSEN** is an Associate Professor of Law at the University of North Dakota, an Affiliated Professor of American Indian Studies, and an Associate Justice on the Supreme Court of the Standing Rock Sioux Tribe. He is the author of *American Indians: Historical and Contemporary Perspectives* (2017).

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Cambridge University Press  
978-1-108-48853-2 — Reading American Indian Law  
Edited by Grant Christensen , Melissa L. Tatum  
Frontmatter  
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# Reading American Indian Law

FOUNDATIONAL PRINCIPLES

Edited by

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**CAMBRIDGE**  
UNIVERSITY PRESS

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[More Information](#)

**CAMBRIDGE**  
 UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom  
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA  
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia  
 314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India  
 79 Anson Road, #06-04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9781108488532](http://www.cambridge.org/9781108488532)

DOI: 10.1017/9781108770804

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First published 2020

Printed and bound in Great Britain by Clays Ltd, Elcograf S.p.A.

*A catalogue record for this publication is available from the British Library.*

*Library of Congress Cataloging-in-Publication Data*

NAMES: Christensen, Grant, 1982- editor. | Tatum, Melissa L., editor.

TITLE: Reading American Indian law : foundational principles / [edited by] Grant Christensen, Melissa L. Tatum.

DESCRIPTION: New York : Cambridge University Press, 2019. |

Includes bibliographical references and index.

IDENTIFIERS: LCCN 2019038212 (print) | LCCN 2019038213 (ebook) |

ISBN 9781108488532 (hardback) | ISBN 9781108726481 (paperback) |

ISBN 9781108770804 (epub)

SUBJECTS: LCSH: Indians of North America—Legal status, laws, etc. |

Indians of North America—Civil rights.

CLASSIFICATION: LCC KF8205 .R43 2019 (print) | LCC KF8205 (ebook) | DDC 342.7308/72-dc23

LC record available at <https://lcn.loc.gov/2019038212>

LC ebook record available at <https://lcn.loc.gov/2019038213>

ISBN 978-1-108-48853-2 Hardback

ISBN 978-1-108-72648-1 Paperback

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*We dedicate this book to the authors whose work made it possible  
and to all those who have devoted their lives and careers to the  
field of federal Indian law.*

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## Contents

<i>List of Editors and Contributors</i>	<i>page</i> ix
<i>Preface</i>	xv
<i>Acknowledgments</i>	xvii
<b>Introduction: Responding to a Changing Field</b> <i>Grant Christensen &amp; Melissa L. Tatum</i>	1
<b>PART I CORE CONCEPTS</b>	19
1 <b>Marshalling Past and Present: Colonialism, Constitutionalism, and Interpretation in Federal Indian Law</b> <i>Philip P. Frickey</i>	23
2 <b>The Algebra of Federal Indian Law: The Hard Trail of Decolonizing and Americanizing the White Man’s Jurisprudence</b> <i>Robert A. Williams, Jr.</i>	47
3 <b>Red: Racism and the American Indian</b> <i>Bethany R. Berger</i>	72
4 <b>(Tribal) Sovereignty and Illiberalism</b> <i>Angela R. Riley</i>	93
<b>PART II VOICES</b>	117
5 <b>“Life Comes from It”: Navajo Justice Concepts</b> <i>Robert Yazzie</i>	121
6 <b>Tribal Court Praxis: One Year in the Life of Twenty Indian Tribal Courts</b> <i>Nell Jessup Newton</i>	140

7	Beyond Indian Law: The Rehnquist Court's Pursuit of States' Rights, Color-Blind Justice and Mainstream Values <i>David H. Getches</i>	164
8	A Narrative of Sovereignty: Illuminating the Paradox of the Domestic Dependent Nation <i>Sarah Krakoff</i>	188
	PART III PROPERTY	211
9	Sovereignty and Property <i>Joseph William Singer</i>	215
10	The Legacy of Allotment <i>Judith V. Royster</i>	238
11	A Common Law for Our Age of Colonialism: The Judicial Divestiture of Indian Tribal Authority over Nonmembers <i>Philip P. Frickey</i>	262
12	In Defense of Property <i>Kristen A. Carpenter, Sonia K. Katyal, &amp; Angela R. Riley</i>	285
	PART IV (MIS)UNDERSTANDINGS	307
13	Dependent Sovereigns: Indian Tribes, States, and the Federal Courts <i>Judith Resnik</i>	311
14	There Is No Federal Supremacy Clause for Indian Tribes <i>Robert N. Clinton</i>	334
15	American Indians, Crime, and the Law <i>Kevin K. Washburn</i>	357
16	Factbound and Splitless: The Certiorari Process As Barrier to Justice for Indian Tribes <i>Matthew L. M. Fletcher</i>	381
	<i>Appendix 1 Glossary</i>	403
	<i>Appendix 2 Summary of Relevant Supreme Court Cases</i>	409
	<i>Appendix 3 Master List of Additional Resources</i>	423



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## Preface

This book is designed for use in a wide variety of undergraduate, graduate, and law classes. It can be used as a standalone text or as a supplemental reader in virtually any class where federal Indian law and policy plays a role. The book is structured so it can be used in its entirety or the instructor can pick and choose among the chapters.

The book starts with an introductory chapter providing a brief history of federal Indian law scholarship, explaining the methodology behind our ranking system, and the manner in which we selected the sixteen law review articles excerpted in this volume. Those sixteen articles are divided into four parts, each of which is organized around a particular theme. Each part begins with a short introduction presenting the theme and providing an overview of each of the four articles contained in that part of the book.

Each article is presented in a separate chapter. The chapters begin with a few scene-setting paragraphs to establish the context and central argument of the featured article and conclude with Notes & Questions designed to help guide discussion of the material. A list of recommended further reading is also included in each chapter.

Editing the articles presented in each chapter was quite challenging. Because we were editing each article not only in and of itself, but also in light of the other three articles presented in each part, we did not provide the authors of the original articles with an opportunity to review the edits. Any editing errors are ours and ours alone.

Some of the law review articles were 75–100 pages long in their original published form. This necessitated deep cuts to some of the pieces when editing for this volume. In making those cuts, we sought to distill the article down to its central contribution. Most of the articles contained more than one central contribution, and in deciding which contribution to highlight, we were guided by the theme of the section in which the article is included, as well as by the arguments in those

chapters. Readers are strongly encouraged to seek out and read the articles in their full, original version.

A word about our editing conventions. In editing each article, we let the words of the original article speak for themselves – we deleted but did not summarize or add text. We kept the numbering and the wording of the headings as in the original, but we did impose a uniform format – all roman numeral headings are capitalized and all major subsection headings are italicized. Deletions are indicated with three asterisks, with the following exceptions: all introductory quotations have been deleted, and with very few exceptions we deleted all footnotes. Where we did retain a footnote, we have kept the footnote numbering as it was in the original.

Finally, we have included three appendices to assist the reader: a glossary containing specialized terms and definitions, a brief summary of the US Supreme Court decisions discussed in the volume, and a master list of additional sources used in the volume. Given the structure and nature of the book, we have opted to forgo an index, as the Contents list should provide the necessary guidance in navigating the volume.

We have thoroughly enjoyed the process of preparing this book. Reading through articles both new and familiar has given us a renewed appreciation for the work of our colleagues. We hope you find it as useful and interesting as we have.



## Acknowledgments

We wish to express our appreciation to Marty Two Bulls for his wonderful cover art, as well as acknowledge and thank the copyright holders who provided permission to reprint portions of the articles included in this volume:

Philip Frickey, *Marshalling Past and Present: Colonization, Constitutionalism, and Interpretation in Federal Indian Law* © Harvard Law Review

Robert A. Williams, Jr., *The Algebra of Federal Indian Law: The Hard Trail of Decolonizing and Americanizing the White Man's Jurisprudence* © Wisconsin Law Review

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