Working on the Railroad, Walking in Beauty

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Introduction

This book is the story of the Navajo workers who leave their land each year for work on the railroad, performing the difficult and dangerous work of maintaining the railroad tracks of the Desert Southwest and beyond. It describes how these Native American men work “to transform the world into which one is thrown into a world one has a hand in making—to strike a balance between being an actor and being acted upon.”¹ Because of historic as well as contemporary hiring practices, railroading has always been a predominantly male profession. Although a small number of Anglo and African American women work in train service, as conductors or engineers, I have yet to encounter a female Navajo who works in a track maintenance position.²

The existential responses of the men who face the dangers of track maintenance work can be found at the intersection of the worlds of history, labor, religion, and culture. And, as with the varied kaleidoscope of colors on the land of the Navajo Nation itself, in interviews, interactions, and research one can see endless rich and diverse combinations and recombinations of distinct spiritual and practical reactions to the difficulties encountered by these railroad men off their land. This is my account of their

¹ Jackson, *Existential Anthropology*, x.
² There may be such workers today, but if so, the number is certainly minuscule. From time to time a Navajo woman well educated in American schools is hired by a railroad in the Southwest to perform certain pink- or white-collar jobs. For a fun and interesting story of the life of one Anglo woman who worked in train service in the West, see Linda G. Niemann, *Boomer* (Bloomington: Indiana University Press, 2011).
actions and the factors that shaped them. The responses of these Navajo men express the fertility, variety, and efficacy of their encounters. The rich family stories of these Navajo trackmen are an important component of their lives, and in my interviews I noted descriptions of familial relations and the effect of railroad work on wives and children when possible.

In my writing and research, it became clear to me that a number of topics must be introduced and explored in order to understand the religious activities and responses of Navajo railroad workers that are the soul of this study. Thus, a significant portion of the book is directed at constructing a picture of the surrounding environment and the history of these men and their lives. But to make this later discussion more meaningful, a number of important preliminary topics must be addressed in this chapter.

An introduction to the Navajo Nation

While they are a major economic and cultural force in the American West, the Navajo people seldom enter the consciousness of most Americans. Yet their nation exists in a physical

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3 While this is my story, many now recognize that a book such as this is really a three-way conversation between the author, the story and those featured in it, and the reader. Insights on this hermeneutical relationship, an understanding of which had its genesis in religious studies, can be found in the work of Hans-Georg Gadamer and others. Hans-Georg Gadamer, *Truth and Method* (New York: Crossroad Publishers, 1989). I want to thank Professor Francis Fiorenza of the Harvard Divinity School for introducing me to this important concept.

4 A full exposition of the Navajo family in the context of railroad work, while a fruitful and important endeavor, is unfortunately beyond the scope of this work.

5 However, this work is not a thorough history of the Navajo people or of the evolution of Navajo governance or of all relations of wage work and the Navajo people, though each of these issues arises in the narrative. For readers interested in more on each of these topics, please consult works listed in the bibliography.

6 Over time, several names have been used for the people who now make up the Navajo Nation. At the time of first contact in the seventeenth and
space of approximately twenty-five thousand square miles, an area comparable to the size of the state of West Virginia. It covers the “four corners” area of the United States and extends into the present states of New Mexico, Arizona, and Utah. In 2000 the US census counted over 250,000 Navajo people.

While many Navajo people have left their land of haunting mesas, alpine vistas, and desert landscapes in the four corners area to find work, serve in the US military, or join families living in nearby metropolises, this land remains the home of nearly 90 percent of the Navajo people. On the “rez,” the common name for land of the Navajo Nation economic opportunities are few,

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7 “The American Indian and Alaska Native Population: 2000,” US Census Bureau, http://www.census.gov/prod/2002pubs/c2kbr01-15.pdf. According to this census, in 2000 there were 269,202 persons who considered themselves Navajo. Along with the Cherokees, they are the largest native grouping within the borders of the United States. When those who checked more than one “race” box are included, however, the Cherokees add nearly 500,000 members to their ranks, while only 20,000 people who checked Navajo in the census included another race as well. Complicated issues in this area, such as the level of “blood quantum” required for membership, are often contested in and out of native communities. This adds a difficult layer of complexity to this question. The scholar of native religions Vine Deloria Jr. argues that “Indian tribal membership today is a fiction created by the federal government, not a creation of the Indian people themselves.” Vine Deloria Jr., God is Red: A Native View of Religion (Golden, CO: North American Press, 1992), 244.

8 The words used to describe a people and their “place” often say much about the status of that people and the attitude of others toward them. Notions of value and meaning are contained within names. In describing their living area, many Navajo people today wish to be known as living on the Navajo Nation, not on the “reservation,” as this land has generally been known for over the past one hundred years. Yet, in daily life, most who live here describe their physical location as the “rez.” While maintaining historical accuracy, I attempt to respect this desire and usage. In addition, it should be noted that current academic parlace is often unwilling to attribute such a “fixed” characterization of the concept of a nation. For example, Eric Meeks argues that a nation is an “imagined community” constructed by officials of the state and its
and in spite of years of interaction with the “Indian programs” of the federal government and religious, economically focused missionary activity, many areas lack running water and electricity for families. Poverty and unemployment remain rampant. Resources available for health care are deplorable. In December 2009, US Senator Brian Dorgan stated that “we’ve got the ‘first Americans’ living in third world conditions.” However, even given these circumstances, the vast majority of the Navajo people choose to continue to live on this land, showing

9 One reason for this situation is likely that “almost all attempts to promote development on the Navajo reservation have used models which assume implicitly or explicitly an entrepreneurial form of economic organization, despite the fact that Navajo society is communal.” Lorraine Turner Ruffing, “Navajo Economic Development Subject to Cultural Constraints,” Economic Development and Cultural Change 24, no. 3 (1976): 611.

10 The success of US government programs in relation to native populations is contested to this day. As to the efforts of Christian missionaries, it has been my experience that those involved in missionary work find more efficacy in their efforts than do the Navajos themselves. A typical opinion can be found in the words of the chairman of the United States Board of Indian Commissioners, Samuel A. Eliot, who wrote the following in the introduction to his book: “Missionaries to the Indians have been the pioneers of civilization across the continent . . . the story of the missionary endeavor is a bright page in a dark history.” Samuel A. Eliot, The American Indian and Christian Missions (New York: Fleming H. Revell, 1933), 7. Eliot’s view runs counter to the opinions of most who have studied the relationship of the federal government and American churches to American Indians with whom they have interacted over the past two centuries.


a physical rootedness in spite of the difficult economic conditions there.\textsuperscript{13}

As will be examined later in more detail, recent writing in Navajo anthropology and history has emphasized the practicality and adaptability of the Navajo people. Some dispute this “blank slate” characterization; but most admit that, as with nearly all in our human species, the Navajo people have been profoundly influenced by those around them.\textsuperscript{14} According to the prevalent scholarship today, this malleability is evident in the construction of the Navajo people themselves. The general consensus today is that the Navajos coalesced as a people in the first half of the last millennium in the American Southwest. Historians and archaeologists paint the Navajo people as having descended from the Athabascan people who arrived in North America via a land bridge over the Bering Strait from what is now modern-day Russia. This account has the Navajos finally arriving in the southwestern United States in the thirteenth or fourteenth century, with an intact language but otherwise without a strong cultural identity. Harry Walters, a professor of Navajo culture recently retired from Diné College, argues the Navajo people may have come to the Southwest much earlier.\textsuperscript{15}

\textsuperscript{13} Many “postcolonial” scholars today speak of life in a “detrerritorialized” world. For example, when considering issues of movement and “home,” Arjun Appadurai writes of the importance of exploring “the complex nesting of imaginative appropriations that are involved in the construction of agency in a detrerritorialized world.” “Global Ethnoscapes,” in \textit{Recapturing Anthropology: Working in the Present}, ed. R. J. Fox (Santa Fe, NM: School of American Research Press, 1991). However, it is my experience that this view of the meaning of such “postmodern” life does not explain the Navajo response to their land or their reality. The world does not feel detrerritorialized to the Navajos or to Native American thinkers like Vine Deloria Jr.

\textsuperscript{14} For one contemporary overview of this debate, see Peter Iverson, \textit{Diné: A History of the Navajos} (Albuquerque: University of New Mexico Press, 2002).

\textsuperscript{15} In an interview Walters said, “Chaco Canyon was probably one of the earliest settlements of Navajo in the Southwest. And there is some rock art
Early in the twentieth century at the latest, many Navajos began to use the term Diné, translated as “The People,” to define themselves. “This term,” Clyde Kluckhohn and Dorothea Leighton wrote, “is a constant reminder that the Navajo still constitute a society in which each individual has a strong sense of belonging with the others who speak the same language and, by the same token, a strong sense of difference and isolation from the rest of humanity.”\(^{16}\) While conditions between the Navajos and the surrounding society are much changed from the time of their writing, this fundamental communal connection remains.

**Navajo railroad work**

This book focuses on the numerous Navajo men who left their land to work for the railroads. In describing the track maintenance work performed by these Navajo men, Professor William Haber wrote that “maintenance of way workers are often referred to as the ‘shock troops of the railroads,’ for it is their job to keep safe the tracks, trestles, and bridges over which freight and passenger trains move swiftly to all parts of the continent.”\(^{17}\) This work

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\(^{16}\) Kluckhohn and Leighton, *The Navajo*, 23.

\(^{17}\) William Haber et al., *Maintenance of Way Employment on U.S. Railroads* (Detroit: Brotherhood of Maintenance of Way Employees, 1957), xi. This book was commissioned by the union of track workers, the Brotherhood of Maintenance of Way Employees, at a time of concern about the loss of jobs in the craft. This concern remains today. This book was
has always been perilous and difficult, and those who perform it are often injured. A historian of the early days of the Santa Fe Railroad, James Ducker, found that in the nineteenth century, “over 40 percent of track crews felt themselves in danger on their jobs.”\textsuperscript{18} Even today, the railroad industry has a fatal injury rate that is more than twice as high as the rate for all industries in the United States.\textsuperscript{19} My legal experience with Navajo workers is consistent with this unpleasant reality. Nearly every Navajo railroad worker with whom I have interacted has suffered a work-related injury. Most received little or no attention from their bosses; unfortunately, the railroad companies generally see Navajos as expendable and easily replaceable.

At the end of World War II, railroad employment became an economic mainstay of survival for the Navajo people, forcing greater numbers to confront intercultural survival questions in a foreign environment away from their homes. In spite of the mistreatment and paternalism that has accompanied their work, they continue to work for railroads to this day because of the economic necessities that come from their situations and governmental power directed at them through a web of federal government “Indian programs.” While other sources of wage labor have grown, railroad employment remains one of the most consistent sources of income for many Navajo men.

Working away from their land, these workers enter a liminal space that contains not only physical dangers but great emotional

\footnote{written by a group of four professors, led by Professor William Haber of the University of Michigan. As previously observed, nearly all Navajo railroad workers work in the track department.}

\textsuperscript{18} Ducker, \textit{Men of the Steel Rails}, 6. The formal name for the Santa Fe Railroad was the Atchison, Topeka & Santa Fe Railroad for most of its existence; it was also known as the AT&SF. Today, through merger, the name of this railroad company is the Burlington Northern Santa Fe Railroad, or the BNSF. In 2010 this company was purchased by Warren Buffett’s Berkshire Hathaway, Inc.

and psychological uncertainties as well. As with all human beings, some of the Navajo railroaders’ existential challenges emanate from their individual situations; but their common environment is crucial. In spite of their years of productive service to their employers, most Navajos on the railroad operate in a foreign system, one with rules that are often selectively applied to them and even a language that is difficult for them to understand. As Lorraine Turner Ruffing noted for the Navajo railroad men of Shónto, Arizona, a well-studied Navajo community, “the psychological cost of leaving Shónto was very high. . . . Railroad work was not only hard, but participants also lived in boxcars and outside the traditional community in a region known for its hostility to the Navajo.”

This upsurge in railroad employment for Navajos at the end of World War II came at a time of extreme strain and pressure in their history. This period still resonates in individual and collective memories today. Writing in 1946 in the aftermath of the sheep reduction program, a federally mandated program that decimated the sheep herds on the Navajo reservation and thus ushered in a time of special stress and uncertainty for the Navajo people, Clyde Kluckhohn and Dorothea Leighton wrote in their historic study *The Navajo*:

Today, Navahos are facing, for the first time in their completeness and full intensity, these difficult questions: How are The People to make a living? What alien ways must they learn if they are to survive? How much of the old pattern of life can they safely and even profitably preserve?

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20 The problems arising from the use of alcohol among some Navajo men and women, for example, are well documented and serious. But most issues are common to members of their nation who labor on the tracks. As will be obvious later, problems with alcohol among track workers do not apply only to Navajos.


22 Kluckhohn and Leighton, *The Navajo*, 24. The sheep reduction efforts will be featured later in this chapter.
Introduction

These questions remain; they are confronted each day by Navajo railroad workers.

The legal background of Navajo railroad work

My work for Navajo people involved representing them in their legal claims for injuries sustained while working for the railroad. Such claims by railroad workers are governed, as are injury claims for all railroad workers, by a federal law known as the Federal Employers’ Liability Act (FELA). The FELA, which was enacted in 1908 and remains in effect today, dictates the circumstances under which an injured employee of any railroad company engaged in interstate commerce may recover damages for injuries suffered at work, using a comparative fault analysis. It has a long and interesting history. A short exposition of the history and particularities of the FELA is necessary to consider the matrix of constraining factors that face Navajo railroad workers and which constituted the defining structure in which my legal work occurred.

Employees injured on the nation’s early railroads brought the first lawsuits to recover damages from their employers for injuries arising out of the course of their employment. Railroad

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23 The law of workplace injuries, as well as labor law in general, is significantly different for railroad workers than it is for non-railroad workers. For non-railroad workers there is more division still, depending where and with whom a worker is employed. During my career I have been involved in cases of native workers exercising their rights with respect to their tribal employers as well as native workers fighting for union rights against large multinational mining concerns. Each area is interesting and complex, but neither is of great importance for this story. For an overview of certain aspects of these other situations in the Navajo Nation, see David Kamper, The Work of Sovereignty: Tribal Labor Relations and Self-Determination at the Navajo Nation (Santa Fe, NM: School for Advanced Research Press, 2010).

24 In over one hundred years of litigation under the FELA, each of the operative terms in this definition has been subject to a bewildering array of interpretations and further definition.
work was incredibly dangerous. At the inception of the twentieth century, work-related accidents killed one in three hundred railroad employees each year, and one in fifty was injured in a serious accident. In 1907, 4,353 railroaders were killed, and 62,689 more railroad employees were injured. Nineteenth-century state courts were, however, quite unsympathetic to injured railroad workers. A number of draconian procedural and evidentiary legal doctrines were applied to suits by workers that often made a legal recovery for the emotional and bodily injuries accompanying traumatic accidents impossible. A reading of some of these early cases reveals an astonishingly cruel terrain of responses by the judiciary to job-related death and dismemberment claims of the early American working class. As exposés of the horrifying cataclysm of injuries and deaths on the railroads were publicized and began to reverberate through the American public, pressure mounted to enact a protective statute for railroad workers. Congress was forced to act. The first successful attempt to enact such legislation, in 1906, was, however, struck down by the US Supreme Court, which found that this initial effort was beyond Congress’s power to act pursuant to the Commerce Clause of the US Constitution. At the urging of President Theodore Roosevelt, Congress enacted the Second Federal Employers’ Liability Act, now known as the FELA which passed judicial scrutiny. The pertinent part of this act states that railroads

shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce, or, in case of the death of such employee, to his or her personal representative, . . . for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason

of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.\(^{26}\)

In 1958, Justice William Brennan wrote of the law that “the Federal Employers Liability Act or FELA is a response to the special needs of railroad workers who are daily exposed to the risks inherent in railroad work and are helpless to provide adequately for their own safety.”\(^{27}\)

Importantly for this story, the FELA is more like a tort remedy than a workers’ compensation statute. Within the adversarial nature of the American system of justice, FELA claims and trials become exercises in sophisticated legal finger pointing to establish whether the railroad was at fault in an injury, “in whole or in part.” In a FELA case, injured railroad employees sue their employers in a federal or state court and seek to prove to the finder of fact, usually a jury, that the negligence of the employer or other employees was a cause of the plaintiff’s injury.\(^{28}\) To award damages to the injured railroad worker, the jury must weigh varying degrees of fault between the employee, the railroad, and occasionally a third party. When the jury finds that the employee has satisfied all necessary legal requirements, it may award damages based on lost

\(^{26}\) Emphasis added. In 1914 the US Supreme Court held that because of the inherent dangerousness of certain railroad operations, violations of the Safety Appliance Act and Boiler Inspection Act, companion statutes to the FELA, made the railroads strictly liable for injuries resulting from specific types of faulty equipment. When the legal standard is strict liability, relative fault is not an issue; the railroad is 100 percent liable. This act is rarely applicable to track workers because the nature of their work seldom involves this equipment.


\(^{28}\) Most railroad injury claims do not lead to court cases; rather, they are settled in negotiations between railroad claims agents and the worker or his legal representative. However, settlement amounts are nearly always based on the perceived monetary value of the case if it were to go to court and before a jury.
wages, costs of medical care, and occasionally, the employee’s pain and suffering.\textsuperscript{29}

This approach is markedly different from state workers’ compensation laws that cover nearly all other workplace injuries in this country. Under the workers’ compensation approach, injured employees file claims with state administrative boards. Direct access to courts is generally prohibited. Compensation amounts, however, are limited to a statutory schedule; that is, they are set by state law, usually directly by the state legislature. Compensation awards under state workers’ compensation systems are almost always available, regardless of negligence, but are generally much lower than damages awarded under the FELA. In recent years there has been great pressure from employer groups who hold powerful sway over state legislatures to lower monetary awards, limit medical treatment and access to lawyers for injured workers, and to make some conditions, such as carpal tunnel syndrome, noncompensable. Unfortunately, these efforts have been painfully successful.

The importance of this legal distinction between a court-based system and a regulatory system is that injuries to railroad workers must usually be proven before a jury. This is the best system for those litigants who articulate the local vernacular, are liked by prospective jurors, and have competent and well-funded legal counsel. But for Navajo workers who have been hurt, attempting to shoehorn their explanation for the cause of an accident into an American system of justice unfamiliar to them, often before unsympathetic, rural, white juries, is a daunting and difficult task.\textsuperscript{30}

\textsuperscript{29} Thus, as an example, if after a trial a jury finds that a worker has suffered lost wages and other damages of $100,000 arising from an injury on the railroad, the jury will be required to apportion fault. If, say, the jury finds that the injury was 40 percent the fault of the worker and 60 percent the fault of the railroad, that percentage of railroad fault is applied to the amount of damages. In this example, the worker would then be awarded $60,000.

\textsuperscript{30} While a regulatory system would have some advantages for workers with these intercultural issues, the scandalously small payments for injuries
However, while access to courts and juries carries with it a set of issues not found under workers’ compensation statutes, including the barriers of language and culture faced by the Navajos, the FELA has proven to be successful protection for railroad workers, at least as compared to the alternative faced by their sisters and brothers in other industries. As Justice William Douglas wrote in a US Supreme Court decision, “The Federal Employers Liability Act was designed to put on the railroad industry some of the costs of the legs, arms, eyes, and lives which it consumed in its operation.”

Thus, within this special legal universe, advocates for Navajo railroad workers must be cognizant of unique factors such as language and culture that can affect a legal claim. For, in spite of the difficulties inherent in the FELA for injured railroad workers, the act often succeeds in its purpose as described by Justice Douglas.

Language, space, and time

Like many who write about the Navajos, I am not fluent in the Navajo language. Navajo and English are very different languages. Most of those I interviewed understand a little English, while some speak perfect English. The noted anthropologist W. W. Hill wrote in the late 1940s, “[The] Navajo, like Americans, evince little interest in any language but their own.” Whether in many state workers’ compensation systems would make for a net loss for injured Navajo workers. In addition, the hurdles of negotiating state-based systems for workers who are constantly traveling in a number of states make such a transition impracticable.

32 For an in-depth look at American Indian languages and the “linguistic richness which Western cultures have been slow to recognize and appreciate,” see Shirley Silver and Wick R. Miller, American Indian Languages: Cultural and Social Contexts (Tucson: University of Arizona Press, 1997), 6.
33 Quoted by Margaret C. Field, “Changing Navajo Language Ideologies and Changing Language Use,” in Native American Language Ideologies:
this is true today, I cannot be sure, but many of the men I inter-
viewed understand more English than they can speak. In most
of my interviews I relied on my translation team, Julie Benally
and her daughter, Zina. Most of my interviews were in Navajo,
with some English also used. On some of my interviews on the
western side of the nation, Ann Spencer helped with translation.
I believe Julie, Zina, and Ann did a superb job, but they are not
professional translators or linguists. What was said in Navajo
cannot be known with complete certainty to be exactly what was
heard in English.

It is worth noting that the issue of language was especially
difficult in my legal work for Navajo railroad workers. Railroads
fiercely contest injury compensation claims filed by all their
employees, and to be successful, the claimant must be able to
articulate his or her claim in ways that fit into the predetermined
conceptual and factual boxes of the American civil law system.
In order for me as a lawyer to be successful for my injured cli-
ents, I had to translate Navajo descriptions and attitudes into the
precedents, rules, and regulations that would control their legal
fate, performing a linguistic balancing act while facing railroad
resistance and cultural challenges. Navajos are arguably less
verbal than most Anglos. In addition, written and spoken verbal

Beliefs, Practices, and Struggles in Indian Country, ed. Paul V. Kroskrity
and Margaret C. Field (Tucson: University of Arizona Press, 2009).

34 Though I had struggled to begin to understand the Navajo language by
buying language tapes and listening to them while driving, I had utterly
failed, and translation was necessary. The mother of a former paralegal
of mine, Julie Benally, graciously agreed to serve as my translator for this
project for most of my interviews. Julie, who spent time in a Mormon
boarding school, can move effortlessly between the Anglo and Navajo
worlds and did what seemed to me a superb job of translation, though
this was her first involvement with a project such as mine.

35 Frankly, this is common with all linguistic and personal relations among
people. Speaking from experience, this basic language difficulty is often
found in marital disputes in which one spouse makes a point that is
understood by the other spouse in a manner completely different from
the way it was intended.
communication do not map precisely upon the modes of communication found in formal legal settings. Further, many words that are used in specialized English do not exist in Navajo. Some of these words are understood by the Navajo people due to their exposure to the dominant culture.

This situation was always an issue when I would prepare a Navajo legal client for a statement which we would give to a railroad claims officer or lawyer. For example, in an injury claim one issue is often what notice the worker had of the dangers that caused the accidents. These might include potentially dangerous conditions known only to railroad management, such as railroad traffic on nearby tracks, other workers using equipment in the area, or the instability of surfaces upon which the track workers will be working. Often, management claims that the injured worker was fully informed of the risk that contributed to the injury and thus ignored it at his own peril. This notice is often given through “safety briefings” that railroad management holds before the workday begins in order to inform workers of

36 Of course the tension between American legal concepts and ordinary vernacular is not an issue just for Navajos. For an analysis of this issue in the context of education, and of the importance of seeing “language and literacy as sets of concepts and practices that operate within a cultural context,” see Daniel McLaughlin, “Critical Literacy for Navajo and Other American Indian Learners,” Journal of American Indian Education 33, no. 3 (May 1994).

37 The issue of language is complex for all. The Right Reverend John Big Bluff Tosamah, a character in N. Scott Momaday’s House Made of Dawn, tells a crowd, “In the white man’s world, language, too—and the way in which the white man thinks of it—has undergone a process of change. The white man takes such things as words and literatures for granted, as indeed he must, for nothing in his world is so commonplace. On every side of him there are words by the millions, an unending succession of pamphlets and papers, letters and books, bills and bulletins, commentaries and conversations. He has diluted and multiplied the Word, and words have begun to close in upon him. He is sated and insensitive; his regard for language—for the Word itself—as an instrument of creation has diminished nearly to the point of no return. It may be that he will perish by the Word.” N. Scott Momaday, House Made of Dawn (New York: Harper and Row, 1968), 95.
potential hazards in the work they will be assigned that day. Yet, because of issues of communication or the pressure of production demands, the briefings are often nonexistent, hurried, or poorly translated. After an injury occurs it is not uncommon for management, in order to escape liability, to claim that the worker was informed of the hazard in one of these safety briefings and did not pay proper attention to it. The injured Navajo worker will have no memory of such notice. So, management will claim one thing was said; my Navajo clients will hear or understand either something very different or nothing at all of the risk. The resolution of this issue can have a major effect on the financial settlement available to the injured worker.

One important complexity involves attitudes toward space and time. In order to prevail in an injury case for a railroad worker, the time and place of the accident must be pinned down precisely. When I would interview them for their legal claim, Navajo workers were usually quite specific about the location of an accident. But a common conundrum in these cases was that my clients and I would often perceive dates and even time differently. Since many accidents, while traumatic, are not necessarily a spectacle, the time of the incident must be proven by the advocate for the worker. Further, railroad injuries frequently involve serious damage to the spine, which often comes from twisting it while it is under pressure from work. This injury may not be visible to coworkers at the time of the incident. So, proving the exact time an injury occurred was especially difficult in cases involving Navajo workers and complicated efforts to secure a just financial recovery.

This difference in worldview has been spotlighted by Native American intellectual and activist Vine Deloria Jr., who found a fundamental difference between the “Western European” immigrant and the American Indian in their different views of time and

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38 Further, injuries often occur from the cumulative effect of the repeated types of effort required in track work. This kind of injury presents a unique challenge in representing any railroad worker.
space. “American Indians hold their lands—places—as having the highest possible meaning, and all their statements are made with this reference point in mind. Immigrants review the movement of their ancestors across the continent as a steady progression of basically good events and experiences, thereby placing history—time—in the best possible light. When one group is concerned with the philosophical problem of space and the other with the philosophical problem of time, the statements of either group may not make much sense when transferred from one context to the other without the proper considerations of what is taking place.”

This different view of space and time was also noted when those of the Navajo Community College (now Diné College) gathered stories of the travails in the Long Walk, the sad episode of the forced expulsion of Navajos from their land at the hands of Kit Carson and the US Army in the middle of the nineteenth century. In the foreword to the collection, Ruth Roessel, director of the Navajo and Indian Studies Program, noted a common theme in the collected stories, that “traditions such as those involved in these Navajo stories are not deeply concerned with exact times.” Memories of the exact locations in the stories of the Long Walk are much more precise, however.

An additional important factor reveals itself here. Considerations of the interplay of language, cognition, and mental attitude are raised when there is difficulty in accurate communication.

39 Deloria, God is Red, 61–62. In a related note, the authors of a study of the Amondawa tribe of the Amazon, recently reported by the BBC, claim that those in this tribe have no “notion of time as being independent of the events which are occurring: they don’t have a notion of time which is something the events occur in.” Given the current “time-wars” in present society, this notion deserves further study and contemplation. “Amondawa tribe lacks abstract idea of time, study says,” BBC.com, May 20, 2011. http://www.bbc.co.uk/news/science-environment-13452711, accessed May 30, 2011.

The language we use influences our “rationality” and world outlook; our relation to language both reflects and influences the ways we reason and act. Early work by US government Indian agency personnel noted this fact, too. The linguist and onetime BIA official Robert Young wrote, “The pattern of Navajo thought and linguistic expression is totally unlike that of the European languages with which we are most commonly familiar . . . the pattern of thought varies so greatly from our English pattern that we have no small difficulty in learning to think like, and subsequently to express ourselves like the Navaho.”41

Such Navajo practice, formed by particular issues of communication and place, brings to mind the groundbreaking work of the Canadian philosopher Alasdair MacIntyre on the importance of tradition in the construction of rationality.42 MacIntyre argues that differing types of rational inquiry come from the traditions that are socially embedded in disparate cultures. When rationalities are significantly different, issues such as the conceptions of justice and morality are different as well. MacIntyre’s insights illuminate the crucial importance of understanding where and with what community we stand. This is a powerful force affecting not only what we think, but more importantly, how we think.

Thus, my legal representation of Navajo workers occurred at this intercultural transition area of language and rationality; I had to find common ground between the different ways of thinking that characterize Navajo life and American jurisprudence.

“Pastoral life” and “modern civilization”

Over the last century, well-meaning Christian missionaries often pondered how Navajo people could cope with their participation


in “modernity,” especially when their work took them off their land. The meaning of this Navajo difference from surrounding Anglo society and the Navajos’ strategies for life success have been a source of disputation for many years. This issue has reverberated, among other areas, in American social policy, missionary efforts by religious institutions, and anthropological theory. A poignant example of this conflict occurred around the time of a US government-mandated sheep reduction program in the 1930s.

For most of the period after the Long Walk—the sorrowful uprooting of the Navajo people by the US military in the late nineteenth century—the raising of sheep dominated the Navajo economy. Some argue that this activity has been an “integral part of the Navajo culture since the sixteenth century.” In N. Scott Momaday’s *House Made of Dawn*, a shepherd describes his life: “You took the sheep out in the bright morning and had to look for grass under the snow. It was hard to find and you had to brush the snow off of it and your hands were wet and ached with cold. But you were happy anyway, because you were out with the sheep and could talk and sing to yourself and the snow was new and deep and beautiful.”

In 1935, however, the Bureau of Indian Affairs, then called the Indian Service, decreed that the “Navajo Reservation was 100 per cent over-grazed.” Mandatory sheep reduction was ordered and began in 1937. The reservation was divided into eighteen land management districts, and the capacity of each district to support livestock was determined and translated into “sheep units.” Owners who failed to reduce their herd to the mandated limit voluntarily were jailed and their livestock was reduced by force. The population of sheep on the reservation was reduced by over 75 percent.

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43 Ruffing, “Navajo Economic Development,” 615.
The effect on the population was profound. Ruth Roessel and her colleagues documented many sad stories from Navajos themselves about the effect of the reduction. She found that it was “one of the most devastating attacks on individual and group rights” in the country during the middle of the century.\textsuperscript{46} She continues:

One must bear in mind constantly that livestock enjoys both a sacred and privileged role in Navajo culture. The animals were gifts from the Holy People themselves and form one of the important cornerstones of Navajo life. The reduction or elimination of something that is measured in spiritual as well as material value is filled with danger, particularly when those responsible are exclusively concerned with resource management (material) rather than emotional (spiritual) values.\textsuperscript{47}

The economic and psychological harm resulting from the destruction of sacred gifts from religious forebears was, she opined, a disgrace. Oral histories of this period are especially graphic, as “women weep, and their animals run around ‘crying for their mothers.’ Men feel powerless against the violence. And families are left destitute.”

Marsha Weisiger’s thorough academic analysis of this period is especially sensitive to its effect on Navajo women. Those who implemented the sheep reduction program, she writes, “dismissed Diné identity, overlooked the centrality of goat and sheep ownership to the autonomy of Diné women, and generally failed to include women in the decision-making. In slashing flock, the New Dealers destroyed the local economy and pried at women’s hold on their communal grazing lands.”\textsuperscript{48}

\textsuperscript{46} Roessel, \textit{Navajo Livestock Reduction}, ix.
\textsuperscript{47} Roessel, \textit{Navajo Livestock Reduction}, 224.
\textsuperscript{48} Marsha Weisiger, \textit{Dreaming of Sheep in Navajo Country} (Seattle: University of Washington Press, 2009), 9. Weisiger further commented that “it comes as no surprise that Diné rejected the conservation program.
Just before this catastrophe, the influential Christian missionary George Warren Hinman worried about how Navajo people could meaningfully participate in the changes going on in the land around them. With benign paternalism, he wrote, “If only we knew how to bridge the gap between the simple pastoral shepherd life which they lead and the complex, elaborate and far more rewarding life of the advanced modern civilization.”

This sentiment was typical of the mindset that dominated Anglo efforts on the Navajo Nation for many years. Two things must be especially challenged in this attitude. First, as my experience in this area shows me, the life of the Navajo people, whether on or off their nation, is complex, elaborate, and rewarding. Second, to call our present American civilization “advanced” in these times of the inability of the “best and the brightest” to corral the difficult problems facing the United States and the world seems shockingly shortsighted. Today, there are few of us who are not anxious about the “progress” of the current trajectory of human endeavor on this planet. Navajo people have been faced with similar challenges since their initial encounter with the Spanish explorers several centuries ago in northeastern New Mexico. With the obvious growth and advancement of the Navajo Nation,

Worse yet, the trauma of stock reduction etched deeply into the collective memory of Diné, so that even today, many view range-conservation programs with hostility or suspicion.” Weisiger, 8. Weisiger’s reference to the “New Dealers” emphasizes that many, though certainly not all, in government who dealt with the Navajo often consciously attempted to act with the best intentions. For a sympathetic treatment of the New Dealers who worked with the Navajos during this period, see Donald Parman, The Navajos and the New Deal (New Haven, CT: Yale University Press, 1976), 296. While generally praising their efforts, Parman concludes that even though they tried, the New Dealers did not “end the demoralization of the Indians, root out the sense that their race was vanishing,” or “reawaken their energies and purposes. Because of their loss of livestock, Navajos were more dispirited in the 1930’s than at any time since Bosque Redondo.”

it is clear that the Navajo people are constantly working on how to navigate this situation for themselves.

The fixed and the fluid

The soul of this book and the focus of the interviews in it, examines the religious practices that play a major role in helping these men to find the required resources to navigate their terrain and to build and maintain a productive and meaningful life. In the course of my conversations with Navajo railroad workers, I inquired about each person’s spiritual practices and personal religious roots. The variety and wealth of Navajo religious practices have continually amazed me and it is clear that any student of Navajo life has much to learn and admire from their ancient as well as contemporary practices.\(^50\) What is most impressive is the utility of these practices and their ability to anchor a healthy worldview for the Navajos that serves them well in the face of their difficult relationship to American attitudes and to the economic arrangements that surround them.

An interplay of the fixed and fluid in personal religious observance can be seen in the autobiography of Frank Mitchell, whose work became a centerpiece of the study of Navajo medicine men in the twentieth century. Mitchell was a traditional medicine man and Blessingway Singer. Writing about Frank Mitchell in 1978, anthropologists and ethnomusicologists Charlotte Frisbie and David McAllester describe Navajo religion as being “essentially practical” and “establishing the essential rules by which life should be lived.” They note that “although much of the tradition is fixed, the possible combinations and recombinations are endless, each one being carefully planned to fill a particular

Like Navajo railroad workers of today, Mitchell exemplified this attitude.

Early in his life, Mitchell attended government schools. He ran away from school in Fort Defiance, Arizona, and worked for the Santa Fe Railroad as a track laborer. The tasks performed in such labor and in Mitchell’s working life are strikingly similar to those of Navajo railroad workers today.

Mitchell, who later rose to be a tribal councilman and judge, took an approach to religious practice that illuminates the dialectic of foundation and fluidity. Mitchell emphasizes fidelity to Navajo rules of traditional religious concepts and rituals. He writes of the great harm that can come to a medicine man who breaks the rules that have been laid down by the “eternal Holy People.” However, while he took immense pride in his work as a Blessingway Singer, he practiced his own personal mix of


52 Mitchell’s work on the railroad is evidence of the findings of historian Alice Littlefield, who has written, “It cannot be overstressed that Native American wage labor participation during the nineteenth century was largely self-motivated. Native people did not wait for government agents to direct them to wage opportunities; rather, they perceived those openings and sought them out. They did this as a necessary part of their survival strategies, developed in adaptation to the Euro-American presence.” Alice Littlefield and Martha C. Knack, eds., *Native Americans and Wage Labor* (Norman: University of Oklahoma Press, 1996), 14. As we shall see, by the middle of the twentieth century, the agency of Navajo workers in this regard had profoundly changed.


religion. Mitchell “took delight in the similarities between traditional Navajo beliefs and Christianity, between supernatural power and modern technology and between native and non-native medicine.”\textsuperscript{55} While he remained strongly opposed to the Native American Church and its peyote-based rituals, he was sympathetic to Christianity. Mitchell was baptized twice, once in his youth and again in the last weeks of his life. He was buried in a Catholic ceremony, but one which was interpreted in accordance with Navajo tradition, highlighting a syncretism that is seen repeatedly in this story of Navajo railroad workers. Thus, he was buried with his saddle and bridle and he directed his son to shoot his horse, Weasel, at the burial so that the horse could accompany him in death.

The anchoring that Mitchell found in Navajo culture and religion and his creative ability to adapt and succeed is a story that has been mirrored in the lives of Navajo railroad workers over the last century and remains true today.

The meaning and importance of Navajo strategies

Finally, I argue in this book that the color and creativity in the stories of these Navajo railroad workers and the valuable lessons they include are enlightening for all who live in turbulent times. In this sense I must disagree with the formulation of the acclaimed anthropologist Clifford Geertz, who wrote in the forward to \textit{Language and Art in the Navajo Universe}, a book by Navajo scholar Gary Witherspoon, that in considering Navajo people, we must remember that “they don’t represent, stand for, or demonstrate anything but themselves.”\textsuperscript{56} Geertz argued that

\textsuperscript{55} Mitchell, \textit{Navajo Blessingway Singer}, 2.

\textsuperscript{56} Clifford Geertz, foreword to Gary Witherspoon, \textit{Language and Art in the Navajo Universe} (Ann Arbor: University of Michigan Press, 1977), viii. Witherspoon also cautions in this work that one must be careful when trying to turn to Native Americans for “insight and inspiration,”
the point of a work such as Witherspoon’s was to “bring Navajo thought within the range of Western discourse, so that we might have some conception of the nature and some appreciation of its power.” Though the yeoman’s work by Geertz to move anthropology to a place from which to explore the diversity, creativity, and individuality that is modern culture took the discipline in a positive direction, I believe Navajo responses to modernity do “demonstrate” something other than one stand-alone approach.

I concur with the wonderful Navajo detective story author Tony Hillerman, who wrote that “it’s always troubled me that the American people are so ignorant of these rich Indian cultures. I think it’s important to show that aspects of ancient Indian ways are still very much alive and are highly germane even to our ways.” Hillerman’s detective novels are an extraordinary example of the use of popular fiction to accurately, respectfully, and lovingly feature a culture unknown to most readers.

While their conditions are in some senses unique, the existential challenges Navajos encounter are the same as those with

57 Geertz, foreword to Witherspoon, _Language and Art in the Navajo Universe_, x.

58 While I am confident in my opinions, it must always be remembered that, as Michael Jackson wrote, “we can never grasp intellectually all the variables at play in any action or all the repercussions that follow from it, partly because they are so variously and intricately nuanced, and partly because they are embedded in singular biographies as well as social histories.” _Existential Anthropology_, xxv. I agree. All that I can say is that I think that all who are concerned with the human condition can learn from this story, imperfect though my telling may be.


60 Hillerman’s detective novels are some of the best and most accessible representations of Navajo life and culture that exist. He has tremendous respect within the Navajo Nation. In 1987, the Navajo Tribal Council honored him with its Special Friend of the Diné award.
which all humans struggle. The creativity and pragmatism of railroad workers working to create and maintain a safe and harmonious space for themselves are examples of anthropologist Michael Jackson’s description of the human capacity to “create the conditions of viable existence and coexistence” when confronted with the possibility of a unique life. Facing the limiting and controlling forces of the world in which they must live, individual Navajo people must constantly attempt to consider, traverse, and shape the positive and negative applications of these forces. As Jackson has written, “Human wellbeing involves far more than simple adjustment to a given environment, natural or cultural; it involves endless experimentation in how the given world can be lived *decisively*, on one’s own terms.”

While each reader must make her own choice, I believe an understanding of the practices of these Navajo railroad workers can provide a pragmatic guide for those of other cultures to understand one way that some of our fellow human beings have found to confront the constant upheavals and disruptions of modern life. This is especially important in these times of constant uproar in the ways we communicate, spiraling economic difficulties, and looming climate change—times in which, to quote the title of the fine book on modernity by Marshall Berman, it seems that “all that is solid melts into air.”

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61 See *Existential Anthropology*, xv.
62 Jackson, *Existential Anthropology*, xii.