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# **An Inquiry Into Indigenous Political Participation: Implications for Tribal Sovereignty**

**David Wilkins**

When we set out to examine the various forms and patterns of indigenous political participation in the three polities they are connected to—tribal, state, and federal—we are stepping into a most complicated subject matter. It is complicated in large part because Indians are citizens of separate extra-constitutional nations whose members have only gradually been incorporated in various ways by various federal policies and day to day interactions with non-Indians. Tribal nations, of course, have never been constitutionally incorporated and still retain their standing as separate political bodies not beholden to either federal or state constitutions for their existence.

Each of these realities—Indians as citizens of continuing sovereign nations and individual Indians as citizens of not only their tribes but also of the U.S. and the states—exist simultaneously. If this were not complicated enough, since the late 1980s, and largely as a result of Indian gaming, there now exists a situation where some tribal governments, acting, they argue, in a sovereign capacity, are not only proactively supporting state and federal office seekers (in addition to tribal office seekers) by making significant financial contributions to American political campaigns (in addition to their own tribal campaigns), but are also weighing in on issues—like the national tobacco litigation—that seem unrelated to tribal affairs.

Tribal nations have reminded (lobbied) Washington policymakers since the beginning of the republic about their contractual and moral obligations to protect treaty-derived Indian rights, but gambling wealth is providing some tribes with opportunities to employ skilled lobbyists, savvy public relations firms, and make large campaign contributions “to win influence, make friends and crush opponents”<sup>1</sup> in a manner heretofore unknown.

For example, in New Mexico the various tribes contributed only \$1100 to state gubernatorial candidates in the 1986 elections. In the 1990 election the figure increased to \$7500. But in 1994, “clearly mobilized by the gaming issue, tribes donated \$189,000 prior to election day and another \$50,500 afterward.”<sup>2</sup> Other tribes have been even more forthcoming with financial contributions. The Mashantucket Pequot Tribe of Connecticut in 1994 gave \$500,000 to the Democratic National Committee, \$100,000 to the Democratic Parties

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of California and New York, and \$50,000 to Iowa's Democratic Party.<sup>3</sup>

The Pequot, in fact, who operate the Foxwoods Casino in Ledyard, Connecticut, from 1988 to 1996 gave more in political contributions than any other gaming donor, a total of \$974,625. This exceeded the \$569,250 donated by the Interface Group—Sands Hotel; the \$554,000 of the Mirage Resorts; and the \$470,905 given by Bally Entertainment.<sup>4</sup>

And in California in 1998, eighty-eight tribes, representing ninety-six percent of California's reservation-based Indians, fought for and secured with a lot of non-tribal support, passage of an initiative, Proposition 5, that requires that the tribes be granted a gaming compact, upon request, to continue their existing gaming activities on their reservation lands. This was the most expensive state initiative ever, with the pro and anti Proposition 5 sides having raised nearly \$86 million. The tribes raised more than two-thirds of that amount. Although this initiative was declared invalid by the Supreme Court of California in August of 1999, the manner in which it was implemented showed that tribes with sufficient revenues could have a significant role in state public policy.

The California tribes had previously been deeply involved in state gubernatorial campaigns in 1994. In 1994 gaming tribes contributed more than \$800,000 to unsuccessful campaigns to unseat Governor Pete Wilson and Attorney General Dan Lungren. The California Indian Nation Political Action Committee contributed almost \$1.1 million to California candidates and political parties between 1994 and 1996.<sup>5</sup>

On the national level, but also centered around Indian gaming and campaign finances, was U.S. Attorney General Janet Reno's probe of Secretary of Interior Bruce Babbitt's alleged involvement in the 1995 rejection of an application by Ojibwe Indians to build a casino off their reservation at a failing dog track in Wisconsin. "The fiercest opposition to this project came from other tribes in Minnesota whose established casinos would face competition from the new one. Those tribes hired legal counsel with strong connections to the Democratic party and White House. Their lawyers got the ear of the president and close aides. Outcome! A rejected application and, soon after, a nearly \$300,000 donation to the Democrats' reelection effort for Clinton-Gore."<sup>6</sup> Clearly, Indian gaming has wrought a revolutionary shift in the involvement of some tribes in state and federal politics on an unprecedented scale.

It is a shift that has the potential to dramatically redefine the essence of tribal sovereignty and the historic nation to nation relationship originally articulated in treaties and acknowledged in the U.S. Constitution. For if tribal governments and their multi-layered citizens are so actively engaged in non-Indian politics, can tribes still legitimately assert that they are in fact extra-constitutional sovereigns whose treaty and trust based rights originally affirmed their distinctive and independent sovereignty?<sup>7</sup>

The issue of indigenous political participation in non-Indian politics is of tremendous interest to those intent on invigorating tribal sovereignty not solely because greater participation necessarily produces better policy decisions, but because of the developmental value of participation in educating and socializing people which enhances

both the meaning of their lives and the value of their relationship to one another and their respective indigenous community.

In the remainder of this paper we want to examine the attitudes and some of the actual ways Indians engage in politics. Our emphasis, however, will primarily be on indigenous participation in non-tribal political affairs (*e.g.*, voting, ideology, partisanship, electoral politics, and endorsements) in large part because there is such scant social science research available on Indian participation in Indian political systems.

I hasten to add that there is only a little more research on Indian participation in non-Indian politics, but there is at least enough research for us to raise some substantive questions even if we cannot provide any definitive answers. I begin with some discussion about why there is such a paucity in political science literature (which should logically address all political sovereigns in the U.S., but until recently almost completely ignored indigenous politics) and then turn my attention to the concept of patriotism and suffrage. I then move to examine issues of ideology, partisanship, interest group activity by Indians, and finally indigenous activism.

## **I. A NEVER ENDING QUEST FOR JUSTICE**

There is, unfortunately, an astounding lack of research by political scientists about Indian peoples as political entities situated in a sovereign to sovereign relationship with the U.S. and state governments. This paucity is palpable considering the preexisting nature of indigenous governments and the wealth of political issues and question that are an inherent part of the tribal situation singly and intergovernmentally—constitutional origins, political development and underdevelopment, the unique body of federal Indian law and policy, social movement organizations, legislative party dynamics, and the roles of Congress, the President, the Courts, and the bureaucracy in formulating, implementing, or stymieing Indian policy, to name but a few.

Part of the reason for the reluctance or refusal of political scientists to examine indigenous political participation rests on the fact that politically tribal nations, generally—although this is changing for some tribes—do not consider themselves to be part of the pluralistic mosaic that is predominant in political science literature. Tribes perceive of themselves not only as pre-constitutional entities, but more importantly, as extra-constitutional polities. For example, in comparison to African Americans one commentator put it thus:

The overriding goal of the black civil rights movement was to achieve individual equality and individual rights as promised within the philosophy of liberalism. Native American leaders, on the other hand, have historically demanded recognition of their tribal [national] rights as guaranteed by treaties, executive agreements, and congressional statutes.<sup>8</sup>

The noted Indian scholar and activist, Vine Deloria, Jr., says it more pithily when



he states that the primary difference between blacks and Indians is that blacks are pursuing equality of acceptance and equal opportunity in American society while Indians pursue justice. By “justice,” Deloria means the Indians’ right to maintain their sovereign integrity and to rest assured that their treaty and trust rights will be protected. These goals are evidenced in the tribe’s focus on tribal sovereignty and maintaining and enhancing their separate land base—goals dissimilar from America’s other racial and ethnic minority groups.

## **II. INDIANS AS PATRIOTS: BUT OF WHICH NATION?**

Because of the inherent tension between the doctrine of tribal sovereignty and the federal government’s historical effort to assimilate native peoples, Indians have developed a complicated set of attitudes and values about their relationship to their nation and to the U.S., that affects their involvement or lack of involvement in tribal, state, and federal elections. Diane Duffy, in some preliminary research on the subject of Indian patriotism based on interview data arrived at the following diverse categories of patriotism:

1. *Indigenous (traditional) patriotism*: the tribal nation is the sole allegiance for Native Americans. This allegiance is expressed in positive Indian, not anti-white language.
2. *Measured-separatism patriotism*: primary allegiance is to the tribe, but also there is some (measured) support for the U.S. and willingness to “serve” as “allies” with the U.S. in the armed services in battles with foreign nations.
3. *Anti-American patriotism*: against the U.S. (rather than for their tribe). Adherents would under no circumstances “serve” in the U.S. military because they would consider it treasonous.
4. *Environmental patriotism*: similar to the first category, but allegiance is explicitly tied to all of the creation and not simply human society.
5. *Assimilative patriotism*: the U.S. is perceived as the superior power and the tribal nation is subordinate.
6. *Co-optive or colonized patriotism*: adherents refuse to conceive of a separate tribal political consciousness that has merit and is deserving of allegiance.
7. *Apatriotic*: believe that patriotism is an irrelevant concept for Native Americans.<sup>9</sup>

An example of Category One is found in a 1998 speech by Chief Irving Powless, Jr., of the Onondaga Nation. After questioning the validity of the 1924 General Indian Citizenship Act, Powless stated that “the Haudenosaunee [also known as the Iroquois Confederacy] have never accepted this law. We do not consider ourselves as citizens of the United States. This law is a violation of the treaties that we signed that prove that we

are sovereign. Because we are a sovereign people the United States can not make us citizens of their nation against our will . . . I have never voted in any election of the United States nor do I intend to vote in any coming elections. Most of our people have never voted in your elections. A few have, but there are not that many who have moved in that direction.”<sup>10</sup>

What Powless did not address, because that was not his focus, was the fact that as a Chief he is expected to be active in Onondaga and the Iroquois Confederacy’s political affairs and he is compelled by the Iroquois Great Law to cast votes in matters affecting his own nation or those of the Confederacy. But Powless’s views represent only one view of indigenous political reality, albeit one rooted in indigenous nationality.

### **III. INDIANS AS AMERICAN VOTERS: AMBIVALENCY AMONG THE ASSIMILATORS**

As Duffy’s categories show, the subject of patriotism is far more complicated than many might imagine. In fact, it appears that a steady number of Indians express support for tribal sovereignty, but an increasing number believe that in order to protect these sovereign rights they must participate in the American political process, whether as voters, giving endorsements, engaging in volunteer campaign work for non-Indian office seekers, *et cetera*. Such seemingly pragmatic political decisions were evident in September 1998 at a large conference that was sponsored by several Arizona tribes and Indian organizations like the Arizona Indian Gaming Association. The conference was held on the Gila River Reservation in central Arizona. It had as its theme “Celebrate Fifty Years of Arizona Indian Citizens Right to Vote,” a focused reference to a 1948 Arizona Supreme Court decision, *Harrison v. Laveen*,<sup>11</sup> that conceded to Indians in the state the right to vote in state and federal elections.

The conference brought together candidates for various state and federal elections and from both political parties to meet with and discuss campaign ideas with several hundred Indians and tribal leaders from many of the state’s twenty-one reservations. A number of issues were addressed including taxation, education, appropriations, Indian child welfare, senior citizens, environmental issues and especially Indian gaming. But it was gaming which topped the list of items of concern. For example, Proposition 304, that would have amended state law to continue the Arizona State Lottery until July 1, 2003, was vigorously discussed. Indian attendees were strongly encouraged to vote in general, and specifically to support of Prop. 304 out of fear that if the Arizona Lottery was terminated this might lead to an effort by the state to end comparable Indian gaming operations. It is the voting behavior of individual Indians which across time has received some scholarly attention since Congress extended the franchise to Indians in 1924.

Of those Indians who have opted to vote in county, municipal, state, or federal elections, their right to exercise this most fundamental of democratic liberties came later than it did for any other large group in the U.S. On the one hand, this should not be surprising, since federal and state lawmakers have been wholly inconsistent in defining



the meanings of citizenship for a multitude of groups, many of whom happened to be non-white or non-male—women; Africans brought enslaved and their descendants; other categories of involuntary immigrants (people of Mexican birth or identity, who “became” American when the U.S. acquired Texas, New Mexico, and other territory after the Mexican War); “non-citizen nationals” who lived in possessions that never became states (Filipinos from 1898-1946, Puerto Ricans between 1900-1917, Virgin Islanders between 1917-1927, persons born in American Samoa now; voluntary immigrants from Asia and elsewhere, who for many years were ineligible for naturalization; refugees who can never return to their homelands; and finally, “refugees uprooted by disruptions in which they have reason to believe the United States was complicit, for example, Vietnamese ‘boat people’.”<sup>12</sup>

On the other hand, the denial of the franchise to Indians seems convoluted because since at least the early 1800s, though sporadically, many federal policymakers have sought by various assimilative measures to bring Indians, whether willingly or not, into the American body politic. As Commissioner of Indian Affairs Thomas J. Morgan put it in 1891, in assessing the steps the government was using to bring the Indians to a “higher state of civilization”:

The allotment of land, the restriction of the power of alienation, the compulsory education of their children, the destruction of the tribal organization, the bestowment of citizenship, the repression of heathenish and hurtful practices, the suppression of outbreaks, and punishment for lawlessness are among the things which belong unmistakably to the prerogatives of the National Government.<sup>13</sup>

In short, while most racial/ethnic groups and women faced a *forced exclusion* from the American social contract, Indians, since the 1880s, faced a *forced inclusion* into the American polity. However, it was an inconsistent and ambivalent inclusion at best. Most of the actions by federal policymakers from the 1800s to the 1970s were aimed at “Americanizing” and “civilizing” Indians. However, there were occasionally opposite actions by lawmakers and justices that insisted that Indians were “alien peoples” or were not quite up to or deserving of complete American citizenship.

Thus, with the adoption of the Fifteenth Amendment (“the right of citizens of the U.S. to vote shall not be denied or abridged by the U.S. or by any State on account of race, color, or previous condition of servitude”)<sup>14</sup> and when Congress enacted the 1924 General Indian Citizenship Act, which read in part that “all non-citizen Indians born within the territorial limits of the United States . . . are hereby declared to be citizens of the United States,”<sup>15</sup> it would appear that the matter of whether Indians were entitled to vote in U.S. elections was solved. Such was not the case, however.

First, tribal nations continued to exist as separate sovereign entities since the citizenship act only applied to individual Indians, not Indian nations. Second, some states, which establish voting eligibility criteria, and being well aware of the ongoing

vitality of tribal sovereignty as evidenced by a) treaty rights which exempt tribal lands and their members from most state regulations and taxation; and b) state constitutional disclaimer clauses which detail that state governments cannot extend their jurisdiction or taxing authority over Indians or tribes inside Indian Country who hold lands in trust status, denied the franchise to those Indians who wanted to vote. While black Americans faced poll taxes, literacy requirements, gerrymandering, violence, at-large elections, and other devices which denied them the franchise, Indians, because of their extra-constitutional political status faced some similar discriminatory measures but also encountered a variety of unique obstacles placed before them by state officials.

McCool found that states have devised a number of strategies to keep Indians from voting. He grouped them in three categories: 1) constitutional ambiguity, 2) political and economic factors, and 3) cultural and racial discrimination.<sup>16</sup> Evidence of constitutional ambiguity is found in several states—Idaho, New Mexico, and Washington—which denied Indians the vote because of a specific provision in their constitutions regarding “Indians not taxed.” Such Indians, according to the Idaho Constitution, could not vote or serve as a juror if they were considered to be non-taxable because they had not “severed their tribal relations and adopted the habits of civilization.”<sup>17</sup>

In Arizona, the franchise was denied to Indians until 1948 (*Harrison v. Laveen*) on the specious grounds that they were “under guardianship.” The pertinent clause in the Arizona Constitution read that “no person under guardianship, non compos mentis, or insane shall be qualified to vote in any election . . . .”

Political and economic factors have also been used to deny Indians the right to vote. In *Elk v. Wilkins*, the Supreme Court held that Indians held allegiance to their own “alien nations” and could thus not be considered loyal Americans.<sup>18</sup> In Utah, Indians on reservations were, until 1956, denied voting privileges under an opinion of the State Attorney General which stated that they were not “residents” of Utah. The Utah Supreme Court in *Allen v. Merrell* upheld the Attorney General’s opinion by declaring that by “allowing them [Indians] to vote might place substantial control of the county government and the expenditures of its funds in a group of citizens who, as a class, had an extremely limited interest in its function and very little responsibility in providing the financial support thereof.”<sup>19</sup>

Finally, outright cultural and racial discrimination was sometimes used to deny Indians the right to vote. For example, as late as 1937 the State of Colorado denied Indians voting rights claiming that they were not yet citizens. This action directly flouted the General Indian Citizenship Act of 1924. As the Attorney General said in a letter to Superintendent Watson of the Ute Agency, on November 24, 1936, “it is our opinion that until Congress enfranchises the Indian, he will not have the right to vote.”<sup>20</sup>

And the state of North Carolina, in action comparable to what blacks experienced, discriminated against Indians under color of a provision of the state election law which declared that a person desiring to register must be able to read and write any section of the U.S. Constitution in the English language and must show this “to the satisfaction of the





registrar.” As the Cherokee Indian Superintendent stated: “We have had Indian graduates of Carlisle, Haskell and other schools in instances much better educated than the registrar himself, turned down because they did not read or write to his *satisfaction*.”<sup>21</sup>

While states no longer overtly disallow Indians the right to vote, and Congress has stepped in with the passage of the Voting Rights Act of 1965 (and amendments) which prohibits tests or other devices to disenfranchise racial minorities, the problem of voter dilution—“the impairment of the equal opportunity of minority voters to participate in the political process and to elect candidates of their choice”—continues to be a real concern for some tribes and their citizens. Annexation, at-large representation, and gerrymandering are three diluting devices states have used to weaken the vote of minority groups, including Indian nations.

For Indian peoples, particularly in areas where the Indian population is a majority or near majority, like Northern Arizona, parts of New Mexico and Utah, and sections of South Dakota, vote dilution has been an ongoing struggle. In Arizona, state lawmakers in the early 1980s attempted to create an all-Indian county, what one state senator called the “Arizona Apartheid Act.”<sup>22</sup>

In Wyoming in 1986, Big Horn County was found guilty in *Windy Boy v. County of Big Horn*,<sup>23</sup> of “official acts of discrimination [that] have interfered with the rights of Indian citizens to register and vote” in the form of an at-large scheme that denied the plaintiffs’ right to participate in elections and to elect representatives of their choice to county and school board offices.<sup>24</sup> And as recently as 1996, advocates for American Indians in Montana filed a lawsuit in which they alleged that the state’s new legislative districts diluted Indians’ voting power.<sup>25</sup>

#### IV. INDIANS, IDEOLOGY, AND PARTISANSHIP

As noted earlier, there is such a scanty research record that it is impossible to arrive at anything more than general impressions of Indian political ideology or political behavior patterns in American elections. There is, unfortunately, even less data available on how Indians participate in tribal elections.<sup>26</sup> It is still worthwhile, however, to briefly discuss the available findings with the caveat that much more work must be done before we can accurately discuss these important topics.

One recent study on Indian party identification indicates that on the national level Indians, as individuals, do engage in some partisan politics and that their “party identification and political orientation, have been remarkably stable (*i.e.*, there have been no statistically significant changes over the twenty year period from 1974 to 1994).”<sup>27</sup> In fact, more Indians see themselves as Democrats, although a sizable number identify as independent, with Republicans trailing badly. And interestingly, as for orientation, more Indians identify as moderate and conservative than as liberal. This might explain how the lone Indian congressman, Ben Nighthorse Campbell (Republican from Colorado) made the switch from the Democratic to the Republican party with relative ease during the 104th Congress. Campbell asserts that the core Republican principles of promoting less

federal government control and championing the free enterprise system are in keeping with tribal philosophies.

This information focuses on aggregate data and does not reflect the party identification or political orientation of the membership of specific tribes, which will surely differ. For example, a study of partisan preferences for Indian voters in Wisconsin, Minnesota, and North and South Dakota, from 1982 to 1992, indicates a strong preference for Democrats.<sup>28</sup> Even more impressively, Pueblo Indians in 1994 voted overwhelmingly democratic—eighty-five percent, “a one-sided level of support which parallels the strongest Democratic voting constituencies in the United States.”<sup>29</sup>

Navajos, on the other hand, over the last forty years or so “have shifted from Republican to Democratic and, during the Reagan years, slightly back to the Republican, at least in national elections.”<sup>30</sup> At the state and local level, however, Navajos exhibit a strong Democratic preference. A somewhat dated study of Navajo political attitudes and behavior conducted by the National Indian Youth Council in 1984 found that sixty-seven percent of the Navajos identified as Democrats, eleven percent as Republicans, and eleven percent as Independents. Some ten percent had no party preference. Of those identifying as Democrat, fifty-one percent said they were strong Democrats, compared to only twenty-one percent who identified themselves as strong Republicans.

Besides tribal-specific differences, there is recent evidence of generational differences as well. A survey developed by the Solidarity Foundation, an Indian research group, was sent to over 1000 Indian high school and college age students. Their responses were then compared with an equivalent sample of Indians over the age of thirty-five. The preliminary results indicate that “the coming generation is more inclined and better equipped than ever to assume leadership positions in their communities. The survey found that the Indian youth of today are more aware, more involved, and more concerned about Native issues than ever before.”<sup>31</sup>

As for partisan identification, the survey’s results show that Indian youth are moving away from clear partisan affiliation, preferring to identify as independent or even as non-affiliated. When asked the question, “With which political party do you most closely associate your own belief and values?” only thirty-seven percent of those under twenty-six years of age replied that they identified as Democrat. This compared with fifty-four percent of those over twenty-six who identified as Democrat.

The survey does reveal, however, that the Republican party is still not drawing Indians to its fold. Less than five percent of the respondents identified as Republican. Independents, however, captured the allegiance of seventeen percent of the youth. And while less than thirty percent of the adults did not affiliate with a particular party, over forty percent of the youth were unaffiliated. In fact, nearly fifty percent of young Indian males (48.3 percent) said they were not attached to any political party.

An increasing number of tribes and their members, regardless of their views on partisanship, apparently believe that state, county and local politics are becoming increasingly important and in the period from 1997-1999 twenty-eight American Indians



and Alaska Natives were serving in eight state legislatures, strategically balancing their citizenship in their tribal nation with service to the state.

## V. INTEREST GROUP ACTIVITY AND INDIAN NATIONS

McClain and Stewart note that “interest groups that focus on issues of importance to blacks, Latinos, Asians, and American Indians have been essential to the progress made toward the incorporation of these groups into the American political system.”<sup>32</sup> While this statement is broadly accurate for most of the groups, the situation of indigenous nations is much more complicated because of their pre- and extra-constitutional status. For much of this nation’s history, the general thrust of most racial and ethnic groups and their members has been to seek inclusion (to become constitutionally incorporated) into the American social contract; by contrast, the general thrust of most indigenous nations and their citizens (notwithstanding their American citizenship) has been to retain their political and cultural exclusion from absorption or incorporation in the American polity.

Of course, as we have already described, the forces of American colonialism—including the imposition of western religious beliefs, western values, and western property arrangements—have unabashedly sought to incorporate Indian lands, resources, and citizens, while sometimes exhibiting a measure of respect for Indian treaty rights, attempts to restore some tribal lands, and provide some protection for Indian religious beliefs and sacred sites.

These forces, combined with individual Indian free will, high out marriage rates, the urbanization of Indians, and the near hegemony of the media and the corporate world, contribute mightily to drawing a portrait of indigenous America that is more diversified than ever before. Notwithstanding this increasing and seemingly inexorable diversification among indigenous peoples, it is still apparent that maintaining and reaffirming Indian political, economic, and cultural identity is a central issue for most indigenous peoples most of the time. And this is true regardless of whether they are reservation-based or urban based, full-blood or mixed blood, recognized or non-recognized, exercising treaty rights or treaty-less, practicing traditional spiritual ceremonies or acting as members of Christian sects. For example, in the Solidarity Foundation survey of Indian youth, more than ninety-six percent of those surveyed “identified themselves with their Indian nation, and more than forty percent identified themselves solely with their Indian nationality. Only a little more than half of the youth identified themselves as American citizens.”<sup>33</sup>

Indians have politically organized along four levels in pursuing their various goals: 1) *intra-tribal*; 2) *tribal*; 3) *inter-tribal coalitions and alliances*; and as 4) *alliances of like-minded individuals*.<sup>34</sup> This organization has occurred because individuals or tribes share common political, economic, or cultural goals and seek to influence public policy decisions that affect them and their constituents.

**A. Intra-tribal**

This type of political mobilization occurs when segments of specific tribes, frustrated by the direction of tribal leadership, organize to challenge or confront the existing tribal power structure. For example, within the Navajo Nation a number of intra-tribal interest groups have been formed over the years, bent on lobbying or pressing their government to create, or block, policies deemed important to the group's membership. A sample of these includes: Navajo Returned Students Association (organized in the early 1900s to represent the needs and interests of Indian students educated at off-reservation boarding schools); Navajo Native American Church (organized in the 1940s to advocate for the rights of Church members during a time when the use of peyote—the sacrament of the Church's members—was banned by the tribal government); Diné Coalition (Navajo individuals opposed to coal gasification in the 1970s) Diné C.A.R.E. (Citizens Against Ruining the Environment) (organized in 1988 to oppose the dumping of toxic waste and other environmental degradation of Navajo lands).

**B. Tribal**

This type of mobilization involves organization and action by members of a single tribe in pursuit of tribal-specific goals. To continue with our Navajo example, beginning in the 1870s and continuing through the early 1900s, the Navajo Nation's leadership successfully lobbied the federal government to have sizable chunks of land added to their existing reservation boundaries during an era when explicit federal policy was aimed at dissolving reservations via the General Allotment policy begun in 1887 and continuing through the early 1930s.<sup>35</sup>

**C. Inter-tribal coalitions and alliances**

This type of political mobilization involves action by the members of multiple tribes acting on the basis of tribal affiliation in pursuit of common political or economic goals. Historical examples would include the following. First, the temporary coalition of the various Pueblo Nations in 1680 to drive out the Spanish invaders. Second, the efforts of Pontiac, an Ottawa Indian, in the late 18th Century to create an inter-tribal league to fend off the English invaders. Third, in the early 19th Century Tecumseh and the Shawnee Prophet, Tenskwatawa, formed an alliance of a number of Northeastern and Midwestern tribes to try to halt and attempt to reverse the flow of Euro-Americans into their territories. Fourth, attempts by the Five Civilized Tribes from 1846 to 1886 to get the U.S. to provide their nations some kind of official status within the American constitutional framework. This culminated in a failed attempt in the late 1800s by the tribes to organize a constitutionally-incorporated Indian state, the State of Sequoyah.<sup>36</sup>

Contemporary examples of inter-tribal coalitions and alliances, both regional and national (some now defunct) include the following: the United South and Eastern Tribes, Inc. (USET); the Great Lakes Intertribal Council; the Intertribal Council of California; the



Alaska Native Brotherhood and Sisterhood (ANB/S); Coalition of Eastern Native Americans (CENA) (defunct); the Northwest Indian Fisheries Commission (NIFC); the Columbia River Intertribal Fish Commission; the National Congress of American Indians (NCAI); the National Tribal Chairmen's Association (NTCA) (defunct); and the Council of Energy Resource Tribes (CERT).

**D. Alliances of like-minded Indian individuals (also known as pan-Indian or supratribal organizations)**

This type of political mobilization involves organizations and action "by individual Indians on the basis of Indianness and in pursuit of pan-Indian goals."<sup>37</sup> The very idea of "American Indians," a historical misnomer, now encapsulates a distinctly "Indian" identity, that is distinct from one's tribal identity. Indeed, as Cornell describes it, "increasingly for large numbers of Indians, Indian identity—as distinct from tribal identity—has become a conscious and important basis of action and thought in its own right. A host of 'American Indian' and 'Native American' organizations testify to its salience, as do the numerous cooperative political efforts by Indian groups and organizations on behalf of both tribal and supratribal interests."<sup>38</sup>

Pan-Indian or supratribal interest groups generally espouse a *political identity* rather than a *cultural identity* and, importantly, are the result of Indian/non-Indian interaction. This is evident in the facts behind the first such national Indian organization, the Society of American Indians (SAI), established in 1911. This organization, for example, was triggered by the experiences of Indian graduates of the federal government's boarding schools started in the later half of the 19th Century. At these schools, the explicit goal was the assimilation of Indians from many tribes by forced regimentation and inculcation of western religious, property, and social values and norms.<sup>39</sup>

In its form, leadership, and aim, SAI was similar to the white reform organizations and the developing black movements of the Progressive Era. Its most dynamic leaders were largely middle class, well educated, "conscious of their attainments and responsibilities to those less favoured than themselves and proud of their respectability."<sup>40</sup> Generally, the objectives of the group were to encourage Indian leadership, promote self-help, and, to foster the assimilation of Indians while encouraging them to exhibit pride in their race.

SAI was followed by the National Council of American Indians in the 1920s and 1930s. This organization, founded by two former Society members, Gertrude and R. T. Bonnin, included many other former SAI members as well. Although purporting to be a body that represented many tribes, in actuality it was a small, struggling group held together by the faith and hard work of the Bonnin's. It was interested in helping Indians secure the right to vote, assisting individual Indians with other grievances, and worked with some tribal nations. In fact, the letterhead of the Council stationery proclaimed its goal: "Help Indians Help Themselves in Protecting Their Rights and Properties."<sup>41</sup> The organization produced a newsletter and worked closely with non-Indian reform

organizations. Gertrude Bonnin knew and worked closely with John Collier in the 1920s and 1930s. But facing a plethora of issues, including lack of tribal support and lacking adequate resources, it folded in the mid-1930s.

## **VI. INDIAN INTERESTS VEER TOWARD “RED POWER”**

A confluence of events in the 1950s, 1960s, and 1970s, led to a welter of pan-Indian interest groups operating on a number of levels: regional, national, and international. The confluence entailed 1) the federal government’s termination and relocation programs, 2) the Civil Rights movement, 3) the activism of university-trained Indian lawyers and professors, 4) the resurgence of pow-wows and other Indian cultural expressions that cut across tribal lines; and 5) the explosion of a national Indian news media. The outgrowth of this conjuncture was a new generation of Indians who organized a variety of organizations aimed not at supporting restorative or integrative goals, but at transforming and segregating their constituencies.

Indigenous activism and resistance to colonizing European states and their derivative settler-states has, of course, been ongoing since their homelands were first invaded half a millennium ago. However, in the late 1950s and throughout the 1960s, and continuing into the late 1970s, the ad hoc and unpredicted merger of historic events (*e.g.*, civil rights concerns, new social consciousness), social-economic disparities, coalitions between urban and reservation native peoples, key indigenous and non-indigenous personalities, environmental concerns, good timing, and others, fueled a unique surge of indigenous activism that enabled indigenous peoples to, in some cases, begin to (re)gain access to lands, (re)claim some measure of ownership of natural resources, (re)assert their distinctive treaty rights, and partake of other benefits and privileges heretofore under protected or in some cases flatly denied to them by their host state. Equally important, this activism fueled a “more open and confident sense of identity among people of Indian descent,” whether urban or reservation based.<sup>42</sup>

This section of the paper examines this unfolding of indigenous activism in the United States by examining the key actors, events, and processes that made it happen. As we shall see, the Indian activist movement of this era was not fundamentally a part of the other racial or ethnic social movements (*e.g.*, Black civil rights), although it certainly benefitted from those movements by adopting some of the symbols and other aspects of those movements and by taking advantage of the changed political atmosphere to push through their agenda. In a greater sense, then, “the Indian movement is a continuing resistance which has its basic roots in the Indian experience of the last [five] centuries.”<sup>43</sup>

Most Indian resistance from the first decades of the 1900s up to the explosion of activities in the 1960s occurred at the individual tribal level and tended to be focused on specific issues that threatened tribal lands, resources, or civil or treaty rights—Navajo livestock reduction in the 1930s and 1940s, Iroquois’ challenges to dams and other water projects (*i.e.*, Senecas and the Kinzua Dam controversy in the 1940s and 1950s, Mohawks and Tuscaroras over the St. Lawrence Seaway in the 1950s and 1960s), the Lumbee



routing the Ku Klux Klan in 1957, the fishing rights struggles of the Pacific Northwest tribes in the 1950s and 1960s.<sup>44</sup>

In fact, the success of the fish-in movements involving tribes in Washington State (eventually the Indians judicially secured the right to one-half of the harvestable salmon under their 1855 treaty) proved an outstanding training ground for Indian rights activists. "The fish-ins taught Indian activists two important goals: first, that the redress of tribal grievances could be pursued by an alliance of tribal and supratribal organizations and collective action, and, second, that attracting the attention of national media was crucial to obtaining judicial and legislative review."<sup>45</sup>

The first lesson has already been touched upon above. The second, however, the role of the media, is important and warrants some attention. During the fish-ins tribal and organizational leaders reached out and involved entertainment figures like the comedian/activist, Dick Gregory, and the movie actor, Marlon Brando, to help publicize their situation. When the American Indian Movement (AIM) was born in 1968, its leadership early on sought to manipulate the media to their advantage. While generally successful at this, this tactic had serious costs. AIM's leadership "sometimes traded on America's fascination with the image of the male warrior" because AIM was "still bounded by their own vision of history and the biases of reporters and the public."<sup>46</sup>

A recent study's findings that focused on the National Broadcasting Company's (NBC) news coverage of AIM from 1968 to 1979 bears this out.<sup>47</sup> The author culled from the data five "media frames," or ways in which the media depicted AIM's goals and actions: militant, stereotype, treaty rights, civil rights, and factionalism. He found that ninety-eight percent of NBC's evening coverage of AIM's activities were couched in either the militant or stereotype frames, although AIM's leadership sought to emphasize treaty rights and civil rights issues. In fact, "the Militant frame clearly dominated the nightly news segments. The operationalized Militant frame included any segment that labeled Indian protesters as 'militant' or where the focus was on violence and the breakdown of law and order."<sup>48</sup> The study concludes by describing the "dysfunctions of media attention" which presents "a distorted and incomplete picture of a movement's message and goals."<sup>49</sup>

The term "Red Power" has been attributed to Vine Deloria, Jr., then the Executive Director of the National Congress of American Indians, in a 1966 speech at the organization's annual meeting. Deloria, a Standing Rock Sioux, was one of a new breed of Indians committed to transforming the state of Indian/White relations by attempting to bridge the gulf between more radical organizations like the NIYC and established ones like the NCAI. He also believed that alliances between the various tribal and pan-Indian organizations, urban and reservation, and Eastern and Western tribes, would prove beneficial to Indian interests.<sup>50</sup>

The earlier discussed confluence of events like the rise of tribal-based civil and treaty rights activism, the birth of national Indian organizations, rapid growth of the urban Indian population, the printing of powerful books like Deloria's *Custer Died for Your Sins*

in 1969, the influx of federal funds available to Indians as poverty-stricken communities under the War on Poverty programs, and the broader civil rights developments, all fueled a tribal and national indigenous political consciousness that led to a surge of Indian protest activity by the end of the 1960s.

A turning point in the level of activity was the 1969 takeover and occupation of Alcatraz Island near San Francisco. This event, for many commentators,<sup>51</sup> represents the launching pad of the Red Power period, which runs from 1969 to 1978. There was a noticeable shift from tribally-based protests to larger nationally organized events, spurred “by Indians from a variety of tribes sharing a common interest in Indian and tribal rights broadly conceived . . . .”<sup>52</sup> In fact, the activist political strategy focused on calling the federal government to account for its past and present misdeeds and omissions. And as Deloria showed, “treaty rights rather than eligibility and need became the criteria for protest and the idea was to play directly on whatever reservoir of cumulative guild lay hidden in the public psyche.”<sup>53</sup>

The underlying goals of the Indians of Alcatraz were to make the American public aware of the reality of their situation and by extension that of Indians throughout the land, and to assert the need for Indian self-determination.<sup>54</sup> The occupation certainly succeeded in realizing these goals as the ensuing flurry of events, laws, court decisions, and policies attests. Some seventy-four Indian occupations and demonstrations followed in Alcatraz’s wake. These included the Trail of Broken Treaties and the BIA Takeover in 1972, Wounded Knee II in 1973, takeover of the Alexian Brothers Roman Catholic novitiate in Gresham, Wisconsin by the Menominee Warrior Society with AIM support, the Longest Walk from San Francisco to Washington, D.C., that symbolized the forced removal of Indians and to protest pending congressional bills aimed at terminating or dramatically reducing Indian treaty rights.

Two interesting observations can be made of this tumultuous period. First, the traditional religious dimension of Indian life, that had previously caused divisiveness and fragmentation among Indian organizations (Indian traditionalist vs. Indian Christians), actually was the most important aspect of many of these occupations and demonstrations “and signaled that despite several centuries of assimilationist thrust tribal identity was still a major factor.”<sup>55</sup> Second, and related to the first, the Red Power movement helped educate and alter the consciousness of many Americans about Indians. The movement and its supporters stressed the fact that “Indians have cultures, traditions, history, and communities that they want to preserve—but that they also want equal justice, economic opportunity, access to education, and more accurate portrayal of Indians in the media and in history books.”<sup>56</sup>

In effect, the indigenous political response posed a direct challenge to the existing Indian/white relationship in three respects: 1) their response circumvented the administrative structure of that relationship; 2) their response assaulted that structure itself; and 3) their response was a rebuke to the dominant assimilationist policy that the U.S. had followed for most of the years of Indian/white relations.<sup>57</sup>



The U.S. response to all this indigenous activity was, as one would expect, variegated. Generally, however, most of the nation's responses to Indian activism can be grouped in four categories: 1) efforts to suppress and discredit the most radical elements of Indian resistance by engaging in a systematic campaign of surveillance, infiltration, and indictment (e.g., the government's COINTELPRO operation against AIM and its leadership); 2) congressional and public responses in the form of anti-Indian activity and legislation aimed at offsetting or striking against the Indians political and legal gains that at times upset white land titles or hunting and fishing industries (e.g., the introduction of bills to abrogate Indian treaties and weaken Indian rights in general); 3) symbolic reform in response to particular Indian demands (e.g., establishment of the American Indian Policy Review Commission in 1975, increasing Indian staffing at the BIA, and creating a new position, the Assistant Secretary of Indian Affairs to replace the Commissioner of Indian Affairs position); and 4) a number of substantive measures to accommodate Indian concerns and demands (e.g., return of some traditional lands to certain tribes, the Indian Self-Determination and Education Assistance Act of 1975, the Indian Religious Freedom Act of 1978, *et cetera*).<sup>58</sup>

But overall, one could make a plausible argument that the 1970s entailed a significant turning point in the political fortunes of American Indian nations since "major legislation enacted after 1968 has, for the most part, incorporated the policy goals and preferences of Indian constituencies and groups."<sup>59</sup> Along with the important role that Indian activism/radicalism played in creating a more favorable climate for the improved situation of Indians in the 1970s, other factors were also involved. First, the emergence of more liberal social attitudes toward all minority groups. Second, the use and manipulation by Indians and their advocates of the mass media to dramatize the political and economic difficulties confronting Indians. Third, improved federal financial support in the form of War on Poverty and Great Society programs and the educational opportunities these dollars made available to Indians for college, graduate, and law schools. Fourth, presidential policy initiatives—Nixon's support of Indian self-determination. Fifth, congressional interest in righting historic wrongs or enacting legislation to improve the situation for Indians. Finally, the ability of Indians to represent their own interests or secure effective help.<sup>60</sup>

Ronald Reagan's election, however, in 1980, foretold less heady days for Indian rights because of massive cutbacks in federal funding for tribes; cutbacks which, coincidentally, opened the door for Indian gaming operations to commence and for a new type of political participation in American politics to begin. Along with the economic downturn, but before the economic upturn for some tribes, there was also a resurgence of states' rights activism and a dramatic redefinition of federalism which meant that tribes and states would again butt heads over many issues. The revival of the 18th Century concept of dual federalism fueled by the Rehnquist Court and the Gingrich led Congress enabled states to gain the upper hand in many of their battles with tribal nations. Reagan's appointment of many conservatives to the federal courts signaled that the federal

judiciary, which for a brief period had been a bastion of liberalism where tribes had been able to secure some fundamental protections and enforcement of their treaty rights, would no longer be as friendly an environment for tribes.

## **VII. CONCLUSION**

The last decade of Indian affairs in this century—1990-2000—reflects a bizarre blend of a few tribes wielding a powerful degree of economic self-determination and political activism because of gaming revenues, with most others still languishing in dire poverty with low educational attainments, high suicide and alcoholism rates, and with poor health. Even as tribes are exercising political muscle by forming new organizational alliances with other tribes to protect and enhance their economic base and political status and are being more active in participating in local, state, and federal elections, they are confronted by internal and external constraints—from federal and state court rulings, conservative Congress, a fickle public, and emboldened state governments—which threaten to derail tribal efforts to become relatively self-sufficient sovereigns, alongside the states and federal governments.

The subject matter of Indian political participation, or lack thereof, in non-Indian political affairs is, as we have seen, an extremely complicated set of processes. As a result of Indian gaming revenues, it promises to be an exceedingly volatile and unpredictable area because tribes continue to exist as distinctive sovereigns with, in many cases, fiercely loyal citizens; yet many of these citizens and tribal governments themselves, are becoming more actively engaged in local, state, and federal political matters.

How these seemingly contradictory forces will affect the future of intergovernmental relations is, of course, impossible to predict. What will become of tribal sovereignty if tribal participatory rates in non-Indian politics continues to increase? Will federal forces set about to revive the terminationist sentiment of the 1950s and 1960s? How will tribes respond, if this is the case? We simply cannot say at this moment. Suffice it to say, it is a state of affairs that promises to remain dynamic.

Tribes, organized Indian interest groups, and committed Indian individuals will continue their efforts to stabilize and improve tribal status by engaging in a variety of activist approaches as they enter the new millennium. This will include a) being more active in non-tribal political systems so that their unique needs will be represented; b) being more selective about bringing lawsuits in state or federal courts because of their current ideological bent which is not supportive of indigenous treaty rights or trust obligations; c) continuing their efforts to educate their own people and the American public and policymakers about their distinctive legal, political, and cultural rights; and d) working to improve communications and facilitate better relations intertribally and intergovernmentally.

Such efforts, while not guaranteed to produce success, will be in keeping with the adaptive and flexible activist tradition that has enabled Indian peoples to sustain

themselves despite the oppressive odds they have faced throughout history.

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### Notes

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5. Michael Garrity, *California Gaming: Las Vegas Lines Up Against Tribes on November Initiative*, 15 NATIVE AMERICAS, Fall 1998, at 25.
6. George Lardner, Jr. & Roberto Suro, *Investigation of Casino Decision Would Reach Beyond Babbitt Officials Say*, WASH. POST, February 11, 1998 at A12; see also *Too Narrow a Probe*, CHRISTIAN SCI. MONITOR February 17, 1998 at 12.
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12. Linda K. Kerber, *The Meanings of Citizenship*, J. OF AM. HIST., December 1997, at 836.
13. U.S. Commissioner of Indian Affairs. SIXTEENTH ANNUAL REPORT (Washington, DC: Government Printing Office, 1891) at 6.
14. U.S. CONST. Amend XV.
15. Act of June 2, 1924, ch. 233, 43 Stat. 253 (1924) (current version at 8 U.S.C. § 1401 (1994)).
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18. See *Elk v. Wilkins*, 112 U.S. 94 (1884).
19. 6 Utah 2d 32, 39 (1956).
20. OPINIONS OF THE SOLICITOR, *supra* note 17, at 778.
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31. Alexander Ewen, *Generation X in Indian Country*, NATIVE AMERICAS, Winter 1997, at 24-29.
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33. Ewen, *supra* note 31, at 25.
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58. *Id.* at 202.
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