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North American Indigenous Women and Cultural Domination

BEATRICE MEDICINE

Many immigrant groups in the United States celebrated a quincentennial of the "discovery" of a New World in 1992. However, most of the 1.5 million native peoples in the United States who live in isolated reservation areas or the 50 percent of the native population who live in urban areas are rejoicing in their survival. Their cultural survival against centuries of genocide, legal restrictions on religion and language, and superimposed systems of law that were meant to completely obliterate native law-ways and customary systems of marriage and kinship, and, more devastatingly, demolish belief systems that were considered "pagan" is indeed remarkable. This pattern of conquest and domination exists in many areas of colonization by European powers.

At present, it is agreed that there are approximately 325 distinct tribal groups in the United States.¹ Their viability in cultural lifestyles and linguistic persistence lends credence to adaptiveness and tenacity. This contradicts the common view of policy-makers and religious practitioners that American Indians would inevitability join a mythical "melting pot." American Indians of all tribes have been the focus of administered human relations since the beginning of contact with a dominant and domineering governmental system that prevails to the present day. American Indians

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and Alaska Natives (not Native Americans!) have a comprehensive system of laws, federal statutes, and rules stipulated by Congress that distinguishes them from other so-called minority peoples. Thus they have a constant need for lobbyists and self-help associations to carefully monitor every session of Congress to apprise them of and, in some cases, circumvent legal actions that would erode the special status of tribes as "domestic nations" and abrogate treaties on which tribal sovereignty is based. The need for eternal vigilance as each session of Congress convenes has established watchdog groups such as the National Congress of American Indians (founded in 1944) and the politically astute Native American Rights Fund, which is composed of indigenous lawyers of both genders. Besides these pan-tribal organizations, many tribal governments maintain offices in Washington, D.C. to monitor legislation and inform their tribal constituencies.

It is well documented in the ethnographic literature on North American natives that the imposition of the patriarchal nuclear model of European kinship has extinguished many systems of matrilineal residence as part of the thrust toward civilization, according to standards of custom and law of the conquering nations.² Eleanor Leacock documents changes in Naskapi culture due to the fur trade, the effects of missionization, the patrilineal models regarded as basic for legitimacy of the union's issue, and the impact of a money economy on a hunting and gathering society in Canada.³ More importantly, she delineates the changes in male-female relationships that indicate a marked difference in decision-making in native societies where egalitarian principles had prevailed. This pattern of colonialization is mirrored in Iroquois, Navajo, and other indigenous groups. Because the Naskapi reside in Canada, one must mention the Indian Act of 1876, which gave status to natives who were direct descendants in the male line.

Women who married outside the band (to European, Métis, or nonstatus males) lost their Indian status, as did their children. Conversely, non-Indian women, mainly European, who married native men became fully endowed with rights to live on the reserve and register their children in the band, and were entitled to health, education, and welfare benefits. *Native*, now (1993) *Aboriginal*, is the preferential term used in Canada, although *Treaty* and *Non-Treaty* are also used. Only in 1985 was this law changed to end racism and discrimination against Canadian native women. The issue of native women wishing to return to

reserve lands and to native rights, especially for education, is a source of discord in many Canadian native communities today.⁴

This paper, however, deals only with specific cases that involve unequal treatment of Indian women in the United States. In most precontact societies, native women shared equally with men in social, economic, and ritual roles. Most ethnographic accounts (for the Plains culture area) emphasize the dynamic, dyadic interplay of both genders in the ongoing enterprise that allows indigenous societies to exist.⁵ Perduring images of Indian women as drudges and beasts of burden and the princess-and-prostitute syndrome of first encounters still maintain as part of the interethnic interchange and center in legal transactions. Recent feminist writings⁶ have contextualized the high status of Indian women in many societies, especially those of the "warrior" societies of the northern Plains. The emphasis on feminine skills did not disturb the egalitarian nature of native societies. The feminine "culture hero" of given cultural mandates—such as the Sacred White Buffalo Calf Woman of the Lakota (Sioux), or Changing Woman among the Navajo—was and still is an ongoing focus in these belief systems. These feminine icons are constantly evoked by participants in these cultures as an ongoing means of social control, especially in wife abuse.

The placement of Indians on reservations and the destruction of male roles and the diminished valuation of Indian women had great demoralizing and long-lasting effects on native populations.

In the destruction of aboriginal lives, the legal repression of native languages and belief systems, such as the Sun Dance among the Lakota, cut at the very heart of native lifeways. The Christian ethic of patriarchy—a male god and a patrilineal kinship model with the imposition of patrilineal family names—virtually eclipsed the autonomy of native women. The introduction of alcohol as a control mechanism in the early fur trade era also had perduring repercussions in the early reservation placements. In general, apathy and despair seemed to reign in early reservation life. More devastatingly, a pattern of administered human relationships ensued. With the demolition of traditional leadership patterns and the establishment of new "chiefs" with more acquiescent orientations, patterns of paternalism were firmly established. Additionally, new patterns of legalized law-ways undercut established and functional native legal codes. For example, punishment for murder among the Lakota was the adop-

tion of the transgressor into the kinship unit to make up for the loss of the murdered one. Only entities such as the Pueblo in the American Southwest—where continual residence in aboriginal habitation sites was common—were somewhat immune from these tremendous dislocations. Gender disequilibrium and social anomie are often referred to as the “culture of poverty” or “reservation culture” in present-day parlance. These factors, along with racism, discrimination, and unemployment, are part of the everyday life of indigenous peoples in North America.

In the history of Indian-white relations in the United States, the forcible removal of children from families and the belief that education and Christianization were important forms of civilizing the “wild Indians” were disastrous government policies. In addition, the dominant society felt that “women were the cradle of civilization.” Thus, the role of Indian women as change agents was fostered. Early in the educational process, Indian women were utilized as matrons, cooks, maids, and laundry workers. The benefits of a new life were instilled in them, and intermarriage was encouraged; thus it was hoped that they would direct their children away from “heathen ways.” Importantly, federal and parochial schools constituted the main destroyers of Indian families and kin networks. The Protestant ethic was the superordinate force in this indoctrination.

The use of native languages was expressly forbidden, and the cultural basis of ritual, value configurations, and kinship terminology was undercut and replaced with a meaningless cultural infrastructure. More far-reaching, the boarding school experience demolished parenting skills, and the consequences of this intrusion are still evident today. In this context, it is evident that socialization according to tribal traditions was negligible.

At the present time, there are many instances of legal inequities in the lives of Indians, both male and female. In “Indian Country,” as the tribal land bases (reservations) are often called, jurisdictional issues abound. Reservations are situated within counties, within states. On reservations, federal Bureau of Indian Affairs (BIA) legal forces prevail. The tribal police are mainly concerned with the seven major crimes of federal policy. The tribal court on most reservations operates with its own legal mandate. As disequilibrium regarding proper behavior becomes more evident in homes, larger systems of new laws prevail. Since reservations are within states, BIA police are often in direct conflict with state police in legal jurisdiction. For example, on Standing Rock Reser-

vation, which straddles mid-North Dakota and South Dakota, three control mechanisms are evident. South Dakota does not have jurisdiction on state roads within the reservation. This has been a battle with the state since the 1950s; when the state referred it to the Supreme Court, tribal sovereignty ruled.

In cases involving Indian women, such as spouse or child abuse, or welfare issues, the jurisdiction mandates blur the enactment of justice. In off-reservation or "border towns," where many Indian women live in legal or consensual ("Indian marriage") unions, there is often little recourse for them in abuse cases. Municipal and county police may ignore these abuses—both physical and sexual—on the pretext of jurisdictional uncertainties.

In cases of child abuse—and especially in cases where grandmothers (the mainstay in many Indian families) wish to obtain custody of minor children—mothers tend to utilize state courts, where European kinship systems are often evoked, in order to circumvent grandparental rights. Removal from family contexts prevented boys and girls from connecting with parental surrogates. The European *modus operandi* was physical punishment to "save the child." In other cases, state laws might be negated. In South Dakota, for example, some counties recognize tribal court orders and others do not. In some cases in which the spouse is of another race—generally European—the implications of legal codes are horrendous. A case that has publicized this problem vividly is that of a Dakota woman who removed her child from Washington State to her natal reservation. This young male child then was abducted by his white father and taken out of South Dakota. Tests for paternity determination were initiated. A final resolution to this and other cases plays upon state versus tribal jurisdiction.

Wife abuse—when reported—is often dismissed as a "domestic issue," especially in border towns. Recent establishment of shelters for abused women and children is a sign that some tribes are confronting the need.

In the 1960s and 1970s, many Indian activists, including females, claimed that Indian women had been sterilized without their knowledge or consent. Outright claims of genocide were leveled against the Bureau of Indian Affairs and the Indian Health Service, which maintains hospitals on reservations. This was a time of ethnic ferment in the United States, and it is not possible to obtain accurate data on these claims.

In that same era, white social workers removed many native children from Indian homes and placed them in foster homes

and/or in adoption availabilities. Many of the dissonances of native life—for both men and women—were alcohol-related. However, in many instances, the standards used to judge the quality of a home were middle-class norms. The functions of extended families and native kinship obligations were seldom considered. This led to hardship among women and grandparents who wished to maintain care of their children.

To avoid these problems, several historical factors must be contextualized and particularized for each individual in a tribal matrix. One factor, of course, is the loss of parenting skills. Another is poverty, the dismal statistics constantly evoked when one speaks of Indians, including high unemployment, alcoholism, lack of job and educational skills. But the major factor is the interface of powerless peoples with superimposed legal systems.

Alcohol constitutes another problem. Legal prohibition against Indian consumption of alcohol was operative from the 1800s into the mid-twentieth century. In 1953, that prohibition ended, and there was a great rise in alcohol-related crimes and social problems among Indians, particularly battering of women and neglect of children. Currently, excessive consumption of alcohol by pregnant women is resulting in an accelerating rate of Fetal Alcohol Syndrome among many tribes. These disorganizational factors, plus concern for children, led to the passage by Congress of the Indian Child Welfare Act in 1978. The mandates of this act state that social workers must find foster homes within tribal communities and encourage adoption by tribal peoples. Unfortunately, the money needed for case work and alleviation of this problem is not forthcoming from the federal government. Tribes are hampered by lack of economic resources and destruction of cultural norms that formerly allowed for the absorption of orphans and neglected children into extended kin networks. The need is still evident in many Indian enclaves—both reservation and urban.

One possible amelioration of these dissonances is the passage of the Indian Religious Freedom Act of 1978, which allows for a return to native rituals and belief systems. This has had a positive effect in many communities, for previously heavy alcohol users have utilized old beliefs as support systems in sobriety. The truism that alcohol is an imported evil is also helpful. Many alcoholism treatment programs use native beliefs as a coping mechanism. The efficacy of these indigenous strategies has not been evaluated. However, attendance at meetings to maintain sobriety appears to be increasing.

From this very partitive presentation of complex issues that impinge on Indian women, one should note that there are many externally construed laws and statutes formulated and promulgated by a myriad of federal agencies. These include the Bureau of Indian Affairs, which acts in a trust position, as well as the United States Public Health Service, Housing and Urban Development, Environment Policy Administration, and others. Both the BIA and the IHS still essentially direct and/or limit the types of occupational selections that Indian women make. Additionally, tribal councils make decisions regarding loans for higher education. IHS policy regarding sex education programs, medical care, prenatal and other "female" concerns, plus care for urban residence set priorities for quality of life for Indians. Housing and Urban Development has instituted such notions as clustered housing in reservation communities, which has exacerbated in-group tensions, peer pressure for drinking, and child sexual abuse and, in general, has aided in the erosion of family effectiveness within a kinship frame. More recently, the EPA has pressured some tribes to accept atomic waste on the reservations, which has potential for serious damage to future generations. In sum, external policies continue to have horrendous effects on Indian people. All of these impinge on tribal and individual decision-making in contemporary life. Importantly, in discussions about the roles and statuses of Indian women, the tribal group in which the female operates must be specified.

Regarding the legal and social rights of indigenous women, the *Wanrow* case (1971) serves as a good example of the conflict between tribal tradition and non-Indian law. In Washington State, the mother of a sexually abused boy shot the perpetrator. The defense attempted to show that she was acting within her tribal cultural mores. The attempt failed in federal court. Thus women are often caught in a triple bind of customary law and beliefs and state and federal jurisdictions. The woman currently is working for an advocacy group defending treaty rights. Although this may be a *cause célèbre*, it highlights legal discrepancies for all Indians.

It is also notable that in Nebraska, Montana, and North and South Dakota, the incarceration rate of Indian men is exceedingly high, and much of this incarceration is alcohol-related. Moreover, the structure of tribal societies is being affected: Growing numbers of native households are headed by a single parent, usually a female. The strength of women in legal matters is evident. Men

often say to Indian women in their kin networks, "You go talk to the judge, he'll listen to you." Again, this leads to perceptions among whites that native women tend to be "more dependable" and "more aware of time" than Indian men. However, both male and female status in the face of interethnic encounters reflects racism and second-class citizenship. This situation is further confounded by the low economic status of Indian families, which minimizes their effectiveness in negotiating in the legal system.

A further example of imposed legal policies that have had deleterious effects on traditional tribal government was the passage of the Wheeler-Howard Act of 1934 (often referred to as the Indian Reorganization Act), under the Collier administration. In tribes that accepted this legislation, the act set up tribal councils based on the premise that men should be the leaders. This model often circumvented the role of women in tribal government and allowed male control. For example, among the matrilineal and matrilocal Navajo, councils consist mainly of men at the present time. Thus the act has eroded the position of women in decision-making. Although there are instances of female chairpersons, such as at Standing Rock in 1950 and 1960, this has not been the norm. Recent figures, however, indicate that many women are assuming these elected positions in tribal groups. Witness the recent re-election of Wilma Mankiller to head the Cherokee tribe in Oklahoma.

Although there are many examples of legal actions detrimental to Indian customary law, the *Martinez* case demonstrates how these tribal decisions may evolve from female actualization in legal contests. The 1978 case of *Santa Clara Pueblo v. Martinez* arose out of the wish of a Santa Clara woman married to a "full-blood Navajo" to leave her home in Santa Clara village to her daughter. The tribal council (not the indigenous one) disagreed, on grounds that she was married to an outsider. As indicated by Pueblo anthropologist Edward Dozier, a strong dual governance of aboriginal secular and religious functions existed (and still exists) in many pueblos.⁷ Mrs. Martinez appealed to the Supreme Court, claiming sex discrimination. The Court ruled that a female tribal member "could not bring a case against the tribe in federal court. The Indian Civil Rights Act of 1968 did not expressly abrogate sovereign immunity by subjecting the tribe to civil suits in federal courts."⁸ This decision was made in spite "of any act of Congress providing for the protection of civil rights."⁹ Unfortunately, this seemed a signal for some tribes to allow the tribal council to

permit enrollment only for individuals whose father was an enrolled member of that tribe. In cases of consensual unions, a child cannot be enrolled unless a man signs an acknowledgment of paternity (as on Standing Rock Reservation). Other unfortunate consequences are certain to arise from this decision.

In summary, I would state that the status and role of Indian women declined after the formation of reservations. During this time, state and church policies imposed a patriarchal and patrilocal model, the privatization of communal property, and a system of increased administration of human relationships, which did much to diminish tribal women's status and aspirations.

Fortunately, the political and economic influence of women has grown since the 1960s. Women of the northern Plains, in particular, have maintained a power base and prestige structure that is tied to artistic efforts, the manipulation of educational avenues, and welfare and economic enterprises, and ritual participation.

It is encouraging to note that, since the 1970s, there has been an upsurge in the number of native lawyers. At last count, there were seven hundred American Indian and Alaska Native lawyers. Over one-third of these are women. A Lumbee was the first woman to argue a case successfully in the United States Supreme Court. If women serve as judges in tribal courts on Indian reservations or penetrate the legal systems in off-reservations border towns, these developments will greatly improve the legal status of all Indians in the United States.

NOTES

1. *American Indian Policy Review Commission* (Washington, DC: U.S. Government Printing Office, 1978).

2. Eleanor Burke Leacock, *Myths of Male Dominance* (New York: Monthly Review Press, 1981); Lila Hamamsy, "The Role of Women in a Changing Navajo Society," *American Anthropologist* 59 (1957): 101-11; Alice B. Kehoe, *North American Indians: A Comprehensive Account* (Englewood Cliffs, NJ: Prentice-Hall, 1983).

3. Leacock, *Myths of Male Dominance*.

4. Ron Bourgeault, "The Development of Capitalism and Subjugation of Native Women in Northern Canada," *Alternative Routes* 6 (1983): 109-40.

5. Patricia Albers and Beatrice Medicine, *The Hidden Half: Studies of Indian Women in the Northern Plains* (Lanham, MD: University Press of America, 1983).

6. *Ibid.*; Sylvia Van Kirk, *Many Tender Ties: Women in Fur Trade Society in Western Canada, 1670-1870* (Norman, OK: University of Oklahoma Press, 1980);

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7. Edward P. Dozier, *The Pueblo Indians* (New York: Holt, Rinehart and Winston, 1970).

8. Charles Wilkinson, *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy* (New Haven, CT: Yale University Press, 1987), 49.

9. Ibid.