genealogy

MDPI

Article

Indigeneity, Nationhood, Racialization, and the U.S. Settler State: Why Political Status Matters to Native 'Identity' Formation

Dina Gilio-Whitaker

American Indian Studies, California State University San Marcos, 333 S. Twin Oaks Valley Rd., San Marcos, CA 92096, USA; dgiliowhita@csusm.edu

Abstract: This essay is a chapter excerpted from my forthcoming book, *Who Gets to be Indian: Ethnic Fraud and Other Difficult Conversations about Native American Identity* The chapter shows the ways that Indianness, framed as Indian or Native American "identity", is inseparable from state subjectivity based on the history of political relations between tribes and the United States. It argues that tribes' political status and relationship to the state are central to how Native American identity is shaped, rejecting the understanding of Native identity as race-based. The term "Indigenous" is discussed as not being equivalent to "Native American" and is not a racial formation in international fora. Social changes during the twentieth century brought new ways to diffuse and co-opt Nativeness through disaggregating it from political status and reinforcing racialization with the rise in urban pan-Indianism and neo-tribalism. Distinguishing Nativeness as political status from racialization is critical given ongoing attacks on tribal sovereignty in Supreme Court challenges based on alleged violations to the equal protection principle. Native American "identity" is inextricable from tribal nationhood and state formation, and thus cannot simply be dismissed as a colonial construct.

Keywords: Native American identity; indigeneity; racialization; American Indian political status

check for updates

Citation: Gilio-Whitaker, Dina. 2024. Indigeneity, Nationhood, Racialization, and the U.S. Settler State: Why Political Status Matters to Native 'Identity' Formation. *Genealogy* 8: 116. https://doi.org/10.3390/genealogy8030116

Received: 13 August 2024
Revised: 5 September 2024
Accepted: 9 September 2024
Published: 10 September 2024

Copyright: © 2024 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (https://creativecommons.org/licenses/by/4.0/).

1. Introduction

The presumption of Native Americans as predominantly a racialized classification of Americans is an incomplete and inaccurate way of understanding who Native Americans are. The literature on racial formation in the United States is linked to a broader literature that seeks to understand how the concept of race emerged from Europe, was transported to the Americas, and shifted and changed over time. To the latter point, Omi and Winant (1994), for instance, made the case that state-based racial formation has undergone dramatic changes since the turbulent 1960s. Focusing on social movements, they frame U.S. racial politics as experiencing transformational shifts that included both progress and decline. Their work, however, focused as it was strictly on racialization, deemphasized the social changes within Indian country that highlighted tribes' political status, which was less about race than about sovereignty, framing it as cultural resistance and cultural nationalism.

When Europeans, especially the English and Spanish, began arriving to Turtle Island (North America), it can't be said that their views toward "Indians" were as equals. The difference they perceived was not based predominantly on race as we understand it today; what mattered most (besides the fact that they were already there occupying the land) was that they were not Christians and their cultural and religious practices were dramatically different. As "savages" with societies Europeans did not consider civilized, Indians' very humanity was in question. Racial categorization as the Spanish "casta" system became visible under the control of the Roman Catholic Church with the concept of blood purity. Blood purity as an ideology took hold in fifteenth century Spain to expose "secret Jews" who had converted to Christianity. As Maria Elena Martinez writes (2008), the concept of *limpieza de sangre* ("purity of blood") described those of "pure" blood whose ancestors were only Christians. Martinez contends that the question of how blood purity came to signify

race and became disaggregated from religion in colonial Mexico has not been sufficiently addressed by scholars. Arguably, this point might be applied in the U.S. context as well, although the literature is growing.[1] But as Doug Kiel (2017) pointed out, "[t]he Spanish imported these [genealogical] obsessions to their first settlements in North America, and over the course of two centuries the distinction between Christian and non-Christian blood morphed into ideas of immutable racial difference" (p. 83). It was the system of English common law that eventually prevailed in the U.S., but debates rooted in Spanish legal theory going as far back as the Crusades deeply informed how federal Indian law would take shape in the modern era (Williams 1990; Getches et al. 2005), leading to catastrophic land dispossession. Those debates, driven by Roman Catholic dogma, "have been sustained by a central idea: the West's religion, civilization, and knowledge are superior to the religions, civilizations, and knowledge of non-Western people" (Williams 1990, p. 6.)

By 1823 with the first Supreme Court Indian rights case *Johnson v. M'Intosh* (1823), we can still see the justification of violent domination based on religion and culture. It is because Indians were not Christians that from the outset justified Europeans' violent domination over them, as the language in *Johnson* reflects.[2] It is woven into the legal fabric of the United States that to this day shapes the relationships between American Indians and the settler capitalist state. Over time, however, American Indian religious and cultural difference would become coded in U.S. legal and social structures in racialized terms (i.e., blood quantum), becoming one of numerous mechanisms orchestrating and rationalizing their elimination (Spruhan 2006; Wolfe 2006; Kiel 2017). Yet racialization obscures the fact that collectively the American Indian relationship to the U.S. is at its foundation a political relationship that came to be coded as nation-to-nation (Galanda 2023; Young 2016), and thus American Indianness as an "identity" should be understood as an extension of that political relationship.[3] At the same time, it must be recognized that there are countless ways that American Indian individuals have been cut off from that relationship, and other ways that the political relationship of individual Indians to tribal nations and the U.S. is ambiguous and partial. This essay argues that conversations about race and political status matter because the very political existence of tribal nations depends on a clear understanding of these distinctions and how they are manipulated in the legal system today.

2. Blood Quantum and the State

Ideas about blood purity and racial mixing have been present in U.S. governance structures since the pre-U.S. colonial era. At least as early as 1705, for instance, a statute in Virginia defined "mulatto" as "the child of an Indian and child, grandchild or great grandchild of a negro", barring mulattos and others from holding public office (Spruhan 2006). The Virginia statute is an early articulation of blood quantum whereby multiple ethnicities of the individual are parsed into fractions. It's a historical moment scholars often point to in identifying the origin of the concept of blood quantum in the U.S. Blood quantum (BQ) is the fictitious measuring of Indianness based on equating biology with identity and culture. In theory, the more Indian biological material ("blood") one has, the more culture and identity one is presumed to have, and the less Indian genetic material, the less culture and identity. With greater intermarriage outside American Indian lineage or particular tribal groups, at some point there is a threshold where the fraction gets too low to be considered American Indian, depending on institutional rules or even personal opinion. In function, it is a measure of authenticity, determined by institutions and personal perceptions alike. It is fundamentally a subtractive and exclusionary process that ignores culture and belonging as dependent on family and community ties and as such, it divides families. Within families, it is common for people who share the same lineage to be considered legitimately Indians and there being others who are not, as is the case in my family with my mother an enrolled Colville tribal member and her children not. BQ as a sole determinant of Indianness presumes Indianness as strictly a matter of race.

Blood quantum gradually became a central precept guiding the way the federal government dealt with American Indian people. It was a way to limit the amount of

people the government was responsible to and ultimately phase out its "Indian problem".[4] The infiltration of BQ into federal policy interactions with tribes is often assumed to have begun during the Dawes years, but it has precedence much earlier. While anxiety about race mixing is evident in the colonies by 1705, race mixing between black and white people was prohibited at least as early as the 1630s. While early anti-miscegenation laws applied to blacks and Indians, in time their intent was directed more at policing the boundaries between black and white populations, as Indian intermarriage with Anglos became viewed as a desirable way to absorb and orchestrate Indian disappearance into the (white) American populace.

Creating sharp definitions about who Indians were was also, however, a way to enumerate them for the purposes of appropriating resources in meeting the U.S.'s treaty-based legal obligations. Documenting the history of blood quantum in federal Indian policy, legal historian Paul Spruhan notes that the language of BQ appeared "before the extension of federal authority over tribal territory and was not created for it" (Spruhan 2006, p. 8). The language of blood quantum entered some treaties in the early 1800s to determine the allocation of specific property or benefits but not to determine tribal membership, setting as Spruhan contends, an important pattern for later federal uses of blood quantum. In the allotment era, Congress ramped up its practice of defining Indian status based on blood. To determine who was eligible for allotments, both full and mixed bloods were included, dependent upon tribal membership, a concept not yet fully formalized in most tribes.

Enrollment councils were held between tribal leaders and allotment agents to determine membership for deciding who received allotments (Spruhan 2006, p. 24). The distribution of allotments was not explicitly linked to full or mixed blood status,[5] but blood was eventually linked to the right to sell an allotment based on "competency" via the Burke Act of 1906. In 1903, the Supreme Court had affirmed Congress's complete control over Indians' affairs with the *Lonewolf* case (becoming known as the plenary power doctrine), and Indians were viewed as wards of the government.[6] The Allotment Act subjected allottees to a twenty-five-year holding period barring them from selling their land. At the end of the twenty-five years, an Indian was assumed to be competent to handle their own affairs, and a fee patent was issued, making the land fully alienable. The Burke Act accelerated the fee patenting process; in 1913, competency commissions were established and in 1917 a new rule allowed competency commissions to determine competency based solely on an individual's amount of white heritage. Those of more than one half white blood were free from the 25-year restriction placed on the allotments of those with more than half Indian blood, prohibiting the land's alienability (Royster 2019).

In Spruhan's historical examination of blood quantum, he maintains that the U.S. handled Indian affairs based originally on Indians as political entities (citizens of autonomous nations) but increasingly throughout the nineteenth century and into the twentieth as "biological wards" (in other words, wards of the state who were racialized).

Yet despite Congress's growing tendency to racialize Indians, Spruhan says, it never completely abandoned the political conception. Why did Congress adopt BQ as such a prominent method for determining Indian identity? Spruhan does not offer an explanation, but clues are evident, for example, with Senator Wheeler's revealing 1934 commentary that being too generous about extending the IRA's definition of Indian to people with blood quantum of one quarter and lower does not help get rid of the U.S.'s Indian problem (see note 2). Legal analysts David Wilkins and Shelly Hulse Wilkins are more direct in their views. They contend that in the early twentieth century with the government's plan for assimilation, officials became more motivated by the desire to control costs in meeting their fiscal responsibilities to tribes. Lowering the number of Indians became the sole purpose for applying blood quantum: "In essence, the federal government actively sought, in disregard of treaties, agreements, and countless statutes to rid itself of its financial and moral obligations to those Native individuals if considered 'white Indians'" (Wilkins and Wilkins 2017, p. 217).

After the passage of the IRA, which provided a template for newly reorganized tribal governments' constitutions, blood quantum became the standard criteria for tribal membership. Following the federal model, tribes who adopted IRA governments thus adopted a fully colonial, non-traditional way of defining Indianness. Later in the twentieth century, however, blood quantum also came to have new meaning in post IRA era tribal governments. In Kirsty Gover's (2008) study of tribal enrollment criteria, she found that after 1970 tribes were increasingly adopting lineal descent or "tribal blood quantum" (i.e., "blood" inherited from a specific tribe as opposed to overall "Indian blood" that might include blood from multiple tribes), more as a move toward a genealogical rather than racialized understanding of tribal belonging. It was also a way to repair the historical discontinuity of tribes that may have been terminated or otherwise lost their political relationship to the state.

3. Indigeneity: What Is It?

Up until the twentieth century, Native people were known generally as Indians in addition to a variety of pejorative terms. Over the course of the latter twentieth- and early twenty-first centuries with the rise in civil and minority rights awareness and changes in federal Indian policy, new terms arose. During the 1960s, "Native American" was new nomenclature sloughing off the misguided term "Indian", but retaining "American" was still a constant reminder of tribal nations' nonconsensual subjugation to the U.S. Other terms were rejected as well, such as the term "Eskimo" being dropped for "Alaska Native", "Inuit", and "Yupik" depending on what part of Alaska one is Native to. In Canada, the terms "Aboriginal" and "First Nations" came into common usage as preferred self-referents (Pauls 2008). As Native rights issues gained greater currency in the international arena, especially in United Nations fora, the term "indigenous" arose as an umbrella term to describe original peoples and nations within U.N. member states. The International Labour Organization (ILO), the first specialized agency associated with the U.N., began paying attention to indigenous issues in the 1930s, framing Indigenous peoples as "native workers." In 1953, the ILO published a study on indigenous peoples and in 1957 it adopted Convention No. 107 and Recommendation No. 104, which were revised in 1989, becoming ILO 169 (Garcia-Alex 2003). In 1982, the United Nations Economic and Social Council (aka ECOSOC) formed the U.N. Working Group on Indigenous Populations and by 1986 the Working Group began developing the U.N. Declaration on the Rights of Indigenous Peoples (Ryser 2012). Hence, by the early 1980s "indigenous" was the term of art describing Fourth World/Indigenous nations internal to states. In the following decades, American Indians increasingly adopted "Indigenous" as a way to emphasize their pre-constitutional tribal nation status, and now even some U.S. policy documents use the word indigenous in place of Native American or American Indian. These various terms for Native people are often interchangeably used but they don't always have the same meanings and can easily lead to misunderstandings when incorrectly engaged, especially the term indigenous.

"Indigeneity" describes the condition of being indigenous (or native) to a specific place, land, or territory. While no United Nations body has adopted an official definition of "indigenous" due to the vast diversity of indigenous peoples, key characteristics nonetheless include (1) historical continuity with pre-colonial and/or pre-settler societies; (2) strong link to territories and surrounding natural resources; (3) distinct social, economic, or political systems; (4) distinct languages, cultures, and beliefs, and they form non-dominant groups within state societies; (5) they resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities; and (6) self-identification as indigenous peoples at the individual level and accepted by the community as their member (Who Are Indigenous Peoples? Indigenous Peoples, Indigenous Voices Fact Sheet n.d.).

There are three notable aspects of this understanding of indigeneity relevant to American Indian people: First, in point 6 self-identification on the individual level is dependent upon community acceptance, not just individual claims. Second, in point 3 a key aspect of indigeneity is being part of a community with a distinct political system; in the Unites States,

federally recognized tribes are political systems that have a distinct political relationship to the U.S. state.[7] This leads to a critical third point, that nowhere in the United Nations' list is indigeneity tied to race. In the international arena, indigeneity hinges on political status, historical ties to territory, histories of colonization, and difference from dominant societies rooted in culture, language, and knowledge systems. Indigenous peoples may be minority populations within states, and they may be racially different, but it is not racial difference that defines their indigeneity.

Indigeneity is, in other words, a relational concept contextualized by the modern state system, a condition referred to as the "Indigenous paradox." It exists only in relation to something else, and it is paradoxical because within state-based legal systems Indigenous peoples simultaneously reject state domination yet depend on the state's recognition of them to assert rights (Bens 2020).[8] Prior to colonial invasion and the processes of foreigners establishing societies on top of the territories of original inhabitants, the concept of indigeneity would have been meaningless to indigenous communities. The condition of indigeneity is thus inseparable from the states indigenous peoples find themselves within. That is why the term indigenous is not always synonymous with American Indian, Native American, or Alaska Native. One can be an indigenous person of Canada or Mexico living in the United States but that doesn't necessarily make them Native American by U.S. definitions; for the most part, they possess no political status within the U.S. state and any claims to being "indigenous" are contingent upon their relationships to the state they are indigenous to. They may be considered racially indigenous (however problematically) but lack the political status. Legally, their relationship to the U.S. would simply be based on the rules of citizenship and immigration status.

4. Pan-Indianism, Neo-Tribalism, and Generic "Indians"

In his seminal work *Playing Indian*, Philip Deloria convincingly argues that as far back as the Boston Tea Party the American compulsion to appropriate Indianness was connected to a desperate need of settlers to authentically belong on land that wasn't legitimately theirs, and to forge a new kind of collective, explicitly American identity. With the anxieties of modernism driving much of the social revolution of the 1960s and 1970s, the anti-racist sensibilities of the civil rights struggle ironically made it even easier for non-Indians to appropriate Indianness in the name of political solidarity.[9] It was in this historical moment when for many of the counterculture generation the impulse to *play* Indian morphed into the impulse to *become* Indian.[10] This is reflected in census numbers. Between 1960 and 2010, the American Indian population jumped from 551,591 to 5.9 million, an exponential increase explainable largely by changes in census rules that allowed people to racially self-identify, not a new baby boom (Thornton 2017).[11] The sharpest increase—72.4%—occurred between 1970 and 1980 (Thornton 2017, p. 154) as ethnic revival became more popular.[12] The increase in self-identified "Indians" coincided with the explosive urban Indian population growth. While Native American people were experiencing greater freedom and safety to be who they were with important changes in law, policy, and changing attitudes about race and culture, it also became easier for non-Indians to exploit Native cultures and Indian peoples' tendency to be inclusive. Into the social ruptures created by the cultural revolution and new census rules stepped the race-shifters, the spiritually hungry, and charlatans.[13] Joining urban Indian centers, attending powwows and other Native cultural events, enrolling in American Indian studies programs, publishing books, and following "medicine men" were just some of the opportunities for people to not only reimagine themselves as Indians, but also to deceive others in new ways.

Since the mid-twentieth century, we have also seen the creation of hundreds of new "tribes", especially Cherokee, mushrooming in the Southeast and in other parts of the country in what Circe Sturm describes as neo-tribalism. As Sturm (2010, p. 19) writes, these new groups, organized as clubs, nonprofits, or state-recognized tribes, began forming neo-tribal communities for those who couldn't meet enrollment criteria in any of the three federally recognized Cherokee tribes. Many other neo-tribes proliferated as well

with claims to Shawnee, Abenaki, Chumash (see Brian Haley's article in this journal, for instance), and other "tribal" heritages. They pose significant ideological challenges to the sovereignty of federally recognized tribes (discussed more fully shortly).

How we talk about the collective political organizing, activism, cultural expression, and social world of Native people has itself undergone changes in recent decades. The term "pan-Indianism" is an older phrase to describe American Indian people and cultures collectively. Some scholars push back against the term because it was a "byproduct of assimilation and acculturation movements sponsored by the U.S federal government, salvage anthropologists, and other Gilded Age reform organizations . . . as a means to explain how individuals are no longer Tribal (detribalized) but should be perceived as collectively racialized into 'American Indians'."[14] Similarly, in writing about the Society of American Indians, Maroukis contends that "pan-Indianism" is contested and confusing because Native people did not give up their tribal identities to work with each other across tribal difference. He points out that the term "intertribal" is far more common, but with the caveat that "[i]f Pan-Indianism is defined as diverse individuals with regional and cultural differences working together toward common goals, such as *self-determination* [emphasis added], then there is no problem with the term" (Maroukis 2021, p. 14).

In 1984, Vine Deloria, Jr. and Clifford M. Lytle wrote about what they called the "consolidated Indian movement", which they assert emerged in urban areas. They explain that there was a need to forgo tribal differences, which gave rise to an ethnic Native American identity because Americans could recognize ethnic Native Americans more than they could grapple with specific tribal affiliations. "The merging of many tribal identities and histories in the urban setting meant the adoption of a common, albeit artificial heritage", pointing to names like the American Indian Movement, United Native Americans, and Indians of All Tribes as evidence of the homogenizing nomenclature Indian activists were adopting (Deloria and Lytle 1984, pp. 236–37). Writing about the urban Indian centers, Renya Ramirez has called these sites of multi-layered functions Native hubs, where tribal belonging could be experienced within cities in varied ways. Ramirez writes that powwows and sweat lodges are also places where Native hubs occur (Ramirez 2007). Powwows and urban sweat lodges are similar to other intertribal networks that reinforce individual tribal identities, but they are also places where tribal identities can easily become diffuse and largely unverifiable (Herle 1994). Urban sweat lodges, Native American Church (NAC), and other spiritual ceremonies became particularly problematic opportunities in the mid-twentieth century for breeding tribally diffuse pan-Indianism, new age cultural appropriation, and blatant Indian ethnic fraud.

Less discussed in the literature are the negative impacts of pan-Indianism, especially in California. Rose Soza War Soldier's study of the California-based American Indian Historical Society from 1964 to 1986 examines some of the tensions that existed between California Indians and relocated urban activist Indians during the Red Power movement (War Soldier 2013). The Society existed to improve education, communication, and cultural development of American Indians through support for tribal self-determination, explicitly rejecting pan-Indianism. War Soldier's study reveals, for example, how many California Indians disagreed with the militant activist tactics of urban Indians during the Alcatraz Island occupation (1969–1971), pointing out the absurdity of relocated out-of-state Indians claiming ancestral Ohlone land under a Lakota treaty while California Indians were fighting for the return of lands to their own tribes. Much of the activism also, she contends, perpetuated the ongoing erasure of California Indians in their own ancestral lands.

Intertribal organizing did also exist, however, and may better express the collaborative nature of the goals and aspirations for the tribal self-determination of people with connections to legitimate tribal nations. Whether on reservations or in cities, these were the same groups of people who had been directly impacted by oppressive federal Indian policy and had been working on behalf of their tribal nations for generations. Even if they had relocated, they were firmly rooted in specific tribal cultures and communities, and were the vanguard of the inner city Indian populations. But what about the mid- to late-twentieth

century self-identifying race-shifters who had no actual legitimate tribal connections or only flimsy claims to Cherokee or other tribal heritage?[15] Does the term intertribal apply to people like Sacheen Littlefeather who have no ties to actual tribes? Or do they represent a type of generic "Indian" within a new kind of urban neo-tribal pan-Indianism? What patterns might we see among those in urban spaces playing fast and loose with claims to Indianness compared to those with clear ties to tribal and reservation communities? And one of the most important questions this study asks is, what does generic urban Indianness mean for tribal sovereignty?

These and other questions are contentious, provocative, and have no easy answers but must nonetheless be addressed if we are to probe the issues of American Indian authenticity and fraud in post-relocation urban settings. In Michelle Jacobs' research on urban Indian communities, *Indigenous Memory, Urban Reality: Stories of American Indian Relocation and Reclamation*, we find the biggest clues for what separates the new, generic Indians from tribal Indians. Jacobs studied two urban Indian centers in the Northeast Ohio area of Cleveland, diving deeply into the distinctions between people whose Indian identities emerge from experiences of relocation on one hand, and "reclaiming" on the other. Relocators are people and their descendants who came to the area from reservation communities during the relocation era. Despite their urban residence, they tend to be enrolled tribal members with ties to reservation communities and families. Younger people may not qualify for enrollment due to not meeting blood quantum requirements (the result of generational intermarriage outside tribal "bloodlines"), but they nevertheless maintain kinship ties to tribal communities. Reclaimers are a community of people newly self-identifying as Indian (and their children). Stories speculating about Indian ancestors that escaped the reservation system explaining why their Indian heritage is not documented are common. Jacobs notes the production of memory that occurs through the repeating of these stories, absent evidence of their veracity. "This story, in one form or another, is repeatedly recalled and retold and passed from one generation to the next. It becomes recollection to people who hear it, learn it, and are socialized to believe it . . . As such people can share memories that never happened . . . It is foolish to insist [stories] about a Native family in hiding never happened. Indigenous peoples have been dispossessed of territories, communities, and identities for centuries. But it is equally foolish to accept this collective memory as reality for all people, or even a majority of people espousing it" (M. R. Jacobs 2023, pp. 198–99). Jacobs identifies tensions that have existed between the two urban communities for years where one community perceives the others' Indian identity claims as inauthentic and fraudulent. Besides reclaimers' tendency to see indigeneity as an open field that all can and even should play in and that being Indian is a matter of what you believe (p. 207), they also believe that relocators judge them as fake based on "Indian politics."

The derisive deployment of Indian politics conveys the most significant difference between reclaimers and relocators: the level of importance each community attributes to tribal nationhood. Reclaimers downplay the power and relevance of government and tribal documentation to validate Indianness, often to the point of contempt. As Jacobs writes,

> Nonenrolled reclaimers consistently said things that illustrated their lack of engagement with issues of Indigenous nationhood, citizenship, or sovereignty. They maintained, for instance, that they knew they were Indian and did not need a "piece of paper" or "plastic" (Certificate of Degree of Indian Blood, tribal identification card) or "number" (tribal identification number) to prove it. They dismissed so-called political Indians as people who took pride in being certified as Indian by the US government but rarely mentioned Indian nations' roles in determining tribal citizenship. They said things like "being Indian is a state of mind"; "it's not the blood that counts, it's the heart"; and, what really matters is "walking the red road" and "walking the walk" . . . In this way, many reclaimers defended their Indian identities while invalidating the identities of "political Indians", whom they accused of acting like settlers (pp. 189–90).

For reclaimers, the boundaries of community are expansive and inclusive while for relocators ethnic fraud must always be contended with and results in a certain level of boundary policing. Self-identified reclaimers seem oblivious to Indianness arising from ancestral connection to place, tribe, clan, and family as the very definition of indigeneity, which may explain why Indianness then becomes superficial, artificial, and largely a matter of performance. Yet reclaimers do understand the important role of community in validating Indian identity, and relying on the community of other reclaimers fills that need.

Jacobs' study of reclaimers and relocators is particular to Northeast Ohio and there may be aspects of it that would not be applicable in other contexts (for example, the backdrop of NE Ohio's century-long history with the racist Cleveland Indians baseball team). It is reasonable to presume, however, that the study is more representative of other contemporary urban Indian communities than not. The same dynamics arguably would apply in all other urban Indian communities, especially the distinctions between Indians with experiences of relocation to cities from reservations, and those who self-identify through performative acts of reclamation. In this regard, there is nothing unique about the Cleveland urban Indian communities. We can thus expect the same patterns of behavior and discourse to travel across other urban Indian spaces.

In the book's conclusion, Jacobs illuminates the problem of fraudulent Indianness, stating that the "collective remembrances of reclaimers. . .are concerning. Many reclaimers' Indian identities likely are based on incorrect interpretations of the past" (p. 240). Here the author is referring to the erasure of accurate knowledge about American Indians in U.S. education systems that have led to the pervasive stereotypes that then drive the distorted claims to Indianness of non-Native people. Culture is perceived as disconnected from sovereignty, slipping into the realm of personal possession where Indian identity is claimed as a right. Arguably, it is these complex processes of miseducation and distortion about who Indians are that set up the pre-conditions for rampant Indian ethnic fraud. Meanwhile, through their ironic and misguided assertions of racialized Indianness and dismissal of tribal sovereignty, neo-tribal urban self-identifiers contribute to the erosion of tribal sovereignty.

5. Attacks on Tribal Sovereignty: Why Tribal Nationhood Matters

The United States established itself and its relationship with tribes as nations in a recognition of mutual political sovereignty albeit under conditions of thinly veiled contempt and perpetual aggression. As federal Indian policy became more coercive and one-sided throughout the nineteenth and twentieth centuries, the U.S. adopted race as a metric for determining who Native people were to limit the number of people it owed responsibility to. This situation of the federal government's own making is still being used against Native people not only to limit its fiduciary responsibility, but by malevolent governmental and nongovernmental actors to undermine or even completely overturn tribal sovereign existence through attacks to important tribal sovereignty-based legislation including the Indian Child Welfare Act and the Indian Gaming Regulatory Act.

A particularly sinister aspect of producing Native disappearance through forced assimilation involved the intentional destruction of Native families who have been impacted for multiple generations. Additionally, it demonstrates how federal policy influenced policy at the state and local levels. The boarding school mandate of the Dawes Act, for instance, whose motto "kill the Indian to save the man", was based on the widespread belief of Indian cultural, spiritual, racial, and intellectual inferiority to rationalize systematic abuse. Paralleling deeply entrenched patterns at the federal level, the belief in Indian inferiority is perpetuated at the state level. These views drove the behavior of social workers in state family services agencies who presumed the unfitness of mothers often based on no more than their racialized Indianness. They employed methods of intimidation and at times outright fraud to acquire "consent" for their children's adoption, sometimes even with forms that didn't clearly state intent (M. Jacobs 2014, p. 79). Women were harassed by social workers before and after their children were born, pressured to relinquish their babies.

In other instances, women living under precarious conditions due to poverty or abuse didn't have or were not offered access to resources that could have enabled children to remain in the birth family. Jacobs' research shows that Native women didn't even have to be unmarried to be subject to the harassment and taking of their children. As Jacobs writes, "unlike American women more generally, Indian women, whether they were married or not, commonly faced harassment to relinquish their children for adoption" (p. 82).

The removal of children from Native women was so pervasive, an oft-cited study by attorney Bertram Hirsch in the late 1960s found that 25–35% of Native children were being removed with 85% of them being placed in non-Native homes, and has been called the pre-ICWA scoop. It's referred to as a "scoop" because of how commonly agency officials entered tribal communities to quickly take as many kids as they could (Crandell 2019). The crisis of rampant American Indian child snatching led to the creation of the Indian Child Welfare Act (ICWA) in 1978.

ICWA is widely hailed as the gold standard for child welfare policies. ICWA is "likely the most comprehensive and far-reaching, acutely needed, and successful civil rights law that Congress has ever enacted in the history of Indian affairs" (Fletcher and Singel 2022). They also clarify that ICWA was not designed to be a comprehensive statute but serves primarily as a baseline for state courts (pp. 1771–72). Because it is not comprehensive and is an unfunded mandate, there is no mechanism to oversee implementation at the federal, state, or tribal level (Linjean and Weaver 2022) and in state courts "compliance is often low to nonexistent" (Fletcher and Singel 2022, p. 1769). The result is that Native children are still four times more likely than white children to be removed from their families, even when white families present with similar problems (Linjean and Weaver 2022, p. 7). Even with its shortcomings, ICWA is a powerful affirmation of tribal sovereignty based on a long history rooted in constitutional principles, Supreme Court decisions, Indian rights legislation, and federal statutes.

The purpose of the Indian Child Welfare Act is "... to protect the best interest of Indian Children and to promote the stability and security of Indian tribes and families ..." (Fletcher and Singel 2022, p. 1769). But it's also important to understand that ICWA exists within the broader context of adoption and foster care as a multi-billion dollar industry[16] dominated by the evangelical Christian right, with ever-receding numbers of children available for adoption (Joyce 2014). ICWA makes it more difficult for non-Native people to adopt Indian kids, which has led to a highly organized anti-ICWA movement. ICWA has for over a decade been targeted by extremely well-funded conservative interest groups whose aim has been to undermine or completely overturn the law.[17] Their strategy has been to challenge the law's constitutionality by driving ICWA cases to the Supreme Court, beginning with the 2013 *Adoptive Couple v. Baby Girl* (aka the Baby Veronica case) and the 2022 *Brackeen v. Haaland* case. The Baby Veronica case resulted in the loss of a Cherokee tribal member's right to custody of his biological daughter in favor of a white adoptive couple and weakened but did not overturn ICWA. The *Brackeen* case was a more direct attack on ICWA based on three predominant arguments: (1) that it discriminates based on race in violation of the Fifteenth Amendment equal protection clause; (2) that it violates Tenth Amendment anti-commandeering principles, infringing state sovereignty (Fletcher and Singel 2022); and (3) that it exceeds federal authority (d'Errico 2023).[18] Simply stated, ICWA critics contended that ICWA is reverse racism against white people and that it violates state's rights (Estes 2021).

In November 2022, SCOTUS heard oral arguments in *Brackeen v. Haaland*. The case was a source of intense anxiety for Indian country and it received a fair amount of media attention. Indian rights cases generally fly under the radar of most mainstream media, but those who were paying attention understood what was at stake. Legal analysts pointed out that the case presented a very real threat to tribal sovereignty, arguing that if SCOTUS agreed with the plaintiffs that ICWA violates equal protection as a race-based law, then that logic had the potential to be applied to virtually all other Indian rights laws. If that were the case, the entire doctrine of tribal sovereignty was at risk and tribes could lose not just ICWA

but potentially the legal framework that protects tribal nationhood and what little remains of their lands. The Supreme Court is a dangerous place for tribes in the modern era; since the era of the Rehnquist court, they prevail in less than one quarter of the cases (Fletcher 2014). The Roberts court saw three Trump appointees during the four-year administration making the court a conservative 6-3 super-majority. Conservative judges are notorious for their anti-Indian positions apart from Trump appointee Neil Gorsuch who is known to have a better grasp of and track record on tribal issues and is generally seen as pro-Indian. Still, Indian country had plenty of reason to fear the outcome of *Brackeen*.

The decision was handed down in June 2023 amongst a slew of other civil rights decisions. All cases saw predictably negative outcomes given the conservative leanings of most of the judges (Brownstein 2023). It was thus highly unexpected when the Court issued a ruling in *Brackeen* that was widely celebrated as a win for Indian country. In a surprising 7-2 ruling, the Court upheld ICWA first on the basis that the plaintiffs had no legal standing. Because petitioners did not include "state departments of family services", only federal defendants, judicial relief for alleged injuries was unavailable. Thus, the equal protection issue was dismissed based on a technicality (Brownstein 2023).

The Court also rejected the anti-commandeering argument. Justice Amy Coney Barrett authored the opinion for the majority with Justices Gorsuch and Kavanaugh issuing concurring opinions. Gorsuch contextualized the case with a lengthy historicizing of *Brackeen* within the context of a continuum of abusive federal Indian policy, which necessitated the passage of ICWA to begin with. Kavanaugh, on the other hand, wrote a very brief two paragraph commentary focusing on equal protection, emphasizing a racial framing—not political status—of Indian adoptions, anticipating a future case where the issue is raised appropriately:

> "In my view, the equal protection issue is serious. Under the Act, a child in foster care or adoption proceedings may in some cases be denied a particular placement because of the child's race—even if the placement is otherwise determined to be in the child's best interests. And a prospective foster or adoptive parent may in some cases be denied the opportunity to foster or adopt a child because of the prospective parent's race. Those scenarios raise significant questions under bedrock equal protection principles and this Court's precedents . . . Courts, including ultimately this Court, will be able to address the equal protection issue when it is properly raised by a plaintiff with standing." (Haaland v. Brackeen 2023)

The *Brackeen* victory, therefore, while staving off for now a devastating equal protection ruling, leaves the door open for potential future challenges that push for framing Indian rights and sovereignty as race-based law.

There is no reason to believe that those committed to derailing tribal sovereignty will stop their crusade on the heels of the *Brackeen* defeat. Gibson, Dunn, and Crutcher, the corporate law firm notorious for representing fossil fuel interests including the Dakota Access Pipeline developer Energy Transfer Partners, and who represented the *Brackeen* case pro bono, is complicit with the anti-tribal sovereignty movement. While Gibson Dunn was litigating *Brackeen*, it also began representing a non-tribal gaming entity's challenge of Indian gaming in Washington State. Seeking to expand its cardroom operations to include sports betting, Maverick Gaming—paradoxically owned by a member of Washington's Shoalwater Bay Tribe and professional poker player Eric Perssons—said that the state's law allowing sports betting only in tribal casinos constitutes a "discriminatory tribal gaming monopoly" (K. Brown 2023). Shoalwater Bay Tribe filed for a motion to dismiss, which was granted in February 2023; Perssons made it clear he intended to file an appeal in the Ninth Circuit appellate court. The Maverick Gaming case is fundamentally a challenge to the Indian Gaming Regulatory Act, a story in *Indian Country Today* contended. The arguments in both Brackeen and Maverick Gaming are nearly identical, relying on claims of equal protection violation. "They did tweak it a little bit. It's not exactly word for word the whole way through, but it's pretty darn close", a source said (Denetclaw 2023).

6. Conclusions

While the United States is unquestionably a colonial construction that has always been contested and resisted by American Indian and Alaska Native peoples, Native identity cannot be meaningfully separated from the U.S.'s colonial foundation because there is no one who is not shaped by it. Indigeneity is irreducibly defined by relationships to place and people, and is inescapably mediated by relations of power and processes not of our choosing. We can discursively reject the oppressive and nonconsensual nature of those processes; we can do cultural reclamation work; we can form intercultural, intertribal, and international relations with each other within and beyond state boundaries; and we can work toward decolonial futures however we may imagine them. Yet indigeneity is also shaped by the relationships our ancestors forged with the U.S. state and its colonial predecessors in treaties, agreements, and other interactions. To dismiss, as some do, these legal and structural realities as perpetuating colonialism or not necessary to legitimate Native identity is shortsighted and rejects the agonizing decisions our ancestors made to ensure the existence of future generations.

There must be a baseline by which we determine, name, and inhabit the paradoxical relationships we now find ourselves in with the U.S. In the language we inherited from our English colonizers, we call it tribal nationhood and sovereignty, framed though they are by legal structures not our own. Whether we have clearly documented tribal lineages and enrollment within a federally recognized tribe to which our Native identities are legally tied or not, we should care about these processes and relationships because without them there are no Indians that the state is bound to recognize at all. There would be no tribal land bases or treaty rights the state is legally bound to protect. Without those legal realities, colonial though they may be, American Indian people are just part of the multicultural mass that the U.S. prides itself on. Without legally defined Indians, the state evades accountability to the original people of this land.

Funding: This research received no external funding.

Institutional Review Board Statement: Not applicable.

Informed Consent Statement: Not applicable.

Data Availability Statement: Data are contained within the article.

Conflicts of Interest: The author declares no conflicts of interest.

Notes

1 Race studies scholarship is increasingly linking histories of colonialism, antisemitism, indenture, and chattel slavery to understand how violent religious domination led to the concepts of race, racialization, and racism as we know them today. See for example Fredrickson (2015); Jones (2023); and Fenelon (2023).

2 "On the discovery of this immense continent, the great nations of Europe were eager to appropriate to themselves so much of it as they could respectively acquire. Its vast extent offered an ample field to the ambition and enterprise of all; and the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might claim an ascendancy. The potentates of the old world found no difficulty in convincing themselves that they made ample compensation to the inhabitants of the new, by bestowing on them civilization and Christianity, in exchange for unlimited independence".

3 I defer to Kim TallBear's guidance on the use of the word "identity" to describe Nativeness. I echo her concern that the term is too judiciously used and that often there is a better term that can be used. In the book, I devote an entire chapter to the politics of Native-claiming and analyze "identity" as the extension of capitalist logics as a result of Nativeness becoming commodified and thus defended as a possession based on freedom of speech beliefs.

4 For example, in 1934 this was explicitly stated by Senator Burton K. Wheeler from Montana, co-author of the Wheeler Howard Act (aka the Indian Reorganization Act), which overturned the Dawes Act and ended assimilation as official federal Indian policy. In debates about how to define "Indian", in response to Commissioner of Indian Affairs John Collier's liberal thoughts that it should include everyone of Indian descent who were members of recognized tribes, their descendants who lived on reservations, and all others of one fourth or more Indian blood, the Senator balked, saying: "If you pass it to where they are quarter blood Indians you are going to have all kinds of people coming in a claiming they are quarter blood Indians and want to be put on the

governments rolls, and in my judgement it should not be done. What we are trying to do is get rid of the Indian problem rather than add to it." Quoted in Spruhan (2006, p. 46).

5 A study of the allotment councils on the Colville reservation from 1907 to 1917 is instructive. Author Alexandra Harmon shows how federal agents tried to educate tribal councils on legal concepts that should guide the councils' determination for who should be counted as "Colville Indians" for the creation of a tribal roll. Her research shows that councilmembers were not entirely swayed by the agents' efforts to racialize people through blood quantum but determined who members were through more culturally based, expansive understandings of the concept of "tribal relations." See Harmon (2001).

6 In the 1831 case *Cherokee Nation v. Georgia*, the Supreme Court first articulated the concept of tribes as domestic dependent nations and characterizing Indians as "wards of the government." As the U.S. continued to tighten the stranglehold on Native nations throughout the nineteenth century and into the twentieth, in *Lonewolf v. Hitchcock* (decided in 1903) SCOTUS confirmed that Congress had "unfettered power as guardians over Indians and their lands" (Spruhan 2006, p. 40).

7 Non-federally recognized tribes do not have a political relationship to the U.S. but in some states that have regimes of state recognition it can be said that state-recognized tribes have a political relationship to the individual state. Such a relationship, however, is outside the established federal structure.

8 On the notion of Indigenous paradox, Timo Duile notes that it is not a new concept and relies on a framework of relation and difference. Understanding Indigeneity dialectically, Duile instead emphasizes "that paradoxes of indigeneity are a form of a dialectical process (rather than an issue of relation and difference)" (Duile 2021, p. 375).

9 See chapter six in *Playing Indian*, *Counterculture Indians and the New Age*, for Deloria's enlightening analysis of this era of Indian cultural appropriation.

10 Circe Sturm most clearly articulated this idea in Sturm (2010). Also notable, in the conclusion of *Playing Indian* Deloria contends that "[Indian play] offered the concrete ground on which identity might be experienced, but it did not call its adherents to change their lives. Only a handful of Indian players ever went native and they tended to do so in the mid to late twentieth century when the borders were blurry enough to slip across with minimal difficulty" (p. 185). Since *Playing Indian* was published in 1999, we can see the extensiveness of pretendianism as a phenomenon. It is precisely the blurriness of the borders that people slipped across that commentators on Indian ethnic fraud are addressing.

11 As Thornton writes, census "self-identification changed everything. Now 'Indian' simply exists in someone's mind." Dwanna McKay reports that of the 5.2 million people who self-identified as American Indian on the 2010 census only 1.9 million people were enrolled members of federally recognized tribes, meaning that 67% of those who identified as American Indian were without official tribal membership status. See McKay (2021).

12 The term "ethnic revival" is a term used by sociologists to describe this era of identity shifting in the U.S. (Fitzgerald 2007).

13 In Circe Sturm's work on Cherokee identity, she engages the term race-shifting to explain the phenomenon of white people crossing racial borders, leaving behind whiteness for often imagined and unverifiable Cherokee identities, connecting it to this era of changing census data. In 1980 alone, the census recorded a 251% increase in Cherokee claims. In his study on race-shifters in Canada, Daryl Leroux shows how white French-Canadians use genealogy to dig up an indigenous ancestor from hundreds of years in the past to legitimize neo-indigenous identities. See also Leroux (2019); Garroutte (2003); Sturm (2002); and Huhndorf (2001).

14 Quoted in Blansett (2018, pp. 8–9). Kent Blansett is known for his scholarship on the Red Power era, including the critically acclaimed book *A Journey to Freedom: Richard Oakes, Alcatraz, and the Red Power Movement*. Blansett asserts himself as an "Indigenous descendant" from five different tribes (Cherokee, Choctaw, Creek, Shawnee, and Potawatomie), none of which he can demonstrate any current association with despite the fact that they are all either low- or no-blood-quantum tribes. He was hired under the prestigious Langston Hughes professorship program at University of Kansas whose purpose was to bring a "prominent or emerging minority scholar" to the university. Blansett's university bio includes a seven-page (single spaced) narrative explaining his family's oral history of Native heritage, which I find unconvincing. For more on the public challenging of Blansett, see Spoerre (2023).

15 One study on census data found that in the 2000 census one-third of people who identified as multiracial American Indians did not identify a specific tribal affiliation compared to one-sixth of those who identified as American Indian only. See Liebler and Zacher (2013). Another study found that people are more likely to join and leave the American Indian category than any other racial category, indicating that American Indian race-shifting is constant in the U.S. census. See Liebler et al. (2016).

16 According to market research firm IBIS World, the U.S.'s adoption and foster care market size was projected to be USD 20 billion in 2023. IBIS World (2022).

17 The Arizona-based Goldwater Institute has been at the forefront of the anti-ICWA movement, and others include (but aren't limited to) the libertarian Cato Institute, Texas Public Policy Foundation, Project on Fair Representation, and Wisconsin-based Bradley Foundation, which is a major funder of the right wing anti-ICWA "machine." Gibson, Dunn, and Crutcher routinely fights against tribal sovereignty and climate justice and is integral to the anti-ICWA efforts. For more on the shady linkages between the worlds of Indian adoption, extractive industries, and tribal sovereignty, see Patrice (2022), A. Brown (2021), and *This Land* Podcast Season 2 with Rebecca Nagle, available online: https://crooked.com/podcast-series/this-land/ (accessed on 9 September 2024).

[18] The federal authority argument references the plenary power doctrine whereby Congress is assumed to possess plenary (i.e., absolute) authority in American Indian and Alaska Native issues. There are multiple views about what Congressional plenary power means in federal Indian law. In one view, it is seen as (oppressively) unlimited power over Indian lands and lives; in another, it is understood as being preemptive, where Congress preempts the power of states towards tribes, and affirming it as the branch of federal government vested with authority over Indian issues above other branches of the government (see Wilkins and Lomawaima 2001). In *Brackeen*, plenary power was affirmed by defenders of ICWA based on a preemptive view.

References

Bens, Jonas. 2020. *The Indigenous Paradox: Rights, Sovereignty, and Culture in the Americas*. Philadelphia: University of Pennsylvania Press.

Blansett, Kent. 2018. *A Journey to Freedom: Richard Oakes, Alcatraz, and the Red Power Movement*. New Haven: Yale University Press.

Brown, Alleen. 2021. Inside the Oil Industry's Fight to Roll Back Tribal Sovereignty After Supreme Court Decision. *The Intercept*. March 10. Available online: https://theintercept.com/2021/03/10/oklahoma-mcgirt-oil-industry-kevin-stitt/ (accessed on 14 March 2023).

Brown, Katrina. 2023. Two Lawswuits Could Threaten the Sovereignty of Indigenous Nations. Crosscut.com. January 10. Available online: https://crosscut.com/equity/2023/01/two-lawsuits-could-threaten-sovereignty-indigenous-nations (accessed on 4 July 2023).

Brownstein. 2023. A Significant Win for Tribal Sovereignty—ICWA Survives Haaland v. Brackeen. *Brownstein Client Alert*. June 28. Available online: https://www.bhfs.com/insights/alerts-articles/2023/a-significant-win-for-tribal-sovereignty-icwa-survives-haaland-v-brackeen (accessed on 3 July 2023).

Crandell, Cassandra. 2019. Moving Forward from the Scoop Era: Proving Active Efforts Under the Indian Child Welfare Act in Illinois. *Northern Illinois University Law Review* 40: 100–27.

Deloria, Vine, Jr., and Clifford M. Lytle. 1984. *The Nations Within: The Past and Future of American Indian Sovereignty*. Austine: University of Texas Press.

Denetclaw, Pauly. 2023. Another Legal Challenge to Indian Gaming. *Indian Country Today*. April 23. Available online: https://ictnews.org/news/another-legal-challenge-to-indian-gaming (accessed on 4 July 2023).

d'Errico, Peter. 2023. Peter d'Errico's Blog. *UMass Amherst Wordpress Websites*. June 19. Available online: https://blogs.umass.edu/derrico/2023/06/19/cutting-through-the-us-claim-of-a-right-of-domination-over-indigenous-people-an-analysis-of-haaland-v-brackeen/ (accessed on 30 June 2023).

Duile, Timo. 2021. Paradoxes of Indigeneity: Identity, the State, and Economy in Indonesia. *Dialectical Anthropology* 45: 357–81. [CrossRef] [PubMed]

Estes, Nick. 2021. *The Guardian*. August 23. Available online: https://www.theguardian.com/commentisfree/2021/aug/23/why-is-the-right-suddenly-interested-in-native-american-adoption-law (accessed on 14 March 2023).

Fenelon, James V. 2023. *Indian, Black, and Irish: Indigenous Nations, African Peoples, European Invasions, 1492–1790*. London: Routledge.

Fitzgerald, Kathleen J. 2007. *Beyond White Ethnicity: Developing a Sociological Understanding of Native American Identity Reclamation*. New York: Lexington Books.

Fletcher, Matthew L. 2014. A Short History of Indian Law in the Supreme Court. American Bar Association. October 14. Available online: https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol--40--no--1--tribal-sovereignty/short_history_of_indian_law/ (accessed on 28 June 2023).

Fletcher, Matthew L., and Wenona T. Singel. 2022. Lawyering the Indian Child Welfare Act. *Michigan Law Review* 120: 1755–98. [CrossRef]

Fredrickson, George M. 2015. *Racism: A Short History*. Princeton: Princeton University Press.

Galanda, Gabe. 2023. In the Spirit of Vine Deloria, Jr.: Indigenous Kinship Renewal and Relational Sovereignty. *SSRN Electronic Journal*, 1–21. [CrossRef]

Garcia-Alex, Lola. 2003. *The Permanent Forum on Indigenous Issues*. Copenhagen: IWGIA.

Garroutte, Eva Marie. 2003. *Real Indians: Identity and the Survival of Native America*. Oakland: University of California Press.

Getches, David H., Charles F. Wilkinson, and Robert A. Williams. 2005. *Cases and Materials in Federal Indian Law*. St. Paul: Thompson West.

Gover, Kirsty. 2008. Genealogy as Continuity: Explaining the Growing Tribal Preference for Descent Rules in Membership Governance in the United States. *American Indian Law Review* 33: 243–9. [CrossRef]

Haaland v. Brackeen. 2023. Cornell Law School Legal Information Institute. Available online: https://www.law.cornell.edu/supremecourt/text/21-376#writing-21-376_CONCUR_6 (accessed on 4 July 2023).

Harmon, Alexandra. 2001. Tribal Enrollment Councils: Lessons on Law and Indian Identity. *Western Historical Quarterly* 32: 175–200. [CrossRef]

Herle, Anita. 1994. Dancing Community: Powwow and Pan-Indianism in North America. *Cambridge Anthropology* 17: 57–83.

Huhndorf, Shari. 2001. *Going Native: Indians in the American Cultural Imagination*. Ithaca: Cornell University Press.

IBIS World. 2022. Adoption & Child Welfare Services in the US—Market Size 2002–2028. October 2. Available online: https://www.ibisworld.com/industry-statistics/market-size/adoption-child-welfare-services-united-states/#:~:text=What%20is%20the%20market%20size,is%20%2420.2bn%20in%202023 (accessed on 13 March 2023).

Jacobs, Margaret. 2014. *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Postwar World*. Lincoln: University of Nebraska Press.
Jacobs, Michelle R. 2023. *Indigenous Memory, Urban Reality*. New York: New York University Press.
Jones, Robert P. 2023. *The Hidden Roots of White Supremacy and the Path to a Shared American Future*. New York: Simon and Schuster.
Joyce, Kathryn. 2014. The Adoption Crunch, the Christian Right, and the Challenge to Indian Sovereignty. Political Research Associates. February 23. Available online: https://politicalresearch.org/2014/02/23/adoption-crunch-christian-right-and-challenge-indian-sovereignty (accessed on 13 March 2023).
Kiel, Doug. 2017. Bleeding Out: Histories and Legacies of "Indian Blood". In *The Great Vanishing Act: Blood Quantum and the Future of Native Nations*. Edited by Kathleen Ratteree and Norbert Hill. Golden: Fulcrum Publishers.
Leroux, Darryl. 2019. *Distorted Descent: White Claims to Indigenous Identity*. Winnipeg: University of Manitoba Press.
Liebler, Carolyn A., and Meghan Zacher. 2013. American Indians Without Tribes in the Twenty-First Century. *Ethnicity and Race Studies* 36: 1910–34. [CrossRef] [PubMed]
Liebler, Carolyn A., Renuska Bhaskar, and Sonya R. Porter. 2016. Dynamics of Race: Joining, Leaving, and Staying in the American Indian/Alaska Native Race Category Between 2000 and 2010. *Demography* 53: 507–40. [CrossRef] [PubMed]
Linjean, Meschelle, and Hillary N. Weaver. 2022. The Indian Child Welfare Act (ICWA): Where We've Been, Where We're Headed, and Where We Need to Go. *Journal of Public Child Welfare* 17: 1034–57. [CrossRef]
Maroukis, Thomas Constantine. 2021. *We Are Not a Vanishing People: The Society of American Indians, 1911–1923*. Tucson: University of Arizona Press.
McKay, Dwanna L. 2021. Real Indians: Policing or Protecting Authentic Indigenous Identity? *Sociology of Race and Ethnicity* 7: 12–25. [CrossRef]
Omi, Michael, and Howard Winant. 1994. *Racial Formation in the United States: From the 1960's to the 1990's*, 2nd ed. London: Routledge.
Patrice, Joe. 2022. Most Firms Don't Advocate Cultural Genocide Pro Bono, But This Biglaw Firm Will! Above the Law. November 8. Available online: https://abovethelaw.com/2022/11/supreme-court-indian-child-welfare-act-gibson-dunn/ (accessed on 14 March 2023).
Pauls, Elizabeth Prine. 2008. Tribal Nomenclature: American Indian, Native American, and First Nation. Brittanica.com. Available online: https://www.britannica.com/topic/Tribal-Nomenclature-American-Indian-Native-American-and-First-Nation-1386025 (accessed on 6 March 2023).
Ramirez, Renya. 2007. *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond*. Durham: Duke University Press.
Royster, Judith. 2019. The Legacy of Allotment. In *Reading American Indian Law*. Edited by Grant Christensen and Melissa L. Tatum. Cambridge: Cambridge University Press, pp. 238–61.
Ryser, Rudolf C. 2012. *Indigenous Nations and Modern States*. New York: Routledge.
Spoerre, Anna. 2023. 3 KU professors are accused of faking Native American ancestry. *Kansas City Star*, July 26.
Spruhan, Paul. 2006. A Legal History of Blood Quantum in Federal Indian Law to 1935. *South Dakota Law Review* 51: 1–50.
Sturm, Circe. 2002. *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma*. Berkeley: University of California Press.
Sturm, Circe. 2010. *Becoming Indian: The Struggle over Cherokee Identity in the Twenty-First Century*. Santa Fe: SAR Press.
Thornton, Russell. 2017. Who Counts? Indians and the U.S. Census. In *The Great Vanishing Act: Blood Quantum and the Future of Native Nations*. Edited by Kathleen Ratteree and Norbert Hill. Golden: Fulcrum Publishers.
War Soldier, Rose Soza. 2013. Unpublished dissertation. *Arizona State University Library*, November. Available online: https://keep.lib.asu.edu/items/152393 (accessed on 31 March 2023).
Who Are Indigenous Peoples? Indigenous Peoples, Indigenous Voices Fact Sheet. n.d. UN.org. Available online: https://www.un.org/esa/socdev/unpfii/documents/5session_factsheet1.pdf (accessed on 6 March 2023).
Wilkins, David, and Shelly Hulse Wilkins. 2017. Blood Quantum: The Mathematics of Ethnocide. In *The Great Vanishing Act: Blood Quantum and the Future of Native Nations*. Edited by Kathleen Ratteree and Norbert Hill. Golden: Fulcrum Publishers, pp. 210–27.
Wilkins, David, and Tsianina Lomawaima. 2001. *Uneven Ground: American Indian Sovereignty and Federal Indian Law*. Norman: University of Oklahoma Press.
Williams, Robert A., Jr. 1990. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press.
Wolfe, Patrick. 2006. Settler Colonialism and the Elimination of the Native. *Journal of Genocide Research* 8: 387–409. [CrossRef]
Young, Jessie. 2016. Tribal Citizenship and Indian Identity. In *American Indian Identity: Citizenship, Membership, and Blood*. Edited by Se-ah-Dom Edmo and Alan Parker. Santa Barbara: Praeger.

Disclaimer/Publisher's Note: The statements, opinions and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of MDPI and/or the editor(s). MDPI and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions or products referred to in the content.