

## GREGORY ABLAVSKY

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### CURRENT ACADEMIC POSITION

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**Stanford Law School**, Professor of Law, 2021-present

Marion Rice Kirkwood Professor of Law, 2022-present

Helen L. Crocker Faculty Scholar, 2020-2022

Professor, by Courtesy, of History, 2016-present

Associate Professor of Law, 2018-2021

Assistant Professor of Law, 2015-2018

John Bingham Hurlbut Award for Excellence in Teaching, 2019

*Courses:* Property

Federal Indian Law

Law & Empire in U.S. History

Native Peoples & the Law

Policy Practicum: Tribal Assistance Project

U.S. Legal History

### EDUCATION

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**University of Pennsylvania**, Ph.D., History, 2016

*Dissertation:* "The Adjudicatory State: Sovereignty, Property, and the Law in the U.S. Territories, 1783-1803"

*Honors:* Distinction in Qualifying Exams; Javits Fellowship, U.S. Dep't of Educ.

**University of Pennsylvania Law School**, J.D., *summa cum laude*, 2011

*Honors:* Peter McCall Prize (to graduating student ranked first in class); Barenkopf Prize (to rising 3L ranked first in class); Levy Scholar

**Yale University**, B.A., History, *summa cum laude*, distinction in the major, 2005

*Honors:* Warren Memorial High Scholarship Prize (graduating student ranked first in humanities); Tuttle Cup; John Addison Porter Prize

### SCHOLARSHIP: BOOKS & BOOK CHAPTERS

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FEDERAL GROUND: GOVERNING PROPERTY AND VIOLENCE IN THE FIRST U.S. TERRITORIES (Oxford University Press, 2021).

- Awarded the J. Willard Hurst Book Prize for the best work in sociolegal history by the Law and Society Association.
- Awarded the William Nelson Cromwell Foundation Book Prize for the best book in the field of American legal history by an early career scholar.

*Indigenous Law*, in OXFORD HANDBOOK OF LAW & HUMANITIES, Bernadette Meyler and Simon Stern eds., 517-31 (2019) (with Sarah Deer and Justin Richland).

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SCHOLARSHIP: ARTICLES

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*Too Much History: Castro-Huerta and the Problem of Change in Indian Law*, 2022 S. Ct. Rev. (forthcoming 2023).

*We the (Native) People?: How Indigenous Peoples Debated the U.S. Constitution*, 123 COLUM. L. REV. (forthcoming 2023) (with Tanner Allread).

*Akhil Amar's Unusable Past*, 121 MICH. L. REV. (forthcoming 2023) (book review)

*Getting Public Rights Wrong: The Lost History of the Private Land Claims*, 74 STAN. L. REV. 277 (2022)

*Two Federalist Constitutions of Empire*, 89 FORDHAM L. REV. 1677 (2021) (symposium).

*Species of Sovereignty: Native American Nationhood, the United States, and International Law, 1783-1795*, 106 J. AMERICAN HIST. 591 (2019).

*Administrative Constitutionalism and the Northwest Ordinance*, 167 U. PA. L. REV. 1631 (2019) (symposium).

*Sovereign Metaphors in Indian Law*, 80 MONT. L. REV. 11 (2019) (symposium).

*Empire States: The Coming of Dual Federalism*, 128 YALE L.J. 1792 (2019).

*The Rise of Federal Title*, 106 CAL. L. REV. 631 (2018).

- Reviewed in Ezra Rosser, *The Messy Core: Federal Supremacy and Property Recognition*, JOTWELL: THE JOURNAL OF THINGS WE LIKE (LOTS), 2018, <https://property.jotwell.com/the-messy-core-federal-supremacy-and-property-recognition/>

*Indians, Race, and Original Constitutional Meanings*, 70 STAN. L. REV. 1025 (2018).

*Beyond the Indian Commerce Clause*, 124 YALE L.J. 1012 (2015).

- Reviewed in Bethany Berger, *Not So Schizophrenic: The Founders' Understanding of Indian Affairs and the Constitution*, JOTWELL: THE JOURNAL OF THINGS WE LIKE (LOTS), 2015, <http://lex.jotwell.com/not-so-schizophrenic-the-founders-understanding-of-indian-affairs-and-the-constitution/>

*The Savage Constitution*, 63 DUKE L.J. 999 (2014).

- Awarded Cromwell Prize for best article in American legal history by American Society for Legal History
- Reviewed in Christina Duffy Ponsa, *In Plain View*, JOTWELL: THE JOURNAL OF THINGS WE LIKE (LOTS), 2014, <http://legalhist.jotwell.com/in-plain-view/>

*Leaving the Bench: The Choices Federal Judges Make, What Influences Those Choices, and Their Consequences*, 161 U. PA. L. REV. 1 (2012) (with Stephen Burbank and S. Jay Plager).

- Reviewed in James Pfander, *Why Judges Leave the Bench*, JOTWELL: THE JOURNAL OF THINGS WE LIKE (LOTS), 2012, <http://courtslaw.jotwell.com/why-judges-leave-the-bench/>

Comment, *Making Indians “White”: The Judicial Abolition of Native Slavery in Revolutionary Virginia and Its Racial Legacy*, 159 U. PA. L. REV. 1457 (2011).

## OTHER WRITING

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*The Supreme Court Strikes Again – This Time at Tribal Sovereignty*, WASH. POST. (2022) (with Elizabeth Reese).

Brief for Amicus Curiae Professor Gregory Ablavsky in Support of Federal Parties and Tribal Defendants, *Brackeen v. Haaland* (2021) (S. Ct. No. 21-376).

Brief of Amici Curiae Federal Indian Law Scholars and Historians in Support of Respondent, *Oklahoma v. Castro-Huerta* (2021) (S. Ct. No. 21-429) (with Maggie Blackhawk).

Brief of Amici Curiae Federal Indian Law Scholars and Historians in Support of Respondent, *Denezpi v. United States* (2021) (S. Ct. No. 20-7622) (with Maggie Blackhawk).

Book review, 61 AM. J. LEGAL HIST. (2021) (reviewing CLAIRE PRIEST, *CREDIT NATION: PROPERTY LAWS AND INSTITUTIONS IN EARLY AMERICA* (2021)).

*Yellen v. Confederated Tribes of the Chehalis Reservation*: Argument Preview, Argument Analysis, and Opinion Analysis, SCOTUSBLOG (2021).

*Joe Manchin Is Wrong – D.C. Statehood is Constitutional*, THE HILL (2021).

Book review, 108 J. AM. HIST. (2021) (reviewing NATSU TAYLOR SAITO, *SETTLER COLONIALISM, RACE, AND THE LAW: WHY STRUCTURAL RACISM PERSISTS* (2020)).

Book review, 40 J. EARLY REP. 752 (2020) (reviewing JESSICA K. LOWE, *MURDER IN THE SHENANDOAH: MAKING LAW SOVEREIGN IN REVOLUTIONARY VIRGINIA* (2019)).

Book review, 86 J. SOUTHERN HIST. 143 (2020) (reviewing KEVIN KOKOMOOR, *OF ONE MIND AND OF ONE GOVERNMENT: THE RISE AND FALL OF THE CREEK NATION IN THE EARLY REPUBLIC* (2018)).

*Herrera v. Wyoming*: Argument Preview, Argument Analysis, and Opinion Analysis, SCOTUSBLOG (2019).

Brief for Amicus Curiae Professor Gregory Ablavsky in Support of Defendants-Appellants and Intervenor Defendants-Appellants and Reversal, *Brackeen v. Zinke* (2019) (5th Cir. No. 4:17-CV-00868-O).

*Upper Skagit v. Lundgren: Deceptively Straightforward Case Raises Fundamental Questions about Native Nations, History, and Sovereignty*, LEGAL AGGREGATE (May 23, 2018).

*Selling Patents to Indian Tribes to Delay the Market Entry of Generic Drugs*, 178 JAMA INTERNAL MED. 179–80 (2018) (with Lisa Ouellette).

*History, Power, and Federal Indian Law*, PROCESS: A BLOG FOR AMERICAN HISTORY (Jan. 4, 2018).

*A Dramatic Reduction of Protected Federal Land: Parsing the Administration's Proposals to Cut Back Bears Ears and Grand Staircase Monuments*, LEGAL AGGREGATE (Dec. 6, 2017).

*What Justice Thomas Gets Wrong About the Constitutional History of Indian Affairs*, LEGAL AGGREGATE (Nov. 28, 2017).

*States Battle the Federal Government for Control of Public Lands. They Both Have Long Trampled on Native American Rights*. WASH. POST (Nov. 9, 2017).

Book review, 75 WILLIAM & MARY QUARTERLY 165 (2018) (reviewing CHARLES HOBSON, *THE GREAT YAZOO LANDS SALE: THE CASE OF FLETCHER V. PECK* (2017)).

Book review, 36 J. EARLY REPUBLIC 573 (2016) (reviewing DEBORAH ROSEN, *BORDER LAW: THE FIRST SEMINOLE WAR AND AMERICAN NATIONHOOD* (2015)).

*U.S. v. Bryant: Congress, Not Justices' Interpretations of History, Better Arbiter of Tribal Sovereignty*, LEGAL AGGREGATE (June 19, 2016).

*Lewis v. Clarke: Limited Doctrinal Implications for Indian Law*, LEGAL AGGREGATE (Apr. 25, 2017).

*Case Downplays History of Native American Relations*, DAILY JOURNAL (Jan. 21, 2016).

Brief for Historical and Legal Scholars as Amicus Curiae Supporting Respondents, *Nebraska v. Parker*, 136 S. Ct. 1072 (2016) (No. 14-1406), 2015 WL 9412675.

Brief for Amici Curiae Historians and Legal Scholars Gregory Ablavsky et al. in Support of Respondents, *Dollar General v. Mississippi Band of Choctaw Indians*, 136 S. Ct. 2159 (2016) (No. 13-1496), 2015 WL 6445771.

Book review, 76 THE HISTORIAN 583 (2014) (reviewing NAN GOODMAN, *BANISHED: COMMON LAW AND THE RHETORIC OF SOCIAL EXCLUSION IN EARLY NEW ENGLAND* (2012)).

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#### PROFESSIONAL & TEACHING EXPERIENCE

**University of Pennsylvania Law School**, Sharswood Fellow in Law and History, 2012-2015.

**United States Court of Appeals for the Third Circuit**, Law Clerk to Hon. Judge Anthony J. Scirica, 2011- 2012.

**Native American Rights Fund**, Summer Law Clerk, 2010.

**Teach for America, Zuni Intermediate School**, Fifth-Grade Teacher, 2005-2007.

#### SERVICE

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##### Reviewer

*Columbia Law Review*  
*Journal of American Legal History*  
*Journal of the Early Republic*  
*Journal of Law, Property, & Society*  
*Law & History Review*  
*Stanford Law Review*  
*William & Mary Quarterly*  
*Yale Law Journal*

Stanford Law School Clerkship Committee, 2015-2021; Joint Degree Committee, 2019-2021; Admissions Committee, 2021-present; Appointments Committee, 2022-present.

Publications Committee, 2018-2021; Graduate Student Representative, Board of Directors, American Society for Legal History, 2010-2013.

#### MEMBERSHIPS

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American Society for Legal History  
Organization of American Historians  
American Historical Association  
Law and Society Association  
Society for Historians of the Early American Republic