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*Federal law, case books, land tenure, territoriality, & sovereignty;
selective documentary studies*

Law and Administration:

Federal Indian law establishes and sustains a unique relationship between the federal government and American Indians – recognized as well as unrecognized tribes, individual Indians and families, --but includes legal relationships between tribes and states or their local civil divisions, and between the federal and state governments. It consists of treaties, statutes, case laws, and executive orders.

William C. Canby, Jr., (1981) *American Indian Law in a nutshell* (St. Paul: West). Felix S. Cohen, *Handbook of Federal Indian Law* (Wash., D. C., 1941). The first treatise on federal Indian law by its leading exponent. Various reprinted editions exist.

David H. Getches, Charles F. Wilkinson, and Robert A. Williams, (1998), *Cases and Materials on Federal Indian Law*, 4th ed. (St. Paul: West). This edition includes a section on law relating to indigenous peoples elsewhere.

Stephen L. Pevar, (1992) *The Rights of Indians and Tribes: the Basic ACLU Guide to Indian and Tribal Rights*, 2nd ed. (Carbondale: So. Illinois Univ. Press). A 3rd ed. (2002) is much expanded.

Monroe E. Price, (1973) *Law and the American Indian: Readings, Notes and Cases* (Indianapolis: Bobbs-Merrill). A first case book on Indian law since the publication of Cohen, 1941 and later editions.

Treaties:

The vast number of treaties between the U. S. government and the tribes (historically also identified as nations) focus on territory and thus deal with the cession of tribal lands. Lands ceded by this means (or by statute and agreements of various kinds) constitute *recognized* title.

Vine Deloria, Jr. and David E. Wilkins, (1999) *Tribes, Treaties & Constitutional Tribulations* (Austin: Univ. of Texas Press).

Francis Paul Prucha, (1994) *American Indian Treaties: the History of a Political Anomaly* (Berkeley and Los Angeles: University of California Press).

Legal Discussions:

Russel Lawrence Barsh and James Youngblood Henderson, (1980) *The Road: Indian Tribes and Political Liberty* (Berkeley and Los Angeles: Univ. of California Press).

Vine Deloria, Jr. and Clifford M. Lytle, (1983) *American Indians, American Justice* (Austin: Univ. of Texas Press).

Allison M. Dussais, (1993) "Geographically-Based and Member-Based Views of Indian Tribal Sovereignty: the Supreme Court's Changing Vision," *University of Pittsburgh Law Review*, 55: 1-97.

N. Bruce Duthu, ed., (1996) "Symposium: Stewards of the Land: Indian Tribes, the Environment, and the Law," *Vermont Law Review*, 21:1.

National Lawyers Guild, (1982) *Rethinking Indian Law* (NY: NLG, Comm. On Native America Struggles).

Charles F. Wilkinson, (1987) *American Indians, Time and the Law* (New Haven: Yale Univ. Press).

John R. Wunder, (1994) *'Retained by the People': A History of American Indians and the Bill of Rights* (NY/Oxford: Oxford Univ. Press).

Land Tenure, general:

Studies of Indian land tenure have been undertaken by members of all of the social sciences and others, as in government service. The literature is vast, and only key studies are included here. Researchers should keep in mind Indian land tenure is an amalgam of traditional systems and Euro-American imposed land institutions.

J. P. Kinney, (1937) *A Continent Lost, a Civilization Won: Indian Land Tenure in America* (Baltimore: John Hopkins Univ. Press).

Imre Sutton, (1975) *Indian Land Tenure: Bibliographical Essays and a Guide to the Literature* (N.Y: Clearwater Publ.). (Contains approximately 1000 citations most of which appear in various discussion.)

Selective Documentary Studies:

Government and government-sponsored studies offer useful data and interpretations for researchers. Most studies include some discussion of land tenure, resource management, and related matters pertaining to reservations and tribal lifeways. Of these, the so-called Meriam Report (1928) recommended sweeping changes, many of which were embodied in the *Indian Reorganization Act, 1934* as part of the New Deal.

William Brophy and Sophie Aberle, (1966) *The Indian: America's Unfinished Business* (Norman: University of Oklahoma Press).

Lewis Meriam et al, (1928)*The Problem of Indian Administration: Studies in Administration* 17 (Baltimore: Brookings Institution for Government Research).

U. S. Congress, House, (1953) *Report with Respect to the House Resolution...to Conduct an Investigation of the Bureau of Indian Affairs, H. R. 2503* (Wash., D. C.: GPO).

Other tenurial correlations to tribal sovereignty

In this section as well as the last, there are discussions of sovereignty as related to the meaning of Indian Country, the presence of non-Indians living on fee lands within the external boundaries of reservations, and such matters as easements (for roads, rails, power lines, etc.). Miller (2002) provides a current legal interpretation of easements and the diminishment of tribal sovereignty, indicating that the courts interpret easements as fee simple lands not subject to tribal jurisdiction in terms of taxation, etc. Other questions relate to the extent of tribal sovereignty over some lands no longer or never held in trust (See chapter 7). There are many other studies that explore easements and rights-of-way, though they may not deal with issues of tenure or territoriality.

Todd Miller,(2002)“Easements on Tribal Sovereignty,” (comment), *American Indian Law Review*, 26:1: 105-131.
