American Indians and State Law: Sovereignty, Race, and Citizenship, 1790–1880

Donald L. Fixico
Arizona State University

Recommended Citation
Available at: https://doi.org/10.17077/0003-4827.1349

Hosted by Iowa Research Online

Reviewer Brad D. Lookingbill is professor of history at Columbia College of Missouri and the author of War Dance at Fort Marion: Plains Indian War Prisoners (2006).

The Encyclopedia of the Great Plains Indians evolved from the Encyclopedia of the Great Plains, which David J. Wishart edited and the University of Nebraska originally published in 2004. Professor Wishart calls his new volume “a paperback spin-off” of the original encyclopedia. Philip DeLoria and Christopher Riggs co-wrote the introduction, which traces the history of Plains Indian nations and contemplates “Native renaissances” in the region. About 170 scholars and writers helped to produce 123 entries that appeared in the original encyclopedia, and 23 new entries have been added to the mix. The entries for the encyclopedia range from “Adobe Walls” to “Zitkala-Ša.” They explore the people, places, processes, and events relevant to the first inhabitants of the midcontinental grasslands. They resonate with the editor’s desire to show how Indian nations have endured, what they have accomplished, and why they remain vital to the future of the Great Plains. They also feature Prairie Indian nations such as the Otoe-Missouria and the Osage, although no entry appears for the Iowa.

In sum, the Encyclopedia of the Great Plains Indians should be perused by anyone interested in Great Plains history in general and Plains Indians in particular. The pages feature illustrations, photographs, and maps. The extensive cross-referencing and detailed indexing make this volume accessible to high school students, university undergraduates, and general readers. This authoritative resource belongs on the shelves of libraries not already holding the original encyclopedia in their reference collections.


Reviewer Donald L. Fixico is Distinguished Foundation Professor of History at Arizona State University. He edited the three-volume Treaties with American Indians: An Encyclopedia of Rights, Conflicts and Sovereignty (2008).

This well-written book is one of the few national studies of state laws addressing American Indians and state governments. Deborah Rosen divides her discussion of sovereignty, race, and citizenship into three
parts. The appendixes include seven examples of how state laws affect native people and non-Indians. Two tables address state laws affecting Indians from 1790 to 1880 and state constitutions and suffrage status from 1787 to 1880. The year 1790 marked the formation of a federal Indian policy under a new U.S. government, and the author contends that 1880 is when the government assumed direct rule over an estimated 250,000 American Indians forced to live on nearly 200 reservations at that date.

The goal of this major study is to examine state laws affecting the status and rights of American Indians residing in states and territories from 1790 to 1880. The author analyzes policymaking and judicial decisions made at the local level. She begins this impressive study with an introduction to the earliest European laws regulating Indian life in the Americas. Starting with the Spanish presence in America during the early 1500s, the colonial foundation and development of Indian policy is summarized in detail. Following the introduction, Rosen addresses tribal and state sovereignty and tackles the complex issue of race and slavery. She concludes with chapters explaining how state and territorial governments regulated Indian life, even in courts. In addition, she includes how native people contested the courts and laws over them with their assertions of tribal sovereignty.

Sovereignty remains vital to the existence and future of 562 federally recognized tribes whose current 291 reservations on trust lands are within state boundaries. Rosen makes an argument for both tribal sovereignty and state sovereignty while demonstrating how they overlap in the interests of their governments. According to Rosen, laws determined the rights and governed the treatment of racial groups, including white Americans, Native Americans, and African Americans. Rosen argues that slavery and racial classification led to racial discrimination and to the involvement of courts in interpreting laws governing the three groups. Such issues and legal interpretation by the courts affected the development of states and citizenship for all three groups. Rosen’s thorough discussions of the Mashpee tribe in Massachusetts and the pueblo communities in New Mexico demonstrate the political complexity of state citizenship. Tribal citizenship and tribal enrollment are not concerns in this book.

Rosen has conceived a challenging book that sorts out the roles of federal Indian policy and trust responsibilities while demonstrating how colonial Indian policy developed into a legal history of state-Indian relations. Individuals versed in federal Indian law will note the significance of Rosen’s efforts to trace the evolution of state laws for Indian residents. This is no easy task. The author draws on her experi-
ence of having written an earlier book on courts, gender, and law in colonial New York. She has also coedited three volumes of early American Indian documents involving U.S.-Indian treaties.

In producing such a major study, Rosen has used appropriate research sources with a balance of legal documents consisting of numerous court cases and laws. The primary research is enhanced by an extensive use of secondary sources. The bibliography will help readers interested in following up on specific topics.

People in states with native populations on reservations will find this book pertinent to the understanding of state-tribal relations. Rosen dissolves the mystery of Indian treaties, taxation, and defining Indian land as she explains the legal complexity of each of these important issues. Readers interested in the history of Iowa and the Midwest will learn about the long treaty history leading to land cessions by tribes to the United States for white settlement. For those with questions about Indian gaming, the legal authority originating from treaties and trust lands for tribal casinos is found in the lengthy federal Indian policy that Rosen writes about, although Rosen does not specifically discuss Indian gaming.

Rosen has made an impressive contribution to the fields of Indian law and U.S.-Indian history. Scholars such as Laurence Hauptman, Jean O’Brien, and Brad Asher have written insightful state-tribal histories. Rosen’s work takes the next big step by developing the larger picture of the historical and legal development of state and territorial laws affecting native people. Her timely and important book will help readers understand the evolving state-tribal relations in the early twenty-first century.

**Writing the Trail: Five Women’s Frontier Narratives**, by Deborah Lawrence. Iowa City: University of Iowa Press, 2006. ix, 158 pp. Illustrations, maps, notes, bibliography, index. $29.95 cloth.

Reviewer Gayle R. Davis is provost and vice president for academic affairs at Grand Valley State University. Her list of publications includes “Women’s Frontier Diaries: Writing for Good Reason” (*Women’s Studies*, 1987).

In *Writing the Trail*, Deborah Lawrence analyzes five frontier narratives, each written by different women who traveled pioneer trails of the United States between 1846 and 1870. Taken together, the narratives signal the variety and strength of women’s frontier writing, an underutilized but valuable literary category that Lawrence believes has a place in the academic canons of U.S. literature and history. She claims