

Religion, Law, and the Land

Native Americans and the Judicial Interpretation of Sacred Land



Brian Edward Brown

Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land

Randy S. Woodley



Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land:

Religion, Law, and the Land Brian Brown, 1999 Examining a series of court decisions made during the 1980s regarding the legal claims of several Native American tribes who attempted to protect ancestrally revered lands from development schemes by the federal government this book looks at important questions raised about the religious status of land The tribes used the First Amendment right of free exercise of religion as the basis of their claim since governmental action threatened to alter the land which served as the primordial sacred reality without which their derivative religious practices would be meaningless Brown argues that a constricted notion of religion on the part of the courts combined with a pervasive cultural predisposition towards land as private property marred the Constitutional analysis of the courts to deprive the Native American plaintiffs of religious liberty

Religion, Law, and the Land Brian E. Brown, 1999-11-30 Examining a series of court decisions made during the 1980s regarding the legal claims of several Native American tribes who attempted to protect ancestrally revered lands from development schemes by the federal government this book looks at important questions raised about the religious status of land The tribes used the First Amendment right of free exercise of religion as the basis of their claim since governmental action threatened to alter the land which served as the primordial sacred reality without which their derivative religious practices would be meaningless Brown argues that a constricted notion of religion on the part of the courts combined with a pervasive cultural predisposition towards land as private property marred the Constitutional analysis of the courts to deprive the Native American plaintiffs of religious liberty Brown looks at four cases which raised the issue at the federal district and appellate court levels centered on lands in Tennessee Utah South Dakota and Arizona then it considers a fifth case regarding land in northwestern California which ultimately went to the U S Supreme Court In all cases the author identifies serious deficiencies in the judicial evaluations The lower courts applied a conception of religion as a set of beliefs and practices that are discrete and essentially separate from land thus distorting and devaluing the fundamental basis of the tribal claims It was this reductive fixation of land as property implicit in the rulings of the first four cases that became explicitly sanctioned and codified in the Supreme Court's decision in *Lyng v Northwest Indian Cemetery Protective Association* of 1988 In reaching such a position the Supreme Court injudiciously engaged in a policy determination to protect government land holdings and did so through a shocking repudiation of its own long established jurisprudential procedure in cases concerning the free exercise of religion

Religion and the State in American Law Boris I. Bittker, Scott C. Idleman, Frank S. Ravitch, 2015-10-06 This book provides a comprehensive overview of religion and government in the United States providing historical context to contemporary issues

American Indian Sovereignty and Law Wade Davies, Richmond L. Clow, 2009-02-04 American Indian Sovereignty and Law An Annotated Bibliography covers a wide variety of topics and includes sources dealing with federal Indian policy federal and tribal courts criminal justice tribal governance religious freedoms economic development and numerous sub topics related to tribal and individual rights While primarily

focused on the years 1900 to the present many sources are included that focus on the 19th century or earlier The annotations included in this reference will help researchers know enough about the arguments and contents of each source to determine its usefulness Whenever a clear central argument is made in an article or book it is stated in the entry unless that argument is made implicit by the title of that entry Each annotation also provides factual information about the primary topic under discussion In some cases annotations list topics that compose a significant portion of an author s discussion but are not obvious from the title of the entry American Indian Sovereignty and Law will be extremely useful in both studying Native American topics and researching current legal and political actions affecting tribal sovereignty **Religion and the State**

Scott A. Merriman,2009-07-14 This timely and authoritative resource combines both topical and country by country coverage to help readers understand the coexistence of church and state in nations around the world today At a time when faith based groups have become more politically active in the United States and with religious conflicts at the epicenter of many of the world s most dangerous hotspots Religion and the State An International Analysis of Roles and Relationships could not be more welcomed or timely Country by country faith by faith it unravels the historic underpinnings and long range effects of the relationship between religious principles and the operations of government in its many guises worldwide The work combines topical essays on significant developments in the confluence of religion and law throughout the world with short descriptions of each countries current treatment of religion Readers can investigate specific nations compare situations across nations and explore key issues in the pervasive often controversial relationship between religion and government

Traditional, National, and International Law and Indigenous Communities Marianne O. Nielsen,Karen Jarratt-Snider,2020-05-05 This volume of the Indigenous Justice series explores the global effects of marginalizing Indigenous law The essays in this book argue that European based law has been used to force Indigenous peoples to assimilate has politically disenfranchised Indigenous communities and has destroyed traditional Indigenous social institutions European based law not only has been used as a tool to infringe upon Indigenous human rights it also has been used throughout global history to justify environmental injustices treaty breaking and massacres The research in this volume focuses on the resurgence of traditional law tribal state relations in the United States laws that have impacted Native American women laws that have failed to protect Indigenous sacred sites the effect of international conventions on domestic laws and the role of community justice organizations in operationalizing international law While all of these issues are rooted in colonization Indigenous peoples are using their own solutions to demonstrate the resilience persistence and innovation of their communities With chapters focusing on the use and misuse of law as it pertains to Indigenous peoples in North America Latin America Canada Australia and New Zealand this book offers a wide scope of global injustice Despite proof of oppressive legal practices concerning Indigenous peoples worldwide this book also provides hope for amelioration of colonial consequences

Indigenous Theology and the Western Worldview (Acadia Studies in Bible and Theology) Randy S. Woodley,2022-04-19

This volume by a Cherokee teacher former pastor missiologist and historian brings Indigenous theology into conversation with Western approaches to history and theology Written in an accessible conversational style that incorporates numerous stories and questions this book exposes the weaknesses of a Western worldview through a personal engagement with Indigenous theology Randy Woodley critiques the worldview that undergirds the North American church by dismantling assumptions regarding early North American histories and civilizations offering a comparative analysis of worldviews and demonstrating a decolonized approach to Christian theology Woodley explains that Western theology has settled for a particular view of God and has perpetuated that basic view for hundreds of years but Indigenous theology originates from a completely different DNA Instead of beginning with God created humanity it begins with God created place Instead of emphasizing individualism it emphasizes a corporateness that encompasses the whole community of creation And instead of being about the next world it is about the tangibility of our lived experiences in this present world The book encourages readers to reject the many problematic aspects of the Western worldview and to convert to a worldview that is closer to that of both Indigenous traditions and Jesus

We Have a Religion Tisa Joy Wenger, 2009 For Native Americans religious freedom has been an elusive goal From nineteenth century bans on indigenous ceremonial practices to twenty first century legal battles over sacred lands peyote use and hunting practices the U S government has often act

A Critical Pedagogy for Native American Education Policy Lavonna L. Lovern, F.E. Knowles, 2015-10-14 A Critical Pedagogy for Native American Education Policy is an application of critical pedagogical theory to historical and recent Native American educational policy Focusing primarily on the Mvskoke Creek the authors provide a detailed historic timeline that is tied to the functionalist view of sociology as it is reflected in the institution of education in general Knowles and Lovern examine the policy from the critical perspective with the application of Habermas and Freire They argue that the functionalist mode of education has furthered the cause of colonization and its attendant cultural destruction The emancipatory possibilities presented by the work of Habermas and Freire are mined for their application to the deficits created by the historical and continued colonization of Native Americans

Land Is Kin Dana Lloyd, 2026-05-26 Responding to Vine Deloria Jr s call for all people to become involved in the struggle to protect Indigenous sacred sites Dana Lloyd s Land Is Kin proposes a rethinking of sacred sites and a rethinking of even land itself Deloria suggested using the principle of religious freedom but this principle has failed Indigenous peoples for decades Lloyd argues that religious freedom fails Indigenous claimants because settler law creates a tension between two competing rights one party s religious freedom and another party s property rights In this contest the right of property will always win Through an analysis of the 1988 US Supreme Court case *Lyng v Northwest Indian Cemetery Protective Association* which she interprets as a case about sovereignty and the meaning of land Lloyd proposes a multilayered understanding of land and the different roles it can simultaneously play Rejecting the binary logic of sacred religion versus secular property Lloyd uses the legal dispute over the High Country an area of the Six Rivers National

Forest in Northern California sacred to the Yurok Karuk and Tolowa Indigenous nations to show that there are at least five different but not equally valid ways to understand land in the Lyng case home property sacred site wilderness and kin To protect the High Country the Yurok filed a religious freedom lawsuit but then proceeded to describe the land as their home in court They lobbied for protecting the High Country through a wilderness designation even as they continued to argue that they had been managing it for centuries They have purchased large parcels of ancestral land and also declare the land their kin a relationship that ostensibly excludes the possibility of ownership Land Is Kin demonstrates the complexity of land in contemporary religious political and legal discourse By drawing on Indigenous perspectives on the land as kin Lloyd points toward a framework that shifts sovereignty away from binary oppositions between property and sacred site between the federal government and Native nations toward seeing the land itself as sovereign

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Table of Contents Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land

1. Understanding the eBook Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - The Rise of Digital Reading Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Advantages of eBooks Over Traditional Books
2. Identifying Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - User-Friendly Interface
4. Exploring eBook Recommendations from Religion Law And The Land Native Americans And The Judicial Interpretation

Of Sacred Land

- Personalized Recommendations
- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land User Reviews and Ratings
- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land and Bestseller Lists

5. Accessing Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land Free and Paid eBooks

- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land Public Domain eBooks
- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land eBook Subscription Services
- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land Budget-Friendly Options

6. Navigating Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land eBook Formats

- ePub, PDF, MOBI, and More
- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land Compatibility with Devices
- Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land Enhanced eBook Features

7. Enhancing Your Reading Experience

- Adjustable Fonts and Text Sizes of Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
- Highlighting and Note-Taking Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
- Interactive Elements Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land

8. Staying Engaged with Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land

- Joining Online Reading Communities
- Participating in Virtual Book Clubs

- Following Authors and Publishers Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
- 9. Balancing eBooks and Physical Books Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Setting Reading Goals Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Fact-Checking eBook Content of Religion Law And The Land Native Americans And The Judicial Interpretation Of Sacred Land
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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loaded games

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throughout the day with the rear camera big battery weeks of

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