Indian Self Rule

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CHAPTER ONE

The Era of Indian Self-Determination: An Overview

Philip S. Deloria

Indian tribes and Indian people indisputably possessed a greater degree of self-determination in 1976 than they did in 1960. But my point here is not to celebrate the progress of the modern era. We cannot define, let alone measure, progress until we begin to understand the essential conflict within this country concerning its perception of Indians: the United States wants to preserve a romantic ideal of the Indian way of life, but at the same time numerous federal and state forces press for a wholesale assimilation of Indians.

It is said that the termination policy of the 1940s and 1950s is dead. Termination was abandoned gradually between about 1958—when it was repudiated by Secretary Fred Seaton on a radio program in Flagstaff, Arizona—and 1960, when John F. Kennedy was elected.* Despite the formal rejection of the policy by both parties, congressional committees kept an active interest in termination until well into the 1960s. Many Indians will recall being told by various BIA functionaries throughout this period that “termination is still the policy of the federal government until HCR 108 is repealed” (a legal conclusion of arguable validity).†

† H. R. Con Res. 108, 83d Cong., 1st sess., (1953). This argument assumes that a concurrent resolution expresses continuing federal policy until explicitly repealed or superseded by Congress. In fact, such resolution expresses only the policy of the Congress that passed it and does not bind subsequent Congresses. See, e.g. 1A C. Sands, *Sutherland's Statutory Construction* (1972), pp. 337-38. Legalities aside, the pattern of legislation and appropriations on Indian affairs by the middle 1960s cast strong doubt on the validity of HCR 108 as a guiding statement of federal Indian policy.
For the past two decades, people have avoided styling themselves as terminationists, at least in polite company, but there are now and always will be those who believe it proper social and legal policy to end the special status of Indian tribes. Termination is out of fashion and dead as an announced policy, but termination with a small "t" is not. For tactical purposes other names might be used, but the long range goal will not change. For that reason it will always be important to set out the sources of Indian tribes' right to exist and possess a special status.

The special status of Indian tribes and individual Indians in this country has three sources in law, policy, and popular attitudes. One source is the cultural distinctness of Indian societies. From that cultural distinctness flows the idea that Indians must be shielded from the competitive system. Their special separate status, by this view, should remain intact until Indians can be either (in words of the nineteenth century) "civilized" or (in the modern euphemism) "prepared" to enter the mainstream on their own terms, combining the best of both cultures. Another source of Indian status is the poverty of Indian people. Special programs, special agencies, and special jurisdictional status are justified because Indians are poor and exhibit the social symptoms of their poverty.

The fundamental constitutional basis of Indian status is outlined in the opinions of John Marshall and brilliantly explained and elaborated in the works of Nathan Margold and Felix Cohen. Marshall established that Indian tribes have a right to a political and social existence and that this right is not derived from the Constitution of the United States. He traced it to natural law and international law, sources of law that could be mentioned in the same discussion without embarrassment in Marshall's day. By acknowledging the existence of this right, Marshall made it a part of the law and policy of this country.

I mention these three sources because they are intertwined in the public understanding of the status of Indians and in the rationales that
keep the present system functioning and funded by Congress. The failure to understand and distinguish the differences among them leads to constant confusion in Indian affairs. The first two—cultural distinctness and poverty—find a broad base of support in the simultaneous humanitarian impulse and sense of cultural superiority that are the peculiar heritage of Anglo-American society. But anyone who wonders whether termination is still alive need only ask whether a separate Indian political and legal existence will be tolerated in this country if Indians are no longer poor or viewed by the majority as being culturally distinct. Clearly that is not going to happen. In that sense, every dollar that Congress and the American people spend on Indians, every program that is authorized for Indians, is premised on the first and second rationales for Indian status.

The third source, the rights of Indian tribes as distinct societies with inherent sovereignty, is constitutionally necessary to enable the society to make a legal distinction between Indian tribes and other cultural groups or other groups of poor people. The political status of Indian tribes and their relationship to the United States is, then, the foundation for the entire structure of policies, programs, and laws. Yet it is the one source of Indian status which, as a practical matter, probably cannot stand alone.

Indian governments are thus subjected to a different status than other governments. There are not constant reviews of the demographic status of all the little countries in Europe that are frequently compared in size and population with Indian tribes. No one asks whether Monaco and Liechtenstein are sufficiently culturally distinct from neighboring countries to justify their continued existence. Unlike that of Indian tribes, their political status is taken for granted.

The transition of recent federal policy from termination to self-determination reflects only a tactical shift in the fundamental commitment of the society to bring Indians into the mainstream, not a movement toward a true recognition of a permanent tribal right to exist. If Indian tribes had a relatively greater degree of self-determination during the period under discussion than they did during the dark days of the termination policy, and they obviously did, one still questions whether the basic issue of tribal self-determination has ever been
addressed. Nevertheless, it is worthwhile to trace the beginnings of modern self-determination in Indian country.

As the pressure for immediate termination eased, the early 1960s saw some of the roots of later significant developments toward self-determination. Congress authorized the Public Works Administration to give grants directly to Indian tribes under the Public Works Acceleration Act. At about the same time, the interior solicitor and the general counsel for the Public Housing Administration decided that Indian tribes could create housing authorities to administer federal housing funds. Despite the force of the Indian Reorganization Act* or the "Powers of Indian Tribes" Memorandum,† these were apparently the first examples of both the Congress and the executive branch treating Indian tribes as real governments—eligible for federal assistance on the same basis as other governments and capable of creating subordinate public agencies which could also be recognized. These precedents were greatly expanded in the Great Society.

There were also early attempts by the BIA to contract with the tribes to administer programs. Commissioner Philleo Nash has mentioned that when a congressional committee directed the BIA to cut five hundred positions from the education program he contracted with the tribes and let them hire the people. Commissioner Robert Bennett also implemented a contracting policy. Commissioner Louis Bruce and his staff moved more deeply into contracting, but congressional committees questioned whether existing legislation authorized contracting to the degree and in the way it was being carried out. Agreeing in principle with contracting, they felt that new legislation was needed to bring structure and accountability. After hearings, Congress eventually passed the 1975 Indian Self-Determination and Educational Assistance Act.‡

Tribal resource development policy of the 1960s has not been fully or objectively analyzed as it relates to tribal self-determination. An effort was made to attract private capital to reservations by offering long range development deals for mineral, agricultural, and residential

* 25 U.S.C. ss. 461 et seq.
† 55 Interior Decisions 14 (1934).
‡ P.L. 93-638. 25 U.S.C.A. s. 450a et seq.
development. It seems clear that the main impetus for this policy came from the federal government, but it is not clear to what extent the tribes resisted or were enthusiastic about it. Tribes able to sell coal in the 1960s were viewed as putting one over on companies who failed to realize that coal was an obsolete and undesirable energy source. This shortsighted view was widely criticized during the 1970s when coal regained strategic importance, but the conventional wisdom has not yet adjusted to coal's more recent devaluation.

Development policy provides a good example of the tension between tribal self-determination and the federal trust responsibility. There is a need for a more detailed analysis and comparison of the leasing of Indian resources under the management and supervision of the Bureau of Indian Affairs and the U.S. Geological Survey in the Department of the Interior. The record of these agencies in failing to protect Indian resources adequately may be, in fact, comparable to the department's record in managing federal resources. If it is not, we should be able to demonstrate the differences more clearly than has been done to date. But if the incompetence or lack of foresight are evenly spread, then we should be reminded of the law which states, "Never attribute to malevolence that which can adequately be explained by incompetence." This is a good rule to adopt when dealing with the government, and it is more helpful to Indian people than the assumption that all of their problems are due to a conspiracy on the part of the federal government to target Indians for bad treatment or poor management.

The hindsight with which the resource development policies of the 1960s are now viewed reveals an almost theological tendency to find a devil to blame, a tendency that is widespread in the scholarly community's treatment of Indian affairs. This does not help any of us learn from the past, and it may lead to Indians having their remaining resources stolen from them while they and their friends maintain vigilance against people in red suits carrying pitchforks. We must, of course, hold the government to standards of trusteeship and identify instances in which it shirks its responsibility. But if that analytical role slips into one of invariably passing all the blame to the federal government, the economic system, or the society at large, then Indian self-determination becomes a concept of power without responsibility. We lack a clear
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notion of the threat because we are wedded to a method of historical
analysis in which tribes are never responsible for their mistakes and the
government never makes an honest mistake.

Reservation resource development issues are more complex than
similar issues off-reservation because tribes are governments that must
tax and regulate economic activity for the public good. At the same time,
they are also major landowners and entrepreneurs who participate
directly in—and benefit from—development. For non-Indians, the
balance that is struck between economic growth and other public inter­
cests is brought about by the miraculous and impersonal workings of
"the system." For an Indian tribe the same balance must be achieved
within the wise judgment of the tribal council itself.

In its turn, the federal government, even in the best of situations,
is caught between trusteeship and self-determination. It can be criti­
cised for promoting development (and affecting Indian culture) or for
not promoting development (and perpetuating Indian poverty). These
issues are easier to pose than to manage, of course, but we will never
manage them better if we remain on a simplistic good guys/bad guys
level of analysis.

The 1960s was above all else an Office of Economic Opportunity
decade. Building on the PWA and Housing and Urban Development
precedents, the Great Society programs were the first major instance in
which Indian tribal governments had money and were not beholden
for it to the Bureau of Indian Affairs. This created an enormous
change in the balance of power on reservations and in Washington.

Tribes could, to some degree, set their own priorities. They could
hire, supervise, and fire people on their own. They had telephones and
copying machines to spread information throughout Indian country
and the money to hold conferences to organize for the common good.
They could go to Washington whenever they wanted to and not only
when the superintendent or the central office of the BIA told them they
could. These things altered the nature of the Bureau of Indian Affairs
and the relationship between tribes and the federal government. They
changed the face of Indian affairs in a way that will never completely
be reversed.

There is a story which has been difficult to substantiate that when
the OEO was established the Bureau of Indian Affairs wanted to
administer Community Action funds as part of the BIA program. Whatever the truth, the OEO made a policy decision at the outset to fund tribes directly. One of the assumptions of the War on Poverty was that “old established agencies” had failed to deal effectively with the problems of the poor, at least in part because they did not involve the poor in planning and administration of programs for their benefit. In the cities, this meant that efforts were made to bypass city governments and establish parallel delivery systems which rivaled the city government and which in theory were controlled by the poor. The decision to fund tribes directly, bypassing the Bureau, implicitly recognized the Bureau’s historic role as the de facto municipal government of Indian reservations. It viewed tribal governments as representing the poor people because most of their constituents were poor, and it recognized that, for the most part, the CAP funds were the first discretionary funds that many tribes had had.

There were interesting side effects of the OEO. Previously, tribal delegations that came to Washington would spend their time in the BIA or up on Capitol Hill. But during the peak days of the OEO, they would stop by the Bureau to say hello to the commissioner on their way back to the airport. Remember, this is an agency that is well over a hundred years old and that had always been the center of attention and power for Indians. Certainly the impact of being virtually ignored was psychologically devastating; what is less certain is whether the proper simile is sitting on the bench eager to get in the game or sitting in a rocking chair dreaming of glorious days gone by.

A generation or more of Indian leaders had made a commitment to working for the BIA. They wanted to help their people by fulfilling the intent of John Collier and the IRA to have Indians administer their own affairs. Many of them had spent years of frustration trying to implement the lofty goals of the IRA. Their sense of being bypassed by a major national effort, the Great Society, of being considered part of an “old line established agency” (which the BIA certainly was), created in some of these people feelings of rivalry, bitterness, and resentment. In our sometimes self-righteous zeal to criticize institutions and policies, we should have some compassion for the people who could not or for some reason did not jump from the Bureau to the bandwagon of the OEO to solve the problems of poverty once and for all. The OEO has
become a part of history; the BIA is still an old-line established agency.

The Great Society and the OEO, in particular, did not provide all the necessary weapons for winning the War on Poverty. For example, the OEO had a legal prohibition against construction. All it could do was remodel—tear down a wall for a Headstart classroom—but it could not build a bridge, a road, or a house. Roger Jourdain, of Red Lake, secured money for a training program for carpenters, plumbers, and electricians, with a half million dollars budgeted for “training materials.” Remarkably the “homework” looked a lot like houses, and both the Red Lake people and the Red Lake sawmill benefited immeasurably. Lacking the power to direct OEO funds to the fundamental causes of reservation poverty, tribes tried to deal with immediate concerns of their people. The OEO was annually flooded with recreation program proposals, which solemnly and torturously explained how a summer recreation program on the reservation was going to solve poverty.

Apart from the money, the most important byproduct of the Great Society—of which the OEO was the doyen—for tribal self-determination was the notion that Indian tribes are or should be eligible for federal services other than those specially for Indians. The Economic Opportunity Act did not provide for tribal eligibility for Community Action Programs; that was an administrative determination. But out of that flowed not only tribal control of funds but the practice of tribes calling on federal agencies throughout Washington to do their share of dealing with Indian problems.

Tribal governments have not fit neatly into this system. Tribes sometimes had to structure their governments so they could conveniently spend these federal dollars. The Economic Development Administration required tribes to form non-profit development corporations chartered by the states, and HUD made tribes charter housing authorities. Some people complain about that, saying that the agencies were making the tribes jump through a hoop to get money. But tribes in this era were moving away from a BIA-focused governmental structure into one adapted, perhaps awkwardly, to enable them to be treated consistently as governments. Certainly it could be argued that this was a price worth paying.
Considerable effort has been wasted over the years looking for the perfect structure of federal Indian programs. In fact, we must see the range of possibilities as a spectrum. One pole is the concentration of all services to Indians into one agency, meaning that no other federal agency need concern itself with Indians. The other pole is the dispersal of responsibility for Indians to appropriate agencies throughout the government, with none having lead responsibility for dealing with Indians. In reality, the structure of Indian affairs has never been at either pole; instead, it moves back and forth along the continuum as circumstances of tribes, federal agencies, and federal policy dictate.

Between 1960 and the middle 1970s, we went from a near BIA/IHS monopoly over services to the involvement of many other federal agencies. This caused a confusion as to relative roles and responsibilities of the agencies to assist in the solution of Indian problems, complicated by the strategic uncertainty of the Indian political leadership. The question was, to what degree could tribes safely become a part of the general governmental structure of the nation without risking their special status and their special relationship with the federal government through the Bureau of Indian Affairs?

Many people have criticized the Great Society programs. It is true that the flood of federal money onto reservations drastically changed the nature of tribal government by creating a bureaucracy. This tribal bureaucracy also affected Indian community life as well. Tribal governments became dominant employers on the reservation, dependent on the funding of federal social programs. These programs, by and large, dealt with the symptoms of poverty rather than providing the funding for the infrastructure development that is necessary for the permanent solution of reservation economic problems.

But it is inconsistent to criticize the devastating social and cultural decay caused by federal money on reservations and then complain when the government cuts back on these programs. I have been to meetings that were completely devoted to a discussion of the horrendous destruction to Indian individual psyches, family life, and community life caused by federal, social, and educational programs. Participants at these meetings then proceeded to pass resolutions asking for budget increases.

Nevertheless it was through these Great Society programs that Indian tribes became widely recognized by federal agencies as legitimate
governments. This was an historic step in the popular, legal, and governmental conception of Indian tribes. It was a milestone of self-determination. We moved from tribes as an administrative convenience of the Bureau of Indian Affairs, governmental only in Supreme Court esoterica, to the point where Indian tribes can now make a credible claim to federal agencies that they should be funded and treated like state and local governments in the federal delivery system.

No one ever thought that the OEO programs alone could solve the problems of poverty, but they employed a lot of people and created a cash flow on reservations. Tribes acquired experience in administering federal funds, BIA contracts, and tribal income. Many present-day Indian leaders received their training on the job as program administrators. There, they gained valuable administrative experience and learned the art and skill of government.

Tribal program administrators now constitute a managerial class of Indians who, sooner or later, are going to create economic development on the reservations. People who have spent years administering programs for the tribe are going to figure out that they can make more money with a hamburger franchise. There are those who think that capitalist society is terrible for Indians and will no doubt see the prospect of Indians joining the middle class as another deleterious effect of the Great Society programs. But just as it is inconsistent to oppose budget cuts in federal programs that we feel are destroying us, we cannot help but create confusion in American society if we blame the system for Indian poverty and then denounce opportunities for Indians to get themselves out of poverty. If there is a real alternative, the obligation is on us to explain what it is and work toward it.

Ironically, the role of tribes as relatively permanent governments—the rationale least preferred by the society at large—was strengthened by the use of tribal governments as the local delivery system for the programs designed to implement the nation's concern for poverty—the most popular rationale for special Indian status. This tribal role created for the first time, in many cases, a tribal executive branch. It raised tribal government aspirations to take over previously neglected functions of taxing and regulating reservation activities in addition to the service delivery functions which these programs made possible.
This era also brought us the 1968 Indian Civil Rights Act. Initially, the federal courts thought that the Civil Rights Act gave them broad authority to review the actions of tribal governments. This ended with the *Martinez* decision, which held that the Civil Rights Act remedies were limited to habeas corpus, thereby effectively limiting judicial review to tribal court criminal proceedings.* Many people saw the Civil Rights Act as an imposition of Euro-American legal concepts on Indian systems. They complained that it lacked a provision allowing each tribe to consent to it despite Felix Cohen’s observation that major federal Indian legislation had continued the form of treaty-making by conditioning the legislation on tribal consent.

The principle of Indian tribes as nations is the legal foundation for tribal political existence within the American system. It is also an article of faith among Indians and among the scholarly community. Whatever their fundamental rights to nationhood, Indian tribes today, with the exception of the Navajo nation, are still small communities with populations ranging between one hundred and ten thousand. Communities of this size cannot always solve problems of government accountability by uncritically adopting national scale constitutional models of separation of powers. Yet present scholarship does not give us a basis for comparing the pre- and post-*Martinez* state of affairs on reservations.

Thanks to the *Martinez* decision, tribes are on their own to develop systems of accountability. But to adopt wholesale a national model of separation of powers means to exaggerate, in the tribal context, some of the transitional problems of developing nations. If solutions are to be found, attention must be focused on tribes as they actually function. The creative energies of tribal people and their friends must be set on devising new methods of administering tribal governments. Preoccupation with unwieldy national models will not help. A blind and defensive adherence to the status quo, in the name of tribal sovereignty, will only postpone a later and more politically dangerous accounting; and emotional attacks on the present system in the name of traditionalism—without addressing the details of a traditional system which might be put in its place and how it would deal with the unavoidable tasks of

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governing modern reservations—is an equal evasion of reality. In the long run, it does a disservice to the real strengths of Indian culture.

From the point of view of federal policy, the high point of the era of self-determination is seen by many as the Nixon message on Indians of July 1970.† Although some complain that it was not fully implemented, it stands as the strongest official policy statement for Indian self-determination. I doubt that all of the presidents since Ulysses S. Grant have given, collectively, eight hours of thought to Indian affairs. I doubt that Richard Nixon had the faintest idea of what his 1970 message contained. Nixon did not retire to his study and devote a long reflective evening to writing his message on one of his famous yellow legal pads.

It is not important to know exactly who wrote the message, although nearly everyone in Indian affairs at the time claims to have had a hand in its drafting, but what might be important is to know how such a strong message made its way through the elaborate process of review and comment. Presidential policy statements are thoroughly reviewed by the Department of the Interior, Justice Department, the OMB, and the White House. A policy statement on Indians that finally reaches the president, if any does, is likely to be very different from an original that might have been drafted in the BIA. For that reason, it is not a good idea to press for an administration policy statement unless once has reason to be confident that the Indian position is supported by someone with enough power in the administration to protect it throughout the review process.

The Nixon message was misleading in that it encouraged the hope of many Indians and their non-Indian friends that the key to the solution of Indian problems is to convince someone high enough in government to become an Indian advocate, thereby causing a miraculous change in Washington behavior. Having friends in high places may be nice, but it can only be one tactic in a much larger strategy. The scholars share the blame for tribal unwillingness or inability to learn how to understand and manipulate the process to the degree that they have promoted the view that Washington is a monolith hostile to tribal interests and that tribal problems stem largely from the willful decisions

of a few specific individuals. In fact, most tribal problems are due to the fact that tribal interests are not adequately articulated at key points in a federal process that is largely oblivious to Indians.

Much of what passes for scholarship in Indian affairs is a simplistic good guys versus bad guys analysis resting on fundamental ideological criticisms of American culture and society. These philosophical criticisms no doubt play an important role as scholarly commentary and for a larger social and ideological agenda, but they are of limited use as Indian tribes try to deal with their immediate problems. Whether it is good or bad in some cosmic sense, the federal government is an important part of the Indian environment to which, in the name of survival, Indian cultures must make a realistic adaptation—just as all cultures adapt to their environment—not by sacrificing principle but by having a realistic set of expectations of behavior. To refuse, in the name of cultural purity, to learn the skills of survival in the world as it exists is to perpetuate paternalism. It bases continued tribal existence, not on independence, but on the need for non-Indians to maintain a sterile buffer within which Indian cultures can be shielded from the real world. All the while the non-Indian protectors continue to make the key decisions.

During this period, a few tribes, individuals, and organizations displayed considerable skill in manipulating the federal system and other institutions of society to achieve their goals. But there has been surprisingly little progress in turning these few successes into translatable skills that can be used universally throughout the Indian community.

A resurgence of Indian cultural awareness also captured the nation's imagination during this period. The fishing rights struggle in the Pacific Northwest had an enormous impact on the public consciousness and on tribal and individual self-awareness. The Trail of Broken Treaties, the BIA building episode, the American Indian Movement, and Wounded Knee II put Indians on the world stage. These events had an impact on both the Indian people and American society that we still lack the perspective and detachment to measure. But much of it was a romanticized product of the American media's preoccupation with fads. For example, when my brother Vine Deloria's first book was published—a book that had a tremendous impact—an enthusiastic reviewer said that the American Indian had finally found his voice. Vine did not
claim to be saying what had not been said before or aspire to be America's official Indian spokesman. America had simply found its ears—briefly. When a *LIFE* magazine team came to Denver to record the remarkable phenomenon of an Indian author, it left in disappointment. It discovered that he had written his book with an IBM typewriter rather than on a deerskin.

Indians did not discover they were Indians in the early 1970s. We were not reborn; we were simply noticed. Somehow the publicity accorded our characteristic independence and determination fueled an even greater spirit and attracted back to the fold some who had drifted away when the nation did not think it was so great to be an Indian. There is no point in questioning the sincerity of these people, but those who were Indians all along can be forgiven if they feel, now that the nation's attention has moved to other things, that the real issues of Indian cultural survival were not addressed at all. We have returned to the time when the country contemptuously appoints as our spokesmen non-Indians who wish they were Indians.

There were many good things about this surge of energy, but we failed to move beyond sheer exuberant self-affirmation to consolidate the gains made possible by several years of worldwide interest in and support for Indians. America did not end the era with a greater understanding of the complex interplay between Indian culture, Indian poverty, and the practical issues facing Indian tribal governments and federal policy. If anything, when the nation's attention wandered, it carried with it an even more pronounced cultural stereotype of what it wanted its Indians to be. And we Indians ourselves are left manipulating code words of tribal sovereignty rather than undertaking the more disciplined and less romantic tasks of dealing realistically with the issues we face today.

To a great degree, we left this era with totally unrealistic expectations. Self-determination or tribal sovereignty cannot be absolutes for Indian tribes any more than they are for other nations. It is foolish to hope that the federal system can somehow change so that it protects Indian interests from non-Indian interests to the consistent degree that we feel we need. The principled Indian view of the tribal-federal relationship as one between nations is inconsistent with the hope that a structure can be found in which the federal agency dealing with Indian
affairs will be immune from the pressures of other federal agencies or in which the official who heads that agency is responsible to the tribes and not the federal government. Self-determination is a difficult goal to reach if it must include unlimited federal funding with no accountability for funds. This is not the stuff of day-to-day tribal rhetoric; tribes are generally realistic and sensible about their relationship to the system. But these ambiguities have been a prominent feature of much of the national level rhetoric and as such represent a failure on the part of national leadership and, to a small degree, a scholarly community that is afraid to hold Indian strategic policy to critical and realistic standards.

Slogans cannot alleviate every frustration in the political life of every Indian in this country; they cannot successfully transfer responsibility to a devil. Indians must first decide what to do with their own lives, or risk being lulled into a self-absorbed torpor of passivity, acceptance, and pessimism. It does not really matter what the Indian Reorganization Act says: at present, we are not using to the limit the powers that we have to determine our own lives.

We are still trying to adjust to the changes of the 1960s and 1970s. We are trying to accommodate within our cultural, social, and political lives our sense of status in American society and American political life. Much of the literature analyzing this era has created myths that do not help us understand reality, because they do not deal with Indians as real human beings. Ironically, it is most unfair to Indians themselves to idealize them. There must have been at one point in history at least one Indian who did not know what he was talking about. There must have been at least one person who worked for the Bureau of Indian Affairs who had a good idea. Why do all old Indians have to be wise? Not all old non-Indians are wise.

But many scholars—who note the romantic view of Indians in earlier stages of Euro-American history—have themselves been blinded by the same romantic tradition today and deny us our political life and our humanity. The modern romantic tradition in Indian scholarship imposes on us a cultural ethic that serves as a condition on the political help we can expect from the scholarly community and other traditional sources of support and, implicitly, on our right to exist. This romanticism does not help us to deal with complex problems. We have made mistakes, and you do us a disservice by almost uniformly shifting the
blame elsewhere. We need hard-nosed analysis of those mistakes so that we can avoid making them in the future. And above all we would like to have the confidence that our rights do not depend on our satisfying the emotional needs of a romantic tradition.

I administer the Special Scholarship Program in Law for American Indians. When the program was established, in 1967, there were fewer than twenty-five identifiable Indian lawyers in the country. There are now about five hundred, due almost solely to this program. There has been some discussion about whether we do a disservice in sending Indians to law school because we make them less "Indian." Of course, education changes people—that is why you send them to school.

Our job is to make lawyers, Indian lawyers, out of Indians. It is the job of the Indian community and the Indian family to make Indians out of them before we get them. If they have made Indians out of them—culturally and spiritually—then the changes they go through when they go to law school are not going to be fundamentally cultural and spiritual in nature. We should be aware of the values the educational process inculcates along with the skills, but our anguish over the destruction of Indian culture by education is a sign of a lack of confidence in the vitality of Indian cultures.

Education and history have two purposes in a society, and we do not distinguish them clearly enough. One purpose is to socialize, to teach the young how "our kind of people" see themselves and behave. The other purpose is to teach a set of skills and demonstrate knowledge. (One might note here that Indian knowledge is considered "lore," while Euro-American knowledge is scientific fact.) As to basic values, Indian law students are just going to a trade school if their identities have been well established already. They are learning how to work on a machine—the legal and political system. If prospective lawyers are worried that they will not be Indians any more when they finish law school, I tell them this: your cousin who was sent to automechanic school by the Bureau was not a car when he finished his education.

And that is why we must return to the three sources of federal Indian policy. We exist in a distinct status in this society simply because we have a right to exist. Our rich cultural heritage is our own business and not the business of the federal government or the scholarly community. We do not owe an obligation—other than to ourselves—to
preserve or not to preserve Indian culture. But scholars can help us, not by romanticizing contemporary Indians, but by helping us move toward relevant and realistic critical standards for our own behavior.

The period between 1960 and 1976 saw an historic and inspiring growth in the role of Indian tribes as governments. Ironically, this was due, in large part, to the society's unsuccessful commitment to abolish poverty throughout the nation. The country also noticed the degree to which Indian people really maintain their fundamental cultural commitments, and by giving this cultural expression a momentary favorable treatment, they helped to strengthen it. But, as if chained together, the era's expressions of the three rationales for Indian status reacted on each other and as the era drew to a close, many, who were most publicly proclaiming their cultural commitments, blamed tribal governments for Indian poverty and for the weakening of Indian culture.

I have characterized the larger developments. But many events and trends have been left out in this short account. We still need a more complete history of the period and a scholarly analysis to help our own efforts to understand, or the next time the cycle of interest in and opportunity for Indians comes back we are not going to benefit more than we did the last time. We must know more and more about how that machine operates. We can no longer abide the insult that to know more is a threat to our culture and identity.