

Introduction to Native American & Indigenous Studies

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Agenda

Introduction to Native American & Indigenous Studies

Week 1 - Keywords: Indigeneity/Indigenous, Native

Week 2 - Keyword: Land

Week 3 - Keyword: Sovereignty

Week 4 - Keywords: Nation, nationhood

Week 5 - Keywords: blood, tradition

Week 6 - Keywords: colonialism, decolonization

Week 7 - Keyword: Survivance

Week 8 - Keyword: Knowledge

Week 9 - Keywords: Literature, Art

Week 10 - Keywords: Queer, 2-Spirit or, previously (derogatory), berdache

Week 11 - Keyword: Resistance

Week 12 - Keyword: Race



American Gothic - Apache (1994), left; **Hopi Maidens**, above
David P. Bradley (Ojibwe)

Why sovereignty matters

- "Sovereignty" has served as a rallying cry for what Native nations want and what Native scholarship should support. What sovereignty is, however, remains highly contested. Furthermore, demands for Native sovereignty exist within a larger global context in which the term sovereignty has a prior history within Western jurisprudence. Questions approaching this, therefore, seem to be something like:
 - Is Native sovereignty the same sovereignty articulated within Western political discourse?
 - If not, can Native peoples rearticulate sovereignty given its ideological baggage?
 - And what is the scope of sovereignty?
 - Does it apply only to territorial governance, or is it relevant to other aspects of indigenous politics as well?
- In "Self-Determination and the Concept of Sovereignty," Lakota scholar Vine Deloria, Jr., writes that sovereignty originated as a theological term within early east Asian and European discourses: "Sovereignty is an ancient idea, once used to describe both the power and arbitrary nature of the deity by peoples in the Near East. Although originally a theological term it was appropriated by European political thinkers in the centuries following the Reformation to characterize the person of the King as head of the state." The king, or the sovereign, was thought to have inherited the authority to rule from God. This "divine right" was understood to be absolute, a power that was accountable only to the god from whom it originated. The power was manifested specifically within the authority of the king to make war and govern domestic affairs (frequently in the name of God). Competing claims of legitimacy and sanction to speak for God and to rule over God's subjects between the church and the king, and between Protestants and Catholics, characterized the early politico-theological debates over sovereignty and who was sovereign.

History of Sovereignty in the Modern Era

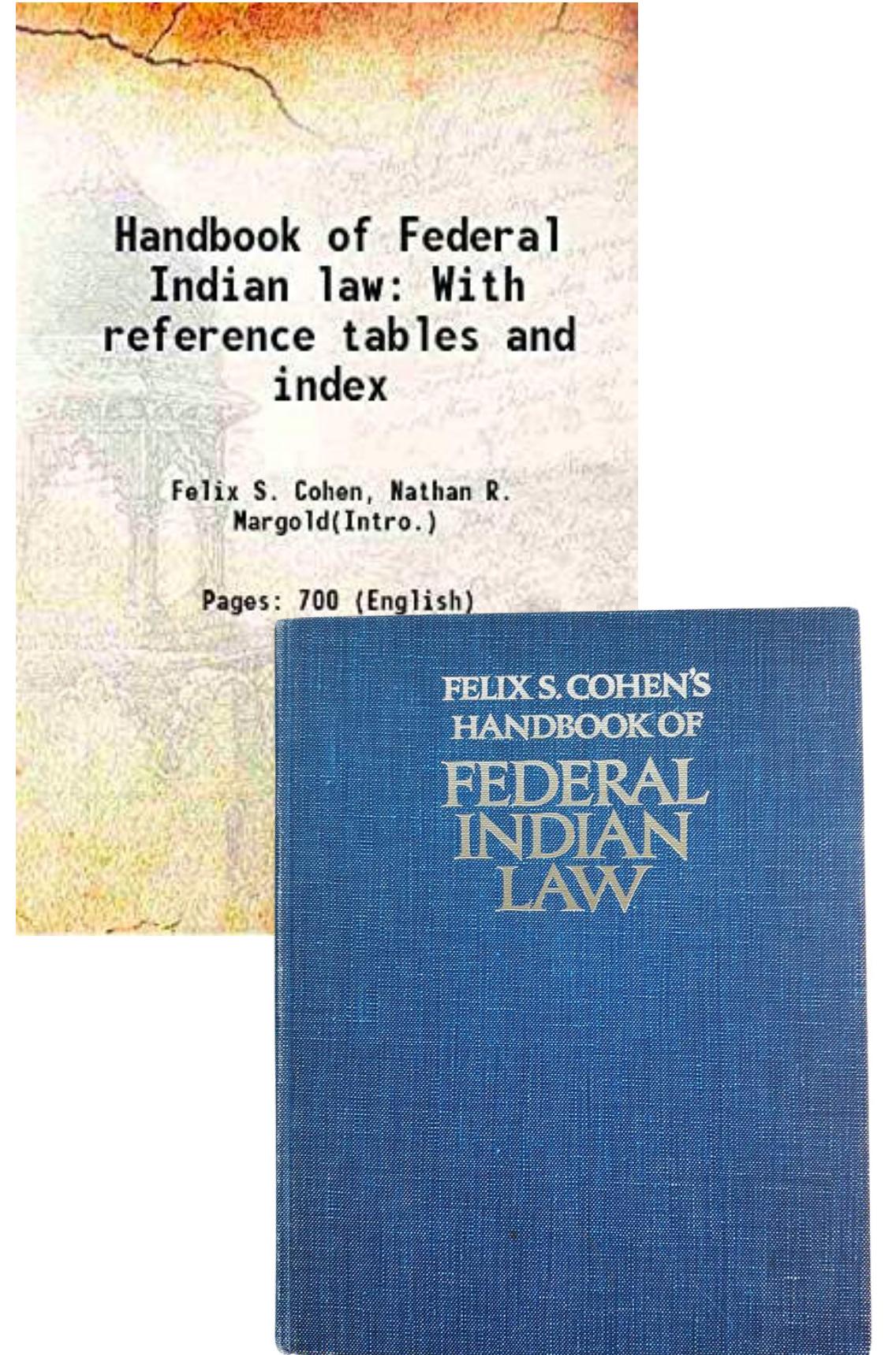
- The powers of the church and the king slowly gave way through various political revolutions against the tyrannies of dogma and kingdoms to the ideologies and structures of the nation. The nation reorganized concepts of social status and responsibility from the obligations of subjects either of the church or of the kingdom to notions of citizenship, civil society, and democracy. In some of the early debates, it was argued that sovereignty emanated from individuals (citizens). Individuals possessed rights to personal freedoms that informed their collective rights to rule themselves as nations. In other debates, sovereignty was linked to the "law of nations."
 - Therein nations were based on the collective rights of individuals to civil society, life, happiness, property, justice, and defense; nations held rights to be free, independent, and respected as equals in the pursuit of securing the collective rights of their citizens.
- In both kinds of debates, sovereignty was about figuring out the relationship between the rights and obligations of individuals (citizens) and the rights and obligations of nations (states). Sovereignty seemed to belong to nations but was then understood to originate either from the people who made up those nations or as a character of the nation itself (nationhood).
 - The former assertion has defined the work of contemporary indigenous scholars and activists, who have argued that sovereignty emanates from the unique identity and culture of peoples and is therefore an inherent and inalienable right of peoples to the qualities customarily associated with nations.
 - The latter assertion has dominated legal debates over how nations exercise their sovereignty in relation to one another

"The Savage Indian" incapable of sovereignty

- The rights to jurisdiction and territory were modeled on concepts of individual personal freedom and linked to both secular and Christian ideologies about civilization. Unaffiliated individuals, or individuals in kin groups, were believed to live in baser states of nature according to the demands of survival and dictates of instinct.
- Social groups emerged as individuals or kin groups recognized their need for help and took on the responsibilities of aiding one another toward achieving their mutual goals for survival. Nations formed when social groups developed higher aspirations for civil society and government.
- Depending on the theorist, civility was evidenced by the existence of reason, social contract, agriculture, property, technology, Christianity, monogamy, and/or the structures and operations of statehood. These aspects of society or civilization were associated with the possession of sovereignty. Nations possessed the full measure of sovereignty because they were the highest form of civilization; individuals roaming uncultivated lands did not possess either civilization or sovereignty.
- The constitution functioned as a document of nation formation and was used by colonists, rebellions, and commonwealths to assert territorial boundaries and the authority and terms of the nation-so-formed to govern within them. Yet the declarative status of the constitution disguised the fact that the nation so defined was contingent upon it being recognized as legitimate by other already recognized nations. Therefore custom within international law emerged around the treaty as a mechanism for both the exercise of nationhood and the recognition of national sovereignty.
- The concept of sovereignty served the colonists in negating indigenous territorial rights and humanity while justifying the right of conquest by claims to national superiority. The question that follows is whether the sovereignty of indigenous peoples was ever really recognized within international customary or documentary law.

Sovereignty distinguishes Natives

- Within Native studies, many scholars have asserted “sovereignty” as a framework for Native studies that distinguishes Native people from other oppressed groups, whose status might be discussed using terms such as civil rights, citizenship, or minority. In contrast, Native people have a distinct legal history with the U.S. court system that centers on sovereignty between the United States and Native nations rather than the subordination of Native people within the United States.
- Felix Cohen helped systematize the principles of tribal sovereignty in federal Indian law in his (1941) *Handbook of Federal Indian Law*:
 - The whole course of judicial decision on the nature of Indian tribal powers is marked by adherence to three fundamental principles: (1) An Indian tribe possesses, in the first instance, all the powers of any sovereign state. (2) Congress renders the tribe subject to the legislative power of the United States and, in substance, terminates the external powers of sovereignty of the tribe. . . . (3) Those powers are subject to qualification by treaties and by express legislation by Congress, but save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian tribes and in their duly constituted organs of government



Sovereignty in CES

- Because of the distinct legal status of Native peoples in the United States, many Native scholars argue that Native studies should concern itself primarily with the defense of Native sovereignty. According to Elizabeth Cook-Lynn, "The major reason for the development of Native American Studies as a discipline was to defend indigenous nationhood." Because sovereignty is the ultimate political and intellectual focus of Native studies, Native studies should, according to Cook- Lynn, promote sovereignty by centering Native peoples as the scholars of Native studies. Many Native scholars argue that intellectual self- determination would be undermined if Native studies became seriously engaged with other seemingly compatible fields, such as ethnic studies or postcolonial studies.
- Some Native studies scholars have found use in the emerging field of critical ethnic studies, which critiques multiculturalism for its focus on identity formation rather than on the intersecting logics of settler colonialism, white supremacy, and capitalism. These critiques are in alignment with Native scholars' insistence on treating Native peoples as subjects rather than objects of inquiry.
 - Vine Deloria Jr. argues in *We Talk, You Listen* (1970) that the concept of sovereignty could be adopted by other racial minority groups. He critiques the individualist "leadership development" strategies of white supremacy that develop elite classes within communities of color. He further contends that sovereignty is a critical framework that instills a sense of responsibility for the well-being of any group seeking liberation and guards against the rise of individuals who may advance themselves at the expense of the group.

The Marshall Trilogy

- Legal scholar Robert Williams has noted that one of the ironies of Native legal activism is that it depends on the continuation of settler and white supremacist constructions of Native peoples. That is, the assertion of Native sovereignty is not necessarily an oppositional stance in relation to the settler state because the settler state recognizes “limited” forms of Native sovereignty already.
- In the first case of the Marshall trilogy, *Johnson v. McIntosh*, the court contends that Native nations have a right to “occupancy” but not a right to title over their lands.
- Marshall further argued in *Cherokee Nation v. Georgia* that Native nations “have an unquestioned right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our government.” Nonetheless Marshall ruled that Native nations were not foreign nations and were instead “domestic dependent nations.”
- In *Worcester v. Georgia*, the principles of what would eventually become termed the “trust responsibility” between the United States government and Native nations were articulated in Marshall’s descriptions of Native nations as “weak states.”

Cherokee Nation v. Georgia

- In 1830 the state of Georgia passed "an act to prevent the exercise of assumed and arbitrary power by all persons under pretext of authority from the Cherokee Indians, &c." The act sectioned Indian lands into state county districts, set up a process for state citizens to acquire individual parcels by lottery, required non-Indians to possess state permits to reside on Indian lands, declared all Indian laws null and void, outlawed public gatherings of Indians, and forbade the testimony of Indians against whites in court. The immediate impetus for the act was the discovery of gold on Cherokee lands in 1828, but the more foundational purpose was Georgia's aim, quickly followed by Alabama and Mississippi, to gain jurisdictional controls over Indian lands and to dissolve the political and economic clout of the powerful Cherokee.
- With the support of their own multilingual lawyers educated in eastern U.S. universities, and diplomatic teams in Washington dc and London, the Cherokee sought an injunction against Georgia to stop it from applying laws that were obviously intended to "annihilate the Cherokee as a political society and to seize for the use of Georgia the lands of the nation which have been assured to them by the United States in solemn treaties." The request for the injunction went before the Supreme Court. In their arguments the lawyers for the Cherokee maintained that the Cherokee were a sovereign nation and that, as such, Georgia's laws could not be unilaterally enforced upon them.
- Assuming that "Indian tribes" were not foreign nations or state governments, Justice Marshall posited that they were instead "domestic dependent nations" whose relationship to the U.S. federal government, as the juridical power charged with regulating commerce and collateral issues with them, was like that "of a ward to a guardian." These two enumerations—domestic dependent nationhood and the ward/guardian analogy—would set the legal precedence for defining relations between the United States and indigenous peoples.
- Translated in subsequent court decisions and legislative action as the plenary power doctrine and trust or protectorate relationship, Marshall's concepts sought to secure U.S. interests in controlling indigenous peoples and their lands by defining their relationship to the United States as wholly subjected and conquered.

Marshall trilogy since

- One of the other legacies of the Marshall trilogy was the configuration of indigenous peoples as welfare beneficiaries. The notion that indigenous peoples are weaker than, wards, dependent, and limited in power in relation to their colonial states has perpetuated dominant ideologies of race, culture, and identity. Within these identificatory practices, “indigenous people” are marked as yet another ethnic group within the larger national melting pot, where the goal is to boil out cultural differences and the national jurisdictions and territorial boundaries of indigenous groups by boarding schools, farming programs, citizenship, and adoption.
- the making ethnic or ethничization of indigenous peoples has been a political strategy of the nation-state to erase the sovereign from the indigenous. To the extent that the nation-state can maintain that indigenous peoples are nothing but welfare recipients under its trust, the very notion that indigenous peoples are members of sovereign political collectivities is made incomprehensible. This incomprehensibility works to collapse indigenous peoples into minority groups that make up the social rainbow of multicultural difference as a means of erasing their unique political status and rights under the precedence of international law. The erasure of the sovereign is the racialization of the “Indian.” These practices have had important consequences in shaping cultural perspectives about the relationship between indigenous identity and sovereignty, not only from the viewpoint of some dominant, privileged position but within indigenous communities as well.
- On the one hand are all of the myriad social forces of oppression that have racialized (invented) an Indian identity that can be used to usurp indigenous sovereignty. On the other hand are all of the ways that indigenous identity is foundational to the structure, exercise, and character of sovereignty.

Alfred, *Peace Power Righteousness*

- Taiaiake Alfred in *Peace, Power, Righteousness* (1999) argued that sovereignty is an inappropriate term to describe the aspirations of indigenous liberation. He contends that sovereignty is premised on the ability to exercise power through the state by means of coercion and domination. Traditional forms of indigenous governance by contrast are based on different understandings of power. As long as indigenous peoples frame their struggles in terms of sovereignty, Alfred argues, they inevitably find themselves co-opted by oppressive forms of governance that reproduce Western models of statehood.
 - The Native concept of governance is based on . . . the “primacy of conscience.” There is no central or coercive authority and decision- making is collective. Leaders rely on their persuasive abilities to achieve a consensus that respects the autonomy of individuals, each of whom is free to dissent from and remain unaffected by the collective decision. . . . A crucial feature of the indigenous concept of governance is its respect for individual autonomy. This respect precludes the notion of “sovereignty”— the idea that there can be a permanent transference of power or authority from the individual to an abstraction of the collective called “government.” . . . In the indigenous tradition . . . there is no coercion, only the compelling force of conscience based on those inherited and collectively refined principles that structure the society
 - Sovereignty is an exclusionary concept rooted in an adversarial and coercive Western notion of power. . . . It is with indigenous notions of power such as these that contemporary Native nationalism seeks to replace the dividing, alienating, and exploitative notions, based on fear, that drive politics inside and outside Native communities today.

Feminist Routes to Sovereignty

- "While legal discourses are critical to the recognition, maintenance, and building of self-governance and other forms of juridical sovereignty, it is also imperative to be more attentive to the ways Native people exercise sovereignty in the arts. Filmmakers, artists, activists, and writers employ their work to imagine multiple forms of sovereignty and creative expression as well as to provide healthy critiques of legal discourses of sovereignty as they are articulated by both Native nations and settler-colonial states. If we are to imagine a future that takes seriously forms of sovereignty that pose radical, exciting, and therapeutic provocations and alternatives to settler-colonial jurisprudence and fixed representations of Native peoples, we must continue to encourage conversations that maintain spaces for articulations of sovereignty in the arts." (Michelle H. Raheja, "Visual Sovereignty")
- Mohawk scholar Trish Monture writes, "Sovereignty . . . is not about "ownership" of territory in the way that Canadian politicians and lawyers would define those words. We have a Mohawk word that better describes what we mean by sovereignty and the word is "tewatatha:wi." It best translates to "we carry ourselves." . . . What sovereignty is to me is a responsibility. It is the responsibility to carry ourselves; collectively as nations, as clans, as families as well as individually, as individual Mohawk citizens in a good way. In order to be a self-determining nation, you must have self-disciplined individuals. You must have individuals who understand who they are and how to carry themselves."
 - "Monture's words resonate with me. I know that individual and collective sovereignty begins at home because the family—the people we live with, love, and carry with us through our lives—is the microcosm of the nation. Sovereignty for indigenous peoples is not an abstract political concept—it is an intimate, lived concept" (Leanne Betasamosake Simpson)

Next class...

Keywords: Nation, nationhood

- *Native Studies Keywords* pp 157-198
- "Boujee Natives" https://www.youtube.com/watch?v=SSn1C_pLpoQ
- *An Indigenous Peoples' History of the United States*, Roxanne Dunbar-Ortiz (2015 American Book Award Winner), "Ghost Dance Prophecy: A Nation is Coming" pp. 178-197