# **UCLA**

# **American Indian Culture and Research Journal**

### **Title**

The White Earth Nation: Ratification of a Native Democratic Constitution. Edited by Gerald Vizenor and Jill Doerfler.

#### **Permalink**

https://escholarship.org/uc/item/42r988gg

# **Journal**

American Indian Culture and Research Journal, 38(3)

### ISSN

0161-6463

### **Author**

Jorgensen, Miriam

## **Publication Date**

2014-06-01

#### DOI

10.17953

# **Copyright Information**

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

groups, social injustices, and cultural atrocities; on the other hand, the reclamation of indigenity through alternative vocabularies ... remappings ... and imaginaries that trace the possibilities of survivance" (xvi). This dual approach to understanding and subverting harmful images suggests that the work ahead calls for a focused contextual methodology in order to avoid the decontextualization that King both warns us from, and occasionally enacts.

Nancy Marie Mithlo University Of Wisconsin-Madison

The White Earth Nation: Ratification of a Native Democratic Constitution. Edited by Gerald Vizenor and Jill Doerfler. Lincoln: University of Nebraska, 2012. 112 pages. \$16.00 paper; \$16.00 ebook.

Delegates to the White Earth Nation Constitutional Convention ratified a new constitution on April 4, 2009. Four and a half years later, on November 19, 2013, the citizens of White Earth adopted the constitution through a nationwide referendum. The vast majority of voters approved the new foundational document, 80 percent. The White Earth Nation: Ratification of a Native Democratic Constitution chronicles many of the events and ideas—recent and deeply historical—that precipitated these votes. The book tells the "story of how and why the people of White Earth engaged the difficult process of establishing a new constitutional arrangement" and "examines the motives, the strategies, the bedeviling issues, and ultimately the choices they made in crafting their new charter of self-governance" (8).

Gerald Vizenor, Jill Doerfler, and David Wilkins' text is part of an emerging new strand of the indigenous legal literature. Joining scholarship such as Jean Dennison's Colonial Entanglement: Constituting a Twenty-First-Century Osage Nation (2012) and Eric Lemont's American Indian Constitutional Reform and the Rebuilding of Native Nations (2006), the book provides key information about an indigenous nation's "constitutional intent." That is, it provides insight concerning the norms and at-the-minute thinking that shaped the White Earth Nation Constitution of 2013. In years to come, when the need for constitutional interpretation arises at White Earth, this book can be relied upon to help explain how the document should be understood.

For example, in chapter 2 Vizenor describes the delegates' engagement with two difficult issues, the role of blood quantum as a criterion for citizenship and the rights of citizens residing outside reservation boundaries. He recounts the convention delegates' understanding that kinship defines the nation—and, importantly, their understanding that structuring citizenship and citizen

Reviews 205

rights to take account of kinship could dilute current members' privileges. He goes on to describe the elegant compromise delegates reached in the "blood quantum versus lineal descent" debate as well as the specific discussions and motions that resulted in a remarkably inclusive approach to non-resident representation. These are significant departures from the White Earth Nation's prior political structure, and the record of how the changes arose will be an important guide for future constitutional interpretation. In addition, Vizenor's description of the *process* convention delegates used to address these difficult issues has general value for all constitutional reformers.

Yet this book is much more than a legal reference for the White Earth Nation. Bound together and interwoven, its four chapters make a series of broadly applicable arguments in support of indigenous nation constitution writing and reform. Less obvious but equally remarkable, the book is a strategic "performance" of constitutional enactment from which all nations—and in particular, their founding mothers and founding fathers—can learn.

A review of this nature could never list all the arguments for indigenous nation constitution making covered in the book. Some of the authors' most important points are:

Indigenous constitution making strengthens indigenous nations. Older tribal constitutions tend to limit Native nations' self-governing power, and the latest wave of constitutional reform reflects their efforts to reclaim more complete governing authority and responsibility. As Doerfler summarizes, "This is a chance to rebuild and renew our sovereignty" (84).

Indigenous constitution making offers an opportunity to create culturally legitimate governing institutions. Many older tribal constitutions also did not cohere with tribal citizens' culturally mediated expectations about governmental form. As a result, they created governments that were discounted by citizens and manipulated by those in power. As the new White Earth Nation Constitution demonstrates (included in its entirety as chapter 3), constitutional reform allows a reset. Tribes can remake constitutions "into documents that reflect the culture, values, and beliefs of their citizens" (82). At White Earth, this congruity is especially evident in the adoption of a lineal descent rule for citizenship and in the creation of a governance role for youth, elders, and community councils. Significantly, these efforts to "match" institutional form with a community's broadly understood political culture resonate with research by the Harvard Project on American Indian Economic Development, which finds that this coherence helps a government produce better results for its citizens.

Indigenous constitution making is part of Native nations' political evolution. The first tribal constitutions were written more than 150 years ago, and Wilkins maintains that constitution writing follows a natural trajectory of

institutional evolution from informal to more formalized systems. Accordingly, the White Earth Nation "has arrived at the realization that they have matured to the point of devising a document to encompass their present-day understanding of political, economic, and cultural autonomy" (7). Vizenor holds that the approach is both natural and needed. The new White Earth Nation Constitution, he states, merges "traditional Native principles of governance . . . with the necessary political divisions of power . . . to provide a narrative structure, process, and rule of law that will ensure the rights and equity of Native citizens in the modern world" (16). This further suggests that indigenous constitution-making is a way to protect the liberties and well-being of tribal citizens.

In Founding Brothers: The Revolutionary Generation (2000) historian Joseph Ellis contends that the writers of the United States' constitution "created the American republic, then held it together throughout the volatile and vulnerable early years by sustaining their presence until national habits and customs took root" (13). In doing so, they were able to move the American republic from the short term, in which implementation of the new constitution was a rocky and uncertain road, to the long run, in which citizens and public servants understood and relied on the institutions themselves. He further describes the founders as having "developed a keen sense of their historical significance even while they were still making the history on which their reputations would rest. They began posing for posterity, writing letters to us as much as to one another. . . . We were the audience for which they were performing" (18, italics added).

In Structuring Sovereignty: The Constitutions of Native Nations, Melissa Tatum, Mary Guss, Sarah Deer, and I describe this post-adoption phenomenon as "living the constitution" (see especially 124–25). But this book shows that the process can begin even earlier. In fact, in quoting Brian Boyd's On the Origin of Stories, Vizenor suggests it is possible to lay a track for institutional functioning even before the institutions themselves exist:

The events that narrative reports may be directly related to present or future choices of action, to situations or people that listeners may become involved with. Or they may offer ways of reasoning about action: analogues or "parables" to guide our social planning; models to emulate or spurn; or merely images of the range of human character, situations, and behavior... Narrative is always strategic, both for teller and listener, in ways that can range from the callously selfish to the generously prosocial. (176)

In other words, besides providing a record of constitutional intent and an abundance of rationales for reform, this book is part of a performance intended to support constitutional enactment should the popular vote result in constitutional adoption. This is not partisan lobbying but prosocial behavior intended to bring better results in the event of adoption. It might be described as "living

Reviews 207

into the constitution." In their various roles as delegates, scribes, consultants, drafters, conveners, and teachers, the authors have created a document that is both prop and script in this process.

Vizenor's narratives about citizenship by lineal descent and representation for off-reservation citizens are examples of this purpose. Chapter 4, a set of essays Doerfler composed for *Anishanaabeg Today*, is another. Intended to prepare citizens for the constitutional referendum, the essays address topics from tribal sovereignty to individual rights to government accountability. Dispassionately and informatively, they explain how White Earth's government would operate if the nation went forward with change.

Some might complain about the book's limited mention of the White Earth Nation's membership in the Minnesota Chippewa Tribe (MCT). Opinion leaders within the other member tribes have questioned the legality of White Earth's exit from the MCT and wondered how White Earth's dissociation affects the Tribe as a whole. But viewing the book as a narrative about constitutional enactment at White Earth, this is less a flaw than a strategic omission, as it does not affect local implementation of a new governing structure.

Vizenor calls ratification of the new White Earth Constitution "a great and memorable moment in the history of the White Earth Nation and the United States of America" (61). Certainly, Vizenor, Doerfler, and Wilkins have created a book that is part of both the greatness and the memory. And especially in teaching about the process of living into a constitution, they prove Wilkins' point that the world has much to learn from Native nations' constitution-making efforts. He suggests that it is on "the smaller scale, the indigenous scale" where one can "learn vital details about the rule of custom and law, the pursuit of freedom and liberty, the meaning and exercise of sovereignty," and best observe "the development of formal and informal constitutions to improve self-governance" (6–7).

Miriam Jorgensen
The University of Arizona and Harvard University

Yakama Rising: Indigenous Cultural Revitalization, Activism, and Healing. By Michelle M. Jacob. Tucson: University of Arizona Press. 152 pages. \$45.00 cloth.

In Yakama Rising, Michelle Jacob uses emerging conversations by today's indigenous scholars to describe, explain, and honor Yakama experiences and perspectives. She situates her shared Yakama stories within projects of healing, education, and living at places and in ways that Yakama peoples have done