Indian Self Rule

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CHAPTER SIX
The Legacy of the Termination Era

Larry EchoHawk, Mary Ellen Sloan, Russell Jim,
Joe De La Cruz, Sol Tax

I disagree with the statement that termination is not a threat anymore. Our enemies, if I can call them that, all have learned from their mistakes. They have learned over the last twenty years to be more subtle about what they want. We are, once again, faced with resolutions from national powerful organizations such as the American Farm Bureau Federation calling for termination of the reservations. I asked leaders of the federation, “Why have you adopted this resolution?” And they told me frankly that the Indians are getting too much land and water back. It is economic reasoning. The machinery also is in place to reduce health and other services to Indian people. It is the first move toward present day termination.

Elmer Savilla, director,
National Tribal Chairmen’s Association

Termination is here to stay. It is going to hit us in the face almost every day. We had better be prepared for it. The National Interstate Congress on Equal Rights and Responsibilities is the main thrust of anti-Indianism in this country. It grew out of South Dakota into Montana and has spread into seventeen states. It really shocks me that in America we can have the kind of racial hatred that this organization espouses and brags about.

Robert Burnette, Rosebud Sioux, former director, NCAI

The reason that the idea of termination, of cutting off special provisions for Indians and forcing assimilation, recurs so frequently is that it
reflects a deep belief that different economic and community organization modes are inferior to the American norm. There is the continuing temptation for policy makers to assume that everything possible has been done to help Indians but that it has failed. The only alternative, they say, is to stop these paternalistic efforts and force the Indian to be like the rest of us. It is much easier to reach this conclusion, all too often, than to face the extremely difficult conditions in which Indians have been living and the costs of providing a relatively normal range of opportunities to Indian people. This is what makes the termination history so important. It shows that there is no easy answer and that seemingly easy solutions only make things a great deal worse. It was the triumph of the leaders of the restoration movement to prove this to the Congress and conservative political leaders. It would be a tragedy if this knowledge were lost.

Gary Orfield, Brookings Institution, professor of political science, University of Chicago

Larry EchoHawk

I think it is important that we talk about what termination was yesterday, what it is today, and what importance it has for us in the future. To me, termination has three basic aspects. Back in the 1950s, the federal government was trying to escape the responsibility that its relationship with Indian people had imposed. Over the years, it had wanted more control over the lives and resources of Indian people, but there was no justification for that control in the United States Constitution. It merely gave the federal government the power to regulate commerce with Indian tribes. It was through the judicial branch of the federal government that the doctrine of guardian and wardship status was created. Eventually, the federal government got tired of paying the price for being vested with that enormous power. Termination was an effort to do away with the trust responsibility, and we see that happening again today.

A second aspect of termination has to do with assimilation. In the 1950s, the government wanted to make the Indian people become more like mainstream society. By placing Indian people under the wing of state governments, doing away with their tribal governments, making them hold their lands as other citizens of the United States hold theirs, and having their property subject to taxation, federal officials thought
that assimilation would occur. That was not a new policy, but it
received renewed vigor throughout the termination era.

The third and most important aspect of termination has to do with
the attack on self-rule, or the sovereignty of tribal governments. It was
not only the termination acts that affected particular tribes. It was also
the enactment of Public Law 280, which swept away the authority of
Indian tribes in jurisdictional areas. There was almost a complete
destruction of tribal government for many Indian nations.

The policy of termination has been repudiated, at least in word,
by presidential administrations since 1958, but we still suffer the impact
of termination. The tribes that were affected by the termination acts
were almost completely decimated economically. I say that because of
my experience in working with the Paiute people in southern Utah.

I have spoken with many people who were touched by termination.
They have bitter feelings toward the government. These people are
angry because they have not been identified in the eyes of the gov­
ernment as Indian, even though everyone would readily recognize what
they are.

Overall, the termination policy was an abysmal failure. We have
looked at termination as a policy that lasted from approximately the
mid-1940s into the 1960s. I submit to you that termination has been
around a lot longer than that, and you can expect to see it in the future.
Maybe the descriptive word has changed, but the thrust of the policy
is there. From the time of Indian removal, through the creation of
reservations, through the enactment of the Major Crimes Act in 1885,
to the General Allotment Act in 1887, you can see the work of the
United States Congress in trying to dismantle tribal government and
Indian rights.

The actions of the courts in the United States have not been men­
tioned, but they run parallel to termination. In Lone Wolf vs Hitchcock,
the United States vs Montana, and many other cases, the rights of
Indian people as tribal governments have been eroded. It is disturbing
to me to hear that termination is only something of the past. I believe
we are being set up. We have to be aware that termination is some­
thing that we face today. We have got to be better prepared in the
future, because the resources that Indian people had are greatly dimin­
ished today.
The Shoshone-Bannock Indian tribe was promised, in 1868, that they would have a permanent homeland of 1.8 million acres. That solemn promise of the United States has been reduced to a mere 500,000 acres, and twenty years from now I wonder what acreage will be left on that particular reservation. And the Shoshone-Bannock are one of the luckier groups of Indian people as far as their ability to maintain tribal rights and resources.

The real challenge falls upon tribal governments. No doubt, they will have to deal with the United States Congress to ward off further termination legislation. But ultimately Indian people will prevail because of their own inner strength. I have to give credit to one of the draftsmen of the Indian Reorganization Act for introducing that thought to the dominant society. In the Indian Reorganization Act, John Collier tried to build upon the strength of the Indian people. Whether you like the IRA or not, it was a significant reversal of federal Indian policy. To that extent, Collier deserves credit. But the Indian people are the ones that will provide the final victory.

MARY ELLEN SLOAN

I am an attorney from Salt Lake City. I would like to talk about my experiences in representing the Paiute, who were a terminated tribe. The Paiute are composed of five bands located in southern Utah. In the early 1950s, when termination was in vogue, Senator Arthur Watkins, one of the primary architects of the termination policy in Congress, looked to tribes in his own state to participate in this federal policy. Consequently, the Utah Paiute were selected for termination.

It is important to examine some of the historical background of termination. William Zimmerman developed four criteria to determine which tribes should be terminated. They were (1) the degree of acculturation, (2) the economic resources upon which the tribes could rely after termination, (3) the consent of the tribal officials, and (4) the consent of state and local governmental officials.

A short time later, the Bureau of Indian Affairs undertook a socio-economic survey of the Utah Paiute. That information was submitted to Congress during its deliberation on the Paiute termination legislation. The record was very clear that the Paiute did not meet Zimmerman's
Termination criteria. The quality of Paiute land was so poor that frequently the BIA was unable to find anyone to lease it for grazing purposes. Furthermore, there was no informed consent. There were some Paiutes that agreed to termination, but informed consent, as we would understand it, did not exist. State and local officials also had very little input. They were not particularly interested in the Paiute.

Nevertheless, the end result was that this particular tribe was terminated. Because of termination the Paiute lost approximately fifteen thousand acres of land through tax sales or sales of land in anticipation of being taxed. In addition, they lost any opportunity for federal services and other federal benefits. It is very clear that the selection of the Paiute for termination was a political decision. It was not based upon rational criteria.

In 1968, the Bureau of Indian Affairs once again did a socio-economic survey of the Paiute. It confirmed the basic information that previously had been included in the legislative record. Their socio-economic condition was extremely poor. Housing conditions were bad, low educational levels common, and tribal income minimal.

In 1974, after the passage of the Menominee Restoration Act, the Paiute began to explore the possibility of restoration for their tribe. In 1978, legislation was introduced in the Senate and in the House to restore their status as a federally recognized Indian tribe. The original restoration legislation would have restored federal services and federal recognition. It did not provide for the restoration of land. The bill subsequently was amended in the Senate to include a reservation land program. It was then sent to the House. The House concurred, and legislation was drafted that included a provision for the development of a reservation plan, which the Paiute have been working on.

With respect to the specific impacts of termination, federal services and federal recognition were ended. There was also a misconception that was very destructive. It was that termination somehow changed a person's identity as an Indian. That misconception existed for a long time. One of the significant things about restoration was that it put all of that aside and restored federal services.

Federal recognition of the Paiute was extremely important. Since the restoration legislation, the Paiute have developed a tribal government, adopted a tribal constitution, and participated in federal pro-
grams such as 638 contracting. These achievements were possible because the restoration legislation provided for the application of the Indian Reorganization Act.

There were non-Indian influences on the restoration legislation. State jurisdiction was an issue. Congress provided that Public Law 280, as amended, would apply. There also was a provision that hunting and fishing rights would not be restored.

There have been several pieces of restoration legislation passed for tribes besides the Paiute, but Congress has not adopted a general bill that would restore all the tribes that had been originally terminated. Congress still requires each tribe to propose its own restoration legislation.

Russell Jim

First of all, I would like to clarify the misconception that I am an “activist.” This play on words, in this borrowed tongue that I speak, makes it sound as if I am a rebel. The moral responsibility that comes from my heritage prevents me from being a rebel. I have been influenced by elders who told me to be gracious to all people, including the transients that have come to this continent.

The Yakima nation did not accept termination. We were about ninth on the list but were never terminated. The Yakima nation also did not accept the Indian Reorganization Act. I take exception to the statement that if it were not for John Collier, the tribes today would not exist. We refused to accept the IRA, but we still exist as a culturally distinct people. We speak our own language and practice our own religion. It is actually not a religion but a way of life. Everything is tied together.

Termination has been imposed on just about all tribes to a certain degree. There has been a gradual erosion of treaty rights by a small group of influential people that want to have their own way. The most glaring example today of termination and the erosion of treaty rights is the issue of nuclear waste. The Yakima Reservation and the Hanford Works are only thirteen miles apart as the crow flies. The Yakima nation consisted of 12 million acres prior to the Treaty of 1855. In that treaty, we ceded to the federal government 10.8 million acres and retained 1.3 million acres. It was our understanding that in the ceded
10.8 million acres, we retained the right to travel, gather food and medicine, and fish in all usual and accustomed places. But because of the damage done by radiation to the environment, who in their right mind would travel through that area and gather food and medicine.

Boarding schools are another form of termination. I was sent to a boarding school. We were beaten when we spoke our language. The plan, as I see it, when I look back in history, was to prevent Indian children from learning the day-to-day teachings of their families. Instead, foreign values were imposed.

I would also like to refer to the issue of unemployment. Politicians, whether they are running for mayor or president of the United States, always stress the need for employment. This imposes a different value system upon a food-gathering people. The emphasis on getting a job and earning that almighty dollar contributes to greed. It is called the "Great American Way."

The creation of these so-called jobs imposes on the natural resources of tribes. It leads to a form of self-cannibalism. You can observe self-cannibalism in Indian country if you look at the Crow's coal, the Osage's oil, and the Yakima's timber. In the Yakima case, there was mismanagement of timber resources by the Bureau of Indian Affairs. It wanted to cut the timber at an accelerated rate of speed. Approximately 90 percent of the Yakima income comes from the timber. This revenue keeps our government running. Once the prime timber vanishes, the Yakima will become more dependent upon the grants and contracts of the federal government. When the federal government controls the purse strings, they control your sovereignty.

There has been too much apathy in Indian country and too much misunderstanding by the mainstream of society. Christians must start realizing their moral responsibility. It is a shame what they have done and what they are attempting to do to the indigenous people of this planet. I do not wish to be only remembered in the history books by my children's children. The unique indigenous people on this continent need to keep their identity. To have a versatile world is what the Creator intended. If He wanted a melting pot, He would have made it a long time ago. We would have been all one color and maybe the same size.

The Yakima fought hard against the termination of any tribe. We were not out in the forefront verbally. My people always have had a
tendency to stay back but to speak powerfully and speak wisely. I take exception to the idea that there were just a few people fighting against termination. There were a lot of us. My family has been involved in politics for a long time. Influential leaders in the Pacific Northwest fought very hard against termination. The thwarting of termination would have been nearly impossible without them. The Affiliated Tribes of Northwest Indians are still a very influential group and a segment of the National Congress of American Indians.

JOE DE LA CRUZ

I have been involved in resisting or fighting some form of termination all my life. Ever since the European people arrived on this continent, we have been in the process of termination. But you do not learn much about it in books that people read.

I often ask people, how did Public Law 280 come about in 1953? Only one person has given a response that I feel very comfortable with. After the Second World War, the United Nations was established, and it emphasized the need to decolonize people. The United States was one of the key sponsors of the United Nations. Someone in the United States government realized that people victimized by colonialism lived in their own country. From 1947 until the early 1950s, there was a drive to terminate the colonial rule of the Bureau of Indian Affairs.

Most of us who are involved in Indian affairs know about the negative impact of termination. Concurrent Resolution 108 is still on the books. We supposedly are in another era, entitled self-determination, but we still have many holdovers within the various federal and state agencies who have the mentality of the termination era. We are battling today over the question of jurisdictional authority. Tribes supposedly retained all the powers they ever had, but we are challenged every time we attempt to do something. Because of Public Law 280, we had conflicts with the states and counties over highways. We also had confrontations over our children and the rights of our children. States used Public Law 280 to impose their educational practices on our children.

The Department of Interior and the Bureau of Indian Affairs still have a colonial mentality. When it comes to a question of who has jurisdiction over Indian territory, that trustee is a very weak sister.
I know that because of Public Law 280. During the termination period, the Quinault people lost over 35,000 acres of their timberland. Some of that land was valued at a million dollars per 80 acre stand.

It took several years and thousands of man hours of work to find out what really happened. Recently, the Supreme Court decided in the Mitchell case that we could sue the United States over the mismanagement of those lands and resources. One of the key examples of mismanagement that we found was that none of our people were properly informed about the disposing of Indian property. When they signed documents, they thought they were just selling their timber, not the land. We found instances where Indian people received only $5,000 for an 80 acre stand of timber.

We have worked on this problem since 1965. We went to the Court of Claims. They said we could not sue the United States. Our attorneys appealed to the Supreme Court, which sent the case back to the Court of Claims after ruling 6 to 3 that we could sue the United States for mismanaging Indian resources. A lot of our people thought that they had won. I told them it was just another hurdle. I warned that we might be dead before the case goes through the federal courts again.

It is easy for a few people in the various government agencies to put barriers in the way when tribes start trying to move forward in a direction of self-determination. The Quinault nation has maintained that it has complete jurisdiction on the reservation. In order to uphold our jurisdictional rights, we had to fight the state, the federal government, and especially the Bureau of Indian Affairs. We were challenged every step of the way.

In the early 1960s, the Quinault hired some people to help zone our reservation. The Washington coast within our reservation was zoned a wilderness area. The rest of the reservation was zoned for forestry. It took about eight years before someone challenged our zoning ordinance. First of all, the Bureau of Indian Affairs refused to recognize it. 

Then, a real estate development corporation from California challenged the Quinault nation zoning ordinance. We beat them in a district and a circuit court.

The tribe also developed its own building code, sanitation ordinance, and highway act. Again, the Bureau did not recognize these laws. After we took some of these cases to the Ninth Circuit Court, the
Bureau finally has started to work with the tribe and recognize the law of the Quinault nation. They also began to recognize our forestry practices, but in 1984, they attempted to deny our 638 contracts on forestry management because we required the Bureau of Indian Affairs, the United States Forest Service, and the state to get hydraulic permits from the tribe any time they were doing anything around a waterway that supported a salmon habitat.

Because of these problems, I do not think that termination has ended. It will always be with us. Indian people will continue to feel the impact of the termination era until policies are created that guarantee sovereign tribal government.

SOL TAX

I think that it is worthwhile for us to see urban relocation as part of the policy of termination. The relocation program in the early 1950s promoted the dispersal of Indian communities. Instead of developing reservations and continuing tribal identity, the government put Indians in cities far away from their homeland.

When Indians came to Chicago, they received relocation assistance for about six weeks. Indian families came on a train with a one-way ticket. Once they arrived, they had no place to go. They were met by somebody in the Bureau of Indian Affairs who took them to a rental house and found them a job. When Indians returned to the relocation office to say they had a problem, which they all did, they were told we do not have any more jurisdiction over you. We have rented you a home; if you want to move to another one, that is your problem. If you do not like the job, that is also your problem.

Over the course of the next few years, thousands of Indians relocated in Chicago. The American Friends Indian Center was established for them. Without this center, there would have been no facility to treat Indians as human beings and help families in trouble. If Indians went back to the Bureau of Indian Affairs office, they got a scolding because there were no resources for them.

At that time I was involved with the Fort Berthold Reservation. I know what happened there. Many Indians on the reservation could have made it in the city, but they were the ones who already had large
farms. The Indians who could not do anything on the reservation were the only ones that were tempted to leave and go to Chicago or some other place. People who had no means of making a living at home were taken to strange cities.

In Chicago, we had a meeting with our senator and with the social agencies. Of course, the social agencies were only interested when someone got into real trouble. We also asked for the names of the people before they came and what train they were coming on, so that we could meet the train and tell them where the Indian Center was located. Relocation officials said that was impossible. It was part of the ethics of the government not to give out individual names. It was a public scandal. There was a critical article in *Harper's Magazine*. All it did was make the Bureau of Indian Affairs angry.

The head man from the Denver relocation service came to Chicago more than once. We had meetings at the Indian Center. We tried to explain what was going on. The relocation people said, "We just want Indians to get jobs." We replied, "Why don’t you take care of them?" They said, "This is not in the law. Furthermore, the Indians are being offered opportunities to come to the cities and get better employment than they could get on the reservation." There was a big discrepancy between what was actually going on and the notion of relocation held in Washington D.C.

Many Indians were afraid that the people who relocated would no longer be supportive of the tribal view. This was not the case at all. Indians had not left their tribes. They were in the city to locate a job, just as they had gone off to other jobs in the past. In 1961, a large national Indian conference was held in Chicago. About a thousand Indians attended. They represented most of the tribes of the United States. A few individuals came from Canada and Alaska. Those in attendance worried that the Indians from Chicago would dominate the conference, but this did not happen. Indians from the city supported their tribes-people. That was their point of reference. One of the first things that came out in the conference was that no competition existed between urban Indians and those who had remained at home on their reservations.

I saw an example of this when the Census Bureau planned the 1980 census. I was at the meeting where the Census Bureau asked
Indian leaders in Chicago to help with the 1980 census so their people would not be undercounted. The reason for an accurate head count was that the federal budget for different cities was based on per capita estimates. The Indians turned them down because they did not want to compete with the money that was targeted for their reservations. It was clear that they were associating themselves with their tribes and with the reservations from which they came, rather than the city.

Meanwhile, the Indians adjusted to the city. The Indian Center prospered with help from many people outside of the Indian community but mostly with the help of Indians. This was difficult because the center had to get funds from many different sources. It was responsible for youth recreation, education, and health. The Indians did not like to go to non-Indian places if they could have their own Indian health center.

The Indian Center had its own board of directors that made all the policy. Usually, social agencies have rich people on their boards of directors. They have outside professionals who raise money for them and oversee their management. There were no professionals, at that time, among Indians in Chicago, but they have developed their own professionalism in order to be able to manage themselves. They manage the health center, the employment center, and the business association that teaches people how to do things. They are making a life for themselves, not as city Indians, but as Indians whose loyalty remains with the tribe. Their children go back and forth between the city and the reservations.

More than half of the Indians in the United States now live in urban areas where they can make a living and manage their own affairs. Relocation had terrible consequences while it was going on. Now that the Indians are settled, making their own way, and managing urban Indian institutions themselves, it does not look so bad.