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American Indian Politics and the American Political System

THIRD EDITION

David E. Wilkins and Heidi Kiiwetinepinesiik Stark

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Acronyms

AIM	American Indian Movement
ANB/S	Alaska Native Brotherhood and Sisterhood
ANCSA	Alaska Native Claims Settlement Act
BAR	Branch of Acknowledgment and Research
BIA	Bureau of Indian Affairs
CDIB	certificate of degree of Indian blood
CENA	Coalition of Eastern Native Americans
CERT	Council of Energy Resource Tribes
CFR	Code of Federal Regulations
CIA	Committee on Indian Affairs
D.N.A.	Dinébeiiina Nahiilna Be Agaditahe
DOF	Department of Fisheries
EDA	Economic Development Administration
ICRA	Indian Civil Rights Act
IGRA	Indian Gaming Regulatory Act
IIM	individual Indian money accounts
IITC	International Indian Treaty Council
IRA	Indian Reorganization Act of 1934
ITBC	InterTribal Bison Cooperative
NAC	Native American Church
NAGPRA	Native American Graves Protection and Repatriation Act
NAICJA	National American Indian Court Judges Association
NAJA	Native American Journalists Association
NAPT	Native American Public Telecommunications

NARF	Native American Rights Fund
NBC	National Broadcasting Company
NCAI	National Congress of American Indians
NECONA	National Environmental Coalition of Native Americans
NIGC	National Indian Gaming Commission
NIYC	National Indian Youth Council
NTCA	National Tribal Chairmen's Association
NWIFC	Northwest Indian Fisheries Commission
OEO	Office of Economic Opportunity
OFA	Office of Federal Acknowledgment
OPEC	Organization of Petroleum Exporting Countries
RAR	recognition/acknowledgment and restoration
RRM	religious revitalization movements
SRM	social revitalization movements
TFW	Timber-Fish-Wildlife agreement
TTF	tribal trust funds

Preface to the Third Edition

THIS BOOK has been germinating in my heart and mind since the mid-1980s, when I began my academic career as an instructor at Navajo Community College (now Diné College), located within the Navajo Nation reservation. I began my work there teaching a course in Navajo history, about which there was plenty of material—not all of which was particularly good, though there was enough available to craft a solid course.

I soon saw a need to teach courses on Navajo government and contemporary Indian politics. I learned very quickly that, unlike Navajo or Indian history, there were no texts on Navajo government. With the college's support, I was able to write a short text titled *Handbook of Navajo Government*. Material on Indian politics was, fortunately, somewhat less sparse, thanks in large part to the work of Vine Deloria Jr. From his seminal polemic, *Custer Died for Your Sins*, in 1969, Deloria crafted a number of books, including *Behind the Trail of Broken Treaties* (1974), *American Indians, American Justice* (1983, with Clifford Lytle), *The Nations Within: The Past and Future of American Indian Sovereignty* (1984, also with Clifford Lytle), and *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775–1979* (1999, with Raymond J. DeMallie). He was a prolific chronicler of Indian political issues and Indian social, religious, and legal change, and a brilliant and sometimes caustic analyzer of the tribal-federal relationship.

Deloria was trained in law and theology and was a political activist; his eclectic works cut across disciplinary lines. But even with his works, I still saw a need for texts on tribal governments (their forms, functions, and intergovernmental relations), Indians who have three layers of citizenship (tribal, state, and federal), and Indians' distinctive relationship to the American political system. I had considered writing such a textbook for use in my courses at Navajo Community College but instead returned to graduate school in pursuit of a Ph.D. in political science.

When I joined the faculty at the University of Arizona in the fall of 1990, I was dismayed to learn that there was still very little published information by political scientists (or other social scientists) about indigenous governments—about either their internal dynamics or their relations with other governments and organizations, although there had been some improvement.

But, despite the growing quantity and quality of the literature in the aforementioned topical areas, there remains a severe dearth of information written by political scientists for college-age students that examines the state of political affairs in Indian country and between indigenous peoples and the federal and state governments that is written from a perspective that recognizes the sovereignty—the separate political status—of native nations.¹ McCulloch believes this paucity of scholarship can be explained because the very paradigms (i.e., pluralism, elitism, Marxism, and institutionalism) by which most political scientists structure their analyses are unable to cope with the distinctive status of tribal peoples and their governments.

Wilmer, Melody, and Murdock observed in a follow-up article in 1994 that:

[I]n political science we have largely left the study of native peoples and their political systems to sociologists and anthropologists and have, therefore, denied the role that indigenous people have played in the development of the American political system as well as the role they continue to play in the political and economic processes of this country. This neglect has even led us to ignore the existence of tribal governments as autonomous entities in intergovernmental relationships within the American political system.²

Thus I was elated when Paula McClain, Joe Stewart, and Jennifer Knerr approached me in 1997 with the idea of writing a general text about indigenous politics for the “Spectrum Politics” series that Paula and Joe were editing. The publication of such texts on tribal nations is crucial for alleviating prevalent and often pernicious stereotypes about indigenous nations who, despite their ongoing governmental status as separate nations, as landowners, and as holders of important treaty rights, are often inaccurately depicted as small and impoverished minority groups distinguishable from other peoples of color solely by their cultural traits and tribal languages.

This book, now in its third edition, is designed to increase the knowledge of students and other interested readers, increase civic discourse, provide evidence that might aid in interracial and intergovernmental problem solving, and educate readers to the fact that native nations—their lands, governments, and unique rights—are not anachronistic just because of their longevity in the Americas, but are the legitimate and ongoing expressions of the sovereign wills of distinctive peoples who desire to be the determiners of their own fates, although tribal fates are inexorably linked to those of their non-Indian neighbors.

The task before us is no easy one, considering, for instance, the sheer number of indigenous communities populating the United States—565 at last count—each with its own political, economic, social, and cultural systems and differential relationships with the states and the federal government. But my load, now shared with a co-author, Heidi Kiiwetinepinesik Stark, has been lightened considerably by the support we have received from a number of individuals and organizations.

First, we express continued appreciation to Paula McClain and Joe Stewart. Their own individual and coauthored scholarship on racial and ethnic minorities has been a great inspiration and pool of knowledge and has played an important role in prying open views in the discipline of political science about the status of minorities in America.

Jennifer Knerr, then acquisitions editor at Rowman & Littlefield, was the key contact person initially. Jennifer's role is now occupied by Niels Aaboe, who reached out to us for this third edition.

A number of colleagues, good friends all, read early drafts of the proposal and gave outstanding comments and suggestions as I wrestled with how to prepare a book outline that adequately covered within a limited space the politics of so many indigenous groups and their political dance with one another, the states, and the United States. Tsianina Lomawaima (Creek), professor of American Indian studies at the University of Arizona; John Garcia and David Gibbs, professors of political science at Arizona; Jim White, a professor of political science at the University of North Carolina, Chapel Hill; and Franke Wilmer, professor of political science at Montana State University all provided keen insights and suggestions on what to add, what to cut, and what to merge. Their combined comments helped with the general thematic framework the book still loosely follows.

The first edition was written while Wilkins was a fellow at the Udall Center for Public Policy at the University of Arizona in the fall of 1998. He owes a debt of gratitude to Stephen Cornell, the director; Bob Varady, the associate director; the other fellows; and the excellent staff, many of whom were graduate students, for providing an environment that enabled him to get the first edition published. The second edition was called for because the book at least partially filled a niche in scholarship about indigenous politics since, as one reviewer said, it was the "first general study of contemporary Indians in the U.S. from the disciplinary standpoint of political science."

More importantly, although written broadly from a political science perspective, I sought, heeding the good counsel of my friend and mentor, Vine Deloria Jr., to write from an even broader interdisciplinary perspective that incorporated history, law, culture, economics, and communication, among others. Thus, students and faculty alike generally agreed that the first edition was a comprehensive yet concise work that addressed the critical and often complicated political issues in a way that helped them gain a deeper understanding of tribal governments and their internal and external political and diplomatic relationships with local, state, and federal governments.

Readers also welcomed the various appendices—especially the time line, Internet sources, federal laws, and so forth—and the short case histories of specific First Nations or particular issues that added detail and realism to otherwise abstract topics.

The second edition also benefited from the insights and suggestions of a number of additional individuals, tribal nations, and institutions. Thanks especially to the late Vine Deloria Jr., Patricia Albers, Deron Marquez, and the many students and faculty colleagues with whom I had the pleasure of working.

When Niels Aaboe contacted me in the summer of 2009 about doing a third edition, I was thrilled with the opportunity to update the study. Niels said the book was still selling well—thanks to all those who have adopted it for their courses and the suggestions offered on how to improve it—but given the dynamic pace and ever-volatile nature of indigenous politics, he encouraged me to revise it again.

The most important structural and perceptual change for this edition is the addition of a coauthor, Heidi Kiiwetinepinesiiik Stark, a talented Anishinaabe scholar, who brings youth, knowledge, and a much-needed female perspective that will deepen and broaden the book in fundamentally important ways. I was elated when she agreed to join me in this enterprise.

And, of course, native politics has witnessed several major developments that are covered in the third edition: President Obama's election and the attendant changes he has wrought in native politics and the intergovernmental relationship; the tentative settlement of the landmark *Cobell* litigation that has been a persistent stain on the national character; the appointment of Associate Justice Sonia Sotomayor to the U.S. Supreme Court, and the implications of her decisions in federal Indian law, among other things.

This new edition features discussion of these important developments, but also contains a more developed perspective on native women's issues, updated photographs and tables, and new appendices as well.

The authors express their appreciation to Niels Aaboe for his patience and ongoing support of the project and Elisa Weeks, editorial assistant, who helped throughout this third edition.

Wilkins thanks his mother, Thedis R. Wilkins, his siblings and Lumbee relatives, his Diné in-laws, and close friends George Whitewolf (Monacan/Sioux), Danny Bell (Coharie), and June Lowery (Lumbee) who fight to remind their respective native governments and the federal and state governments that they must be accountable to the people. Last, he thanks his wife, Evelyn, and their three children, Sion, Niltooli, and Nazhone.

Stark, first and foremost, thanks her coauthor for his generous invitation to contribute to this third edition and for his unwavering support and guidance over the years. She also expresses her gratitude to the faculty, staff, and fellows at the Institute for Advanced Study who not only provided a much-needed release from teaching, but also created a welcoming and supportive working environment. Special thanks to Ann Waltner, Susannah Smith, Phyllis Messenger, Karen Kinoshita, and Angie Hoffmann-Walter, to the Ford Foundation for the Diversity Postdoctoral Fellowship received, especially Christine O'Brien and Pamela Tyler for their continued support, and Elizabeth M. Fandry for her assistance typing and formatting several of the charts and appendices. She also thanks her colleagues in the department of American Indians Studies, interim dean Olaf Kuhlke, associate dean Gerald Pepper, and close friends Jill Doerfler and Nalo Johnson. Last, she thanks her family, especially niizhote Jodi Drews and nisaye Kekek Jason Stark.

The trek continues.

Note on Terminology

THROUGHOUT THE book several terms are used interchangeably in referring to indigenous peoples in a collective sense—*tribal nations*, *tribes*, *Alaskan Natives*, *native nations*, *indigenous nations*, and *indigenous peoples*. But when we refer to individual indigenous persons, we generally use only *Indian* or *American Indian*. Of all the terms most used, *Indian* is easily the most problematic (though some argue that the term *tribe* is pejorative and hints strongly of colonialism), and we use it with some hesitation for two reasons: first, because of its obvious geographical inaccuracy, and second, because it erroneously generalizes and completely ignores the cultural diversity evident in the hundreds of distinctive indigenous nations in North America, each with its own name for itself. One could thus argue that continued usage of the term attests to surviving vestiges of colonialism.

Nevertheless, the terms *Indian* and *American Indian* remain the most common appellations used by indigenous and nonindigenous persons and institutions, and so it is frequently used in the text when no tribal name is specified. We have, moreover, intentionally avoided using the phrase *Native American*, despite that term's popularity among mainstream academics in recent decades, since it creates more confusion than the one it purports to replace, as it can be applied literally to any person born in the Americas. The expressions *native peoples* and *native nations* are less confusing, and these terms and the intriguing phrase *First Nations*, which are all popular in Canada and among some Alaskan indigenous groups, are just catching on in the United States among indigenous nations or policymakers.

What complicates matters, of course, is that there is no single term that is acceptable by all indigenous people all the time, and even people within specific native communities sometimes disagree vigorously on which name they prefer (e.g., Navajo or Diné; Chipewewa, Ojibwe, or Anishinabe; Iroquois or Haudenosaunee), and on whether they would rather be identified as tribal communities (which emphasizes their kinship affiliation) or as national entities (which, while not discounting kinship ties, tends to place greater emphasis on an independent political character and a right to engage in diplomatic relations with other nations or states, like the United States or other polities).

Of course, federal law and policy have vacillated on these terms as well. But we shall see that despite assimilative efforts, federal lawmakers continue to recognize the sovereign character of indigenous communities regardless of whether they are called *tribes*, *nations*, or *peoples*.

Timeline of American Indian Peoples: All Nations and Regions

- 1000 This is the approximate date of the formation of the Iroquois League, the oldest political alliance in North America.
- 1638 The first reservation, for the remaining members of the Quinnipiac Tribe, is established in Connecticut.
- 1775 American colonists declare war against Great Britain. The colonies' provisional government—the Continental Congress—establishes three Indian commissions (northern, middle, and southern); each commission is charged with preserving amiable relations with indigenous tribes and keeping them out of the violence. However, many Indians ally themselves with the British, and many join forces with the American colonists.
- 1777 The Articles of Confederation organize the new government of the United States. The articles assume authority over Indian affairs except when the “legislative right of any State within its own limits [is] infringed or violated.”
- 1778 The United States signs its first Indian treaty, with the Delaware Nation; in exchange for access to that nation's land by U.S. troops, the United States promises to defend and admit the Delaware Nation as a state.
- 1789 The U.S. Constitution is adopted. Article I, section 8, grants Congress power to regulate commerce among foreign nations and Indian tribes.
- 1789 Congress places Indian affairs under the War Department.
- 1802 Congress appropriates over \$10,000 for the “civilization” of Indians.
- 1803 As part of the Louisiana Purchase, the United States acquires lands on which numerous Indian tribes reside.
- 1815 The United States begins the process of removing Indians to western lands.
- 1816 Congress restricts licenses for trade with Indians to America citizens.
- 1824 The Bureau of Indian Affairs (BIA) is created within the War Department.
- 1827 John Ross is elected president of the Cherokee Nation; he is the first president since the adoption of the nation's new constitution that year in New Echota, Georgia.