

FIRST 'REVIEW' OF SCHOLARLY PROMISE AND ACCOMPLISHMENT

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Professor Singel's article, *Indian Tribes and Human Rights Accountability*,¹ readily satisfies, even surpasses, tenure criteria such as:

- (1) an in-depth comprehension of an area or subarea of the law;
- (2) the ability to organize and communicate ideas in a clear and concise manner;
- (3) mastery of the legal style of writing and footnoting;
- (4) creative analysis, including the development of novel theories or new insights;
and
- (5) the ability to master complex and/or difficult subject matter.

The article, and the subsequent symposium,² demonstrates an in-depth comprehension of an area of Indian law, namely the roots and checkered development of tribal sovereignty in the modern era. Professor Singel artfully and convincingly demonstrates that (modern) tribal sovereignty has not developed in a consistent linear manner, but rather in an "ad hoc and deeply contextualized process of forming Indian law [that] constrains our modern understanding of tribal sovereignty."³ This piecemeal approach, according to Professor Singel, is fundamentally retrospective, largely judge made, and unmoored to the Constitution. The resulting Supreme Court caselaw weaves between two lines of cases that either uphold tribal self-governance or deemphasize it in favor of plenary power and accommodation to (modern) non-Indian interests.⁴

The key insight developed from this keen analysis is that modern tribal sovereignty doctrine has separated tribal sovereignty from indigenous

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† This 'review' is a slightly revised version of Professor Pommersheim's outside scholarship review for Professor Wenona T. Singel's application for promotion from assistant professor to associate professor at Michigan State University College of Law.

1. See generally Wenona T. Singel, *Indian Tribes and Human Rights Accountability*, 49 SAN DIEGO L. REV. 567, 598 (2012).

2. In October 2012, the *Michigan State Law Review* hosted a symposium titled *Indian Tribes and Human Rights Accountability*, where prominent Indian law scholars gathered to discuss the proposals in Professor Singel's work. The articles in this Symposium issue set out part of that discussion.

3. *Id.* at 598.

4. *Id.* at 600.

understandings of self-rule⁵ and has isolated it from changing notions of human rights and sovereignty in twentieth century international law.⁶ Such an insight can only be achieved through the ability to master complex and difficult subject matter. There is no light without first understanding the confusing, if not dark, history of Indian law.

This thoughtful review does not end the inquiry, but merely sets the stage for the “creative analysis” to develop new insights. As tribes do more and more in the modern era, calls for accountability grow both within and without tribal communities. Yet the contours of contemporary tribal sovereignty have (inadvertently) created substantial doctrinal and political gaps within both the federal and tribal systems in the context of human rights accountability. While not denying the need for internal tribal and external federal reform, Professor Singel boldly suggests the solution of creating an intertribal human rights regime.

This is an insight of substantial scholarly magnitude in that it significantly pushes forward a potential solution to a developing issue within Indian law. Although much of Indian law reality and scholarship in the modern era has been concerned with identifying the contours of tribal sovereignty, the concomitant question of tribal (sovereignty) accountability has been largely ignored and underserved. Professor Singel’s article brings the issue front and center within Indian law scholarship. In addition, it thoughtfully identifies the proposed solution of an intertribal human rights regime: a proposed solution that is resonant with both tribal tradition and international law modernity. The proposal is by its terms modest and invites further scholarly attention and response, which is the true hallmark of meaningful scholarship.

Professor Singel’s article—despite its breadth and complexity—is written in a clear, thoughtful style. The prose is crisp without being arcane or muddled in academic drudge.

In sum, Professor Singel’s article *Indian Tribes and Human Rights Accountability* is a stellar work of scholarship that addresses a significant emerging Indian law problem with an engaged, thoughtful, and creative response. It is a piece that undoubtedly will engender much scholarly and political dialogue in and outside of Indian country, as is evidenced by the *Michigan State Law Review* symposium devoted to this very issue. One could hardly ask for more.

5. See generally Kristen Matoy Carlson, *Jurisdiction and Human Rights Accountability in Indian Country*, 2013 MICH. ST. L. REV. 355.

6. See generally Joseph Thomas Flies-Away & Carrie E. Garrow, *Healing to Wellness Courts: Therapeutic Jurisprudence +*, 2013 MICH. ST. L. REV. 403.