

INTRODUCTION TO INDIGENOUS LAW SYMPOSIUM TRANSCRIPTS

The Center for Indigenous Law, Governance and Citizenship was established in 2003 at Syracuse University College of Law under the direction of Robert Odawi Porter. The Center has four main goals: (1) To conduct research relating to the citizenship rights and responsibilities of Indigenous peoples in the United States, Canada, and throughout the world; (2) To conduct research relating to the law and governance of Indigenous nations in the United States and Canada; (3) To provide technical assistance to Indigenous nations in the United States and Canada seeking to reform their governing institutions and administrative laws, as well as federal, state, local, and provincial governments seeking to reform their Indian affairs laws; and (4) To promote a greater understanding of the law, governance, and history of the Haudenosaunee (the 'People of the Longhouse').¹ The Center for Indigenous Law sponsored a conference entitled, "Going Home: A Symposium on the Return of Removed Indigenous Peoples." The Symposium was held on November 10, 2003 in Syracuse, New York. Since indigenous law has international legal ramifications and has emerged as a burgeoning area of scholarship, the *Journal* chose to publish the legal commentary given at the Conference.

Common themes and concerns unite the continuing struggles of indigenous peoples around the globe. For example, the voices of indigenous peoples have emerged within the United Nations human rights processes.² In fact, a United Nations working group has drafted a Declaration on the rights of indigenous peoples.³ The struggle for indigenous rights is partly an effort to give recognition to indigenous peoples' vision of history, and rewrite history to substantiate their claims in the jurisprudence of their colonizers.⁴ U.S. Indian law has impacted the foreign and domestic policies of other countries. Aboriginal groups around the world are moving to establish rights to

1. Center for Indigenous Law, Governance and Citizenship, *available at* <http://www.law.syr.edu/academics/academics.asp?what=indigenous> (last visited Mar. 22, 2004).

2. GETCHES, DAVID H., CHARLES F. WILKINSON, AND ROBERT A. WILLIAMS, JR., *CASES AND MATERIALS ON FEDERAL INDIAN LAW* 975 (1998).

3. U.N. Working Group on Indigenous Populations, *Draft United Nations Declaration on the Rights of Indigenous Peoples*, U.N. DOC. E/CN.4/Sub.2/1994/2/Add.1 (1994), *pmb.*, para. 14.

4. See J.G.A. Pocock, *Tangata Whenua and Enlightenment Anthropology*, 6 *N.Z. J. HIST.* 28, 45-49 (1992).

natural resources, sovereignty, and cultural diversity.⁵ Foreign nations often examine doctrine developed in the United States to resolve their internal disputes involving rights of aboriginal peoples.

The United States established a tradition of recognizing tribes as entities capable of entering into treaties and agreements.⁶ U.S. government officials treated tribes as political entities for the purpose of acquiring consent for non-Indians to occupy tribal lands. Throughout their relationship with the U.S. government, tribal leaders have consistently maintained the tribes' identification as sovereign entities. The U.S. Supreme Court has consistently held that tribes retain the powers of sovereignty within Indian country.⁷ Therefore, Indian tribes self-govern and operate to some extent as sovereign nations within the geographic territory of the United States.

Indian law is interconnected with other areas of law such as real property, international law, administrative law, constitutional law, water law, federal jurisdiction, procedure, contracts, criminal law, as well as others.⁸ As countries colonized the "New World," aboriginal inhabitants were viewed as hindrances to unfettered acquisition of land, water, and property.⁹ Another aspect of the complex relationship between the U.S. and tribes is that tribes continue to be ruled by their own laws. Today tribal governments exercise legislative, judicial, and regulatory powers¹⁰ Further, it is clear that the foundation for such authority is their aboriginal sovereignty.

Discussion of indigenous law reflects an effort to redefine a history that has yet to come to terms with the legacies of colonialism, racism, and the human rights vision of indigenous tribal peoples in today's global society.¹¹ Indigenous law reflects centuries of tension between tribal sovereignty and globalization. The following transcripts explore some of the themes and issues that define indigenous law and its peoples.

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5. GETCHES, *supra* note 2, at 6–7.

6. *Id.* at 2.

7. *Id.* at 3.

8. *Id.* at 1.

9. *Id.* at 2.

10. GETCHES, *supra* note 2, at 3.

11. *Id.* at 975.