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Rhetorical Exclusion: The Government's Case Against American Indian Activists, AIM, and Leonard Peltier¹

JOHN SANCHEZ, MARY E. STUCKEY, AND RICHARD MORRIS

The liars had fooled everyone, white people and Indians alike; as long as people believed the lies, they would never be able to see what had been done to them or what they were doing to each other.... if the white people never looked beyond the lie, to see that theirs was a nation built on stolen land, then they would never be able to understand how they had been used by the witchery; they would never know that they were still being manipulated by those who knew how to stir the ingredients together: the starving against the fat, the colored against the white. The destroyers had only to set it in motion, and sit back to count the casualties. But it was more than a body count; the lies devoured white hearts, and for more than two hundred years white people had worked to fill their emptiness; they tried to glut the hollowness with patriotic wars and great technology and the wealth it brought. And always they had been fooling themselves, and they knew it.²

The relationship between the federal government and American Indian activists raises fundamental questions about the use and place of power in a democracy. Originally conceived and subsequently understood in theory as a limited democracy, the American polity continues to hold out the promise of individual freedom within a context of constitutional stability and societal order. In practice, this emphasis on stability and order has tended to mean the protection of some of society's interests at the expense of others, and the con-

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continent's indigenous peoples historically have been required to pay high prices for the protections and freedoms enjoyed by others.³

Citizens of the United States, often unaware of the price their freedom and privileges exact, like to think that they are "approaching democracy," however slowly and incrementally.⁴ They like to believe that the polity becomes ever more inclusive as government becomes ever more responsive to an ever-widening array of interests. In fact, there is increasing concern that the government is actually in serious danger of becoming too inclusive.⁵ Consequently, protectors of the status quo come to rely upon a variety of communicative tactics designed to foreclose debate without appearing to engage in undemocratic action.⁶ One such tactic is "rhetorical exclusion," a rhetorical strategy that defines those who seek inclusion into the larger polity on their own terms as inherently destructive of that polity, questioning the motives of those who challenge governmental power, and a presumption that those involved in such challenges are inherently guilty of crimes against the polity. Rhetorical exclusion justifies whatever tactics those in power deem necessary to control challenges to its legitimacy, especially constant vigilance against any challengers, constant surveillance of them, and a need to define them and their actions in specific, ideologically predetermined ways.

Rhetorical exclusion is one strategy used by members of the prevailing power structure to conceal any antidemocratic consequences of its actions.⁷ Like the "masks" used in the law,⁸ rhetorical exclusion allows the government to remove humanity—and thus the elements of American democracy most closely linked to its protection—from the legal process. These masks include the delineation of African Americans as "property" to defend slavery, and the definition of the continent's varied indigenous peoples as "Indians" in order to encapsulate and better control them.⁹ In like manner, rhetorical exclusionists offer specific definitions of members of social movements and often of the movements themselves in order to control and contain those movements and their members.¹⁰ Rhetorical exclusion is one strategy of providing frames through which those who challenge the status quo may be understood.

Like legal masks, these frames do more than define members of social movements, however. By extension, they also define the American government and its agents. For if "Indians" are "culturally deficient," then "the law" becomes an agent of "civilization," useful for promoting the "real interests" of Indian peoples, regardless of their feelings and opinions on the subject.¹¹ Like legal masks, rhetorical exclusion traps those who practice it as well as those who are its targets. Rhetorical exclusionists are unable to see outside of their frames, unable to question their ideological predispositions, unable to alter either policies or the beliefs upon which they are based. Rhetorical exclusion is often a reflexive rather than a calculated strategy, depending on the indiscriminating acceptance of a particular position rather than a critical examination of its consequences. Those who adopt the strategy of exclusion must also adopt the ideological baggage it carries. The ideology and strategy become continuously reinforcing.

Governmentally based rhetorical exclusion, by defining dissidents of whatever stripe as inherently inimical to the "national interest," also defines

the government as inherently worthy of defense and protection, no matter what tactics are used by its defenders. Protecting the government becomes synonymous with protecting democracy, and protecting democracy, even through non-democratic means, becomes not a contradiction but a necessity. Thus, any challenge to governmental authority is potentially dangerous and is potentially susceptible to rhetorical exclusion.

In this context, the government's relationship with American Indians is interesting not only because it is full of abuses of governmental power, but also because it exemplifies a use of rhetorical exclusion as a significant, recurrent, and symbolic process wherein some citizens are able to tolerate the fact that the rights of other citizens are vitiated. This is possible due to the "masks" that rhetorical exclusion places over the politics of repressing social movements.

Because of their unique legal, cultural, and political status, Indian challenges are well-suited to expose the masks of government and thus represent a particularly potent threat to that government. In the social context of the 1960s and 1970s, the nature and extent of that threat was clear to all participants. The government's response to this threat at that time is thus a particularly good example of rhetorical exclusion.¹²

As a communicative strategy, rhetorical exclusion relies upon specific definitions of challengers to the legitimacy of governmental action; these definitions are used by the government to justify any actions used to repress these challenges and those who make them; the suppression itself is used to complete the logical circle, allowing the government to assume subversive motives and presume that those involved in protest are guilty of crimes against the polity. Our discussion of rhetorical exclusion proceeds in three parts. We first illustrate the logical circle of rhetorical exclusion through a brief history of the "Red Power" movement. We then turn to the specific case of Leonard Peltier as an example of the consequences contained in the practice of rhetorical exclusion. We conclude with a discussion of the implications of the analysis.¹³

AMERICAN INDIAN PROTEST: A VIEW THROUGH EXCLUSIONIST EYES

This story is set primarily in modern times, because for too long the white people of America have assumed that the crimes against the Indian people were regrettable history and nothing more. The truth is that the cultural genocide of Indian people has not let up in North and South America since the first Indian was killed by the first white settlers nearly 500 years ago.¹⁴

One of the great myths in the United States is that government repression is the exception rather than the rule, that it is sponsored by a few, blessedly rare individuals who are eventually revealed for what they are and are consequently discredited and removed from positions of power. As the twice-told tale of Senator Joseph McCarthy constitutes a significant demonstration of

this myth, the myth simultaneously disguises the repression of selected groups that has been and continues to be an instrument of public policy.¹⁵ As Mary Crow Dog and Richard Erdoes note, "The thing to keep in mind is that laws are framed by those who happen to be in power, and for the purpose of keeping them in power."¹⁶ Any group or organization that advocates fundamental change therefore is open to charges of "subversiveness" or "extremism" and must be cast beyond the pale onto the mercy of the government where

Domestic covert action . . . is an integral part of the established mode of operation of powerful, entrenched agencies on every level of government. It enables policy makers to maintain social control without detracting from their own public image or the perceived legitimacy of their method of government. It has become as institutional in the United States as the race, gender, class, and imperial domination it serves to uphold.¹⁷

Exclusionists, then, must define those who threaten their capacity for social control in ways that allow the exclusionists to maintain and even to extend that control. Alterity becomes equivalent to malevolence.

Exclusionist Definitions

For rhetorical exclusionists, efforts aimed at the protection of indigenous traditions, cultures, religions, values, sovereignty, and land are "subversive" by definition because those efforts run counter to the perpetuation of a single, monolithic hegemony. Indeed, because Indian nations have what other disenfranchised groups lack—a land base and the legal sovereignty necessary to protect it¹⁸—the government has persistently advanced a series of policies ranging from explicitly genocidal actions that enabled and sustained the "Indian wars," the reservation system, allotment, termination, and the forced incarceration of Indian children into militarized boarding schools to the environmental and cultural destruction that continues to threaten Indian country.¹⁹

Originally founded specifically to protect the Indian people of Minneapolis from abuse and racism²⁰ and gradually expanding its mission to include the protection of all Indian people from physical, spiritual, and cultural genocide,²¹ the American Indian Movement (AIM) offers

an indigenous, land-based spiritual movement, a call to Indian people to return to their sacred traditions and, at the same time, to stand firm against the tide of what they call European influence and dominance. Of course, the Movement was an immediate threat to the United States Government because of the tremendous amount of Indian land that was under government control and in disputed title. A coordinated national movement spelled trouble for the coordinated national land grab that was going on.²²

Although hardly marking the beginning of Indian resistance to governmental policies of land theft and oppression,²³ by the early 1970s, AIM was raising

hopes for some in Indian country and worries for others in Washington, D.C. Particularly troublesome to the government was AIM's stand on protecting treaty rights and their commitment not to lose any additional land to government and/or corporate interests.²⁴ There is evidence that the Nixon administration understood the problems that AIM represented in precisely these terms.²⁵ Members of that same administration understood that they could not use these terms to frame public debates about federal Indian policy while continuing to maintain its rhetoric concerning the national myths of "liberty and justice for all."²⁶ Some masking was required if public support for governmental policies was to be maintained.

This much they had learned early on when they attempted to manipulate public opinion during one of the most significant events in the birth and articulation of Red Power: the 1969 occupation of Alcatraz by "the Indians of All Tribes," who claimed the island by right of discovery and under the provisions of the Fort Laramie Treaty of 1868.²⁷ The tenancy of Alcatraz exemplified and substantially contributed to the growth in Indian activism throughout the country.²⁸ In 1972, several hundred Indians initiated "the Trail of Broken Treaties" caravan, which traveled the country and ended in Washington, D.C., where meetings had been arranged with members of the executive branch. When there were difficulties with the accommodations for housing the caravan members, the activists went to the Bureau of Indian Affairs (BIA) building.²⁹

The activists occupied the building for a little less than a week. There were claims that in this time they found documents indicating that the BIA clearly was not living up to its trust responsibilities.³⁰ In the end, the activists returned many of the documents to the government and a number of sacred objects and funerary artifacts to the Indian nations to whom they belonged or for whom they were most relevant. For members of Nixon's administration, the lessons learned were clear: they had to capture and maintain rhetorical control of protests by defining the issues in ways that pitted belief in "democratic process" against "lawlessness." They accomplished this by appearing to negotiate with protestors, referring issues to the bureaucracy, and increasing efforts (both legal and illegal) to suppress and contain the protests and those who participated in them.³¹ They adopted the strategy of rhetorical exclusion.

As White House Counsel Leonard Garment explained in a memo to President Nixon, for example, "As a condition precedent to ending the takeover of the BIA by the Trail of Broken Treaties, we agreed to form a task force to investigate Indian grievances and report to the President."³² Guided by rhetorical exclusion, the task force took its job so "seriously" that it accomplished its review in less than a year and based its analysis on a sum total of six responses. The final report, which totaled a mere five paragraphs and less than a page and a half of text, concluded that, "while the responses are too few to be considered representative of the Indian people, they do indicate that many of the issues will be best addressed by the continuation of the present policy of self-determination. Therefore, we do not recommend any policy changes at this time."³³ Activists concluded that the White House had decided to continue, without review, the policies that led some Indian people to protest.³⁴

Having dedicated very few resources to investigating allegations that created the need for protests such as the Trail of Broken Treaties, the White House determined that considerably more resources were justified in investigating AIM. Special attention was given to the possibility that AIM might be open to an audit³⁵ and to the belief that Indian protests in general and AIM activities in particular were inherently prone to violence.³⁶ For instance, a nineteen-page summary, circulated among those in the White House's political and legal bureaucracy, not only detailed AIM's origins, activities, affiliations with other groups, weapons, funds, foreign contacts, and plans, but also drew conclusions concerning AIM's history, leadership, purpose, and "para-military posture."³⁷

The summary declares that "the origins of AIM are not entirely clear, but one Indian activist claims that AIM was 'cooked up in the Minnesota penitentiary.' This may be a reference to the fact that Banks, Mitchell, and the Bellecourts have served time in Minnesota on felony charges going back to 1950."³⁸ The insinuation here is that AIM emerged not as an effort to address serious grievances, including those conditions that encourage the incarceration of Indian people, but as a matter of felonious intent. Such insinuations fit with the exclusionist conclusion that Indians who resist assimilation must be guilty of something. Proving specific charges, from this point of view, is a matter of having enough time, personnel, and surveillance equipment.

While the summary insists that AIM's claim to a membership of 4,500 was "overstated," it also insists that considerable concern is justified because

the present well-publicized activities at Wounded Knee, with their wealth of symbolism, may well appeal to many more Indians and the membership may increase as a result. An Indian woman at Pine Ridge described the arrival of the AIM group on the reservation: "Here came carload after carload, these virile-looking men with their long braids. We hadn't seen long braids in so long. Everyone went down, hundreds and hundreds milling around, goo-goo-eyed."³⁹

Here, as throughout the White House's documents, AIM is about what members of the government can understand only as appearances—"virile looking men" and "long braids" and such.

Noting that AIM activities "ranged from legal action against the names of sports organizations, such as the Washington Redskins and the Cleveland Indians, to armed confrontation with authorities,"⁴⁰ the summary in particular and the Nixon administration in general were so overwhelmed by the belief that appearances are masks for subversive realities that they could not believe their own evidence—for instance, that AIM often restricted its activities to protests against military installations and the BIA, that these supposedly militant individuals were expending the majority of their energies and resources on building survival schools and lecturing on university campuses, that "AIM's 'causes' range from the establishment of Indian cultural projects to territorial claims related to various U.S.-Indian treaties. In general AIM claims to favor a return to the [*sic*] traditional Indian way of life, with self-determination of the various tribes re-established."⁴¹ That AIM members participated in the protests of other groups and occasionally met with "militant

Mexican American groups” and “with black nationalist Stokely Carmichael”⁴² thus leads not to the conclusion that individuals and organizations confronting similar situations sometimes momentarily coalesce, but to the inevitable conclusion that malevolent people congregate to conspire.

This underlying belief made it all the easier to accept information from unspecified and unidentified sources, some of which insisted that AIM's goal at Wounded Knee was “to have all members of the caravans armed with a rifle and a handgun”⁴³ and that AIM intended to organize and train a group of “young warriors” to “take direct offensive action against the ‘white oppressors.’”⁴⁴ Any source that confirms the belief that Indian protesters are “hostiles,” likely to erupt into unwarranted violence at any moment, is acceptable because the “hostiles” are always already guilty. The words and deeds of Indian activists cannot be believed; for whatever else the evidence might suggest, Indian activism must be the result of malevolence. Thus, for example, the protest at Wounded Knee was defined not as a means of drawing attention to legitimate concerns, but as a result of “Means’ dispute with the Reservation leadership and his desire to replace [Richard] Wilson as Tribal President.”⁴⁵

From another angle, of course, the significance of the seventy-one-day standoff at Wounded Knee is difficult to overestimate.⁴⁶ In the years prior to the protest,⁴⁷ residents of the Pine Ridge Reservation in South Dakota had used every means available to them to persuade the government to address more than 150 complaints of civil rights violations on the part of the reservation's government. After all their efforts had failed, Oglala and Brulé elders asked AIM members to help them stage a protest; AIM leadership and the elders decided on Wounded Knee because of its historical and sacred significance.

The Nixon White House, trapped in rhetorical exclusion, saw the issues differently. In practical terms, the government responded to this protest with an impressive show of force. In ideological terms, they believed that “the core of the question is how to get that militant bunch of armed headline hunters out of Wounded Knee without loss of life.”⁴⁸ In the end, government fire did in fact take two Indian lives, but the protest also garnered national attention and focused energies and resources on Indian issues.⁴⁹

It is arguable that the increased attention worked both for and against American Indians. As former AIM President John Trudell remarked:

Maybe, maybe we broke even, right? Because it [Wounded Knee] instilled a lot of attention, and to some degree, I guess, it instilled a lot of pride in Indian people, and we needed something like that, as a people, maybe. But what it did for us as a movement, it was the beginning of the diffusion of the focus, because we then got tied up in the courts. And then we got—the hunt got more intense, you know. We may be one of the very few organizations in this country that basically every member of the organization was at one point, at one time or another, charged with some criminal act.⁵⁰

These charges, permitted by and reinforcing the definitions of Indian activists as inherently dangerous, also justified the tactics brought to bear against those activists.

Justifying Exclusionist Tactics

The government worked assiduously to propagate an image of the Indians at Wounded Knee as wanton perpetrators of violent and irresponsible acts,⁵¹ even when that meant exaggerating and even creating “evidence.”⁵² Such an image is inconsistent with the words and deeds of prominent AIM members: “In fact, the AIM approach explicitly seeks to find solutions through negotiation and peaceful means. But AIM people feel strongly that they must defend themselves and help all Indian people defend themselves, from unjust violence and coercion.”⁵³ For Darelle (Dino) Butler, AIM is about “a willingness to live and pass life on. . . . The will to continue in this world. The will to resist . . .”⁵⁴ While members of AIM were and are proud of their willingness to lay down their lives for their people, such an attitude is a far cry from advocating the systematic use of violence as a means of political expression. As Trudell points out in his discussion of the violence that became a way of life on the Pine Ridge Reservation in the years following Wounded Knee, “The violent rap we got laid on us, it was all our people that died. You don’t see any long list of their dead. You see a long list of our dead. You look at that list, and every one of them has got an Indian name . . .”⁵⁵

Beyond perpetuating negative images of Indian activists to justify their view that Indians are guilty by definition, there is also strong evidence that members of the government may have contributed to the events that led to Wounded Knee. For one thing, as Trudell points out, the FBI was engaged in “training” exercises and was “instructing” BIA police at Pine Ridge months before the protest.⁵⁶ Moreover,

The refusal of the Marshals Service to negotiate with the Indians prior to the seizure of Wounded Knee, the prompt reaction of the United States armed forces to a political squabble on an Indian reservation in South Dakota, the barring of the media from the scene, the under-cover nature of the military operation, and the White House contingency plans indicated that the government had planned all along to force the showdown with the Indians . . .⁵⁷

In all, AIM’s reputation for violence, like the evidence produced at the various trials of AIM members, is tainted by government misconduct. In the trials that followed Wounded Knee, for instance, local papers were filled with reports of FBI malfeasance, especially “the issues of wiretapping and illegal invasion of the defense legal camp.”⁵⁸ A government “document also reveals what apparently is a more intensive military involvement in the occupation than the government has admitted until now.”⁵⁹ Here, as elsewhere, the government failed to get convictions,⁶⁰ “yet it soon became clear that convictions—not to speak of justice—were beside the point. What was being accomplished, by foul means and fair, was the total disruption of the American Indian Movement, in what was emerging as a program to ‘neutralize’ AIM leaders all over the country.”⁶¹

This view is substantiated by members of the government. Colonel Volney Warner, the Pentagon’s liaison at Wounded Knee, said that, “AIM’s most mil-

itant leaders and followers (over 300) are under indictment, in jail, or warrants are out for their arrest, but the government can win even if no one goes to prison.”⁶² In addition, members of the White House staff and FBI members were not only present as advisers and negotiators at the Trail of Broken Treaties takeover of the BIA and at Wounded Knee, but also helped orchestrate military⁶³ and public relations⁶⁴ campaigns against AIM following these events. Such facts take on added importance because of the absence of congressional involvement in the instances under consideration, despite the fact that negotiations involving treaties with Indian nations formally require the participation of Congress, as congressional plenary power has long been recognized as the significant federal presence in Indian affairs.⁶⁵ This conspicuous absence did not stop the Nixon administration from blaming the continuation of Indian problems on congressional inaction in the face of administrative proposals.⁶⁶

For that matter, there is also a conspicuous absence of evidence even to suggest that the Nixon administration attempted to apprise Congress of the administration's intense and unrelenting interest in AIM. That intense interest, on the other hand, is well documented. Throughout the early 1970s, at least, the White House received a constant stream of Justice Department reports titled “Civil Disturbance Information.” Compiled by the Intelligence Analysis Unit of the FBI's Criminal Unit, one typical report included information on the activities of the SLA, campus protests, Hitler's birthday celebration, the AIM national convention, an Indian protest in Washington state, and racial violence in Illinois.⁶⁷ There is in these reports no attempt to differentiate among or between these actions and their perpetrators or the seriousness of the threat that they may (or may not) pose to national security, or even to distinguish legal from illegal activities. When one is immersed in rhetorical exclusionism, all activities are created equal, and the presence of any group among these “other” groups is evidence enough of their dangerous proclivities. Even legal activities by members of groups that must be excluded are definitionally illegal.

One report, for instance, takes exception to AIM National Executive Director Dennis Banks' reaction to the proposed Alaskan pipeline as illegal because it crosses Indian lands without permission. “Banks stated that the Indians in Alaska fear that the Pipeline will disrupt the natural habitat of the Alaskan wilderness, damage hunting and fishing territory, and bring ‘untold misery to generations to come.’ Said Banks, ‘The Indian response . . . will make Wounded Knee look like a Boy Scout picnic.’”⁶⁸ Following this summary, the report provides the following information: “On December 7, the implementation of this threat was discussed during a meeting between two principal AIM leaders in California. Although specific plans for acts of violence were discussed, no reports have been received concerning such activity.”⁶⁹

With so much activity intensely focused on AIM's membership following the siege at Wounded Knee, the year 1974 proved to be a watershed of sorts. Responding to a Supreme Court decision that declared the government's taking of the Black Hills to be illegal, President Ford declared that, while he

agreed the taking was best described as “immoral and illegal, it could still be resolved with a financial settlement.”⁷⁰ Thus, while rhetorical exclusion may require taking action at whatever the cost, exclusionists retain for themselves the right to determine values.⁷¹ Exclusionists have little difficulty in closing the circle that begins with definition, proceeds to action, and through evidence (specious or otherwise) goes back again to definition.

Questioning Motives and Presuming Guilt

The investigative eye on AIM was so intense that a government memo provides details of AIM’s national convention, including the reactions of the Standing Rock (Sioux) Tribal Council and the “nearby *white* communities,” the expectations of violence by both the whites (described as “armed to the teeth”) and the Indians, the role of the BIA, the full convention program (which included such potentially subversive activities as prayer meetings, sweats, and work groups on treaty rights), and its funding.⁷² The same memo makes it clear that the Justice Department was equally involved in organizing and orchestrating the government’s response to the convention, including the jurisdictions of the various police organizations that were being sent to South Dakota.⁷³

Further, while noting that “Neither the BIA police nor the Mobridge . . . law enforcement officials feel that they need any more manpower than has already been provided,”⁷⁴ the author also felt compelled to point out that “In the event of general disorders the BIA police force would not be adequate to contain the situation.” In addition to recommending that mediation and rumor-control specialists be directly involved at the scene, the author also suggests that “a limited force of U.S. Marshals be placed on alert.” Rhetorical exclusion requires the confirmation of previously established assumptions; information that even appears to contradict those assumptions is therefore considered questionable by definition. Thus, despite the fact that those closest to the situation and with the most to lose in any violent situation provided a clear recommendation against federal involvement, the Justice Department promoted a policy of provisional armed response.

Ideologically, this preference subsumes justification through a confidential FBI report, published in January 1974 and circulated by FBI Director Clarence Kelly to the attorney general, the Office of the Deputy Attorney General, the assistant attorney general, Criminal Division, the United States Secret Service, the Department of the Interior, and the Central Intelligence Agency.⁷⁵ Titled *The American Indian Movement: A Record of Violence* and only declassified in 1995, this report begins by stating, “Since 1971, the American Indian Movement (AIM) has engaged in activities which clearly indicate the organization’s willingness to go beyond radical rhetoric and employ violence where desired. The purpose of this resume is to set forth background regarding the AIM, its leadership, and to provide a chronology of some AIM-related violence.”⁷⁶ The report promised to “reveal” the “true” motivations underlying AIM activities.

The report does note that AIM was “originally organized as a civil rights organization,”⁷⁷ but it says exceedingly little about AIM’s founding of sur-

vival schools, its emphasis on traditional spirituality, or its focus on treaty rights. Instead, we find a portrayal of AIM as opportunistic and parasitic: "The plight of the American Indian has been a controversial issue in this country, and the AIM has continuously justified its own activities as being necessary to secure the interests of American Indians."⁷⁸ A bit further along, we discover that AIM is an "interstate" organization, presumably to justify FBI involvement, and is dominated by its leadership, presumably to make it appear more threatening.⁷⁹ The facts that AIM chapters are largely autonomous and control over individual members contravenes the traditional values and practices that AIM espouses are not considered. Rhetorical exclusion renders those facts irrelevant.

The report includes a three-page list of twenty-two events and activities covering a time period of some thirty-one months (May 16, 1971 to November 18, 1973), supposedly including the actions of AIM's 1,380 known members. The characterization of "violence" emerges despite the fact that the most generous estimate possible can call barely a fraction of these events and activities even *potentially* violent: In June 1971, an unspecified number of Molotov cocktails were thrown (by unspecified persons) at a protest in Chicago; in January 1973, some "AIM activists and Mexican-American sympathizers" were arrested with arms and bomb-making materials following the firebombing of a school, and "six Indians, including two self-proclaimed AIM members," held the staff of a New Mexico Medical center at gunpoint before surrendering; some dynamite was found in a Colorado locker "rented by two female AIM members" in February 1973; in April 1973, one AIM member fatally shot another and an AIM member was arrested after purchasing weapons; in August 1973, "ten armed AIM members held the second floor of a Des Moines, Iowa, office building for two hours before surrendering peacefully," and Clyde Bellecourt was shot and wounded by another AIM member. Additionally, "an alleged AIM member" supposedly shot a sheriff during a looting incident, and some of the guns thought to be at Wounded Knee allegedly were later used in a series of robberies. Other "clear" evidence of AIM's propensity for violence includes sit-ins, individual fistfights (never connected to AIM activities), demonstrations, "scuffling" during arrests, the Trail of Broken Treaties takeover of the BIA building, the protest at Wounded Knee, and something that the report characterizes as an "AIM-inspired rampage."

Such activities do not suggest consistently law-abiding or non-controversial individuals, but neither do they even suggest, let alone demonstrate, an organizational preference for violence. The fact that all the information in this section of the report comes from unnamed sources is treated as insignificant, and to the FBI, for whom this behavior is standard, it is insignificant. The point is not that this tactic is unusual, nor that it is directed only at AIM. The point is that this method of law enforcement has certain kinds of consequences and serves certain ideological ends. In this particular case, the report simply accepts the reliability of the information, despite admissions such as "Although no information has been received to date indicating there has been any attempt to disrupt the Alaskan oil pipeline, this matter is being

closely followed.”⁸⁰ To the rhetorical exclusionist, “this matter” *must* be followed closely, for there is no telling where those already defined as guilty of unnamed crimes against the polity may strike next, and constant vigilance is the only protection against them.

In a section titled “Foreign Influence,” for example, the report suggests nefarious connections on the basis of AIM members being invited to speak with Chinese individuals; AIM attempts to raise money “in Europe”; the supposed proximity of individual members of AIM to “foreign governments, possibly including East Germany and Middle-Eastern petroleum producing countries”; and the supposed proximity of individual AIM members to reportedly communist elements in Mexico and Cuba. An unnamed source also reports that AIM was planning bombings in Europe and/or South America, possibly Mexico.⁸¹ There is no attempt to explain why AIM members would engage in such activities. Trapped by rhetorical exclusion, the report’s author and at least some of its readers must assume that members of violent organizations engage in violence whenever the opportunity presents itself.

Even according to the report’s evidence, these allegations are poorly supported. The FBI investigated AIM’s funding and identified sources such as the Office of Economic Opportunity, “unidentified” federal funds, and a wide variety of churches and church groups including the World Council of Churches. Assorted individuals (who remain unidentified) are also included; however, despite their financial assistance they do not appear in the report as supporting violence.⁸² The report nevertheless begins its conclusion with the following observation:

An analysis of the AIM’s past activities confirms its propensity for violence. In the tradition of other extremist organizations which similarly have presumptuously claimed to challenge the cause of their respective minority groups, the AIM is the first to gain widespread recognition as representative of American Indians. . . . AIM leaders can be expected to obscure the reasons for the trials and portray them as another effort by the Government to persecute American Indians and deny them their rights. . . . In those places where the Indian community finds that violent threats, intimidation, and naked force are, in fact, acceptable and effective alternatives to reason and law, the AIM’s future can be considered bright.⁸³

From this perspective, it is easy to understand why the federal government considered AIM so threatening: “like other extremist groups,” AIM cloaked its “real” motives and intentions, and was willing to use any means available in pursuit of its ends. The government’s only choice, according to the dictates of rhetorical exclusion, was to respond in kind.

THE CONSEQUENCES OF EXCLUSION: LEONARD PELTIER

That’s why they put our boys in jail. Those FBIs come around here and start trouble, and the BIA police. . . . I never knew that Leonard boy, but I know that he didn’t kill anybody. Those FBI men that got shot

came here to cause trouble, shooting at innocent people so they could get the AIM boys in jail. So they put a lot of our boys in their prisons; now they are looking out from those bars, but that is not the place for them. The government just wants to make the people afraid; if they do wrong, if they don't get along with the government, then they are going to end up in jail too.⁸⁴

Rhetorical exclusion is not without consequences. While the government was defining and denouncing AIM "violence," the violence in and around Pine Ridge escalated.⁸⁵ Government officials not only failed to investigate but, in fact, reassured people that all was well in South Dakota. In response to a query about conditions there, for example, White House staffer Bradley Patterson wrote:

Mrs. Mason, in no way is the Oglala Sioux Tribe itself on trial. Those who have been indicted and who are standing trial in St. Paul are those particular members of AIM who the government alleges committed felonies during the occupation of Wounded Knee a year ago. The Oglala Tribe itself, under its newly re-elected Chairman, Dick Wilson, is very much on top of things and is planning new projects and activities to bring economic development and new progress to Pine Ridge. I met with the Tribal Council just this week and am very pleased at their initiative and sense of progress.⁸⁶

Such optimism notwithstanding, there is considerable evidence that the government knew exactly how bad things were at Pine Ridge; not only were there numerous press reports,⁸⁷ but White House files also show numerous letters from residents detailing the violent and illegal actions of Richard Wilson and his vigilantes (called Guardians of the Oglala Nation, or GOONS), the "partisan prosecutions" that were a fact of life on Pine Ridge, and the allegations that "knifings, shootings, general mayhem and even murder are becoming common occurrences."⁸⁸ In fact, the United States Civil Rights Commission collected substantial evidence that federal agents, the BIA, and tribal police did nothing to stop the violence or protect its victims.⁸⁹

Instead, governmental attention was occupied both by reports that AIM was planning a trip to Washington and by their fear that any talks with government officials might give AIM a national platform:

And although their spirit of confrontation is reportedly lower now, it would be lacking in perspicacity if we did not anticipate such possibilities as: a) Many more than ten showing up; b) demands to meet with the White House, State, UN and Senate Foreign Relations Committee on what they term 'international' treaty issues; c) refusal of the 150 adherents in Aberdeen to leave there peacefully until they see 'the results of' the Washington talks, not just the fact of the meeting itself (a technique used on us a year ago). Meetings are planned to discuss tactics; will keep you informed; this is simply an alert for what will hopefully be not much more than a minor headache.⁹⁰

While the government was thus preoccupied with planning meetings aimed at circumventing “not much more than a minor headache,” the murder rate on Pine Ridge escalated to the highest per capita in the country⁹¹ and was described by William Janklow, then South Dakota’s attorney general and now its governor, as “awesome.”⁹² According to William Muldrow of the United States Commission on Civil Rights, that violence was generated “largely by the supporters of the Wilson administration,”⁹³ who were waging an undeclared war on AIM and its supporters.⁹⁴

Despite their assurances, the government escalated its militarization of the reservation:

In May of 1975 the FBI began training SWAT teams on the reservation. By the end of the month, sixty more agents were sent to Pine Ridge, not to mention the 1,000 members of the National Guard training in the sacred Black Hills. In April of that same year, the FBI released an internal memo entitled, “The Use of Special Agents of the FBI in Paramilitary Law Enforcement in Indian Country,” which talks about imaginary “bunkers” which would need “military assault forces” if AIM offered any resistance. On June 16 the FBI called for more agents.⁹⁵

At best, deliberately stationing that much fire power on the reservation helped create the impetus for its use. Given the violence already prevalent at Pine Ridge, the addition of weapons and materiel takes on a particularly ominous significance. As Dennis Banks put it, “It’s like when a scientist makes an equation for a bomb; even though he knows that it’s going to work in theory, he’s not going to be satisfied until the bomb is built. And once the bomb is built, he’s not going to be satisfied until that bomb is exploded. Oglala was the explosion.”⁹⁶

The explosion to which Banks alludes occurred on June 25, 1975 when two FBI agents, Jack Coler and Ronald Williams, drove into the Jumping Bull Compound where some AIM members and their families were living. Ostensibly, the agents were looking for an Indian youth named Jimmy Eagle, who supposedly was wanted for the theft of a pair of used boots. That the agents had no warrant and had no jurisdiction suggests ulterior motives. As John Trudell put it: “They were there to make trouble. Because you got two FBI agents there to serve a warrant they don’t have on a person who wasn’t there. Pretty thin.”⁹⁷ These motives quickly came to light: The firefight at Jumping Bull Compound that led to the deaths of FBI agents Coler and Williams and a Pine Ridge resident named Joe Stuntz occurred on June 25, 1975, one day after Dick Wilson illegally released tribal lands for uranium mining and one day before the Senate’s Church Committee was scheduled to begin hearings on FBI activities regarding AIM. Because of the deaths of the agents, the land transaction was never investigated and the hearings were canceled and never resumed.⁹⁸

Following the firefight, the FBI unleashed a manhunt “that can only be called massive,” summoning more than three hundred agents to Pine Ridge.⁹⁹ And, yet, the fifteen or so residents of the compound, including children and

infants, escaped. Four Indians were charged with the murders of the FBI agents. No one has ever been charged with the murder of Joe Stuntz. Still, the enormous FBI force continually swept through Pine Ridge, engaging in a variety of intimidating raids and assaults, a series of operations that Arthur J. Flemming, the chair of the United States Civil Rights Commission, characterized as "an over-reaction which takes on aspects of a vendetta . . . a full-scale military type invasion."¹⁰⁰

The press were banned from the site for two days, which meant that "the public had to choose between the propaganda of the authorities and the rhetoric of the AIM spokesmen, neither of which gave an accurate account of what had happened."¹⁰¹ Reporters not only had little choice, but also had little from which to choose, as the "AIM spokesmen" received far less attention than did the "authorities." Unchecked, these authorities propagated inaccurate versions of events. As journalist Joel D. Weisman observed, "The sources for the most important—and most inaccurate—parts of the wire service reports were the governor and the attorney general of South Dakota."¹⁰² Inaccurate wire service reports in turn led to widespread misinterpretations about the events at the Jumping Bull Compound:

Ask almost any American how two Federal Bureau of Investigation agents were shot to death on the Pine Ridge Indian Reservation in South Dakota last June, and chances are he or she will say that they were "ambushed" or "executed" by Indians. People have that idea because most newspapers and radio and television stations reported it that way.¹⁰³

Here, the media, wittingly or not, cooperated with the government's definitions and assumptions by accepting the official interpretation. In accepting the government's frames, the media became partners in the masking that is rhetorical exclusion. In the wake of such unimpeded distortions, authorities filed charges against four Indians. Within two months, they would apprehend Dino Butler and Bob Robideau; Leonard Peltier escaped to Canada, and authorities dropped all charges against the fourth suspect.

Fortunately for Butler and Robideau, a Cedar Rapids jury acquitted both men because they believed that the violent atmosphere at Pine Ridge was sufficient to motivate individuals to act in self-defense, and because the defense was able to demonstrate that much of the prosecution's evidence involved clear cases of government misconduct both at the scene and in the courtroom.¹⁰⁴ This misconduct included falsely alerting law enforcement officials that carloads of AIM "terrorists" were headed for Cedar Rapids, sending teletypes to the effect that some two thousand trained "Dog Soldiers" were planning a statewide assault on South Dakota, and suborning evidence and witnesses.¹⁰⁵ These tactics may have backfired, as they led to skepticism regarding the government's case.¹⁰⁶

Leonard Peltier was not so fortunate, even though his case would involve additional government misconduct, beginning with his extradition from Canada. The government's first move was to produce a series of affidavits,

signed by a Lakota woman named Myrtle Poor Bear, which purport to contain evidence that she was at the Jumping Bull Compound and witnessed an execution-style shooting of the FBI agents by Peltier. Neither Canadian nor U.S. officials seemed concerned with several irregularities. Most obviously, the affidavits were clearly self-contradictory. Myrtle Poor Bear allegedly had a history of mental instability that would require a court to classify her as an incompetent witness, and considerable evidence pointed directly to governmental intimidation.¹⁰⁷

Nevertheless, Peltier was extradited and later tried at what author Peter Matthiessen calls "an unlucky time, when congressional sentiment was turning heavily against the Indians."¹⁰⁸ Perhaps it is coincidence that this turning of sentiment was occurring at precisely the moment that Indian activism was abandoning the streets for courtrooms. Increasingly, Indians were arguing in court for the restitution of land claims, fishing rights, and mineral and water rights guaranteed by treaties. This behavior was seen by the government as explicitly threatening to its interests. By 1976, for instance, while traditional Indians were asking for the establishment of a Treaty Review Commission, the White House steadfastly refused. According to an internal memo, the administration's opposition was not based on legal issues, but on the possibility that allowing such a case to go uncontested would open the floodgates to similar Indian grievances.¹⁰⁹ Rhetorical exclusion, like legal masks, is used to prevent issues from being defined and dealt with in terms that call core values into question.

Peltier's case thus emerged before a far less sympathetic audience than Butler and Robideau had faced a year earlier. In particular, Peltier faced a much less sympathetic judge, who rendered pivotal decisions concerning what would and would not be admissible.¹¹⁰ When later asked on the televised news magazine, *57th Street*, about the issues concerning fairness, and especially charges that the ballistics evidence may have been fabricated, Assistant Prosecuting Attorney Lynn Crooks said,

I guess I don't ultimately know and ultimately I don't really care. Doesn't bother my conscience. If everything they say is right on that, doesn't bother my conscience one bit. The man's a murderer. He got convicted on fair evidence. Doesn't bother my conscience one whit! Now, I don't agree that we did anything wrong with that, but I can tell you, it don't bother my conscience if we did.¹¹¹

This remarkable jumble of defensiveness and assertiveness is a clear example of rhetorical exclusion. Peltier is guilty, regardless of the evidence, and any actions taken by the government are therefore legitimate. Judge Benson underlined this point by telling Peltier that, "You profess to be an activist for your people, but you are a disservice to Native Americans."¹¹² He then sentenced Peltier to serve two consecutive life terms in federal prison.

Since then, Peltier has filed two appeals. Within weeks of the first rejected appeal in 1978, one of the three appellate judges, William Webster, left the bench to head the FBI. Apparently, even though Webster was negotiating for

a position with the FBI during the appeals process and the impending appointment was even announced during the appeal, Webster felt no conflict of interest and failed to recuse himself from the case.¹¹³ The government apparently agrees wholeheartedly with Webster's view of things, as neither Congress nor anyone else in government has ever expressed dissatisfaction with this facet of the case.

The court also rejected Peltier's second appeal, despite evidence that the government had withheld crucial ballistics evidence from the defense and from the jury. Upon denying the appeal, the court opined: "We recognize that there is evidence in this record of improper conduct on the part of some FBI agents, but we are reluctant to impute even further improprieties to them."¹¹⁴ Thus, despite the evidence, the court's responsibility here and throughout was clear: protect the government, especially from criticism of its conduct.

IMPLICATIONS

You Christians, you are a lost people with no identity to this land, the only God you have is your technology which will destroy you because of the greed it demands. . . . I have no fear of your materialistic power and your brutality cannot harm me, it will only separate you further from your spirit which will bring me closer to mine. My love for my People and my land is my strength and that is something you will never be able to touch because it is a power you do not understand.¹¹⁵

Leonard Peltier's case is not fictional, although it does contain themes that run through much "American" literature. *The Last of the Mohicans*, for instance, is about the expectation that Euramerican "civilization" eventually would mean the end of Indian peoples in the Americas. Like Peltier's case, this also is a story about how "good" and "bad" Indians are socially constructed. Astonishingly little has changed in the interim. This may help explain why the story resonates as clearly for audiences in the 1990s as it did when James Fenimore Cooper first published it in 1826.¹¹⁶ "Good Indians" are those who assimilate, who learn and play by the rules of the dominant culture. "Bad Indians," like Magua, are those who refuse to assimilate, who fight to retain the traditions of their peoples.

Like Magua, Leonard Peltier typifies the "bad" Indian. Like Magua, his guilt is a matter of the perceptions forced by the requirements of maintaining the status quo. Magua was resisting the British army because they had incarcerated him, occupied his land, and murdered his family. Yet the audience is not supposed to identify with him but with the characters who are sympathetic to the needs of Euramerican settlers. Peltier is guilty of defending his people, their land, their religion, and their treaty rights. He is as guilty as Magua—and of the same "crime." As Ward Churchill observes:

Leonard Peltier is a dangerous man to the United States government. This is so not because he allegedly killed two federal agents on the Pine Ridge Dakota Reservation in 1975—it is likely that even the gov-

ernment does not believe that—but because he pointed to the fact that the very presence of the agents was illegal. He organized people around such issues. He spearheaded a resistance to the whole range of federal illegalities relative to the Lakota. He called things by their proper names and people began to listen. He was, and is, therefore, a man whose activities, from the federal perspective, must be terminated.¹¹⁷

One need not exert some great feat of investigative skill to learn that the bulk of information used against Peltier at his trial was fabricated or coerced as part of the American government's attempts to discredit and destroy the American Indian Movement. Yet those who defend the government's actions do so even with knowledge of the fabrications and coercion involved. Trapped by rhetorical exclusion, they cannot see what they cannot see.

The government's persistence has had at least one ironic effect, for a number of Indian people see Leonard Peltier as a force who operates to give both AIM and other efforts to defend Indian rights both impetus and focus. As Dino Butler says, Peltier "represents a lot to his people and to all our people. He represents the agreements between the United States government and the indigenous people of this land. And all of the violations of the treaties between . . . sovereign nations."¹¹⁸

In some ways, the longer Leonard Peltier is in jail, the stronger and deeper resistance becomes; around the world, there are now some sixty million people who have signed petitions supporting Peltier and asking for his release (including the late Mother Teresa, Nelson Mandela, former Attorney General Ramsey Clark, and more than a few members of Congress). All of those people have learned to question the legitimacy of governmental actions, arguments, motives, and methods. As such, all of those people stand both as testimony and as evidence that, in this regard at least, Peltier resembles Nelson Mandela.

In other respects, of course, Peltier does not resemble Mandela at all. He is not the symbolic leader of a nation's majority population, for instance. And, while South Africa's apartheid system is now defunct, the United States government's assaults on Indian sovereignty and Indian rights continue unabated. Throughout 1997, for instance, several states challenged Indian sovereignty over issues like mineral and water rights. The Seneca found themselves embroiled in a dispute with New York over taxation policies, which provided the governor with an excuse to stop shipments of gas and tobacco to the reservation. When the embargo proved ineffective in coercing the Seneca to surrender their sovereignty, the state responded in April by surrounding the reservation with state troopers who refused to allow children to go to school, dialysis patients to go to the hospital, or residents to go to work. So routine and unremarkable are such actions within the dominant society that they are not even deemed "newsworthy," as not a single major network carried even so much as a "human interest" story on the conflict (although there was newspaper coverage).

Despite such media inattention, the imperatives that led to Wounded Knee twenty-five years ago are still very much with us, as are the tactics used there. And the urgent need continually to define Indians who defend their

rights and their lands as “bad,” as inimical to “national interest,” as “guilty,” remains evident throughout the society in general and the government in particular. In this way, for instance, Senator Slade Gorton’s (R-WA) insistence throughout 1998 that tribal sovereignty is tantamount to tax evasion, and his legislative assaults on that sovereignty, become intelligible.

Still, we should be clear about one particularly significant issue. The difficulties surrounding the Peltier case are not indicative of some continuing, willful, conscious government conspiracy against Leonard Peltier. Rather, they are indicative of the strength and power of rhetorical exclusion:

. . . state functionaries (FBI agents, prosecuting attorneys, etc.) are basically bureaucrats whose primary concerns are advancing their careers and promoting the interests of their agencies. Those who do the dirty work of repression share a basic acceptance of contemporary social and economic norms and consequently view the system as natural and good. . . . Their training emphasizes loyalty as an ultimate virtue. Their charge is to defend the familiar status-quo. They take existing societal conditions as given and dissent as unwarranted.¹¹⁹

Those who seek to challenge the government under these conditions face not only the opposition of entrenched members of the political elite, but also the willing cooperation of those who have found comfort with the status quo. Challenging the government and its supporters therefore may not be merely a matter of demanding more inclusion into an essentially fair system in order to perfect it and make it “fairer” as we approach ever nearer the democratic ideal; it may also be a matter of changing the functioning and the ideology of that system so that such challenges are not treated by definition as the legitimate targets of repressive action. Indeed, there can be no such thing as civil rights so long as Indians (and others) are always already guilty of crimes against the polity and, thus, always already rhetorically excluded from that polity.

NOTES

1. The authors extend their sincere gratitude to Dennis Banks and Ron Lessard for their generosity, time, and wisdom, which inform much of this analysis. Any remaining errors are the responsibility of the authors, who shared equally in the production of the essay. We are also grateful to Duane Champagne and to the anonymous reviewers, whose insightful comments greatly improved the essay.

2. Leslie Marmon Silko, *Ceremony* (New York: Viking, 1977), 191.

3. For a complete discussion of this point, see Charles W. Mills, *The Racial Contract* (Chicago: University of Chicago Press, 1997). See also, Ronald Takaki, *A Different Mirror: A History of Multicultural America* (Boston: Little, Brown, 1993).

4. For a good example of this sort of thinking, see Larry Berman and Bruce Murphy, *Approaching Democracy* (Upper Saddle River, NJ: Prentice-Hall, 1996).

5. The best known examples of this include Allan Bloom, *The Closing of the American Mind: How Higher Education has Failed Democracy and Impoverished the Souls of Today's Students* (New York: Simon & Schuster, 1987); E.D. Hirsch, *Cultural Literacy:*

What Every American Needs to Know (New York: Vintage, 1987); Arthur Schlesinger, Jr., *The Disuniting of America: Reflections on a Multicultural Society* (New York: W.W. Norton, 1992).

6. Richard Morris and Mary E. Stuckey, "More Rain and Less Thunder': Substitute Vocabularies, Richard Nixon, and the Construction of Political Reality, *Communication Monographs* 64 (1997): 140–160.

7. We are concerned here with rhetorical exclusion as it is used by those in power in the American context. As a strategy, it is by no means restricted either to those with power or to this particular context. It has been brought to our attention, for instance, that the women involved in many social movements may suffer from some form of rhetorical exclusion at the hands of those who dominate those movements. A full discussion of this possibility is outside the scope of this essay; any pursuit of the issue should begin with Kathleen M. Blee, ed., *No Middle Ground: Women and Radical Protest* (New York: New York University Press, 1998). For those interested in the role of women in AIM, see especially Karren Baird-Olsen's chapter in that volume, entitled, "Reflections of an AIM Activist: Has it all Been Worth it?", 133–154.

8. For a full discussion of these masks and their applications, see John T. Noonan, Jr., *Persons and Masks of the Law* (New York: Farrar, Straus, and Giroux, 1976); and David Wilkins, *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin, TX: University of Texas Press, 1997).

9. Wilkins, *American Indian Sovereignty*, 1, 9.

10. In this essay, we focus on only one example; much of what we argue can be applied to social movements in general. See, for example: Donatella della Porta, "Social Movements and the State: Thoughts on the Policing of Protest," in *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*, ed. Doug McAdam, John D. McCarthy, and Mayer N. Zald (Cambridge: Cambridge University Press, 1996), 62–66; David A. Snow and Phillip W. Davis, "The Chicago Approach to Collective Behavior," in *A Second Chicago School?*, ed. Gary Alan Fine (Chicago: University of Chicago Press), 190; Sidney Tarrow, *Power in Movement: Social Movements, Collective Action, and Mass Politics in the Modern State* (Cambridge: Cambridge University Press, 1994); Mayer N. Zald, "Culture, Ideology, and Strategic Framing," in *Comparative Perspectives*, 269.

11. Wilkins, *American Indian Sovereignty*, 13.

12. Other examples abound. See, for instance, Elisabeth S. Clemens, "Organizational Form as Frame: Collective Identity and Political Strategy in the American Labor Movement," in *Comparative Perspectives*, 205–226; Doug McAdam, "The Framing of Movement Tactics: Strategic Dramaturgy in the American Civil Rights Movement," in *Comparative Perspectives*, 338–356; and David A. Snow and Leon Anderson, *Down on Their Luck: A Study of Homeless Street People* (Berkeley: University of California Press, 1993).

13. Because we are dealing here with sources committed to the support of the government as well as with those who are committed opponents of at least some governmental actions, very few of our sources are completely objective (given the assumption that complete objectivity is either possible or desirable). Three sources have caused particular consternation: our use of quotes from interviews contained in the documentary film, *Incident at Oglala*; material obtained from the Leonard Peltier Defense Committee; and material from the AIM website. We use this material despite others'

concern over its fairness and accuracy because we believe that it accurately represents an important point of view. Readers are encouraged to examine all of the primary materials and their origins and to draw their own conclusions.

14. Rex Weyler, *Blood of the Land: The Government and the Corporate War Against the American Indian Movement* (New York: Everest House, 1982), 14.

15. See, for example, the analyses offered by: Ward Churchill and J. Vander Wall, *Agents of Repression: The FBI's Secret Wars Against the Black Panther Party and the American Indian Movement* (Boston: South End Press, 1988); J. Dill, "500 Years of Indigenous Resistance," *Oh-Toh-Kin* 1 (1992), <<http://www.dickshovel.com/500.html>>; Frank Donner, *The Age of Surveillance: The Aims and Methods of America's Political Intelligence System* (New York: Knopf, 1980); Justin Goldstein, *Political Repression in Modern America: 1870 to the Present* (Cambridge, Schenkman, 1978); J. Schneider, "From Wounded Knee to Capital Hill: The History, Achievements, and Legacy of the American Indian Movement," *Indian Nation* 3 (1976), <<http://www.dickshovel.com/aimhis.html>>.

16. Mary Crow Dog and Richard Erdoes, *Lakota Woman* (New York: Weidenfeld, 1990), 225.

17. Schneider, "From Wounded Knee," 8.

18. For a detailed discussion of the implications of this important point, see William Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (New York: Oxford University Press, 1995).

19. There is a prodigious amount of research on this point. Among the most prominent works are: most of Ward Churchill's work, but especially *Struggle for the Land: Indigenous Resistance to Genocide, Ecocide, and Expropriation in Contemporary North America* (Monroe, ME: Common Courage Press, 1993); almost anything written by Vine Deloria Jr., but especially the various chapters in his edited volume, *American Indian Policy in the Twentieth Century* (Norman, OK: University of Oklahoma Press, 1985); Peter H. Eichstaedt, *If You Poison Us: Uranium and Native Americans* (Santa Fe, NM: Red Crane Books, 1994); Donald Grinde and Bruce E. Johansen, *Ecocide of Native America: Environmental Destruction of Indian Lands and Peoples* (Santa Fe, NM: Clear Light Publishing, 1995); and M. Annette Jaimes, ed., *The State of Native America: Genocide, Colonization, and Resistance* (Boston: South End Press, 1992).

20. Stephen Cornell, *The Return of the Native: American Indian Political Resurgence* (New York: Oxford University Press, 1988), 175.

21. Birgil Kills Straight, "AIM: What is it?" Document from AIM 25th Anniversary Conference/International People's Summit. <<http://www.dickshovel.com/AIMdeclara.html>>.

22. Weyler, *Blood of the Land*, 36.

23. This is another area that has been thoroughly researched. For a sampling of histories and details of this repression and/or the various Indian responses to it, see Cornell, *Return of the Native*; Deloria, *American Indian Policy*; Adam (Nordwall) Fortunate Eagle, *Alcatraz! Alcatraz! The Indian Occupation of 1969-1971* (Berkeley, CA: Heyday Books, 1992); Jaimes, *State of Native America*; Troy Johnson, *The Occupation of Alcatraz Island: Native Self-Determination and the Rise of Indian Activism* (Urbana, IL: University of Illinois Press, 1996); Troy Johnson, Joane Nagel, and Duane Champagne, eds., *American Indian Activism: From Alcatraz to the Longest Walk* (Urbana, IL: University of Illinois Press, 1997); Peter Matthiessen, *In the Spirit of Crazy Horse* (New York: Penguin, 1992); Joane Nagel, *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1996); "On the

Road to Wounded Knee,” *Indian Nation* 3 (April 1976); Weyler, *Blood of the Land*; and Wilkins, *American Indian Sovereignty*.

24. See, for example, Churchill and Vander Wall, *Agents of Repression*, 134; Matthiessen, *In the Spirit of Crazy Horse*, 55–56, 406; John William Sayer, *Ghost Dancing the Law: The Wounded Knee Trials* (Cambridge, MA: Harvard University Press, 1997), 35–38.

25. Leonard Garment, “Letter to Dennis Banks,” White House Subject Files, “IN,” Box 7, “General IN 8/1/72[12/31/72] [1 of 2],” (Washington, DC: Nixon Papers Project, October 12, 1972).

26. For a discussion of related tactics, see Morris and Stuckey, “More Rain, Less Thunder.”

27. The best discussions of the Alcatraz occupations can be found in: (Nordwall) Fortunate Eagle, *Alcatraz! Alcatraz!*; Johnson, *The Occupation of Alcatraz Island*; Johnson, Nagel and Champagne, *American Indian Activism*; Paul Chaat Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee* (New York: New Press, 1996), 1–111.

28. Johnson, Nagel and Champagne, *American Indian Activism*, 9–44.

29. The best discussions of the Trail of Broken Treaties and its aftermath can be found in Vine Deloria, Jr., *Behind the Trail of Broken Treaties An Indian Declaration of Independence* (Austin: University Press of Texas, 1985); Rolland Dewing, *Wounded Knee II* (Chandron, NE: Great Plains Network, 1995), 109–110; Matthiessen, *In the Spirit of Crazy Horse*, 51–56; Russell Means (with Marvin S. Wolf), *Where White Men Fear to Tread: The Autobiography of Russell Means* (New York: St. Martin’s Press, 1995); Smith and Warrior, *Like a Hurricane*, 145–177.

30. Smith and Warrior, *Like a Hurricane*, 164; Means, *Where White Men Fear to Tread*, 235.

31. For discussions of these means, see Churchill and Vander Wall, *Agents of Repression*, especially chapters 2, 3, 7, 8, 10, 11, and 12; Matthiessen, *In the Spirit of Crazy Horse*, 103–126; Smith and Warrior, *Like a Hurricane*, 222.

32. Leonard Garment, “Memorandum for the President,” White House Central Files, Staff Member and Office Files, Patterson Box 39, “Indians-BIA [Bureau of Indian Affairs (1 of 3)],” Washington, DC: Nixon Papers Project, August 3, 1973.

33. *Ibid.*

34. Deloria, *Behind the Trail*, 62.

35. Geoff Shepard, “Memorandum for Fred Malek,” (1–8) White House Central Files, Staff Member and Office Files, Garment Box 35, “AIM” [American Indian Movement] [CFOA 907], Washington, DC: Nixon Papers Project, April 12, 1973; (9–15) White House Central Files, Staff Member and Office Files, Patterson Box 9, “AIM I,” Washington, DC: Nixon Papers Project, April 12, 1973.

36. Donner, *Age of Surveillance*, 16.

37. Shepard, “Memorandum,” 14.

38. *Ibid.*, 1.

39. *Ibid.*, 2.

40. *Ibid.*, 2.

41. *Ibid.*, 9.

42. *Ibid.*, 3.

43. *Ibid.*, 4–5.

44. Ibid, 5–6.

45. Ibid, 8.

46. There are numerous accounts of the Wounded Knee conflict from a variety of perspectives. See, for example: Crow Dog and Erdoes, *Lakota Woman*; Dewing, *Wounded Knee II*; Edward Lazarus, *Black Hills, White Justice: The Sioux Nation versus the United States 1775 to the Present* (New York: Harper Collins, 1991); Stanley David Lyman, *Wounded Knee: A Personal Account* (Lincoln, NE: University of Nebraska Press, 1991); Matthiessen, *In the Spirit of Crazy Horse*; Means, *Where White Men Fear to Tread*; Nagel, *American Indian Ethnic Renewal, 171–175*; Smith and Warrior, *Like a Hurricane*, 194–268; and *Voices from Wounded Knee: The People Stand Up* (Roosevelt, NY: Akwesasne Notes, 1979).

47. Many of the issues that surfaced in the protests we are discussing date back as far as contact; it is possible to begin discussions of the modern manifestations of these issues at least as far as back as the adoption of the Indian Reorganization Act. Because our focus is on a particular use of a specific set of rhetorical strategies rather than the presentation of a complete history of the period, and because this history did not figure in the government's rhetoric about Wounded Knee, we deal here only with the most proximate causes of tension. We are aware that the actual history is considerably more complex. Among the best presentations of the history are found in Cornell, *Return of the Native*; Vine Deloria, Jr., and Clifford Lytle, *The Nations Within: The Past, Present and Future of American Indian Sovereignty* (New York: Pantheon, 1974); Lazarus, *Black Hills, White Justice*; Nagel, *American Indian Ethnic Renewal*; Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln, NE: University of Nebraska Press, 1984); and Sayer, *Ghost Dancing the Law*, 25–26.

48. Leonard Garment, "Memorandum to Ken Cole," White House Central Files, Staff Member and Office Files, Patterson Subject Files, Box 76, "Federal Policy Options Discussions (Wounded Knee [1 of 2]," Washington, DC: Nixon Papers Project, March 15, 1973.

49. Some authors, notably Nagel, *American Indian Ethnic Renewal*, 174; Cornell, *Return of the Native*, 190; and Means, *Where White Men Fear to Tread*; argue that these protests, and specifically Wounded Knee, led to significant improvements in the government's attitudes toward, and treatment of, American Indians. Others argue either that these protests hurt Indian peoples, or that they were distractions from political improvements that were already in the works. See, George Pierre Castille, *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975* (Tucson, AZ: University of Arizona Press, 1998); Lyman, *Wounded Knee*; Dewing, *Wounded Knee II*.

50. From an interview in Robert Redford, *Incident at Oglala*, Miramax Films, 1992.

51. Some of the most notable sources among the various authors making this claim are: Churchill and Vander Wall, *Agents of Repression*, 261–263; Matthiessen, *In the Spirit of Crazy Horse*, 75; Sayer, *Ghost Dancing the Law*, 81–82; and Wyler, *Blood of the Land*, 176.

52. See, for example, the information contained in notes 15, 19, 23, 27, 29, 46, and 47.

53. Schneider, "From Wounded Knee to Capital Hill," 3.

54. E.K. Caldwell, "Conversations with Dino Butler," originally published in *News From Indian Country*, <<http://www.dickshovel.com/dino.html>>.

55. Redford, *Incident at Oglala*.

56. Ibid.

57. Weyler, *Blood of the Land*, 81.

58. D. Cassano, "U.S. Army Issue Revived in AIM Trial," *St. Paul Dispatch* (identified in file as "*Minn. Tribune*), White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, May 16, 1974.
59. *Ibid.*
60. Jim Messerschmidt, *The Trial of Leonard Peltier* (Boston: South End Press, 1992), 22.
61. Matthiessen, *In the Spirit of Crazy Horse*, 106.
62. Sayer, *Ghost Dancing the Law*, 228.
63. Cassano, "U.S. Army."
64. Bradley Patterson, "Recommended Phone Call Memorandum," White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, May 4, 1973.
65. David H. Getches, Charles F. Wilkinson, and Robert A. Williams, *Federal Indian Law: Cases and Materials*, 3rd ed. (St. Paul, MN: West Publishing).
66. Garment, "Letter to Banks."
67. United States Department of Justice, "Civil Disturbance Information," White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, April 19, 1974.
68. United States Department of Justice, "Civil Disturbance Information," White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, undated.
69. *Ibid.*
70. Gerald Ford, "Statement by the President," Ross, Box 11, "Sioux Nation of Indians" Ann Arbor, MI: Gerald R. Ford Presidential Library.
71. The Lakota refused the settlement then and continue to refuse it now on the grounds that sacred land cannot be sold. Despite the facts that they remain among the poorest of Americans, and that the settlement trust fund account now runs into the hundreds of millions of dollars, they continue to reject it, favoring instead the return of their land. For a complete discussion of the legal case, see Lazarus, *Black Hills, White Justice*.
72. Gilbert G. Pompa, "Memorandum to Ben Holman," White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM - 1974 Convention," Washington, DC: Nixon Papers Project, May 24, 1974. See also, "AIM - 1974 Convention" folder, White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, 4-5. Emphasis in original.
73. That response included provisions for security, the hiring of temporary deputies, and contacts with the state attorney general and governor, in case further force should be needed. Pompa, "Memorandum," 2-6.
74. *Ibid.*, 5-6.
75. Clarence Kelly, "Cover Letter to Leonard Garment, accompanying *The American Indian Movement: A Record of Violence*, White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, February 8, 1974.
76. Federal Bureau of Investigation, *The American Indian Movement: A Record of Violence*, White House Central Files, Staff Member and Office Files, Patterson Box 9, "AIM II," Washington, DC: Nixon Papers Project, January 30, 1974, 1.
77. *Ibid.*
78. *Ibid.*, 2.
79. Both claims are found on *ibid.*, 2.

80. Ibid, 7.
81. Ibid, 7–8.
82. Ibid, 9–10.
83. Ibid, 11.
84. Matthew King, quoted in Weyler, *Blood of the Land*, 34–35.
85. Among the best discussions of this violence are: Ward Churchill, *Indians R US? Culture and Genocide in Native North America* (Monroe, ME: Common Courage Press, 1994), 197–206; Churchill and Vander Wall, *Agents of Repression*, 135–180; and Matthiessen, *In the Spirit of Crazy Horse*, 103–153. See also, note 45.
86. Bradley Patterson, “Letter to Nancy S. Mason,” White House Subject Files, “IN” Box 7, “General IN 10/1/73–8/9/74,” Washington, DC: Nixon Papers Project, March 11, 1974.
87. Schneider, “From Wounded Knee.”
88. Marvin Ghost Bear, “Letter to the Attorney General’s Office,” White House Subject Files, Staff Member and Office Files, Patterson Box 5, “Pine Ridge-Lakota Views,” Ann Arbor, MI: Gerald R. Ford Presidential Library, January 20, 1975.
89. Discussions of the Commission and its findings may be found in Matthiessen, *In the Spirit of Crazy Horse*, 209, 260, 319; and in Redford, *Incident at Oglala*.
90. Bradley Patterson, “Memorandum to Leonard Garment,” White House Subject Files, Staff Member and Office Files, Ross, Box 8, “American Indian Movement,” Ann Arbor, MI: Gerald R. Ford Presidential Library, June 19, 1974.
91. Messerschmidt, *Trial of Leonard Peltier*, 6; Jim Vander Wall, “A Warrior Caged: The Continuing Struggle of Leonard Peltier,” in *The State of Native America: Genocide, Colonization, and Resistance*, ed. M. Annette Jaimes (Boston: South End Press, 1992), 291–310.
92. Redford, *Incident at Oglala*.
93. Ibid.
94. Again, many of the tensions that formed the backdrop of the violence at Pine Ridge can be traced at least as far back as the inception of the IRA and its aftermath. See note 47.
95. Leonard Peltier Defense Committee, *The FBI Files* (Lawrence, KS, Author, 1996). Emphasis in original.
96. Dennis Banks, private conversation, April 23, 1997.
97. Redford, *Incident at Oglala*.
98. The connections among and between the deaths of the FBI agents, the uranium mining in the Black Hills, and the cancellation of the Church Committee hearings are most explicitly made in print by: Matthiessen, *In the Spirit of Crazy Horse*, 125–126, 192, 418; Messerschmidt, *Trial of Leonard Peltier*, 141–174; and Weyler, *Blood on the Land*, 262. These issues were also discussed by Leonard Peltier Defense Committee member, Ron Lessard, in a telephone interview, April 25, 1997. Notes on file.
99. Matthiessen, *In the Spirit of Crazy Horse*, 192.
100. Vander Wall, “Warrior Caged,” 297.
101. Matthiessen, *In the Spirit of Crazy Horse*, 193.
102. Joel Weisman, “About that Ambush at Wounded Knee,” *Columbia Journalism Review* (September/October 1975): 30.
103. Ibid, 28.
104. Leonard Peltier Defense Committee, *The FBI Files*, 63–72; Matthiessen, *In the*

Spirit of Crazy Horse, 282.

105. Matthiessen, 283.

106. *Ibid.*

107. For details of the Poor Bear affidavits and other evidence of alleged governmental misconduct, see Leonard Peltier Defense Committee, *The FBI Files*, 73–77; Matthiessen, *In the Spirit of Crazy Horse*, 316–371; Messerschmidt, *Trial of Leonard Peltier*, 54, 63; Redford, *Incident at Oglala*; and Vander Wall, “Warrior Caged,” 291.

108. Matthiessen, *In the Spirit of Crazy Horse*, 318.

109. Bobbie Kilberg, “Memorandum for Phil Buchen,” White House Central Files, Staff Member and Office Files, Phillip Buchen, Box 19, “Indians-General,” Ann Arbor, MI: Gerald R. Ford Presidential Library, September 7, 1976.

110. For details about the trial and the complex issues surrounding the evidence presented—and not presented—see, Matthiessen, *In the Spirit of Crazy Horse*, 316–373; Messerschmidt, *Trial of Leonard Peltier*, 37–128; Redford, *Incident at Oglala*; and Vander Wall, “Warrior Caged,” 298–306.

111. The tape is available from the Leonard Peltier Defense Committee. The LPDC document, *The FBI Files*, quotes Crooks on page 77 as well.

112. Messerschmidt, *Trial of Leonard Peltier*, 116.

113. *Ibid.*, 117.

114. Vander Wall, “Warrior Caged,” 304.

115. Dino Butler, quoted in Matthiessen, *In the Spirit of Crazy Horse*, 279.

116. M. Barker and R. Sabin, *The Lasting of the Mohicans: History of an American Myth* (Jackson, MS: University Press of Mississippi, 1996).

117. Ward Churchill, “Preface: The ‘Trial’ of Leonard Peltier,” in Messerschmidt, *The Trial of Leonard Peltier*, xiii.

118. Caldwell, “Conversations with Dino Butler,” 10.

119. Messerschmidt, *The Trial of Leonard Peltier*, 124.