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## Indian Law/Race Law: A Five-Hundred Year History

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## Indian Law/Race Law: A Five-Hundred Year History

## BOOK NOTES

FALKOWSKI, JAMES E., *INDIAN LAW/RACE LAW: A FIVE-HUNDRED YEAR HISTORY*; Praeger Publishers, New York, NY (1992); ISBN 0-275-94318-6; 170 pp. (hardcover).

James Falkowski has been studying Indian law for about twenty years. The reader must go no further than the first paragraph of the preface in *Indian Law/Race Law: A Five-Hundred Year History* to know the author has a strong opinion on the subject. He theorizes that human rights violations toward indigenous peoples of the Western hemisphere have been institutionalized, and continually justified, through a dual system of international laws: those that apply to "civilized" peoples and those that apply to "uncivilized" peoples.

In arriving at this conclusion, the text first traces the early development of international law toward indigenous populations, beginning with the European "discovery" of North America. These foreign conquests brought a right to conquer, purchase and colonize land, depriving the Indians of their human rights in the process. Both the Spanish and English perspectives toward the Indians are examined, and the roots of the prejudices toward these native peoples is discussed.

It is not until after World War I that Woodrow Wilson attempts to secure Indian rights through the Native Inhabitants clause of the League of Nations Covenant. This covenant was expanded under the United Nations Charter. Falkowski argues that the UN continually ignored the problems faced by indigenous peoples, however, until the UN Decade to Combat Racism commenced in the 1970s. Subsequently, the UN produced several important studies on worldwide indigenous populations.

The author also argues the International Court of Justice and other international tribunals have continually failed to recognize the rights of indigenous peoples. Several cases are examined, such as *Island of Palmas* and *Western Sahara*. Specifically, the United States' policy of self-determination is discussed in several Supreme Court cases. Theories justifying colonial expansion by the French and the U.S. are also explored.

The author concludes from his examination of relevant caselaw and covenants that current international law is a compromise between attempts to apply law to all peoples and the bias favoring Christian-Euro-

pean peoples. Although international attempts to recognize the rights of indigenous people should be lauded, the next step by the international legal system should be taken: a Universal Declaration on the Rights of Indigenous Nations and Peoples.

*Lisa Berkowitz*