

AN OVERVIEW OF THE HISTORY OF FEDERAL INDIAN POLICY  
AND THE FUTURE OF THE UNITED STATES

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I am pleased to meet with you today, since being here gives me an opportunity to fulfill one of the most important responsibilities of the University of Wisconsin, to carry research knowledge out into the community. As an educator--a scholar and teacher, particularly one whose work is supported by the general public, one of my responsibilities is to inform, and I hope, to enlighten audiences other than those who happen to enroll in courses on campus. I hope you will excuse me if, for the next thirty minutes or so, I treat you like a college class.

What I propose doing today is to lay out an overview of the history of United States policy dealings with Indians, those whom my colleague and friend Steven Feraca calls the "indigenous landlords." My overview of these policies--stretching from George Washington's presidency until today, will be unorthodox. Let me emphasize, I am speaking about the relations between the federal government and the Indian, not the American people and Indians.

This course of events, as conventionally described, usually concentrates on the small details of history, the trees and shrubs. Moreover, such history--whether political, economic, or legal--is based on several basic assumptions. One of these is that the "White Man\* was culturally and morally superior to the "Indian." Because of this presumptuous sense of superiority, the invading "White Man" was supposed to have a special ethical responsibility toward the indigenous occupants of America. Hidden in such assumptions, two centuries ago and now, is the strong taint of racial thinking. The "White Man" and the "Indian" were and are thought of as two races separated by biology, language, culture, and values. Finally, a dominant thread in the conventional history of these policies paints the Indian as major historic victim, and the White Man, of course, as the victimizer. Much of this is, I believe, a really morality tale, not history, a set of legends in which guilt is the strongest emotion expressed. I do not work with such assumptions.

As an anthropologist I have been trained to look beyond the day-to-day detailed specifics of human behavior and to seek out underlying patterns which persist over the course of decades and centuries. Thus, I will try to outline the characteristics of the forest of Indian policy, so not to get lost among all the saplings and bushes of history. I am, as anthropologist, also supposed to ask what truly is going on under the surface appearances of human behavior, not to be content with the explanations of those whom I study. So I must ask you to be patient with me momentarily. The relevance of what I have to say in general to certain immediate concerns will become clear, I think.

Let me stress what I am speaking about. I am outlining the basic patterns of two centuries of policy relationships between the central or federal government of the United States and the Indian. We must start by identifying a few large, central questions, questions that might lead to strong insights. The first query is this: since the origin of the American State in 1789 to the present, in what ways has the Indian served the federal government? My second question follows: from 1789 to the present, what have been the key driving forces in the relationships between the American State and the Indian? How, then, has the United States benefited from its relations with the Indian? And, what moves the United States to adopt the policies it has for the Indian? These are the issues I will address.

Broadly speaking, my answer to the first question is this. From its constitutional origins in 1789 until today, the federal government has employed the Indian as target for a series of social experiments, experiments in the application of state power. Over the long haul these applications of governmental power have benefited the American State substantially, as I will show. Obviously, the federal government itself has a history. In 1789 it was weak internally and externally, ill-experienced, poorly funded, even lacking in standard operating procedures for carrying

out its business. I scarcely need repeating in detail what is obvious to you about the federal government's later development. Today the central government is not weak, ill-funded, or lacking in administrative means and rules for accomplishing its purposes.

One feature of the historical forest of federal Indian policy is this: as the prime target for a series of experiments in social policy, the Indian has helped the state get where it is today. Moreover, the federal government continues to benefit from these experiments. Since one major central concern today is precisely one such application of the power of the federal government as regards the Indian, perhaps you will find this conclusion persuasive. Whether we can understand recent developments in Indian affairs as a new experiment in social policy, and the nature of those policy aims, are matters I will return to shortly.

Getting an answer to the second question is a bit more difficult. Historians generally are of two distinct minds about what has driven American policy toward Indians. What both share in common is the conviction that, whatever the Indian policy adopted, the federal government was largely responding to appeals from its constituencies. Beyond this, the dominant school of historical thought is very negative. It stresses what are called "motives of the White Man" such as greed for land and unearned profits, or racism. On the other hand, a minority of historians speak of Christian benevolence and paternalistic philanthropy as producing various State policies toward Indians.

Although these two interpretations might seem to be incompatible, they are often put together. It was the "uncouth American frontiersman" who believed that the "only good Indian was a dead Indian," or the grasping "speculator" who had an uncontrolled lust for Indian land and resources, we are commonly told, while the power elite in Washington, New York, and Philadelphia held the best interests of Indians close to their philanthropic hearts. This line of reasoning is based on social class distinctions, obviously. It also makes the Indian and the American elite into allies, of course, just as it makes Indians and ordinary citizens into rivals or enemies. Unless I misread modern Wisconsin newspapers, that line of thinking is still with us, but I find it entirely unconvincing.

My view of the driving forces behind the relationships between the American State and the Indian is, as I suggested, non-conforming. I prefer the analytic thinking of the social sciences to the moralizing phrases just mentioned. I think the American State, as a developing institution, in its dealings with the Indian, was moved by its own interests, political and economic, legal and ethical, and these were to a significant degree separate and distinct from the interests of the American people. From recent developments, one might readily become convinced that the actions of the four branches of the federal government--legislative, executive, judicial, and bureaucratic remain something less than responsive to the strongly declared concerns of Americans affected by recent experiments in Indian policy.

Politically, by calming authority or management of the Indian, from 1789 on the State sought to consolidate and to expand its powers. This power was expressed and expanded through what James Mcgregor Burns calls those "little citadels of influence" which have always marked American political life from top to bottom that is political patronage and interest group politics. From 1789 until the present, the experiments in social policy developed by the federal government for Indians have benefited the State by enlarging its political reach and grasp.

The economic link has also been constant over the two centuries, for political decisions exercised by State power have controlled the acquisition and distribution of Indian resources and the funds generated for Indian programs, whatever their nature. Again, the distribution of such resources by the federal government has consistently operated through the patronage system. I must add that, from the earliest days of the United States until the present, the Indian has never been entirely powerless to influence decisions by the state. Since their interests were allied to those of the federal government, how could they have been? In the earliest years of the republic Indians were quick to grasp the importance of lobbying for their own goals in the corridors of power, and over the years their influence has grown strong. However generously "Indian" has been defined, some have always been beneficiaries of this patronage system, and their numbers have grown large in recent decades.

While the growth of Indian political power has grown out of relationships with the legislative and executive branches of the federal government, it has been specially enhanced, particularly

so in the past twenty years, by the patronage of the federal court system. Moreover, the position of the Indian in this system of political economic legal relationships has always been reinforced by the special place the Indian has had in the conscience of America. This is the ethical dimension of Indian relations I mentioned at the start.

The ethics of such relations are usually expressed with the "Indian as Victim" image I mentioned earlier. The always victimized Indian, we are regularly told, has a special call on the ethical sensibilities of American, so Americans must be generously patient and succumb to whatever demands are made on his behalf. There is an underhanded psychological trick to such demands. Those who stress American failures or misbehavior are trying to evoke guilt feelings. Guilt, they understand, is an irrational kind of motivation, and the guilt ridders, not thinking clearly, are moved on to make restitution, to be compassionately charitable.

If the American State has expanded and enhanced its power by a series of experiments in social policy with the Indian as target, and if this process has been driven by political patronage, interest group politics, economics, law, and ethics, how has the system operated decade to decade over the two centuries, and how does it operate today, now that it is fully in flower? Further, what is the relevance of this view of the whole historical forest of Indian policy to the immediate concerns of citizens of Wisconsin, or Washington, or South Dakota? It is time to lay some evidence on the table.

From the beginning of the American Republic the State, under its new constitution, gathered the sole authority and responsibility for managing Indian policies unto itself. This from the start, managing Indian affairs has been a prime expression of the power of the central government, expressed most often in the treaty system and that system's consequences. The treaty system soon also wedded centralized governmental power to the fiscal needs of the American State. For many years a large portion of the expenses of the federal government came from its public land policies: Indian occupied lands--that is most of the territory of the United States, were acquired cheap and sold dear, the profits flowing into the treasury, considerably reducing the need for internal and external taxes. How did the State benefit from this experiment in funding its operations? The State had a large and secure source of funds. Internal tensions and conflicts over taxation were reduced. Land in small parcels were made available for many settlers. And cheap land in larger quantities readily fell into the hands of key figures in the patronage network.

Another major experiment in social policy involving Indians soon followed. First suggested by President George Washington, in the early years of the 19th century a program called the Indian Factory or Indian Trading House policy was begun. Seeking a better means of regulating trade and making Indians loyal to the central government, this was an attempt to obtain a federal monopoly on commercial dealings with Indians. It was an early American experiment in state socialism, followed in later years by other such government managed enterprises.

In the same period a different experiment began, called the civilization policy. Broadly speaking, this policy aimed at reeducating Indians, training them in the farming and technical skills needed for life in a developing society, converting them to Christianity, and preparing them for citizenship. Although this experiment started slow and haltingly, it gathered force in the last half of the 19th-Century and remained the dominant policy through 1934. Often called the assimilation policy, the idea behind this experiment was to prepare Indians for life in a radically changed United States. Once Indians had sold most or all their lands, the reasoning went, they would no longer be able to subsist by hunting and fishing. With the responsibilities of citizenship went its rights and privileges. Long before any American women held the franchise, for example, hundreds and thousands of Indian men held the right to vote. Since the 1930's this assimilation policy has gained a bad reputation in some circles. However, seen from the perspective of the social sciences, assimilation is simply an alternative way of recruiting new members for a society. Like the United States, all Native American societies practiced assimilation, they recruited outsiders as new members and re-educated them for tribal life.

By the 1820's a new experiment in social policy overlapped the modest and none too successful attempt to assimilate the Indians of the organized states, and territories. By then there were major strains in the relationships between Indian and Americans within the states. The tribes still controlled large tracts of land within the states, lands which local citizens wanted for their own development. Instead of making citizens out of Indians, the civilization policy was ei-

ther rejected, or it contributed to the rapid growth of separate political entities within the states, particularly in the south. These strains created conflict within the states, between regions, and between the federal and state governments, strains which were reaching a crisis point.

In 1803 President Thomas Jefferson first suggested a plan for avoiding these problems, at least temporarily, but it was an idea which had to wait more than twenty years before it could be implemented. The plan was called Indian Removal; it was an early experiment with the planned resettlement of large populations, resettlement of people in circumstances which served the interests of the federal government. After Andrew Jackson entered the White House, in 1830's, this Indian policy was approved on a nationwide basis by congress. The Indian Removal policy authorized the President to negotiate the sale of the lands of all tribes within the organized states and territories, to transport them west of the Mississippi River, and to settle them on reservations in a new Indian Territory, consisting of eastern Kansas and Oklahoma. Those Indians who remained in the states sort of planned resettlement program was repeated many times for other populations in later years, as in interstate highway relocations, displacements of communities affected by dam and reservoir construction, or in the relocation of Japanese-Americans during World War II.

Now it is time to set the experiences of the Wisconsin Chippewa into this broad view of federal Indian policy. In the 1820's these Indians occupied the farthest frontiers of America territory. Not until 1825 and 1826 did the federal government exercise its treaty making power and incorporate them under its legal control. Even then, for more than ten years Chippewa had few contacts with any Americans, and those were mostly private citizens.

What this means is that for many years the Wisconsin Chippewa were little affected by all these federal experiments in social policy. They sold no land to the United States, hence did not contribute to the funding of the federal government. They were barely touched by the Indian Factory system that experiment in state socialism. Even the Civilization policy scarcely touched them. To be certain, there were some Protestant missionaries working in their communities, but conversions of Chippewa were exceedingly few. If you go over the lists of members of these mission churches, or the lists of students enrolled in mission schools, few traditional Chippewa are found there. Instead, the missions were educating the children of French, British, and American men by Chippewa women. These were among the "half-breed" or "mixed-blood" classes, and they were not accepted as authentic Indians by either the Chippewa or American law.

This isolation ended starting in the early 1830's. What happened was that Chippewa income from fur trapping declined sharply, and there was a shortage of game animals in much of northern Wisconsin. Meanwhile, there was a tremendous growth in demand for dimensioned soft wood lumber to supply the rapidly developing villages and cities of the Mississippi Valley to the south. Local American entrepreneurs quickly saw the opportunity, and negotiated leases with Chippewa bands, paying for the right to cut and transport pine logs. The Chippewa gained additional income, the entrepreneur's profits from these lumbering enterprises. However, these lumbermen-Chippewa partners were operating outside Federal Indian law, and also outside the federal patronage system.

Therefore, in 1837 a key federal official--Wisconsin's territorial governor, Henry Dodge, was instructed to negotiate a treaty with the Chippewa for that portion of their lands which were rich in pine forests. Indeed, it was a delegation of Chippewa chiefs from Minnesota who first suggested this, after hearing of similar arrangements with other neighboring tribes. So it was in July, 1837, that Governor Dodge met with the Chippewa delegations to negotiate this sale. Clearly, the Chippewa chiefs were interested in obtaining the maximum income from this transaction. Just as clearly, they preferred to reach an agreement something like the leasing arrangements they had made earlier with private lumbermen, and they wanted to retain ownership of the hardwood forests, lakes and streams. However, this arrangement Governor Dodge could not accept, and he repeatedly and explicitly explained that the United States would only agree to an outright purchase of all Chippewa rights to this tract. In the end, the Chippewa agreed and signed the treaty.

However, the treaty did not specify that the Chippewa would have to abandon the land sold before some specific date. Although the Indian Removal policy had been in full operation for seven years, as the Wisconsin Chippewa well knew, American authorities did not raise the issue

of an explicit date for removal and resettlement at that time. This happened because, so far as federal authorities could then see, there was little chance that the pine lands would be settled by Americans soon. So Governor Dodge was instructed to write into this contract an agreement granting the Chippewa the right to occupy and use the lands then sold, "during the pleasure of the President." No discussion of this phrase was recorded for these treaty negotiations. What was intended by these words? The Senate was simply authorizing the executive branch to decide, at some future date, when the Chippewa would have to give up their occupancy and use rights.

The Indians, seeing few Americans in their neighborhood, could not visualize removal as a threat soon. And American authorities, similarly, were not moved to be more specific. However, there were no conditions set for this Senate authorized exercise of presidential authority. When called for by future developments--statehood, for example, the President could withdraw these temporary use rights.

Although lumbering operations developed rapidly, the effects on the Chippewa were few. They benefited from the treaty payments, and to some extent started participating in the changing economy of Wisconsin. However, by 1842, their situation changed, drastically. At that point federal authorities responded to growing demand for another natural resource located on Wisconsin Chippewa lands--the mineral lands along Lake Superior's shore. This time Superintendent of Indian Affairs, Robert Stuart, was specifically instructed to negotiate a treaty which explicitly incorporated the provisions of the Indian Removal policy. Thus the Chippewa were pressed, first, to sell all their remaining lands in Wisconsin territory, and then to agree to abandon those lands entirely sometime in the future. They were to be persuaded to agree to resettle west of the Mississippi in Minnesota.

Stuart's orders were clear. He could not agree to any reservations for the Chippewa in Wisconsin. On this point the Chippewa balked. They had no wish to move west, and they demanded several band reservations in Wisconsin. Stuart, in response, had only modest leeway in his instructions. Although permanent reservations were not allowed, there were additional promises he could make the Chippewa. The United States wanted full control of all tracts containing valuable ores immediately, hence the Chippewa would have to agree to abandon those sites when the treaty was ratified by the Senate. The Chippewa voiced no opposition to this provision. But Stuart had also been authorized to make an additional commitment about the remaining lands. As in 1837, because American authorities could see no near-term pressure on those remote tracts, Stuart was authorized to promise the Chippewa that they could occupy and use these lands for a long while.

The Chippewa chiefs balked at the ambiguity in Stuart's words--a long time. How long they demanded to know, in terms understandable and significant to themselves. Various eye-witness on-the-scene observers recorded Stuart's specific promises and assurances. He used several phrasings, saying first: not during your life time, and not during the life time of your children, speaking to the adult and elder Chippewa leaders who negotiated this contract, adding more explicitly, not for fifty to one hundred years. These words were not written into the treaty, which contained only a phrasing like that in 1837, "until required to remove by the President." They were, however, an explicit part of the verbal contract, a promise which Stuart himself repeated several years later when he came to the defense of the Indians. There was no further condition mentioned or agreed to about continued Chippewa rights to occupy and to use the lands ceded, certainly no mention of "continued good behavior." At this point, still protesting because they had not won the reservations they desired, the treaty was signed by the Chippewa leaders.

Within a few years, the explicit promises made by Superintendent Stuart were ignored, and steps were taken to nudge the Chippewa out of Wisconsin entirely. This move originated among officials and private parties in Wisconsin and Minnesota territory, and it had no relationship to American settlement pressure on the lands ceded by the Chippewa. Because the Chippewa insisted on their treaty rights to remain for many years, these efforts were unsuccessful. Then, in 1848, came Wisconsin's statehood, and the establishment of Minnesota Territory. Some months later, local federal officials--a newly appointed Indian agent and the Governor of Minnesota Territory--conspired with officials in Washington to trick the Chippewa into moving into Minnesota.

Persuasion had failed, and armed force was not a viable option, so these government officials substituted deception. There followed a major tragedy. Because of the trickery of these federal officials, during the winter of 1850-1851, four hundred Chippewa died of starvation, disease, and exposure.

At this point the Wisconsin Chippewa were even more vehemently opposed to leaving Wisconsin. When pressed by the requirement that they travel to Minnesota to receive their annuity payments, many refused, remembering the deception and tragedy of 1850. Some even began purchasing property from the land offices, exercising the rights of citizenship promised by the constitutions of Wisconsin and Michigan. Of greater importance, the Chippewa held a powerful hole card. The United States wanted to purchase the north shore of Lake Superior, the sole tract to which these Chippewa held some claim. But these Indians refused to negotiate, holding out for band reservations in Wisconsin and the firm guarantee that they could not be required to move out of the state.

Their opportunity came in 1854. By then a new administration had taken power and introduced an entirely new social experiment. Federal officials at last realized that the old Indian Removal policy no longer was practical in the new, continental United States. There simply was no place in the west where all Indians could be congregated in one or two large, exclusive, Indian Territories. For the now obsolete experiment in one huge segregated Indian homeland, President Franklin Pierce's administration substituted what was called the Reservation policy.

Under this new social experiment, most of the lands of the Indians were to be purchased, and they would be settled on small reservations within their old territories. There increased efforts would be made to educate and prepare them for life in an industrializing United States. As individual's heads of families demonstrated their capacity, each would be given title to a share of the reservation as private property, and they would become tax-paying citizens of the state. At this point the aims of the federal government and the interests of the Wisconsin Chippewa coincided. The result was their last treaty, negotiated in September, 1854. In this negotiation the Chippewa at last agreed to sell their interest in the North Shore of the lake, and the United States accepted their demand for several band reservations in Wisconsin. Moreover, the treaty explicitly guaranteed that they could not be required to leave Wisconsin.

It was a generation before all the reservations specified in this treaty were surveyed and settled, the last--Lac Courte Oreille, in 1874. For many years before and after that date American settlements in the north were so sparse that there was little restriction on their hunting and fishing off the reservations. Indeed, as the pine forests were cut over and the second growth emerged, the deer herds in Wisconsin grew to numbers far beyond what they had been in pre-treaty years. Nor was there anything like the conservation of fish and game regulation as we know it today until near the end of the century, when heavy commercial hunting and so depleted the herds that the state had to begin strict regulation.

In the meantime, as Dr. Helen Tanner in the just published ATLAS OF GREAT LAKES INDIAN HISTORY has indicated, the Chippewa were integrating themselves into the state's economy in various capacities. Moreover, when citizens occasionally complained about the Indians hunting off reservation or out-of-season, federal authorities acknowledged that outside the confines of their reservation lands they were under state jurisdiction, a point the Chippewa's agent made plain to them when this issue first arose jurisdiction and Chippewa occupation and use rights were confined to their reservation lands.

This reservation policy, closely linked to a renewed and strengthened policy of assimilation, continued until 1934, when yet another social experiment was initiated by federal authorities, originally conceived to combat Indian poverty during those depression years. This new policy, outlined in the Indian reorganization Act of 1934, continues in operation today, increasingly growing in force and much strengthened by Viet Nam era legislation and policy statements.

The past twenty years have been particularly remarkable, so far as the successes of the Indian Rights lobby are concerned. As Charles Wilkinson notes in his recent book, AMERICANS INDIANS, TIME, AND THE LAW, during this period no legislation opposed by the Indian lobby has been adopted by Congress, and most of the legislation they have advocated has been approved. In the same years, several Presidents have issued proclamations supportive of increased

Indian rights, and the Supreme Court has written decision after decision affirming special treaty rights. The federal bureaucracy, of course, moves in step with such directives.

This new policy has grown like topsy and does not yet have a name. Indeed, most Americans are unaware of its features and prospects. Yet its major aims are clear. Indians are to have the rights of independent states within their homelands, however large or small the population, whether two dozen so-called Moron-go Indians on a few acres in California, or 175,000 Navajo on their huge tract sprawling across four states in the southwest.

The United States is to guarantee that these small Indian states remain viable homelands forever, each with its own government, judiciary, law enforcement agencies, and bureaucracies. Each such Indian homeland is also to be guaranteed the economic means of achieving political autonomy. These are the goals which Charles Wilkinson, one of the most able of the many highly qualified attorneys, has just outlined. His book, I think, is the Indian policy agenda for the next generation.

As I mentioned, this newest federal experiment in social policy has no single name by which it can be clearly identified. I will try to characterize it in social science terms, just as I have looked behind the surface appearances of the Indian Factory system, the Civilization, and the Removal policies.

What the Indian lobby is on the way of achieving under this policy involves, I believe, an experiment in ethnic balkanization. In some of the fifty states of the federal union ministates, called "Indian nations," are being carved out of the states' original territories and jurisdictions, which were established under the provisions of the United States Constitution. Thus Washington and California, South Dakota and Maine, Michigan and Wisconsin are finding that miniature Monte Carlos and Licensteins are appearing in their original territories. If long existing Indian reservations were not enough for this development, new "Indian Nations" are, under federal auspices, being invented annually. In Wisconsin today two such are in the Works. One of these recently rediscovered Indian "nations" is the Brotherton, a small community of emigrant Christian farmers of composite ancestry who, in 1839, voluntarily disbanded and became citizens. Another involves a move to create an Indian reservation on Milwaukee's north side.

My suggestion is that you might want to consider your immediate concerns in the light of this larger, expanding experiment in social policy. Do you really want to see a United States in the year 2000 carved up into hundreds or thousands of independent ethnic homelands, whether Indian or otherwise? For if the history of federal Indian policy holds any lessons, one is that an experiment first tried with Indians will soon thereafter be applied to other Americans.