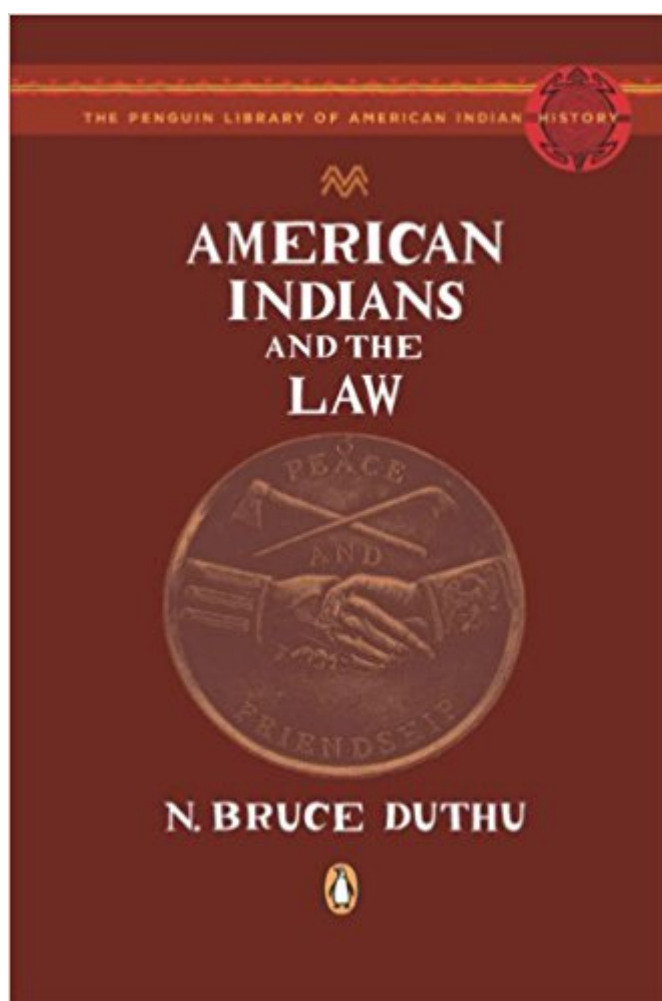


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# American Indians And The Law (The Penguin Library Of American Indian History)



## Synopsis

A perfect introduction to a vital subject very few Americans understand—the constitutional status of American Indians. Few Americans know that Indian tribes have a legal status unique among America's distinct racial and ethnic groups: they are sovereign governments who engage in relations with Congress. This peculiar arrangement has led to frequent legal and political disputes—indeed, the history of American Indians and American law has been one of clashing values and sometimes uneasy compromise. In this clear-sighted account, American Indian scholar N. Bruce Duthu explains the landmark cases in Indian law of the past two centuries. Exploring subjects as diverse as jurisdictional authority, control of environmental resources, and the regulations that allow the operation of gambling casinos, *American Indians and the Law* gives us an accessible entry point into a vital facet of Indian history.

## Book Information

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## Customer Reviews

Hundreds of Native American tribes are classified as sovereign governments, a murky legal status that this study (part of the Penguin Library of American Indian History) struggles to clarify. Duthu, a law professor and member of the Houma tribe, reviews statute and case law on tribal sovereignty, especially recent Supreme Court decisions that are at odds with Congress's modern friendliness toward tribal self-determination. His dense, dry survey explores such topics as tribal jurisdiction over non-Indians living on reservations, tribal natural resources and environmental policy, adoption law for Indian children and the perennial wrangling between tribal and state governments over taxes,

regulation and gambling. Roiling these issues are two conflicts: the clash between tribal sovereignty and congressional power to legislate on Indian affairs, and the tension between tribal group rights and individual rights. Duthu's sympathies are clear: he dismisses critics of special tribal rights as ignorant and castigates infringements of tribal sovereignty as motivated by neocolonialist views of Indians as a dying race; but his focus on legal precedent and convention regarding tribal sovereignty rather than its concrete benefits fails to make a compelling case for the necessity of such sovereignty. Copyright © Reed Business Information, a division of Reed Elsevier Inc. All rights reserved. --This text refers to an out of print or unavailable edition of this title.

“A concise history of the law and a stout defense of tribal rights, useful to the practitioner and, ever rarer, accessible to the general reader.” --Kirkus Reviews “Using numerous legal cases, Duthu, a lawyer and Houma Indian Nation tribal member, demonstrates how Indian sovereignty has affected the way in which the rights of native peoples have been addressed by the legal systems in the United States”; This outstanding overview of the morass that is the legal relationship between Indian nations and the United States is highly recommended for public and academic libraries.” --Library Journal --This text refers to an out of print or unavailable edition of this title.

This book tells the story of how our government, its legislative bodies and Supreme Court, has dealt with the Indian population whose land we claimed by way of "The Discovery Doctrine." The story is not an easy read because it demonstrates our discomfort in living into American ideals, but the clarity with which Bruce Duthu writes invites the reader to stay with it and possibly finds ways to address in our own time the inconsistencies and the damages our government has wrought.

I chose "American Indians and the Law" as a follow-up for another in the Viking/Penguin series ("The Cherokee Nation and the Trail of Tears"). Both are well worth reading. They leave me with the question--is it a comfort or a sorrow to learn that politics have often twisted justice throughout the history of the United States?

The author has presented a very reasonable and well-documented view of the legal challenges faced by Native Americans when trying to maintain their tribal identities and sovereign rights within the restraints of state and federal laws as legislated and as interpreted by the courts, the U.S. Supreme Court in particular. This is a must read for anyone who has an interest in this aspect of our

history and concerns about the future direction this nation may take with regard to the legal status and rights of Native Americans in our democratic society.

I learned that tribal legal status began as sovereign [self-government] that differed from that of other cultural groups predating the establishment of the US. In *Johnson v McIntosh* (1823), the Supreme Court applied the 'discovery doctrine' meaning that American Indians became guests in their ancestral lands. Later in that century, Congress subsumed American Indian sovereignty into the scope of national power. *Johnson v McIntosh* is the most important Indian rights opinion ever issued by any court of law in the United States (73)." Although American Indians became citizens (1924), they remained subject to the authority of Congress. The persistence of racism appears in many Indian cases and policies.

Good

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