Sovereignty, Colonialism and the Indigenous Nations: A Reader
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This book is for my wife, Odie,
for encouraging my work and for her love.
# Contents

The Purpose of This Book xix

Acknowledgments xxiii

**PART I**  CONCEPTIONS OF INDIGENOUS SOVEREIGNTY 3

Chapter 1  Indigenous Voices within the United States 7

A. Indigenous Governments and Organizations 7

1. Indians of All Nations, *The Alcatraz Proclamation to the Great White Father and His People*, November 20, 1969 7

2. *Constitution of the Ute Indian Tribe*, January 19, 1937 9


8. Oneida Indian Nation of New York, *Sovereignty Statement* 27


B. Indigenous Leaders 30


3. Nancy Bear, *First Annual Kickapoo Summit* 38

5. Ronnie Lupe, Arizona Tribes Experiencing Long-Awaited Self-Sufficiency and Political Prowess 42
6. Russell Means, For America to Live, Europe Must Die 44

C. Indigenous Scholars and Commentators 52
1. Vine Deloria, Jr., Self-Determination and the Concept of Sovereignty 52
3. Frank John King III, The Myths Surrounding the Term “Sovereign” 58
4. Robert A. Fairbanks, Native American Sovereignty and Treaty Rights: Are They Historical Illusions? 60
5. William J. Lawrence, Testimony before the Committee on Indian Affairs, United States Senate Concerning S. 1691 “The American Indian Equal Justice Act” 65

Chapter 2  Indigenous Voices within Other States 73

A. Canada 73
1. Ojibway-Cree Nation of Treaty No. 9, Declaration of Nishnawbe-Aski (The People and the land) to the People of Canada, July 6, 1977 73
2. General Assembly of The Chilcotin Nation, A Declaration of Sovereignty, December 10th, 1983 76
3. Phil Fontaine, Opening Remarks to the Confederation of Nations 79
4. Matthew Coon Come, A Message Regarding the Rights of the Crees and Other Aboriginal Peoples in Canada 86
5. Assembly of First Nations, Resolution No. 4/89 — The Establishment of a Civil Disobedience Fund, March 22, 1989 87

B. Latin America 90
1. U’wa Council, The U’wa People, October 29, 1996 90
2. U’wa, News Report: Tribe Threatens Mass Suicide to Protest Oil Exploration, February 1, 1997 92
3. Miskito, Sumo, and Rama Peoples, Declaration, September, 1985 92
Contents

C. Australia and New Zealand 94

1. Foundation for Aboriginal and Islander Research Action, *Background*, April 5, 1977 94

2. Foundation for Aboriginal and Islander Research Action, *Charter*, April 5, 1977 95


4. People of Whaingaroa (Maori), *The Declaration of Independence of Whaingaroa*, February 11, 1996 97


Chapter 3 Indigenous Voices: The Haudenosaunee 101


2. G. Peter Jemison, *Sovereignty and Treaty Rights—We Remember* 105

3. Ray Halbritter with Steven Paul McSloy, *Empowerment or Dependence? The Practical Value and Meaning of Native American Sovereignty* 107

4. Peter Wilkinson, Renegade Nation: *If Smuggling and Gambling Are the Mohawks’ Future, so Is the Outlaw Tony Laughing* 113


6. Oren Lyons and John Mohawk, *Sovereignty and Common Sense* 126

7. Michael Beebe, *Smuggling Smokes; Canada Scheme First Criminal Blot for Big Tobacco* 128

8. John O’Brien, *Hundreds Enter through Reservation, Officials Say* 131


10. Carl Fogelberg, *Oneida Nation Vet Proud to Carry U.S. Flag* 133

11. Audrey Shenandoah and Mike McAndrew, *Clan Mother: It’s Not a Land Claim, It’s Land Rights* 134

12. Wendy Gonyea, *Haudenosaunee Are Humans, Not “The Indian Problem”* 136


Chapter 4 The Colonial Perspective 141

A. Great Britain 141
1. King Charles, *The Charter of the Colony of the Massachusetts Bay in New England*, 1629 141
2. King George III, *The Royal Proclamation of 1763* 142

**B. United States**

7. U.S. Supreme Court, *United States v. Kagama*, 118 U.S. 375 (1886) 164

**C. Canada**

1. Supreme Court of Canada, *St. Catherines Milling and Lumber Company v. The Queen*, 14 A.C. 46 (1888) 190
D. Australia 214

1. Parliament of Australia, Aboriginal Councils and Associations Act of 1976 214


Chapter 5 The International Perspective 225


3. Will Kymlicka, Theorizing Indigenous Rights 227

4. Dr. Richard Griggs, Background on the Term “Fourth World” 229

PART II THREATS TO INDIGENOUS SOVEREIGNTY 231

Chapter 6 Greed 233

1. Jerry Mander, The Imminent Theft of Alaska 233


3. U.S. Senator Frank Murkowski, Amendment to Bill S. 1415, To ensure Tobacco Product Retail Price Uniformity Whether the Seller or Buyer is Indian or Non-Indian, 105th Congress, 2d Session, 1998 242

4. Joanna Kakissis and Pat Doyle, Congress Considers Indian Casino Tax; Tribal Leaders Say House Proposal Is an Insult to Their Sovereignty 243

5. Michael Wines, Is Trump Betting against American Indian Casinos? 244

6. David Lightman, Indian Casino Taxes Rejected Vote Appears End of Issue This Year 246

7. Associated Press/Indian Country Communications, Oneida Signs Casino Compact 247

Chapter 7 Fear 251


2. U.S. Senate, Debate on Tribal Sovereign Immunity Amendments to Interior Appropriations Bill proposed by Senator Slade Gorton (R-WA), Congressional Record, September 1997 251
Chapter 8  Animosity

1. U.S. Senate Committee on Indian Affairs, Press Release: Campbell Calls for Federal Investigation of “Indian Hunting Season” Flier

2. “Indian Hunting Season” Flier


4. Bud Grant, Why We Oppose Tribal Hunting and Fishing Claims

5. Hart Seely and Michelle Breidenbach, Uncivil Civil Claim; Hate Mail, Name-Calling: Threats Fly As Indians Sue

6. Editorial Board, Foes See Land Claim As a Hoax without Any Sound Legal Basis

7. David L. Shaw, Claim Foes Take Message to Motorists/State Police Tell Protesters to Remove Slogan-Bearing Signs Lining a Seneca Falls Road

8. Editorial, Let Calm Prevail; Idle Talk of Guns and Fighting Cannot Serve Resolution of Land Claims

9. Julie Titone, Resolution Would End Tribal Sovereignty; If Indians Don’t Like It, Send in Troops, GOP Delegate Says

10. Jim Camden and Julie Titone, Anti-Sovereignty Resolution Draws Fire; Some Call GOP Action Racist; Others Say It’s Simply Misguided

11. Editorial, GOP Backtracks on Resolution on Tribal Sovereignty

12. Don Benton, GOP Resolution Intends to Re-Assert Constitutional Rights, Not End Tribal Governments


15. Larry Greene, Sovereignty—Indian Recognition As a Racist Idea

16. Lana Marcussen, American Indians, Citizens or Slaves?

17. T. David Price, Re-Defining the Indian Problem

### Chapter 9  Paternalism

3. Kevin Gover, *Statement before the Senate Committee on Indian Affairs Oversight Hearing on the Bureau of Indian Affairs Capacity and Mission*, April 28, 1999 321
4. United States Senate, *Debate on Tribal Priority Allocation Amendments to Interior Appropriations Bill*, Congressional Record S9389, September, 16, 1997 328
7. U.S. Circuit Court of Appeals, *Moapa Band of Paiute Indians v. United States Department of Interior*, 747 F.2d 563 (9th Cir. 1984) 351

### Chapter 10  Assimilation

A. Foundations of the Assimilation Agenda

5. Thomas J. Morgan, *Statement on Indian Policy*, October 1, 1889 381

B. Cultural Assimilation 382

6. United Methodist Church, *Confession to Native Americans*, 1992 398
7. Anglican Church of Canada, *Apology to Aboriginal Peoples*, August 8, 1993 399
10. Allison M. Dussias, *Ghost Dance and Holy Ghost: The Echoes of Nineteenth-Century Christianization Policy in Twentieth-Century Native American Free Exercise Cases* 403

C. Economic Assimilation 411

4. Naomi Mezey, *The Distribution of Wealth, Sovereignty, and Culture through Indian Gaming* 414

D. Political Assimilation 426

1. Thomas J. Morgan, *Inculcation of Patriotism in Indian Schools* 426
2. U.S. Secretary of the Interior, *Procedure for Becoming an American Citizen* 428
Chapter 11  Equality

4. U.S. Supreme Court, Rice v. Cayetano, 528 U.S. 495 (2000), with concurring opinion of Associate Justices Breyer and Souter, and dissenting opinion of Associate Justice Ginsburg 455
5. Karen Lincoln Michel, Working the System: Profile of Frank LaMere, Democratic Party Activist 466
6. Michelle Breidenbach, Sherrill, Oneidas Face Off in Court over Taxes, Land the Little City That Said No; Sherrill First to Try to Evict Oneidas 470

Chapter 12  Self-Destruction

1. M.C. Burns, Mothers of the Nation: Onondaga Women Say They Battle Loss of Values 473
2. U.S. Court of Appeals, Poodry v. Tonawanda Band of Seneca Indians, 85 F.3d 874 (2d Cir. 1996), with dissenting opinion of Circuit Judge Jacobs 475
3. Pat Doyle, Tribal Policies Prompt Questions: Congress to Look at Mdwakanton Casino 486
4. Jim Gogek, A Flawed Deal-Gaming Compact Continues Mistreatment of Indian Tribes 488
6. Mark Henry, Gaming Tribes Split on Issue of Sovereignty 491
7. James P. Sweeney, Tribes, Governor Sign Compacts, Legislature Ratifies Gaming Agreements; Voters to Decide Constitutional Amendment 494
PART III  THE REALIZATION, PROTECTION, AND STRENGTHENING OF INDIGENOUS SOVEREIGNTY  503

Chapter 13  The Redevelopment of Indigenous Governance  505

1. Jerry Mander, The Imperative to Destroy Traditional Indian Governments: The Case of the Hopi and Navajo  505
2. U.S. Court of Appeals, Fletcher v. United States, 116 F.3d 1315 (10th Cir. 1997)  514

Chapter 14  The Redevelopment of Indigenous Law  535

1. James W. Zion and Robert Yazzie, Indigenous Law in North America in the Wake of Conquest  535
2. Raymond D. Austin, Incorporating Tribal Customs and Traditions into Tribal Court Decisions, Federal Bar Association 1992 Indian Law Conference  546
3. Christine Zuni Cruz, Tribal Law As Indigenous Social Reality and Separate Consciousness: [Re]Incorporating Customs and Traditions into Tribal Law  547

Chapter 15  The Redevelopment of Indigenous Dispute Resolution Process  557

3. Colleen Ziwicki, Circle of Justice Is National Role Model  579

Chapter 16  The Redevelopment of Indigenous Economies  583

1. John C. Mohawk, Indian Economic Development: An Evolving Concept of Sovereignty  583
2. Frank Pommersheim, Economic Development in Indian Country: What Are the Questions?  588
3. Stephen Cornell and Joseph P. Kalt, Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations  596
5. Associated Press, Native Corporation Lobbies against Monument Idea  614
### Chapter 17  The Redevelopment of Indigenous Culture and Identity

1. Rosemarie Ostler, *Disappearing Languages*  
2. Associated Press, *Utes Speak Little of the Ute Language*  
3. Mark Shaffer, *Indians’ Languages Near Extinction*  
5. Dean Chavers, *Tribes Need to Take over Education, Now*  
6. Ron Selden, *Immersion Programs Ensure Cultural Survival*  
7. Raymond Cross, *American Indian Education: The Terror of History and the Nation’s Debt to the Indian Peoples*  
9. Doug George-Kanentiio, *Traditions Survive against the Odds*

### Chapter 18  The Redevelopment of Indigenous Advocacy and Political Identity

1. Suzan Shown Harjo, *In Defense of Native Sovereignty; Indian Advocacy in the American Body Politic*  
2. Indian Country Today, *First Indian Woman Judge Makes It Official*  
3. Dwight Hobbes, *The Indian Problem? We Behave Too Well*  
4. Agnes Palazzetti, *Indians Win Sales-Tax Battle Pataki Orders Repeal of Rule on Gas, Cigarette Levy*  
6. Leslie Linthicum, *Roadblock Threat Has Sovereignty under Fire*  
7. Ted Rushton, *President Hale Addresses N.M. Legislature*  
8. Deborah Baker, *Chino Rebukes Hale for Road-Closing ‘Radicalism’*

### Chapter 19  The Development of International Law Protecting the Rights of Indigenous Peoples

3. S. James Anaya, *The Capacity of International Law to Advance Ethnic or Nationality Rights Claims* 681

Chapter 20  The Decolonization of Colonial Indian Control Law and Policy 731

Chapter 21  Final Thoughts 751
2. Jared Diamond, *Easter’s End* 767
4. Deskaheh, *The Last Speech* 776

Index 783
The Purpose of This Book

This book is a set of readings on the subject of American Indian sovereignty that I compiled over the last several years for my courses at the University of Kansas School of Law and Haskell Indian Nations University. The readings are derived from a variety of sources—including articles, books, court cases, legislative acts, policy statements, letters, speeches, and newspaper stories—and reflect a variety of perspectives. Both Indigenous and non-Indigenous authors, governments, and organizations are represented. While in some cases the focus of the readings is historical in nature, most are included to present a contemporary view of Indigenous nations and peoples and the complexity associated with their assertions of sovereignty.

To aid the reader in digesting this varied collection, I have organized the book into three parts reflecting its primary themes. The first part introduces the reader to the competing conceptions of Indigenous nation sovereignty from Indigenous, colonial, and international perspectives. The second part explores the various threats to Indigenous sovereignty from both historical and contemporary perspectives. And the last part focuses on the future status of Indigenous sovereignty.

In preparing this book, I have tried to accomplish several objectives. The primary objective is to remedy what I believe to be an insufficient understanding by both Indigenous and non-Indigenous peoples about the meaning of Indigenous sovereignty. This is such a problem that some have suggested that the use of the term “sovereignty” be abandoned on the grounds that it has taken on so many definitions that it has become meaningless as an analytical tool. While I can see that the use of the term “sovereignty” is often confusing when used in practice, I remain convinced that “sovereignty” has a core meaning to both Indigenous and non-Indigenous peoples who use it. A short anecdote illustrates this point:

A few years ago, a story was related to me about an Indian man who had heard about the events taking place within my own Seneca Nation. At the time, the Governor of the State of New York was attempting to force the tribal and private businesses to collect State sales taxes on the cigarette and gasoline sales to non-Indians that were occurring within our territories in Western New York State. Foremost, this effort constituted an embargo prohibiting the introduction of cigarettes and gasoline into Seneca territory for purposes of resale. This embargo was met with tremendous resistance by the Seneca People. Senecas not only refused to collect the tax, but businesses were shut down in response. Hundreds mobilized, lighting highly disruptive tire fires and blocking the interstate highways running through Seneca territory. After six weeks of episodic conflict with the State Police, the Governor ended
the embargo, pledged to “respect Seneca Nation sovereignty,” and withdrew his taxation plan and his troopers. This Indian said that he was impressed by what the Senecas had done, but with resignation expressed that he knew his people would never take such action if they came under a similar siege. After all, he said, “the government tamed us a long time ago.”

This comment spoke volumes to me. Certainly it was a sorrowful admission of how weakened his nation had become. But it also reflected a greater problem that has afflicted all Indigenous peoples throughout the world. To express that you have been “tamed” is not simply to just acknowledge that limitations have been placed upon your liberty by a greater power—i.e. to be “caged”—it means that you have internalized this physical limitation to the point that it has become a psychological limitation as well. In short, to say that you are “tamed” is to concede that any hope or desire to be free has been lost. For me, this story highlights that “sovereignty” does have meaning, primarily on the basis that one knows what it means when it is gone. This book, then, seeks to serve as a resource for those seeking a greater understanding of what Indigenous sovereignty is all about.

The second reason I put this book together is to provide an explanation for why Indigenous sovereignty has been undermined and in some cases completely eliminated in the minds of both Indigenous and non-Indigenous peoples. In the Western Hemisphere, this is a story of how Indigenous lands were colonized by European peoples. Given its significance, it is rather amazing to me how little is known about the process by which Europeans colonized Indigenous lands and displaced Indigenous peoples. Amongst the Colonists, there is a widely held view that their forefathers “conquered” the Indigenous nations and otherwise stole our lands “fair and square.” But the details of the journeys made by the first colonists—e.g. Columbus, Coronado, Cortez—are largely lost today. Yes, the interaction between Indigenous peoples and the Colonists was characterized by brutal conflict and considerable loss of Indigenous life. But few today realize that it was European disease, and not warfare, that undermined the vitality of Indigenous societies. Instead the myth of “conquest” war prevailed.

One particular component of the European colonization effort that continues to this day to afflict Indigenous societies has been the effort by the Colonists to exercise control over the remaining Indigenous societies. The surviving Indigenous nations in North America have been a continuous source of obstruction to the development and expansion of Euro-American society. Foremost this obstruction had taken the form of Indigenous control over land and an unwillingness to relinquish it to governmental and entrepreneurial interests. Since disease and warfare failed to eliminate this obstruction—which the Colonists at one point called their “Indian problem”—a more “humane” method of exterminating the Indigenous population was developed. This approach was called assimilation.

This book, then, focuses extensively on the efforts taken by colonizing nations to subordinate and eliminate Indigenous populations through the gradual and forced assimilation of Indigenous peoples into the colonizing society. Foremost, this process is reflected by the efforts to “civilize” Indigenous peoples or, in the words of one of its most famous architects, Colonel Richard Henry
Pratt, the Superintendent of the Carlisle Indian boarding school, to “kill the Indian and save the man.”

This process of assimilation and its impact on Indigenous societies leads to the last major reason for compiling this book—to serve as a preliminary research tool for both Indigenous and non-Indigenous peoples who wish to learn more about the history and future of Indigenous-Colonist relations. I believe that this additional study is necessary because colonialism has inflicted on both Indigenous and colonizing peoples an historical amnesia that has prevented any comprehensive understanding of our history together. This, in my view, is not an accident. Rather, this “colonization amnesia” is a by-product of a process that was designed to ensure that the conception of historical events promoted by the colonizing peoples predominated over the conception of those same events held by the colonized peoples.

In sum, then, this book is an effort to provide some clarification of what Indigenous nation “sovereignty” really means, to explain how it has and is undermined, and to serve as a springboard for further study of the Indigenous-Colonist relationship.

There are two preliminary matters that need to be addressed for purposes of clarification. As to terminology, I utilize the term “Indigenous” in my own original material in this book to describe Indigenous peoples collectively. I also use the term “American Indian” because that remains the primary term by which Indians refer to themselves as a collective group of people, at least in the United States. I do not use the term “Native American” because this term is used primarily by the Colonists as part of a not-so-subtle agenda to include Indigenous peoples into their polity.

And lastly, a note about editing. The materials in this book are heavily edited to allow for a more condensed presentation of the material. In addition, almost all citations and footnotes have been eliminated except where helpful to highlight a particular point or to provide a necessary reference point. All effort has been given to ensure that textual changes have not distorted the author’s original meaning. Nonetheless, the materials in this volume should not be cited or referenced for research purposes. Readers are advised to locate the original source for purposes of attribution.

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