

Epstein, Lee, et al. (2005) "The Supreme Court During Crisis: How War Affects Only Non-War Cases," 80 *New York Univ. Law Rev.* 1–116.

* * *

Native Acts: Law, Recognition, and Cultural Authenticity. By Joanne Barker. Durham: Duke University Press, 2011. 284 pp. \$23.95 paper.

Reviewed by Beth H. Piatote, University of California, Berkeley

In *Native Acts*, Joanne Barker wades into the rough waters of intra-tribal politics, investigating how U.S. legal definitions of categories such as "tribe," "member," and "tradition" shape the discourses and distribution of rights within contemporary Native society. Barker argues that these legal terms extend from and uphold U.S. national interests, and that it is critical to understand how practices such as tribal management of membership rolls, while based in principles of sovereignty, have the potential to reproduce forms of oppression, including gender discrimination and unequal rights. Central to her argument is the assertion that notions of cultural authenticity, measured by blood degree and other calibrations defined under law, thoroughly infuse debates and decisions about Native political rights both externally and internally. Until Native polities challenge these categories of belonging, Barker warns, "the important projects for Native decolonization and self-determination" remain impossible (p. 7).

The book is divided into three thematic sections ("Recognition," "Membership," and "Tradition") that pair contextual chapters with case studies. In "Recognition," Barker sets up the history of the term "Indian tribe" by focusing on two main periods: the early Republic to the Marshall Rulings of the 1830s, and the "self-determination" era since the 1970s. It is curious, and somewhat disappointing, that many of the key pieces of Indian law and policy from the twentieth century—including the Indian Reorganization Act (1934), Termination (1950s), Relocation (1950s), and Restoration (1980s)—receive scant or no attention in this or subsequent chapters, particularly because Barker's case studies deal so intimately with tribal structure, membership, and competing authenticity claims. The first case study, paired with "Recognition," involves the conflict over federal recognition status between the Cherokees and the Delawares; the studies that follow address the 1978 Supreme Court ruling, *Santa Clara Pueblo v. Martinez*; disen-

rollment disputes within a California gaming tribe; and the adoption of federal Defense of Marriage Act (DOMA) standards by tribes, particularly the Cherokees and Navajos. In general, the case studies are more satisfying than the broad strokes of the contextual chapters, given that their smaller scope allows for more detail, nuance, and analysis. In a final section, "Origins," Barker calls for Native individuals with access to political recognition and power to acknowledge the constructed nature of their empowerment and to form coalitions with the disenfranchised to challenge existing standards of authenticity and belonging.

Through the case studies, Barker exposes the devastating consequences, at both the material and political levels, of tribal redeployment of U.S. national narratives of authenticity and subjectivity. Her book opens a much-needed conversation, and challenges the uncritical embrace of tribal nationalism and sovereignty as ultimate ends for which any sacrifices may be acceptable, regardless of what these sacrifices may mean for disenfranchised subjects (largely women, children, and LGBTQ subjects). Yet in its forceful call for "decolonization," the book tends to foreclose the very avenues of escape that it envisions. In the interest of advancing an argument about the destructive nature of Indian policy, Barker tends to ignore or downplay the historic fissures and failures that reveal the incompleteness of colonial projects. To give one example, in her discussion of boarding schools, Barker notes that they produced soldiers and wage workers, and "disproportionately high rates of interpersonal violence, substance abuse, depression, and suicide within Native communities" (p. 87). These effects have been documented, but so have others; the boarding schools also produced medical doctors, lawyers, journalists, writers, athletes and entertainers who contributed to the political and social welfare of their families and communities. To overlook these responses is to paint a totalizing view of the law and offer little hope for the "decolonial" efforts that Barker envisions. Another weakness of the study is Barker's reliance on dictionary definitions of terms, which appear as epigraphs and parts of the analysis, making it difficult to determine what she is really arguing against: the law or the lexicon. The dictionary definitions push readers away from productive and specific understandings of the law and toward a less nuanced engagement with general terms.

Despite these shortcomings, Barker's volume is admirable for its accounting of recent cases, and will be generative for discussion and study in Native American Studies courses, particularly those focused on contemporary tribal politics and gender and queer studies.

* * *