

**UCLA**

**American Indian Culture and Research Journal**

**Title**

American Indians and the Fight for Equal Voting Rights. By Laughlin McDonald.

**Permalink**

<https://escholarship.org/uc/item/0tg1f7cb>

**Journal**

American Indian Culture and Research Journal , 36(1)

**ISSN**

0161-6463

**Author**

Olson, Susan

**Publication Date**

2012

**DOI**

10.17953

**Copyright Information**

This work is made available under the terms of a Creative Commons Attribution-NonCommercial License, available at <https://creativecommons.org/licenses/by-nc/4.0/>

**American Indians and the Fight for Equal Voting Rights.** By Laughlin McDonald. Norman: University of Oklahoma Press, 2010. 347 pages. \$55.00 cloth; \$26.95 paper.

One context for recurring conflicts between whites and Indians is the right of Indians to vote in local, state, and national elections. These conflicts have been especially intense in rural areas, where concentrations of Indian populations—often but not always on reservations—potentially give them significant electoral clout. *American Indians and the Fight for Equal Voting Rights* recounts the use of the federal Voting Rights Act to challenge discrimination against Indians. This law, passed in 1965, is better known to the general public for its impact on African American voters in the South, but it has also been very important for American Indians since it was amended to include them explicitly in 1975. Laughlin McDonald is the nation's preeminent voting-rights litigator. As director of the Voting Rights Project of the American Civil Liberties Union (ACLU) for some forty years, he has personally shaped the law through arguing scores of cases on behalf of American Indians, African Americans, and other minority voters.

The first chapter is a concise summary of federal policy toward American Indians from the nation's founding until the present. The narrative highlights the dramatic reversals over time in the government's degree of hostility or relative support for tribal people, though assumptions of the superiority of white culture underlaid even the more positive periods. The second chapter is a similarly concise description of the Voting Rights Act. This complex law and its numerous amendments and extensions were written to outlaw not only the blatant denial of the right to vote but also more subtle attempts to dilute minority voting strength through means such as electing officials at large rather than from smaller districts or drawing district boundaries in order to minimize the number of districts in which minority voters might prevail.

The next six chapters are case studies of lawsuits on behalf of American Indian voters in five states: Montana, South Dakota, Colorado, Nebraska, and Wyoming. The legal issues in the cases include challenges to at-large elections of county commissions and school boards, inequities in voter-registration procedures and the selection of polling places, discriminatory districting of state and local legislative seats, malapportioned legislative districts, outright exclusion of Indian property owners from a sanitary district, and noncompliance with other requirements of the Voting Rights Act. The final chapter summarizes the increase in Indian electoral participation as barriers decline, which rebuts a commonly offered defense in voting-rights cases that historically low Indian voter turnout is due to lack of interest in nontribal elections

rather than to discrimination. Examples of political influence arising from increased voter participation conclude the book.

The case studies are largely drawn from the evidence assembled to argue the various legal cases. The sources thus are a very rich mix of trial testimony, depositions, local archives of newspapers and other sources, and statutes and prior legal documents. A successful vote dilution claim has to prove three conditions: that (1) the minority group is sufficiently large and geographically compact enough to constitute a majority in one or more single-member districts; (2) the minority is politically cohesive, that is, tends to vote as a bloc; and (3) the majority also votes as a bloc and usually defeats the minority's preferred candidate. Other factors relevant to determining if an electoral practice is illegal are a history of discrimination in the jurisdiction; the effects of prior discrimination in education, employment, or health care on the minority population; responsiveness of election officials to minority citizens; and racial appeals in campaigns. Although the case studies are not explicitly organized around these legal factors, the evidence collected to address them enables McDonald to paint a detailed portrait of past and present race relations in the communities in which the litigation occurred.

Despite their rich detail, the most striking feature of these case studies is their sad similarity. Again and again, the cases reveal long histories of discrimination by governmental entities, hostility from business owners and school officials, and unsuccessful attempts to run for office when white voters crossed party lines in order to coalesce against pro-Indian candidates. Also striking, however, is the degree of success that the lawsuits achieved. Almost every case ended with at least some gains and often with complete victory for Indian voters, including the Wyoming case that was pending when the book went to press. (The district court judge's opinion is available on the ACLU website.) The full US Court of Appeals for the Eighth Circuit reversed the earlier positive decision of one its panels in the city of Martin, South Dakota case, and the ACLU has petitioned the US Supreme Court to review the decision.

The many legal successes emphasize the importance of the federal courts to hear such cases because of these courts' greater insulation from local political pressures. Occasionally, state courts have made important pro-Indian decisions as well, such as the Montana Supreme Court's decision to name the lead plaintiff in the 1980s challenge to at-large county elections to head the commission to oversee the redistricting and apportionment process after the 2000 census. The interplay of law and politics is a fascinating aspect of these case studies, as they move between the courts and local and state political arenas.

McDonald's book has similarities with and differences from the other book-length treatment of Indian voting rights, such as *Native Vote: American Indians, the Voting Rights Act, and the Right to Vote* by political scientists

Daniel McCool, Susan Olson, and Jennifer Robinson (2007). The two books are organized similarly, with overviews of the history of Indian voting rights and the Voting Rights Act, case studies of specific lawsuits, and discussion of the impact of Indian electoral participation. Although McDonald primarily discusses cases brought by the ACLU, two of the three major case studies in *Native Vote* describe cases brought by the US Department of Justice, which is the other major litigator of voting-rights cases.

Neither book is framed very theoretically, but together the two provide excellent data that readers interested in legal mobilization, social movement, or critical race theories can use. McDonald is a great litigator, and great litigators tell compelling stories. Chapters 1 and 2 could stand alone for anyone seeking a solid introduction to the history of federal Indian policy or the history of the Voting Rights Act. McDonald's case studies are superb accounts of Indian experiences in the rural West, even for those not particularly interested in voting. The book definitely deserves a wide readership.

*Susan Olson*

University of Utah

**Anthropology and the Racial Politics of Culture.** By Lee D. Baker. Durham, NC and London: Duke University Press, 2010. 296 pages. \$84.95 cloth; \$23.95 paper.

Did the ways in which anthropologists studied African Americans and American Indians lead to the evasion of vital discussions and analyses of the turbulence of contact, racism, and social inequality for both peoples? How is it that anthropological ideas of culture never broke from notions of race and biology? Why did anthropology come to specialize in describing the cultures of American Indians, while sociology became the descriptor of African American cultures? To address these questions—which frame his research—anthropologist Lee Baker rigorously examines late nineteenth- and early twentieth-century anthropological scholarship, emerging conceptualizations of culture, how the concept of race gained importance during this same time period, and the roles both played in shaping federal Indian policy and public understandings of the cultural differences that African Americans and American Indians embody within the United States. Through four thematically connected essays and a substantial introduction, Baker argues that anthropological descriptions of culture among American Indians and African Americans must be understood as by-products of the ways in which different scholars applied the concept of culture to each group, and the extent to which such application explained culture in opposition to race or linked the two synonymously.