2.

Federal law, case books, land tenure, territorially, & 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.


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.


Legal Discussions:


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.


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.
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.