

Sovereignty and Peoplehood

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The term “sovereignty” perplexes students of American Indian policy perhaps more than any other concept. The word comes from the Old French *soverain* or *souverein* and was usually used in reference to a king or lord who had the undisputed right to make decisions and act accordingly with or without the benefit of counsel, religious sanction or consent of the governed. The word is also very likely linked to the Old French *rene* from which, in turn, the English derived the word “rein.” Reins, of course, are used to control horses and the terminology aptly applies to those who maintained absolute control over particular populaces and territories under the European feudal system: mounted, arms-bearing, property-owning “thugs in armor” known as knights. *Sovereyneté*, which was imposed on the English by the Norman conquest of 1066 and hence became an Anglo-French word, has come to mean the acknowledged legal authority of a ruler or a state. Sovereignty, then, is a Western European concept that is often associated with taking and holding ground in a military sense. The authority to wield power, simple coercion, underpinned the concept of sovereignty.

Today, sovereignty is linked with statehood rather than with kings or mounted knights. Essentially a state is the hierarchical apparatus—government, elites, institutions—that controls a defined territory or nation. Over the years political philosophers and academicians have developed a set of definitions of the ways in which human beings organize themselves socially and politically. These categories tend to be hierarchical and reflect a social and cultural Darwinian notion that human organization is a process that matches biological evolution in that it progresses from the simple to the complex as a result of competition for territory, the need to control the environment or to fend off other, more predatory human groups. To use this Western terminology, the “lowest,” most “simple,” and most “primitive” form of socio-political organization is the “band.” This form is defined as a small group—perhaps twenty to fifty people—of hunters or foragers led by an informally acknowledged headman who primarily handles domestic disputes and leads the group in various economic and religious activities. The next highest socio-political level, according to Western scholars, is the “tribe.” The tribe usually incorporates a few thousand people into a single social, but not necessarily political, organization. It is considered to be an association of kin groups that link themselves to a hypothetical or mythical ancestor. There is usually no centralized form of political organization other than an informal council of elders or other acknowledged leaders who lead by example rather than by coercion.¹ In these types of socio-political systems authority was either “traditional” (gerontocracies, theocracies, patriarchies, matriarchies) or “charismatic” (individuals of exemplary sanctity, heroism, knowledge or character).²

In this scheme, the state is the highest and most “modern” form of socio-political organization. States are thought of as incorporating large numbers of people under a single, highly centralized form of government. The government has the legitimate authority to collect taxes, draft labor, raise armies and decree laws. It uses coercive institutions—police, militaries—to protect the state or maintain order within. This organizational form, whether called a “kingdom,” “city-state,” or “nation-state,” has nearly total control over its members (citizens or subjects) and seeks or maintains political efficacy over a well-defined territory. Sovereignty is considered to be inherent in statehood, because the authority to use coercive power rests on a proscribed and presumably rational means of selecting persons to fill the offices of state. In the Western mind, sovereignty ultimately rests on the power of compulsion.

Native American tribes have often been denied full-sovereign status for several reasons. In the first place,

they are considered "tribes" and thus are categorized as "pre-states," "non-states," or "primitive" societies lacking a systematic method of delegating authority, coercive institutions, well-defined national boundaries and centralized forms of government. In short, Native American tribes rarely meet the criteria of sovereign statehood as defined by Western thinkers and scholars. Secondly, Native Americans are viewed as a conquered group, subject to and dependent on the conquering state. In the United States, Native Americans have what has been termed "limited sovereignty," a de jure or legally proscribed form of sovereignty essentially meaning that the tribes possess certain sovereign rights as have been defined in the American courts of law.³ From this point of view, the rights of sovereignty left to the tribes are either acknowledged or are "given" to Native American tribes by the courts acting under the authority of the U.S. Constitution.

The problems with these lines of thought are many and complex. When the Europeans came to the New World, they recognized the tribes as sovereign nation-states. The fact that treaties were made between Indian tribes and European kingdoms is strong evidence that the crowned heads of England, Spain, Holland and other nations viewed Native American tribes as being autonomous, self-governing bodies that controlled defined territories. International rules of behavior and customary practices held that treaties could only be made between two or more sovereign states. Consequently, Native American tribes have the rights of sovereigns based on the fact that other states recognized them as sovereign entities. Native American sovereignty, therefore, can be seen as inherent and thus pre-constitutional.

On the other hand, several students of Indian-white relations have argued that treaties made by Europeans and Euro-Americans with Native Americans were really extemporaneous and expedient measures. Tribes were not really "states" that could compel all of their citizens to comply with the provisions agreed to in the treaties. Not only that but the tribes had very different views in regard to the ownership of real property and did

not have the systemic means of conveying land titles and delineating clear territorial boundaries. Moreover, tribal leadership was usually vested in individuals with charismatic or traditional authority rather than in the offices of state. A tribal leader may agree upon something one day that his charismatic successor might refute the next.

Some of these arguments have merit, albeit within a certain ideological framework. Certainly the tribes did not have bureaucracies that surveyed real estate and recorded land titles. But the ownership of real property had little meaning for most of the tribes. Native Americans knew their tribal boundaries but thought of those boundaries in cultural, environmental, religious or symbolic terms. Fiefs, enclosures, crown lands, freeholds or titles in fee simply did not exist in Native North America prior to the advent of the whites. In addition, the general weakness of coercive power in traditional and charismatic forms of political authority tends to undermine the idea of sovereignty in Western European thought. After all, the original term was applied to a hierarchical system that readily used the force of arms to compel compliance to the whims of a single ruler or to an aristocracy or to defend their proprietorship over a specific territory. Forms of traditional authority are usually advisory rather than compulsory and charismatic authority can be fleeting.

Sovereignty, therefore, has not strayed much from its original Medieval European meaning. Neither has the meaning of statehood for that matter, because the state still rests on its ability to use force to maintain itself and protect its borders. These ideas reflect the notion that the fundamental organization of statehood is for war both externally and internally.

This conception of state sovereignty, however, ignores its full definition. Sovereignty is basically the acknowledged and undisputed ability of a group of people to govern themselves whatever their military capabilities. Acknowledged sovereign states in fact exist without military

forces or as protectorates of other more powerful states. These facts beg the following question: If sovereignty is not necessarily based on coercive power, then on what grounds does it rest?

De facto or “real” sovereignty is inherent in a people. Cultures and social, political and economic systems all change, but peoplehood is remarkably and consistently persistent. The conquering knights of medieval times, among whom the term sovereignty originated, actually obtained a legal, or de jure, form of sovereignty by force of arms. They obviously had power in their ability to use force and their rule only became real after they had coerced a given people into submission. They made the laws. But medieval kings’ sovereignty was directly taken from the conquered and when the noble lords were no more, the people essentially gave the undisputed right to rule to another political system. Without a people there is no sovereignty.

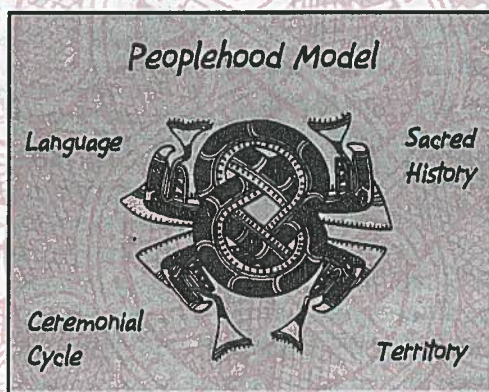
The idea that groups of human beings constitute various “peoples” has always been understood but rarely as anyone attempted to define its basic elements. “Peoplehood” is a community of human beings that possesses a distinct language, a particular territory, a specific ceremonial cycle and a sacred history that essentially explains how they came into existence, how they should behave in relation to their environment, when and how they perform ceremonies, and how they are related to each other within the community. Edward H. Spicer first outlined this conception in his classic studies, *Cycles of Conquest* and *The Yaquis: A Cultural History*. It was explained further in George Pierre Castile and Gilbert Kushner’s *Persistent Peoples: Cultural Enclaves in Perspective*.⁴ Robert K. Thomas, the Cherokee anthropologist, worked on the idea for several years and modified it to include the element of sacred history and demonstrated in numerous lectures and in a single paper how the elements of peoplehood are interlinked and

interwoven so as to be inseparable.⁵ J. Diane Pearson, Ben Chavis and I further refined the idea and illustrated the interlinkage of the four factors of peoplehood in a paper presented at the Western Social Science Association conference in April 2000.

The diagram of the peoplehood model shows the four factors as they overlap, entwine, interpenetrate and interact. A group-particular language, by way of its nuances, references and grammar, gives a sacred history a meaning of its own, particularly if origin, creation, migration and other stories are spoken rather than written. Language defines place and vice-versa. Place names, for example, essentially bespeak of a relationship with the environment or describe an area within the context of a people’s sacred history and culture.⁶ A particular people’s language is usually liturgical as well as colloquial. Religious ceremonies are performed in a language familiar within the group. On the other hand, language can be symbolic, and

ritual language might not have meaning in any other context than in a particular religious ceremony.

Spicer, Castile and Kushner, and Thomas used the term “religion” as part of the four-fold peoplehood model. Pearson, Chavis and I modified this idea somewhat and refer to this element of peoplehood as a group’s “ceremonial cycle.” This was done to demonstrate how a group’s religion is inseparably linked to language, sacred history and to a particular environment. Sacred histories explain why and how a ceremony takes place. They also provide the times and the circumstances for ceremonial practices. Peoples that have a historical and symbolic relationship with a particular place, observe and know its cycles of natural events—solstices and equinoxes, salmon runs, buffalo calving, the blooming of particular plants, the appearance of certain stars or planets—that occur at a certain time and place. Ceremonies most often



coincide with seasonal, stellar, planetary, solar, floral or faunal changes that occur within the group's particular territorial range. Group-particular territories are always mentioned in sacred histories and quite often creation stories specify landscapes as being especially holy. Ancestors are buried in particular places. Shrines are erected and certain parts of the immediate environment—plants, water, earth, and animal parts—are often utilized in religious ceremonies. Additionally, if a group has a viable religion, it must live in the expectation of divine intervention and the creation of more sacred places. Homelands are often considered holy lands because they are mentioned in sacred histories and even when groups are displaced from their original territories, the people continue to attach great symbolic and religious meaning to them. In short, the ceremonial cycle is linked by way of language and sacred history to a particular environment and ecology. It makes up a given people's "world" and directly affects the group's worldview.⁷

The peoplehood model adequately reminds us as scholars that human societies are all complex and that Native Americans entwine everyday life with religious practice and the view that human beings are part of, rather than an imposition on, their environments. The model is a holistic matrix and reflects a much more accurate picture of the ways in which Native Americans act, react, pass along knowledge and connect with the ordinary as well as the supernatural worlds. The concept also goes beyond grouping human beings according to race, ethnicity, religion, social class or even nationality. Peoplehood, more than any other form of socio-political organization, is the most basic. It is the basis of nationalism and the original organization of states. Equally, the model of peoplehood serves to explain and define codes of conduct, civility, behavior within a given environment and relationships between people. What we term "law" and the enforcement thereof, is unquestionably a part of the peoplehood matrix. Sovereignty, therefore, is inherent in peoplehood. The concept renders terms such as "uncivilized," "pre-state," "primitive," and "limited sovereignty" academically useless—except to explain how

these inaccurate concepts have been utilized to justify theft, cultural suppression and genocide.

Notes

1. Lawrence H. Keeley, *War Before Civilization: The Myth of the Peaceful Savage* (New York: Oxford University Press, 1996): 26-27.
2. Max Weber, *The Theory of Social and Economic Organization* (New York: The Free Press, 1964): 328-363.
3. I am indebted to my friend and colleague Professor Eileen Luna for explaining the concepts of de jure and de facto sovereignty to me.
4. Edward H. Spicer, *The Cycles of Conquest* (Tucson: University of Arizona Press, 1962); George Pierre Castile and Gilbert Kushner, eds., *Persistent Peoples: Cultural Enclaves in Perspective* (Tucson: University of Arizona Press, 1981).
5. Kenneth Fink, "Riding Behind with a Pillow Strapped On," in Steven Pavlik, ed., *A Good Cherokee, A Good Anthropologist: Papers in Honor of Robert K. Thomas* (Los Angeles: University of California American Indian Studies Center, 1998): 121.
6. Keith Basso, *Wisdom Sits in Places: Landscape and Language Among the Western Apache* (Albuquerque: University of New Mexico Press, 1996).
7. Vine Deloria, Jr., *God is Red* (New York: Gosset and Dunlap, 1973).