Fourth World Journal

Center for World Indigenous Studies

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Editors

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(Cover photographs by Rudolph Rÿser: Dragon in a Pond - Botanical Gardens, El Tuito, Mx*)*

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LUKANKA

(Lukanka is a Miskito word for "thoughts")

Rudolph C. Rÿser
Editor in Chief
Fourth World Journal

In this edition of the Fourth World Journal our contributors explore the subjects of American Indian "lived experience" in the face of the US government's policy of "termination," democracy, and consent. Contributors to FWJ have given voice to a basic human right that indigenous peoples the world over seek to enjoy, but have yet to fully realize. The power to make one's own decisions is taken for granted by civil society in most countries, but for indigenous peoples there are only glimmers of that power. Mostly indigenous peoples experience the consequences of decisions by those who are in control of the machinery of state exercising unilateral power that can only be resisted or acceded to. There is little room for compromise or negotiations.

More than 145 states' governments approved in 2007 the United Nations Declaration on the Rights of Indigenous Peoples, yet only two of those states (Bolivia and Denmark) have formally enacted legislation implementing the Declaration in whole or in part. A key principle written into the Declaration is recognition of indigenous peoples' right, indeed, power of consent, yet this ordinary right guaranteed under all internationally recognized human rights law remains unfulfilled for indigenous peoples.

States were formed over the last century (most of them since the 1948 agreement to decolonize countries) on top of indigenous peoples—most of the time without their consent. The world's ruling powers in twentieth century simply assumed all of the different peoples inside the prescribed boundaries of a new state were willing participants in the decolonization process. Mostly, they were not. Once established on top of indigenous peoples, many immigrant states such as the United States, Brazil, Australia, South Africa, New Zealand, and Israel simply claimed and confiscated indigenous peoples' territories. Consent may have been written into some agreements and treaties, but respect for the right of consent would be papered over repeatedly.

Since the beginning of the twentieth century, indigenous peoples have vigorously pursued recognition of their right to consent. They want the right of individuals to consent as well as the collective right of consent.

In just the last fifteen years international organizations have, (under persistent pressure from indigenous peoples' representatives in Geneva, New York, Bangkok, Berlin, and other venues where new international conventions have been negotiated) adopted new international agreements incorporating this idea that indigenous peoples must have their

right to consent recognized and effectively incorporated in decisions affecting their lives and property. These new international agreements such as the Convention on Biodiversity, the Convention to Combat Desertification, and a new treaty to supplement the UN Framework Convention on Climate Change being negotiated in a series of annual meetings referred to as Conference of Parties seemingly embrace the right of indigenous peoples to consent first, after they have been freely informed, to actions or policies that directly affect them. Yet even as such agreements are being struck, indigenous peoples are not official participants in the negotiations and states' governments signing these agreements are not engaging in legislative efforts to incorporate these agreements in domestic law.

Contributors in this issue spotlight critical concerns that bear on the principle of consent so widely touted in international agreements. It is clear by their commentary that the individual states' have much to do to formally incorporate the principle of consent for indigenous peoples, and of equal or greater import, indigenous peoples must take more deliberate action on their own to create and activate their own instruments for consent.

Dr. Jennifer L. Penland, Associate Professor of Education at Western Wyoming College in the United States writes in her Peer Reviewed article *Expressions of Native Resiliency: Experiences during the 1950s and 1960s* about the results of her research into "lived experiences" during the "termination era" when the United States government implemented its official policy of removing American Indians from their reserved lands into cities around the country. Dr. Penland recounts the responses of her research participants and lends her interpretation of what the results mean

for cross-cultural education. Her revealing essay points to the traumas of people being removed from their territories and the traumatic consequences of these actions for education.

P. Karunakar is a researcher and educator in the Centre for Human Rights at the National Institute of Social Work and Scoial Sciences in Byubaneswar,Andra Pradesh, India. He reveals in significant deal the experience and obstacles faced by indigenous peoples in India seeking to enter into state political bodies. In his *Political Representation and Indigenous Peoples in India,* Mr. Karundakar describes the forces and legal obstacles that would seem to ensure indigenous political participation, but actually do not.

Cherry Smiley, of the Nlaka'pamux of Canada's British Columbia contributes a passionate call for the recognition of the right of native women to live free of commercial sexual exploitation in *Stealing native women's "unceded bodies*. She calls for the right of native women to reject prostitution as a way of life and to stop the institutional and commercial exploitation of native women's bodies. Likening exploitation of native women to the exploitation and stealing of native peoples' lands, Smiley renders a powerful argument for imposing sanctions against those who steal the bodies of native women for commercial gain.

Jay Taber, Contributing Editor to the Fourth World Journal explores the idea of applying what he describes as the "public health model" to the process of bringing about democratically produced social change in *The Public Health Model:*

Democratic Community Organizing. Taber's insights are borne from years of advocating and organizing for democratic renewal. His ideas are of considerable importance, especially if they are applied by indigenous peoples to reclaim their voice in policy discourse affecting their lives and property.

In **Rudolph C. Rÿser's** *US Consultation Policy and "Free, Prior and Informed Consent"* critique's the US Department of Interior proposed "consultation policy" with American Indians and Alaskan Natives including the original proposal policy issued by the Department's Secretary. Dr. Ryser shows significant gaps in the proposal policy and questions whether it is a fully and complete response to the UN Declaration on the Rights of Indigenous Peoples (2007) principle on "free, prior and informed consent."

Two remarkable authors have contributed books we review in this issue of FWJ. **Alexander D. King** writes in his book, **Living with Koryak Traditions, Playing with Culture in Siberia** a truly original narrative about the efforts Koryak people are taking to discover the meaning of their traditional life in the modern world. This is an intimate portrait gained from a successful negotiation of shared knowledge between the author and the people of Koryak. **Herbert Adam**, Emeritus Professor of Sociology at Simon Fraser University in Vancouver, Canada challenges the official silence of academics, political leaders and the public media when recent massacres and genocides are remembered. Adam edits this book, ***Hushed Voices, Unacknowledged Atrocities of the 20th Century*** with sixteen contributors telling the stories of the 1964 genocides in Zanzibar and another in Zimbabwe. They reveal horrors experienced in Biafra's failed war of

independence in the late 1960s and the complicity of governments intend on starving millions. Bombing of Dresden during World War II, the Turkish genocide against Armenians, massacre in Hama, Syria, the killing of Gujarati Muslims by Hindus in India in 2002 and sexual slavery perpetrated by the Imperial Japanese military are also among the stories of human degradation and terror practiced in the 20th century.

We remain grateful to our readers for continuing to stimulate us and encourage us as we publish yet another issue of the Fourth World Journal.

Editor in Chief

Fourth World Journal

Expressions of Native Resiliency: Experiences during the 1950s and 1960s

Jennifer L. Penland, PhD
Western Wyoming Community College

PEER REVIEWED

Abstract

The purpose of this study was to examine the lived educational experiences of American Indians who grew up during the 1950s and 1960s, known as the termination period in American history. The research for this phenomenological narrative study consisted of three interviews each with eight participants who were willing to share their personal experiences from this selected time in history. Ten themes were uncovered: chaos brings balance, challenge to become bi-cultural, the importance of teachers, teachers as support systems, one's spirituality, tribal influences, influences of economic resources, cultural awareness and value, relevant curriculum and recruitment of Native teachers. By uncovering these stories, it is hopeful that today's educators are more informed of the need for culturally responsive pedagogical curriculum and instruction.

Many Americans view the Indian as a romantic or comic figure in American history without any contemporary significance (Stedman, 1982). This limited view of the American Indian may have occurred in part because as Michael Yellow Bird (1999) suggested that throughout history, stories have often been viewed through the eyes of the dominant society of the white man. Consequently, many Americans are unwilling to develop a *critical consciousness*, which is best defined by Freire (2003) as the awareness of connections between individuals, their experiences, and the social contexts in which they are embedded. Lack of critical consciousness often has resulted in historical injustice and lack of empathy.

American Indians occupy a singular position in the United States, unlike that of any other ethnic minority group, by virtue of having been the first people to occupy the land that is considered to be America (Prucha, 1988; Wilkins, 2002). This unique relationship stems from the fact that in the early history of the United States, American Indians were not considered as part of the nation (Wilkins, 2002). When the opportunity arose, there were also federal efforts devoted to civilizing American Indians by persuading them, using whatever means necessary, to surrender their tribal culture and adopt the habits and lifestyles of European-Americans (Snipp, 1989).

In a democratic and culturally diverse society, it is necessary to understand multiple perspectives that emerge from within cultures and their social interactions involved (National Council for the Social Studies, 1994). In order to fully understand the historical context and meaning of the American Indian experience with implications for

education, it is imperative to not only understand the effects of *assimilation* and *acculturation,* but to listen to the voices of the persons who have lived and are living the experiences now (Garrett, 1995).

Garrett (1995) defined *assimilation* as the enculturation with mainstream American values, behaviors and expectations. *Acculturation* has been described as the act of being reared with traditional American Indian values and later acquiring the behaviors necessary for mainstream American culture (Little Soldier, 1985).

Most of the current literature on American Indian education and cultural responsive pedagogy seems to focus more on enumerating the problems, rather than identifying possible solutions and understanding the wealth of contributions this culture could provide to society as a whole (Pewewardy, 2002). These understandings do not allow individuals to make appropriate sense of the actions, ideas and products of the American Indians, nor do they allow relating to interacting with people within their diverse society and throughout the world. Characterized by *institutional racism* in the public school arena, there has been a long history of misunderstanding traditional American Indian cultural values and beliefs on the part of the dominant culture (Deloria, 1991).

Institutional racism is described by Singleton and Linton (2006) as occurring when organizations such as a school or district remains unaware of issues related to race or more actively perpetuates and enforces a dominant racial perspective or belief (p. 41). According to Spring (2004b), *institutional racism* is defined as the power

systems use to control the behavior of nonwhites. Throughout history men have attempted to overcome factors of oppression to attain their full humanity despite the dominant pressures from those who are in power (Freire, 2003b). The historical experiences of dominated groups have resulted in the development of basic distrust of the major institutions in American society (Ogbu, 1992; Spring 2004a). Thus, this group represents a concept of culture, which is not fixed or linear but rather it representing only one facet of the totality of one's human experience.

When research is approached from a culturally sensitive perspective the complexity of an ethnic group's culture, as well as its varied historical and contemporary representations, is acknowledged. The use of culturally sensitive research approaches within American Indian communities facilitates telling their stories that represent their perspectives and place in history (Carter, 2003).

This study uncovered the stories of successful American Indians who experienced either boarding school or traditional public school during the 1950s and 1960ss. The use of narrative inquiry non-fiction story method enabled these stories to be revealed by those who were willing to share their perspectives from this time of termination and self-determination through active participation.

Problem Statement

Education has always played a vital role in the American Indian culture; however, during the termination period of the 1950s and 1960s American Indians were not all allowed to attend

traditional public schools. Those that did attend public schools were often ostracized or forced to conform to the mainstream or dominant society's interpretations (Demmert, 1994). Schools, in carrying out early government language policies and their efforts to better socialize the Indians, were also instrumental in destroying the Native language (Demmert, 1994).

Religious schools and Bureau of Indian Affairs forbade the use of native languages in the school environment and punished students for speaking their own languages (Spring, 2004a). Research indicates that American Indian children living in poverty and on reservation schools tend to lag behind in academic performance more than other ethnic group (Quality Education for Minorities, 1991). Despite the trauma inflicted upon the indigenous peoples of North America during the 1950s and 1960s they have survived and some have become very successful.

A U.S. Department of Interior Survey (1999) targeted parental involvement and lack of preparedness as the issues of greatest concern by teachers. Ninety percent of American Indian and Alaskan Native students attend non-tribal, public schools (Henson, 2002; Sparks, 2000). In these schools, they have some of the highest dropout rates of any minority group and a disproportionate number are identified as requiring special education services (Grossman, 1995). Several reasons for these high dropout rates have been suggested, including that some students are ridiculed for pursuing a better education and were accused by their peers of just trying to "act white" (Sue & Sue, 1990, p. 60). However, current research has indicated that high school dropout rates have improved from a high rate of 40% to a

rate of 23% in American Indian populations as compared to the white students at 11% (U.S. Department of Commerce, Census Bureau., 2000, p. 120). American Indian high school students in the school year 2004-2005 graduated at a rate of 50.6 percent compared to a non-minority student rate of 77.6 percent (Editorial Projects in Education, 2008).

Many of the problems faced by American Indian populations can be traced back to the conflicts between their desire to perpetuate their cultural heritage and the pressure to assimilate into the larger society. All ethnic groups wrestle with this conflict to some extent (Breault, 2003). One complicating factor for the American Indians is that there is an incredible diversity of cultures that falls into the category of American Indian. Rather than preserving one language and way of life, they must preserve hundreds of relatively complete cultures (Pewewardy, 2000). As educational leaders begin to incorporate more American Indian historical, cultural and linguistic studies into their curriculum and adopt more appropriate teaching styles that focus on the American Indian students, they hope to stimulate the students' interest in their own academic progress (Sparks, 2000).

Definitions

Operational definitions for this qualitative study included several concepts as indicated below:

Lived experiences. The term lived is described in this study as being immersed in a contemporary

society where the educational climate was unstable and discriminating for those of different cultures, specifically the American Indians (Howard, 1999 p. 35).

Institutional racism. Institutional racism has been defined as the power systems to control the behavior of nonwhites (Spring, 2004b).

White privilege. Macedo and Bartolome (2000) have defined white privilege as the management of tokenism and exercised authority in effort to acquire, accumulate and conquer the globe (p. 29).

Culture. Tillman (2002) defined culture as a group's individual and collective ways of thinking, believing and knowing, which includes their shared experiences, values, forms of expression, social institutions and behaviors (p. 4). Spring (2004b) defined culture as the socially transmitted behaviors, patterns, beliefs and institutional thought of a group of people (p. 3).

General culture. The general culture refers to what the majority of people view as cultural characteristics of their society (Chomsky, 2003; Spring, 2004b).

Dominant culture. The dominant culture has been described as the most powerful members of a society (Chomsky, 2003; Spring, 2004b).

Oppressive situation. Freire (2003) has defined an oppressive situation as any in which "one exploits or hinders another for pursuit of self-affirmation as a responsible person" (p.40).
Hegemonic behaviors. By way of definition within social dominance, hegemonic behaviors are those that tend to be disproportionately represented at the higher positions of authority within social institutions (Brookfield, 1995, p. 15).

Termination Period. The federal policy by which all the special arrangements made by the government for the American Indian in the field of education, welfare etc...created a system of virtual dependency implemented by a top heavy system of administrative bureaucracy, were to be ended (Brookeman, 1998).

Purpose of the Study

A variety of research has focused on American Indian students who have experienced limited educational opportunities, societal stigmas, and unemployment as adults (Alfred, 1999; Griffin, 2000; Pewewardy, 1998). The purpose of this study was to explore the *lived* educational experiences of American Indians who grew up during the 1950s and 1960s, known as the termination period in American history and how these experiences influenced their career decisions. This study investigated the following questions:

What are the lived experiences of American Indians attending boarding school?

What are the lived experiences of American Indians attending traditional public school?
What factors influenced American Indians in making their career decisions?
What recommendations do American Indians make for culturally responsive teaching?

Education as key

Thinking of Indians as children who only needed to be protected from evil and sent to school, McKenney concluded that under the conditions of isolation and education, Indians could be civilized in one generation (Spring, 2004a; Viola, 1973). The key to fulfilling the humanitarian goals of removal would be education (Reyhner, Lee, & Gabbard, 1993).

Boarding schools. As the government geared its educational efforts, Hoxie (1984) noted that there was an early optimism regarding how easy it would be to assimilate Indians into the general population by giving them a White man's education for a few years in a boarding school. This optimism was based largely on the apparent success of students of the first off-reservation boarding school established in Carlisle, Pennsylvania (Hoxie). The Carlisle Indian School was operated by its founder, Richard Pratt, whose primary goal for educating the Indian children was to instill a White man's work ethic through manual labor and to immerse them in the Baptist doctrine until "thoroughly soaked" (Spring, 2004a, p. 28).

Between the founding of the Carlisle Indian School in 1879 and 1905, 25 non-reservation

boarding schools were opened throughout the country (Spring, 2004a). In *American Indian Education*: A history, Jon Reyhner and Jeanne Eder (2004) demonstrated connections between the establishment of boarding schools for Indians and the history of Black education in the South. In 1889, Thomas J. Morgan, Commissioner of Indian Affairs, wrote a bulletin on Indian Education that outlined the goals and policies of Indian schools that included teaching colonial patriotism and allegiance to the U.S. government.

As boarding schools returned more and more students to reservations that seemed to blend back into the population rather than transform it, criticism of Indian education and especially boarding schools increased (Reyhner et al., 1993). During the 1920s, a variety of investigators of Indian schools were horrified by the conditions they found Indian children subjected to. In addition to a poor diet and extreme manual labor, overcrowded conditions contributed to the spread of tuberculosis and trachoma. There have been many obstacles for the American Indian family to confront and overcome. The use of boarding schools was one of many obstacles that proved to be one of the most detrimental experiences ever encountered by the American Indian family (Diller & Moule, 2005). Many of the social problems that are prevalent today stem from these boarding school experiences.

Public schools. Henry Dawes, Massachusetts senator and chair of Senate Committee on Indian Affairs, valued the Indian communal way of life and saw the need to educate rather than exterminate these populations so he sponsored the General Allotment Act in 1887 (Reyhner & Eder, 2004). Under this allotment act, it was hoped that

Indians would attend public schools however; too frequently the contracts that were made with public school districts were not benefitting the Indian students. These contracts required Indian students to be educated alongside white students and to be treated the same way, but this was not always done, with the result that some contracts were ended. Indian students were often too poor to buy clothes for school and did not speak the English language well enough to do the required classwork (Reyhner & Eder, 2004).

In 1934, a new allotment emerged called the Johnson-O'Malley Act which allowed the federal government to pay states for educating Indians in public schools. After several years under the JOM Act, funding soon became an issue, which led to the establishment of the Bureau of Indian Affairs and state operated schools (Reyhner & Eder, 2004). According to Szasz (1977), these state accredited schools seemed to be more responsive to the needs of Indian students with added vocational programs, yet did little to offer Indian culture courses.

Modern educational reforms

Perhaps, the greatest threat facing Indian education at the beginning of the twenty-first century is the push for outcomes assessment, state and national standards, and the associated increased use of high-stakes testing, such as NCLB and individual state exams, in all facets of education but especially grade promotion. Young minority students who do poorly on exams are often placed in special education and remedial programs instead of culturally appropriate ones. High school students get tracked into non-college

bound curricula based on achievement tests and are denied diplomas when they cannot pass state exit exams (Oakes, 1985; Reyhner & Eder, 2004).

Cultural responsive pedagogy

For educators and policy makers to understand why the various programs in Indian schools exist and why certain curricula are more likely to lead to success, they must know about the past failures and successes of Indian education. They must know the roots of Indian resistance to schooling and the educational empowerment that Indians are striving for.

Some theorists have recommended that indigenous people reject schooling because it destroys their cultures and communities (Prakash and Esteva, 1998). But others see community-controlled schools as the only way that Indigenous people can protect their lands and communities from the onslaught of mainstream society (Enos, 2002).

According to Smith (1991), *culturally responsive pedagogy* has been described as the educational instruction most beneficial to all students in a positive manner. Teachers who go beyond teaching, who learn about their students' cultures, can change their students' lives for the better. This type of teaching has used the child's culture to build a bridge to success in school achievement (Singleton & Linton, 2006; Smith). Such an endeavor has required a degree of cultural literacy often absent in mainstream classrooms, whereas non-native teachers teach the vast majority of American Indian students (Smith). No attempt to remedy problems in education can occur apart from an understanding that the United

States has been so unsuccessful in producing educational equity (Razack, 1998).

Fuller (1996) has noted that cultural responsive pedagogy involves providing the best possible education for all children, preserving their own cultural identity, in order to ensure meaningful relationships with other people. In his book, *Look to the Mountain: An Ecology of Indigenous Education,* Cajete (1994) has advocated developing an environmental educational process, which lays the foundation for American Indian life and learning. This also has included living productive lives in the present society without sacrificing their own cultural perspective (Banks & Banks, 1995; Cajete). According to Gay (2000), high quality educational experiences will not exist if some ethnic groups and their contributions to society are ignored or demeaned.

Methodology

The design of this study was a qualitative phenomenology using a narrative reporting approach to uncover the stories of American Indians who experienced either boarding school or the traditional public school during the 1950s and 1960s and to identify factors that contributed to their personal and professional success. The use of inquiry enabled these stories to be revealed by those who were willing to share their perspectives from this selected time in history of reorganization, termination, and self-determination.

The use of a phenomenological study was selected because it identifies the "essence" of human experiences concerning a phenomenon, as described by the selected participants in this

study. Understanding the "lived experiences" marks phenomenology as a philosophy as well as a method, and the procedure involves studying a small number of subjects through extensive and prolonged engagement to develop patterns and themes for meaning (Moustakas, 1994). In this process, the researcher "brackets" his/her own experiences in order to understand those of the participants in the study (Nieswiadomy, 1993).

In addition, phenomenological studies respond to historical events (like that of assimilation and termination) whose cultural and political ramifications continue to be enacted in the present (Casey, 1996). Phenomenological design yields a study that provides a common feel for life in a different cultural group so that readers truly gain an understanding about a particular culture (Neuman, 2000).

This study used the direct approach where the researcher asked participants to reflect on, and talk about, their subjective experiences of phenomenon in interviews. The researcher transformed these subjective constructions through interpretation to re-present them, faithfully, as objective constructions, which increases potential for transferability (Van Maanen, 1990). Thus, Van Maanen states another way of looking at this perspective is to think of being- in-the-world, known through senses and shared meanings. It is only the unlit, pre-cognitive, background of phenomenon that enables us to assume but not to explore (Van Maanen).

The intent of this study was to record the educational experiences and success factors of a cultural group of people focused on a specific era. Since "dynamic social conditions and people's

interpretations continue to change, [and] there is an overabundance of stories still waiting to be told and studied" (Casey, 1996, p. 240), narrative inquiry is the vehicle selected for capturing these stories.

Clandinin and Connelly (2000) recommended that individuals should "listen to the bits and pieces of narrative form handed down to us" (p. 425). These bits and pieces exist through relationships that unite researchers, participants and an audience. Kaser, Mundry, Stiles, and Loucks-Horsley (2002) noted that it is through these relationships and the research that we see the possibility for individual change. The change referred to here is not necessarily a physical change but more of an emotional and psychological change by the participants. For example, stigmatized experiences provided the motivation to succeed in school for all the participants.

In reality, every society is the sum total of the people who work within a given space each day and the structures that organize them-policies, practices and the culture. According to Neuman (2000) and Crotty (1998), humans engage with their world and make sense of it based on their historical and social perspective-we are all born into a world of meaning bestowed upon us by our culture. Thus, qualitative researchers seek to understand the context or setting of the participants through visiting this context and gathering information personally.

Pre-Interviewing/Selection Process

As a result of the researcher sharing the topic of attending school during the 1950s and 1960s,

fourteen individuals were identified as possible participants. A selected sample from a state organizational meeting involving the Louisiana Indian Education Association and the Coushatta Tribe's Annual Field Day began the selection process. The Coushatta tribe sponsors an annual gathering involving outdoor events that represent their cultural heritage. Examples range from bell dancing to Palmetto basket weaving.

All fourteen participants for the pre-interview process were e-mailed four questions to identify eligible participants. The four questions used in the selection process were:

- What U.S. Tribal affiliation do you claim?
- Would you be willing to share your educational experiences as part of this research study?
- Did you attend K-12 school during the 1950s-1960s?
- Did you attend boarding school, parochial school or public school?

Findings suggested that six of the fourteen were not eligible to participate in the research after their responses to question two. The remaining eight participants were then selected for the larger phenomenological study. This selection process resulted in a greater representation of tribal affiliation, gender balance and educational experiences.

The Participants

The participants for this study after the eligibility screening from the pilot study included eight American Indians who grew up in various

geographical locations during the 1950s and 1960s. All eight participants selected to be identified by using their own names.

Of the 14 candidates, eight were selected by a criterion-referenced questionnaire provided by the researcher through e-mail. Neuman (2000) asserted that purposeful sampling provides for greater triangulation of data collected. It is called for when the researcher wants to identify particular types of cases for in-depth investigation that is part of exploratory research. Also, Creswell (2003) noted that purposeful sampling allows the researcher to select cases that can show different perspectives on the problem. This may allow the researcher an opportunity to select "ordinary cases, accessible cases or unusual cases" (p. 62). Purposeful sampling relies on the discretion and judgment of the researcher to select cases to study that will best help the researcher understand the problem and the research questions.

In this study, this sampling technique meant selecting individuals who were able to contribute to understanding the school experiences of American Indians in the 1950s and 1960s by answering the following primary questions during the first of three interviews: Why did you select education or related discipline as a career? Explain how attending boarding school influences your career choice? Explain how public school influenced you career choice? Explain how your tribal background influenced your career choice? Do you feel valued and respected by your peers in your chosen career? All eight of the participants selected for this study are American Indians who grew up during the 1950s and 1960s and are considered to be successful both personally and professionally. The definition of successful

depends on the individual. According to contemporary standards, six of the eight participants are not wealthy or famous, but they are valuable contributors in the educational arena.

Pat

Pat is a Houma Indian female from Louisiana who has had many years of educational experiences involving political affairs. She has her Master's Degree and was the former Executive Director of the Governor's Office of Indian Affairs in Baton Rouge and is also the Co-Chairperson for Louisiana Indian Education Association. She has been instrumental in coordinating many educational opportunities and grants for the American Indian populations within the state of Louisiana.

James

James is a Navajo Indian male originally from northeastern Arizona who works for Custer National Park in Montana as an archeologist. He has obtained his Bachelor's Degree in Biology and his Master's Degree in Environmental Science. James has also worked for the Bureau of Indian Affairs (BIA) in various environmental management projects and at the time of our interviews was assisting FEMA and several of tribes in the New Orleans area with the preservation of historical records and artifacts from the storm damage.

James C

James is a Tewa Indian male from the Taos Pueblo in New Mexico. He has attended business school, worked with corporations as a skilled

carpenter and is currently manager/war chief of the Taos Pueblo in New Mexico. He continues to keep active in cultural festivals events by creating authentic drums with detailed artwork in the traditional methods used from the elders and native materials within the Pueblo.

Joseph

Joseph is a Cheyenne River Lakota Sioux male from Eagle Butte, Montana who works for the Bureau of Indian Affairs (BIA) and is involved in crisis management programs as a liaison for the American Indian populations. He is currently living in Washington, D.C.; however, his job takes him across the country to many localities to meet these American Indian populations and their specific needs as in wildfire management or landslide recovery programs.

Kirby

Kirby is a Houma Indian male from Louisiana who works within the public school system for special programs and the Office of Indian Education involving American Indian students. He has obtained his Bachelor's Degree and Administrative Certification and works as a bi-vocational Methodist preacher part time. He has shared his interests involving the state census and identification of American Indians as a race and not just as *other*.

Corine

Corine is a Houma Indian female from Louisiana who formerly worked in Office of Indian Education from its beginning stages in the mid 1970's. She worked in this capacity for twenty-eight years only desiring to see education

improve for American Indian children. Corine has obtained her Bachelor's Degree in Business and is currently retired but stays very active and involved with the Louisiana Indian Education Organization. She has shared her interests in the awareness of and educational opportunities that are needed for the Indian children of Louisiana.

Joan

Joan is a Mohican Indian female from Wisconsin. She has obtained her Bachelor's Degree in pedagogical instruction and has been teaching in the public school system for more than twenty years. She was honored with the Teacher of the Year Award for Indian Education in 2005. She remains active in promoting tribal traditions for young people, even though she has never personally experienced education on the reservation.

R. C.

R.C. is a Navajo/Ute Indian male from Arizona. He is a world premier performer of the Native American flute. He originally was trained in classical trumpet and music theory and later explored the traditional cedar wood flute. Since 1983, he has released over thirty-five albums with the Canyon label. In addition to his solo performances, he has worked with William Eaton, Paul Horn, James DeMars and Phillip Glass. R.C. has explored new musical settings including new age, world-beat jazz and classical. His career has been shaped by a desire to communicate a sense of Native American culture and society that transcends the common stereotypes presented in mass media.

The Setting

The researcher conducted two of a total of three interviews with all eight participants, which was obtained face-to-face at the location desired by the participant, typically at their home or office. Creswell (2003) explained the research should be conducted in the natural setting which "enables the researcher to develop a level of detail about the individual or place and to be highly involved in actual experiences of the participants" (p. 181). The third interview was conducted either face-to-face, telephone, or email, whichever was desired by each individual participant.

The Role of the Researcher

The role of the researcher was to examine the meaning and significance of these lived educational experiences, which were possible factors that led these eight participants to become successful despite societal stigmas and lack of equal educational opportunities. While the use of a phenomenological study is considered to be a way of discovery and understanding the "essence" of these lived experiences, each of the stories presented different perspectives. Qualitative researchers approach their studies with a certain paradigm, a basic set of beliefs or assumptions that guide their queries (Lincoln & Guba, 1985). These assumptions are related to the nature of reality, the relationship of the researcher, the role of values, and the process of research.

In this study, the nature of reality was extremely subjective seen through multiple lenses embedded within the participants' stories. As for the relationship assumption, the researcher attempted to lessen the distance between her and

those being researched. This can be problematic and qualitative researchers must be aware that they have to put themselves into the study and at the same time claim to have some expertise (Richardson, 2000). Lincoln and Guba (1985) elaborate the role of values in which the researcher acknowledges that research is value laden and that biases are present. Additionally, Clandinin and Connelly (2000) warned researchers, "these relationships are vitally important in the process of qualitative research" (p. 189).

Data Collection

Data for this study were obtained through three interviews and post-interview emails or phone conversations with each participant about lived educational experiences and their successful career choices. The data collection process for this study was complex. Each participant was given the opportunity to choose his or her date, time, and location for these interviews. This was difficult at times because the participants lived in five different geographical locations: Montana, Washington, D.C., Louisiana, New Mexico, and Wisconsin.

The researcher conducted a semi-structured, open-ended interview; audiotaped the interview, and later transcribed the interview to assist in the collection of the data. This study employed personal journal writing by the researcher, archival documents from the participants and research interviews as the primary field texts. Each form of field text provided a layer of complexity that contributed to understanding each

participant's tribal uniqueness and educational experiences (Creswell, 2003).

Field Text

To assist in the data collection the researcher kept a journal, as entries are a "powerful way for individuals to give accounts of their experience" (Clandinin & Connelly, 2000, p. 102). Journal writing, in the field, can offer the inquirer an opportunity to reflect on what is felt during the research experiences. By simply asking the participant to tell about her/his past educational experiences, the inquirer embraces her role as the conduit for transposing her/his words into thick, rich descriptive stories using triangulation of data.

In addition to the individual interviews, other data was collected from archived documents and reference material in relation to the six tribal affiliations researched. Some of this archival data retrieved by the researcher included tribal records from six of the eight participants explaining their governing laws, past land deeds, and their schooling requirements.

Audio-taped information

All orally generated stories were recorded if participants did not object because of the cultural beliefs of American Indian populations. All eight participants allowed the researcher to record each of the face-to-face interviews for analysis of accuracy and member checked. Upon completion of the research all recorded material was disposed of as disclosed by researcher to each participant prior to the initial interviews.

Treatment of the Data

According to Polkinghorne (1995), a narrative configuration in qualitative analysis was well suited for this study due to the complexity of each participant and their unique experiences. Polkinghorne (1995) clearly delineated that narrative reporting walks the line between literature and scientific discourse. The primary strategy utilized in this research to ensure external validity was the provision of rich, thick, detailed descriptions so that anyone interested in transferability would have a solid framework for comparison (Merriam, 1988).

Three techniques to ensure reliability were employed in this study. First, the researcher provided a detailed account of the focus of the study, the basis for selection, and the context from which data was gathered (Goetz & LeCompte, 1984). Second, triangulation or multiple methods of data collection and analysis were used which strengthens reliability as well as internal validity (Merriam, 1988). When analyzing data, researchers collect descriptions of events and experiences and synthesize them by means of similar themes or stories.

Phenomenological researchers are required to ascertain similar themes that display the linkage among the data as the stories unfold. Finally, data collection and analysis strategies were reported in detail in order to provide a clear and accurate picture of the methods used in this study. All phases of this research were subject to scrutiny by an external auditor who was experienced in qualitative research methods.

Organization of themes

After the transcriptions from the audiotapes were made, the researcher considered the transcript as narrative field texts and developed themes from the texts. These transcriptions allowed for the participants' voices to be heard and were accomplished by organizing the transcriptions into story elements that supported common themes. This was done for both individuals and participants as a group through the process of *free variation* which defines the "how and what" of the experience involved (Moustakas, 1994). Free variation emerged within the dialogue and tones of the participants. The use of free variation allowed the researcher to analyze the phenomena in multiple ways, which allowed for differentiation between essential and unessential elements and their relationships (Polkinghorne, 1989).

Induction

The next stage in analyzing phenomenological data was the inductive process known as *intuiting,* or inducting (Rose, Beeby, & Parker, 1995). This research relies on the utilization of tacit knowledge (intuitive or felt knowledge) because often the nuances of the multiple realities can be appreciated most in this way (Lincoln & Guba, 1985). Additionally, the researcher relies on intuition, imagination, and universal structures to obtain a picture of the experience and uses systemic methods of analysis as advanced by Moustakas (1994). Marshall and Rossman (1999) emphasized the role of intuition in research allowing for more creative thought and reorganization without pre-determined outcomes

Description

The final stage of data analysis was description or transformation (Rose et al., 1995). The description process allowed the researcher to write a full description of the phenomena, analyze the themes, and express the feelings of these experiences to others. In order to prepare for the description process the researcher divided the original protocol or line of questioning into statements or horizontalization (Moustakas, 1994). Meanings were formulated from the significant statements such as: chaos is part of the human experience, bicultural refers to establishing themselves within the greater society, spirituality referring to personal empowerment and economic resources: rural vs. reservation. These meanings were arrived at by reading, re-reading and reflecting upon the significant statements in the original transcriptions to get the meaning of the participant's statement in the original context.

The aggregate of formulated meanings was organized into clusters of themes. These clusters represent themes that emerged from and are common to all eight participants' descriptions such as: a necessary chaos for balance, challenge to become bi-cultural, importance of teachers as support systems, spirituality, tribal influences, the influence of economic influences, cultural awareness and value, relevant curriculum and recruitment of native teachers. **Provisions for Trustworthiness**

The phenomenological study portrays the meaning of lived experiences about a concept, a story, or phenomenon. As Polkinghorne (1995) explained, a phenomenologist explores the mind and human experiences. He further described

phenomenology as the science of experience. This study accomplished this in a reliable and trustworthy manner by maintaining critical listening skills throughout the research process. In order to provide trustworthiness, the researcher used three techniques suggested by Creswell (2003), which included member-checking, presentation of confusing information, as well as the paper trail as previously mentioned.

Confidentiality

Anonymity is an issue in any inquiry and this option should be guaranteed throughout the entire inquiry process for participants if they prefer anonymity (Clandinin & Connelly, 2000). The participants that were selected for this study chose not to be anonymous. However, the researcher remained cautious throughout the entire inquiry process because persons with whom we are engaged may be changing and perceive themselves as vulnerable. At the conclusion of the interview process, all eight of the participants indicated that their own names would be used in the study.

Cultural Sensitivity

Culturally sensitive research approaches use the particular and unique self-defined experiences of a specific race and/or group of people (Tillman, 2006). As suggested by Tillman the researcher should be committed to, and accept the responsibility for, maintaining the cultural integrity of the participants. First and foremost, the researcher has an obligation to respect the rights, values, needs and desires of the participants. For example, Sleeter (1992) wrote "that what White people know about the social

world is generally correct, but for only understanding White people" (p. 211).

Findings

Question One: The Boarding School Experience

Five of the eight participants that were interviewed attended a boarding school with both positive and negative experiences embedded in their stories. The one single theme for this question culminated around: 'a necessary chaos for balance.'

The theme for this question centered on the Chaos Theory which Wheatley (1999) described as necessary to bring balance in life. Most individuals have experienced chaos at some point in their lives. According to Wheatley, "chaos is part of the human experience and when we reflect on these times we emerge into a stronger sense of who we are and our purpose" (p. 119).

In addition, participation and cooperation are essential to our survival in this interconnected world (Wheatley). James and Joseph both commented that even today they see unequal treatment from society, especially in the educational setting. In retrospect, both remarked that education is the only way to overcome past inequities. Yet, they both mentioned that boarding school did very little to prepare them for the future and all of the many roadblocks they would encounter growing up in the Anglo society. James and Joseph both described their experiences in a Bureau of Indian Affairs (BIA) boarding school as being in prison without just cause. Joseph mentioned that boarding school was too structured and rigorous yet, it provided a sense of motivation.

Corine mentioned that her transition was difficult and unsettling to her family but necessary in order to obtain a high school education. American Indians, especially females, living in Louisiana during the 1950s and even up to the early 1970s were only provided an eighth grade education by missionary schools. Upon completion of the eighth grade, they were forced to get a job or travel out-of-state to further their education.

Question Two: The Public School Experience

Six of the eight participants that were interviewed attended a traditional public school at some point with positive experiences well established in their stories. Two themes emerged: 'challenge to become bi-cultural' and the 'importance of teachers.'

Challenge to become bi-cultural.

James, Joseph and Pat all viewed public school as an opportunity for the future. Joseph and Pat perceived education as a way to overcome economic hardships and poverty in their families. Joseph shared his thoughts of public school and the necessity to perform in academics in order for him to participate in athletics. He commented that participating in athletics was "the dangling carrot" in education for him. Public school helped me socialize as an individual to the rigors of living and working in the dominant culture's world.

Pat shared her thoughts of public school and the necessity to perform in academics in order to attend college and break the cycle of poverty that existed in her family. At age seven and being the

oldest child, she had to read the mail for her parents because both were illiterate. Excelling in academics and helping others learn to read was the "motivator" in education for her.

Most of my elementary school memories are those of the mistreatment from students. I was teased and snubbed because of my poverty and my appearance, which to most I was perceived as a light-skinned Black child.

James viewed his experience as an incredible library of subjects to explore as one does an uncharted island. He elaborated, "As you continue to explore, you open new horizons and you also begin to realize there is a whole new world outside and within your grasp to enjoy." James' public high school experience provided the opportunity to see the world through a different lens, which has been invaluable in his professional career as an environmental biologist for the National Parks Service.

The importance of teachers

James, Pat, and Joan commented that teachers were the ultimate catalyst in performing in school. All three could identify a specific teacher as being that source of encouragement.

Pat elaborated on her first grade teacher as being instrumental in her educational success. One good memory that Pat recalled from her elementary experience was the encouragement from her first grade teacher. "Her kind and motivating words encouraged me to perform, despite the teasing and discrimination from the students. This teacher took me under her wing and

provided the academic support that was so desperately lacking in my household."

Corine recalled her first five years of education in attending a missionary school as beneficial. When she first began school, Corine started with Methodist missionaries who came to Dulac, Louisiana in 1950. She attended this missionary school from the first to fifth grade. Corine loved all of her elementary teachers and desired to be one to help her people just as the missionary teachers helped her. She remarked, "Education held the key to bringing her people out of poverty." Joseph, Pat and Corine all saw education as a way for empowering their tribes both economically and socially.

Question Three: Factors for Career Decisions

Six of the eight participants that were interviewed stated that their external support systems and economic resources were the most significant factors in determining their careers. Three of the participants also mentioned their spirituality as an important factor. Four themes emerged: external support systems, spirituality, tribal influences, and influence of economic resources.

External Support System

James, Joseph, Kirby, Pat, Corine, and Carlos all commented that their external support systems were invaluable to their career choices and opportunities in life. James, Pat, and Corine specifically mentioned teachers as the guiding force in pursuing their educational dreams. James

remarked, “Kind words of praise and constant encouragement challenged me to excel.”

Kirby commented that he could not see himself worthy as teacher material because his parents held teachers in such respect until the principal of the Indian school took him fishing and showed concern about his education. Another teacher took him hunting and shared the same concerns as the principal did. Even with the support of these two respected persons Kirby still did not feel as though he could cross the line of being an Indian to being a teacher who was Indian until after his college experience.

Carlos said that elders of other tribal affiliations and others from the greater American society have influenced much of his work. Much of what he does comes from stories and admonition from the elders that life is about serving others. Many of the people that Carlos has worked with who are elders of either the Cheyenne or the Kiowa Tribe have remarked that he shares information, which is useful in transforming Indian people to coexist within the “greater society”.

Spirituality

All eight participants mention the existence and importance of religion whether it was referred to as “The Great Spirit” or “The Creator”. Kirby, Pat, and Corine elaborated more about the “Great Spirit” as the most significant influence in fulfilling their life purposes.

Tribal Influences

Joseph and James C. identified their tribal influences playing a role in determining their career decisions. Joseph commented that nepotism and casinos are why "I stayed away from tribal politics." I see the casinos for Indians as "the nail in the coffin" and the disintegration of the cultural way of life on the Lakota Reservation.

James C. mentioned being reared by his grandparents and his tribal elders as a priceless experience in any society. "I had no real parental guidance other than my elderly grandparents as a young child and so I had to grow up rather quickly and become self-sufficient to survive in the dominant world. As a pueblo male one was expected to develop skills that would benefit the tribe. I was taught by my grandfather how to make adobe bricks. The skills my grandfather and other tribal members provided were so invaluable to me in becoming a productive member of my tribe."

Influence of economic resources

James, Joseph, Kirby, James C., Corine, and Carlos all discussed how geography and the lack of economic resources played a significant role in determining their career paths. Carlos noted that both the locality and geographical culture were significant factors, which influenced his involvement as a liaison educator for the tribal communities. James, Joseph, and Kirby all commented on the lack of economic resources within their tribal geographical locations in which they had to overcome with two being on a reservation and the other in a rural setting.

Question Four: Recommendations for Culturally Responsive Teaching

All eight participants had suggestions on how public education could better serve the needs of the American Indian students. Seven of the eight suggested that educators develop a sense of cultural awareness of American Indians and their own uniqueness. Three themes emerged: *cultural awareness and value, relevant curriculum*, and *recruitment.*

Cultural awareness and value

Joseph, Kirby, James C., Pat, Corine, Joan, and Carlos all expressed the view that educators need to develop a sense of understanding and cultural awareness of American Indians and their place in American history. Joseph emphasized, "Real understanding and acceptance of a culture is important to both parties involved." James C. remarked, "Knowing who you are as an individual and as a culture is the most valuable asset one possesses."

Kirby and Corine pointed out that educators need to build American Indian students' self-esteem before any real learning can occur in the classroom. Kirby commented, "How can you make children feel valued when they are labeled as 'others' rather than American Indians?"

Pat mentioned that the plight of American Indians who attend college could be alleviated if educators really valued all cultures equally. She emphasized that educators need to develop an awareness of who American Indians truly are and accept their cultural differences in order for our 21st century society to progress.

Relevant curriculum

Joseph, Pat, Corine, and Joan all said that educators need to develop better lessons in teaching factual information about American Indians rather than using only the European version of American history. Joan and Corine also said the assessment of students needs to match the child's cultural understanding and development to be reliable. Corine stated, "Until educators and administrators address the methods of assessment and low test scores, American Indian students will remain behind in education." Joseph remarked, "There needs to be a course for educators to discover the 'nuts and bolts' of the American Indian culture."

Recruitment

Kirby, Pat and Joan American Indians, declared Kirby, Pat and Joan, need to be more involved in the educational process to serve as positive role models. Joan's view was that "school districts with high percentages of Native students need to recruit Native teachers" to assist with tribal issues that arise through cultural misunderstandings. One of these misunderstandings is when most educators expect their students to pay attention and look at them when spoken to. For American Indian people, this is disrespectful and the children are punished. Another misunderstanding is assuming that all Indians are the same without any social or cultural differences. These misunderstandings seem to be more prevalent with the tribes who live on

reservations rather than in the rural settings within the greater society.

Participants noted how teachers touched lives as guides with skills and information, how mentors provided sound advice and became motivators who provided words of encouragement. Cultural awareness and value were vital to their existence within their tribal affiliation and in the greater society. All participants emphasized the importance of knowing who one is as an individual and as a cultural member of their tribal society. These findings provide insight into cultural equity.

One of the most revealing issues in the study was that each participant had a positive sense of who they were and the belief of interconnectedness to humanity and their outlook for necessary duality in the "greater society." This suggested that perhaps the most crucial point for educators to understand as they try to help American Indian students achieve academic success is the importance of cultural values and community-based beliefs where collaborative efforts supersede competition and the attainment of possessions (Whitbeck, Hoyt, Stubben, & LaFromboise, 2001).

Educational Importance of the Study

As a civilization, credence must be given to all cultural beliefs and uniqueness. In turn, each human being should be given the equal opportunity to learn and to feel confident with his/her own identity. All perspectives should be considered and valued, as everyone contributes to the greater society. In developing culturally responsive pedagogy and emphasizing this in staff

development, educators can promote positive self-esteem and cultural value for all students (Hilberg & Tharp, 2002).

The participants in this study were primarily selected from specific time in history. Stories from their parents and children might provide additional data to reveal how their professional lives were impacted. Another beneficial exploration of successful American Indians would be to focus on one specific state and locate those American Indians who dropped out of school due to the lack of support systems.

These eight stories of successful American Indians indicate teachers are vital external support systems and acquiring duality may be necessary for establishing careers in the professional world. They also give insights into what and how those who teach American Indian children today should incorporate into the curriculum to encourage their students to achieve academic excellence.

Summary

The qualitative phenomenological methodology was appropriate to capture the honest feelings, attitudes, experiences, and emotions of eight American Indians involved in living during the termination period in the United States. For tribes that live on reservations, their struggles and inequities existed more so in the educational and environmental structures than the rural tribal communities. For instance, the Navajo, Lakota and Tewa Tribes all dealt with issues from the public school communities regarding policy.

The value of support systems was evident in all of the participants' stories. According to the

U.S. Department of Education (2001), parental involvement and lack of preparedness were two issues of greatest concern by teachers. Some felt as though their parents and tribal elders played more of a role in supporting and encouraging, while others stated it was a teacher that made the difference for them in pursuing their educational dreams.

Literacy was another factor for each participant's career success. They were imbued with the concept that no matter what cultural group one belongs to, communication and the basic understanding of one's cultural heritage was key to professional success. *The Kennedy Report* also identified schools as being essential to the social, cultural and intellectual health of communities as well as literacy, as being essential to the well-being of American Indian people (U.S. Senate Report, 1969). A final point beneficial to education that came from this study was an understanding that most American Indians believe collaborative efforts supersedes competition and the attainment of possessions.

Even though progress has been made for equitable opportunities in education and cultural awareness with establishing the National Indian Education Association (NIEA) and other state organizations, there is still a great deal of work to be accomplished for all indigenous cultures to realize their significant contributions to the greater society in America.

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About the author

Dr. Jennifer (Jenny) L. Penland, Associate Professor of Education at Western Wyoming Community College, received her Doctoral Degree in Educational Leadership with a cognate in Higher Education and Multicultural Studies from Lamar University – Beaumont, Texas in 2007. For the past 23 years she has been a director of programs at Texas A & M University – Commerce, an assistant professor and supervisor at Dickinson State University in North Dakota, a science and social studies instructor at Lamar University - Beaumont, Texas, an elementary/ middle school science and technology teacher in Texas and Colorado and a curriculum coordinator and

training consultant for Region 5 Education Service Center in Texas. Dr. Penland has presented locally, regionally, nationally and internationally and has published in such journals as *The Journal of Mentoring & Tutoring, the National Forum of Educational Administration and Supervision, E-Learn, The Qualitative Report* and *Social Advocacy and Systems Change.* Dr. Penland continues to work on projects that involve her dissertation thesis, **Native resiliency and social equity**.

Contact information

Western Wyoming Community College, 2500 College Drive, P.O. Box 428, A676, Rock Springs, WY, 82902, (307) 382-1776 (w) 409-781-6606 (c)
jpenland@wwcc.wy.edu

jenny_penland@yahoo.com

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Fourth World Journal

Political Representation and Indigenous Peoples in India

P. Karunakar
Centre for Human Rights in the National Institute of Social Work and Social Sciences (NISWASS), Bhubaneswar, India.

Abstract

This essay focuses on the historical injustices meted out to indigenous people popularly called 'scheduled tribes' in India in all the aspects of socio-economic and political life with special emphasis on political representation. The obstacles that the indigenous people face in entering in to political institutions and legislative bodies have been thoroughly discussed and the questions are raised such as how the reservations are being implemented and have they really contributed to the development of indigenous people? Suggestions and remedies for the upliftment of indigenous are given at the end of the article.

After becoming independent from the British, India became a sovereign democratic republic and prepared a constitution of its' own in 1950. The constitution of India has borrowed several concepts from the constitutions of other countries. Therefore, it is treated as a bag of borrowings. The

Indian constitution provides for a parliamentary form of government, where the citizens on the basis of universal adult franchise elect the public representatives periodically. Since India is so vast and diverse in culture, there exist several ethnic and cultural groups conflicting with each other to safeguard the interests of their particular communities. The most backward and marginalized among these groups are scheduled castes and indigenous people. The case of indigenous people is much worse as they live in the forests and outside of mainstream Hindu culture. Before independence, when India was under the rule of the British, there emerged some sort of democratic political institutions where some of the Indians were given opportunity to participate in the legislative activities as representatives. However it was only the rich, business and educated classes of Indians who could secure those legislative positions. All those rich, business and educated people were belonged to the upper strata in the caste hierarchy. The same trend continued even after independence. The upper class/caste people have dominated all the political as well as bureaucratic institutions even after independence.

The minority communities—particularly the indigenous people have been oppressed since ages. As they are backward in all the social-economic, cultural, and educational aspects, they always lagged behind in securing political power. The majority and dominant communities always have oppressed them. They always felt it difficult to compete with the upper strata populace to achieve political power; rather they have been remained submissive to the dominant communities. The indigenous people have never been given

important positions in committees, commissions, taskforces etc. Further, they never got important ministerial portfolios like home, finance, defense, and revenue. They were always given smaller and insignificant ministerial portfolios. Their strength is very less both in the parliament and state legislatures; that prevent them in influencing the policies pertaining to them. They are discriminated and dominated in every aspect by the upper strata legislators.

One of the main considerations of the representative democracy is the representation of plurality of interests. But, in the context of India democratic representation of the plurality of interests never has taken place. Interests of the dominant sections of the society always remained at the forefront and the interests of the weaker sections have taken backseat. For representative democracy to survive there needs to be a peaceful resolution of conflicting interests by means of impartial deliberations and debates. Through peaceful resolution of conflicting interests and impartial deliberations every community will get its due without any distinction and discrimination. Fulfilling this, the architects of the constitution of India have realized to provide certain special safeguards and welfare provisions for the up-liftment and accommodation of the weaker sections of the population in to the polity. As a part of that, reservations in political institutions such as parliament and state legislatures are being provided. The question here is how these reservations are being implemented and have they really contributed for the development of scheduled tribes? The present paper tries to look in to some of these questions and brings out certain

suggestions for the realization of constitutional provisions pertaining to indigenous people.

Socio-economic Profile of Indigenous People

Indigenous people constitute 8.2 percent of India's total population according to 2001 census reports. They are still primitive, remote from modern civilization, and backward in all walks of social, economic, and cultural life even after 50 years of India' independence. There have been several opinions about the definition and meaning of tribe (indigenous people). According to Ghanshyam Shah 'tribe identifies the people who live in a primitive or barbarous condition under a headman or chief.' According to him, scheduled tribes (indigenous people) are aboriginals or adivasis and were believed to be the original natives of the land (Chaudhuri, 1992). Ghanashyam Shah says that the British create the so-called tribal and non-tribal categories. In the words of Lucy Mair, 'a tribe is an independent political division of a population with a common culture (Sharma, 1998). According to Ralph Linton "in its simplest form the tribe is a group of bands occupying a contiguous territory or territories and having a feeling of unity deriving from numerous similarities in culture, frequent contacts, and a certain community of interest (Sharma, 1998, pp 88-89).

In India, indigenous people are more or less concentrated almost all over the country. One major concentration of indigenous people is found in the northern borders of India stretching from Jammu and Kashmir across Himachal Pradesh, Uttar Pradesh, and northeastern parts of India. Another major concentration is found in Central

India consisting of Madhya Pradesh, Orissa, and Andhra Pradesh. And a smaller number of indigenous people are found in Karnataka, Tamil Nadu, Kerala, Gujarat, and Rajasthan. Government of India recognized nearly 573 communities as indigenous people. Nearly 75 percent of indigenous peoples' population is found in Central India. Indigenous people in India have different kind of lifestyles and cultures of their own. Each indigenous tribe is different from the other in all walks of life. These indigenous peoples are considered as *adivasis* or believed to be the first settlers on the soil of India. They were migrated to India in the past from different parts of the world. Most of them live in forests, adjacent to rural villages, and remote areas. They make their livelihood by hunting and gathering, agricultural labour, and use of forest products. With the advent of Aryans to the subcontinent the indigenous people were continuously exploited for years together. Most of them have lost their cultural identities, customs, and rituals by being assimilated in to the mainstream population.

With a view to involve them in the mainstream population the Indian Constitution framers have provided certain special safe guards and protective provisions for the up-liftment of indigenous people. Important among such provisions are the following;

Social Provisions:

- Article 14 provides for right to equality.
- Article 15 provides for prohibition of discrimination on the grounds of race, religion, caste, language etc.

- Article 17 provides for abolition of *untouchablity*.
- Article 23 provides for abolition of trafficking and exploitation.
- Article 24 provides for abolition of children working in industries below 14 years of age

Economic Provisions:

- Article 46 provides for promotion of educational and economic interests of SCs and STs.
- Article 46 A provides for protection and conservation of forests.
- Article 244(5thschedule) deals with administration of scheduled areas and empowerment of governors of the states to carry out their functions and report to the president.
- Article 275 says that the special funds to be sanctioned to the scheduled areas from the consolidated fund of India.

Political provisions:

- Article 330 provides for reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the house of the people.
- Article 332 provides for reservation of seats for SCs and STs in the legislative assemblies of states.
- Article 335 aims at recognition of the claims of SCs and STs to service and posts.
- Article 338 provides for appointment of national commission for SCs and STs.

- Article 342 deals with the identification and determination of STs.

Apart from the above-mentioned provisions, the government of India has also taken up certain statutes and legislations regarding indigenous people. They are; Protection of Civil Rights Act 1955 (previously known as Untouchablity Offences Act and modified in 1976 as Protection of Civil Rights Act), Prevention of Atrocities Against Scheduled Tribes and Scheduled Castes Act 1989, Bonded Labour Abolition Act 1976, The Child Labour Regulation Act 1986,The Forest Conservation Act 1980, The Panchayats Extension Act 1996 etc. Along with these legislations the governments at both central and state level have taken up several developmental programs for the development of indigenous people in India.

The Essence of Reservations and Political Representation for Indigenous People

Representation is one of the basic aspects of modern governments. The concept of representation existed always in the past but its 'political' significance was unexplored as we use in contemporary times. Political thinkers/theorists of middle ages made considerable use of the idea of representation in the construction of the relationship between the church and state. According to Thomas Hobbes the concept of state or community rests on the idea of representation. He advocated for a multitude of persons who are made into one person and he is the actual representative of that multitude (Fredrich, 1996). In modern times with the advent of industrial revolution and development of transport and communications in the Western European

countries a large middle class emerged. The rise of middle class led to the formation of several associations, interest groups, political parties etc. that eventually started demanding their share in the political affairs of their countries. Further, the industrialization in the West, in modern times, gave birth to imperialism and colonialism that in turn led to the colonization of Afro- Asian countries by the industrially advanced countries with Britain in the fore-front. After a long suffering under the British supremacy these countries by virtue of prolonged so called independence struggles and revolts finally acquired independence and established their own representative political institutions and self-government.

Thus, the modern concept of political representation along with its representative institutions spread to African and Asian countries. Since most of these countries are so diverse in culture and varied in life styles a large number of associations, cultural and ethnic groups, racial groups, business classes etc. started demanding their share in the political affairs of their particular countries. As a result, elections, political parties, interest and pressure groups started playing an important role in the political affairs of these nations. With these developments in the modern period, the concept of political representation became prominent and an important aspect of debate and discussion for scholars around the globe.

Political Representation involves the delegation of government to a small number of citizens elected by the rest (Held, 1985). That small number of elected citizens acts as the representatives of the represented. Political

representation is considered as an important concept since the public views can be refined and enlarged when passed through the medium of a chosen body of citizens or representatives. In this entire process of the political representation the large number of citizens influence political power and governmental action through their elected representatives and get their problems and issues solved. Further, the decisions taken up by the authorized representatives will have a binding effect upon the entire community that is represented. In a parliamentary democracy, the enactment of general rules and policies requires careful coordination of conflicting interests and viewpoints of different sections of the society so as to reach an effective compromise and consensus. If the coordination of conflicting interests, opinions and problems of different sections of the population are not properly coordinated or undermined, then the very purpose of achieving democratic principles and commitments will be difficult.

There has been difference of opinions about the concept of political representation and its nature. There are some scholars who criticize political representation and there are some others to uphold the concept. The scholars who criticize the concept argue that political representation undermines democratic norms in the sense that representation of different sections having different cultures and lifestyles will lead to the rise of identity politics that eventually leads to destroy the common good, weakens national identity and undermines class solidarity (Young, 2000). Further, they feel that the rise of identity politics will encourage antagonism and conflict between different sections and make national

integration difficult. They argue in favour of common good principle rather than specific and sectional interests.

Contrary to the above arguments, on the other hand, the scholars who support the concept of political representation argue that since the modern governments are too large and diverse in culture there needs to be recognition for the plurality of interests of different sections and communities in the process of political representation. A famous scholar Marion Young mainly supports this inclusive view. She argues that there are certain sections of the population such as blacks, women, working class etc. that are not adequately represented in the representative institutions and decision making process in several democratic countries.

According to her when political out comes result from an exclusive process by dominant and wealthy classes that outcome is illegitimate (Young, 2000, pp 52-54). She says that the exclusion of the under-represented communities from the decision making process contributes to perpetuate political and social inequalities. The practice of exclusion of weaker sections from the debates and discussions and perpetuation of social inequalities is against the normative democratic ideals of political and social equality. Further, more inclusion of the marginalized groups not only in legislatures but also in commissions, boards, task forces, media coverage, and other decision making bodies will help them to confront and find remedies for structural inequalities. She also suggests number of ways to promote greater inclusion of the marginalized groups. Establishment of political and associational institutions specifically designed for these groups,

techniques of quotas in electoral lists, proportional representation, reservation of seats etc. will promote greater inclusion of under-represented groups (Young 2000, pp. 141-153).

The reservations are provided as a part of preferential treatment so as to enable the indigenous people to be among the members of the governing class. The term preferential treatment is used interchangeably as compensatory discrimination, protective discrimination, positive discrimination, inclusion, special reservations etc. According to Prakash Louis the purposes of positive discrimination are threefold. They are as follows:

1. It is made for the discriminated and deprived social groups for their protection against the dominant communities,

2. These policies are different from the general ones as they are specifically meant for the deprived and discriminated communities.

3. These policies serve as a remedy to include the excluded social groups in the decision-making process and deliberations (Louis, 2005). It implies that the reservation policies for the deprived social groups are essential for the realization of democratic goals such as equality and justice.

The reservations in the Indian constitution have been provided with a view to involve them in the mainstream population and enable them to participate in the political affairs of the country. Since, the effective leadership and political power plays an important role in the socio, economic and political lives of different communities, the reservations in law making bodies are expected to bring about a drastic change in the lives of the tribes. According to Marion Young the

marginalized groups such as blacks, women, racial and ethnic groups etc. need to be included not only in the legislatures but also in other influential bodies like task forces, commissions, expert committees etc. for their overall development and inclusion (Young, 2000).

While framing the constitution of India, Dr. B.R. Ambedkar vividly explained about the purpose and objectives of the reservations for scheduled castes and indigenous people. According to Ambedkar a reservation is an instrument of protection against the aggressive communalism of the governing class that comprises the dominant communities like Brahmins and other upper-strata communities. The reservations are intended to keep the Hindu communal majority within bounds and limit their political power and influence. He asserted that *dalits* (scheduled castes), and indigenous people are not a part of Hindu society and hence they want to be partners in running the government of this country. Further, he said that they want partition of political rights and those rights must be recognized distinctly from those of the Hindus separately. By distinctly recognizing the political rights of *dalits* he meant to say that Indian social structure is so diverse and varied where some of the sections or communities of people are dominant in all walks of life and some other communities are marginalized. Hence, the existing social structure needs to be considered in framing the constitution. The political structure must be related to the social structure. If that does not happen then the legislature, the executive and the bureaucratic branches of the country will be occupied and dominated by the upper strata communities that will eventually suppress the

already marginalized communities like dalits and indigenous people.

Ambedkar further revealed the fact that the Brahmins (superior caste) who are the chief and leading element in the governing class acquired their political power by sheer communalism rather than by force and intellect. He said that according to the laws of Manu *Smriti* (text) the important posts like *Purohit (*priest*)*, Chief Justice and Judges of the High Courts and the post of ministers were all reserved for the Brahmins(superior caste). Even for the post of the Commander- in Chief the Brahmin was recommended as a fit and a proper person. So, Dr. Ambedkar by keeping all the repercussions that arise in the absence of reservation strongly recommended for the provision of reservations in the constitution of India (Sontakke, 2004). Though in principle, these reservations may enable the weaker sections to participate in political affairs and decision-making, in reality these reservations have not fetched them with any major development or advancement in their life styles. Even the developmental programmes and policies specifically meant for indigenous people have not been implemented with vigor and commitment due to the stratified Indian social order. According to Marc Galanter there is no proper method or uniformity for identifying the reserved constituencies for indigenous people and *dalits*. There are different standards adopted like the population concentration for indigenous people and for *dalits* both population concentration and dispersal of reservation across the regions. There is no role for the Courts in demarcating the reserved constituencies. The responsibility for demarcating the reserved constituencies is

entrusted to Delimitation Commission that was set up in 1972.

Marc Galanter clearly examined the basis for reservation for weaker sections and historical reasons for the provision of reservations for the *dalits* and indigenous people in India. He further says that the presence of *dalits* and indigenous peoples' members in the Cabinet Ministership influences decision making in favour of them for the initiation and expansion of policies. But, due to the rigid and dominant social order they are not given with the important positions in the Cabinet. Further, there is no constitutional requirement or statutory provision for reservations in political appointments within the legislatures, Cabinet Ministership and other Standing Committees (Galanter, 1984. Pp.44-48). These are the areas where there is a need for the maximum inclusion of indigenous people and *dalit* members' in order to have equality and balance in decision-making process of the governance.

To conclude, for Indian democracy to survive and to uphold its spirit, it is essential to protect and safeguard the interests and aspirations of weaker sections in general and indigenous people in particular. Mere provision of protective legislations and constitutional remedies on paper without any will in implementation, the realization of social justice is simply impossible. Indigenous people should be given more opportunities in every aspect of socio-economic and political life so as to realize their full potential and eventual progress.

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About the author

Mr. Karunakar was born in a small village in the State of Andhra Pradesh, India and educated in prestigious central government schools and universities in India. I have done my MA, and M.Phil and about to submit PhD in the Department of Political Science, University of Hyderabad. He is an Assistant Professor in the Centre for Human Rights in the National Institute of Social Work and Social Sciences (NISWASS), Bhubaneswar.

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Fourth World Journal

Stealing native women's "unceded" bodies

Aboriginal Women's Action Network address to the People's Tribunal on Commercial Sexual Exploitation address to the People's Tribunal on Commercial Sexual Exploitation, March 18 – 20, 2011, Mohawk Territories (Montreal QC)

Cherry Smiley
Aboriginal Women's Action Network

My English name is Cherry Smiley. I come from the Nlaka'pamux or Thompson Nation from the Southern Interior of BC and from the Diné or Navajo Nation from the South West United States. I would like to acknowledge that we are on Mohawk Territories and to thank the Mohawk people for allowing me as a visitor on their lands. I'm here today to speak on behalf of a mighty group of women warriors, the Aboriginal Women's Action Network, or AWAN. We are a group of Native women based out of Vancouver BC on unceded Coast Salish territory. Let me talk a little bit about what "unceded" means, because we hear

that word thrown around occasionally, sometimes a lot. “Unceded territories” means the land was never surrendered, abandoned, transferred, traded. The same concept applies across BC and Canada, lands were never legally surrendered, transferred, traded, or given.

Today, when someone takes something from someone without permission, you call that “stealing.” When Canada was stolen from its rightful caretakers, it meant; it means, that our ways of life, our knowledge and experiences and laws that have served us since time immemorial, are deemed to have no value. My way of life, my knowledge and experiences and laws have no value – it was decided that I, we, as native women, have no value. And this is where we will start the discussion.

AWAN was established in 1995 in response to a pressing need for an Aboriginal women’s group to provide a much needed voice for Aboriginal women’s concerns regarding governance, policy making, women’s rights, employment rights, violence against women, Indian Act membership and status, and many other issues affecting Aboriginal women today. We are an all-volunteer, unfunded, independent feminist group of Aboriginal women from many nations that share common experiences as native women, and that share an analysis of prostitution as inherently racist, a tool of colonization, and a form of violence against women. Most recently, we have taken a stand against the total decriminalization and/or legalization of prostitution.

As Aboriginal women, we are whole-heartedly invested in the issue of prostitution; this is not

simply an "issue of the moment" for us. This is not something we study on the way to our PhDs and then disregard, this is not something we write about, and think about, then forget about. We are women who have been prostituted, we are daughters and sisters and friends of prostituted women, we are women who have never been prostituted, but who accept the responsibility to speak out for and with those women we know and love and those women we don't know and love who are being harmed as we speak.

The male demand for access to the bodies of women and girls creates and fuels the market that allows pimps, brothel owners, and traffickers to profit off our backs. AWAN sees the trafficking of women and children for sexual exploitation as inseparable from prostitution, trafficking is the process; it is the forced movement of women and children and prostitution is the result of that movement and we know this from our collective experiences. Our people and our women and children have been forced to move from our traditional homelands, from our territories onto government-created reserves and church-run residential schools, now from and now from reserves into cities, white foster homes, and jails where we continue to struggle against racism, sexism, and violence.

We use the term "prostituted women", not "sex worker". Despite what some may say, the term "sex work" does not create a level playing field where men and women, white women and Native women, are equal economically, socially, or otherwise. "Sex work" *degenders* prostitution and silences the experiences and knowledge of Native women and attempts to hide the real truth, the inequality and hatred, that funnels women and

girls into a capitalist system of prostitution that puts profit first, at any cost, that puts men and their interests first, at any cost. And this inequality is real, it's there whether we choose to acknowledge or ignore it. And we can see it right now, I can acknowledge it right now, in this room, as I stand here before you, hundreds of kilometers and thousands of miles from my homelands, speaking to you all in a language that is not mine because I am not fluent in my own language. I stand here, speaking to you in a foreign language, a product of residential school. And I stand here before you, having to ask you to please consider my life and my knowledge and my sisters' lives and my sisters' knowledge as something that is valuable.

In Vancouver, Aboriginal women are over-represented in street prostitution. We know this is no accident; this is not simply a coincidence. This is because the racist, patriarchal, capitalist colonizers have created systems, like the Canadian government, the reserve system, the church, the foster care system, the so-called "justice" system, and the education system that devalue us as Aboriginal women and that work to further exploit our lands and resources. These systems create conditions where Aboriginal women and girls struggle in and against a society that has been trying for the past 519 years to exterminate us. These systems attempt to funnel our mothers, sisters, and daughters into the institution of prostitution so we can be raped, harmed, and murdered systematically by men. Our lands and children have been stolen, we have been forcibly removed from our territories and corralled onto reservations, into residential, jails, and foster

homes, our languages, cultures, and traditions have been outlawed, and we have been legislated wards of the state, all in attempts to take, control, and exploit what rightfully belongs to us as Aboriginal women. The system of prostitution is just another addition to this list.

There are some people out there, mostly white men that want to legitimate prostitution as work. They say, "Never mind the overwhelming rates of physical violence and murder, johns are good guys that are just lonely". They say, "Never mind the verbal abuse that happens with every trick, they really are just dirty squaws and whores". They say, "Never mind the woman that go missing", as if my sisters just disappear into thin air. They say, "Never mind the average age of entry into prostitution is 14 or 15 years old". "Never mind because they deserve it because they are women and girls and because they are native women and native girls". This is what THEY say about US. WE denounce those racist assumptions and say Aboriginal women are smart and strong and proud, and we know what we want. This is what we demand and nothing less:

- Real choices for women and girls. A choice between unlivable welfare, a job that pays an unlivable wage, and the institution of prostitution on stolen native land in a culture that tell girls from birth that our bodies are for men's pleasure is no choice.
- We want men to make better choices and to stop the demand for paid sex, because the systems that work to oppress all women and that oppress native women in particular are created and sustained by individual men.

THESE are the people that have choice: the men, and they can choose not to buy a woman's body, not to rape, not to watch pornography.

- As Native women we recognize the contradiction but given the choice between negotiating with the state or unregulated capitalism, we believe pushing the state to create legislation that works towards harm elimination, not harm reduction, gives us the greatest chance of not only survival, but life.

When people support the legalization of prostitution, they tell us that we do not matter. ** They tell us that being raped by strangers for pay is as good it will get for us and that it does not matter if we die. We do not accept this; AWAN women do not and will not accept this, despite a decision made recently by an Ontario court in late September of 2010. This decision struck down three laws that criminalized prostitution in the province of Ontario. We know that Canadian laws have not always worked for us as Aboriginal women and have been painfully slow to respond to our needs for life, liberty, and dignity.

Unfortunately, Canadian laws are the laws that we have been forced to contend with. The ruling by Justice Susan Himel in Ontario [Bedford v. Canada September 28, 2010 *] takes away what little protection women had from johns, pimps, and brothel owners and instead allows these very men the legal right to abuse women without consequence and to benefit from women's inequality. The decision to strike down the prostitution laws eliminates laws that could have been revised and advanced for women's protection

by decriminalizing the selling of sex and criminalizing the buying sex, a model of legislation commonly referred to as the Swedish or Nordic Model of prostitution law. This legislation decriminalizes prostituted women and criminalizes the johns, pimps, and brothel-owners with hefty fines and potential jail time, while offering prostituted women the services they need to get out, including housing, livable social welfare, job training, and counseling services. A large-scale public education campaign that educates the public about prostitution as a form of violence against women is an integral part of the legislation, and has been proven to be successful in the 11 years it has been implemented in Sweden. So successful in fact, that other Nordic countries have followed suit. Given this, we want people to educate themselves further about the Nordic model of prostitution law and we want you to support that model.

- We want you to listen to us and speak with us, not for us.

- We want a collective definition of freedom. We want you to know your freedom is tied to ours, and ours to yours. As Native women, we refuse to let the patriarchy separate us as women in this fight for the freedom and safety of all women, worldwide, and we ask you to do the same.

- We want you to organize and advocate to your government for a guaranteed livable income,

safe and affordable housing, women-only detox and recovery centres on demand, and comprehensive medical services.

- When defending the legalization or total decriminalization of prostitution, we want you to consider: What am I defending? Because you are defending a hateful, violent, capitalist industry that works to devalue all women but particularly native women, and why would you defend that? We want you to consider: Who am I defending when I advocate for the legalization or total decriminalization of prostitution? Because you are defending johns, pimps, traffickers, brothel-owners and their right to purchase women, and you are defending men that have no interest in women's equality because they profit directly from it.

Our freedom and safety as women and as Native women, Indigenous to this land, is possible and we won't be told otherwise. We are women who have survived over 500 years of attempted genocide and we know what we want, and what we want is an end to prostitution.

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* Editor's note: Terri-Jean Bedford had been arrested for operating a brothel was joined by Amy Lebovitch and Valerie Scott arguing in a constitutional challenge to Canada's laws on prostitution filed in the Superior Court of Ontario in 2007. The defendants argued that the laws of Canada deprive "sex workers" their right to security by forcing them to work in secret. The Canadian

Criminal Code (sections 210, 212(1)(j) and 213(1)(c) prohibits public communication for the purposes of prostitution, operating a bawdy house or living off the avails of prostitution. Justice Himel's decision was affirmed on appeal resulting in the effective decriminalization of prostitution in Canada.

** Editor's note: Supporters of prostitution legalization argue that individuals engaged in prostitution choose their customers and the sex acts practiced and that prostitution is a kind of "sexual liberation." Researchers examining the consequences of prostitution around the world hold a different view. One study led by Dr. Melissa Farley concluded:

"None of these assertions was supported by this study. Our data show that almost all of those in prostitution are poor. The incidence of homelessness (72 percent) among our respondents, and their desire to get out of prostitution (92 percent) reflects their poverty and lack of options for escape. Globally, very few of those in prostitution are middle class. Prostitution is considered a reasonable job choice for poor women, indigenous women and women of color, instead of being seen as exploitation and human rights violation. Indigenous women are at the bottom of a brutal gender and race hierarchy. They have the fewest options, and are least able to escape the sex industry once in it. For example, it has been estimated that 80 percent of the street prostituted women in Vancouver, Canada, are indigenous women." (Farley, Melissa. Isin Baral, Merab Kiremire & Ufuk Sezgin (1998) Prostitution in Five Countries: Violence and Post-Traumatic Stress Disorder (South Africa, Thailand, Turkey, USA, Zambia)

About the author

Cherry Smiley is an abolitionist, artist, activist and feminist. She is a collective member of the Aboriginal Women's Action Network, an organization that is an independent voice against injustice to Aboriginal women. AWAN began in November 1995 as a result of concerns about the

hierarchical and patriarchal power structures, which can serve to silence Aboriginal women. Most recently, AWAN has taken a stand against the total decriminalization or legalization of prostitution. "The Aboriginal Women's Action Network (AWAN) was formally established in 1995 in response to a pressing need for an Aboriginal women's group to provide a much needed voice for Aboriginal women's concerns regarding governance, policy making, women's rights, employment rights, violence against women, Indian Act membership and status, and many other issues affecting Aboriginal women in contemporary society. The founding members of AWAN conceived of themselves as salmon swimming upstream with determined vision to create new life, and therefore, renewed hope and possibilities for our children. For members of AWAN the Salmon Nation's legacy of survival depends on an unwavering commitment to future generations, a commitment which serves to guide AWAN in our political involvement and quest for social justice for Aboriginal women and children."

Contact information

The **Aboriginal Women's Action Network** may be found on the World Wide WEB at: http://www.awanbc.ca/ and http://www.facebook.com/pages/Aboriginal-Womens-Action-Network/56634443935

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Fourth World Journal

The Public Health Model: Democratic Community Organizing

Jay Taber
Contributing Editor
FWJ

Effectively pursuing democratic ideals is a complex, difficult, and risky business. To truly make room for democracy, it is first necessary to circumscribe political violence. The public health model of community organizing, which grew out of my research and conversations with Paul de Armond, defines organized political violence as the suppression of free and open inquiry. Rendering ineffective those who practice political violence requires both training and structured reflective engagement.

This essay, serves as justification for my approach to an activist political science curriculum, relies heavily on the power of moral sanction—both in constraining violence, and in

overcoming laziness, cowardice, and the desire for reassurance that leads people to accept and follow dangerous leaders. It also relies on a respect for the practice and results of research and analysis.

Moral positions, learned slowly over time through social interaction, observation, reflection, and study, are best internalized absent coercion or indoctrination. Moral lessons, conveyed by parents, pastors, teachers, and philosophers, are woven into the societal myths, laws, and codes of behavior that guide us through life. The evolution of human consciousness in defining and redefining morality, however, has encountered a formidable obstacle in the modern spectacles of consumerism and militarism, amid what I would term the perpetual carpet-bombing of advertising, propaganda, and amusement. Devoting adequate attention to the discussion and consideration of moral values thus requires the creation of time, space, structures, and activities conducive to weaning and shielding people from these psychic intrusions.

The philosophy behind the public health model of community organizing is that the primary obstacles to engagement are ideological, and that the primary task in overcoming these obstacles is a communicative one. The purpose of this paper is to examine the efficacy of the public health model applied to social and political engagement, and ultimately to spark discussion of and experimentation with strategies and tactics that foster greater autonomy and accountability throughout our society.

Civil society leaders, as such, are burdened with the responsibility to plan and prepare for the eventuality of attack, consciously preparing

themselves, their followers, and their allies to both endure and oppose the use of fear, hate, and revenge. Isolation of these social pathogens, inoculation of vulnerable populations, and education of those looking for certainty, comprise key elements of the public health model. A more complete definition of this model of social organization follows.

Public Health Model Defined

Isolate

The primary mission of institutions charged with protecting the public health is to contain outbreaks and to prevent epidemics associated with infectious disease. The first order of business in the public health regime is to isolate and study the various pathogens that pose such a threat to society, in order to determine the most effective means of prevention and containment. Through research, essential characteristics of the disease can be determined. Through analysis, options for intervention are continually reviewed, tested, and revised with an eye toward the development of prophylactic measures, treatment, and medicines, as part of the array of intervention methods at the disposal of public health professionals. In addition to the biological and infrastructural investigations conducted, committees, divisions, and departments are established for the purpose of interdepartmental communication and coordination engaged in developing appropriate legislation, budgets, and operational manuals for all the ancillary public agencies necessarily involved in implementing the mission of public health administration.

In the body politic, social pathogens of aggression that surface in the form of such things as racism, fascism, homophobia, and xenophobia can be viewed and approached in a similar manner. Each of these ideological cancers have origins, histories, distinct characteristics, and can be studied, monitored, and analyzed asking the same basic questions used by the Centers for Disease Control and the Institutes for Public Health:

- · Where does it come from?
- · What conditions allow it to prosper?
- · How is it transmitted?
- · What is its life cycle?
- · What causes it to become dormant?
- · Can it be eradicated?

Through such a methodical approach to understanding social pathogens, we are best able to mobilize with economy and effectiveness the resources available. Beginning our quest for human dignity with an attitude of respect for the process and results of research and analysis enables us to avoid inappropriate responses to outbreaks while we advance our pooled knowledge and experience.

Inoculate

With the development of vaccines, public health officials added a powerful defensive weapon to their arsenal. To varying degrees, depending on the disease, the combination of vaccination programs with the management of

host conditions improved life immensely. People not only lived with less disease; they lived with less fear of disease, and were thus less susceptible to psychologically disturbing explanations of its causes, previously associated with such things as morality, magic, and religion.

Likewise, health professionals, through the accumulation of data and the observation of results of vaccination campaigns, became aware of the differential vulnerability to contracting disease. Through trial and error and reflection, they came to understand the plurality of factors that bear on an individual's propensity toward good or poor health. Over time, a more holistic perspective developed to include consideration of diet, habits, stress, genetics, age, and gender. Thus informed, guardians of public health are better prepared to initially target the most vulnerable populations in mobilizing the resources of disease control and epidemic prevention.

Populations most vulnerable to ideological diseases are equally identifiable, considering such conditions as employment, education, religion, location, and economic status. Systematic study, research, and analysis of their historical development within the current political context allow those considering intervention measures to anticipate and possibly head off dangerous events. At the very least operating from an informed position provides activists with the ability to not make things worse.

By adopting the medical credo do no harm, socio-political public health warriors can develop an attitude that prepares them for what Laurie Garrett, author of Betrayal of Trust, calls "The Coming Plague." Although referring to disease in

the microbial sense, Garrett's profound question: 'Can it still be assumed that government can and will protect the populace's health?' applies as well to sociological pathogens that have found ways to circumvent normal host defenses. If the answer to this question is, as I contend, no, then those of us who try to heroically cover for official complacency and public indifference find ourselves in a position similar to health workers in the developing world — struggling without resources against insurmountable odds. Referring to Third World health workers, Garrett says, "It is the paradox of our era that while they struggle, we are so privileged that we are frequently unaware that their struggle exists."

It is equally true of American society that the beneficiaries of privileged social status live in comfortable ignorance of the rare and latent social diseases that pose grave risks to communities, that is, until they amplify in unhealthy environs into terrible epidemics like the Wise Use and Militia movements. As Garret observes, "Effective public health systems monitor the health and well-being of its citizens, identify problems in the environment and among the members of its community, and establish public health practices to address these problems." Her dire warning that, "We live in a world in which new human pathogens emerge and old infectious diseases once thought conquered can resurface with a vengeance" reminds me of a World War II Jewish refugee who made a comment to the effect that he thought we had ended anti-Semitism with the surrender of Nazi Germany. The analogy is perhaps best summed up by Garret's remark on the perils of reliance on pharmaceutical technology, "Resilient mutated strains have evolved and

flourished in part through ignorance of the need to complete a prescribed course, and by the overuse and misuse of drugs. The challenge is to adapt our public health strategy to control environments and modify behaviors in a constantly changing world."

Educate

Once a disease is contained, educational efforts aimed at broadening public support for and cooperation with health agencies become part of an ongoing system of monitoring, reporting, and situational assessment conducive to institutionalizing practices, behaviors, and investments in achieving optimal health. Wavering commitment to these educational efforts means that gains made in disease control for one generation might be lost for the next; betrayal of public trust through laziness, cowardice, or dishonest acts, especially for political purposes, also endangers the public sense of citizenship.

Thus, in order to recruit and convert sufficient numbers of the populace to participate in healthful practices, working relationships need to be built and maintained by honoring that trust with frankness, obligation, and accountability. When that trust is broken, it must be painstakingly rebuilt. Similarly, social activists need to be vigilant in not overstating problems, not underestimating the seriousness of problems, and in not shrinking from their obligation to articulate and disseminate their assessment candidly and repeatedly, regardless of the popularity of the message.

Communicating social transformation based on ideological research, analysis, and education, within the framework of the public health model,

incorporates tools of intelligence and propaganda from military warfare applied to community organizing. Convincing people to participate in, or persuading them to cooperate with such a tumultuous endeavor requires the clear articulation of the philosophy behind it.

Philosophical Basis of Model

The public health model of community organizing assumes a constant, aggressive opposition committed to undermining and silencing good faith participation in societal problem solving. As such, activists who approach organizing by bolstering community safeguards and regulating mechanisms have a powerful asset in moral sanction. As guardians of a fair and open process, they can claim the high ground over anti-democratic opponents, whose behavior, if not agenda, violates societal norms. In this way, pro-democracy activists and organizers can increase the likelihood of broad-based conscientious involvement in public policy decision-making.

Moral sanction alone (especially in the present where citizenship is so rare), may be insufficient to constrain political violence or official repression, but it can bring significant pressures to bear on public behavior as well as within institutions under the control or influence of civil society. Indeed, reform and revolutionary movements, as well as other forms of resistance in fundamental conflict with despotic powers, rely on moral sanction as an essential component of political warfare.

In fact, the commitment of social movement participants and the approbation of noncombatants and potential recruits are largely determined by

the ability of resistance leaders to articulate and disseminate the moral values at issue. In this way, resistors and allied advocates can gain not only attention, but also recognition of the validity of their grievances. At the same time, the moral prestige of oppressive institutions is diminished, and opportunities to obtain concessions or to leverage discussion are enhanced.

Communication of core values leads to the empowering acts of individuals that develop commitment to a process of transformation they believe will lead to greater fulfillment of these values. Faith in the possibility of justice, by a process that transcends issues, acknowledges the supremacy of human dignity and the ethical imperative to act.

Strengths and Weaknesses of Model

The strength of the public health model, when applied to community organizing, is in its view of the body politic as an organic, dynamic system of adjustment and evolution that, like the human body, requires maintenance, nurturing, and protection from external threat. The central perspective of this model is a faith in humanity to resolve conflict given the opportunity to work. Cycles of subversion and integration, when functioning organically, strengthen a society's immune system allowing it to adapt to new circumstances with greater resilience.

The weakness of the public health model lies in the vulnerability of its practitioners to accusations of *conspiracism*, and the tendency of overzealous devotees to neglect the holistic requirement of integrating their practice with those engaged in reform advocacy, political

diplomacy, law enforcement, and military deterrence. Actors accustomed to functioning as the white blood cells of society, by definition, are programmed to be on the lookout for social viruses. The difficulties of integration with sympathetic actors not so inclined, arises when these threats successfully elude popular detection and are able to spread covertly, infecting unsuspecting target populations -- including one's allies -through lazy and corrupt media habits.

This is not to say that the model is flawed; rather, that the social immune system can only work when the other systems function properly. The symbiotic relationship and the guardian cells' ability to protect society break down when any of the systems malfunction.

Garrett observes that, "It was in Gotham at the dawn of the twentieth century that bands of sanitarians, germ theory zealots, and progressive political leaders created the world's first public health infrastructure" primarily focused on prevention and surveillance, rather than cure. She notes that society of that era, when strides in public health far surpassed those of the last half century, "needed to take aim at a far more complex—and elusive—target" comprised of science, politics, sociology, economics, and "even elements of religion, philosophy, and psychology." Noting that public health infrastructures were not terribly resilient in the face of societal stress and economic difficulty, Garrett forewarns, "An unstable, corrupt society is inevitably a public health catastrophe." In the present era of malign neglect and rampant corruption at the highest levels of American business and government, it is a dire warning indeed—in terms of public health, safety, freedom, and life itself. So vital to societal

stability and so vulnerable to political disorder, public health in either sense—physiological or psychological—when in crisis, can bring down a government.

Comparison with Other Models

The four conventional liberal models used to frame and contain anti-democratic behavior are law enforcement, political diplomacy, military, and interest or pressure group.

Law Enforcement

The law enforcement model of constraining those who conspire to disrupt legitimate attempts at societal conflict resolution assumes a faith that agencies so charged will be able and willing to perform their duties. In reality, they are usually uneducated in the nuances of political violence, frequently used to interfere with enforcement except for political purposes, and too often biased to accept the view that the victims are to blame.

Law enforcement, when it works, usually consists of arresting perpetrators of physical violence. The harm done to society by demonization, intimidation, electoral fraud, and paramilitary mobilization continues mostly unencumbered by official interference, until property or people have been harmed or murdered. Occasionally, enforcement agents apprehend those in violation of arms and explosives statutes, as they did with the Militia of Montana and the Washington State Militia in the mid 1990s. Rarely are the felons engaged in creating the overall political climate -- that signals the reactionary underground and sociopaths to emerge and act on their beliefs -- indicted for either explicit or

complicit violations of the law. Low level activists that do things like listing addresses of abortion clinic physicians on Internet hit lists may find themselves subject to civil penalties and censorship, but high level activists, such as Wise Use operatives linked to big business have, to my knowledge, never been charged for inciting assault, arson, and attempted murder against their political opponents.

When it comes to political violence used to prevent discussion and open inquiry, official agencies often ignore behavior or exacerbate tensions by overreacting. Dismissing concerns of individuals targeted by political violence, or telling them to buy a gun, leaves people adrift. They are certainly not going to continue to participate in the societal debates and discussions we need to maintain a democratic society.

Political Diplomacy

The use of political diplomacy for purposes of constraining political violence is not only ineffective; it is inappropriate and signals those who use violence that their opponents lack what Herbert Marcuse calls the "moral disposition to counter aggressiveness." Faith in diplomacy assumes the possibility of mutual good faith participation in a process of negotiation and compromise. Political actors who operate from a core agenda that denies equal protection and opportunity to others -- whose strategic formula of fear, hate, and revenge uses systemic violence to gain or maintain privileges -- and who are willing to commit or abet crimes against their opponents, are neither deserving of trust nor a public platform for promotion of their ideology. Misguided or

cowardly reformers who engage them thus, do so at grave risk to a community.

One of the greatest perils of piety is the faith that no matter how perverted or distorted the position of one's opponent, they will be won over with reason and compassion. This is not to say that they in turn should be demonized; it is simply a plea to acknowledge that diplomacy has a limited effect on someone who views other segments of society as evil or subhuman. Perhaps their hearts and minds can be changed by some transformative experience, like time in prison or coerced participation in a truth and reconciliation process, but constraining their behavior is of primary importance to the well being of society.

Military

Application of the military model for the purpose of constraining domestic political violence, that is perceived to threaten the healthful functioning of American democracy, results in tragedies like Jackson State, Kent State, Ruby Ridge, and Waco. Most recently, the militarization of law enforcement functions—such as border patrol and protest management—has situationally altered the policing mandate from serve-and-protect to search and destroy. This altered relationship between police and some communities and ethnic groups has the tragic, if unintended consequence, of condoning unregulated vigilante and paramilitary conduct. When non-violent activities such as civil disobedience or unlawful border entry encounter a militaristic official response, the message sent to reactionaries and bigots is that these illegal acts are committed by enemies of the state, rather than by a loyal opposition or harmless unfortunates.

The use of military forces or tactics against political opponents, even anti-democratic ones, only harms the health of society. The oppressed live in terror; the repressed shrink from their duties; and the confused either indulge in other outlets for their aggression or prepare for civil war. Combined, these conditions are conducive to further deterioration of democratic society, paving the way for monopoly, tyranny, and the impunity these conditions enjoy. With the institutionalization and consolidation of the militaristic model for domestic purposes, constituent advocacy becomes increasingly meaningless.

Pressure Group

The pressure group model, designed for the purpose of constituent advocacy -- used both for reform as well as privilege maintenance -- is most noted for its success in generating legislation. The resultant laws and rules, when enforced, provide some degree of relief or restitution to the groups or constituencies involved, but often do little to protect or facilitate broad participation in the debate about unjust or insane public policies. More often than not, actors from across the political spectrum use this model to seek economic or political advantage over others, rather than to protect a fair and open process in which benefits and burdens are shared equally. Consequently, unhealthy relationships develop between dominant groups and those in power, to the detriment of everyone else.

To their credit, some pressure group professionals recognize the need for strategic and tactical planning and the development of an

agenda to movement momentum. They anticipate and prepare for public debate and convey articulately their constituents' entitlement to relief, and rightly focus on the need to demand accountability from officials. Some of these professionals acknowledge the difference between trivial and fundamental change that empowers ordinary people, the best of them cognizant of the need to examine alternatives to achieve their goals.

Those who invoke the values of their audience and identify unsavory aspects of the opposition come closest to conversion to the public health model. Building solidarity, reducing isolation, and linking actions to an agenda are all consistent with this model. The weakness of pressure groups is their focus on their adversary to the exclusion of their opposition. This notorious blind spot to organizations, movements, networks, ideologies, and covert activities that comprise a whirlpool that encompasses seemingly straightforward interest group conflict, can bewilder and dismay pressure group participants and completely erode progress made through decades of effort overnight.

The American system of majority rule poses a constant threat to minority rights, often leaving numerical majorities with little or no voice in decisions that directly affect their survival, their liberties, and their quality of life. Pressure groups that avail themselves of protest and political diplomacy in securing concessions on the behalf of deprived constituencies, often find themselves negotiating away rights of the least influential or functioning as unwitting informants to those in power, seduced by the sense of importance these relationships convey. A local organization I once worked with became so obsessed with obtaining

official approval for human rights that they agreed to a compromise with the Christian Right to delete equal rights for homosexuals from their resolution.

Without the active participation by broad segments of society in the vital discussions of self-governance, autonomy and accountability are unlikely to obtain. Even well intended, altruistic pressure groups can make things worse through their doctrinaire reaction to frequently fantastic interpretations of frightening behavior, rather than through action based on research, critical thinking, analysis, and careful preparation. Moral theatrics may be gratifying to the self-righteous, but they often get in the way of efforts to develop reflective, self-disciplined, popular education and community-building networks that act as a defense against subversion of self-determination.

Law enforcement, political diplomacy, military, and pressure group models of engagement have important roles to play when employed appropriately. They have simply not proven to be effective deterrents to anti-democratic behavior and social disintegration in the US. As such, an examination of the methods and devices of the public health model deserve further attention.

Methods and Devices

Research

As noted, the successful application of the public health model to ideological disease control depends on the early detection and analysis of organized anti-democratic aggression, systematic

study of and intervention with vulnerable populations, and educational campaigns aimed at broadening public support for the investments required. We will now examine the essential integrative techniques used to construct the working relationships needed for building a community of sociopolitical health practitioners.

The first thing to recognize in this endeavor is that this is sensitive, potentially dangerous work that should not be undertaken haphazardly, or alone. The creation of enduring institutionalized programs critical to its effectiveness does not come about by bureaucratic means — they are created from the ground up, and rely on the participation of local moral authorities.

Consequently, concerned citizens as well as community organizers interested in personal security, movement continuity, and a politically healthy community, must establish and operate within a network that involves intentional collaboration between churches, schools, human rights groups, neighborhood associations, labor and civic organizations, and individuals who perform research and investigative functions. The face-to-face networking that takes place in communicating the need for and agenda of such a network is the adhesive of community building.

Lengthy discussions, socials, and workshops organized around timely, accurate, and relevant information that makes a community threat visible and understandable, generates concern and allows a nascent network to determine its educational and organizing needs. Local research, linked with regional and national resources, provides historical background and political context, as

well as presents options and locates targets for community action. Network solidarity, cemented by well-articulated ideas and based on the experience of other communities, then becomes the foundation for engaging in personal reflection and community education.

Education & Organizing

Once a network has determined its educational needs, it can pool connections and resources to provide opportunities both separately and jointly for their organizational members, depending on the focus and comfort level that exists. Initially, the delivery style, references, and language used may differ significantly—eventually a mutually recognized set of values and purpose will develop.

Individuals and groups within the network will progress at their own pace in absorbing and adapting to changed perceptions of society and conflict. Network leaders who monitor and communicate this progress can best determine when and how their group is ready to act. Cross-pollinization between groups both accelerates the progress and breaks down barriers or misperceptions between groups that previously received only mediated impressions of their new allies. Public events that promote core values already shared by the network nodes serve as recruitment tools that can funnel the unaware into educational functions where deeper discussions that lead to conversion take place.

The private and popular education functions undertaken by the network thus become central organizing tools based on ongoing research and analysis in which all movement participants play a

role through observation and dialogue. The formality or informality of the network is less important than its functionality — active communication will lead to some kind of community action.

Community Action

Community action, whether a containment, prophylactic or remedial intervention, involves high profile events and public dramas that also serve as educational and recruitment venues. As such, they should be approached and designed with the assistance of people who have connections and experience in public relations, theater, media, and education. Plans, materials and scripts for associated press conferences, speaking engagements, and literature dissemination should be strategically developed. Timing and sequence of delivery, when rationally executed, helps to minimize confusion as well as disarm opposition.

Sticking to the network-adopted mission and objectives reduces the likelihood that wedges can be driven between network participants. Pre-selected, well-recognized spokespersons trained and prepared to deliver the message with confidence and conviction helps to avoid losing the initiative by lapsing into a defensive posture.

The first public impression of the meaning and importance of the action cannot only be manufactured—it can help determine the course of the ensuing conflict and community discussion. Self-restraint, a sense of humor, and controlled righteous indignation—being firm on principle, but fair in application—are powerful attributes when delivered by or with the consent of visible

moral authorities. Subsequent cycles of analysis, action, and reflection can then reinforce individual group actions initiated within the new political context, with the initial joint action and theme serving as the touchstone. Continuous network communication allows for spotting and assessing opportunities for advancing its agenda, extending its influence, and consolidating its power.

By focusing on policy to the exclusion of process, advocacy groups, perceived as guardians of democracy, fail in this task because they are not engaged in opposition activity. They are engaged in political diplomacy. Hence, much of the training work needed is of individuals already persuaded of the importance of opposition research. Acting from the public health model—which is to look at the causative mechanism, how the behavior is transmitted, and what sort of interventions can either prevent or modify it—enables these individuals to respond to the pathology of violence and intimidation that prevents community participation and conflict resolution.

Institutional change, currently based on the four inapplicable models, is a long way off. Government and philanthropic funding is almost exclusively restricted to the four ineffective models. Training around pressure group tactics used to get laws passed that will not be enforced might be considered a waste of time. Even human rights groups that do good training and education devoted to tolerance often view their work in building contacts with law enforcement as educational, when, in fact, they are often being used as an intelligence source — for political intelligence. The buy-in by most of middle and

upper class society to the United States system of inequality, wastefulness, and environmental insanity required to sustain the existing system — when combined with the enormous resources of the primary beneficiaries of the system — creates a self-perpetuating mechanism that can only be interrupted by severe economic or moral crisis. The global system of exploitation, however, is so engrained in the United States means of survival that morality—a deep questioning of our humanity—is our only hope.

Looking at societies, cultures, and individuals as evolving, conscious organisms that possess organic "natures" and acquired characteristics -- that are both responsive to conscience and vulnerable to manipulation -- encourages research, analysis, and discussion of how social change happens. Scrutiny of movements, actions, and fundamental conflicts in multiple eras, societies, and venues provides a context for engagement that enables both holistic thinking and critical examination of often unquestioned perspectives and personal positions. Distinction of authentic grassroots activism from more socially acceptable elite-sponsored activities serves to both inspire and shield the kind-hearted who choose to engage in public affairs. The application of public health methodology to the realm of politics is useful both literally and figuratively: Our collective, globally interdependent ideological and sentient well-being depends not just on autonomy and accountability—it depends on systematic prophylaxis exercised by civil society. Without it, our mutual destruction as a species—from either microbes or nuclear warheads—is, indeed, assured.

About the author

Jay Taber is a recipient of the Defender of Democracy Award He is an author of numerous essays and book reviews, columnist, a daily contributor to the Fourth World Eye (http://cwis.org/publications/FWE/), an Associate Scholar at the Center for World Indigenous Studies and he is an Contributing Editor of Fourth World Journal. Since receiving the Defender of Democracy award in September 2000, Jay has endeavored to put the lessons learned from social conflict to good use through guest speaking, publishing, and mentoring. As a consultant, he has assisted ethnic minorities and indigenous peoples seeking justice in such bodies as the European Court of Human Rights and the United Nations.
A key contributor to the composition of the Activism and Social Change program at New College of California, author of five books, and editor of the online journal ***Skookum***, Jay's work has been recognized for making the essentials of applied research accessible to a wide audience.

Contact information

http://www.lulu.com/spartacus

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US Consultation Policy and "Free, Prior and Informed Consent"

CWIS Comments: Draft 2011 Department of the Interior Policy on Consultation with Indian Tribes submitted at the request of the US Department of the Interior, Office of the Secretary.

Rudolph C. Rÿser, PhD
Center for World Indigenous Studies

The United States Government joined the governments of Australia, New Zealand and Canada to reject the United Nations Declaration on the Rights of Indigenous Peoples when the United Nations General Assembly on September 13, 2007 overwhelmingly approved the new instrument that had been approved of the United Nations Commission on Human Rights. Within months Australia, then New Zealand and finally Canada reversed their opposition and extended their approval...with some caveats. The United States government held back its approval until 2010 before it too joined endorsers.

US approval came with a kind of backhanded caveat that seemed to render a key provision in the Declaration inoperable. In its officials statement expressing US policy on the Declaration the US Department of State wrote:

> ...the United States recognizes the significance of the Declaration's provisions on free, prior and informed consent, which the United States understands to call for a process of meaningful consultation with tribal leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken. USDOS, 2010)

On January 14, 2011 Secretary of the Interior Ken Salazar issued a draft of his department's policy proposal for a "Department of the Interior Policy on Consultation with Indian Tribes" (See Annex following this article) that referred only to President Barak Obama's November 5, 2009 "Executive Memorandum on Federal Consultation with Indian Tribes" as the underlying motivation for offering his proposed policy. The Department of Interior policy made no reference to the UN Declaration on the Rights of Indigenous Peoples, but clearly reflects the US government's response to the "free, prior and informed consent" clause to which the Obama, Bush, Clinton and Bush administrations strenuously objected to over the nearly twenty years during which the Declaration was being developed and considered in various UN organs before its adoption by the General Assembly.

American Indian governments, intertribal organizations, and research institutes like the Center for World Indigenous Studies were asked

to comment on the draft US Department of Interior consultation policy proposal. The Center for World Indigenous Studies reply makes up the bulk of this article. Following the Center's comments we provide the full text of the US government's proposed policy.

"Government-to-Government" is an International Obligation:

Responsible government-to-government relations between Indian nations (along with Alaskan Natives and Hawaiian Natives) are an internationally established obligation the United States government has officially pledged and must solemnly uphold and practice. By virtue of its signature on the Helsinki Accords of 1975 and endorsement of the UN Declaration on the Rights of Indigenous Peoples (2007) the US government has affirmed its international obligations. By concluding treaties and Self-Government Compacts the US government affirmed that the basis of its intergovernmental relationship is mutual negotiations and mutual agreements. Changing from political dependence to a position of recognized sovereignty involves constructing a new framework for political relations, defining or reforming domestic institutions, and reducing the longstanding role of the Bureau of Indian Affairs as a governing influence in the internal affairs of Indian nations. Self-government not only implies, but also requires that an Indian nation take responsibility for making and enforcing its decisions.

The contemporary principle of government-to-government relations with Indian governments derives from the US government's announced

policy to the Commission on Security and Cooperation in Europe that it conducts relations with Indian tribes on the basis of Principle VIII (CSCE, 1975) of the Helsinki Final Act (1975), which states, in part:

> The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.
>
> By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

In consequence of the Accord in Helsinki, the United States committed itself to a set of principles that, among other things, established the modern "government-to-government" rule.

In a 1979 report to the Commission on Security and Cooperation in Europe, the US government pledged that it would conduct relationship with Indian tribes on the basis of government-to-government relations:

> [The policy] is designed to put Indians, in the exercise of self-government, into a

> decision-making position with respect to their own lives. (USDOS, 1979)

The report further asserted that the state's relationship to Indian nations is one where "...the U.S. Government entered into a trust relationship with the separate tribes in acknowledgment, not of their racial distinctness, but of their political status as sovereign nations." (USDOS, 1979) Indeed the publication "Fulfilling Our Promises: The United States and the Helsinki Final Act," had been issued as a report on the US government's progress toward implementing the Helsinki Final Act of 1975 explicitly claiming that a government-to-government relationship was in place.

The US government's commitments under the Helsinki Accords altered how it's leaders and the leaders of Indian governments necessarily applied what is so often referred to as the "Trust Relationship." ***By virtue of it's commitment to conduct its relations with Indian governments on a government-to-government basis, the United States government assumed the responsibility to exercise its trusteeship consistent with elevating the political status of Indian tribes to a position of sovereign equality.***

The Modern Origins of "government-to-government."

The modern origins of the expression, "government-to-government relations" began in the US government's agreement to settle World War II boundaries and spheres of influence in Europe under the Helsinki Accords of 1975—commitments made to Europe states and the

Union of Soviet Socialist Republics in connection with Indian tribes and natives inside the boundaries of the United States. It was the decision of Indian governments meeting in western Washington State in 1979 during a Conference of Tribal Governments hosted by the Quinault Indian Nation to recognize that the United States government had made its commitment to European states under the Helsinki Accords and should be urged to make the same commitment to Indian governments through a US Presidential Policy. After adopting the "government-to-government" resolution, the Conference of Tribal Governments submitted a resolution to the Affiliated Tribes of Northwest Indians (ATNI), which promptly adopted its resolution urging the US government to replace its "consultation policy" with a "framework for government-to-government relations." The resolution was subsequently submitted to the National Congress of American Indians and adopted there. When NCAI President Joe DeLaCruz signed the resolution, thus urging the US government to adopt a framework for government-to-government relations, he promptly directed that discussions with the Ronald Reagan Administration commence with the intention that the *US government adopt the principle of "government-to-government relations" with Indian governments and immediately begin to negotiate a framework for the conduct of government to government relations.*

President Reagan incorporated the NCAI government-to-government proposed policy into his "American Indian Policy" statement of 1983. Stating, "Our policy is to reaffirm dealing with Indian tribes on a government-to-government basis and to pursue the policy on self-government for Indian tribe[s] (sic) without threatening

termination" (USGOV, 1983) the Reagan administration attempted to demonstrate its commitment to dealing with the governments of Indian nations by moving the White House liaison for federally recognized tribes from the Office of Public Liaison to the Office of Intergovernmental Affairs. The Reagan Administration did not establish a "framework for government-to-government relations." As a result, the policy has been in place, but there is no consistent framework in the US government or a consistent framework policy for government-to-government relations with Indian tribes despite the efforts of Indian governments for more than twenty-eight years to establish a mutually defined framework.

Government-wide Application

Indian governments individually and through their intergovernmental bodies urged the United States government to adopt a "government-wide" policy on intergovernmental relations with Indian governments. The current Administration has not altered the earlier pattern of promoting the development of Agency-by-Agency government-to-government policies. This practice continues to fragment and distort the principle of government-to-government relations. ***We urge the Department and the Administration to establish a government-wide government-to-government framework for conducting relations with Indian governments. This government wide framework must be mutually negotiated with Indian governments.***

Comments on the US Interior Secretarial Consultation Draft

1. **The notion that the principle of government-to-government relations is embedded in the history of relations between the United States government and Indian nations is largely true, though the expression "government-to-government" is of relatively recent origins as we note above.**

The Secretary's Draft Consultation Policy begins with the words: "The obligation for Federal agencies to engage with Indian Tribes on a government-to-government basis is based on the Constitution, treaties, statues, executive orders, and policies. Federal agencies meet that obligation though (sic) consultation with Indian Tribes." (USDOI, 2011)

The first sentence in the Draft is essentially accurate though the conduct of treaty negotiations is the basic foundation for government-to-government relations and the principle underlying these intergovernmental engagements growing from the *Law of Nations* was and is the "mutuality of negotiations." This is so due to the fact that treaty relations conducted between governments took place between colonial governors and Indian governmental representatives and later between representatives of the Continental Congress—both of which occurred before the US Constitution. Therefore present day "government-to-government relations must be, by the statement of the Secretary and, indeed, predecessor Administrations going back to Lyndon Baines Johnson predicated on "mutually defined negotiations," and "mutual agreement"—the essence of intergovernmental relations.

2. <u>The second sentence may well represent the view of the Secretary, but "consultations" *per se* can only be understood to represent a small part of the government-to-government process. "Consultations" are only a part of the process. They are not THE process.</u>

US government officials have insisted on claiming the existence of a "government-to-government policy, but the emphasis has been on "consultations." This rather narrow emphasis has prevented the development of a government-wide "government-to-government" framework in large measure due to the failure of US government officials and many Indian government officials to recognize that "consultations" are but a part of a "government-to-government" relationship.

The full range of government-to-government relations involves negotiation of mutually beneficial policies, settlement of disputes via negotiations, resolution of past wrongs, establishment of protocols for the conduct of intergovernmental activities, assignment of contracts, adjustment of economic relations, and the conduct of foreign relations among other things. These matters may be initiated by either an Indian government or by the United States government. In any case, ***negotiations mutually formalized with protocols mutually agreed to must be understood by all parties to be the essential mechanism for defining, addressing and resolving intergovernmental matters of mutual concern***.

Now it is possible that an Indian government may chose not to exercise its responsibilities as a co-equal partner in the intergovernmental process. Such a government may choose not to engage in a

government-to-government activity. ***The United States government could not, in good faith, proceed to an action unless the government affected specifically relinquishes its responsibility to engage in a mutually established intergovernmental activity. To effect a decision of relinquishment, an Indian government must "officially opt-out" with the option to reserve the right to "opt-in."***

3. **Communications between an Indian government and the US government (agency) must be delivered well in advance of an action that may have an effect on the interests of the party (Reference: Paragraph V).**

A definite time of thirty-days advance notice by either the United States to an Indian government or an Indian government notice to the United States must be assured. If that amount of time is not possible due to an emergency, both parties must agree to give timely responses. The emergency must be real and unavoidable.

Where more than one Agency or even a department (perhaps Justice, or Human Resources) is involved, the sponsoring agency must coordinate participation, and when more than one agency of an Indian government is involved the sponsoring tribal agency must coordinate participation.

4. **Both the US government and Indian governments must be held accountable for the intergovernmental process. (Reference. Paragraph VI)**

Both parties must maintain reporting procedures internally including scope, costs, and evaluation of the quality of those communications. Accountability by both parties is essential to ensure appropriate intergovernmental balance and fairness.

5. **Any changes in the structure or practices of intergovernmental engagement between an Indian government(s) and the US government must be formalized by mutual agreement avoiding unilateral changes.**

While it is beneficial for the Department of the Interior to work toward innovating its practices to offer examples across the Administration, it is essential that these innovations or adjustments when offered become a part of official communications to Indian governments. It is equally appropriate that if an Indian government seeks to innovate with new or different intergovernmental practices it must communicate such changes to the United States government. When each site has essentially communicated its proposed innovation, each side must formally establish a mutual agreement on changed protocols.

6. **Consultation Guidelines must incorporate mutual agreement and Opt-In and Opt-Out provisions. It must be a two-way process that respects the intergovernmental nature of the relationship. Where the US government is obliged to behave in a particular way, and Indian government must have similar**

obligations. Such is the nature of mutual arrangements between governments.

Here are the minimum requirements for government-to-government consultations:

- View consultation as a first step in government-to-government communications that may involve bi-lateral mutually agreed discussions or US agency dialogue with many Indian government representatives.
- Recognize that an intergovernmental US and Indian tribal framework mutually agreed to by the parties is essential for the conduct of effective government-to-government relations, and for the implementation of protocols for which both the US government and each Indian government is accountable.
- Convey the expectation that consultation will not be regarded as merely a procedural step for unilateral decision-making, but rather as part of an intergovernmental process of good faith communication, collaborative dialogue, and information exchange to try to reach decisions that reflect mutual accommodation of interests. Early (pre-decisional) and continuing dialogue on matters of concern to Indian tribes should be required.
- Encourage the use of formal understandings and agreements to memorialize expectations and commitments with Indian tribes.
- Recognize and respecting protocols and procedures adopted by tribal governments for their interactions with the US government.

- Clarify that consultation requirements extend to the development of agency positions regarding litigation involving Indian rights or interests.
- Require federal agencies to coordinate with each other to minimize the potential for conflict and inconsistency and to ensure that relevant decision makers are involved in discussions with Indian tribes at appropriate times.
- Require information regarding issues to be discussed with Indian tribes to be provided in advance, consistent with the principle of free, informed, and prior consent, so that tribes have the opportunity for substantive review.
- Require agencies to inform Indian tribes of how tribal concerns are addressed in final agency actions.
- Establish protocols to ensure that individuals with appropriate decision-making authority are available to participate as needed to conclude agreements or understandings.
- Encourage the use of waivers or opt-out clauses for formal agreements in instances where tribal values and needs may be incompatible with regulatory requirements designed for application to the general public.

7. **The Trust Responsibility must not be used as a rationale for US unilateral action that affects the interests of an Indian Nation without its prior or informed consent.**

The Trust Responsibility is evolving and the mere existence of the policy of government-to-

government relations, and the Self-Governance Compacts are testimony to the evolution. The Trust Responsibility must be understood to be a dynamic obligation and relationship that must enhance and not retard the political development of Indian governments or their right to evolve a political status and structure beneficial to their interests. The US government must be now understood to have an "international trusteeship obligation" that not only requires it to preserve, protect and guarantee the rights and property of Indian nations, but of Alaskan Natives and Hawaiian Natives. Furthermore the Trusteeship must be socially, economically and political dynamic to support the continuing improvement of life and decision-making powers of increasingly self-determining Indian communities. At the same time, it is only fair to ensure that the exercise of self-determination and self-government occur at a pace sufficient to the interests of each Indian community and each native government must have the recognized authority to opt-in or opt-out of an intergovernmental action.

Final Comment:

A relationship between governments must respect the sovereign decision-making power of each one. A framework for government-to-government relations must operate at several levels and must be mutually defined. The relationship must also be bi-directional. Either party must be able to take the initiative and the other party must respectfully respond. The United States and Indian nations (Alaskan Natives as well as Hawaiian Natives) have a great many mutual interests that benefit both parties, but neither party must presume to decide for the other. Indian

nations and their Alaskan Native and Hawaiian Native equals have social, economic and political interest that may differ from one another and those differences must be understood and respected. The whole of the US government must act as one just as the whole of each Indian government must act as one in principle.

Where American Indian nations have domestic interests that diverge from those of the US, there must be a mutually defined process for dealing with differences. Where Indian nations have international interests that diverge they must seek to find accommodation in mutual agreement based on negotiations. The process of government-to-government relations is about mutually agreed negotiations and mutual settlement of differences. The balance is the tight wire on which both governments must walk.

Quinault President Joe DeLaCruz (former two term President of NCAI and the National Tribal Chairman's Association, and North American delegate to the World Council of Indigenous Peoples) spoke before the National Congress of American Indians on the nature of self-determination and self-government that is worth repeating. He said,

> No right is more sacred to a nation, to a people, than the right to freely determine its social, economic, political and cultural future without external interference. The fullest expression of this right occurs when a nation freely governs itself. We call the exercise of this right Self-determination. The practice of this right is Self-Government. (DeLaCruz, 1989)

This sentiment can truly be realized only through a mutually determined framework for government-to-government relations between the United States and Indian and other native peoples.

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an American Indian policy statement which reaffirmed the government-to-government relationship of Indian tribes with the United States; expressed the primary role of tribal governments in reservation affairs; and called for special efforts to develop reservation economies. The President's policy expanded and developed the 1970 national Indian policy of self-determination for Indian tribes. President Reagan said it was the goal of his administration to turn the ideals of the self-determination policy into reality."

About the author

Dr. Rudolph Rÿser is the Chairman of the Board of Directors of the Center for World Indigenous Studies and Editor in Chief of the Fourth World Journal; and is the author of the soon to be released book by Routledge entitled "Indigenous Nations and the Modern State" examining the political development of indigenous nations in North America and elsewhere in the world. He earned his doctorate in the field of International Relations.

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THE SECRETARY OF THE INTERIOR
WASHINGTON

JAN 14 2011

Dear Tribal Leader:

At the Department of the Interior, we continue to take significant steps to implement President Obama's November 5, 2009, Executive Memorandum on Federal Consultation with Indian Tribes. Our goal is to create a policy that replicates the best consultation practices, responds to the needs and constraints of Tribal leaders participating in future consultations, and promotes more responsible policy development for Indian Country. The success of this consultation policy depends greatly upon the depth of input received from Indian Country.

In November 2009, I asked Interior to host a series of national consultation sessions designed to discuss the best process for meeting the President's charge for greater consultation. The feedback from Indian Country led to the creation of a joint Federal-Tribal team, who collaborated to write the attached draft consultation policy.

Thank you for your continuing support of this effort and your valuable input. The Department of the Interior consultation policy will honor the government-to-government relationship with Indian Tribes and will be a model for other consultation policies. Forging a strong role for Indian Tribes' involvement in the decision making process will benefit Federal Indian policy for generations to come.

Sincerely,

Ken Salazar

Ken Salazar

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JAN 14 2011

Dear Tribal Leader:

The Department of the Interior is instituting a Department-wide policy for consultation with Indian Tribes and we would value your input.

Enclosed you will find the Department's Draft Tribal Consultation Policy. Please review the document and send your comments by e-mail to **consultation@doi.gov**. You may also mail your comments to Ms. Mary Milam at 1849 C Street NW, MS 4141 – MIB, Washington, D.C. 20240. **All Tribal leaders' comments must be received by March 14, 2011.**

Following a close review of your comments, the public will have an opportunity to comment before the policy is finalized. This draft policy document will continue to undergo legal review and the joint Federal-Tribal team will help integrate the feedback we receive. Thank you for your interest and participation.

Sincerely,

Laura Davis
Deputy Chief of Staff

DEPARTMENT OF THE INTERIOR POLICY ON CONSULTATION WITH INDIAN TRIBES

I. PREAMBLE

The obligation for Federal agencies to engage with Indian Tribes on a government-to-government basis is based on the Constitution, treaties, statutes, executive orders, and policies. Federal agencies meet that obligation though consultation with Indian Tribes. The Department of the Interior satisfies its Tribal consultation obligations—whether directed by statute or administrative action such as Executive Order 13175 *(Consultation and Coordination with Indian Tribal Governments*) or other applicable Secretarial Orders or policies—by adhering to the framework described in this policy. This Policy reflects the Department's highest commitment to the principles embodied in this policy and the Secretary's support of Tribal sovereignty.

The Department's Bureaus and Offices shall review their existing practices and revise them as needed to comply with the Department's policy as described in this document. All Bureaus and Offices will report to the Secretary's designee on their efforts to comply with this policy and as described in a companion Secretarial Order.

II. GUIDING PRINCIPLES

This policy broadly defines provisions for improving the Department's consultation processes with Indian Tribes to the extent that a conflict does not exist with applicable law or regulations.

This policy requires that the Department's government-to-government consultation involve the appropriate Tribal Officials and appropriate Departmental officials. The appropriate Departmental officials are knowledgeable about the matters at hand, are authorized to speak for Interior, and have decision-making authority in the disposition and implementation of a policy or are a program manager or staff who can ensure that Tribal concerns will be brought forward to final decision makers in the event that the decision makers are not present at the consultation meeting. The appropriate Departmental official will have an obligation to identify consulting parties early in the planning process and allow a reasonable opportunity for Indian Tribes to respond and participate as described in Section VIII. Department officials will make the effort to fully participate in the consultation process, ensure continuity, and demonstrate commitment to the process.

Consultation is a deliberative process that aims to create effective collaboration and informed decision making where all parties share a goal of reaching a decision together and it creates an opportunity for equal input from all governments. Consultation promotes an enhanced form of communication that emphasizes trust, respect, and shared responsibility and should be an open and free exchange of information. Federal consultation that is meaningful, effective, and conducted in good faith makes the Department's operation and governance practices more efficient. Efficiencies that derive from including Indian Tribes at all stages of the Tribal consultation process and decision making process, help to ensure that future Federal action is achievable, comprehensive, long lasting, and reflects Tribal input.

The United States has established a long-standing and inter-governmental relationship with Indian Tribes. Appropriate consultation practices will honor the government-to-government relationship between Indian Tribes and the United States; and will comply with President Barack Obama's Executive Memorandum that affirms this relationship and obligates the Department of the Interior to meet the spirit and intent of Executive Order 13175.

The policy creates a framework for synchronizing the Department's consultation practices with its Bureaus and Offices by providing an approach that applies in all circumstances where statutory or Administrative opportunities to consult with Indian Tribes exist.

III. DEFINITIONS

A. Bureau or Office – As defined in the Department of the Interior Manual.

B. Collaboration –The Department of the Interior working jointly with Indian Tribes to develop and implement positive solutions on issues that have an effect on Indian Tribes.

C. Consultation Policies – Those institutionalized policies established to comply with the procedures described in Section VIII of this document.

D. Departmental Action with Tribal Implications – Regulation, rulemaking, policy, guidance, legislative proposal made by the Department, grant funding formula changes, or operational activity that may have a substantial direct effect on Tribe or Tribal members' traditional way of life, Tribal lands, Tribal resources, or access to traditional areas of cultural or religious importance on Federally-managed lands; or the ability of the Tribe to govern its members or to provide services to its members; or that may impact the Tribe(s) relationship with the Department or the distribution of responsibilities between the Department and Indian Tribes. This term does not include matters that are the subject of litigation or in settlement negotiations, or matters undertaken in accordance with an administrative or judicial order.

E. Indian Tribe – An Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

F. Tribal Consultation Team – The Secretary's designee has established and may develop a plan of action for the continued involvement of a joint Federal-Tribal Team including making recommendations on the implementation of this policy.

G. Tribal Governance Officer (TGO)– An individual designated by the Department to assure compliance with the entire scope of this policy and any future policies related to the Executive Order 13175. The role of the TGO is to promote consultation as described in Section VIII of this policy and promote collaboration as defined in this section. The TGO will: be appropriately located within the Department so that the position shall be accessible to Tribal Officials; ensure tribal interests are considered by Bureaus and Offices in conjunction with TLOs; ensure that all Department consultation efforts as described in Section VIII are documented and reported to the Department's Point of Contact under the President's Executive Memorandum on consultation; and, in particular,

oversee the effective implementation of this policy with coordination of consultations across Bureaus and Offices. The TGO will be identified as serving in the office named under the most recent Departmental Action Plan.

H. Tribal Liaison Official (TLO) – Each Bureau or Office will have at least one person designated to fill the role of a Tribal Liaison Official. The TLO will: advocate for opportunities and positions of Indian Tribes consistent with agency missions; promote collaboration between Tribes and the Liaison's Bureau or Office; when appropriate, reply to an Indian Tribe's request for consultation as described in section VIII of this policy; and strive to enhance trusting and ongoing relationships with Indian Tribes consistent with applicable statutes, regulations, and executive orders.

I. Tribal Officials – An elected or duly appointed Tribal leader or official delegate designated in writing by an Indian Tribe.

IV. TRAINING

Trainings will aim to improve the Department's capacity for promoting collaboration with Tribes and executing the consultation provisions of Section VIII. Training will:

a) Promote consultation, communication, collaboration, and other interaction with Tribes;

b) Outline and reinforce Department duties concerning tribal interests; and

c) Describe the legal, trust, and protective obligation of the Federal-Tribal relationship. Transfer the knowledge, skills, and tools necessary for collaborative engagement to Tribal and Departmental staff engaged in the consultative process;

The Department, through DOIU and other appropriate sources, will develop and deliver innovative training opportunities as described in the Section VII which includes training to improve sensitivity and understanding of traditional American Indian cultures and governments.

V. COMMUNICATION

Each Office or Bureau is responsible for meaningful communication with Indian Tribes that promotes regular and early consultation as described in Section VIII of this policy. Communication will be open and transparent without compromising the rights of federally recognized Indian Tribes and the government-to-government consultation process. Communication methods should avoid impersonal forms of communication, effectively gain the attention of individual Tribal leaders, build on best practices, and utilize appropriate forms of technology.

A Bureau or Office will notify Indian Tribes that an opportunity for consultation exists when considering a Departmental Action with Tribal Implications as described in Section VIII.

A Bureau or Office may appropriately communicate with Indian Tribes about a Departmental Action with Tribal Implications through the use of meetings, telephone conversations, written notice, or a combination of all three; and may enlist workgroups of Tribal leadership and representatives that are particularly useful for identifying issues. A Bureau or Office will identify

the participants in the consultation process including the decision makers and the affected Indian Tribes. A Bureau or Office will seek and promote cooperation and participation between agencies with overlapping jurisdiction, special expertise, or related responsibilities regarding a Departmental Action with Tribal Implications.

Following initial notification of the opportunity for consultation, on-going communications concerning issues affecting Indian Tribes are meant to promote regular consultation. On-going communication will include communication about the design of the consultation process, the execution of that process, and the process' conclusion. When consultation is appropriate, ongoing communication will continue until the conclusion of the requirements under this policy.

The Department recognizes the value of communicating through a regular gathering of Indian Tribes which are meant to continue the discussion on improving consultation practices and the government-to-government relationship generally.

VI. ACCOUNTABILITY AND REPORTING

Methods that ensure accountability and reporting are essential to regular and meaningful consultation. The heads of Bureaus and Offices will include in future annual performance plans, a standard performance measure consistent with this policy.

On an annual basis, Bureaus and Offices shall report to the Secretary the results of their efforts to promote consultation with Indian Tribes. Reporting is intended to be comprehensive and may include, but is not limited to, the scope of consultation efforts, the cost of these efforts, and the effectiveness of consultation activities. Bureaus and Offices should provide a comprehensive listing of the topics on which consultations were held, training, innovations, and the engagement of senior leadership in these efforts.

Reports will account for the documents and correspondence with Indian Tribes to satisfy the Implementation of Final Federal Action Stage described in Section VIII or alternatively, summaries of such documents and correspondence with information concerning how the complete documents might be obtained. Methods of reporting may be both a description of budget expenditures in the execution of consultation efforts, narratives describing significant consultation efforts, and anticipation of forthcoming consultation opportunities.

The Secretary of the Interior will provide an annual report to Indian Tribes and may use the Department's website to share the reporting information where appropriate.

For Federal block grants that only Indian Tribes are eligible to receive and in compliance with Federal statutes, a Bureau or Office will take special care to disclose actions it has taken to consult with Indian Tribes in the development of formulas to administer the block grants.

VII. INNOVATIONS IN CONSULTATION PRACTICES

The Department's leadership will strive to advance Federal consultation practices and offer examples for innovation across the Administration. The Department will identify and seek to address impediments, both external and internal, to improving its consultation processes. The Department may consider soliciting Indian Tribes' evaluation of consultation practices.

The Department's Bureaus and Offices will be open to consultation opportunities initiated by Indian Tribes and seek opportunities to consult by communicating regularly with Indian Tribes. Communication outside of consultation is encouraged to the extent that a conflict does not exist with Federal statutes and does not interfere with Federal obligations under the government-to-government relationship.

The Department leadership may identify opportunities to inform Legislators and other Federal officials, where appropriate, of the benefits of meaningful tribal consultation.

Each Bureau and Office is to acknowledge and comply with existing processes for notifying its staff about the provisions in the Department's consultation policy and identify opportunities to train individual Federal staff as well as Indian Tribal representatives in a manner that promotes inter-governmental relationships. Bureau and Office leadership shall seek permissible opportunities to share trainings among Federal and Tribal representatives and to highlight Tribal leader involvement.

Where significant conflict occurs between Indian Tribes and a Bureau or Office in the consultation process, Bureau and Office leaders in conjunction with the Solicitor's Office are encouraged to promote the use of collaborative problem-solving, facilitation, mediation, and other existing processes for conflict resolution as tools to utilize in the consultation process.

VIII. CONSULTATION GUIDELINES

Consultation guidelines are meant to establish uniform practices and common standards, that all Bureaus and Offices will use, except when otherwise agreed to in writing by a Bureau or Office and Indian Tribe through an individual protocol conforming with the guidelines in this section. Consultation and individual protocols will provide greater efficiency and transparency in Department practices in order to maximize Indian Tribes' participation.

A. *Initiating Consultation*– A Bureau or Office must notify the appropriate Indian Tribe(s), of the opportunity to consult, when considering a Departmental Action with Tribal Implications. The Bureau or Office will strive to ensure that a notice is given at least 30 days prior to a scheduled consultation. If exceptional circumstances prevent notice within 30 days of the consultation, explanation for the abbreviated notification will be provided in the invitation letter.

   Adequate notice entails providing a description of the topic(s) to be discussed. Notification of a consultation should include sufficient detail of the topic to be discussed to allow Tribal leaders an opportunity to fully engage in the consultation. This does not mean that the Bureau or Office has reached a preliminary decision on the issue which is the topic of the consultation. However, the component should provide a brief discussion of the issues, a timeline of the process, and possible outcomes.

   Beginning at the Initial Planning Stage, a Bureau or Office will consult with Indian Tribes on a Departmental Action with Tribal Implications.

An Indian Tribe may request the Department provide consultation when it believes that a Bureau or Office is considering a Departmental Action with Tribal Implications. Requests should be made in writing to the Department's TGO and describe the specific a Departmental Action with Tribal Implications. However, the fact that an Indian Tribe may choose not to engage the TGO does not relieve a Bureau or Office of its obligation to engage in consultation as described by this Policy. In the event that the Bureau or Office makes an attempt to initiate consultation and does not receive a response, the Bureau or Office should make reasonable and periodic efforts throughout the process to repeat the invitation.

B. *Role of Tribal Governance Officer in Consultation Processes* — When a Bureau or Office provides notification of the opportunity for consultation, the Department's TGO will document the notice of consultation. The TGO may serve as the Department representative in requests by an Indian Tribe for consultation to occur. The TGO will encourage Indian Tribes to request consultation directly from the appropriate Bureau or Office representative and help to ensure the resolution of all requests. In consultation efforts that are of national significance or involve multiple Bureaus or Offices, the TGO will take steps necessary to facilitate a government-to-government relationship that is honored by all parties.

C. *Guidelines for Response to Request for Consultation* –The TGO or appropriate representative will promptly confirm receipt of a request for consultation from a Tribal Official. When the request is directed to the TGO, the request is to be forwarded to the appropriate Bureau or Office. The TGO or appropriate representative will treat an official request for consultation in a manner similar to a letter received from a state governor and respond in writing, using the most expedient methods to communicate to the Tribe, that the Department has received their request.

D. *Stages of Consultation*– Bureaus and Offices will carry out the stages described below in order to satisfy consultation for a Departmental Action with Tribal Implications. Consultation on a Departmental Action with Tribal Implications that are operational in nature—those that are regional and discrete actions, with impacts on a limited number of Indian Tribes—should be carried out consistent with this Section, but with discretion to utilize only those protocols of this Section that are appropriate to the operational action.

1. Initial Planning Stage

Each Bureau or Office will consult at this stage when possible in consideration of a Departmental Action with Tribal Implications.

Initial planning activities include efforts preparatory to issuance of draft regulations, administration proposals, legislation, and national or large-scale regional changes in procedures or policies. This would include project scoping, when incorporating the input of Indian Tribes is appropriate or required by statute or regulation.

A Bureau or Office may conduct a meeting or other forms of interaction with Indian Tribes in order to receive and evaluate comments received as part of the Initial Planning Stage.

2. Proposal Development Stage

The Proposal Development Stage begins once the Department discloses the scope of a Departmental Action with Tribal Implications. Indian Tribes should be considered as appropriate collaborative partners, particularly where negotiated rule-making or a Tribal Leader Task Force is created.

The Bureau or Office will select a process for the Proposal Development Stage that maximizes the opportunity for timely input by Tribes and is consistent with both Tribal and Bureau schedules. The Bureau or Office should work with Indian Tribes to structure a process, which to the extent feasible, considers specific Indian Tribal structures, traditional needs, and schedules of the Tribes and may proceed with the expectation that interested Indian Tribes will respond within a reasonable time period. If litigation or legal requirements impact a Bureau's or Office's schedule for conducting consultation, then the Bureau or Office should explain these constraints to the Indian Tribe.

Examples of appropriate processes for the Proposal Development Stage include but are not limited to the following:

- Negotiated Rule Making. Where appropriate, the Bureau or Office should consider using negotiated rule making for developing significant regulations or other formal policies in accordance with the Federal Advisory Committee Act (FACA).

- Tribal Leader Task Force. The Bureau or Office may use a Tribal Leader Task Force on matters that impact Tribes across the country where negotiated rule making is impractical. A Tribal Leader Task Force may also be used, in appropriate circumstances, on regional or issue-specific (e.g., timber) matters. In each instance, the composition of the Task Force shall be collaboratively determined by the Tribes, provided that the Task Force shall be a process open to all Tribes and, to the extent possible, represent a cross-section of Tribal interests with respect to the matter at issue. The number of meetings to be held and their location will conform to the expressed views of the Tribes, to the extent practicable and permitted by law and in accordance with FACA.

- Series of Open Meetings. The Bureau or Office may provide open invitations to Tribal leaders as part of a series of open meetings to consider action(s). Open meetings can be used for national, regional, or subject-matter specific issues.

- Single Meetings. The Bureau or Office may host Tribal leaders in a single meeting to discuss a federal action under consideration. Single meetings are particularly appropriate for local, regional, or single Tribe issues.

The Bureau or Office will solicit the views of affected Tribes regarding the process' timeline to meaningfully consider a Departmental Action with Tribal Implications. The Bureau or Office should make all reasonable efforts to comply with the expressed views of the affected Tribes regarding the process timeline at this Stage, taking into account the level of impact, the scope, and the complexity of the issues involved in the Departmental action with Tribal Implications, along with the other factors driving the schedule. The process will be open and transparent. If the Bureau or Office determines that the Administrative Procedure Act or other Federal law or regulation expressly prohibits continued discussion at a specified point in the decision-making process, the Bureau or Office should so inform the Tribes at the outset of this Stage in the process. The Bureau or Office may proceed with the expectation that interested Indian Tribes will respond within a reasonable time period during this Stage.

3. Implementation of Final Federal Action Stage

In addition to any formal notice required by law or regulation, final decisions on Department Action should be communicated in writing to affected Tribes, with a short explanation of the final decision.

A Bureau or Office may consider implementing a post-consultation review process where it is consistent with law, regulations, and Executive Order 13175. Any review process shall not limit the Department's deliberative process or privilege regarding internal considerations or any other applicable privilege.

The Bureau or Office at this Stage will consider the need for training or technical assistance on a new regulation or policy.

E. *Impact of Consultation* – Consultation as described in this section is not a basis for the Department to preclude requests or recommendations by Bureaus, Offices, or Indian Tribes to collaborate and foster trusting relationships between the Department and Indian Tribes outside of the processes described in this section. Exigent circumstances may allow the Department to take measures that deviate from this policy, but the Department should make every effort to comply and should explain to Indian Tribes as soon as emergency circumstances arise.

IX. SUPPLEMENTAL POLICIES

Bureaus and Offices, in collaboration with the TGO, are to review existing policies that may be impacted by this policy. All Bureau and Office policies are to conform to the Department policy. Where necessary, a Bureau or Office may develop a new policy in order to conform to this policy.

Consistent with Federal appropriations law, the Department shall develop a policy for consultation with Alaska Native Corporations. The policy will address when a Department action impacts an Alaska Native Corporation's interest. The policy will not conflict with the

requirements of this document. The Secretary's designee will provide a Plan of Action for developing the Alaska Native Corporation consultation policy.

Other entities that are not Bureaus or Offices as defined in this policy may develop policies that conform to this policy. Other entities may develop such policies in coordination with the Secretary's designee.

X. DISCLAIMER

Except to the extent already established by statute, this Policy is intended only to improve the internal management of the Department, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the Department or any person. The Department also does not waive any applicable privilege or immunity that it may hold by virtue of this Policy.

Fourth World Journal

Book Review

Living with Koryak Traditions

Playing with Culture in Siberia

By Alexander D. King

University of Nebraska Press

329 pages

www.nebraskapress.unl.edu

As a lecturer in anthropology at the University of Aberdeen in Scotland Alexander King has written a surprisingly realistic portrayal of the Koryak of Siberia. Instead of an observational monograph typical of academic renderings **Living with Koryak Traditions** depicts a living, dynamic and evolving society. Thoughtfully engaged in challenging discussions of the meaning of Koryak culture and traditional practices, the Koryak are adapting to changes in their lives today even as their ancestors were challenged in their day.

Carefully avoiding the temptation to romanticize, King and the Koryak's themselves who directly influenced the book's narrative consider the meaning of dance, song, and ritual feasting as parts of their lives in the present era. This

discussion is important to the Koryak since what had been the Union of Soviet Socialist Republics and now the Russian Federation "standardized" indigenous peoples according to their dance, their song and clothing. The Koryak question themselves whether these dances and these songs are indeed necessarily Koryak or, perhaps they are no longer. In other words, the Koryak find themselves having to consider whether changes in the dances over time is indeed the natural way of things, or if keeping dances in a fixed fashion, as the Russians would have them do, is the best way. How the culture of Koryak is expressed over time is a critical focus of this important book.

Too often indigenous peoples are defined in a static condition to suit a bureaucratic necessity of a state government. The dynamic nature of culture, as the Koryak come to realize, allows for culture to become a place of play and experimentation—a changing quality of life and not a fixed, unchangeable condition.

King and his Koryak collaborators bring to light the lively attributes of this people's cultural ways showing them to be flexible and adaptive. It is this quality, that assures the Koryak that they are modern people experiencing a living culture. King offers a refreshing and playful story that has a happy ending if the Koryak will have it—and they shall.

Anyone interested in the actual, living culture of a people will enjoy and learn from this wonderful book. Readers will go away knowing that indigenous peoples do not disappear, they transform over time—taking up qualities of value from early cultural practices and combining them with new practices. The best part about this book

is that it is so very accessible as are the Koryak who play with their culture.

Hushed Voices

Unacknowledged Atrocities of the 20th Century

Edited by Heribert Adam

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The harsh reality of the twentieth century is that it was bloody, horrific and terrorizing for millions of people. Indigenous peoples and metropolitan peoples have been the targets of an unrelenting genocidal violence that matches the better known holocaust experienced by Jewish peoples in Russia, Central Europe and in Europe as a whole. Benefiting from the research and careful scholarship of fifteen authors, Heribert Adam has edited a frightening, thoughtful and well-documented collection of state sponsored terror and genocide in the twentieth century.

Adam's authors tell their grim stories about the Biafrans of eastern Nigeria who sought their independence from an artificially created state to which they never consented. Patricia Kelly author's the chapter on the war for Biafra's independence noting that Igbos in the northeastern part of Nigeria became the first targets of attacks by members of other northern tribes in 1966 resulting in 5000 to 50,000 Igbo deaths. By 1968 the World Council of Churches estimated Igbo's

were being killed at a rate of 200 to 6,000 people a day by forces from the federal government. The battle for a separate political identity continues 45 years after the original war began with government forces continuing to kill Igbo. No high tribunal has come to the aid of the Igbo, though by all accounts genocide in the purest definition of the term has been systematically perpetrated against the Igbo by succeeding Nigerian governments to the present day.

In the summer of 1936 Francisco Franco's government killed more than 30,000 people characterized as communists and opponents of various kinds in Madrid and Catalonia and by 1939 more than one half million people were done away with. Facing an uncertain future crowds of people intend on preserving the empire and monarch, church and military that had been Spain turned on what they considered to be "liberals" supported by the middle class and trade unions. With the power of Franco's state behind them tens of thousands of people thought to be travelers with socialists and communists became easy targets. General Francisco Franco's coup of July 17, 1936 began the terror when Franco broadcast over the radio," Spaniards! All those of you who feel a holy love of Spain; all of those in the ranks of the Army and the Navy who have made an act of profession in the service of the Motherland; those who have sworn to defend her against her enemies, until death, the Nation calls you in her defense."

As Franco used the state and its power to terrorize and violently kill groups because of their identity others would do the same. Robert Mugabe terrorized and killed with impunity thousands of Ndebele two years after he over threw the South Rhodesian government. The stories presented like

dispatches from different times and different places over the more than 100 years since the beginning of the twentieth century report repeated horrors committed against peoples. The four-year Mau Mau rebellion resulting in an estimated 100,000 in Kenya's Kikuyu population after the British government sought to confiscate Kikuyu lands. The bombing of Germany's city of Dresden near the end of World War II had the Americans and British committing an enormous genocide with 35,000 to 50,000 people killed in a single night. Seventy of Germany's cities were leveled in this time and little or nothing has been said about the hundreds of thousands of civilians killed.

The editor and the authors seek to bind the wounds of senseless murder committed by state governments in the twentieth century by promoting reconciliation and truth commission. These are difficult ideas to embrace when the chambers of the international courts conducting trials of genocide is much preferred. Governments that were the "victors" are left to continue even as millions of people have been killed due to their opposition, or difference. Turkey continues to deny that it participated in genocide against Armenians. Britain and the United States have not taken responsibility for the consequences of creating the Israeli state yet, as Milan Kundera asks in Israel Stillborn Nation, "How can one condone the expulsion of one people from their homeland to make room for another?" The people of Palestine "suffered massacres, rapes and wholesale destruction of hundreds of villages" preceding the mass exodus that would become known as *al-Nakba*—the catastrophe.

While Adam and his colleagues could write fifteen books on what the book title calls

"Unacknowledged Atrocities of the 20th Century" there are many more that would fill even more books.

Hushed Voices contains the words of ghosts calling on us all to stop just talking, but let us now settle how the murders of millions more will be avoided. There are measures such as stopping the gun running, imposing sanctions early on state tyrants and systematically placing those charged with genocide before the world and punished for their crimes. The books by Adam and his colleagues angers and disgusts and horrifies and moves one to action. It must be read.

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