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# From Civilized to Savage: Changing Euro-American Perceptions of Pueblo Gender Roles and Sexuality, 1850-1920

JO ANN WOODSUM

EXCEPT FOR A NOD to Columbus' confusion in misnaming Native Americans "Indians," historians have rarely problematized the category "Indian."<sup>1</sup> Instead, historians have tended to assume that the word "Indian" has always been understood as a transparent signifier for the indigenous peoples of the Americas. However, in the nineteenth century, many Euro-Americans understood that the term "Indian" did not include all indigenous peoples. Many Euro-Americans of the Southwestern United States considered Pueblo peoples to be non-Indians or "civilized Indians." In the vocabulary of Euro-Americans, Pueblo peoples were constantly juxtaposed with the "wild Indians," i.e., the nomadic tribes of the Southern Plains such as the Apache and Comanche.

This "positive" construction of Pueblo peoples as non-Indians was revised at the turn of the twentieth century when Euro-Americans began to assert that Pueblo peoples were Indians after all. This assertion was enshrined in the law in the 1913 U.S. Supreme Court case of *U.S. v. Sandoval*. The purpose of this essay is to examine the rationale behind the revision in Euro-American categorization of Pueblo peoples. I argue that a critical component of this rationale was Euro-American perceptions of Pueblo attitudes toward gender roles and sexuality. The shift in Euro-American perceptions of Pueblo peoples was due in large part to information about men's and women's roles in Pueblo society including easy access to divorce and "unnatural" sexual practices. This information was made available to the public and the courts by a new generation of "experts" primarily Indian agents and anthropologists.

This article is divided into four sections. In the first section I provide background on Pueblo geography and cultures. Next I identify and discuss the nineteenth-century Euro-American ideology regarding Indians. This ideology per-

meated Euro-American interaction with Pueblo peoples. The centerpiece of this ideology was the stereotype of Indians as savage. Euro-Americans concluded that Pueblo peoples were not Indians because they did not meet the stereotype of an Indian. In the third section, I examine the shift in Euro-American perceptions of Pueblo peoples. I analyze the case of *U.S. v. Sandoval* as archetypal of this transformation in perception. In the conclusion, I discuss the consequences of this transformed perception of Pueblo peoples.

The transformation in Euro-Americans' perception of Pueblo peoples must be understood in terms of the gender system of turn-of-the-century U.S. culture. This gender system was characterized by a hierarchy in which male was privileged over female, male and female were constructed as bipolar oppositions, and gender roles were fixed categories. My argument is based on a theoretical model developed by historians and philosophers of science, among others, who claim that all knowledge production is socially situated.<sup>2</sup> That is, the anthropologist, judge, or scientist is implicated in his or her specific historical and cultural location, and thus the knowledge produced by him or her can never be objective or value-free.<sup>3</sup> I find this model particularly helpful when analyzing legal cases because law like science has historically been perceived to be objective and neutral. By contextualizing cases in their specific historical and cultural location, we can see what was at stake in the decision-making process.

Even in our own contemporary era of identity politics, it is sometimes hard to remember that identities are culturally assigned. Race, gender, class, and ethnicity are not pre-given classifications of nature, but human-made categories by which we organize ourselves or are organized by others. Historian Joan Scott encouraged scholars to question the ways in which different identities are constructed or "how subjects are constituted as different in the first place." If you take any identity category as a pre-given fact of nature, Scott warned that the effect will be to "reproduce rather than contest given ideological systems."<sup>4</sup> Scott argued that feminist historians should question the "ways in which race and sexuality intersect with gender, the ways in which politics organize and interpret experience...the ways in which identity is a contested terrain, the site of multiple and conflicting claims."<sup>5</sup> An understanding of the human-made quality of these categories is liberating because it calls into question the naturalness of naming and allows us to question the power dynamics between those who name and those who are named.<sup>6</sup>

### **Background on Pueblo Geography and Cultures**

Pueblo peoples have lived in what is today the southwestern portion of the United States for at least several millennia.<sup>7</sup> From earliest times, Pueblo peoples

have lived in dozens of settled, farming communities in multi-storied, stone and adobe dwellings. Periodically—every 200 years or so—communities would abandon their villages and move on. According to Pueblo oral traditions, Pueblo peoples moved in order to find a more perfect world.<sup>8</sup>

By the beginning of the sixteenth century, Pueblo peoples began to establish settlements which would become permanent. The permanence of these settlements was a result of the colonial efforts of Spain. Shortly after discovering the Pueblos in the sixteenth century, Spain began to establish missions at each Pueblo in order to convert and “pacify” the region. The Spanish word for “town,” “pueblo,” came to signify the indigenous peoples of the region who lived in settled villages. Spain’s policy of demographic and territorial control over the Pueblos significantly circumscribed the ability of Pueblo peoples to relocate. Nevertheless, during this phase of imperial conquest, a number of these villages were abandoned and the inhabitants fled to other villages or neighboring nomadic tribal groups such as the Apache or Comanche. By the 1850s there were 19 pueblos in New Mexico: Taos, Cochiti, Zía, Picurís, San Juan, Pojoaque, San Ildefonso, Nambé, Tesuque, Jémez, Santo Domingo, San Felipe, Santa Ana, Sandía, Isleta, Laguna, Ácoma, Santa Clara, and Zuni.<sup>9</sup> These Pueblos contained three distinct language groups: Tanoan, Keresan, Zuni.<sup>10</sup>

Although the various Pueblos maintained distinct cultures, they also shared many characteristics. In particular, Pueblo societies held similar views on gender roles and sexuality. In Pueblo societies, women owned most of the property including family homes, furnishings and stored food products. Women were responsible for building and maintaining the houses. Men owned their clothing and hunting implements.<sup>11</sup> The basic social unit in Pueblo societies was the extended family. Families lived matrilocally and descent was determined matrilineally. Upon marriage, a woman’s husband moved in with her family. However, the husband’s primary loyalty remained with his mother’s family.<sup>12</sup>

Marriage in Pueblo culture was based on mutual attraction and accomplished through a complex pattern of gift exchange between the couple’s families. Pueblo men and women practiced serial monogamy. Sexual intercourse usually preceded marriage. After an initial period of courtship and sexual activity, a couple began a series of gift exchanges between the two families. A woman had the right to refuse to engage in courtship or sex or marriage. Except for strict rules about who one could not marry based on clan and blood relationships, couples were free to choose their partners without interference from parents or other relatives. Marriage was finalized by the husband moving in with the wife’s family.<sup>13</sup> Affairs during marriage were not uncommon and did not signal the end of the marriage unless the partner having the affair was indiscreet or otherwise

acted in a way to cause embarrassment to his/her spouse.<sup>14</sup> Divorce was easily accomplished. When a woman became dissatisfied with her husband, she placed his possessions (which were few since women owned most of the property, usually his clothes and hunting implements) outside the door of the home and the husband moved back with his mother. Any children of the marriage remained with the wife. Since descent was through the mother's line, children were never considered illegitimate—all children were the children of the mother's household and clan.<sup>15</sup>

While Pueblo societies had clearly defined social roles for men and women, individual men and women were free to assume characteristics or perform social roles typically assigned to the other sex.<sup>16</sup> Pueblo peoples and scholars of Pueblo societies believe that gender categories in Pueblo cultures were more fluid than in Western patriarchal culture.<sup>17</sup> Patricia Albers, an anthropologist, explained that in native societies "gender was not a heavily loaded concept—represented by fixed, tightly integrated and/or hierarchically ranked markers. It was not a superordinate status that ranked and classified people in immutable and narrow ways."<sup>18</sup> A number of Pueblo societies included a third gender category for those individuals who wished to assume the social role of the other sex.<sup>19</sup> Will Roscoe's excellent book, *The Zuni Man-Woman*, tells the story of a biological male who assumed the social role of a female.<sup>20</sup>

In spite of Spain's attempts to convert Pueblo peoples to Catholicism, the basic tenets of Pueblo belief about gender roles and sexuality remained intact for the next few centuries.<sup>21</sup> As Roscoe has pointed out, an important element of Spanish colonial policy with regard to sexuality was to "turn a blind eye" provided that appearances of conformity to Catholicism were maintained. Since many of the sexual practices of Pueblo peoples were not meant to be observed by outsiders, Pueblo peoples were able to persist in these practices in secret.<sup>22</sup> Thus, by attending church, learning Spanish and keeping traditional religious and sexual practices secret, Pueblo peoples succeeded in maintaining basic beliefs about gender roles and sexuality.<sup>23</sup> As I will discuss later in this essay, Euro-Americans had a very different response from that of the Spanish toward Pueblo attitudes about gender roles and sexuality.

### **Nineteenth-century Euro-American Perceptions of Indian Gender Roles**

The post-Civil War period in U.S. history was characterized by territorial expansion and conquest. The Civil War had temporarily diverted the nation's attention from the "Indian problem," i.e., the problem of how to remove Indians from the vast Western lands in order to encourage Euro-American settlements. After the war, the "Indian problem" served as a focal point for a nation



attempting reunification. The nation turned its attention to pacifying the territory of the Mexican Cession acquired at the conclusion of the Mexican War in 1848. The two decades following the war included some of the bloodiest battles with Indians that the nation had ever seen. These battles took place throughout the trans-Mississippi West but the wars with the tribes of the Great Plains captured the American imagination. These battles were especially difficult for Americans to comprehend because U.S. forces frequently encountered stunning defeats.<sup>44</sup>

By the 1870s, a national ideology about Indians emerged in which all Indians were assumed to fit the Plains Indian stereotype. This national ideology influenced all aspects of Euro-American interaction with Pueblo peoples during the latter part of the nineteenth century. In particular, the various bands of Sioux tribes of the Northern Plains and the Comanche and Chiricahua Apache of the Southern Plains were stereotyped by Euro-Americans as ruthless savages. Anthropologist John Ewers has argued that the Indians of the Plains tribes signified all Indians in U. S. popular culture. He pointed to the incredible popularity of dime novels, newspaper articles, and soldiers' memoirs focusing on Plains Indians. Euro-American artists created scenes from the West which resonated in U.S. culture. Representations of attacks on covered wagon expeditions and stage coaches as well as Euro-Americans in captivity were endlessly circulated in popular culture.<sup>45</sup>

While Euro-Americans were convinced by these images of the savagery of Plains men in war, they believed that indications of savagery could be seen in their domestic role as well. Euro-Americans believed that Indian men in their domestic role as providers were inadequate, lazy, and abusive of Indian women. In nomadic Plains cultures, Indian men were responsible for hunting buffalo and other game. Upper-class Euro-Americans interpreted Indian men's hunting activity as sport rather than hard work which contributed to tribal self-sufficiency. When Indian men were not hunting Euro-Americans assumed that they "loll[ed]" around the village contributing nothing to the welfare of the community.<sup>46</sup> In comparison, Plains Indian women appeared to be the slaves of the Indian world to nineteenth century Euro-American observers.<sup>47</sup> Because Plains women were responsible for maintaining the villages—including food preparation, tanning hides, and putting up the teepees—Euro-Americans assumed that Plains women were overworked. Indian women's work was perceived to be drudgery. Historian Katherine Weist noted the popular Euro-American belief that "the degrading nature of [Plains Indian] female labor resulted from male idleness, improvidence, and arrogance. Women were beasts of burden, not because of their gender, but because of their relationships with men."<sup>48</sup>

Historians have pointed out that Euro-American perceptions of Indian women were influenced by idealized notions of Euro-American gender roles. Alice Kehoe pointed out that this perception was also based on class definitions of gender. Upper middle-class Victorian women did not perform domestic work—such work was left to their domestic servants.<sup>29</sup> Kehoe concluded that “the traditional picture of the Plains Indian woman is really that of an Irish housemaid of the late Victorian era clothed in a buckskin dress.”<sup>30</sup>

To Euro-Americans, Pueblo peoples lived in marked contrast to the stereotypical Indian. Nothing spoke to this difference more than Pueblo men’s and women’s roles. After the United States gained possession of the territory of New Mexico pursuant to the Treaty of Guadalupe Hidalgo ending the Mexican War, the U.S. government assigned Indian agents to the Pueblos.<sup>31</sup> These agents consistently reported the differences between Pueblo peoples whom they considered civilized and the stereotypical “savage” or “wild” Indian. Throughout the 1850s, ’60s, and ’70s, Indian agents reported that Pueblo peoples were peaceful and industrious as well as civilized.<sup>32</sup> Agent Arny wrote in 1871 that he believed the Pueblos were sufficiently advanced that they could serve as civilizing intermediaries with the “savage Indians.”<sup>33</sup> Agent Ben Thomas noted in 1876 that “the Pueblos have many of the characteristics of Indians, but they are very different from all other tribes in their general and most important qualities, being a quiet, industrious, law-abiding, peace-loving people.”<sup>34</sup>

Although Indian agents believed that Pueblo peoples were civilized in comparison to the Apache and other nomadic groups, they also believed that Pueblo peoples could benefit from instruction in basic Euro-American standards of cleanliness and dress. Euro-American visitors to the Pueblos frequently complained of the dirt and filth which they perceived covered the inhabitants and their dwellings. During the 1870s, the U.S. government was successful in starting day schools at a number of the Pueblos. A female industrial school was established at Cochiti Pueblo. Agent Ben Thomas reported in 1875 that the purpose of the female industrial school was to teach “the women and girls of the Pueblo of Cochiti how to wash, iron, sew, cut out garments, &c.”<sup>35</sup> Thomas noted with pride that the school was a great success.<sup>36</sup> He believed that the school could be closed in less than a year because Pueblo women had perfected these Euro-American domestic arts.

This national ideology about the savagery of the Indians permeated nineteenth-century legal cases. In these cases, U.S. judges concluded that Pueblo peoples were different from their “wild” neighbors. In the 1869 case of *U.S. v. Lucero*, the U.S. government on behalf of Cochiti Pueblo sued José Juan Lucero

in order to have him removed from lands owned by the Pueblo.<sup>37</sup> The government brought suit under a federal statute allowing the United States to eject squatters from Indian lands.<sup>38</sup> The New Mexico Supreme Court judges deciding the *Lucero* case relied on their common knowledge about Pueblo peoples whom they deemed to be good citizens of the Territory of New Mexico.<sup>39</sup> Pueblo peoples were not like the “wild Indians” such as the Apaches. The Court believed that the U.S. Indian Department was wrong in insisting that Pueblo peoples should be subject to the Indian Intercourse Act (regulating commerce between Euro-Americans and Indians) which was “a law made for wild, wandering savages,” and to extend the law

over a people living for three centuries in fenced abodes and cultivating the soil for the maintenance of themselves and families, and giving an example of virtue, honesty, and industry to their civilized neighbors, in this enlightened age of progress and proper understanding of the civil rights of man, is considered by this court as wholly inapplicable to the pueblo Indians of New Mexico.<sup>40</sup>

Unlike the Apaches, who were considered by the Court to be little better than animals, Pueblo peoples were

a peaceable, industrious, intelligent, honest and virtuous people. They are Indians only in features, complexion, and a few of their habits; in all other respects superior to all but a few of the civilized Indian tribes of the country; and the equal of the most civilized thereof. This description of the Pueblo Indians, I think, will be deemed by all who know them, as faithful and true in all respects.<sup>41</sup>

The judges did not consult experts or Indian agents about whether to classify Pueblo peoples as Indians. Instead, the judges relied on their common knowledge—based on their years of experience as residents of New Mexico—about the Pueblos which held that Pueblo peoples were easily distinguished from Apaches and other wild Indians. *Lucero* was permitted to stay on the lands of the Pueblo.

The Court did not comment on the gender system in Pueblo culture except to note the presence of a Catholic mission in almost every Pueblo.<sup>42</sup> From this comment, I think the Court believed that Pueblo peoples had adopted the tenets of the Christian faith including a patriarchal gender system. Based on their “common knowledge,” the judges considered Pueblo peoples to be “civilized” because Pueblo lifeways appeared to conform to the Euro-American model: Pueblo peoples lived in established villages, farmed, did not make war, and



practiced monogamous marriage. Based on their perception of Pueblo peoples as a farming community, Euro-Americans assumed that gender roles in the Pueblos were similar to those of Euro-American farming communities which were patriarchal. Because Pueblo peoples appeared to conform to the Euro-American gender system, the judges distinguished them from the nomadic tribes of the Southwest, e.g., the Apache and Comanche, who were constructed by judges as the most "Indian" of all Indian groups and thus the most savage.

Seven years later, in *U.S. v. Joseph*, the U.S. Supreme Court, agreeing with the New Mexico Supreme Court, held that Pueblo peoples were not Indians because they were civilized.<sup>43</sup> This case was brought by the United States under the same federal statute discussed in the *Lucero* case. Joseph had settled on the lands of Taos Pueblo and the United States sued to have him evicted. The Court, echoing the New Mexico Supreme Court, emphasized the difference between the "wild Indians" and Pueblo peoples noting that:

When it became necessary to extend the laws regulating intercourse with the Indians over our new acquisitions from Mexico, there was ample room for the exercise of those laws among the nomadic Apaches, Comanches, Navajoes, and other tribes whose incapacity for self-government required both for themselves and for the citizens of the country this guardian care of the general government. The pueblo Indians, if, indeed, they can be called Indians, had nothing in common with this class. The degree of civilization which they had attained centuries before, their willing submission to the laws of the Mexican government... and their adoption into the general mass of the population (except that they held their lands in common), all forbid the idea that they should be classed with the Indian tribes for whom the intercourse acts were made.<sup>44</sup>

Finally, the Court stated that the Pueblo practice of owning their lands in common should not mark them as uncivilized. Instead, Pueblo peoples should be categorized with such Euro-American communal groups as the Shakers.<sup>45</sup>

In subsequent New Mexico cases, judges continued to make decisions in which they distinguished Pueblo peoples from other Indians. For example, in the 1904 case of *Territory of New Mexico v. Delinquent Taxpayers*, the Supreme Court of New Mexico held that Pueblo peoples were not Indians and thus were subject to paying taxes.<sup>46</sup> After reiterating the facts of *Joseph* and *Lucero* and echoing the *Joseph* court's comparison of the Pueblos to Shaker communities, the judge in this case stated that "it is a matter of history, gathered by the writer from conversations with early residents of the country" that the Pueblo peoples have always been treated as citizens and not Indians.<sup>47</sup> Once again, a New Mexico

judge relied on common knowledge “gathered by the writer” that Pueblo peoples were not Indians.

### **Euro-American Perceptions Begin to Change**

As I indicated in the previous section, Pueblo identity was linked to “Indian” identity generally by Euro-Americans. In the two decades following the Civil War, the U.S. government turned its attention to “pacifying” the Indians in order to open up the trans-Mississippi West for settlement. During this period, Indian tribes were gradually concentrated on reservations. Deprived of their traditional methods of feeding and clothing themselves, their population decimated by constant warfare and disease, many of these Indians lived in desperate situations frequently near starvation. Gradually, Euro-Americans’ previous perception of the stereotypical Plains Indian warrior was replaced by their new perception of Indians as a defeated people. As Native Americans were forced onto reservations and compelled to assimilate, Euro-Americans perceived that they were less like the “Indians” of the past. This perception became sharper in the 1880s, as many Euro-American reformers began to admit that the reservation system was a failure, imperialist nostalgia for the noble Plains savage began to pervade American culture, and Euro-Americans became concerned about maintaining an “American” identity in the face of massive immigration from Eastern Europe and Asia. As the definition of “Indian” changed so too did that of Pueblo peoples. In the following sections, I will explore this shift in Euro-American attitudes toward “Indians” and the impact of this shift on their perception of Pueblo peoples culminating in *U.S. v. Sandoval*.

#### *Failure of the Reservation System*

The reservation system (begun in the 1830s) had initially been viewed as a temporary solution to the “Indian problem,” i.e., the problem of what to do with indigenous peoples who insisted on living a physically and culturally separate existence from that of mainstream American society.<sup>48</sup> U.S. policymakers viewed reservations as a “schools” in which Indians would learn how to become civilized by adopting the lifestyle of Euro-American farmers. Once Indians had adopted Euro-American values, they could be assimilated into American society.<sup>49</sup> By the 1880s, policymakers began to realize that Indians on reservations insisted on maintaining their old ways as much as possible in light of their confinement to territory significantly smaller than that necessary to be self-sufficient. Policymakers decided that the heart of the problem was the Indians’ persistence in living communally. Various reformers recommended that Indians be allotted land on the basis of the nuclear family unit and that in order to keep

the land, Indians would be required to build a homestead on the land and not continue to live communally. In 1887, Congress passed the Dawes Act, which required that the land on several reservations be so allotted. Any land left over after the allotment process was to revert to the U.S. government to be sold on behalf of the tribe.<sup>50</sup> The first reservations targeted for allotment were those where Euro-Americans were most anxious to settle, e.g., Idaho, Montana, North and South Dakota, Washington and Wyoming.<sup>51</sup> However, during the next two decades reservations in other Western states were also affected.<sup>52</sup>

For a variety of reasons, Pueblo lands were allotted. However, the philosophy of reform behind the allotment policy did have an impact on Euro-American perceptions of Pueblo peoples. In particular, reform rhetoric that emphasized the links between communal living and the degradation of Indian peoples began to be used in connection with Pueblo peoples.

This transformation in Euro-American attitudes toward Pueblo peoples was evident in the reports of Indian agents. At the beginning of the 1880s, agent Ben Thomas confirmed his opinion that Pueblo peoples were "industrious, inoffensive, provident, and reliable," concluding that "the sons of the Republic are not more faithful to the United States."<sup>53</sup> Thomas persisted in his belief that Pueblo peoples were easily distinguishable from "Indians."<sup>54</sup> Thomas resigned as Indian agent in 1883 in order to become the registrar of the land office at Tucson, Arizona.<sup>55</sup> His successors espoused dramatically different attitudes toward Pueblo peoples. In his 1884 Annual Report to the Commissioner of Indian Affairs, newly-appointed Indian agent to the Pueblos Pedro Sánchez stated that Pueblo peoples:

are debased and *idiotized* by the effects of ignorance, indolence, and superstition, to which they abandon themselves to excess. They never think of their future nor that of their children. They do not think of their children, because for these Indians their family is simply the consequence of the union of the sexes, and by no means the basis of future societies.... To this indigenous race the conquests of civilization are unknown and the law of progress utterly void.<sup>56</sup>

Dolores Romero, who succeeded Sánchez as agent to the Pueblos, noted the pernicious effects of Pueblo superstition which caused them to leave their fields in order to participate in religious ceremonies. He felt the only solution to this problem was "to induce them to abandon the pueblos and live in their cultivated lands in separate houses."<sup>57</sup>

By the 1890s, Indian agents' concern over Pueblo communalism and inappropriate sexual behavior had reached a fever pitch. A highly-detailed, extended

report prepared in 1892 by Daniel Dorchester, the Superintendent of Indian Schools for New Mexico, after visiting almost all of the Pueblos concluded that Pueblo peoples:

are dwarfed mentally, the result of centuries of indifference to the outside world. Not one in five hundred can read at all, and those very little. There is nothing stimulating in their dark paganism, but far the reverse. Their close, ill-ventilated homes, and a system of existence which allows of no ventilation of ideas, has stifled life and thought. Moreover, their social habits have sapped physical strength and mental energy, and made them a small, obtuse people. Though more industrious than the wild Indian, the Pueblo is no match, in acuteness and breadth of intellect, with the Navajo, the Apache, the Comanche, the Cheyenne, the Nez Perce, or the Sioux.<sup>58</sup>

In addition to commenting on their intellectual ability, policymakers pointed to Pueblo attitudes toward sex and gender as indicating their uncivilized (read “Indian”) nature. The report commented that at Zuni Pueblo, for example, “bastardy is a frequent occurrence, occasioning no comment. Boys and girls mingle freely, out on the sands, till late at night. Married life imposes no restrictions. Men are allowed to wear women’s costume, and work with the women in the house.”<sup>59</sup> The report also claimed that in order to punish young Pueblo people who were receiving a Euro-American education, Pueblo elders forced the students to perform degrading sexual acts. Thus, one girl “returned from an Eastern school this year, was stripped of her clothing by the governor [of the Pueblo] and in this nude condition was compelled to dance before him.”<sup>60</sup> In other cases, “sometimes the first thing done [upon their return from boarding schools] was to put a young man in bed with one of their women and a girl in bed with a man. This is done to break them down and bring them under old control.”<sup>61</sup>

### *Imperialist Nostalgia and the Closing of the Frontier*

With the surrender of Geronimo and his band of Chiricahua Apaches in 1886, the overt U.S. military offensive against indigenous peoples came to an end.<sup>62</sup> By the turn of the century, the nation’s ideology about Indians was tinged with nostalgia. The contradictory nature of this ideology was apparent in the popularity of the stereotype of the Sioux warrior on the one hand and U.S. policy toward Indians on the other. Euro-Americans longed for the “good, old days” when the contest for the West was at its highest pitch. At the same time, Euro-Americans implemented policies designed to ensure that Indians—who had formerly been perceived by Euro-Americans to be the “terror of the Great Plains”—remained on reservations which were a fraction of their former land



base. Confined to reservations without adequate resources to maintain their self-sufficient lifeways, their numbers significantly reduced by warfare, disease and starvation, living Plains Indians (with a few notable exceptions discussed below) no longer captivated the American mind. The picture of vanquished Indians living on reservations in abject poverty was not appealing to the American imagination.

Re-enactments of the glory days of the West became extremely popular. Wild West shows, World's Fairs, circuses—in which survivors of Indian wars such as Geronimo and Sitting Bull participated—recreated the most exciting battles between the U.S. Cavalry and Plains Indians.<sup>63</sup> The 1893 Columbian Exposition, celebrating the four-hundredth anniversary of Columbus' discovery of America, featured an Indian hall showing Indians in their "primitive" state and the Indian after exposure to "civilization" by demonstrating their skills in a typical American schoolhouse.<sup>64</sup> Geronimo's principal attraction to exhibitors and fair-goers was his former status as America's most hated and feared enemy.<sup>65</sup> One contemporary commentator described the Indians (including Geronimo) who were gathered at the 1898 Omaha Exposition:

All of the tribes that are of any interest from an aboriginal standpoint are represented at the Congress. Some of them have become civilized, like the Creeks, Choctaws, Cherokees and Seminoles, that their presence would add little interest from an ethnological point of view, so the government did not assemble its most civilized proteges at Omaha, *but the tribes it has conquered with the greatest amount of bloodshed are the most important to the congress*" [emphasis mine].<sup>66</sup>

Renato Rosaldo has termed this ideology "imperialist nostalgia" by which he means the longing experienced by the conquerors for the time before the conquered were vanquished, i.e., when the other was most "other."<sup>67</sup> As Rosaldo points out, ideology can be "at once compelling, contradictory, and pernicious."<sup>68</sup> Imperialist nostalgia could be seen in the changing perception of Pueblo peoples. Gradually during the last two decades of the nineteenth century, Euro-Americans stopped thinking of Pueblo peoples as civilized and began to view them as exotic others. With the advent of the Santa Fe Railroad through New Mexico and Arizona in the early 1880s the Pueblos became popular tourist attractions.<sup>69</sup> In order to encourage railroad travel through the region, the Santa Fe Railroad company advertised tours emphasizing the Pueblo "Indians" to be seen in the region.<sup>70</sup> Marta Weigle and Barbara Babcock in their work on the transformation of Pueblos and Pueblo peoples into tourist attractions for Euro-Americans pointed out that Pueblo women became an icon for the Southwest.<sup>71</sup>



### *The American Identity Crisis*

In *Imaging American Women*, Martha Banta pointed out that Euro-Americans in late nineteenth- and early twentieth-century America were obsessed with questions of identity. There was a perception among Euro-Americans that American society was no longer homogeneous. Wave upon wave of immigrants flooded into the United States during this period. This eclectic mix of newcomers created anxiety in native-born Euro-Americans about how to maintain the "Americanness" of their society. Banta argued that this anxiety was created by the difficulty in determining "the identity of things in a society where there was no commonly accepted patterns to guarantee recognition."<sup>72</sup> Banta concluded that "by 1900 questions of identity had become a social obsession, a fact which helps us appreciate the emphasis placed on appearance during the 1890s and the early 1900s."<sup>73</sup> A whole host of characteristics were assigned to Indian peoples as a way of distinguishing between Indians and Euro-Americans.

### **Savages Under the Law: *U.S. v. Sandoval***

The period from 1884 to 1913 was one of great fluidity in Euro-American perceptions of Pueblo identity. On the one hand, judges in various legal cases continued to conclude that Pueblo peoples were not Indians. On the other hand, Indian agents were sending scathing reports of the uncivilized state of Pueblo society back to Washington, D.C. In part in response to these reports, Congress for the first time defined Pueblo lands as part of Indian country in the 1910 New Mexico Enabling Act, which set out the requirements for statehood for New Mexico.<sup>74</sup>

In 1913 the Indian agents' reports were used by the U.S. Supreme Court in *U.S. v. Sandoval* to redefine Pueblo identity. *Sandoval* arose in the context of Euro-American concerns about Indians and liquor. The popular belief in Victorian America was that liquor was a corrupting influence on Indians and that Indians must be "protected" from it. In contrast, Euro-American men understood the nature of liquor and could withstand its corrupting influence. A Michigan court in 1908 explained liquor presented a special problem for Indians because "the Indian blood, like the blood of all savage races, is liable to much greater inflammation and excitation than that of civilized races, rendering people, otherwise friendly when sober, ferocious and ungovernable when under the influence of intoxicating drink."<sup>75</sup>

During this time period numerous cases arose in which Euro-Americans entered reservations or Indian territory and sold liquor to Indians in violation of state or federal laws. As part of the New Mexico Enabling Act, Congress required that New Mexico enforce a federal law criminalizing the sale of liquor

in Indian country.<sup>76</sup> The defendant in *U.S. v. Sandoval*, Felipe Sandoval, was indicted under the Act for having sold liquor to the inhabitants of Santa Clara Pueblo.<sup>77</sup> Sandoval claimed he was innocent because Pueblo peoples were not Indians. Sandoval's attorneys relied on the legal precedents of *Joseph* and *Lucero* to argue that Pueblo peoples had never been considered Indians by the courts of the United States.

The Supreme Court decided that Pueblo peoples should be treated as Indians because they, like other Indians, could not take care of themselves and thus required the guardianship of the United States:

The people of the pueblos, although sedentary rather than nomadic in their inclinations, and disposed to peace and industry, are nevertheless Indians in race, customs and domestic government. Always living in separate and isolated communities, adhering to primitive modes of life, largely influenced by superstition and fetichism, and chiefly governed according to crude customs inherited from their ancestors, they are essentially a simple, uninformed and inferior people.<sup>78</sup>

The Court based its decision on information provided by Indian agents and anthropologists. The Court devoted four pages of its thirteen-page opinion to excerpts from Indian agents' reports. The reports dated from 1904, 1905, 1906 and 1909. The excerpted reports focus on the suspected debauchery of Pueblo dances which were supposed to include "unnatural" sexual acts, Pueblo communalism and Pueblo men's and women's social roles. The Court quoted from an agent's 1905 report,

until the old customs and Indian practices are broken among this people we cannot hope for a great amount of progress. The secret dance, from which all whites are excluded is perhaps one of the greatest evils. What goes on at this time I will not attempt to say, but I firmly believe that it is little less than a ribald system of debauchery.<sup>79</sup>

On the problem of communalism, the Court cited an agent who had opined in a 1906 report that "there is a greater desire among the Pueblo to live apart and be independent and have nothing to do with the white race than among any other Indians with whom I have worked."<sup>80</sup> A 1909 report echoed this opinion on the evils of communalism: "as long as they [Pueblos] are permitted to live a communal life and exercise their ancient form of government, just so long will there be ignorant and wild Indians to civilize."<sup>81</sup> Numerous Euro-Americans were appalled by the dances of many of the Pueblos which included explicit

sexual clowning such as mock sexual intercourse and oral sex. To Pueblo peoples, sex like many aspects of human behavior was a perfect target for humor. For Euro-Americans steeped in the prudish attitudes of Victorian society, sexual acts were NOT to be discussed in "polite" society. Especially shocking to Euro-Americans was the fact that these dances were attended by Pueblo women and children.

In addition to debauched dancing and independence of Pueblo peoples, Indian agents were especially concerned about the "immorality" of girls. An agent to the Pueblos writing in 1909 conceded that liquor was not a problem at Zuni Pueblo but he was concerned about immorality "and a general laxness in regard to family relations" which he felt was "the great curse of this tribe."<sup>81</sup> He went on to explain that the Zuni

have no marriage ceremony that is binding, and a man will often live with two or three different women during one year. This custom is very demoralizing. In some cases the father will sell his daughters and the husband his wife for the purpose of prostitution. If marriage and divorce laws could be enforced, it would be a great blessing to these people.<sup>81</sup>

While Pueblo peoples were generally monogamous, there was never any difficulty in couples separating and moving on to other relationships. I have found no evidence that Pueblo peoples engaged in prostitution in the manner described in the agent's report. However, this was a popular belief about Indian peoples at the time, and I think the agent was extrapolating from the stereotype to his experience with Pueblo peoples. The choice of excerpted reports indicated the Court's distaste for Pueblo men's and women's social roles and sexuality. Pueblo peoples were characterized in these reports and by the Court as "uncivilized."

The Court also supported its opinion with the reports of two ethnologists who had visited the Pueblos, Matilda Coxe Stevenson and Adolph Bandelier. Stevenson first visited the Southwest in 1879 as part of the Smithsonian-sponsored expedition to the Pueblos which was led by her husband, Colonel James Stevenson.<sup>84</sup> During her early visits to the Pueblos, Stevenson became interested in ethnography and—like most ethnographers of her generation—was self-taught. She spent extensive periods of time in residence near Zuni and other pueblos. Her 600+ page magnum opus, *The Zuni Indians: Their Mythology, Esoteric Fraternities, and Ceremonies*, was published in 1904. Bandelier chronicled his travels throughout the Southwest over a five-year period beginning in 1880. His trip was sponsored by the Archaeological Institute of America

and its purpose was to survey the historical and contemporary situation of Indians living in the region. Bandelier actually spent very little time in the Pueblos although he did spend time in Santa Fe interviewing Pueblo informants.<sup>85</sup>

After quoting extensively from reports of agents to the Pueblos about the uncivilized nature of Pueblo culture, the Court stated “this view of Pueblo customs, government and civilization finds strong corroboration in the writings of ethnologists, such as Bandelier and Stevenson, who, in prosecuting their work, have lived among the Pueblos and closely observed them.”<sup>86</sup> Yet in her monumental report on the Zuni, Stevenson rarely referred to the Zuni as uncivilized. Instead, she found many aspects of Zuni culture to be inspiring and more civilized than Euro-American, Victorian culture.<sup>87</sup> It is interesting to note that the Court did not quote from these ethnological writings.

By overturning *U.S. v. Joseph*, the Supreme Court recognized that it was rejecting the foundation of that case—the role of common knowledge—in favor of more official and scientific knowledge. The court explained that the observations about Pueblo peoples expressed in *U.S. v. Joseph* “were evidently based upon statements *in the opinion of the territorial court*, then under review, *which are at variance with other recognized sources of information, now available.*”<sup>88</sup> (emphasis added) Thus, the court explicitly devalued the evidence derived from common knowledge in favor of scientific evidence. “Other recognized sources of information” referred to two classes of experts: Indian agents and anthropologists. In reviewing reports of Indian agents to the Pueblos, the Court noted that the Indian agents were in agreement that Pueblo peoples “are dependent upon the fostering care and protection of the Government, like reservation Indians in general; that, although industrially superior, they are intellectually and morally inferior to many of them; and that they are easy victims to the evils and debasing influence of intoxicants.”<sup>89</sup>

## Conclusion

The *Sandoval* decision had immediate consequences for Pueblo peoples. On the one hand, as contemporary Pueblo historian Joe Sando has pointed out the *Sandoval* case actually preserved the Pueblo land base by preventing further sales of Pueblo lands.<sup>90</sup> On the other hand, as a result of their new status as Indians, the ability of Pueblo peoples to govern themselves was significantly impaired. A less immediate but equally profound consequence of *Sandoval* was that it opened the door to increased federal control over Pueblo gender roles and sexuality. After *Sandoval*, Indian agents gained more power to coerce Pueblo peoples into conforming to Euro-American gender roles. As anthropologist Ann Stoler has pointed out, the regulation of sexuality was a crucial component

in the colonizing project.<sup>91</sup> As the wild speculations and fantasies of the Indian agents document, Euro-American beliefs about Pueblo sexuality were a significant factor in transforming perceptions of Pueblo peoples from civilized to savage.

The *Sandoval* decision remains the cornerstone of the law relating to Pueblo peoples. Numerous legal opinions rely on *Sandoval's* holding that Pueblo peoples should be defined as Indians. For example, in 1933, the Supreme Court upheld the validity of the *Sandoval* case as well its legal foundation. Relying heavily on the language employed by the *Sandoval* court, the Court in *U.S. v. Chavez* noted that:

The people of these pueblos, although sedentary rather than nomadic, and disposed to peace and industry, are Indians in race, customs and domestic government. Always living in separate communities, adhering to primitive modes of life, largely influenced by superstition and fetichism, and chiefly governed according to crude customs inherited from their ancestors, they are essentially a simple and uninformed and dependent people, easily victimized and ill-prepared to cope with the superior intelligence and cunning of others.<sup>92</sup>

In the 1984 case of *U.S. (on behalf of Santa Ana Indian Pueblo) v. University of New Mexico*, the 10th Circuit Court of Appeals noted that Pueblo peoples were Indians and relied on *Sandoval* to support its opinion. In fact, the court quoted from the portion of the *Sandoval* opinion which described Pueblo peoples in terms of their "Indian lineage, isolated and communal life, primitive customs and limited civilization."<sup>93</sup> Nineteenth-century ideals of civilization and savagery are embedded in Euro-American law regarding Pueblo peoples. Robert Williams, a Native American legal scholar, has argued that "since its invasion of America, white society has sought to justify, through law and legal discourse, its privileges of aggression against Indian people by stressing tribalism's incompatibility with the superior values and norms of white civilization."<sup>94</sup> As we have seen in the case of the legal construction of Pueblo identity as Indian one of the characteristics of Pueblo life deemed incompatible with the values and norms of white civilization were Pueblo attitudes toward gender and sexuality. In future projects, I plan to investigate the ways in which the attitudes about Pueblo sexuality and gender expressed in *Sandoval* also inform contemporary legal discourse.

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## NOTES

1. As my colleague Sangeeta Gupta pointed out to me, this is an incredibly Eurocentric comment which ignores the impact of Columbus's (mis)naming on people from India. During the first four centuries of conquest in the Americas, the term "Indian" became almost exclusively identified with the indigenous peoples encountered there by Europeans. More recent confusion for those resident in the United States in determining whether "Indian" refers to Native Americans or South Asians is coincident with very recent (post-1965) South Asian immigration to the U.S. Prior to 1965, there were fewer than 5,000 South Asians in the United States. See Baida Nath Varma, "Indians as New Ethnicities," in *The New Ethnicities: Asian Indians in the United States*, Parmatma Saran and Edwin Eames eds. (New York: Praeger, 1980). The lingering confusion inherent in the term "Indian" reminds us of the potent legacy of colonialism.
2. Donna Haraway, *Primate Visions: Gender, Race, and Nature in the World of Modern Science* (New York: Routledge, 1989); Donna Haraway, *Simians, Cyborgs, and Women: The Reinvention of Nature* (New York: Routledge, 1991); Sandra Harding, *Whose Science, Whose Knowledge: Thinking from Women's Lives* (Ithaca: Cornell University Press, 1991).
3. In her path-breaking work, *Primate Visions*, Donna Haraway explored the relationship between the knowledge produced by primatologists about monkeys, apes, and gorillas and the specific historical, gender, class, racial location of the primatologist. She determined that primatologists inscribed their historical, gendered values onto the bodies of primates. One of Haraway's goals in *Primate Visions* was to demonstrate the subjective rather than objective foundation of scientific practice.
4. Joan W. Scott, "The Evidence of Experience," *Critical Inquiry* 17 (Summer 1991): 778-780.
5. Scott, "The Evidence of Experience," 787.
6. My argument relies on the work of feminists like Haraway and Scott as well as the work of Michel Foucault. Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences* (New York: Vintage Books, ed. 1973), xv. The importance of Foucault's work lies in his linkage of the way categories are constructed and the power structures which are served. An understanding that categories—including racial categories—are culturally constructed is an important pre-condition for being able to uncover what is at stake in the construction of those categories. The arbitrariness of categorization or naming is especially important in the field of Native American studies and politics where Native American systems of determining membership in Indian communities has been consistently devalued in favor of formal U.S. government policies. See M. Annette Jaimes, "Federal Indian Identification Policy: A Usurpation of Indigenous Sovereignty in North America," in M. Annette Jaimes, ed., *The State of Native North America: Genocide, Colonization and Resistance* (Boston: South End Press, 1992): 123-137.
7. Leslie Marmon Silko, a Laguna Pueblo author, stated that Laguna Pueblo peoples have lived in the Southwest for 18,000 years. Leslie Marmon Silko, Public Lecture, February 8, 1993, noon, UCLA School of Law, Los Angeles, California (hereinafter referred to as "Silko Lecture"). Other scholars posit that Pueblo peoples have been in the Southwest since at least 10,000 B.C. For a useful summary of this scholarship, see Ramón Gutiérrez, *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846*

- (Stanford, CA: Stanford University Press, 1991): xx-xxi.
8. Joe Sando, *Pueblo Nations: Eight Centuries of Pueblo Indian History* (Santa Fe, N.M.: Clear Light Publishers, 1992): 22.
  9. Ibid.
  10. Sando, *Pueblo Nations*, 8; Gutiérrez, *When Jesus Came*, xxv-xxvi.
  11. Gutiérrez, *When Jesus Came*, 14-15.
  12. Edmund J. Ladd, "Zuni Social and Political Organization," in Alfonso Ortiz, ed., *Handbook of North American Indians, Southwest* (Washington, D.C.: Government Printing Office, 1979): 482-491.
  13. Ladd, "Zuni Social and Political Organization," 486; Gutiérrez, *When Jesus Came*, 10-11.
  14. Silko lecture.
  15. Will Roscoe, *The Zuni Man-Woman* (Albuquerque: University of New Mexico Press, 1991): 18-20.
  16. Harriet Whitehead, "The Burden and the Bowstrap: A New Look at Institutionalized Homosexuality in Native North America," in Sherry Ortner and Harriet Whitehead, eds., *Sexual Meanings: The Cultural Construction of Gender and Sexuality* (New York: Cambridge University Press, 1981): 80-115. For an excellent summary of alternative gender categories in Native American societies, see Patricia Albers, "From Illusion to Illumination: Anthropological Studies of American Indian Women," in Sandra Morgen, ed., *Gender and Anthropology: Critical Reviews for Research and Teaching* (Washington, D.C.: American Anthropological Association, 1989): 132-170, 134-135.
  17. Paula Gunn Allen, *The Sacred Hoop: Recovering the Feminine in American Indian Traditions* (Boston: Beacon Press, 1986): 196-200.
  18. Albers, "From Illusion to Illumination," 138.
  19. Third gender categories have been documented in many of the Pueblos including Acoma, Laguna and Zuni. Scholarship to date has focused on the man-woman, however available evidence suggests that a gender category existed in Pueblo and other native societies for women who assumed the social role of men. Allen, *The Sacred Hoop*, 197-198; Evelyn Blackwood, "Sexuality and Gender in Certain Native American Tribes: The Case of Cross-Gender Females," *Signs: Journal of Women in Culture and Society* 10 (1984): 27-42; Whitehead, "The Burden and the Bowstrap."
  20. Roscoe, *The Zuni-Man Woman*.
  21. Sando, *Pueblo Nations*, 78.
  22. Roscoe, *The Zuni Man-Woman*, 174-176. I do not wish to suggest that the Spanish did not attempt to change Pueblo attitudes toward gender and sexuality. Both Roscoe and Gutiérrez detail the Spanish policies aimed at changing Pueblo gender roles to fit the Spanish, Catholic model. However, I agree with Roscoe that Spanish colonial policy was more concerned with the morals of Spanish soldiers and clergy than with that of Pueblo peoples. Roscoe, *The Zuni Man-Woman*, 175-176. See also Sando, *Pueblo Nations*, 91 ("Under Spanish rule, some sort of accommodation had been made, in which the Pueblos had managed to retain their religious observances. Many ceremonies were nicely combined with Catholic observances, the result being an interesting combination of some of the two religious practices without loss of the basic fabric of Indian life." But see Gutiérrez, *When Jesus Came*. Gutiérrez argues that Spanish colonial policy transformed Pueblo gender roles.
  23. Sando, *Pueblo Nations*, 78-81.
  24. For a thoughtful summary of the Indian wars, see Richard White, *It's Your Misfortune and None of My Own: A New History of the American West* (Norman: University of Oklahoma Press, 1991), chapter 4. In classic Western History texts, the Indian problem was characterized appropriately enough as the "Indian Barrier." See Ray Allen Billington, *Westward Expansion: A History of the American Frontier*, 3rd ed. (New York: The Macmillan Company, 1967), chapter entitled "The Indian Barrier, 1860-1875."

25. John Ewers, "The Emergence of the Plains Indian as the Symbol of the North American Indian," *Annual Report of the Smithsonian Institution*, 1964 (Washington, D.C.: U.S. Government Printing Office, 1965): 531-544, 538-539; Alex Nemerov, "Doing the 'Old America': The Image of the American West, 1880-1920," in William H. Truettner, ed., *The West as America: Reinterpreting Images of the Frontier, 1820-1920* (Washington, D.C.: Smithsonian Institution Press, 1991): 285-343; June Namais, *White Captives: Gender and Ethnicity on the American Frontier* (Chapel Hill: University of North Carolina Press, 1993).
26. Glenda Riley, "Some European (Mis)Perceptions of American Indian Women," *New Mexico Historical Review* 59 (1984): 237-266.
27. Alice Kehoe, "The Shackles of Tradition" in Patricia Albers and Beatrice Medicine, eds., *The Hidden Half: Studies of Plains Indian Women* (Washington, D.C.: University Press of America, 1983): 53-73; Lucy Maddox, "Bearing The Burden: Perceptions of Native Women at Work" *Women: a cultural review* 2 (Winter 1991): 228-237; Katherine Weist, "Beasts of Burden and Menial Slaves: Nineteenth-Century Observations of Northern Plains Women," in Patricia Albers and Beatrice Medicine, eds., *The Hidden Half: Studies of Plains Indian Women* (Washington, D.C.: University Press of America, 1983): 29-52.
28. Weist, "Beasts of Burden," 33. See also, Kehoe, "The Shackles of Tradition," 57.
29. Kehoe, "The Shackles of Tradition," 56.
30. *Ibid.*, 70.
31. Indian agents to the Pueblos were initially based in Santa Fe. With the establishment of the Territory of New Mexico, the New Mexico Superintendency replaced the Santa Fe Agency. Four agents were assigned to the Superintendency. The Pueblo Agency was established at Santa Fe in 1854. However, an individual agent usually was responsible for more than one "agency" at a time. In 1874, the Superintendency was abolished and thereafter agents reported directly to the Bureau of Indian Affairs in Washington, D.C. Edward E. Hill, *The Office of Indian Affairs, 1824-1880: Historical Sketches* (New York: Clearwater Publishing Company, 1974), 111-116, 163.
32. Letter from Hugh N. Smith, Agent, to the Commissioner of Indian Affairs dated March 9, 1850 in *Annual Report of the Commissioner of Indian Affairs, 1850* (Washington: Government Printing Office, 1850): 110-112, 111; Letter from Ben Thomas, U.S. Agent Pueblo Indians, to the Commissioner of Indian Affairs dated August 24, 1876 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1876* (Washington: Government Printing Office, 1876): 111; Letter from Ben Thomas, U.S. Agent Pueblo and Cimarron Agencies, to the Commissioner of Indian Affairs dated August 20, 1877 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1877* (Washington: Government Printing Office, 1877): 161-162; Letter by Ben Thomas, U.S. Agent Pueblo and Abiquiu Agencies, to the Commissioner of Indian Affairs dated September 4, 1878 reprinted in George Fay, ed., *Zuni Indian Pueblo, New Mexico, Part II: Pueblo Indian Agents' Reports, and Related Historical Documents, 1849-1914* (University of Northern Colorado Museum of Anthropology: Occasional Publications in Anthropology, Ethnology Series, No. 21 1981), 97 (subsequent references to George Fay are referred to as "Fay, *Zuni Indian Pueblo*"); Letter from Ben Thomas, U.S. Agent Pueblo and Abiquiu Agencies, to the Commissioner of Indian Affairs dated August 14, 1879 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1879* (Washington: Government Printing Office, 1879): 118-120; Annual Report by Ben Thomas, U.S. Agent Pueblo and Jicarilla Apache Agencies, to the Commissioner of Indian Affairs dated September 1, 1882 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1882* (Washington: Government Printing Office, 1882): 129-130, 129.
33. Letter from W.F.M. Arny, U.S. Agent Pueblo Agency, to Nathaniel Pope, Superintendent of Indian Affairs, Santa Fe, New Mexico, dated August 18, 1871 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1871* (Washington: Government Printing Office, 1872): 380-395, 395.
34. Letter by Ben Thomas, U.S. Agent Pueblo, to the Commissioner of Indian Affairs dated

- August 24, 1876 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1876* (Washington: Government Printing Office, 1876): 111.
35. Letter by Ben Thomas, U.S. Agent Pueblo Indians, to the Commissioner of Indian Affairs dated September 8, 1875 in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1875* (Washington: Government Printing Office, 1875): 332-333, 333.
36. Ibid.
37. Typically, these cases were brought at the instigation of the Pueblo through the Indian agent assigned to the Pueblo. *U.S. v. Lucero*, 1 NM 422 (1869).
38. Ibid, 423-424.
39. Chief Justice Watts who authored the *Lucero* opinion noted that "the associate justice now beside me, Hon. Joab Houghton, has been judge and lawyer in this territory for over twenty years, and the chief justice for over seventeen years." Ibid, 441-442.
40. Ibid, 441-2.
41. Ibid, 454.
42. It is interesting to note that during this time period most of the Catholic missions in the Pueblos were in extreme disrepair and no Pueblo had a resident priest conducting regular services.
43. *U.S. v. Joseph*, 94 U.S. 614 (1876).
44. Ibid, 617.
45. Ibid, 617-618.
46. *Territory of New Mexico v. Delinquent Taxpayers*, 12 N.M. 139 (1904). See also *U.S. v. Mares*, 14 NM 1 (1907) (holding that defendant did not violate federal law prohibiting sale of liquor to Indians where defendant had sold liquor to residents of Taos Pueblo.)
47. *Delinquent Taxpayers*, 12 N.M. 146.
48. Janet McDonnell, *The Dispossession of the American Indian, 1887-1934* (Bloomington: Indiana University Press, 1991), 1.
49. See generally, Frederick Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (Cambridge: Cambridge University Press, ed. 1989), 15.
50. Hoxie, *A Final Promise*; McDonnell, *The Dispossession of the American Indian*.
51. McDonnell, *The Dispossession of the American Indian*, 8. Hoxie pointed out that "in every major land cession there were specific economic interests who were bound to profit by a reduction of the reservations. Whether they were merchants, railroad executives, or simple farmers, their cry was the same: tribal lands were a barrier to prosperity." Hoxie, *A Final Promise*, 47.
52. McDonnell, *The Dispossession of the American Indian*, 6-18.
53. Annual Report to the Commissioner of Indian Affairs, dated October 24, 1881 by Ben Thomas, reprinted in Fay, *Zuni Indian Pueblo*, 110.
54. Thomas wrote that "the Pueblos are not in any sense described by the word Indian in its ordinary acceptance, because they are not warlike nor nomadic, nor dependent upon the government for subsistence." Annual Report to the Commissioner of Indian Affairs, dated September 1, 1882 by Ben Thomas, in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1882* (Washington: Government Printing Office, 1882): 129-132, 129.
55. Charles Lange, Carroll Riley and Elizabeth Lange, eds., *The Southwestern Journals of Adolph F. Bandelier, 1889-1892* (Albuquerque and Santa Fe: The University of New Mexico Press and The School of American Research, 1984), 613, n. 976.
56. Annual Report to the Commissioner of Indian Affairs, dated October 14, 1884 by Pedro Sánchez, in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1884* (Washington: Government Printing Office, 1884): 138-139, 138.
57. Annual Report to the Commissioner of Indian Affairs, dated September 10, 1885 by Dolores Romero, in *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1885* (Washington: Government Printing Office, 1885): 156-159, 157.
58. Report of Superintendent of Indian Schools dated August 16, 1892, appended to the 61st *Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1892* (Wash-



- ington: Government Printing Office, 1892), 526-563, 540.
59. Ibid, 552.
  60. Ibid, 556.
  61. Ibid.
  62. For a poignant description of the last years of freedom of the Chiricahuas and their subsequent 27 year incarceration as U.S. prisoners of war, see Eve Ball, *Indeh: An Apache Odyssey* (Norman: University of Oklahoma Press, 1980).
  63. Ewers, "The Emergence of the Plains Indian," 539-540. Geronimo was exhibited at several world's fairs. World's fairs served multiple purposes in turn-of-the-century America. In addition to the explicit goal of educating men and women in the newest developments in commerce and the fine arts, fair organizers stated that they wished to demonstrate the progress of mankind. For example, the organizers of the St. Louis World's Fair in 1904 declared that the Fair was in honor "of the greatest peaceable acquisition of territory the world has known!" J.W. Buel, ed., *Louisiana and the Fair: An Exposition of the World, Its Peoples and Their Achievements* (Saint Louis, MO: World's Progress Publishing Co., 1905), 10 vols, vol. 1: 7. Clearly, history was being rewritten as the phrase "peaceable acquisition" ignored centuries of the pitched warfare required to wrest the continent from its first inhabitants. One of the primary demonstrations of progress, was the display of colonial subjects. For additional information on world's fairs and the exhibition of indigenous peoples, see Burton Benedict, "The Anthropology of World's Fairs" in Burton Benedict, ed., *The Anthropology of World's fairs: San Francisco's Panama Pacific International Exposition of 1915* (London and Berkeley: The Lowie Museum of Anthropology, 1983): 1-65; Robert Rydell, *All the World's A Fair: Visions of Empire at American International Expositions, 1876-1916* (Chicago: The University of Chicago Press, 1984).
  64. Hoxie, *The Final Promise*, 85-90.
  65. Debo, *Geronimo*, 408.
  66. "The Omaha Exposition and the Indian Congress" *Scientific American*, October 15, 1898, 248-249, 248.
  67. Renato Rosaldo, *Culture and Truth: The Remaking of Social Analysis* (Boston: Beacon Press, 1989): chap. 3.
  68. Ibid, 73.
  69. Marta Weigle, "Southwest Lures: Innocents Detoured, Incensed Determined" *Journal of the Southwest* 32 (Winter 1990): 499-540, 518
  70. See for example the promotional literature published by the Santa Fe Railroad written by an anthropologist, George Dorsey, *Indians of the Southwest* (Chicago: Passenger Department, Atchison, Topeka and Santa Fe Railway System, 1903). See also, Marta Weigle, "Exposition and Mediation: Mary Colter, Erna Ferguson, and the Santa Fe/Harvey Popularization of the Native Southwest, 1902-1940," *Frontiers: A Journal of Women Studies* XII (1992): 117-150, 119-120.
  71. Weigle, "Exposition and Mediation," 120; Barbara Babcock, "'A New Mexican Rebecca': Imaging Pueblo Women," *Journal of the Southwest* 32 (Winter 1990): 400-437.
  72. Martha Banta, *Imaging American Women: Idea and Ideals in Cultural History* (New York: Columbia University Press, 1987): 6.
  73. Ibid, 7.
  74. 29 Stat. 506, c. 109, as supplemented by sec. 2 of the Act of June 20, 1910, 36 Stat. 557, c. 310.
  75. *People v. Gebhard*, 151 Mich. 192, 199 (1908).
  76. *U.S. v. Sandoval*, 231 U.S. 28, 36-37 (1913).
  77. *U.S. v. Sandoval*, 198 F. 539, 540 (D. New Mexico, 1912).
  78. *U.S. v. Sandoval*, 231 U.S. at 39.
  79. Ibid, at 42.
  80. Ibid.
  81. Ibid, at 43.



82. Ibid, at 44.
83. Ibid.
84. On their first expeditions to the Southwest beginning in 1879, Stevenson assisted her husband in his collecting activities, cataloging objects collected in the field and writing up his fieldnotes. Cheryl Foote, *Women of the New Mexico Frontier, 1846-1912* (Niwot: University Press of Colorado, 1990): 119.
85. One scholar was "surprised to discover how little time Bandelier spent in the pueblos. His actual residence in one or another pueblo during the years 1880 and 1885 would appear to total only a few months at most." Lange, Riley and Lange, eds., *The Southwestern Journals of Adolph Bandelier*, 266, n. 100.
86. *U.S. v. Sandoval*, 231 U.S. at 44. Matilda Stevenson, "The Zuni Indians: Their Mythology, Esoteric Fraternities, and Ceremonies" in *Twenty-third Annual Report of the Bureau of American Ethnology, 1901-1902*, (Washington, D.C.: Government Printing Office, 1904): 1-608. Adolph Bandelier, *Final Report of Investigations among the Indians of the Southwestern United States, Carried on Mainly in the Years from 1880 to 1885*, Part I. Papers of the Archaeological Institute of America, American Series 3. (Cambridge, Mass.: John Wilson and Son, 1890): 43.
87. Not to say that imperialist nostalgia does not permeate Stevenson's report. In my dissertation, I explore the tension in Stevenson's writings between these archetypes of noble savage and uncivilized brute.
88. *U.S. v. Sandoval*, 231 U.S., 49.
89. *U.S. v. Sandoval*, 231 U.S., 40-41.
90. Joe Sando, *Pueblo Nations*, 90-91.
91. Ann Stoler, "Carnal Knowledge and Imperial Power: Gender, Race, and Morality in Colonial Asia," in Micaela di Leonardo, ed., *Gender at the Crossroads of Knowledge: Feminist Anthropology in the Postmodern Era* (Berkeley: University of California Press, 1991): 51-101
92. *U.S. v. Chavez*, 290 U.S. 357, 361 (1933).
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