

Miller, Robert J. and Robbie Ethridge. (2023). *A Promise Kept: The Muscogee (Creek) Nation and McGirt v. Oklahoma*. Norman, OK: University of Oklahoma Press.

“Few moral judgments are more intuitively obvious and more widely shared than that promises ought to be kept.”¹ In 2020, the United States Supreme Court agreed in a narrow 5-4 ruling that not only acknowledged sovereign boundaries between the tribes and the state, but also offered an opportunity for the people of Oklahoma and well beyond to respect treaties forged early in the republic’s trajectory and ratified in legal documents many times since. In addition to the role of treaties as public obligations that shape human commitments into binding law, the decision in *McGirt v. Oklahoma* is an opportunity to examine the role of the courts as decision makers which mold the lives of communities.

In the wake of the American Revolution, the continent was envisioned as the land base of the new nation. George Washington outlined a calculated policy that called for engaging in land purchases with indigenous peoples through legal treaties versus war with care taken “not to yield nor too grasp at too much.” Enter, he wrote, into trade so as to “fix them strongly in our Interest.” Further, “there is nothing to be obtained by an Indian War...”² We know that Washington’s words were adhered to in part only as the historical record is replete with genocidal wars and illegal land grabs.³ People indigenous to what would become the United States were pushed off their lands and unto reservations.

Some, such as the MCN, signed treaties with the U.S. government in what appeared to be gigantic land swaps. The Muscogee Creek Nation were forced to move from the southeastern part of the United States to a 3.25 million acre reservation on the western Mississippi River. Over time their holdings would be stripped down to 135,000 acres. The contemporary upshot of the McGirt ruling is that the Muscogee Nation expanded from the stripped down 135,000 acres back to the original 3.25 million acres. Sub-

sequently, the original boundaries of seven other nations have been re-recognized by the courts. Today, “approximately 43 percent of Oklahoma, up to nineteen million acres of land in the eastern part of the state, is ‘Indian Country’, under federal law, and 1.8 million Oklahomans, about 90 percent of whom are non-Indian” live on reservations.⁴

Robert J. Miller and Robbie Etheridge have written an accessible book, *A Promise Kept: The Muscogee (Creek) Nation and McGirt v. Oklahoma*, that puts the court’s decision in the broader context of American and Oklahoma history while forthrightly discussing the realistic challenges ahead.

The book is divided into two parts. Part I uses treaties, legislative acts and court rulings related the McGirt case to provide a brief history of the Muscogee (Creek) Nation (MCN) from the seventeenth to the twenty-first century. This is an informative and edifying account. Chapter 1 describes the initial relationships with the British followed by the U.S. government. Chapter 2 takes on removal from the southeast to Indian Territory now Oklahoma. Chapter 3 explores the history of the MCN Reservation in Indian Territory. Chapter 4 delves into the history surrounding Oklahoma’s “encroachment”. This is a powerful tour of a tortured past that should be read widely. The facts are that Muscogee removal was premised “on a treaty promising, in perpetuity, Creek self-governance and Creek landholdings in present-day Oklahoma, and that promise has been restated numerous times in the almost two hundred years since the original agreement.” For two hundred years attempts have been made “to break, to undermine, to change, and to limit that promise.” It should be “underscored” that the McGirt decision highlights the fact that “American Indian rights exist at the pleasure of the U.S. Congress.” This is a legislative body that shifts with “the prevailing cultural, political, and ideological winds. For now, though, the promise holds.”⁵

Part II takes up *McGirt v. Oklahoma* from the perspective of the

Supreme Court ruling. Chapter 5 uses case law emanating from the twentieth- and twenty-first-century as a prelude that established the legal path for the Court's decision. Chapter 6 is a close and informative analysis of the case. Chapter 7 examines the legal precedents that control the changes spurred by the ruling and their consequences for the MCN and the additional newly re-recognized Indian reservations.

Essentially, *McGirt* is a long overdue correction. The authors detail the role of the state of Oklahoma and its' century long promotion of illegalities while consciously operating under incorrect assumptions which were bolstered by the United States' failure to support Indian nations.⁶ This look at the bad governance which generated appalling public policy is worthy of full consideration by the citizenry. Currently, both the state and the tribes are adjusting. In some respects, the state continues its long history of working to undermine the tribes. *McGirt* is an opportunity to reverse these practices and engage in "respectful relationships and negotiations" which are at the heart of the democratic project.⁷ Can we live up to our ideals? If you reside in Oklahoma, and/or care about what happens in this state, this book is well worth reading.

Elizabeth Overman
University of Central Oklahoma

ENDNOTES

- ¹ Habib, A. (2022). *Stanford Encyclopedia of Philosophy*. Retrieved from <https://plato.stanford.edu/entries/promises/>
- ² Miller, R.J., Ethridge, R, (2023). *A Promise Kept: The Muscogee (Creek) Nation and McGirt v. Oklahoma*. Norman: University of Oklahoma Press, p. 5 – 7.
- ³ University College of London researchers estimated in 2019 that European settlers killed 56 million indigenous people in the first 100 years of the colonization of the Americas. Retrieved from <https://www.cnn.com/2019/02/01/world/european-colonization-climate-change-trnd/index.html#:~:text=European%20settlers%20killed%2056%20million,London%2C%20or%20UCL%2C%20estimate.>
- ⁴ Miller, R.J., Ethridge, R, IBID, p. 2.
- ⁵ IBID, p. 124.
- ⁶ Miller, R.J., Dolan, T., (2022). *The Indian Law Bombshell: McGirt V. Oklahoma*. Boston University Law Review, Vol. 101:2049. Retrieved from: <https://www.bu.edu/bulawreview/files/2022/01/MILLER-DOLAN.pdf>
- ⁷ Miller, Ethridge, IBID.