

‘WE WORRY ABOUT SURVIVAL’: AMERICAN INDIAN WOMEN,  
SOVEREIGNTY, AND THE RIGHT TO BEAR AND RAISE CHILDREN IN THE  
1970s

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## **ABSTRACT**

Meg Devlin O'Sullivan: 'We Worry About Survival': American Indian Women, Sovereignty, and the Right to Bear and Raise Children in the 1970s  
(Under the direction of Theda Perdue and Michael Green)

This dissertation examines the political activism of American Indian women during the 1970s. Confronted with racism from the dominant society and sexism from both within and outside of their communities, these women constructed a feminist agenda that addressed their concerns as Indians and women. In particular, they worked to end coerced sterilization and the rampant removal of Indian children from their communities and homes. Building on new scholarship that has argued the struggle for reproductive freedom included the right to bear children as well as prevent births, 'We Worry About Survival' looks at the crucial role Indian women played in arresting sterilization abuse and defining American women's struggle for reproductive justice. At the same time that Indian women's activism to end coerced sterilization informed the goals of the feminist movement, their activism to reform adoption and foster care processes shaped the meaning of tribal sovereignty in the late twentieth century. The project describes not only the tangible achievements of these women in effecting federal regulations and legislation, but also their influence on mainstream American feminist ideology and Indian Country's interpretation of women's and children's rights as sovereign rights.

## **DEDICATION**

To Sam, whose birth helped me understand this project in immeasurable ways.

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## LIST OF ABBREVIATIONS

AAIA	Association on American Indian Affairs
ACLU	American Civil Liberties Union
AIM	American Indian Movement
AIO	Americans for Indian Opportunity
AIPRC	American Indian Policy Review Commission
ARENA	Adoption Resource Exchange of North America
BIA	Bureau of Indian Affairs
CARASA	Committee for Abortion Rights and Against Sterilization Abuse
CESA	Committee to End Sterilization Abuse
DRUMS	Determination of Rights and Unity of Menominee Shareholders
GAO	Government Accounting Office
HEW	(Department of) Health, Education, and Welfare
IAP	Indian Adoption Project
ICWA	Indian Child Welfare Act
IHS	Indian Health Service
IWY	International Women's Year
LDS	Latter-Day Saints
NAC	Native American Committee
NAIWA	North American Indian Women's Association
NCAI	National Congress of American Indians
NWHN	National Women's Health Network
NOW	National Organization for Women

RCAR	Religious Coalition for Abortion Rights
WARN	Women of All Red Nations
WOCPP	Women of Color Partnership Project

## INTRODUCTION

During the 1960s and 1970s, American Indian women participated in the Red Power movement and overwhelmingly dismissed the women's liberation movement as white women's struggle. These activists found, however, that issues of sexism as well as political sovereignty affected them. Although white women's feminism did not appeal to many of these activists, their experiences as Indian women made clear to them that their fight for tribal rights manifested itself in distinctly gendered ways. Indian women's activism combined elements of both the Red Power and women's liberation movements, and it centered on two issues that most concerned the Indian women activists: the coerced sterilization of Indian women and the placement of Indian children in non-Indian foster and adoptive homes. This dissertation describes the specific histories of coerced sterilization and the removal of Indian children from their families, details Indian women's activism in the 1970s to end both practices, and makes a case for the role Indian women played in defining the meaning of reproductive justice and tribal sovereignty.

Few published works have looked specifically at Indian women's activism during the 1970s. Scholars have described the history of Red Power and women's place within it, but fail to examine what political issues beyond the larger goals of tribal sovereignty and political autonomy were germane to Indian women. For example, Troy Johnson and Joanne Nagel have written extensively on the subject and documented the major efforts of the Red Power movement, such as the seizure of Alcatraz Island and the Longest

Walk.<sup>1</sup> Paul Chat Smith and Robert Allen Warrior used a similar framework in *Like a Hurricane*.<sup>2</sup> Autobiographical accounts by Red Power activists such as those by Russell Means, Dennis Banks, and Stanley David Lyman, also have looked at the goals and achievements of the movement as a whole and focused on individual men's experiences.<sup>3</sup> As these works acknowledged, Indian women participated actively in the struggle for sovereignty, but their activism during the 1970s extended beyond the seemingly male-dominated Red Power movement. Mary Crow Dog's memoir *Lakota Woman*, Devon Mihesuah's article on Mikmaq activist Anna Mae Pictou-Aquash, and Elizabeth Castle's dissertation on African American and American Indian women activists are among the only investigations of Indian women's political work during the era of Red Power.<sup>4</sup>

These activist women worked on issues specific to them as Indians and women within the Red Power movement and as a part of the larger women's movement for reproductive freedom. For Indian women as well as other feminists of color, reproductive justice included the right to bear and keep children rather than merely the goal of

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<sup>1</sup> Troy Johnson, Joanne Nagel, Duane Champagne, eds., *American Indian Activism: Alcatraz to the Longest Walk* (Urbana: University of Illinois Press, 1997); Troy Johnson, *The Occupation of Alcatraz Island* (Urbana: The University of Illinois, 1996); Joanne Nagel, *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture* (New York: Oxford University Press, 1996); and Alvin Josephy, Jr., Joanne Nagel, Troy Johnson, eds., *Red Power: The American Indians' Fight for Freedom*. Second Edition. (Lincoln: University of Nebraska Press, 1999).

<sup>2</sup> Paul Chat Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to the Longest Walk* (Urbana: University of Illinois Press, 1996).

<sup>3</sup> Russell Means with Marvin J. Wolf, *Where White Men Fear to Tread: The Autobiography of Russell Means* (New York: St. Martin's Press, 1995); Dennis Banks with Richard Erdoes, *Ojibwa Warrior: Dennis Banks and the Rise of the American Indian Movement* (Tulsa: University of Oklahoma Press, 2004); and Stanley David Lyman et al., *Wounded Knee 1973: A Personal Account* (Lincoln: University of Nebraska Press, 1991).

<sup>4</sup> Mary Crow Dog with Richard Erdoes, *Lakota Woman* (New York: Harper Perennial, 1991); Devon A. Mihesuah "Anna Mae Pictou-Aquash: An American Indian Activist" in *Sifters: Native American Women's Lives*, Theda Perdue, ed., (New York: Oxford University Press, 2001), 204-22; and Elizabeth A. Castle, "Black and Native American Women's Activism in the Black Panther Party and the American Indian Movement" (Ph.D. Dissertation. Cambridge University, 2001).

securing safe abortion and birth control. Yet the historiography of American women's activism for reproductive freedom overwhelmingly describes the latter.<sup>5</sup> Kristin Luker's study of abortion in the United States investigated the personal choices that pro-life "mothers" versus pro-choice "career women" made about abortion, and divorced the issue from power, politics, race, and class. As a result, Luker's work, like many on reproductive freedom, exclusively examined the battle between pro-life versus pro-choice, and obscured other aspects of reproductive justice, such as coerced sterilization.<sup>6</sup> Rosalind Pollack Petchesky has redefined abortion in her work as a "social need" rather than an "individual choice," in defense of abortion and in an attempt to reframe the existing debate, but Petchesky examined only one side of reproductive freedom.<sup>7</sup> Only a few scholars, such as Linda Gordon in her study of birth control in the United States, have made clear that reproductive justice meant not only access to abortion, but also the freedom to have children.<sup>8</sup>

Historians like Gordon have begun to expand their interpretation of the issues that defined feminism in the second half of the twentieth century as well as the individuals who helped advance them. In the standard narrative, middle-class white women tired of post-war limitations organized for change, creating the National Organization for Women

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<sup>5</sup> Suzanne Staggborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (New York: Oxford University Press, 1991); Rickie Solinger, ed., *Abortion Wars: A Half Century of Struggle, 1950-2000* (Berkeley: University of California Press, 1998); Beverly Wildung Harrison, *Our Right to Choose: Toward a New Ethic of Abortion* (Boston: Beacon Press, 1983).

<sup>6</sup> Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of California Press, 1984).

<sup>7</sup> Rosalind Pollack Petchesky, *Abortion and a Woman's Choice: The State, Sexuality, and Reproductive Freedom* (Boston: Northeastern University Press, 1985).

<sup>8</sup> Linda Gordon, *Woman's Body, Woman's Right: Birth Control in America* (New York: Penguin Books, 1990).

(NOW), while the more radical women's liberation movement stemmed from women's involvement in the New Left and Civil Rights Movement.<sup>9</sup> In her work on women in the liberal establishment, Susan Hartmann has challenged this understanding, arguing that the "sea of change" in gender roles that occurred during the 1970s came from the efforts of groups beyond those of the white middle-class women's movement. Hartmann has maintained that scholarly works have obscured this reality through their exclusive examination of NOW and the women's liberation movement, and fostered an interpretation that credits these two branches of feminism with all of the changes regarding gender that ensued. Hartmann suggested that if scholars broaden their investigation, a new narrative of the women's movement and feminist changes becomes possible.<sup>10</sup> Dorothy Sue Cobble concurred, situating the changes that mainstream feminist organizations help bring about in an older and larger struggle advanced by the efforts of the labor movement to "extend first-class economic citizenship to women."<sup>11</sup> Benita Roth maintained that scholarly investigations of the second wave (the organized women's movement for social, political, and economic equality of the 1960s and 1970s) have "white-washed" the truth in their neglect of the efforts of feminists of color. Roth has encouraged readers to think of the second wave as a "group of feminisms," rather than a monolithic movement led by white women with women of color on its fringes.<sup>12</sup>

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<sup>9</sup> Sarah Evans, *Personal Politics: The Roots of Women's Liberation in the Civil Rights Movement and New Left*, (New York: Alfred A. Knopf, 1979).

<sup>10</sup> Susan M. Hartmann, *The Other Feminists: Activists in the Liberal Establishment* (New Haven: Yale University Press, 1998), 2.

<sup>11</sup> Dorothy Sue Cobble, *The Other Women's Movement: Workplace Justice and Social Rights in Modern America* (Princeton: Princeton University Press, 2004), 145.

<sup>12</sup> Benita Roth, *Separate Roads to Feminism: Black, Chicana, and White Feminist Movements in America's Second Wave* (Cambridge: Cambridge University Press, 2004), 2-3.

With this understanding, the landscape of reproductive rights activism during the second wave looks quite different.

Recent works have begun to examine the role women of color played in defining the fight for reproductive rights.<sup>13</sup> Jennifer Nelson argued that an investigation of Black and Puerto Rican women in the fight for reproductive justice documented their demand not only for access to safe abortion and birth control, but also for freedom from coerced sterilization.<sup>14</sup> Nelson has written that Black and Puerto Rican women created reproductive feminist agendas for themselves that were different from both the rhetoric of Black and Puerto Rican nationalism (that were largely anti-abortion and birth control) and also the women's liberation movement (that focused exclusively on these aspects of reproductive freedom).<sup>15</sup> In *Undivided Rights*, Jael Silliman, Marlene Gerber Fried, Loretta Ross, and Elena Gutiérrez described how women of color organized for abortion rights and against coerced sterilization.<sup>16</sup> When the history of the second wave struggle for reproductive justice includes the concerns of African America, Latina, Chicana, and American Indian women, it becomes clear that the fight for women's control over their bodies and reproductive health was as much about the freedom to protect fertility as it was to prevent births.

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<sup>13</sup> Marlene Gerber Fried, ed., *From Abortion to Reproductive Freedom: Transforming a Movement* (Boston: South End Press, 1990), x.

<sup>14</sup> Jennifer Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003).

<sup>15</sup> *Ibid.*, 56-57, 68, 115.

<sup>16</sup> Jael Silliman, Marlene Gerber Fried, Loretta Ross, and Elena Gutiérrez, *Undivided Rights: Women of Color Organize for Reproductive Justice* (Boston: South End Press, 2004).

‘We Worry About Survival’ builds on this historiography, arguing that the contributions of the white middle-class women’s movement were not the only issues American women activists championed during the 1970s. At the same time that NOW worked for changes in the workplace and the women’s liberation movement organized consciousness-raising groups, American Indian women worked for tribal sovereignty within the Red Power movement and began to advance political agendas of their own as both women and Indians. Contemporary and scholarly assessments of the women’s and Red Power movements have in large measure ignored the role of Indian women in advancing, and even defining, the political agendas of both groups. In part this was because, during the 1970s, the media identified Indian men and white middle-class women as the leaders of their respective causes.<sup>17</sup> Until very recently, academics who studied both movements perpetuated this focus because the documents immediately available to them—newspapers, personal memoirs, and archival collections of mainstream activist groups—supported such an interpretation. An investigation of additional sources such as government documents, Native newspapers and magazines, and oral testimonies, as well as a closer look at the existent archival sources, revealed a more complicated and complete picture of the era and its political causes. For example, Indian child welfare concerned a majority of Indian women activists, many of whom came out of the Red Power movement. Few studies of the movement, however, examined this aspect of sovereignty—the right of Native nations to manage issues of child welfare on their reservations. A focus on Indian women’s activism sheds light on the role the

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<sup>17</sup> Hartmann, *The Other Feminists*, 176; Castle, “Black and Native American Women’s Activism,” 165, 184.

rights of women and families played in the struggle for tribal political independence and self-determination.

Historian Devon Mihesuah maintains that “If feminists want to learn about themselves and others... they should approach Indigenous women only with a genuine, but respectful curiosity about another way of life.”<sup>18</sup> This project proceeds from the theoretical perspective that the way in which Indian women experienced and expressed feminism varied not only from “dominant” white-feminists’ paradigms but also from one indigenous woman to the next. For example, Joy Harjo, Creek writer, defined tribal feminism as a “multi-sphered concept with the family as the center, surrounded by clan identification, and then tribe and tribal relations.”<sup>19</sup> Alternatively, Wilma Mankiller, former Principle Chief of the Cherokee Nation, employed the term to describe using female power to assist her tribe.<sup>20</sup> This study uses the terms “feminist” and “activist” to describe how Indian women interpreted their identities and political struggles. From this perspective, the project investigates what Red Power and women’s organizations offered and failed to offer Indian women. It looks at how American Indian women defined reproductive justice and tribal sovereignty. The study seeks to answer the following questions: How did Indian women advance their agendas of stopping coerced sterilization and Indian child adoption? Did they seek participation in existing organizations or create their own? Were Indian women able to effect the change they wanted for themselves and

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<sup>18</sup> Devon Mihesuah, *Indigenous American Women: Decolonization, Empowerment, Activism* (Lincoln: University of Nebraska Press, 2003), 8.

<sup>19</sup> *Ibid.*, 160.

<sup>20</sup> *Ibid.*, 162.

their tribes? In what ways did their politics define the agendas of the women's and Red Power movements?

In order to answer these questions, the first chapter of the study investigates the Red Power and feminist movements and Indian women's participation in and dissatisfaction with both. The chapter examines why Indian women overwhelmingly rejected participation in mainstream women's organizations and felt more comfortable working for political change from within the Red Power movement. This segment of the project identifies two concerns that were of particular importance to Indian women: coerced sterilization and the removal of Indian children to non-Indian foster and adoptive homes. The chapter describes why these issues required Indian women to form both their own groups outside of those dedicated to tribal sovereignty and to cooperate with existing organizations in Indian Country and the larger United States.

The next two chapters look at coerced sterilization. The second chapter documents the history of eugenics and sterilization in the United States generally, as well as the experience of American Indians with these issues. The early twentieth-century eugenics movement largely overlooked American Indian women in their campaign to sterilize the biologically "unfit." As the century progressed, however, this began to change. The chapter then describes how American Indian women increasingly became targets of coerced sterilization during the later twentieth century as concerns about the "unfit" shifted to worry about over-population and welfare expenses. The third chapter examines Indian women's activism to stop the government-funded coerced sterilization of women of color during the 1970s. It addresses both their efforts in all-Indian women's

groups as well as participation in more mainstream women's organizations and initiatives.

The final two chapters investigate the foster care and adoption of Indian children. Chapter four examines the long history of how the federal government and private agencies viewed Indian families as dysfunctional. This section describes the centuries-old practice of removing Indian children from their parents in order to "spare" them from conditions in their communities. The chapter also looks at the effects of these removals on Indian children and the role of Indian parents in both preventing and adapting to them. The fifth chapter describes Indian women's work in conjunction with other Indian organizations and tribes to stop the removal of Indian children from their homes and to put control of Indian child welfare in the hands of the tribes. This final chapter includes an explanation of the achievements and challenges of the 1978 Indian Child Welfare Act. The project concludes with an analysis of how Indian women helped define and advance the political agendas of the women's movement for reproductive justice and the Red Power struggle for tribal sovereignty. An epilogue describes the continued salience of the issues these Indian women raised.

## CHAPTER I

### RED POWER AND WHITE FEMINISM: THE EMERGENCE OF INDIAN WOMEN'S ACTIVISM

The Civil Rights Movement of the second-half of the twentieth century spawned an array of different political agendas including those that addressed women's rights and Indian rights. American Indian activists during the 1960s and 1970s demanded the federal government uphold two centuries-old treaty rights and respect the right to self-governance of Indian nations.<sup>1</sup> The women's liberation movement sought for individual women all of the rights and responsibilities that American men enjoyed.<sup>2</sup> Many Indian women found themselves simultaneously invested in and estranged from both movements.<sup>3</sup> From their experiences with racism and sexism, red power and white feminism, many Indian women articulated a distinctly Indian women's activism that focused, in part, on opposition to coerced sterilization and adoption exploitation. The personal was political for these activists. Indian women did not interpret the loss of their

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<sup>1</sup> For more on American Indian political activism during the 1960s and 1970s see: Kenneth S. Stern, *Loud Hawk: The United States versus the American Indian Movement* (Norman: University of Oklahoma Press, 1994).

<sup>2</sup> For more on the women's liberation movement see: Sarah Evans, *Personal Politics: The Roots of Women's Liberation in the Civil Rights Movement and New Left* (New York: Alfred A. Knopf, 1979); Jo Freeman, *The Politics of Women's Liberation: A Case Study of an Emerging Social Movement and its Relation to the Policy Process* (New York: McKay, 1975); Kathleen C. Berkeley, *The Women's Liberation Movement in America* (Westport, Connecticut: Greenwood Press, 1999); Sharon Hartman Strom, *Women's Rights* (Westport, Connecticut: Greenwood Press, 2003).

<sup>3</sup> See Devon Mihesuah, *Indigenous American Women: Decolonization, Empowerment, Activism* (Lincoln: University of Nebraska Press, 2003) and Grace Ouellette, *The Fourth World: An Indigenous Perspective on Feminism and Aboriginal Women's Activism* (Halifax, Nova Scotia: Fernwood Publishers, 2002).

reproductive rights and children as an individual experience nor as a “woman’s issue.” These social crises became political struggles. When a local, state, or federal agent took an Indian woman’s reproductive rights or child away it breached not only her personal civil liberties, but it also chipped away at the political sovereignty of her tribe or nation. As one activist and scholar articulated, “a sovereign nation inherently possesses the right to . . . care for its members.”<sup>4</sup> The intervention of non-Indians in these affairs challenged an Indian woman’s individual human rights as a member of a sovereign Indian tribe, and discredited the political autonomy of the nation where she held tribal citizenship. To address these problems, Indian women employed political solutions that focused on the tribe rather than exclusively on the individual, and they embraced a political identity as both Indians and women. Social theorist Patricia Hill Collins described “intersectional paradigms” as the connection of race, class, and gender to form both identity and experience.<sup>5</sup> This intersection helps describe how Indian women interpreted their struggles and solutions; neither race nor gender alone defined these women and their activism.

The Red Power movement began in the early 1960s, but its roots extended to Indian policy of the previous decade.<sup>6</sup> In 1953, the federal government established the

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<sup>4</sup> Justine Smith “Native Sovereignty and Social Justice: Moving Toward an Inclusive Framework” in *Dangerous Intersections: Feminist Perspectives on Population, Environment, and Development, A Project of the Committee on Women, Population, and the Environment* Jael Silliman and Ynestra King, eds., (Cambridge, Massachusetts: South End Press, 1999): 202-13, 206.

<sup>5</sup> Patricia Hill Collins. *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (New York: Routledge, 2000), 227.

<sup>6</sup> For more on termination and relocation see: Alison R. Bernstein, *American Indians and World War II: Toward a New Era in Indian Affairs* (Norman: University of Oklahoma Press, 1991); Donald Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University of New Mexico Press, 1986); Larry W. Burt, *Tribalism in Crisis: Federal Indian Policy, 1953-1961* (Albuquerque: University of New Mexico Press, 1992); Kenneth R. Philip, *Indian Self-Rule: First-Hand Accounts of*

Indian policy of termination that attempted to end the government-to-government relationship the tribes had with the United States. The government soon applied the policy to those Indian nations, such as the Menominee, Klamath, and others, deemed “ready” for complete assimilation and cessation of treaty benefits. In essence, the better off a tribe was the more likely that tribe was to lose treaty rights, the relationship they had with the federal government, and their status as sovereign nations. This created an understandable paranoia and paralysis among Indian leaders and communities. The threat of termination hovered over the tribes, preventing many from thriving for fear of the punishment that would ensue if they did. At the same time, the economically successful tribes who were terminated—such as the Menominees—suffered greatly as a result.<sup>7</sup> Concurrent with this policy the federal relocation program sought to move Indians from reservations to large urban areas.<sup>8</sup> Individuals and families signed up for this program in hopes of establishing a better life than what was available on their reservation or in their home communities. As a part of the relocation program, an Indian could expect placement in a distant urban area and minimal federal assistance with finding housing and work once he or she arrived. While the federal government did not force participation

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*Indian-White Relations from Roosevelt to Reagan* (Salt Lake City, Utah: Howe Bros., 1986); Gary Orfield, *A Study of the Termination Policy* (Denver: National Congress of American Indians, 1964) and Thomas Clarkin, *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961-1969* (Albuquerque: University of New Mexico Press, 2001).

<sup>7</sup> Some works on Menominee Termination include, Nancy Lurie, *Menominee Termination: A Monograph* (San Francisco: American Indian Historical Society, 1971) and Nicholas C. Peroff, *Menominee Drums: Tribal Termination and Restoration, 1954-1974* (Norman: University of Oklahoma Press, 1982).

<sup>8</sup> The relocation program officially began in 1952. See: Terry Straus et al, “Anthropology, Ethics, and the American Indian Chicago Conference” in *American Ethnologist*, Vol. 13, No. 4 (Nov., 1986): 802-804, 803; Nancy Lurie, “The Voice of the American Indian: Report on the American Indian Chicago Conference” in *Current Anthropology* Vol. 2, No. 5. (Dec. 1961): 478-500, 481. For more on relocation see: Fixico, *Termination and Relocation*.

in the relocation program, many Indians, particularly those of terminated tribes, took part in relocation because of challenging conditions at home.

The federal policies of termination and relocation brought many Indian men and women to urban centers such as Oklahoma City, Chicago, Seattle, Dallas, San Francisco, and Los Angeles. Historically, American Indians identified with their tribe, rather than ethnically as Indian; however, termination and relocation brought together people from disparate Indian groups. Indian men and women realized that although they had distinct cultures and histories, their peoples shared many experiences especially in their relations with the federal government. A desire for political autonomy bound Indians together. This common political goal inspired them to organize and unify for political change.

In June of 1961, The American Indian Chicago Conference drafted the “Declaration of Indian Purpose” which both started a movement and crystallized its cause: the need for tribal self-determination.<sup>9</sup> The conference, organized by anthropologists Sol Tax and Nancy Lurie and Director of the Chicago Indian Center, Robert Rietz, attracted 467 Indian registered attendants from ninety different tribes and nations. Roughly 145 non-Indians attended the conference as observers, with American Indians running both the small discussion groups and larger plenary meetings.<sup>10</sup> These sessions discussed the most pressing concerns in Indian country, including termination, healthcare, and education. The conference issued the “Declaration of Indian Purpose” which outlined, in large measure, the activists’ course of action for the next two decades.

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<sup>9</sup> Alvin M. Josephy, Jr., Joanne Nagel, Troy Johnson, eds., *Red Power: The American Indians’ Fight for Freedom* (Lincoln: University of Nebraska Press, 1971), 39.

<sup>10</sup> Lurie, “The Voice of the American Indian,” 482, 489, 496.

Drafted by D'Arcy McNickle, Flathead anthropologist and former official of the Bureau of Indian Affairs, the "Declaration of Indian Purpose" demanded tribal sovereignty and control over Indian affairs for federally-recognized and unrecognized Native nations. The document demanded that the United States government respect and uphold the right of Indian nations to govern themselves. The Declaration did not insist on a complete transformation in policy, but rather changes in existing legislation, economic resources, healthcare, welfare, housing, and education programs. The document also demanded eligibility for tribal participation in federal and non-federal programs.<sup>11</sup>

Over the next two decades, Indian men and women formed groups, staged protests, and focused their struggle on treaty obligations and tribal rights.<sup>12</sup> Starting with the organization of the National Indian Youth Council in 1963, to the fish-ins on the Nisqually and other Northwest Coast rivers in 1965, to the seizure of Alcatraz Island in 1969, Indian activists demanded that the federal government respect their treaties and the privileges of sovereignty. In 1965, The Survival of American Indian Association, Inc., led in part by Janet McCloud (Tulalip), staged fish-ins on the Nisqually River to uphold their treaty rights to fish free from state regulations, despite the efforts of the local law enforcement to stop the practice.<sup>13</sup> The Indians of All Tribes who held Alcatraz Island issued a letter on December 19, 1969 calling for unity "of all our Indian brothers behind a

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<sup>11</sup> Indians of North America, *Declaration of Indian Purpose: The Voice of the American Indian, Results and Recommendations from the American Indian Chicago Conference, from June 13-16, 1961* (Whitefish, Montana: Kessinger Publishing, 2006); Lurie, "The Voice of the American Indian," 496-97.

<sup>12</sup> Vine Deloria, Jr. and Clifford Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1984), 235.

<sup>13</sup> Alvin M. Josephy, Jr., Joanne Nagel, Troy Johnson, eds., *Red Power*, 87; Elizabeth A. Castle, "Black and Native American Women's Activism in the Black Panther Party and the American Indian Movement" (Ph.D. Dissertation. Cambridge University, 2001), 88.

common cause” that would empower American Indians to organize and take care of their needs, rather than having the federal government continue to tell them “what is good for us.”<sup>14</sup>

The movement was not, however, comprised exclusively of “Indian brothers” as the Indians of All Tribes’ call to arms suggested. Women, in fact, increasingly assumed leadership positions at Alcatraz after leader Richard Oakes (Mohawk) left the island following the accidental death of his young daughter. As elected council officials at Alcatraz, LaNada Boyer, Stella Leach, and Grace Thorpe played key roles in all aspects of life on the island.<sup>15</sup> Even in the earliest of Red Power movement protests, on the Nisqually River, at Alcatraz, and elsewhere, Indian women worked alongside Indian men, and in leadership positions, for issues of tribal sovereignty.

In 1963, two years after the American Indian Chicago Conference drafted its “Declaration of Indian Purpose,” Betty Friedan published her influential work, *The Feminine Mystique*, which took a critical look at the gendered post-war expectations of American society and was credited with sparking the women’s movement.<sup>16</sup> *The Feminine Mystique* gave middle-class American women a way to understand their feelings, “the problem with no name,” and a vocabulary to articulate their dissatisfaction. Friedan argued that American culture needed to stop glorifying marriage and motherhood as the key to women’s happiness and contentment. In addition to rethinking these socio-cultural expectations, Friedan saw education and vocation as integral to this

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<sup>14</sup> Ibid., 188.

<sup>15</sup> Castle, “Black and Native American Women's Activism,” 93

<sup>16</sup> Betty Friedan, *The Feminine Mystique*, (New York: W.W. Norton and Co., Inc., 2001).

transformation. The strategy Friedan offered was not simply that women leave the home for outside employment. Rather, after rethinking both motherhood and marriage as *aspects* of their lives, women could be free to pursue their own interests and careers, creating a balance between their identities as wives and mothers and their own selves as human beings. In 1965, Friedan and others formed the National Organization for Women (NOW), which focused on bringing women into full equality with men.

The women's liberation movement in large measure grew out of NOW and the Civil Rights Movement. In the years that followed, additional women's organizations emerged both from NOW's example and because of dissatisfaction with the association, which was seen increasingly as an establishment group for upper and middle-class professional women. Likewise, women active in the Civil Rights movement, perceiving sexism within their organizations, dedicated themselves to women's rights, and organized all-women groups. The organizations that formed, however—from the Combahee River Collective to Radicalesbians to Women of All Red Nations (WARN)—were diverse in their interests, cognizant of how race, class, and sexuality intersected to form identity, and often more radical in their politics than NOW.<sup>17</sup> These women rejected NOW's focus on the tension between women's experience as wives and mothers and professional life because it failed to address the issues of political import to them.

For many Indian women, the white women's feminist movement, typified by groups like NOW, held little appeal. Mary Crow Dog of the American Indian Movement

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<sup>17</sup> For more on these groups see: Combahee River Collective, *Combahee River Collective Statement: Black Feminist Organizing in the Seventies and Eighties* (Albany, New York: Kitchen Table: Women of Color Press, 1986); Radicalesbians, *The Woman-Identified Woman: What is a Lesbian?* (New York: Gay Flames, 1970); Women of All Red Nations, *Women of All Red Nations: WARN* (Porcupine, South Dakota: We Will Remember Group, 1977). For a concise history of radical feminism see: Alice Echols, *Daring to Be Bad: Radical Feminism in America, 1967-1975* (Minneapolis: University of Minnesota Press, 1989).

(AIM) dismissed such organizations: “women’s lib was a white, middle-class thing.”

Above all else, Indian women gave their political allegiance to their tribes. According to Crow Dog, as soon as the men in her tribe got “their rights and their balls back,” she and other Indian women “might start arguing with them about who should do the dishes.”<sup>18</sup>

Indian activist Madonna Gilbert told a *MS Magazine* reporter in 1976: “In your culture you have lots of problems with men. Maybe we do too, but we don’t have time to worry about sexism. We worry about survival.”<sup>19</sup> Gilbert, Two Kettle Lakota, participated actively in the American Indian Movement (AIM), co-founded Women of All Red Nations (WARN), and worked to protect the Black Hills in South Dakota from uranium mining as a part of the Black Hills Alliance.<sup>20</sup> As a member of these groups, she fought for tribal sovereignty, the preservation of Indian families, and the environmental protection of Native lands. These basic issues of survival, according to Gilbert, separated her and other Indian women activists from white feminists and united them with Indian men. Perhaps white feminists could focus on single-issues such as conflict with the men in their culture, but Indian women didn’t “have time” for such concerns. For Gilbert, white feminism appeared to focus on problems with men and ignore the empowerment of women and the advancement of their political agendas; therefore, it offered little of substance to Indian women. Not only did mainstream American women’s feminism seem less important to Indian women than their struggle for Native rights, some interpreted

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<sup>18</sup> Mary Crow Dog with Richard Erdoes, *Lakota Woman* (New York: HarperPerennial, 1991), 131.

<sup>19</sup> Susan Braudy, “‘We Will Remember’ Survival School: A Visit with Women and Children of the American Indian Movement” in *MS Magazine*, Vol. 5, No. 1 (July 1976 ): 77-80, 94-102; 94. Madonna Gilbert now identifies as Madonna Thunder Hawk.

<sup>20</sup> Elizabeth A. Castle, “Black and Native American Women's Activism,” 169.

white women's experiences as having little in common with their personal and tribal histories. Mary Crow Dog's sister, Barbara Moore, argued that "Indian women have always been emancipated" and did not need women's liberation "in the way that white women practice it."<sup>21</sup> Therefore, they focused their activist energies on Red Power.

The American Indian Movement emerged as perhaps the most visible organization of the Red Power movement. AIM started in 1968 in Minneapolis as a vigilante group designed to protect Indians in the city, but it quickly grew both in size and scope. By 1972, AIM marched on Washington and subsequently occupied the office building of the Bureau of Indian Affairs in an attempt to force the government to acknowledge the treaty rights of Indian nations.<sup>22</sup> The Trail of Broken Treaties, planned in part by AIM, organized caravans from Los Angeles, San Francisco, and Seattle that headed east toward Washington DC, and picked up American Indian supporters along the way. The activists brought with them twenty points in defense of tribal sovereignty and Indian self-determination to give to Washington bureaucrats. The cross-country trek culminated, however, with the activists seizing the Bureau of Indian Affairs for one week. Indian women participated in every aspect of the seizure from addressing logistics, to drafting the twenty point plan, to holding the BIA offices.<sup>23</sup> The BIA take-over ended peacefully when federal agents agreed to consider seriously the demands the Indians put forth.

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<sup>21</sup> "An Interview with Barbara Moore," in *Akwesasne Notes* (Spring 1979): 12.

<sup>22</sup> Russell Means with Marvin J. Wolf, *Where White Men Fear to Tread: The Autobiography of Russell Means* (New York: St. Martin's Press, 1995), 223; Paul Chat Smith and Robert Allen Warrior, *Like a Hurricane: The Indian Movement from Alcatraz to the Longest Walk* (Urbana: 1996).

<sup>23</sup> Castle, "Black and Native American Women's Activism," 202-204.

In 1973, AIM went to the Pine Ridge reservation in South Dakota to support the Oglala Sioux Rights Organization, a local group under attack by their anti-Red Power tribal chairman, Dick Wilson. AIM ultimately held Wounded Knee with the Oglalas for seventy-one days because they wanted the federal government to uphold promises made in the 1868 Fort Laramie treaty that would, they believed, recognize an independent Oglala Nation.<sup>24</sup> Here again, Indian women played crucial roles organizing everyday life at Wounded Knee, staffing the bunkers erected by the activists to protect them from federal agents, and transporting food, medicine, and supplies from the outside.<sup>25</sup> Although media coverage once again focused on male leaders such as Dennis Banks, Russell Means, and Carter Camp, Indian women including Ellen Moves Camp, Gladys Bissonette, Lou Beane, and Agnes Lamont also functioned as negotiators with federal agents. These were four of the 200 Indian women (and 150 Indian men) who participated in the siege at Wounded Knee.<sup>26</sup>

In February of 1978, AIM leader Dennis Banks and activist Lee Brightman embarked on the Longest Walk from Alcatraz Island to Washington, D.C. to protest Congressional legislation that they believed to be anti-Indian. At the request of an Indian woman activist, they included forced sterilization as one of their major concerns.<sup>27</sup> Dr. Connie Pinkerton Redbird Uri, a Cherokee-Choctaw physician living and working in Los Angeles during the 1970s, had contacted Means and Brightman about mentioning

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<sup>24</sup> Means, *Where White Men Fear to Tread*, 261. AIM also wanted an investigation of 371 other treaties signed by the United States government and tribes, as well as one on how the Bureau of Indian Affairs operated on Pine Ridge.

<sup>25</sup> Castle, "Black and Native American Women's Activism," 211.

<sup>26</sup> *Ibid.*, 212

<sup>27</sup> Means, *Where White Men Fear to Tread*, 364, 378.

coerced sterilization in their campaign, in hopes of getting media publicity for the issue. Means got airtime on ABC's Good Morning America, CBS's Morning News, and NBC's Today as a result of his participation in the Longest Walk, and, true to his promise, he used some of that exposure to discuss sterilization abuse.

Although the public image was that AIM leadership was overwhelmingly male, Indian women as well as Indian men seized the BIA, held Wounded Knee, marched to Washington, and worked for change. The media and men within the movement encouraged the archetype of exclusive male leadership because this portrayal made sense within the context of 1970s radical groups that projected a militant masculinity. In reality, however, Indian women played central roles in organizing and leading other Indians to action: Mary Jane Wilson, Pat Bellanger, and Elaine Stately, for example, were three founding members of AIM.<sup>28</sup> As one activist proclaimed: "Who were the leaders in bringing the people together at Wounded Knee? Everyone knows it was the women." Not only did Indian women participate equally in Red Power struggles, they defined and refocused the causes the movement espoused. Indian women "brought up the issues of sterilization and child-snatching."<sup>29</sup>

Indian women also started and sponsored "survival schools" for Indian children as an alternative to the public school systems where Native youth encountered racism and incorrect information about their histories. The women of AIM, who ran these schools such as the "We Will Remember" Survival School in South Dakota, believed that "the children, the unborn are our future" and endeavored to teach the next generation about

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<sup>28</sup> Castle, "Black and Native American Women's Activism," 165, 184.

<sup>29</sup> Jimmie Durham, "A Message to the Indian Women at the Founding Conference of WARN" *Women of All Red Nations: WARN* (Rapid City, South Dakota, 1978), 31.

their culture and heritage. At the “We Will Remember” Survival School, students learned the “Lakota language, the wisdom of the traditional chiefs, real history, our oral history of genocide, broken treaties, and lies the Europeans told us.” In addition to educating Indian children about their language and history, these schools imparted to Native youth the importance and possibilities of sovereignty, and protected them from local and Bureau of Indian Affairs schools that caused Indian children only to “look forward to liquor, life on the dole, and suicide.”<sup>30</sup>

Indian women in the Red Power movement knew that although they did not need white women’s feminism, they needed something. Historian Elizabeth Castle has argued that in their efforts to assert themselves and their rights, men in the Red Power movement sometimes contributed to the subjugation of Indian women.<sup>31</sup> American Indian women felt the tension between their dedication to Indian rights and misguided machismo on the part of their male counterparts. Indian women kept their focus on their identities as Indians and their work for tribal sovereignty, but they acknowledged the sexism that plagued American society, their own communities, and even the movement. One activist argued that Indian women had become so dependent on white America’s paternalistic expectations that “...parenting and control over our own health and reproduction have become unfamiliar to us.” According to this woman, conforming to these standards undermined both “physical and spiritual sovereignty.”<sup>32</sup> By accepting the dominant

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<sup>30</sup> Braudy, “‘We Will Remember’ Survival School: A Visit with the Women and Children of the American Indian Movement,” 77.

<sup>31</sup> Castle, “Black and Native American Women's Activism,” 1.

<sup>32</sup> Quote made by activist Katsitsiakwa in, *Women of All Red Nations: WARN*, 24.

culture's practices and beliefs, Indian women and men subjected themselves to a gendered system that was both sexist and culturally unfamiliar.

Most Native groups historically enjoyed gender parity and valued women and men equally for the work they did.<sup>33</sup> After years of contact with European-Americans and their campaigns to transform Indian people, however, many American Indians adapted, abandoned, or conflated their expectations regarding gender. Some Plains tribes, for example, redefined the roles of men and women in the twentieth-century context.<sup>34</sup> For AIM leader Russell Means, the “female-male balance” did not entitle the women of AIM to public leadership. These women, he thought, understood themselves as “different” from men and “respected that natural balance.”<sup>35</sup> Means correctly acknowledged gender balance, but historically this would have meant women gained esteem for the work they did preparing meals, hides, and clothes. By the 1970s, it meant movement women should stay behind the scenes, make coffee, “crawl into the sack... and mind the children.”<sup>36</sup> As one woman participant at Wounded Knee argued: “The AIM leaders are particularly sexist, never having learned our true Indian history where women... participated equally in all matters of tribal life. They have learned the white man's way of talking down to women and regarding their position as inferior.”<sup>37</sup> Indian women involved in the

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<sup>33</sup> Theda Perdue, ed., *Sifters: Native American Women's Lives*, (New York: Oxford University Press, 2001); Theda Perdue, *Cherokee Women: Gender and Culture Change, 1700-1835* (Lincoln: University of Nebraska Press, 1998); Nancy Shoemaker, ed., *Negotiators of Change: Historical Perspectives on Native American Women* (New York: Routledge, 1995); Bea Medicine, *The Native American Woman: A Perspective* (Austin, Texas: National Educational Laboratory Publishers, 1978).

<sup>34</sup> Crow Dog, *Lakota Woman*, 65-67

<sup>35</sup> Means, *Where White Men Fear to Tread*, 265.

<sup>36</sup> Crow Dog, *Lakota Woman*, 5.

<sup>37</sup> Bea Medicine, *The Native American Woman: A Perspective* (Las Cruces, NM, Austin, TX: National Educational Laboratory Publishers, 1974), 94.

movement for Indian civil rights and tribal sovereignty understood both white America's sexism and the basic tenets of white women's liberation. These women found little of interest in the larger society's feminism, however, even as they encountered sexism in their own communities.

The experience of the Maliseet aboriginal women of the Tobique Reserve in New Brunswick, Canada, during the mid 1970s illustrated this tension. The 1876 Indian Act in Canada defined Indian status by virtue of marriage. From then on, the Canadian government subjected the matrilineal Maliseets to a patrilineal system that declared Indian women "non-Indian" and deprived them of all reserve and band rights if they married white men—a condition that did not change even in cases of death and divorce. In this context, a woman's political status depended entirely on that of her father and later her husband. The women of Tobique formed the Tobique Women's Political Action Group, and sought to repeal the nineteenth-century act and improve conditions for themselves and their larger community. They ultimately brought their case before the United Nations. A key component of the argument they raised was the inherent sovereignty of their Native nation. In 1985, Canada's parliament passed legislation that amended the act and gave aboriginal women full status as citizens of First Nations.<sup>38</sup>

The Tobique case demonstrates how the dominant society's assault on sovereignty introduced foreign elements of sexism. The Canadian government created and enforced the 1876 Indian Act, which ignored the sovereign right of each First Nation to establish its own requirements for tribal citizenship. Over time, Tobique men grew to

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<sup>38</sup> For more see, Janet Silman, *Enough is Enough, Aboriginal Women Speak Out As Told to Janet Silman*, (Toronto: The Women's Press, 1987).

accept the legislation that ignored their matrilineal roots and denied Tobique women the rights and privileges of citizenship. At the time the Tobique Women's Political Action Group organized, the Tobique activists encountered political disenfranchisement from the Canadian government and tacit acceptance of the sexist legislation from their own community. The Tobique activists, therefore, confronted political problems that failed to fit exclusively under the categories of Red Power or women's liberation.

As one Indian woman argued: "It is safe to say that while most Native American women see no need for involvement in the women's movement, some of the young women are very ardently engaged in the struggle for liberation as they see it."<sup>39</sup> The women's liberation movement asked women to develop their personal authority, but Indian women overwhelmingly garnered power from their tribes. More commonly, Indian women activists worked for political change for Indian people generally, not women specifically, and focused on the experience of the collective rather than on themselves as "liberated" leaders. They sought to free themselves by assisting their people.

Trying to fit American Indian women into a paradigm of white women's leadership or as individuals acting outside of the context of their tribe or Indian people generally is a mistake. For example, it is easy to categorize women like Ada Deer, Wilma Mankiller, and LaDonna Harris as individual Indian women of singular significance—which, of course, they are—and as acting within a familiar framework of women's leadership. Respectively, as a key figure in Menominee restoration, the first woman chief of the Cherokees, and a well-known Indian activist, these women *seem* to fit a paradigm

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<sup>39</sup> Medicine, *The Native American Woman*, 94.

of women's leadership that privileges the individual. Yet, as Indian women activists, their political work focused on the collective. These women embarked on careers to assist their tribes specifically and Indian people generally, and they blended their work for tribal political sovereignty with their own feminism.

Menominee feminist, activist, and social worker Ada Deer's early career centered on Menominee concerns and over time extended all the way to Washington, where she served as Assistant Secretary of the Interior for Indian Affairs under President William Clinton.<sup>40</sup> As a young woman, Deer trained as a social worker at the University of Wisconsin at Madison and Columbia University. After working in Minneapolis as a social worker and for the Bureau of Indian Affairs, Deer returned to her home. Home *had* been the Menominee Nation in northern Wisconsin, but the federal government terminated the tribe's sovereign status, created Menominee County, and placed Menominee tribal members under the jurisdiction of the state of Wisconsin. Interpreted by the federal government as economically and socially "ready," the Menominees were one of the first Indian nations terminated under the 1953 termination policy. Deer's political work for Menominee sovereignty began in the 1970s when she embarked on a long but successful struggle to restore federal recognition—tribal status—to the Menominees.<sup>41</sup> She was a leader in DRUMS (Determination of Rights and Unity of Menominee Shareholders) which informed Menominees about their rights under termination. Ultimately, Deer and DRUMS succeeded in their petitions to Congress, and the Menominee tribe of Wisconsin regained its status as politically sovereign. Deer went

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<sup>40</sup> Nancy Oestreich Lurie, "Ada Deer: Champion of Tribal Sovereignty" in *Sifters: Native American Women's Lives*, Theda Perdue, ed. (New York: Oxford University Press, 2001): 223-242, 239.

<sup>41</sup> *Ibid.*, 234.

on to teach at the University of Wisconsin-Madison School of Social Work, a career interrupted in the mid 1990s by her appointment to head the Bureau of Indian Affairs. In 2000, she accepted a position as chair of the University of Wisconsin-Madison's Indian Studies Program from which she retired in 2007.

As a young Cherokee woman relocated to San Francisco, Wilma Mankiller found herself caught between the expectations of her husband and her own interest in the political groups and movements with which she could identify, such as the Black Panthers and the National Farm Workers Association. Mankiller wanted to do more than observe, however, and her involvement in Indian activism began with her support of the Indians of All Nations' capture of Alcatraz Island. Before leaving the West Coast, Mankiller worked for the Pitt River Indians of Northern California in their struggle for treaty rights and she contributed to American Indian education programs. When her marriage failed, Mankiller took her two daughters to the Cherokee Nation in Oklahoma, where she worked for her tribe in community organizing, most notably in the Bell Community Revitalization Project, which rebuilt and rejuvenated the impoverished Cherokee community of Bell.<sup>42</sup> This experience put Mankiller in a strong position to serve as deputy chief and later as principal chief of the Cherokee Nation of Oklahoma. A self-described feminist and participant in more mainstream women's causes (she held a position on the board of the *MS* Foundation for years), Mankiller dedicated her political career to the Cherokee Nation of Oklahoma first through her work as a community organizer and ultimately as an elected official. Always cognizant of women's experiences

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<sup>42</sup> When she was a young teenager, Mankiller's family participated in the relocation program. The Mankillers moved from the Cherokee Nation of Oklahoma to a predominantly African American neighborhood in San Francisco.

and issues, Wilma Mankiller served her tribe with a worldview that emerged from the women's and Civil Rights movements, as well as older understandings of equality and balance from Cherokee culture.<sup>43</sup>

LaDonna Harris began her political work in support of her then husband, Oklahoma state and United States Senator Fred Harris.<sup>44</sup> The Comanche woman soon became an activist in her own right, however, working in Congress for the respect of treaty rights, such as the return of Taos Blue Lake to the Taos Pueblos and the restoration of federal recognition to the Menominees. Harris' small group, Oklahomans for Indian Opportunity, evolved into the national Americans for Indian Opportunity.<sup>45</sup> The AIO continues to work for tribal sovereignty, which Harris defined as "the right to be self-governing over our own people and our own lands..."<sup>46</sup> Harris worked for sovereignty and influenced federal Indian legislation for decades, but she also worked for women's causes, as did Mankiller and Deer. Harris co-founded the National Women's Political Caucus, a group that endeavored to increase women's political participation through training and support of pro-choice women political candidates of all parties, and she served on its executive committee.<sup>47</sup>

Although Deer, Mankiller, and Harris emerged as feminists and individual leaders, they situated their feminism in activism for Indian rights and worked at the tribal

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<sup>43</sup> Wilma Mankiller and Michael Wallis, *Mankiller: A Chief and Her People* (New York: St. Martin's Griffin, 1993), 154-155.

<sup>44</sup> LaDonna Harris and H. Henrietta Stockel, *LaDonna Harris: A Comanche Life* (Lincoln: University of Nebraska Press, 2000), xiii.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid., 119.

<sup>47</sup> Wilma Mankiller, *Every Day is a Good Day: Reflections by Contemporary Indigenous Women* (Golden, Colorado: Fulcrum Publishing, 2004), 183; "Mrs. Harris Active in Fights for Rights" in *The Nishnawbe News* Vol. 1, No. 4, (October, 1971).

or pan-Indian level for political change. In sum, their political work and goals focused on their own personal experience as members of a larger collective, not as individual women separate from the rest of their communities. Like Deer, Mankiller, and Harris, Indian women activists situated their work in sovereignty, focused on the collective well-being of their larger communities, and grounded their support for tribal political agency in concrete issues rather than theory.

Several American Indian women identified reproductive freedom and parental rights as key aspects of the struggle for sovereignty. Indian women fought to end coerced sterilization and to reform adoption practices that took Indian children from their homes at alarming rates. Individual Indian women suffered coerced sterilization and the removal of children from their care, but activists read these social crises as issues that harmed Native nations as a whole. Both coerced sterilizations and the mandatory removals of Indian children from their homes trampled on tribal sovereignty. Both warranted political action.

Sterilization, as a medical practice, was neither inherently good nor bad. For some women during the 1970s, mostly white and middle-class women, sterilization was an effective, permanent form of birth control. Both the women who desired the procedure and the physicians who performed it generally worked within the larger framework of women controlling their own fertility. Even for these women, however, the paternalism of the medical profession affected their experience. According to Johanna Schoen, white middle-class women often encountered challenges in obtaining sterilization operations and frequently needed the permission of their husbands to do so.<sup>48</sup> Yet American Indian

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<sup>48</sup> Johanna Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare* (Chapel Hill: The University of North Carolina Press, 2005).

women's experiences with sterilization were quite different. Motivated by professional gains, federal economic support, concerns about overpopulation, and paternalism, physicians often sterilized Indian women, poor women, and other women of color without their informed consent. Healthcare providers coerced and misled these women and occasionally took their reproductive freedom while the women were unconscious. The bureaucrats and medical practitioners who made these procedures standard argued paternalistically that a permanent form of birth control was in the best interests of these women and the communities that federal programs served. The experiences and activism of Indian women around the issue of sterilization tell a different story. Not only did coerced sterilization inflict emotional and physical pain and deprive individual women of their reproductive rights, it also attacked their political identities as members of Indian nations and, indirectly, the sovereignty of the tribes to which they belonged.

Likewise, Indian child foster care and adoption placements were not fundamentally wrong. In many cases the best interest of a child (and the parents) mandated the removal of that child from the home and care of biological parents. Like sterilization, what was problematic about adoption and foster programs during the 1970s was not the practice itself but the manner in which social workers, as well as federal and state agents, ignored both the individual rights of Indian women and the sovereign right of the tribes to exercise control over their members. In addition to the trauma that individual Indian women, men, and children experienced as a result of culturally-insensitive expectations regarding child care, tribes suffered as they lost their children and their right to protect them.

In their fight for reproductive freedom and rights as parents, Indian women constructed a feminist agenda that centered on the right of Indian women—as members of sovereign Native nations—to bear and keep their children. In response to sterilization abuse, Indian women formed groups to address the problem, sought legal restitution, and participated in more mainstream women’s groups to advance their anti-sterilization abuse campaign. Indian women also worked for fundamental changes in the adoption and foster care processes. They attempted to increase the number of Indian adults certified as adoptive and foster parents, petitioned for fiscal support to create social services for their communities, and played a crucial role in the development of the 1978 Indian Child Welfare Act. Indian women activists believed the social crises of sterilization and adoption had political solutions and that, if left unchecked, these problems harmed not only individual women and their families but the political autonomy, social fabric, and cultural integrity of all Native groups.

American Indian women organized groups to address these pertinent issues. One such group, Ohoyo (the Choctaw word for woman), connected Indian women from across the country in various forms of activism and regularly published a bulletin that listed the locations of conferences and forums concerning the issues.<sup>49</sup> Ohoyo emerged from the American Indian and Alaska Native meeting held during the International Women’s Year conference in Houston in 1977, and incorporated in 1979 under the guidance of Choctaw activist, Owanah Anderson, with the assistance of a Women’s Education Equity Act Program grant.<sup>50</sup> By 1980, Ohoyo boasted 1,000 members, who divided up into task

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<sup>49</sup> *Ohoyo: A Bulletin for American Indian-Alaska Native Women*, No. 1, (July 1979).

<sup>50</sup> For more see, Marge Emery “Indian Women’s Groups Span a Broad Spectrum” in *Indian Truth*, (1981): 8-9.

forces to address particular problems.<sup>51</sup> Of these, 191 women focused on Indian child adoption. Seventy-four Indian women took up the issue of sterilization abuse. Of the 191 and seventy-four, respectively, twenty-seven of these women worked for both adoption reform and reproductive freedom.<sup>52</sup> In addition to these concerns, the organization's members also addressed education, health issues, and cultural preservation. Although Ohoyo's members included a few well-known women in political and academic circles, such as Winona LaDuke, Paula Gunn Allen, and Rayna Green, most of the 265 Indian women working for adoption reform and reproductive freedom were not nationally-known figures.<sup>53</sup> The organization boasted an impressive list of members, but its index of Indian women working against sterilization abuse and for adoption and foster care reform was by no means comprehensive. Many Indian women who did not belong to Ohoyo worked as individuals or as members of other groups to address sterilization and adoption. Some of these activists had post-secondary and graduate educations while others did not; some hailed from reservations and others from urban centers. Many of the women had not experienced coerced sterilization or the loss of a child to foster care or adoption but some had. Despite their differences, a desire to stop coerced sterilization and adoption exploitation united them, and they saw the solution to these problems in strengthening tribal sovereignty, especially the right to self-governance.

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<sup>51</sup> Owanah Anderson, *Ohoyo: One Thousand: A Resource Guide for Native American Women*, (Wichita Falls, Texas: Ohoyo Resource Center, 1982).

<sup>52</sup> Ibid. Numbers gleaned from index.

<sup>53</sup> For more on these women and their work see: Winona La Duke, *All Our Relations: Native Struggles for Land and Life* (Cambridge, Massachusetts: South End Press, 1999); Paula Gunn Allen, *The Sacred Hoop: Recovering the Feminine in American Indian Traditions* (Boston: Beacon Press, 1986); and Rayna Green, *Women in American Indian Society* (New York: Chelsea House Publishers, 1992).

In the mid-seventies, the Los-Angeles based group, Indian Women United for Justice, formed to take legal action in support of sterilized Native women.<sup>54</sup> Dr. Constance Pinkerton-Redbird Uri, who had urged Russell Means to publicize women's issues, founded Indian Women United for Justice after learning about the coerced sterilization from an Indian patient seeking a reversal of the procedure. Uri investigated Indian Health Service records and concluded that the practice was rampant across Indian Country. With this information, Uri and Indian Women United for Justice sought to educate the public about the issue, stop the practice, and support individual Indian women in their quests for legal restitution. Other Native women's groups embraced coerced sterilization as an important political issue. Influenced by the work of Indian Women United for Social Justice, Women of All Red Nations (WARN), an Indian women's group that grew out of its members' dissatisfaction with conditions in Indian country, began to investigate sterilization abuse in the Midwest and Plains states.<sup>55</sup> Most of the women in WARN participated in the American Indian Movement (AIM) and even began to assume more public roles in the organization as many of their male counterparts faced protracted trials and imprisonment. Through their participation in WARN, these women also addressed subjects of particular interest to them as Indian women, such as coerced sterilization, the care and education of Indian children, and tribal land rights. Like Uri, WARN founding members Lorelei Means, Pat Bellanger, and Vicki Howard helped bring attention to the crisis of coerced sterilization in Indian Country.

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<sup>54</sup> "Killing our Future: Sterilization and Experiments" *Akwesasne Notes*, (Early Spring 1977): 6.

<sup>55</sup> *Women of All Red Nations: WARN* pamphlet from founding conference in Rapid City, South Dakota, 1978.

Indian women also participated in cross-cultural and national efforts to combat coerced sterilization. The National Women's Health Network embraced the issue of coerced sterilization in Native and other communities. The 1977 International Women's Year state-wide and national conferences gave Indian women a chance to bring coerced sterilization to the national feminist agenda and the attention of the President and Congress. Indian women seized these opportunities and successfully defined freedom from coerced sterilization as a central aspect of women's reproductive rights.

At the same time, Indian women formed groups expressly to challenge adoption exploitation, and existing organizations embraced the cause. The pan-Indian North American Indian Women's Association (NAIWA), for example, included adoption reform as one of its chief concerns. NAIWA organized in Sisseton, South Dakota, in 1970, grew to 10,000 members, and met annually.<sup>56</sup> Among other agendas, NAIWA sought the "betterment of home, family life and community" for American Indians, and during the 1970s "betterment" meant keeping Native families in tact.<sup>57</sup> The group focused on ending family violence, treating substance abuse problems with traditional medicine, and ending the "placement of Indian foster children in non-Indian homes."<sup>58</sup> Originally sponsored by the Bureau of Indian Affairs, NAIWA limited its membership to citizens of federally-recognized tribes and endeavored to connect Indian women with

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<sup>56</sup> Emery, "Indian Women's Groups Span a Broad Spectrum," 8; National NCAI Papers, Other Indian Organizations, North American Indian Women's Association (Box 154), Constitution and Bylaws of North American Indian Women's Association, Inc. N.D., 1, 4, Anthropological Archives Smithsonian Institution, Washington, D.C.

<sup>57</sup> Constitution and Bylaws of North American Indian Women's Association, Inc. ND. NCAI, Other Indian Organizations, North American Indian Women's Association, National Anthropological Archives, Smithsonian Institution, Washington, D.C.

<sup>58</sup> Emery, "Indian Women's Groups Span a Broad Spectrum," 8.

each other across the United States and Canada. In addition to working on Indian child adoption, NAIWA addressed social, educational, health, and economic issues confronting Indian women and tribes.<sup>59</sup> Other organizations, such as the California-based Indian Women's Defense Committee and the Assembly of California Indian Women held workshops to assist child welfare workers in transitioning to new federal and state child welfare policies.<sup>60</sup> Both of these groups, comprised primarily of urban Indian women in California, worked to ensure that the non-native entities that maintained a hand in Indian child welfare understood and followed the regulations governing Indian foster care and adoption.

Women's organizations ranged across the political spectrum from WARN with its roots in AIM to NAIWA with its ties to the BIA, but all of them recognized that sterilization and adoption were issues that belonged to Indian tribes. When authorities outside of the tribes usurped the regulation of adoption, they violated tribal sovereignty as well as Indian women's individual rights. The work Indian women did to protect reproductive rights and Indian children existed in tandem with other aspects of sovereignty that Indian men of the Native rights movement embraced.

Many non-Indian feminists, however, stood at cross-purposes with Indian women's issues. In the early struggle for reproductive freedom, white women defined the issue almost exclusively as an individual right to safe forms of birth control and abortion. White middle-class women had little experience with the federal agencies that

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<sup>59</sup> Constitution and Bylaws of North American Indian Women's Association, Inc. N.D. NCAI, Other Indian Organizations, North American Indian Women's Association, National Anthropological Archives Smithsonian Institution, Washington D.C.; [http://britanica.com/eb/article-9125034/North - American-Women's-Association](http://britanica.com/eb/article-9125034/North-American-Women's-Association). 11/20/2006.

<sup>60</sup> Assembly Committee on Human Resources Public Hearing Indian Children: Adoption, Foster Care (AB 1041, Bates), Sacramento, California, October 9, 1979, 71.

encouraged, funded, and coerced the sterilization of working-class and poor women. For most white feminists, sterilization was an elective surgery performed by a private physician that ensured control over reproductive health. Changes in protocol that Indian women and other feminists of color sought to protect women from unwanted sterilizations, such as longer waiting periods between consent and surgery, appeared to white feminists as impediments to reproductive freedom. Likewise, these feminists had little contact with the social service agencies that took children away from their birth mothers with impunity. Middle-class white women simply encountered little intervention by the state in their family lives, and, motherhood did not register as a privilege or right to protect. Furthermore, some white women contributed to the problem Indian women sought to combat by adopting Indian youth and other children of color, many out of what they perceived as altruism.

In 1972, *MS Magazine* asked its readers: “What do you do if you’re a conscientious citizen, concerned about the population explosion and ecological problems, love children, want to see what one of your own would look like, and want more than one?” *MS* offered as a solution: “Have One, Adopt One.”<sup>61</sup> For *MS Magazine* and its readership, concerns of overpopulation and the environment loomed large, and adoption seemed like a practical way for feminist women to help solve these problems. The simplicity of the argument was absolute—white middle-class women could have a biological child of their own to appease one set of desires and adopt someone else’s child to meet another group of political and humanitarian goals. This line of reasoning failed to consider—as did adoption agencies and adoptive parents of the time—the impact this

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<sup>61</sup> Marjorie Godfrey with Caroline Bird, “Have One, Adopt One” in *MS Magazine*, Vol. 5. No. 4 (October 1976): 76-77.

would have on both adopted children and their biological mothers. This was especially true as the children eligible for such adoptions were mostly African American, American Indian, Latino, and Asian youngsters, and the majority of adoptive parents white. Although not always interpreted as such, the wisdom of placing children of color in white homes remained an issue. For Indian activists it also called into question the rights of sovereign tribes to safeguard their futures by retaining their youth.

Divergent perspectives on reproductive rights and adoption made Indian women wary of white women's feminism, whose tenets only gradually broadened to incorporate Native views.<sup>62</sup> An article by Gloria Steinem published in *MS* magazine from 1979 sheds light on this very issue. Steinem wrote:

At the beginning of the 1970s... we were still discussing *population control* and worrying about the *population explosion*.... By the end of the 70s, however, feminism had transformed the terms of discussion by introducing *reproductive freedom* as phrase and a basic human right. This umbrella term included safe contraception and abortion, freedom from forced sterilization, and health care during pregnancy and birth. In other words, *reproductive freedom* states the right of the individual to decide to have or not to have a child.<sup>63</sup>

Steinem made clear in her retrospective article on the decade of the 1970s that arresting coerced sterilization and protecting the right to bear children existed as part of reproductive freedom. Steinem failed to acknowledge, however, that "feminism" did not "transform the terms of discussion," real people did. In this case, women of color expanded conceptions of reproductive freedom. Indian feminists understood coerced sterilization as a major concern at the very same time that many mainstream feminists

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<sup>62</sup> Sherry Wilson of WARN to Sabrae Jenkins of the Women of Color Partnership Program, August 14, 1989, Loretta Ross Papers, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>63</sup> Gloria Steinem, "The Way We Were and Will Be" in *MS Magazine*, Vol. 8, No. 6 (December 1979): 60-94. Emphasis Steinem's.

“worried about the population explosion.” In 1989, WARN member Sherry Wilson asked, “Now sterilization is listed among important women’s issues, but what groups are actively assisting in the struggle?” It took nearly two decades before non-Indian feminists fully embraced sterilization as an issue, and even then, in Wilson’s estimation, they lacked complete dedication to the cause.

The narrative of women’s rights during the latter half of the twentieth century focuses primarily on white middle-class women working against sexism in the home and the workplace. These women and their causes, however, exist only as a segment of women’s activism during the era. Countless other feminist causes defined the period and the larger movement. Understanding the history of American feminism as greater than the achievements of mainstream white second-wave feminists in no way devalues or discredits them; indeed, this branch of the feminist movement contributed much to the struggle for reproductive freedom. These women and their concerns, however, remain only part of a much larger story that involves poor women, lesbians, radical separatists, and women of color. Therefore, concurrent with the activism of these familiar women, there existed the varied experiences of other women activists whose struggles and victories looked quite different from that of the mainstream feminist movement. This was especially true concerning issues of reproductive choice and child rearing. While the existing narrative of women and reproductive freedom in the 1970s suggests that women overwhelmingly wanted to control births and define themselves as more than mothers, not all women fit this paradigm. Many poor women and women of color fought for the right to bear and raise their children.<sup>64</sup>

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<sup>64</sup> See Jennifer A. Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003); Marlene Gerber Fried, ed., *From Abortion to Reproductive Freedom:*

Towards the end of the twentieth century, American Indian activist women participated in something quite new. They combined aspects of the Red Power movement with the struggle for women's equality to create a political agenda that addressed their interests as Indians and women. Although these women embarked on a new journey, their actions and beliefs had old roots in traditional notions of gender balance, women's power, and tribal sovereignty. Indian women created a grassroots movement to effect change in sterilization and adoption protocol while affirming tribal sovereignty. WARN activist, Madonna Thunder Hawk, defined grassroots as that which affects the "family that lives down the road from me" or "a real issue that's dealing with real people."<sup>65</sup> Coerced sterilization and adoption exploitation were such issues, and they carried with them larger political import, the exercise of and respect for tribal sovereignty. When Indian women worked to stop coerced sterilization and reform adoption protocol, they did so not only to protect individual women's reproductive freedom and parental rights, but to preserve the right of Indian nations to govern themselves.

In the era of civil rights and women's liberation, Indian women activists concerned themselves with aspects of the struggle for tribal sovereignty that affected them most deeply. According to activist Charmaine Wisecarver, Indian women historically, and at present, "insure[d] the survival of the people—whether by having children or protecting the interests of the tribe through laws and justice."<sup>66</sup> Winona

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*Transforming a Movement* (Boston: South End Press, 1990); Benita Roth, *Separate Roads to Feminism: Black, Chicana, and White Feminist Movements in America's Second Wave* (New York: Cambridge University Press, 2004).

<sup>65</sup> Elizabeth A. Castle, "Keeping One Foot in the Community: Intergenerational Indigenous Women's Activism from the Local to the Global (And Back Again)" *American Indian Quarterly*, Vol. 24, No. 3-4 (Summer-Fall 2003): 840-860; 17.

<sup>66</sup> *Ibid.*, 167.

LaDuke expressed a similar belief claiming that Indian women had “the responsibility of caring for the most important part of the nation . . . the children.”<sup>67</sup> In order to do so, Indian women’s political agenda for reproductive and parental rights supported, but fell outside of, the male-dominated Red Power movement’s goals, and frequently challenged the mainstream feminist movement’s struggle for reproductive freedom. These activists helped define what tribal sovereignty meant for Native nations and created an alternative understanding of women’s reproductive freedom and identity as mothers.

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<sup>67</sup> Winona LaDuke, “In Honor of Women Warriors” in *Off Our Backs: A Women’s New Journal*, Vol. 11, No. 2 (February 1981): 3.

## CHAPTER II

### TWENTIETH-CENTURY EUGENICS, POPULATION CONTROL, AND INDIAN WOMEN

In the early twentieth century, small but influential groups of Americans concerned with racial purity and the transmission of “defective” genes turned their attention to the new field of eugenics and the practice of sterilization.<sup>1</sup> Just as Red Power and feminism merged to provide an ideological base for Indian women’s activism, ideas ranging from eugenics to population control coincided with United States Indian policy to violate the reproductive rights of Indian women. American Indians existed initially outside the gaze of eugenicists that fell overwhelmingly on “feeble-minded,” epileptic, sexually promiscuous, and otherwise “unfit” dependent Americans.<sup>2</sup> American Indians

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<sup>1</sup> For more on the history of eugenics and sterilization in the United States see: Alexandra Minna Stern, *Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America* (Berkeley: University of California Press, 2005); Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York: Pantheon Books, 1997); Philip J. Reilly, *The Surgical Solution: A History of Involuntary Sterilization in the United States* (Baltimore: Johns Hopkins Press, 1991); Stephen Trombly, *The Right to Reproduce: A History of Coercive Sterilization* (London: Widenfeld and Nicolson, 1988); Thomas M. Shapiro, *Population Control Politics: Women, Sterilization, and Reproductive Choice* (Philadelphia: Temple University, 1985); Robert H. Blank, *Fertility Control: New Techniques, New Policy Issues* (New York: Greenwood Press, 1991); Harry Bruinius, *Better For All The World: The Secret History of Forced Sterilization and America’s Quest for Racial Purity* (New York: Alfred A. Knopf, 2006); Sana Loue and Beth E. Quill, eds., *Handbook of Rural Health* (New York: Kluwer Academic/Plenum Publishers, 2001); Edward J. Larson, *Sex, Race, and Science: Eugenics in the Deep South* (Baltimore: Johns Hopkins Press, 1995); and Wendy Kline, *Building a Better Race: Gender, Sexuality, and Eugenics from the Turn of the Century to the Baby Boom* (Berkeley: University of California Press, 2001).

<sup>2</sup> During the early twentieth century, medical professionals used the terms “feeble-minded” and “imbecile” to describe an individual who appeared to be lacking in intelligence. Some doctors and eugenicists found the “feeble-minded” particularly threatening because they appeared healthy but imperceptibly harbored and passed on inferior genes. In the 1920s, the American Eugenics Society created exhibits for display at state fairs and expositions. The 1926 Sesqui-Centennial Exhibition in Philadelphia showcased an AES display, “Some People are Born to be a Burden on the Rest.” According to the exhibit, people with “bad heredity” were born every sixteen seconds as opposed to those with “high-grade

escaped the attention of eugenicists because at the turn of the century the Native population experienced a nadir that many eugenicists viewed as the natural decline of an inferior race bound for extinction.<sup>3</sup> United States Indian policy, rather, contributed to their demise.<sup>4</sup> Conditions on most reservations, created in the nineteenth century, were very poor, resulting from the government's decision to "reserve" substandard land for Indians while preventing them from engaging in traditional patterns of subsistence or creating viable economies. Then the United States began allotting this collectively held tribal land to individuals, who often could not sustain themselves on their small tracts. With a repudiation of this policy in the 1930s, Indian population began not only to recover but to increase rapidly. By the mid-twentieth century, this demographic development attracted the attention of groups, such as the Population Control Council, that bemoaned the impending crisis of overpopulation in the "developing" world. The early twentieth-century policy of policing defective genes developed into an attempt to curb population growth and cut expensive government programs through surgical sterilization.<sup>5</sup> As members of a rapidly-growing population and recipients of federal programs, Indian women became prime targets for sterilization.

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inheritance" who were born every seven and a half minutes. Steven Selden, *Inheriting Shame: The Story of Eugenics and Racism in America* (New York: Teachers College, Columbia University, 1999), 23-24.

<sup>3</sup> J. David Smith, *The Eugenic Assault on America: Scenes in Red, White, and Black* (Fairfax, Virginia: George Mason University Press, 1993), 2.

<sup>4</sup> Two important works on Indian policy include Francis Paul Prucha, *The Great Father: The United States Government and the American Indians, Volumes I & II* (Lincoln: University of Nebraska Press, 1984) and Vine Deloria, Jr., *American Indian Policy in the Twentieth Century* (Norman: University of Oklahoma Press, 1985).

<sup>5</sup> Rebecca M. Kluchin argues that the demise of the early twentieth century eugenics movement did not result in the end of eugenic practices in the United States. Rather, in the post-war era the efforts of the early twentieth century gave way to "neo-eugenics" that focused on the coerced sterilization of poor American women. Rebecca M. Kluchin, *Fit to be Tied?: Sterilization and Reproductive Rights in America, 1960-1984*, (Ph.D. Dissertation, Carnegie Mellon, 2004), 18.

Throughout the twentieth century, a preoccupation with women's reproductive capabilities further linked the eugenic and population control movements. In the early twentieth century, both men and women allegedly carried potentially "defective" genes and later in the century both contributed to the threat of overpopulation through procreation. At each historic moment, however, these anxieties played out on women's bodies. In part, this was because law makers, medical professionals, and wardens of institutions, generally men, assumed a paternalistic control over women, their bodies, and reproductive health that they did not with men. By the latter half of the century, the cycle of women's reproductive health—annual pelvic examinations, appointments for birth control, abortions (illegal and then legal), and child birth granted doctors access to women's bodies that they did not have to those of men. In addition, arguments in favor of eugenics and population control increasingly embraced socio-economic rather than biological justifications. By the 1970s, the great threat to American society was not the "imbecile" who passed defective germ plasm to his or her children, but the welfare mother who continued to have children at the government's expense.<sup>6</sup>

During the early twentieth century, American scientists, medical professionals, law makers, and welfare agents put into practice a theory of eugenics, grounded firmly in paternalism and based loosely on Malthusian and Darwinian ideas about population control and natural selection. Thomas Malthus, a late seventeenth and early eighteenth-century British political economist, argued that populations eventually and inevitably

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<sup>6</sup> Dwight J. Ingle, *Who Should Have Children? An Environmental and Genetic Approach*. (Indianapolis: The Bobbs-Merrill Company, Inc., 1973).

outgrew their food supplies.<sup>7</sup> Malthus maintained that people should respect this natural order and control their own fertility. By the 1880s, this logic combined with Darwinian concepts of natural selection and survival of the fittest to culminate in the ideas of Sir Francis Galton, ironically a cousin of Charles Darwin, who called the manipulation of genetics in order to better society “eugenics.”<sup>8</sup>

In the United States, population control theory encompassed both “positive” and “negative” eugenics. Positive eugenics encouraged the “fit” to reproduce and negative eugenics prevented the “defective” from doing so.<sup>9</sup> In practice, however, most eugenic policies focused on negative eugenics and discouraged the procreation of the “unfit.” Overwhelmingly working-class and poor women, whom society labeled deformed, dependent, feeble-minded, or criminal, received sterilization operations.<sup>10</sup> Eugenicists, wardens of prisons and institutions, and sociologists believed that it was best for both the afflicted and the rest of society that these women not reproduce because they understood degeneracy as inheritable.<sup>11</sup> Physicians and scientists thought that the undesirable conditions possessed by the women in question, such as feeble-mindedness, epilepsy, or promiscuity automatically extended to their offspring. In addition, many believed “degenerate” individuals to be exceptionally fertile and in need of sterilization.<sup>12</sup> By the

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<sup>7</sup> James Bonar, ed., *An Essay on The Principle of Population as it Affects the Future Improvement of Society* 1798 by Thomas Malthus (London: McMillan and Company, 1926). According to Malthus, populations outgrew food supplies because they grew geometrically, but food supplies only grew arithmetically.

<sup>8</sup> Trombley, *The Right to Reproduce*, 2.

<sup>9</sup> Blank, *Fertility Control*, 58.

<sup>10</sup> Trombley, *The Right to Reproduce*, 35-36.

<sup>11</sup> Blank, *Fertility Control*, 58; Reilly, *The Surgical Solution*, 1.

<sup>12</sup> Reilly, *The Surgical Solution*, 19.

early twentieth century, thirty states had passed eugenics laws sanctioning involuntary sterilization.

Racism and xenophobia also informed the debate. Racial ideology supported the understanding that race determined certain genetic traits and characteristics.<sup>13</sup> It maintained that white, northern European “Nordic” stock was superior to all other races and ethnicities. This idea, however, did not immediately prompt a calculated campaign to sterilize non-white Americans because racial theory also argued that “inferior” races, such as American Indians, presumably died out on their own. What concerned eugenicists more than the existing African-American and American Indian populations in the United States was the growing immigrant population from southern and eastern Europe and Asia. Xenophobia fueled the concern that vast numbers of immigrants threatened the superior genes of white America’s “native stock.”<sup>14</sup> During the course of the twentieth century, however, African Americans and Indians would also increasingly come under eugenic attack.

At the start of the twentieth century, as eugenicists worked to arrest the fertility of the “unfit,” the federal government pursued an Indian policy known as allotment that dated to the 1880s and supervised an extensive boarding school system for Indian youth that also had roots in the nineteenth century. Allotment and the boarding school system endeavored to achieve the “civility” and competency of American Indians in accordance with white middle-class standards. The allotment policy divided land previously held by

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<sup>13</sup> Selden, *Inheriting Shame*, 13. The Galton Society, in particular, examined how race determined different human qualities and abilities.

<sup>14</sup> Roberts, *Killing the Black Body*, 60-61.

tribes into privately owned plots. Heads of Native families, single Indian adults, orphans, and children received parcels of land with Congress holding all of it in trust for the recipients for twenty-five years, during which time they could “learn” how to own and manage land. Allotment presumably ended the relationship of tribal governments whose land was allotted with the United States and assimilated individual Indians into American society.<sup>15</sup> Concurrently, off-reservation boarding schools separated indigenous children from their families, homes, and cultures—all of which reformers believed held the children back.<sup>16</sup> During this era, the boarding school emerged as “the only practicable [institution] for the education and civilization of Indian children” because in “that system the child is removed from the influence of the parents, where it can in time acquire not only the rudiments of an English education, but can be taught many of the habits and customs of civilized life, and be shown by example that labor is honorable and conducive to happiness and not degrading.”<sup>17</sup> Because of this alternate trajectory—one that set out to make Indians competent American citizens—American Indians largely fell outside of the eugenic paradigm of the “unfit.” The federal government and Indian policy reformers alike worked during this era to present Indians as the virtual opposite of the dependent or

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<sup>15</sup> Rosemarie N. Stremmler, “Reforming Men and Women: Gender and Allotment Policy” (M.A. Thesis, University of North Carolina at Chapel Hill, 2001); Wilcomb E. Washburn, *The Assault on Indian Tribalism: The General Allotment Law (Dawes Act) of 1887* (Philadelphia: Lippincott, 1975); Francis Paul Prucha, ed., *The Dawes Act and the Allotment of Indian Lands* (Norman: University of Oklahoma Press, 1973).

<sup>16</sup> Robert A. Trennert, Jr., *The Phoenix Indian School: Forced Assimilation in Arizona, 1891-1935* (Norman: University of Oklahoma Press, 1988), 4; David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University Press of Kansas, 1995), 59; Brenda Child, *The Boarding School Seasons: American Indian Families, 1900-1940* (Lincoln: The University of Nebraska Press, 1998), 13.

<sup>17</sup> Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1877 (Washington: Government Printing Office, 1877), 73. The comments of Agent W.T. Hughes of the Standing Rock Agency in Dakota Territory.

“unfit” candidate for sterilization. Yet, as eugenics developed and embraced a broader understanding of “social fitness,” its policies also extended to American Indians.

Eugenics was more than an attempt to perfect the American population through scientific intervention and sterilization. It was also a social policy that curbed immigration, enforced segregation, and influenced Progressive era reform policies. Eugenicists sought to control what types of people populated the United States and manage the fertility and lives of those deemed undesirable. In the first three decades of the twentieth century, eugenics grew in scope and influence in order to meet these ends. National groups such as the American Breeders Association, the Race Betterment Foundation, the Galton Society, and the American Eugenics Society held conferences, published extensively on the issue, promoted legislation, and disseminated eugenics information in public schools.<sup>18</sup> These eugenicists espoused causes ranging from surgical sterilization and immigration restriction to sending African Americans to Africa and legislating American Indians out of existence.

In the first few decades of the twentieth century, state officials, members of eugenics groups, and health workers defined who made a fit parent, and they did their best to ensure that the “unfit” did not bear children. In the 1927 case *Bell v. Buck*, the Supreme Court upheld the right of the state of Virginia to sterilize Carrie Buck, labeling her, her mother, and her seven-month old daughter as imbeciles, a condition that medical practitioners of the day considered genetic.<sup>19</sup> Buck resided at the Virginia State Colony, a home for the feeble-minded and epileptic. Placed there by foster parents after becoming

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<sup>18</sup> Selden, *Inheriting Shame*, xii; 37.

<sup>19</sup> Roberts, *Killing the Black Body*, 96-97.

pregnant out of wedlock (as the result of a rape), Buck retained little control over her body and life, in common with other institutionalized Americans. Following the Buck sterilization and court case, over 27,000 mandatory sterilizations occurred in the United States.<sup>20</sup> Wards of the state, minors, and otherwise dependent women had little recourse in the case of compulsory sterilization, particularly if their families, guardians, or caretakers sanctioned the procedure.

Eugenicists grew to fear not only the reproduction of “inferior” Americans such as Buck, but also that of immigrants, Blacks, and American Indians. This desire for racial purity encouraged many to support immigration restriction and segregation, and scorn intermarriage. For example, many championed the Johnson Restriction Act of 1924 that dictated the percentage of immigrants allowed entrance into the United States. The law differentiated immigrants based on their country of origin and the population’s presence in the United States in the 1890 census in an attempt to restrict immigrants from southern and eastern Europe as well as Asia. Others embraced a “back to Africa” plan for African Americans that would facilitate the emigration of African Americans to Africa. During the 1920s, the registrar of Virginia’s Bureau of Vital Statistics, Walter Ashby Plecker, attempted to terminate Virginia Indians by reclassifying them as white or black based on familial history of intermarriage. In effect, he questioned their legitimacy as Indians.<sup>21</sup> Following this schema, some of these Virginians were clearly white and others black. Historian Steven Selden has argued that Plecker endeavored to do away with Indian status by reinterpreting these Virginians as either black or white, and once labeling them

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<sup>20</sup> Smith, *The Eugenic Assault on America*, 6.

<sup>21</sup> Selden, *Inheriting Shame*, 43; For more see, Helen C. Rountree, *Pocahontas’s People: The Powhatan Indians of Virginia Through Four Centuries* (Norman: University of Oklahoma Press, 1990).

as such, neatly fitting them into the bifurcated world of segregation.<sup>22</sup> As a result, Indians, especially those with a history of intermarriage with African Americans, could not pass for white and gain access to white schools and institutions.<sup>23</sup>

By the 1930s, eugenicists came under considerable attack for their single-minded interpretation of the importance of heredity. In response, many eugenic groups began to add a nurture component to their long-standing argument in support of biological nature. Paying lip service to the crucial role social scientists believed mothers played in shaping their children's experiences, eugenicists began to argue that only *socially* fit women should reproduce.<sup>24</sup> Reformers consequently sought to assist the socially "unfit" in an effort that tied into the larger Progressive movement's belief in the ability of human beings to "advance" and change their circumstances.

The new eugenic thrust also intersected with what reformers in Indian Country had argued for decades. Indian families needed assistance, but they were capable of change. During the 1920s, reformers described Native homes as "primitive dwellings... ill kept and in bad repair" and Indian women as "poor spenders of income." Indian women did not "know how to care for the health of those dependent upon them or what precautions to take during pregnancy."<sup>25</sup> Despite these shortcomings, however, reformers believed Indian families could achieve white middle-class standards if only provided with

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<sup>22</sup> Smith, *The Eugenic Assault on America*, 111

<sup>23</sup> Virginia Racial Integrity Act of 1924 and Walter Plecker, M.D., Letter to Local Officials, January 1943. [http://www.vcdh.virginia.edu/encounters/projects/monacans/Contemporary\\_Monacans/racial.html](http://www.vcdh.virginia.edu/encounters/projects/monacans/Contemporary_Monacans/racial.html). May 16, 2007.

<sup>24</sup> Kline, *Building a Better Race*, 4.

<sup>25</sup> Lewis Merriam et al., *The Problem of Indian Administration: "Report of a Survey made at the Request of Honorable Hubert Work, Secretary of the Interior, and Submitted to him, February 21, 1928."* (Baltimore: Johns Hopkins Press, 1928), 547, 533, 558.

the correct instruction. Activists for American Indian assimilation inserted themselves in Indian women's lives (as did immigration reformists in the lives of immigrant women), teaching them the "correct" ways to raise children and run a household.<sup>26</sup> For example, Hampton Institute in Virginia recruited Indian families to set up housekeeping at the boarding school. At the suggestion of anthropologist Alice Fletcher, officials at Hampton invited Omahas Noah and Lucy LaFlesche and Philip and Winnie Stabler to initiate the program.<sup>27</sup> Hampton attracted just over twenty Native families to live in cottages on the school's grounds, where Indians learned how to function properly as nuclear families, ironically with "a corps of single white women" as their instructors.<sup>28</sup> White women reformers entered into Native homes with the intention of replacing "ineffective" cultural traditions with efficient American practices to achieve the goal of creating socially fit mothers and children.

The Great Depression, changes in federal Indian policy, and World War II interrupted this course of action. Economic realities and increasing support for cultural pluralism curbed the intervention of reformers in American Indian lives and redirected Indian policy to one of support for cultural difference rather than assimilation. In the immediate post-war era, Americans grew wary of eugenics and coerced sterilization as both practices were key aspects of Nazi policy.<sup>29</sup> Physicians also increasingly argued that

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<sup>26</sup> Katrina Irving, *Immigrant Mothers: Narratives of Race and Maternity, 1890-1925* (Urbana: University of Illinois Press, 2000), 70, 4.

<sup>27</sup> Donal F. Lindsey, *Indians at Hampton Institute, 1877-1923* (Urbana: The University of Illinois Press, 1995), 198.

<sup>28</sup> *Ibid.*

<sup>29</sup> Trombley, *The Right to Reproduce*, 55.

there was no way to know for certain what genetic traits a parent would pass on to a child.<sup>30</sup>

World War II, however, did not signal the end of eugenics. Existing beliefs about race and class combined with new ideas about overpopulation and welfare expenses to yield a contemporary form of population control. Earlier in the century, eugenic control was a tool to eliminate “defective” genes and people.<sup>31</sup> In the post-war era, sterilization reemerged a way to address population explosion and the welfare crisis. The women whom policy makers targeted for compulsory reproductive control remained the same: those deemed undesirable economic and social burdens.

Some individuals expressed reasonable fears about the population explosion and the world’s capacity to sustain it. By the mid-twentieth century, the world’s population continued to expand at a seemingly exponential rate because of an unprecedented drop in the death rate. Technological and medical advances, such as penicillin, improved food production, and public health initiatives allowed people to live far longer than ever before.<sup>32</sup> Longevity coupled with stable, even increasing, birth rates produced a significant population increase with no natural end in sight. Individuals concerned about unbridled population growth feared that developing countries faced inevitable famines and economic collapse. In developed countries, anxieties focused on the “ecological

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<sup>30</sup> Reilly, *The Surgical Solution*, 122. The earliest support for this argument began in the 1920s.

<sup>31</sup> Blank, *Fertility Control*, 57.

<sup>32</sup> Population Control Council, 1952-1964, Twelve Year Report, Revised Draft, March 15, 1964, Population Council Collection, Rockefeller Archive Center, Tarrytown, New York.

crisis” and “quality of life” issues. In general, those concerned with population explosion worried about the “carrying capacity of the earth.”<sup>33</sup>

To address these issues, groups such as the Population Control Council, founded by John D. Rockefeller III in 1952, formed “to stimulate, encourage, promote, conduct, and support significant activities in the broad field of population.”<sup>34</sup> More specifically, the group funded the development of “contraceptive technology,” provided “technical assistance on family planning,” and educated the public about “population matters.”<sup>35</sup> In 1968, Rockefeller and President Lyndon B. Johnson supported the creation of the Committee on Population and Family Planning, which attempted to assist poor families with fertility control. In 1970, President Richard Nixon created the Commission on Public Growth and the American Future, to further investigate the population problem.<sup>36</sup> Organizations such as the Association for Voluntary Sterilization, Office of Population Research, Population Association of America, and Zero Population Growth worked on potential solutions to the crisis, ranging from voluntary programs and incentive plans to involuntary governmental controls.<sup>37</sup> One such plan involved developing a safe way to

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<sup>33</sup> Ralph B. Potter, “The Population Debate: The Logic of the Ecology Movement” in *Population Policy and Ethics: The American Experience*, Robert M. Veatch, ed. (New York: Irvington Publishers, 1977), 348.

<sup>34</sup> Population Control Council, 1952-1964, Twelve Year Report, Revised Draft, March 15, 1964, Population Council Collection, Rockefeller Archive Center, Tarrytown, New York.

<sup>35</sup> Ibid.

<sup>36</sup> Kristin Amory, “The Privilege of Motherhood: Sterilization of American Indian Women During the 1970s” in *High Plains Applied Anthropology*, Vol. 23, No. 2, (Fall 2003): 130-141, 3. Nixon appointed Rockefeller to head the Commission on Public Growth and the American Future. At the same time, the United Nations made plans to name 1974 “world population year” to address issues of overpopulation. Robert M. Veatch, “Introduction” in *Population Policy and Ethics: The American Experience*, Robert M. Veatch, ed. (New York: Irvington Publishers, 1977), 1.

<sup>37</sup> National Women’s Health Network, *Sterilization: Resource Guide 9* (Washington D.C.: National Women’s Health Network, 1980), 70-71.

put “fertility control agents in the water,” similar to the way some areas added fluoride to water supplies. Another proposed to enforce “compulsory sterilization after N [a set number of] Children.”<sup>38</sup>

In practice, however, a more targeted effort to control the population emerged. California, Connecticut, Delaware, Georgia, Illinois, Iowa, Louisiana, Maryland, Ohio, South Carolina, Tennessee, and Virginia attempted to create laws to prevent the birth of illegitimate and impoverished children.<sup>39</sup> In 1958, Mississippi tried to pass a bill that subjected an unmarried woman to mandatory sterilization after she gave birth to a “second subsequent illegitimate child.” This bill did not pass, although in 1964 a revised version did. House Bill 180 made it a felony for a woman to have a “second subsequent illegitimate child,” requiring jail time for the offense.<sup>40</sup> By the late twentieth century, concerns about overpopulation justified the sterilization of women authorities considered a social burden, just as fear of “inferior” genes legitimized quests for racial purity during the early twentieth century. Jael Silliman, Marlene Gerber Fried, Loretta Ross, and Elena Gutiérrez argue in their work, *Undivided Rights*, that the women designated as social burdens were predominantly poor women of color.<sup>41</sup>

The federal government significantly increased financial support for family planning during the late 1960s and early 1970s. Prior to 1969, federally-funded

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<sup>38</sup> Robert M. Veatch, “An Ethical Analysis of Population Proposals” in *Population Policy and Ethics: The American Experience*, Robert M. Veatch, ed. (New York: Irvington Publishers, 1977), 445; 465.

<sup>39</sup> Jennifer A. Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003), 69.

<sup>40</sup> Mayone J. Stycos, “Some Minority Opinions on Birth Control” in *Population Policy and Ethics: The American Experience*, Robert M. Veatch, ed. (New York: Irvington Publishers, 1977), 173.

<sup>41</sup> Jael Silliman, Marlene Gerber Fried, Loretta Ross, and Elena Gutiérrez, *Undivided Rights: Women of Color Organize for Reproductive Justice* (Boston: South End Press, 2004), 9.

sterilizations did not exist.<sup>42</sup> In 1970, the Family Planning Act promised to reimburse up to ninety percent of sterilization costs. During this time, The Department of Health, Education, and Welfare's (HEW) budget for family planning increased from \$51 million to \$250 million.<sup>43</sup> Starting in 1971, the Office of Economic Opportunity used federal money to fund clinics that provided sterilizations to its population of beneficiaries.<sup>44</sup> The government made sterilization inexpensive and available for Americans on public assistance in an era that was otherwise overwhelmingly marked by reductions in health care services.<sup>45</sup> From 1970 to 1977, federally-funded sterilizations increased nearly 300 percent, from 192,000 to 548, 000 each year.<sup>46</sup> These numbers represent a significant increase as only 63,000 sterilizations occurred from 1907 to 1964 in the United States.<sup>47</sup>

Justification for the targeted sterilization of welfare recipients encompassed two basic concepts. The first was anxiety over the supposed population crisis. The second channeled this fear to focus on the fertility of poor American women whom doctors, law makers, and population experts believed to be particularly fertile and a drain on American society. In the early 1970s, Dr. Dwight J. Ingle, a physiologist at the University of Chicago, argued that the growing trend of "spending large amounts of money" to address social problems was a mistake. According to Ingle, these issues were better solved by

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<sup>42</sup> Jane Lawrence, "Indian Health Service: Sterilization of Native American Women, 1960s-1970s," (Master's Thesis, Oklahoma State University, 1999), 6.

<sup>43</sup> Amory, "The Privilege of Motherhood," 3.

<sup>44</sup> Sally Torpy, "Endangered Species: Native American Women's Struggle for their Reproductive Rights and Racial Identity, 1970s-1990s." M.A. Thesis, University of Nebraska at Omaha, 1998, 19.

<sup>45</sup> *Shapiro*, *Population Control Politics*, 6.

<sup>46</sup> Jane Lawrence, "Indian Health Service," (Master's Thesis), 13.

<sup>47</sup> Amory, "The Privilege of Motherhood," 3.

“selective population control” because “millions of people are unqualified for parenthood and should remain childless.”<sup>48</sup> These “unqualified” parents were primarily poor women on welfare.<sup>49</sup> According to estimates Ingle supported, a majority of educated women practiced birth control, but only ten percent of uneducated women did.<sup>50</sup> Ingle argued that these uneducated families existed on welfare for generations causing social problems and costing tax payers money. Ingle proposed that the government pay “most welfare clients to remain childless.”<sup>51</sup> Believing welfare recipients incapable of monitoring their fertility and guilty of passing a set of degenerate social conditions to their children, Ingle and others defined them as “a drain on the taxpayers.”<sup>52</sup> In 1965, the Senate held hearings on the cost of overpopulation to the United States. At these hearings, individuals testified that they saw a connection between overpopulation and violence in poor neighborhoods, such as the Watts riot in Los Angeles.<sup>53</sup> Sterilization appeared as a solution to economic and social dilemmas as well as generalized anxiety about a rapidly growing population.

Indian women became easily accessible candidates for sterilization because of the contractual nature of healthcare between the federal government and Native tribes. Indian women who belonged to tribes that had a government to government relationship with the United States had access to federal healthcare. Some Native nations had rights to medical care by treaty, others through congressional action. Federal medical care to

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<sup>48</sup> Ingle, *Who Should Have Children?*, xii.

<sup>49</sup> Ingle also embraced an older understanding of heredity that argued that the mentally retarded and others who possessed biological “deficiencies” should not procreate.

<sup>50</sup> Ingle, *Who Should Have Children?*, 94.

<sup>51</sup> *Ibid.*, 98.

<sup>52</sup> Blank, *Fertility Control*, 62.

<sup>53</sup> Nelson, *Women of Color and the Reproductive Rights Movement*, 92-93.

Native groups was not welfare but services historically provided in exchange for land. Many Americans were unaware of the legal basis for federally supported medical facilities on reservations, nor did they realize that not all Indian women relied on the federal government for their healthcare. According to demographer Matthew Snipp, wealthier Indians, “with incomes 400 percent or more above the official poverty level” sought their medical care elsewhere.<sup>54</sup> Furthermore, Indian women only received federal services if they returned to the reservation of their citizenship to claim it. Therefore, some Indian women sought private healthcare elsewhere. It was also possible that a poor Indian woman living in an urban area or otherwise unable to return to her appropriate facility received the same welfare health benefits as non-Indian recipients. In 1973, forty percent of American Indians lived in poverty and Native birth rates were slightly higher than the national average.<sup>55</sup> Almost a decade earlier, the Council on Indian Affairs petitioned successfully to be a part of the Johnson administration’s War on Poverty and beneficiaries of the Economic Opportunity Act.<sup>56</sup> Participation in the War on Poverty existed outside of provisions made in previous treaties and laws regarding Native healthcare and other services, but, it included American Indians in a federal support program applicable to all Americans in need. By July of 1965, more than thirty tribes received War on Poverty benefits through federal funding of Head Start and Community Action programs.<sup>57</sup> An inadequate understanding of treaty rights and obligations

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<sup>54</sup> Mathew Snipp, “Selected Demographic Characteristics of Indians,” in *American Indian Health: Innovations in Health Care, Promotion, and Policy*, Everett R. Rhoades, ed., (Baltimore: The Johns Hopkins Press, 2000), 54.

<sup>55</sup> Amory, “The Privilege of Motherhood,” 4.

<sup>56</sup> Josephy, Jr., et al., *Red Power*, 53-54.

<sup>57</sup> “The War on Poverty Continues,” in *NCAI Bulletin*, Vol. 10, No. 2A (Summer 1965).

combined with a focus on Indians as poor, fertile, and part of the War on Poverty made Indian women prime candidates for coerced sterilization.<sup>58</sup> Federal control of Indian Health Services granted the proponents of these ideas easy access to Indian women.

Federal intervention in Indian healthcare began long before the official establishment of the Indian Health Service (IHS) in 1955. Beginning in the early 1800s, all aspects of Indian Affairs including healthcare existed in the Department of War, and Native tribes received intermittent healthcare from military physicians.<sup>59</sup> In 1832, the federal government and the Winnebagos signed the first treaty addressing medical care.<sup>60</sup> Indian Affairs transferred to the Department of the Interior in 1849, and the government gradually assumed more responsibility for Indian healthcare. By 1880, the Indian Health Service had four hospitals and seventy-seven physicians.<sup>61</sup> The 1921 Snyder Act officially authorized the Bureau of Indian Affairs in the Department of the Interior to provide Indian healthcare.<sup>62</sup> In 1955, Indian healthcare moved from the Bureau of Indian Affairs (BIA) to the Public Health Service because of the BIA's failure to provide

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<sup>58</sup> The 1976 Indian Healthcare Improvement Act allowed Medicare and Medicaid reimbursements for Indian Health Service treatments. Amory, "The Privilege of Motherhood," 4; Thomas Clarkin, *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961-1969* (Albuquerque: University of New Mexico Press, 2001).

<sup>59</sup> For a detailed history of Indian Health Services see: *Report on Indian Health, Task Force Six: Indian Health, Final Report to the American Indian Policy Review Commission* (Washington D.C.: U.S. Government Printing Office, 1976).

<sup>60</sup> Amory, "The Privilege of Motherhood," 4

<sup>61</sup> Emery A. Johnson and Everett R. Rhoades, "The History and Organization of Indian Health Service and Systems" in *American Indian Health: Innovations in Health Care, Promotion, and Policy*, Everett R. Rhoades, ed., (Baltimore: The Johns Hopkins Press, 2000): 74-92, 75.

<sup>62</sup> Jane Lawrence, "The Indian Health Service and the Sterilization of Native American Women" in *American Indian Quarterly*, Vol. 24, No. 3, (Summer 2000): 400-419; 401.

adequate service.<sup>63</sup> Proponents of the transfer argued that because the BIA was not a medical organization, it could not offer the same level of expertise as the Department of Health, Education, and Welfare. The transition involved 2,500 health care workers, forty-eight hospitals, and 130 health service centers from BIA control to the newly established Indian Health Service under the umbrella of the Public Health Service, a division of the Department of Health, Education, and Welfare (HEW).<sup>64</sup> In large measure, improvements in IHS care helped the twentieth century Native population increase by offering medical interventions that lowered the death rate, such as vaccinations, antibiotics, and improved maternal and child health services.<sup>65</sup>

The Indian Health Service embarked on a legitimate effort to improve Indian healthcare by hiring competent medical professionals and renovating facilities. The IHS also contracted with hospitals to perform surgeries and offer expertise that IHS facilities could not.<sup>66</sup> By the late 1970s, 678,000 American Indians were eligible for care at IHS services. In 1977, IHS hospitals and contract facilities treated and discharged 106,290 patients. Of this number, roughly twenty-nine percent of admissions went to contract facilities, public and private institutions with whom the IHS negotiated to provide care to Indians. Although these relationships with contract facilities benefited American Indians by offering them superior care, HEW had no effective way to monitor these institutions

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<sup>63</sup> Johnson, "The History and Organization of Indian Health," 75.

<sup>64</sup> Brett Lee Shelton, "Legal and Historical Basis of Indian Health Care" in *Promises to Keep: Public Health Policy for American Indians and Alaska Natives in the 21<sup>st</sup> Century*, Mim Dixon and Yvette Roubideaux, eds., (Washington D.C.: American Public Health Association, 2001), 21. Indian health care was called the Division of Indian Health from 1955 to 1968, at which time it was renamed Indian Health Service.

<sup>65</sup> Russell Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman, University of Oklahoma Press, 1987), 161.

<sup>66</sup> Johnson, "The History and Organization of Indian Health," 77.

or insure that they complied with IHS standards. This became especially problematic when the IHS began offering family planning assistance in 1965 and included sterilization in these services. Just under twenty percent of the patients at both contract facilities and IHS hospitals were obstetric patients.<sup>67</sup> By 1976, 97.8% of Native births occurred in IHS facilities.<sup>68</sup> After childbirth, Indian women were at particular risk for sterilization operations.

Despite the impressive advances made by the federal government on behalf of Indian health care, paternalistic attitudes about Indians prevailed throughout IHS facilities. A 1969 publication of the Public Health Service on the Indian Health Program described American Indians as “not familiar with modern health concepts” and unable to “understand the scientific basis of illness and medical treatment.”<sup>69</sup> Some Indian women argued that this paternalism encouraged medical professionals at IHS and contract facilities to participate in a conscious campaign to rob Indian women of their fertility. The assumption that doctors knew what was “best” for Indian women allowed them to privilege personal and professional gain over Indian women’s health and rights. Many young IHS physicians apparently commenced their careers looking for “an opportunity to complete certain requirements necessary for specialization certificates.”<sup>70</sup> There also existed the possible motivation of financial gain. Tubal ligations earned hospitals \$250,

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<sup>67</sup> U.S. Department of Health, Education, and Welfare, Health Service Administration, Indian Health Services, *The Indian Health Program of the U.S. Public Health Service* (Washington, DC: U.S. Government Printing Office, 1978), 21.

<sup>68</sup> *Ibid.*, 19.

<sup>69</sup> U.S. Department of Health, Education, and Welfare, Public Health Service, *The Indian Health Program of the U.S. Public Health Service*, (Washington, DC: U.S. Government Printing Office, 1969), 1.

<sup>70</sup> *CARASA News*, Vol. 3, No. 8 (October 1979), 20. Reprint from *Askwesasne Notes*, May 1979, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

and radical hysterectomies \$720.<sup>71</sup> Hysterectomies, irreversible because they removed the entire uterus, became the lucrative and popular means of sterilization, although they were often unnecessary. The cheaper and less invasive procedure involved surgery on the fallopian tubes in order to prevent eggs released by the ovaries from reaching sperm during intercourse. This included tubal ligation that cut and tied the tubes and resection, which surgically removed a large section of the tube. Doctors also occasionally clipped fallopian tubes with clips or rings and destroyed the tubes through cauterization or chemical treatment.<sup>72</sup>

Charges of personal, professional, and financial gain came largely from Indian women campaigning against sterilization. However, some medical professionals confessed to the very claims activists put forth. Dr. Donald Sloan, a physician at Metropolitan Hospital in New York admitted: “We’re a city hospital, so most of our patients are poor. They are considered chattel by the physicians here. We practice on the poor so we can operate on the rich. Hysterectomies and simple tubal ligations are performed all the time just for the practice”<sup>73</sup> Moreover, the way in which doctors coerced patients into sterilization operations was subtle and complex. One critic described the dynamic that led to abuse: “The medical profession reproduces the hierarchical structure of the surrounding society... medicine reinforces the dependence and oppression of the people.”<sup>74</sup> Therefore, the conditions under which physicians

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<sup>71</sup> Amory, “The Privilege of Motherhood,” 9.

<sup>72</sup> Blank, *Fertility Control*, 26.

<sup>73</sup> Congressional Record. Proceedings and Debates of the 95<sup>th</sup> Congress, First Session, Vol. 123-Part 130, December 6 to December 15, 1977, 39386.

<sup>74</sup> *Women and the Healthcare System: Two Lectures by Dr. Helen Rodriguez-Trias* (New York: The Women’s Center, Barnard College, 1978), 2.

obtained consent and performed sterilizations were part of a larger power dynamic. According to one Indian activist, “the women have a great deal of faith in their doctor—they do as they are told... [fear] of subtle reprisals against a woman’s people, her reservation, is an invidious and powerful tool in repressing expressions of dissatisfaction.”<sup>75</sup> Indian women, therefore, did not charge physicians with removing uteri merely to bolster the budgets of their hospitals and improve their professional credentials. Rather, they depicted doctors who operated in a system that afforded them power and control and allowed them to justify their actions based on paternalism.

In addition, many doctors at IHS and other facilities performed sterilizations because they believed it helped society and poor women by reducing the number of children these women had—resulting in fewer social problems and, in the case of Medicaid, tax cuts.<sup>76</sup> According to one physician, “a girl with lots of kids, on welfare, and not intelligent enough to use birth control, is better off being sterilized.”<sup>77</sup> Another argued, “As physicians we have obligations to individual patients, but we also have obligations to the society of which we are a part.... The welfare mess... cries out for solutions, one of which is fertility control.”<sup>78</sup> Yet another claimed, “Welfare women become pregnant over and over again. They give up babies like fish... They know the government will support them. They are too stupid to take the pill. ... Banning clinics for

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<sup>75</sup> Congressional Record Proceedings and Debates of the 95<sup>th</sup> Congress, First Session, Vol. 123-Part 30, Dec 6 to 15, 1977, 39383.

<sup>76</sup> Jane Lawrence, "Indian Health Service," (M.A. Thesis), 2.

<sup>77</sup> Gena Corea, *The Hidden Malpractice: How American Medicine Treats Women as Patients and Professionals* (New York: Morrow, 1973), 180-181.

<sup>78</sup> *Ibid.*

welfare women or withholding their welfare payments would be a good idea.”<sup>79</sup>

Paternalism informed these doctors, but so too did the antagonism that many Americans felt toward the poor. The policy makers who increased federal funding for sterilization and the doctors who performed the surgeries saw no problem with curbing the populations of poor people by limiting the reproductive rights of poor women.

From 1965 until 1973, many Indian women endured coerced sterilizations at IHS facilities because the Department of Health, Education, and Welfare (and Indian Health Service as a subset of HEW), had no specific regulations controlling sterilization. A HEW study done in 1973 found that 37% of the 1,429 sterilizations it subsidized were involuntary. A subsequent HEW study found that even in cases of consensual sterilization, “the consent forms had been signed under duress in 50% of the cases studied.”<sup>80</sup> As a result of these studies, and court cases charging coerced sterilization, HEW issued a set of sterilization regulations that went into effect in 1974.<sup>81</sup> The regulations called for a moratorium on federally-funded sterilizations for minors and those unable to give consent, and in instances where the latter required a sterilization operation for medical reasons, a federally-appointed five person committee needed to approve the sterilization. The new guidelines for all sterilizations also required a seventy-

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<sup>79</sup> Robert M. Veatch and Thomas Draper, “The Values of Physicians” in *Population Policy and Ethics: The American Experience*, Robert M. Veatch, ed. (New York: Irvington Publishers, 1977), 377.

<sup>80</sup> *CARASA News*, Vol. 2, No. 7, (August 3, 1978), 6, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>81</sup> In response to coerced sterilization, many non-Indian women also took legal action. In *Relf v. Weinberger* and *Relf v. Mathews*, Minnie Lee and Mary Relf’s parents charged that their daughters were forcibly sterilized—and without parental consent—at a federal clinic. In *Madrigal et al v. Quilligan et al*, a group of Chicana women pursued a class-action suit stating they were sterilized unbeknownst to them and without proper consent procedures by USC Medical Center in Los Angeles. In *Walker v. Pierce*, an African-American woman in South Carolina on public assistance filed a case against the physician who refused to deliver her fourth child until she consented to sterilization. See Jennifer A. Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003).

two hour waiting period between written consent and surgery, an oral explanation of the procedure, and clear communication to the patient that declining the procedure would not result in a loss of federal benefits.<sup>82</sup>

Legislating changes in protocol, however, did not mean that HEW facilities followed them. The American Civil Liberties Union (ACLU) did a comprehensive study in order to determine whether or not hospitals complied with 1974 HEW sterilization regulations. Of the 154 teaching hospitals surveyed, fifty-one responded, and only three were found to be in accordance with the regulations.<sup>83</sup> As a result, the Center for Disease Control surveyed the same 154 hospitals and found “that 40% had no knowledge whatsoever of HEW’s regulations governing sterilization procedures, 66% failed to discuss birth control alternatives with the patient, and 38% regarded ‘mental insufficiency’ as a legitimate medical indication for sterilization.”<sup>84</sup> The Government Accounting Office issued a report in 1976 on IHS centers and sterilization. Based on an examination of twelve IHS medical centers, the report cited that “in Oklahoma City, 1,761 out of 15,000 Native American women of child-bearing age were sterilized.”<sup>85</sup> The IHS hospital in Claremore, Oklahoma performed 194 sterilizations in a single year, one

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<sup>82</sup> Blank, *Fertility Control*, 63.

<sup>83</sup> “Sterilization Abuse: Mobilizing Grassroots Groups to Monitor Local Hospitals” Proposal Submitted to the Stern Fund by the National Women’s Health Network, January 1979, Sophia Smith Collection, Smith College, Northampton, Massachusetts. “36 were in complete non-compliance with the regulations; 15 did not explain the operation in lay language or the patient’s native language; and only 2 were in compliance with the 72-hour waiting period.”

<sup>84</sup> *Ibid.*

<sup>85</sup> Elmer B. Staats, Comptroller General, Report to Senator James Abourezk. Investigation of Allegations Concerning Indian Health Service. “Letter to Senator James G. Abourezk (Chairman of subcommittee on Indian Affairs) from the Comptroller General of the United States presenting the findings on General Accounting Office, November 4, 1976. Released Nov. 23, 1976, 1; Torpy, “Endangered Species,”4.

for every four women who went to the hospital.<sup>86</sup> Tribal Judge Marie Sanchez, of the Northern Cheyenne Reservation in Lame Deer, Montana, personally interviewed the women in her area and found that the IHS sterilized twenty-six of 1,000 women of childbearing age.<sup>87</sup> Dr. Constance Pinkerton Redbird Uri estimated that over one-quarter of “all Native American women in this country have already been sterilized....”<sup>88</sup>

Indian women’s experiences with IHS and sterilization varied. In 1975, Barbara Moore, a young single woman from the Rosebud Sioux reservation, went to an IHS facility to have her baby, which the doctors delivered by caesarian section. The baby died almost immediately after its birth of unknown causes. The next day, health workers informed Moore that her child died and they had sterilized her. Moore later asserted that she “was sterilized during the [caesarian] operation without my knowledge and without my agreement.”<sup>89</sup> Moore’s case exemplifies the most egregious way in which Indian Health Service doctors assumed control of Indian women’s fertility: they performed sterilizations without consent. In cases like these, according to Moore, “Young women go in for birth control. The doctors destroy the fallopian tubes and tell the women: ‘If you want to be pregnant you can always come back in and we can fix it again.’”<sup>90</sup> Of course, reversal of sterilization was rarely possible after tubal ligations and impossible after a radical hysterectomy. Mary Crow Dog, Moore’s sister, opted to have her baby at

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<sup>86</sup> Shapiro, *Population Control Politics*, 92.

<sup>87</sup> “Indian Women and I.H.S. Sterilization Practices” in *American Indian Journal*, 28.

<sup>88</sup> Brint Dillingham, “Sterilization of Native Americans” in *American Indian Journal*, Vol. 3, No. 7, July 1977 (Washington D.C.: Institute for the Development of Indian Law): 16-19.

<sup>89</sup> “An Interview with Barbara Moore,” in *Akwesasne Notes* (Spring 1979): 11.

<sup>90</sup> *Ibid.*

Wounded Knee during the AIM siege rather than in an IHS hospital because she feared IHS doctors would sterilize her without her consent. According to Crow Dog: “Being poor, unwed, and a no-good rabble-rouser from the Knee made me an unfit mother.”<sup>91</sup>

More commonly, coerced sterilizations occurred with Indian women’s “consent.” In some cases, doctors gave Indian women incorrect or incomplete information about the procedure. Women “were told the operation was reversible, or that they would lose their children if they didn’t consent.”<sup>92</sup> Health care workers obtained consent from semi-conscious women, still groggy from drugs administered during labor. Sometimes women did not understand the consent forms they signed because they spoke English as a second language or failed to understand the document’s complicated medical jargon. In other instances, physicians told women they would forfeit their federal benefits if they did not agree to the surgery. Some women acquiesced under the authority of a medical professional who claimed to know what was best.

In some cases, women signed forms without any explanation of what the document meant. One Creek-Shawnee woman, Norma Jean Serena, lost her children to the state and was sterilized against her will—but allegedly with her consent. Serena signed a consent form but had no recollection of doing it or of anyone explaining the procedure to her. In January 1979, Serena brought her case to the U.S. district court in Pittsburgh and sued seven defendants for “racial discrimination, conspiring to take away her children, and coercing her into being sterilized in August, 1970.” Ultimately, the court found in Serena’s favor regarding the charge of conspiracy to take her children away but did not

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<sup>91</sup> Crow Dog, *Lakota Woman*, 166.

<sup>92</sup> “Killing our Future: Sterilization and Experiments” in *Akwesasne Notes*, (Early Spring 1977): 6.

find that doctors sterilized her against her will. According to the jury, because Serena signed a sterilization consent form, she had agreed to the procedure, and the defendants were not at fault. The court awarded Serena \$17,000 for her pain and suffering as a result of being misled by two welfare workers who coerced her to put two of her children in foster homes. Serena, relieved to have her children returned to her care, nevertheless insisted after the decision that “the sterilization should have been the main thing.”<sup>93</sup>

In many cases, hospital staff misled or coerced Indian women into signing a document that legitimized their sterilization surgeries. A young woman in Minnesota, while in labor, signed a form that she believed to be for a painkiller; however, her signature sanctioned her sterilization. In 1975, a twenty-six year old woman had a similar experience, but in her case the medical staff asked her to sign a form for her caesarian section after both the caesarian and the sterilization. According to the woman, the doctors and nurses on hand requested that she date the document with the previous day's date. The woman disregarded their instruction and dated the form correctly.<sup>94</sup> This act of non-cooperation in support of her rights could not, of course, alter her sterilization.

Many Indian women experienced depression following their sterilizations. The Indian Health Service hospital at Claremore, Oklahoma, sterilized two women who sought extensive psychiatric care after their sterilizations. One of the women agreed to sterilization at age twenty-nine after continued coercion from a social worker and without understanding that the procedure was irreversible and permanent. The second woman had the operation after delivering her son by caesarean section; she had no recollection of

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<sup>93</sup> “Serena Wins Half-a-Battle” in *Akwesasne Notes*, (Late Winter, 1979).

<sup>94</sup> Jane Lawrence, "Indian Health Service," (M.A. Thesis), 97-98; 102-104; 99-100.

signing a consent form. Subsequently, her husband left her because of her inability to bear more children and his uncertainty about her sexuality now that she lacked a uterus.<sup>95</sup>

Whatever the circumstances of their coerced sterilizations, the surgery profoundly affected the Indian women who experienced it. It often resulted in psychological and social problems for Indian women, as well as their refusal to trust Indian Health Services as a safe place for medical care. According to Dr. Constance Redbird Pinkerton Uri, Indian women faced a grim post-sterilization experience: "when they do realize they can't create life . . . psychological problems result. It dawns on different women at different times. For some, the realization does not strike until many years later . . . ."<sup>96</sup>

Many Indian women experienced heightened anxiety and depression over their inability to have children because of the centrality that children played in their cultures.<sup>97</sup> For some American Indians, their concepts of the requisites for parenthood stood in contrast with the beliefs of the larger American society.<sup>98</sup> Ideas about what constituted a fit parent in white American society rested heavily on material expectations and social norms. In mainstream American communities, an individual's decision to have a child often depended on his or her marital status and economic stability. White Americans did not lack love for potential children or the desire to become a parent, but these ideals existed in tandem with more pragmatic concerns. As one Indian physician argued: "the attitude of doctors tends to be that poor people shouldn't have kids because they can't

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<sup>95</sup> Ibid.

<sup>96</sup> "Theft of Life" in *Akwesasne Notes* (September, 1977), 30.

<sup>97</sup> Carol Niethammer, *Daughters of the Earth: The Lives and Legends of American Indian Women* (New York: Collier Books, 1977), 1-2.

<sup>98</sup> Mary K. Jaeggli, "Sterilization and the American Indian Connection" (M.A. Thesis, University of Wyoming, 2002), 48-49.

afford them. But to deny people the right to have children because they can't have them born into a certain standard of living is cruel.”<sup>99</sup> Although many American Indians also embraced such practical concerns, some Native communities did not couch parenthood solely in material terms. Nor was a spouse necessarily mandatory for successful motherhood. Some Native groups continued to function with kinship networks that raised children communally. Although many Indian women lived in urban areas and perhaps far from extended family to help raise their children, they still enjoyed relative freedom from the stigmas that mainstream culture imposed on single mothers. While American Indians' patterns of childrearing changed over the centuries, the importance of kin and children remained.

American Indian women activists interpreted the issue of coerced sterilization and its ramifications as larger than an individual woman's experience. They understood women's loss of reproductive freedom as a larger attack on Indian people and Native cultures, within the context of a long history of population decline and attempted cultural assimilation. Forced or coerced sterilization also challenged the political right of an Indian woman's tribe to protect her from such an invasion. Indian women understood control over their fertility as a fundamental human right and a basic civil right guaranteed to members of sovereign nations. The federal government's control over Indian women's fertility was an affront to personal reproductive freedom and tribal sovereignty. Every time an Indian woman was sterilized against her will she lost not only reproductive capabilities but her rights as the member of a sovereign Indian nation.

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<sup>99</sup> “Killing our Future: Sterilization and Experiments” in *Akwesasne Notes*, (Early Spring 1977), 4.

The federal government and IHS agents largely ignored sovereignty in their sterilization of Indian women, and relied on the justification that such surgeries cut government costs, prevented ill-prepared people from reproducing, helped resolve the population crisis, and benefited society overall.<sup>100</sup> Indian women, however, did not ignore their rights as members of sovereign nations. Beginning in the mid-1970s, Indian women began to organize across Indian Country to publicize the crisis of coerced sterilization and effect reform. Indian women couched their activism against sterilization abuse in terms of the larger Red Power movement's fight for sovereignty while rallying support by labeling the coerced sterilization of Indian women the "modern form of genocide."<sup>101</sup>

Although not all American Indians agreed that their population experienced genocide, none could ignore the striking demographic decline following contact with Europeans and Africans and the subsequent twentieth-century recovery. Prior to European arrival, the indigenous population of the present-day United States totaled at least five million. After years of European and African contact, resulting in disease, war, relocation, and the destruction of economic systems and ways of life, the American Indian population hit a low point of only 250,000 in 1890.<sup>102</sup> Gradually, over the course of the twentieth century, the Native population increased in part because of improvements in healthcare such as access to vaccines against small pox and other

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<sup>100</sup> Stern, *Eugenic Nation*, 203.

<sup>101</sup> "Marie Sanchez: For the Women," in *Akwesasne Notes*, Vol. 9, No. 5, (December, 1977), 14. The United Nations defined Genocide in 1948 as "action committed with intent to destroy in whole or in part a national, ethnic, racial, or religious group as such." Robert Melson, *Revolution and Genocide: On the Origins of the Armenian Genocide and the Holocaust* (Chicago: University of Chicago Press, 1992), 23. Although certain tribes experienced genocidal campaigns throughout history, American Indian population devastation, in general, was largely a result of disease.

<sup>102</sup> Thornton, *American Indian Holocaust and Survival*, 44-54. The nadir of 1890 occurred in part because of small pox pandemics of 1801-1802 and 1836-1840 as well as other smaller epidemics, 91-92.

diseases.<sup>103</sup> In addition to a decrease in the death rate over the course of the twentieth century, two other phenomena contributed to the increase in the indigenous population. The first involved census reporting. Prior to 1960, census takers listed a person's race based on how that individual appeared to the census taker. From 1960 on, individuals began to self-report race in censuses, resulting in more American Indians identifying as such.<sup>104</sup> At the same time, the birth rate of American Indians began to increase and surpass that of African and European Americans, producing a Native population of almost 1.5 million in the 1980 census.<sup>105</sup> Inter-marriage to non-Indians also played a part in the population increase because offspring usually identified as Indian, leading to more families with Indian children.

In the early part of the twentieth century, endogamous American Indians (individuals who had children with other Indians) had lower fertility rates than that of non-Indians and exogamous American Indians (those who had children with non-Indians). This began to change during the 1940s. Although Native fertility declined “noticeably” during the era of coerced sterilization, it began to rise again by the end of the 1970s.<sup>106</sup> Despite the decline of birth rates in the early 1970s, the American Indian

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<sup>103</sup> Ibid., 101.

<sup>104</sup> Ibid., 216; Jeffrey S. Passel, “The Growing American Indian Population, 1960-1990: Beyond Demography” in *Changing Numbers, Changing Needs: American Indian Demography and Public Health* Gary D. Sandefur, et al eds. (Washington DC: National Academy Press, 1996), 80. According to Thornton, self-identification explains twenty-five percent of the increase in the Native population from 1960-1970 and sixty percent of the increase from 1970 to 1980. Russell Thornton, “Tribal Membership Requirements and the Demography of ‘Old’ and ‘New’ Native Americans in Gary D. Sandefur, et al eds. *Changing Numbers, Changing Needs: American Indian Demography and Public Health* (Washington DC: National Academy Press, 1996), 104.

<sup>105</sup> Thornton, *American Indian Holocaust and Survival*, 159.

<sup>106</sup> Snipp, C. Matthew, “The Size and Distribution of the American Indian Population: Fertility, Morality, Migration, and Residence” Gary D. Sandefur, et al eds. *Changing Numbers, Changing Needs:*

birth rate was still greater than that of African and European Americans. In 1970, the average number of children born to “women aged 35-44” was 4.41 for American Indian women, 3.54 for African American women, and 2.83 for European American women.<sup>107</sup>

Based on the long history of population decline, some American Indian activists saw coerced sterilization as the continuation of a genocidal campaign against American Indians. In 1977, Northern Cheyenne tribal judge Marie Sanchez argued: “Indian women of the Western Hemisphere are the target of [a] genocide that is ongoing... the modern form [is] called sterilization.”<sup>108</sup> Like Sanchez, some American Indians believed the attack on tribal sovereignty and indigenous populations through coerced sterilization continued a genocide that began with the arrival of the first European colonizers. Others doubted this claim, but resented governmental attempts to curb their population.<sup>109</sup> A panel of American Indians who participated in a study on population policy proposals argued against limiting population growth because of cultural beliefs regarding kin, justice, and freedom, as well as the understanding that the population crisis was not created by Indians. Whether or not coerced sterilization was part of a genocidal campaign, Sanchez correctly interpreted the targeting of specific women for sterilization

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*American Indian Demography and Public Health* (Washington D.C.: National Academy Press, 1996), 18-19.

<sup>107</sup> *Ibid.*, 26.

<sup>108</sup> “Marie Sanchez: For the Women,” 14.

<sup>109</sup> Emily C. Moore, *Native American Indian Values: Their Relation to Suggested Population Policy Proposals* (Hastings-on-Hudson, NY: Commission on Population Growth and the American Future, 1971). Moore used a small representative sample to conclude that a majority of American Indians were against governmental efforts to control the population. They represented the following tribes: Passamaquoddy, Iroquois, Tewa, Navajo, Hupa-Karok-Yurok, Kiowa, Cherokee, Comanche, Tonawanda Seneca, Lumbee, Oglala Sioux, Cheyenne River Sioux, Hassanamisco-Narragansett.

by the government and medical professionals. According to one physician, “It is the wrong people who have the children... welfare types don’t give a damn.”<sup>110</sup> In the midst of the “population crisis” and as members of a rapidly growing population, Indian women became candidates for coerced sterilization along with other poor women and other women of color.

Throughout the twentieth century, eugenicists and population control advocates attempted to curb the fertility of specific Americans. In the first half of the century, a concern over the proliferation of deficient genes masked a desire for racial and class purity: a white middle-class Anglo-Saxon America. After World War II, the fear of overpopulation sanctioned sterilization, but in practice the federal government coerced poor women into these operations. Indian women fell outside of early twentieth-century eugenic campaigns because of their population’s dwindling numbers and the efforts of other reformers to cast American Indians as competent American citizens. By the late twentieth century, however, Indian women emerged as likely candidates for sterilization because of the rapid increase in their population and misunderstandings about treaty benefits and Indian healthcare. In response, Indian women united to arrest the practice in defense of both their individual reproductive freedom and tribal sovereignty.

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<sup>110</sup> Veatch and Draper, “The Values of Physicians,” 389.

## **CHAPTER III**

### **INDIAN WOMEN'S FIGHT AGAINST COERCED STERILIZATION**

During the 1970s, American Indian women organized groups, conducted investigations, and wrote exposes, articles, and guides to expand reproductive rights beyond access to safe birth control and abortion. Indian women activists, in particular, worked to educate their communities and the larger United States about coerced sterilization. Determined to defend individual Indian women's rights to reproductive freedom and support the authority of Native nations to protect tribal members, these activists formed political groups to effect change and put coerced sterilization on the national feminist agenda through participation in International Women's Year initiatives. Not all of Indian Country, however, identified the issue as an imminent political threat. Established groups and task forces for American Indian rights, such as the American Indian Review Policy Commission and the National Congress of American Indians, largely overlooked the concern. Male-dominated factions of the Red Power movement acknowledged coerced sterilization as a problem but worked to address other aspects of sovereignty. Indian women activists faced the silence of their own communities about the issue, the federal government's robust funding of sterilization, and the mainstream feminist movement's control over the meaning of reproductive rights.

The efforts of Indian women to end coerced sterilization mirrored those of other women of color. According to historian Jennifer Nelson, Black and Puerto Rican women,

predominantly in the New York City area, first interjected sterilization without consent into the dialogue on reproductive freedom.<sup>1</sup> Many of these women had roots in the Black Power and Puerto Rican Nationalist movements and, like women in the Red Power movement, they expressed concern about forced and coerced sterilization at the hands of the federal government.<sup>2</sup> Black and Puerto Rican activist women formed and joined groups, such as the Black Women's Liberation Group of Mount Vernon, New York, the Black Women's Liberation Committee, and the Third World Women's Alliance, that defined reproductive freedom as protection from unwanted sterilization as well as access to birth control and abortion. A coalition of Puerto Rican, Black, and white women in New York City formed the Committee to End Sterilization Abuse (CESA) in 1974 to address population policies aimed at women of color in the United States and the rest of the world.<sup>3</sup> In practice, however, CESA focused its work on reforming protocol in New York City hospitals. Although cognizant of Indian women's experiences with sterilization, these activists lived and worked far from the geographical locus of the Red Power movement, IHS facilities, and large concentrations of American Indians.

At the same time that women of color in the New York City area began to address coerced sterilization, Indian women identified the practice as a problem in Indian Country. In 1972, Dr. Constance Redbird Pinkerton-Uri treated a young Indian woman

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<sup>1</sup> Jennifer Nelson, *Women of Color and the Reproductive Rights Movement* (New York: New York University Press, 2003). See also: Willie Mae Reid, *Black Women's Struggle for Equality* (New York: Pathfinder Press, 1976), 5. For the experiences of Latinas with coerced sterilization see: Carlos G. Velez-I Angeles, "Se me abaco la canción: An Ethnography of Non-consenting Sterilizations among Mexican American Women in Los 183-203" in *Latina Issues: Fragments of Historia (Ella)* (*Herstory*), Antoinette Sedillo Lopez, ed. (New York: Garland Publishing, 1995) and Antonia Hernandez, "Chicanas and the Issue of Involuntary Sterilization: Reforms Needed to Protect Informed Consent" in *Latina Issues: Fragments of Historia (Ella)* (*Herstory*), Antoinette Sedillo Lopez, ed. (New York: Garland Publishing, 1995).

<sup>2</sup> Nelson, *Women of Color and the Reproductive Rights Movement*, 87.

<sup>3</sup> *Ibid.*, 7; 140-141.

who wanted a reversal of her hysterectomy. IHS doctors had sterilized the twenty-year-old mother of two six years earlier. The woman knew doctors performed vital organ transplants and hoped she could have a similar operation to restore her reproductive organs. As Uri explained, she could not perform such a surgery.<sup>4</sup> Uri initially assumed the situation to be a case of isolated malpractice because “there was no good reason” for a doctor to perform a hysterectomy on a “healthy young woman.”<sup>5</sup> Disturbed by the malpractice, Uri began to investigate on the woman’s behalf. Through interviews with Indian women and an examination of case histories at the Indian Health Service hospital in Claremore, Oklahoma, Uri found evidence of rampant sterilization.<sup>6</sup> Based on her research at Claremore, Uri estimated that IHS facilities sterilized 25% of Indian women.<sup>7</sup> This discovery encouraged Uri to leave her private practice as a physician in Los Angeles to attend law school in order to act on what she discovered. Uri then founded Indian Women United for Justice, a Los Angeles-based group dedicated to legal action on behalf of Indian women whom IHS facilities had sterilized “without their full understanding.”<sup>8</sup>

Indian Women United for Social Justice presented their evidence on coerced sterilization to Senator James Abourezk, Chairman of the Subcommittee on Indian Affairs and requested that he call for a commission to investigate the issue.<sup>9</sup> Although not

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<sup>4</sup> “Theft of Life” in *Akwesasne Notes*, (September 1977), 30.

<sup>5</sup> *Ibid.*, 30.

<sup>6</sup> “Killing Our Future,” in *Akwesasne Notes*, (Early Spring 1977), 4.

<sup>7</sup> Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Boston: South End Press, 2005), 81-83.

<sup>8</sup> “Killing Our Future,” 6.

<sup>9</sup> *Ibid.*, 4; Smith, *Conquest*, 82. For more on Senator James Abourezk see his autobiography, *Advise and Dissent: Memoirs of South Dakota and the U.S. Senate* (Chicago: Lawrence Hill Books, 1989).

an Indian himself, Senator Abourezk grew up in a small town on the Rosebud Reservation in South Dakota. His early legal career focused on federal Indian law and, upon his election to the Senate in 1972, he quickly assumed the position of Chairman of the Subcommittee on Indian Affairs. Once in office, Abourezk wasted no time in launching several investigations on the status of American Indians and their relationship with the federal government.<sup>10</sup> In 1976, Senator Abourezk requested that the Government Accounting Office (GAO) investigate general health issues pertaining to American Indians including trachoma, medical research with Native subjects, and the “permanent sterilization of Indians at Indian Health Service facilities and contract facilities.”<sup>11</sup> According to the subsequent GAO report, 3,406 Indian women received sterilization surgeries between the years of 1973 and 1976 in Indian Health Service Centers in Aberdeen, South Dakota; Albuquerque, New Mexico; Oklahoma City, Oklahoma; and Phoenix, Arizona. Almost all of these women (3001) were of child-bearing age. Approximately one half of these operations occurred at Indian Health Service centers and the other half at contract facilities.<sup>12</sup> The GAO report found no evidence of forced or coerced sterilizations at either Indian Health Services or their contract facilities. The commission found, however, inconsistencies in the consent forms both employed.

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<sup>10</sup> American Indian Studies Center, University of Los Angeles, California, *New Directions in Federal Indian Policy: A Review of the American Indian Policy Review Commission*, (Los Angeles: American Indian Studies Center, UCLA, 1979), 7.

<sup>11</sup> Elmer B. Staats, Comptroller General. Report to Senator James Abourezk. Investigation of Allegations Concerning Indian Health Service. “Letter to Senator James G. Abourezk (Chairman of subcommittee on Indian Affairs) from the Comptroller General of the United States Presenting the Findings of General Accounting Office,” November 4, 1976, 1.

<sup>12</sup> *Ibid.*, 3, 4.

Indian Health Service facilities failed to present patients with oral information about informed consent, provide written descriptions of this communication, or inform patients of their right to “withdraw consent.” The investigators charged IHS with “weaknesses in complying with HEW’s 1974 sterilization regulations.” The violations included failing to prohibit the sterilization of women under twenty-one; neglecting to properly document what information women received prior to signing consent forms; overlooking physicians’ ignorance of these standards; and permitting unclear requirements of what informed consent meant for contract facilities.<sup>13</sup> The HEW regulations for federally funded sterilizations had banned the sterilization of anyone under twenty-one years, prohibited the sterilization of the mentally incompetent without their informed consent, demanded a seventy-two-hour waiting period for all sterilizations as well as written communication to the woman receiving the sterilization that she could keep her federal benefits if she declined the operation.<sup>14</sup>

The report placed blame for these shortcomings on both IHS area offices and headquarters. IHS area offices, the report found, did not comply with regulations from headquarters, and headquarters failed to provide adequate direction and instruction. Furthermore, the IHS central office neglected to use a uniform consent form and handbook compliant with the 1974 HEW regulations regarding sterilization.<sup>15</sup> The investigators demanded that the IHS update its consent forms and practice to meet HEW standards. This included educating healthcare providers about the regulations that

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<sup>13</sup> Ibid., 4, 19, enclosure 1.

<sup>14</sup> Nelson, *Women of Color and the Reproductive Rights Movement*, 141.

<sup>15</sup> Investigation of Allegations Concerning Indian Health Service, 19, enclosure 1.

concerned sterilizing people under twenty-one years of age or otherwise unable to give informed consent. They also insisted that IHS develop “monitoring procedures to assure compliance with the regulations by contract physicians and facilities.” The report concluded with the recommendation that the Secretary of HEW amend the existing sterilization procedure so that healthcare providers would orally inform recipients that federal benefits were not contingent upon agreeing to the sterilization—in addition to the extant written consent forms—and require the person who obtained the patient’s consent (nurse, doctor, social worker,) to sign his or her name on the consent form.<sup>16</sup> HEW did not respond immediately to the report and its suggestions.

The Government Accounting Office investigation made clear that IHS had failed to follow proper protocol during sterilization procedures. Despite this publicity, not all Native activist organizations and political leaders interpreted coerced sterilization as a pressing threat. The American Indian Policy Review Commission (AIPRC), for example, a committee appointed by Congress to investigate Indian affairs, largely overlooked the crisis of coerced sterilization. Congress established the AIPRC in 1975 and appointed five commissioners from Indian Country to lead the investigation. These appointees were Ada Deer (Menominee), John Borbridge (Tlingit-Haida), Adolph Dial (Lumbee), Jake Whitecrow (Quapaw-Seneca-Cayuga), and Louis R. Bruce (Mohawk). The commissioners organized eleven task forces to study education, health, economic development and other issues germane to treaty rights and sovereignty. Through an investigation of existing studies and an analysis of public hearings held by the AIPRC for American Indians to voice their opinions on the issues, the task forces came up with 206

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<sup>16</sup> Ibid., 5.

recommendations to Congress.<sup>17</sup> Task force six on Indian health ignored sterilization completely, citing the most important needs in Indian health as a closer connection between IHS employees, Indian people, and their cultural practices; a “periodical audit” of IHS services by the General Accounting Office; less personnel turnover at IHS facilities; mobile health vans to serve geographically isolated areas; improved nutrition on reservations; and upgraded programs on alcoholism.<sup>18</sup> In the report, lack of funding for IHS facilities emerged as the greatest threat to Indian health.<sup>19</sup>

Similarly, The National Congress of American Indians (NCAI), a pan-Indian group for Native civil rights and tribal sovereignty comprised of leaders from across Indian Country, declined to take on coerced sterilization as a pressing political problem.<sup>20</sup> During the 1970s, NCAI focused its energy on ending the policy of termination and restoring the recognition of terminated tribes, maintaining fishing and other treaty rights, and tribally or regionally specific issues such as the civil and sovereign rights of Alaska Native communities.<sup>21</sup> Founded in 1944 by well-educated and prominent American Indian professionals, NCAI espoused a less radical set of politics than did the opponents

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<sup>17</sup> *New Directions in Federal Indian Policy: A Review of the American Indian Policy Review Commission 7*, 1-2, 16, 21, 26

<sup>18</sup> *American Indian Policy Review Commission, Final Report*, Submitted to Congress May 17, 1977 (Washington DC: US Government Printing Office, 1977).

<sup>19</sup> *New Directions in Federal Indian Policy: A Review of the American Indian Policy Review Commission*, 39.

<sup>20</sup> Thomas W. Cowager, *The National Congress of American Indians: The Founding Years*. (Lincoln: University of Nebraska Press, 1999), 3.

<sup>21</sup> Gary Orfield, *A Study of the Termination Policy* (Denver: The National Congress of American Indians, 1960); American Friends Service Committee. *An Uncommon Controversy: An Inquiry into the Treaty-Protected Fishing Rights of the Tribes of the Northwest Coast* (N.P.: National Congress of American Indians, 1967); “Welcome NCAI 1970: Convention and Post Convention Issue: From the North, the Aleuts, the Eskimos, the Indians” in *The Sentinel: National Congress of the American Indians* (Washington DC: National Congress of American Indians, 1971).

of sterilization who came out of the Red Power movement. For example, NCAI displayed a banner “Indians Don’t Protest” during the Vietnam War to demonstrate their support of the federal government and reluctance to ally themselves with the anti-war movement. Although NCAI became increasingly “radicalized” during the 1960s, in particular after Vine Deloria assumed the position of executive director, the organization maintained an unwillingness to threaten their relationships with Congress and other federal agencies.<sup>22</sup> NCAI argued in its bulletin: “In our complex world of highly organized pressure groups, we, as Indians who represent a very small segment of the overall population, must depend on the good will of the Congress and our friends who are willing to help us in any case we have before the U.S. Congress or several federal agencies.”<sup>23</sup> Accusing the Department of Health, Education, and Welfare of a campaign of coerced sterilization against Indian women was not in the best interest of NCAI, they thought.

The unwillingness NCAI and the AIPRC to regard coerced sterilization as a political problem conformed to their political orientations. Critics of the AIPRC, however, claimed that the commission failed to construct a radical plan of action. While the AIPRC made a significant contribution, their work focused on existing problems already familiar to Congress rather than highlighting complaints coming out of the Red Power movement such as a lack of self-determination in Indian affairs, including tribal regulation of and individual rights to reproductive freedom.<sup>24</sup> Activists often interpreted the personal issue of reproductive rights as a larger attack on tribal sovereignty, yet

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<sup>22</sup> Castle, “Black and Native American Women's Activism,” 87.

<sup>23</sup> “You and NCAI” in *National Congress of American Indians Bulletin*, (July-August 1962), 2.

<sup>24</sup> *New Directions in Federal Indian Policy: A Review of the American Indian Policy Review Commission*, 17-18, 116-118.

organizations like NCAI did not see the issue this way. Unlike the AIRPC, the vocal critics of coerced sterilization had no direct affiliation with Congress nor the burden of representing all aspects of Indian health to the federal government. Finally, coalitions such as NCAI and AIPRC might have found claims of coerced sterilization difficult to verify. Activists had a hard time exacting the precise number of Indian women sterilized, leading other Indian political leaders to interpret the issue as exaggerated. The NCAI and AIRPC had complicated relationships with the federal government, and their leaders might have seen support for the anti-sterilization cause as jeopardizing the power they had cultivated.

Activists dedicated to ending sterilization abuse viewed the issue as important not only because of the prevalence of the practice but also because even a handful of coerced sterilizations had a significant impact on Indian women's personal freedom and tribal sovereignty. Other Red Power organizations, such as AIM, supported the claims of groups like Indian Women United for Justice and WARN, although the backing they offered existed largely in their rhetoric. For the most part, these organizations did not join Indian women in the actual work of investigating, publicizing, and arresting coerced sterilization.

Despite lack of assistance from more established Indian rights organizations, Indian women activists remained dedicated to their cause. Armed with evidence from Uri's investigations and the GAO report, Indian women continued to organize throughout Indian Country. Most of their work focused on connecting with one another and garnering media attention to the crisis. Their most profound contributions occurred in late 1977 at the International Women's Year Conference in Houston. At this nation-wide

meeting of American women, Indian women got coerced sterilization on the agenda and in the official report to Congress and the President.

The United Nations named 1975 “International Women’s Year” (IWY) in order to improve the condition of women worldwide. The same year, President Gerald Ford issued Executive Order 11832 creating a National Commission on its observance. He appointed thirty-five women and men, including La Donna Harris (Comanche), to investigate issues affecting women and charged them with producing a formal report on how better to achieve equality between the sexes. After a year of surveys, interviews, and studies, the committee completed “To Form a More Perfect Union: Justice for American Women.” The report included 115 suggestions that resulted in twenty-six general planks or positions. Starting in January 1977, every state and territory in the United States held meetings to discuss the planks and add their concerns to the agenda in preparation for a national conference. These meetings welcomed the entire population of each state and permitted any resident of the state over sixteen years of age to vote on the platform. The planks on which participants voted included arts and humanities, battered women, business, child abuse, child care, credit, disabled women, education, elective and appointive offices, employment, ERA [Equal Rights Amendment], health, homemakers, insurance, international affairs, media, minority women, offenders, older women, rape, reproductive rights, rural women, sexual preference, statistics, women, welfare, and poverty, and the continuing committee of the conference.<sup>25</sup> Participants also nominated delegates to represent their state in November at the national conference in Houston.

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<sup>25</sup> *The Spirit of Houston: The First National Women’s Conference, A Report to the President, the Congress, and the People of the United States, National Commission on the Observance of International Women’s Year* (Washington D.C.: 1978), 9; 17-77; 11.

More than 150,000 people came to the IWY state meetings. Local committees selected by the National Commission organized these meetings to help create each state's agenda for the national conference.<sup>26</sup> In states with relatively large American Indian populations, Indian women attended state conferences and later served as delegates to the national conference in Houston.<sup>27</sup> At the conference in South Dakota, those in attendance nominated fourteen women to serve as delegates in Houston; three of these women, Concita Bear, Eunice L. Arrabee, and Mercy Poorman, were American Indian.<sup>28</sup> In Minnesota, three out of twenty-six delegates were Indian women.<sup>29</sup> In Arizona, four Indian women, Judy A. McCarthy, Vera Brown Starr, Mercy Valenzuela, and Lorraine White, were among the state's 23 delegates.<sup>30</sup> Alaska's 12 delegates included two Inuit women, two Tlingit women, and one Athabascan woman.<sup>31</sup> Oklahoma, Wisconsin, and New Mexico also had Indian women represent their states as delegates, though in smaller numbers.

At these state conferences, Indian women raised several issues including the importance of cultural pluralism and the political priorities of women of color. Women from the state conference in Arizona concluded that "there is a need for more tolerance of

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<sup>26</sup> *Ibid.*, 99.

<sup>27</sup> IWY state conferences elected delegates to represent them in Houston, but any woman was welcome to attend and participate in the national conference as an unelected representative. Ironically, Oklahoma, which had a relatively high Indian population, only listed one Indian woman out of twenty-seven delegates.

<sup>28</sup> Minutes from the IWY South Dakota Meeting, June 18, 1977, Sophia Smith Collection, Smith College, Northampton, Massachusetts. The tribal affiliation of these women was not included.

<sup>29</sup> IWY Minnesota Women's Meeting, June 2-5, 1977, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>30</sup> IWY Arizona Meeting, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>31</sup> The remaining delegates included five white women, one Black woman, and one Asian woman.

cultural and lifestyle preferences” and it was the women fighting “to maintain their cultural identity” who made this point clear.<sup>32</sup> The Arizona conference defined the acceptance of “traditional Indian homes” and families as the starting place for such increased tolerance.<sup>33</sup> The women at the Minnesota state meeting in St. Cloud held a workshop for “non-white women” (though white women were permitted to attend as observers) titled “Non-white perspectives in the women’s movement” and came up with resolutions addressing the concerns of women of color.<sup>34</sup> The workshop endeavored to educate white feminists about alternative cultural practices and political priorities while encouraging tolerance. The resolutions emanating from the workshop recognized racism in the women’s movement, sought to amend existing sterilization legislation to extend the waiting period between consent and the surgery, and called for legislation that would protect women of color from “forced abortion or sterilization.”<sup>35</sup>

In order to make sterilization a part of their states’ agendas, Indian women had to educate other participants about the crisis. One American Indian in Arizona simplified the situation for those unfamiliar with the frequent and superfluous sterilization of Indian women: “...all you need is a Band-Aid and what you get is a hysterectomy.”<sup>36</sup> In New Mexico, the IWY conference attendees resolved that “support be given [to] American Indian women who are presently preparing legal action through individual and class-

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<sup>32</sup> IWY Arizona Meeting, Conclusions and Recommendations.

<sup>33</sup> Ibid.

<sup>34</sup> IWY Minnesota Women’s Meeting, June 2-5, 1977.

<sup>35</sup> Ibid.

<sup>36</sup> *The Spirit of Houston*, 111.

action suits against the Indian Health Service, Public Health Service.”<sup>37</sup> They moved that the IWY “support the General Accounting Office’s recommendations made to the Indian Health Services, Department of Health, Education, and Welfare.”<sup>38</sup> The group demanded that the Indian Health Service acknowledge and examine the connection between teen pregnancies, abortion, and sterilization. According to the women present, high rates of teenage pregnancies resulted in “successive abortions” and ultimately sterilization.<sup>39</sup> They suggested a mandatory seven-day waiting period for Indian women seeking sterilization and explanations in Native languages and English about the procedure of sterilization and its risks, benefits, alternatives, effects, and irreversibility. Their resolution demanded that healthcare providers answer any questions patients had and make clear to them their right to refuse the procedure.<sup>40</sup>

Similarly, the American Indian Women’s Caucus of the Oklahoma IWY conference resolved that “Indian men and women have the God-given right to reproductive freedom; therefore, involuntary sterilization practices of Indians must cease and desist.”<sup>41</sup> In this articulation, Indian women constructed freedom from coerced

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<sup>37</sup> IWY New Mexico Meeting, Final Report, Resolution Number 20: Indian Women, September 19, 1977, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>38</sup> *Ibid.*, These recommendations as the group understood them required HEW to: “1) Expedite its efforts to have a standard consent form which provides for full disclosure of the information required by regulations; 2) Provide training to their physicians and administrators so that they fully understand the requirements concerning sterilization of persons under 21 and persons who are mentally incompetent; and, obtaining informed consent; 3) Include in the contracts with non-Indian Health Service physicians and facilities provisions to ensure that contractors comply with HEW sterilization regulations; 4) Continue to monitor compliance with the moratorium on sterilizations of persons under 21 years of age and; 5) Develop monitoring procedures to assure compliance with regulations by contract physicians and facilities.”

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> IWY Oklahoma Meeting, Resolutions from American Indian Women’s Caucus, June 18, 1977, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

sterilization as a human right, rather than a sovereign right. This interpretation resonated with the non-Indian women present because the larger women's movement understood reproductive rights as fundamentally individual human rights.

Indian women succeeded in getting coerced sterilization on the national feminist agenda, but they encountered stereotypes and overt racism in the process. At the Alaska state meeting, non-Indian women passed judgment on Indian participants who "true to their tradition of arriving on their own time" missed the first night of the conference.<sup>42</sup> Non-Indians embraced a stereotype of Indian people that depicted them as indifferent to schedules and timetables, and, in this context, unconcerned with the larger group's agenda. These critics reached for a handy stereotype without thinking about the reality that cultures manage, organize, and respond to time differently. The structure of the state conferences conformed to mainstream cultural norms in additional ways. During the Alaska conference's election process, nominees stood up from the floor to introduce themselves and pledge their candidacy.<sup>43</sup> A Tlingit woman, Rosita Worl, announced that speaking about herself in public was unfamiliar and uncomfortable because in her culture, one's relatives spoke on one's behalf and such self-promotion was unfamiliar to her. Worl told the group that her sister-in-law (who was present) should really be the one to introduce her, but that she was willing to accord with the group's expectations. Worl also pointed out "it was customary for Native women to think of themselves first as Natives, but she was also going to think of herself as a woman first from then on."<sup>44</sup>

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<sup>42</sup> IWY Alaska Meeting, General Statement, Commentary, 14, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>43</sup> IWY Alaska Meeting, General Statement, Nominations and Elections, 29-30.

<sup>44</sup> Ibid.

Some participants at the Oklahoma state conference employed overtly racist tactics to thwart the initiatives of women of color. The conservative Eagle Forum and NO ERA group members co-opted the meeting by busing in like-minded supporters (men and even children) to vote with them during the elections.<sup>45</sup> These conservative participants and their supporters worked hard to shut down minority initiatives during the plenary session. According to the conference's final report, "the Eagle Forum followers voted down most of the minority and ethnic related resolutions with little or no consideration for the needs and concerns of these Oklahoma women."<sup>46</sup>

Despite the ignorance of Native cultural practices and prejudice of some participants at state IWY conferences, Indian women seized the moment to advance their political agendas. The Native women in Alaska organized a caucus and participated in a workshop on "Native Women in Changing Alaska."<sup>47</sup> Thanks to her flexibility and willingness to embrace expectations that challenged her cultural practices, Rosita Worl became a delegate, the "highest vote-getter on the subsequent balloting."<sup>48</sup> Ultimately, participants in the Alaska state conference, both Indian and not, believed the weekend a success, with ninety-eight percent describing the conference as "valuable." Moreover, "the members of the executive committee and heads of various committees felt that the meeting was a great success in terms of having achieved the diversity we worked so hard

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<sup>45</sup> Final Report of the Oklahoma IWY Coordinating Committee, July 18, 1977, Oklahoma Women's Conference June 16-18. Members from these committees wore red gloves to inform their uninformed supporters when to vote.

<sup>46</sup> Ibid.

<sup>47</sup> IWY Alaska Meeting, General Statement, Commentary, 29.

<sup>48</sup> IWY Alaska Meeting, General Statement, Nominations and Elections, 31-32.

to get... we knew our chief target would have to be the women from small towns and Native villages, and we weren't sure whether we could attract them or not." The group endeavored to have 100 women from outside Anchorage at the meeting; in the end, 350 such women attended.<sup>49</sup> In Oklahoma, many Indian women continued to promote their own agendas, as did Joyce Ryan (Caddo-Pawnee-Delaware), who observed Indian women "setting aside differences and working toward drafting resolutions that would benefit all Indian people."<sup>50</sup> They passed several resolutions regarding Indian representation on policy and advisory boards. The women in Oklahoma also addressed Native housing standards, programs for the elderly, and the dispersal of federal funds.<sup>51</sup> They highlighted the importance of treating Indians fairly in regard to issues of criminal justice and confronting the problem of alcoholism, including the necessity of addiction recovery programs for women.<sup>52</sup>

During the summer of 1977, as the state-wide meetings drew to a close, 2,005 delegates from across the country prepared to meet in Houston for the national conference on November 18-21.<sup>53</sup> Nearly 20,000 women, children, and men attended the conference as participants and observers with 1,403 as elected representatives, 186 as alternates, 47 as IWY commissioners appointed by the president, and 370 as delegates-at-

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<sup>49</sup> IWY-Alaska-General Statement-Evaluation of Conference, 33.

<sup>50</sup> Final Report of the Oklahoma IWY Coordinating Committee, July 18, 1977, Oklahoma Women's Conference June 16-18.

<sup>51</sup> IWY- Oklahoma, Resolutions from American Indian Women's Caucus, June 18, 1977.

<sup>52</sup> Ibid.

<sup>53</sup> *The Spirit of Houston*; Caroline Bird, *What Women Want: From the Official Report to the President, the Congress, and the People of the United States* (New York: Simon and Schuster, 1979).

large to accurately represent state populations.<sup>54</sup> The state conferences boasted such success in attracting and nominating women of color as well as poor and rural women to the post of delegate that, in order to precisely replicate certain state's demographics, the National Commission appointed additional white and middle-class women as delegates-at-large. Conversely, states with conservative and racist factions, such as Alabama and Mississippi, required that the National Commission appoint more poor women and women of color as delegates-at-large to represent their states accurately.

While at Houston, Indian women delegates participated in all aspects of the conference and contributed in significant ways to the planks on reproductive freedom. The final reproductive rights plank stated: "Women who assert their right to control their own bodies oppose compulsory abortion, compulsory pregnancy, or compulsory sterilization." Regarding sterilization, the plank argued for "strict compliance by all doctors and medical and family planning facilities with the Department of Health, Education, and Welfare's minimum April 1974" to ensure that all sterilizations were "truly voluntary, informed and competent." The delegates agreed that facilities should provide all non-English speaking patients with a verbal explanation of the procedure in their own language. The plank also demanded the creation of a task force to investigate the increased occurrences of hysterectomy and coerced sterilization. It gave specific consideration to the experience of women who used federal facilities, arguing that cutbacks in federal funding for abortion resulted in increasing "the potential of coerced sterilization through 'bargaining:' that is, allowing a woman to have an abortion only if

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<sup>54</sup> Ibid., 119.

she also agrees to be sterilized.”<sup>55</sup> Indian women and other feminists of color in Houston successfully extended the terms of reproductive rights beyond abortion and birth control to include freedom from coerced sterilization. This was no small feat. Many of the women in attendance came to the conference regarding reproductive rights as synonymous with birth control and abortion. The women of color present made sure that reproductive justice extended beyond free and safe access to birth control and abortion to freedom from coerced sterilization.

Through the minority women’s plank, Indian women brought concerns about sovereignty to the table. Rather than dealing with women of color as a unified group, as the plank itself implied, the platform on minority women subdivided to focus on issues specific to various cultural and ethnic groups in the United States. Generated by Indian women, the section on American Indian/Alaskan Native women highlighted the “sovereignty of Indian peoples.” It insisted that the “Federal Government... guarantee tribal rights, tribal sovereignty; honor existing treaties and congressional acts; protect hunting, fishing, and whaling rights; protect trust status; and permanently remove the threat of termination.” Indian women also demanded that Congress “provide adequate care through the Indian Health Service” and “forbid the systematic removal of children from their families and communities.”<sup>56</sup> Sovereignty existed at the core of these women’s concerns, from fishing privileges to sterilization and parental rights. The recognition of diversity among women of color and the decision to let the minority women’s plank

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<sup>55</sup> Ibid., 86, 83, 154, 71

<sup>56</sup> Ibid., 70.

reflect that diversity allowed Indian women to advance these more general tenets of the Red Power movement.

At the close of the conference, Billie Nave Masters, a Cherokee woman and academic at the University of California at Irvine, offered closing remarks in place of IWY Commissioner LaDonna Harris, who was ill. Masters structured her comments around issues of sovereignty, explaining that “one of the predominant forces that have caused Indian women and Native Alaskan women to become active in the movement is the fact that paternalism has been a destructive force that continues today for Native people.” Masters argued that the federal government and United States citizens fundamentally believed “Indians must be cared for” because they are incapable of making good decisions for themselves. According to Masters, this paternalism resulted in high rates of sterilization because “people in charge have rationalized it to themselves that they are doing Indians a favor by denying them children.”<sup>57</sup> At the end of her speech, Masters connected the issue of coerced sterilization to the larger subject of tribal sovereignty. Masters explained that the federal government’s willingness to sterilize Indian women stemmed from and contributed to an attack on the rights of tribes to govern themselves and their members. Whether benign or overtly racist, paternalism challenged the right of the tribes to self-determination.

Indian women’s participation in International Women’s Year state and national conferences brought the issue of coerced sterilization to the attention of the President and Congress. The entire IWY initiative, culminating in the conference at Houston and its subsequent report, provided a way for American women to make the federal government

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<sup>57</sup> Ibid., 37-38.

aware of their pressing political concerns and needs. IWY gave Indian women and other activists access to the President and Congress and a mechanism by which they could voice their concerns. Earlier investigations, such as the 1976 GAO report, and the demands coming out of IWY made claims of coerced sterilization at federally-funded facilities impossible to ignore. A combination of these reports and mounting pressure from grassroots activists in the late 1970s signaled the final days of unfettered federal sterilizations.

After the 1977 IWY year conference, Indian women continued to work within all-Indian groups to publicize the issue and effect change. The Women of All Red Nations (WARN) did not organize around the issue of coerced sterilization but incorporated it as a crucial political issue and a threat to sovereignty. Many of the women in WARN participated in the American Indian Movement (AIM), but they had additional political goals that extended beyond the agenda set by AIM. The women who formed WARN did so in order to address subjects that were of particular interest to them as Indian women. At its 1978 founding conference in Rapid City, South Dakota, women from over thirty Native Nations gathered; they were professionals, mothers, grandmothers, veterans of the Red Power movement, and women “whose eyes and ears were just beginning to open to their duty as Native women. . . .” WARN members saw the formation of the group as “an important step in the continuing growth of the movement. . . not as a kind of women’s auxiliary to a male organization, nor as a women-versus-men kind of organization, but as a national organization in which women can organize to struggle.”<sup>58</sup> From this theoretical understanding the women of WARN launched their campaign to end sterilization abuse.

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<sup>58</sup> “Women of All Red Nations” in *Akwesasne Notes*, (Winter 1978), 15

The publication that came out of WARN's founding conference asked Indian women: "What are you doing to fulfill your duties as a sovereign Native American woman? What are you doing to channel the strength of the Great Power within you and all around you, your family, your nation, your planet?"<sup>59</sup> In response, WARN listed the "issues most immediate" as "sterilization abuse, political prisoners, education for survival, the destruction of the family and theft of our Indian children, [and] the destruction and erosion of our land base...."<sup>60</sup> The women of WARN interpreted these "immediate" issues as attacks on their political freedom and tribal sovereignty. In a very literal way, WARN saw these crises as attempts to obliterate Indian political power and people, which they saw as intrinsically linked. Activists used personal investigations and estimations as the best tools at their disposal to generate hard data on an issue otherwise challenging to quantify. For example, many Indian women argued that they signed "consent" forms at IHS facilities under duress, while influenced by drugs administered during labor, or at the urging of a medical specialist. In cases of coerced sterilization, the written record provided little proof of women's actual experiences. Interviews and investigations such as those conducted by Dr. Connie Pinkerton Redbird Uri, Tribal Judge Marie Sanchez, and the women of WARN provided the best alternative data on the issue. For some activists the connection between coerced sterilization and the attack on sovereignty was omnipresent, leading some women of WARN, for example, to argue for

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<sup>59</sup> Women of All Red Nations: WARN pamphlet from founding conference in Rapid City, South Dakota, 1978, 4.

<sup>60</sup> Ibid., 4.

a direct correlation between coerced sterilization and “the government’s drive for energy resources on the reservations.”<sup>61</sup>

Three of WARN’s founding members, Lorelei Means, Pat Bellanger, and Vicki Howard concluded that “the rate of sterilization was highest where energy resources on the reservation were the greatest.”<sup>62</sup> WARN cited Northern Cheyenne as an example of an area that was energy rich, “almost 80% sterilized,” and subject to the “highest number of adoptions, the highest number of child placements [and] foster care, outside of our own families.”<sup>63</sup> In WARN’s estimation, sterilization connected to another political crisis, the nation’s struggle for energy resources. In speeches from 1977 to 1979, President Jimmy Carter emphasized the United States’ energy needs and his intention to meet them at all costs.<sup>64</sup> According to Means and Bellanger, Indian people obstructed the President’s efforts to get at these energy resources since many of them existed on Indian land.<sup>65</sup> To the women of WARN, the connection between sterilization abuse and energy resources was clear: “WARN sees the fight as having two parts: to stop the government’s drive for energy resources on the reservations, and to stop IHS hospitals from sterilizing

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<sup>61</sup> Kris Melrose, “Interview of Native American Solidarity Committee with Pat Bellanger, Lorelei Means, and Vicki Howard” in *CARASA News*, Vol. 3, No. 8 (October 1979). Reprint: *OFF OUR BACKS* Vol. 9, No. 5 (May 1979), Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

<sup>64</sup> These speeches include: “Report to the American People on Energy” (February 2, 1977), “Address to the Nation on Energy” (April 18, 1977), “Address to the Nation on Energy” (November 8, 1977), or the “Crisis of Confidence Speech” (July 15, 1979). All accessed through: <http://www.jimmycarterlibrary.org/documents/speeches/index.phtml>. 9/8/2006.

<sup>65</sup> Melrose, “Interview of Native American Solidarity Committee,” 22.

Native women. The two together are one fight: stop the genocide of Native American people.”<sup>66</sup>

Most non-Indians and Indian leaders and organizations that ignored coerced sterilization as a political issue probably found such claims exaggerated or incorrect. However, a great percentage of the nation’s coal and uranium did rest, in fact, on Native land. The “long-term stability of domestic energy production” relied on these raw materials and the ability of both the federal government and private industry to gain access to them. Control over Indian women’s reproductive freedom reduced Native populations and, as a result, Native control over these coveted lands and resources.<sup>67</sup> From the grass-roots investigations that the women of WARN conducted, it appeared that there might be a connection between resource-rich tribes and sterilization. Rather than advancing the struggle to end coerced sterilization and protect tribal land, however, these accusations encouraged skeptical critics in Indian Country and beyond to disregard such charges as conspiratorial and untrue.<sup>68</sup>

While many Indian women worked within all-Indian networks, such as WARN or Indian Women United for Justice, others participated in more mainstream movements. Not all of these organizations and projects, however, meshed with Indian women’s political interests. For example, some Native groups rejected modern forms of birth control and were wary of abortion. The Women of Color Partnership Project (WOCPP) in conjunction with the Religious Coalition for Abortion Rights (RCAR) invited a coalition

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<sup>66</sup> Ibid., 19.

<sup>67</sup> Silliman et al., *Undivided Rights*, 109.

<sup>68</sup> Personal conversation between author and American Indian political leader of the era.

of Indian women, representing nine tribes, to a conference in Denver on reproductive rights. While the WOCPP was eager to talk with Indian women about reproductive healthcare “it soon became apparent that a different avenue would have to be taken....” Rather than focusing on abortion and birth control, the Indian participants made clear that “teen pregnancy, sterilization, and sexual abuse were issues of greatest concern” to them. The Indian women present encouraged the coalition to use caution when using the word abortion among Indian women. “The suggestion was made to use Women of Color Partnership Project as [the] focal point for letterhead etc., and putting RCAR [Religious Coalition for Abortion Rights] Educational Fund in the background.”<sup>69</sup> Indian women were not categorically anti-abortion, however, a history of population decimation, child removals, and coerced sterilization informed Indian women’s feelings about the issue. For the women who participated in the Women of Color Partnership Project, abortion was not a primary concern. Addressing other aspects of women’s reproductive health, such as sterilization and teen pregnancy, was of greater importance.

In addition to political differences between Indian women and more mainstream organizations, many of these groups, such as The Committee for Abortion Rights and Against Sterilization Abuse (CARASA), operated in northeastern urban centers where Indians were less likely to live or be victimized. CARASA formed in New York City in 1977 in response to the Hyde Amendment’s termination of Medicaid support for abortion. The amendment stopped government funding of abortion except in cases of rape, incest,

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<sup>69</sup> Women of Color Partnership Project, Synopsis of Native American Dialogue, June 5-6, 1987, Denver, Colorado, 1-4, Series 5: NCAI Committees and Special Issues—Health and Welfare, Women’s Health and Reproductive Issues, Misc. Papers, 1986-1987, National Anthropological Archives, Smithsonian Institution, Washington D.C.

maternal risk of death.<sup>70</sup> CARASA saw a direct connection between decreasing federal funding for abortion and an increase in coerced sterilization. CARASA activists argued “in the absence of adequate income, birth control, childcare, and health care, we cannot assume that the rise in sterilization is a result of ‘free choice.’”<sup>71</sup> CARASA attracted activists from various groups including the National Women’s Political Caucus, the Center for Constitutional Rights, and the Committee to End Sterilization Abuse (CESA) among others. But like CESA, despite its national constituency, most of CARASA’s supporters hailed from the New York City area and attracted few Indians until it became part of the National Women’s Health Network.<sup>72</sup>

The National Women’s Health Network (NWHN) incorporated American Indian women participants. With the support of Indian women, NWHN built a cross-cultural task force dedicated to terminating sterilization abuse. NWHN began under the leadership of Dr. Helen Rodriguez-Trias, chief of pediatrics at New York City’s Lincoln hospital and active member of CESA and later CARASA, to address various health issues that affected American women.<sup>73</sup> By 1979, the group focused its attention on coerced sterilization.<sup>74</sup> NWHN identified “poor women, women of color, and women who have

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<sup>70</sup> Silliman et al, *Undivided Rights*, 114.

<sup>71</sup> Susan E. Davis, ed., *Women Under Attack: Victories, Backlash, and the Fight for Reproductive Freedom, Committee for Abortion Rights and Against Sterilization Abuse*, Pamphlet No. 7 (Boston: South End Press, 1988). Reprint. 1979, 28

<sup>72</sup> Nelson, *Women of Color and the Reproductive Rights Movement*, 136.

<sup>73</sup> The National Women’s Health Network organized in 1974.

<sup>74</sup> Nelson, *Women of Color and the Reproductive Rights Movement*, 135.

little or no command of English” as the “chief victims of sterilization abuse.”<sup>75</sup> The groups that comprised NWHN, the Committee to End Sterilization Abuse (CESA), the Committee for Abortion Rights and Against Sterilization Abuse (CARASA), the Mexican American Women’s National Association (MANA), the California Coalition for the Medical Rights of Women, the Reproductive Rights Project—Philadelphia Women’s Health Concerns Committee, the Chicago Women’s Health Task Force, and Indian Women United for Justice appointed a ten-woman advisory committee to oversee their anti-sterilization abuse campaign.<sup>76</sup> This committee included three American Indian women, Connie Redbird Pinkerton Uri, Marie Sanchez, and Rayna Green.<sup>77</sup>

To address the problem of coerced sterilization, NWHN distributed a publication that “explained HEW’s new sterilization regulations,” acknowledged challenges of “monitoring and enforcing these regulations,” provided ways for groups to “monitor health care providers,” and assisted sterilized women with legal action.<sup>78</sup> NWHN produced nine resource guides on abortion, breast cancer, birth control, DES (a prescribed drug later discovered to cause cervical cancer), hysterectomy, maternal health and childbirth, menopause, self-help, and sterilization. The guide on sterilization included a description of what sterilization was, who received the procedure, laws and regulations

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<sup>75</sup> “Sterilization Abuse: Mobilizing Grassroots Groups to Monitor Local Hospitals” Proposal Submitted to the Stern Fund by the National Women’s Health Network, January 1979, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>76</sup> Ibid.

<sup>77</sup> The full advisory committee included: Pam Horowitz (Chase Morgan and Associates), Karen Stamm (CESA), Gloria Lopez (Chicana Nurses Ass. Of LA), Esta Armstrong (NYS Health and Hospitals Corp.), Byllye Avery (NWHN, Gainesville, FL), Vicki Jones (Center for Disease Control, Atlanta), Rayna Green (Program on Native Americans in Science/AAAS), Connie Uri (Indian Women United for Justice), and Marie Sanchez (tribal judge).

<sup>78</sup> “Sterilization Abuse: Mobilizing Grassroots Groups to Monitor Local Hospitals.”

regarding the surgery, as well as contacts, resources, and bibliography to learn more about the issue. The NWHN guide defined “sterilization abuse” for physicians and patients as any time “a person is sterilized without giving informed consent; when a woman does not want to give her consent but is threatened with the termination of welfare payments or medical services if she does not consent to be sterilized; when a woman chooses to be sterilized, but is discouraged or even prevented from undergoing the operation; and when a woman is sterilized because abortion is unavailable, birth control methods are too expensive or she is forced to accept sterilization as a condition to have an abortion.”<sup>79</sup> In addition to educating women about the effects of sterilization, the guide provided readers with an important tool to use against coercive pro-sterilization messages. NWHN’s guide assured women that it was permissible to say no to a healthcare professional promoting sterilization and that alternatives existed.

NWHN’s publication made a significant contribution to the struggle against sterilization abuse by publicizing the new HEW regulations that went into effect on February 9, 1979 in response to charges leveled by Indian women and other anti-sterilization activists. The new regulations came as a result of Congressional hearings, requested by the executive branch to investigate the issue, in 1978. Congress admitted that the “most common forms of sterilization abuse” happened to “women who because of educational... linguistic... or cultural” barriers did not comprehend the terms of sterilization as presented to them by medical professionals. Congress also conceded that obtaining consent during labor, childbirth, and while under sedation was

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<sup>79</sup> National Women’s Health Network, *Sterilization: Resource Guide 9* (Washington D.C.: National Women’s Health Network, 1980), 7, 9.

“unconscionable” and “expressly prohibited” under the new regulations.<sup>80</sup> The existing 1974 regulations had established a moratorium on federally-funded sterilizations for anyone under the age of twenty-one or unable to give informed consent, and they required a seventy-two-hour waiting period between consent and the surgery.<sup>81</sup> Despite these protocols, however, sterilization abuse continued, as Indian and other activists made clear, because of paternalism on the part of medical professionals, coercion during the consent process, and unclear explanations of the procedure and its effects.

The proposed HEW regulations took into consideration the comments of 500 individuals, mostly physicians and lawyers, and organizations at public hearings and in writing.<sup>82</sup> Interestingly, one Native organization, listed by HEW only as an “Indian group” argued for a special consent form for American Indians that included “spousal consent” because of the “importance of family in Indian life.”<sup>83</sup> Ultimately, HEW did not make this provision part of the new regulations, nor had Indian women activists championed it as a concern in their discussion of coerced sterilization. The new HEW rules upheld the moratorium on sterilizing individuals less than twenty-one years of age and those unable to give informed consent. They extended the waiting period between consent and surgery from seventy-two hours to thirty days, but no more than 180 days,

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<sup>80</sup> United States Congressional Record, Proceedings and Debates of the 95<sup>th</sup> Congress, Second Session, Vol. 124-Part 6, March 14-22, 1978, (Washington DC: U.S. Government Printing Office, 1978), 6908.

<sup>81</sup> “Policies of General Applicability: Provision of Sterilization in Federally Assisted Programs of the Public Health Service” Federal Register, Vol. 43, No. 217, November 8, 1978, (Washington DC: Office of the Federal Register, National Archives and Records Service, General Services Administration, Supt. of Docs., U.S. G.P.O), 52146.

<sup>82</sup> United States Congressional Record, Proceedings and Debates of the 95<sup>th</sup> Congress, Second Session, Vol. 124-Part 6, March 14-22 1978, 6908.

<sup>83</sup> “Policies of General Applicability: Provision of Sterilization in Federally Assisted Programs of the Public Health Service,” 52161.

except in cases of medical emergency including premature delivery and emergency abdominal surgery. In these cases, as long as seventy-two hours passed between consent and the operation, sterilization could take place. Most significantly, the new regulations clarified the terms of informed consent and the protocol involved in obtaining it: the “person who obtains informed consent for a sterilization procedure must offer to answer any questions the individual to be sterilized may have concerning the procedure, provide a copy of the consent form, and provide orally all of the following information or advice to the individual who is to be sterilized.”<sup>84</sup> The top of the HEW consent form informed patients: “Your decision at any time not to be sterilized will not result in the withdrawal or withholding of any benefits provided by programs or projects receiving federal funds.”<sup>85</sup> HEW required doctors to explain the procedure to patients orally and in their first language if necessary and to tell them that they could withhold consent without losing federal benefits. The consent form included a list of birth control alternatives, an explanation of the procedure’s irreversibility, a description of the procedure, and an analysis of risks, benefits, and side effects. The document also explained that the sterilization would not take place until thirty days later, the patient could have linguistic or handicapped provisions if needed, and could also have a witness present if she wished. The form stated that informed consent could not occur if a patient was in labor, seeking abortion services, or under the influence of any substance. Finally, it indicated that (in addition to federal regulations) all local and state laws regarding sterilization applied, save those requiring spousal consent. The consent form required signatures from the

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<sup>84</sup> Ibid, 52166.

<sup>85</sup> Ibid., 52159.

patient seeking sterilization, the individual obtaining consent, the physician performing the surgery, and the interpreter, if used.<sup>86</sup>

Over time, the issue of coerced sterilization gained support from white feminists and coalition groups, such as CARASA and NWHN. Some mainstream feminist groups, however, continued to define reproductive rights primarily as access to birth control and abortion. NWHN clashed with NOW over NWHN's move to secure a thirty-day waiting period between consent and surgery.<sup>87</sup> NOW interpreted the thirty-day waiting period as infringement on a woman's right to be sterilized if she so desired, because middle-class women often had a hard time obtaining sterilizations without consent from their spouses. To NOW, the thirty-day waiting period was yet another obstacle to reproductive freedom. Yet for women of color, the extended waiting period gave them a safe way to deliver their children in hospitals or have abortions without fearing sterilization. For anti-sterilization activists the stakes were high. When a women's talk show host asked NWHN member and tribal judge, Marie Sanchez, on national television if her desire for litigation and restraining orders against sterilization meant she would "want to stop it [sterilization] completely," she offered a one-word answer: "Yes."<sup>88</sup>

Significant resistance from powerful women's organizations like NOW made Indian women's struggle for reproductive freedom even more challenging. Collaboration between Indian women and other feminists was often both an ideological and logistical

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<sup>86</sup> Ibid., 52166.

<sup>87</sup> Letter from Elisa Sanchez, President of MANA to Belita Cowan, Executive Director of NWHN, January 19, 1979. "Sterilization Abuse: Mobilizing Grassroots Groups to Monitor Local Hospitals" Proposal Submitted to the Stern Fund by the National Women's Health Network, January 1979, Sophia Smith Collection, Smith College, Northampton, Massachusetts. Emphasis original author's.

<sup>88</sup> "Concerns of American Indian Women" *Woman* hosted by Sandra Elkin, WNED-TV, Buffalo, New York, April 15, 1977.

struggle. As CESA and CARASA exemplified, the work of other feminists to combat sterilization abuse often took place far from Indian communities. Barbara Moore found that living, working, and attending school on the Rosebud reservation in South Dakota made alliances with non-Indian feminists difficult to maintain. Moore also thought that fighting against sterilization abuse was her “job” and not something that required help from outside “organizations and their leaders.”<sup>89</sup> Some Indian women viewed coerced sterilization at IHS facilities as specific to Indian women and their communities, and argued that their experiences were different from those of other American women. The women of WARN, for example, interpreted the sterilization of Indian women as a concerted effort to get Native land and resources. Others, such as Marie Sanchez, argued that the sterilization of Indian women was part of an ongoing genocide against the Native people of North America.

Although sometimes reluctant to ally themselves with mainstream feminist groups, other Indian women interpreted sterilization abuse as something that affected women of color across the country and the world.<sup>90</sup> Activists charged that sterilization abuse occurred to Native women in Puerto Rico, Columbia, and Mexico. This invocation was not paternalistic concern for “foreign” women but a solidarity with them that acknowledged these women’s common struggle. As one Native women’s group declared: “We will work on local, national, and international levels to obtain our goals of true liberation and freedom.”<sup>91</sup> Although Indian women’s work to end sterilization abuse

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<sup>89</sup> “An Interview with Barbara Moore,” in *Akwesasne Notes* (Spring 1979), 11.

<sup>90</sup> *Ibid.*

<sup>91</sup> “The Principles of Native Women from Indigenous Nations and Peoples of the Western Hemisphere” in *Women of All Red Nations WARN* pamphlet from founding conference in Rapid City, South Dakota, 1978.

centered on reforming Indian Health Service practices and sterilization regulations in the United States, their theoretical understanding of the issue included women of color around the world.

Johanna Schoen argued in her recent work, *Choice and Coercion*, that during the second half of the twentieth century, American medical practitioners targeted poor women and women of color as candidates for sterilization while denying abortions and birth control to middle-class white women.<sup>92</sup> As Schoen demonstrates, women's relationship to "coercion and choice," in the realm of reproductive freedom, depended largely on their class and race. According to Schoen, the decision of government bureaucrats and medical professionals to employ race and class as indices of who was fit to procreate greatly influenced women's reproductive health. This history, and American Indian women's experience with sterilization abuse and activism, challenges dominant paradigms of American women's feminism in the 1960s and 1970s. Many of the participants in the reproductive freedom fight focused on the right to bear children—not merely prevent births. For many poor women and women of color, reproductive freedom meant "the liberty to resist coerced or forced sterilization."<sup>93</sup> Black, Latina, and American Indian women along with other poor American women struggled for their right to procreate.<sup>94</sup> This is not to say that these women categorically rejected forms of birth control, abortion, or even therapeutic and elective sterilization, but it does suggest that many American women in the 1970s sought a very different form of reproductive

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<sup>92</sup> Johanna Schoen. *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare* (Chapel Hill: The University of North Carolina Press, 2005).

<sup>93</sup> *CARASA NEWS* Vol. 11, No. 4 , (May 4, 1978), 6, Sophia Smith Collection, Smith College, Northampton, Massachusetts.

<sup>94</sup> Shapiro, *Population Control Politics*, 84.

freedom. The right to protect fertility was a central focus for many women in the movement for reproductive rights, and a platform that mainstream feminist groups would ultimately come to embrace.

Indian women took the social crisis of individual coerced sterilization and framed it as a political problem that undermined tribal sovereignty and profoundly affected Native nations. By the 1980s, American-Indian women (as well as other anti-sterilization abuse activists) had raised awareness about sterilization abuse sufficiently to arrest the growing trend of using sterilization as a solution for socio-economic problems. Using private and government-sponsored investigations, print media, and International Women's Year conferences, Indian women transformed the personal issue of sterilization into a political movement for reproductive freedom and tribal sovereignty. By challenging IHS's control over Indian women's bodies, women activists fought for the right of individual women to control their fertility and reaffirmed the sovereign right of tribes to protect their members. The new HEW regulations of 1979 sought to prohibit federal agencies from trampling an Indian woman's individual human right to safe healthcare and procreation. The relationship of Native nations to the United States guaranteed access to safe and adequate healthcare, and the struggle against coerced sterilization affirmed the right of Indian people to define what that would mean in terms of reproductive rights.

## CHAPTER IV

### IN THE “BEST INTERESTS OF THE CHILD”: NON-NATIVE INTERVENTION IN INDIAN CHILDREN’S WELFARE

The right to bear children had a corollary in the minds of Indian people—the right to raise them. Non-Indian individuals and groups, however, had intervened in the upbringing of Indian children since the colonial era. By the 1960s, the frequency with which social welfare agents removed Indian children from their parents and the creation of the Indian Adoption Project, a joint effort of the Bureau of Indian Affairs and the Child Welfare League, resulted in over a quarter of Indian children residing in non-Indian foster and adoptive homes. For Indian children, parents, and nations the crisis of Indian child adoption created many difficulties. Indian children raised in adoptive and foster homes forfeited all contact with their communities and cultures of origin. Individual Indian men and women lost their children, and entire communities surrendered their future generation. Furthermore, the intervention of state and local agents in Indian families and nations threatened Native cultures and thwarted tribal sovereignty.<sup>1</sup> Indian people confronted a grave situation “legitimized” by cultural bias and a precedent of intrusion.

European colonial powers and then the United States federal government did not view Native cultures as viable alternatives to their own. Colonial and federal agents subjected Indians to a series of policies aimed at “civilizing” and “improving” them. Almost without exception, however, these plans disrupted functional Native social

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<sup>1</sup> Indian Foster Child, AAIA Papers, Child Welfare, 1972-1987 (Minnesota), Seely G. Mudd Manuscript Library, Princeton, New Jersey.

structures and economies and created new problems in their wake. For example, in most southeastern Native cultures, women farmed and men hunted. Early attempts by the United States federal government to “civilize” southeastern Indians asked them to reverse this gendered system of work, casting men as the primary agricultural workers and women as keepers of the home. Among the Cherokees, for example, a minority of highly visible men began farming and engaging in animal husbandry, while a small number of women concentrated their efforts on spinning, weaving, sewing, and other domestic chores in order to maintain their political autonomy in a changing order.<sup>2</sup> A great number of Cherokees did not embrace this new system, however, and continued to practice their traditional cultural practices.<sup>3</sup> According to federal officials, cultural continuity was “backward,” problematic, and an indication that Indians needed further assistance. Non-Indians largely read such “dilemmas”—created by their own policies—as fundamental problems within Indian communities that warranted repair.

Across the centuries, perhaps no aspect of Native societies came under more scrutiny than the family. The assimilation of American Indians into mainstream American culture required the destruction of the kinship system that organized Indian people. To meet this goal, altruistic but misguided non-Indians from the colonial period through the twentieth century focused on Indian children and raising them away from their parents and outside of their communities. The desire to bring up Indian children in accordance with Christian and European expectations characterized the very first

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<sup>2</sup> See: William McLoughlin, *The Cherokee Ghost Dance: Essays on the Southeastern Indians, 1789-1861* (Macon, Georgia: Mercer Press, 1984); William McLoughlin, *Cherokees and Christianity 1789-1839* (New Haven: Yale University Press, 1994); William McLoughlin, *Cherokee Renaissance in the New Republic* (Princeton, New Jersey: Princeton University Press, 1986.)

<sup>3</sup> See: Theda Perdue, *Cherokee Women: Gender, Culture and Change, 1700-1835*. (Lincoln: University of Nebraska Press, 1998); Theda Perdue, “Catherine Brown Cherokee Convert to Christianity,” in *Sifters: Native American Women’s Lives*, ed. Theda Perdue (New York: Oxford University Press, 2000).

successful English effort at colonization in North America. As early as 1609, the Virginia Company sent a “relief expedition,” headed by Sir Thomas Gates, to the struggling settlement. In addition to dealing with more pressing concerns such as the starvation of the colony, Gates sought to “procure from them [the local Indians] some convenient number of their children to be brought up in [the English] language and manners.”<sup>4</sup> Non-Indians justified Indian assimilation and the removal of Indian children from their communities by defining Indian families as dysfunctional. They misinterpreted indigenous gender roles and family structures and regarded Native systems as deficient and Indian adults as incompetent. For example, English settlers found the gendered system of labor in much of North America inherently backward, because Indian women cultivated the land and Indian men hunted for subsistence. According to English expectations, men, not women, worked as farmers. Furthermore, the colonists understood hunting as a leisure-time activity for the wealthy, not a legitimate means of work. And they believed that labor was a key component of Christianity. From the European perspective, American Indian men “worked very little.”<sup>5</sup> In colonial New England, and elsewhere, European observers interpreted Indian men as idle and lazy and Indian women as overburdened drudges. John Long, an eighteenth-century fur trader among the Chippewas, commented that men “consider women as of no other use but to produce... children ... deeming them worthy only to wait on warriors and do those things which

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<sup>4</sup> Margaret Connell Szasz, *Indian Education in the American Colonies, 1607-1783* (Albuquerque: University of New Mexico Press, 1988), 53.

<sup>5</sup> James Axtell, “The Invasion Within: The Contest of Cultures in Colonial North America” In *The Frontier in History: North American and Southern African Comparisons*, Howard Roberts Lamar, ed. (New Haven: Yale University Press, 1981), 45-46.

would disgrace the male sex.”<sup>6</sup> Although groups around the Great Lakes had gendered expectations regarding work, men and women performed equally valued duties specific to their sex. Long conflated the organization of Chippewa labor with gendered stereotypes from his own society and interpreted Chippewa culture as unjustly difficult on Indian women. Europeans, however, did not exempt Indian women from their criticism. One missionary voiced a common complaint about expectant mothers: “pregnant women take very little care of themselves during their pregnancy. They work as they usually do, and the nearer they come to the time of delivery, the harder they work.”<sup>7</sup> Starting with prenatal behavior, Europeans questioned Indian women’s mothering capabilities. In large measure this understanding of Indian mothers as inadequate caregivers contributed to the desire of Christian missionaries and others to take Indian children from their parent’s care.

Missionaries paid particular attention to Indian youth because they understood Indian children as blank slates open to both Christianity and “civilization.” John Elliot’s praying towns in Massachusetts Bay, Jesuit outposts in New France, and Franciscan missions in California all accepted children for academic and cultural instruction during the colonial period.<sup>8</sup> Early missionary endeavors in the United States, backed by federal financing after 1819, focused on removing Indian youngsters from their communities and

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<sup>6</sup> *John Long’s Voyages and Travels in the Years 1768-1788*. Edited by Milo Milton Quaife. (Chicago: Lakeside Press, 1922), 173.

<sup>7</sup> *Customs of the American Indians Compared with the Customs of Primitive Times, Volume I and II*. Father Joseph Francois Lafitau. Edited and Translated by William N. Fenton and Elizabeth L. Moore. (Toronto: The Champlain Society, 1974), Vol. I, 335.

<sup>8</sup> Neal Salisbury, “Red Puritans: The ‘Praying Indians’ of Massachusetts Bay and John Elliot.” *William and Mary Quarterly*, Third Series, Vol. 31, No. 1 (January, 1974): 27-54, 28-29; Steven W. Hackel, *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769-1850*. (Chapel Hill: University of North Carolina Press, 2005), 3.

placing them in the care of white missionaries.<sup>9</sup> Starting in the last decade of the eighteenth century, the newly formed United States commenced a federal Indian policy of “civilization” that encouraged American Indians to conform to European cultural practices. The policy provided Indians with tools of “civilization” that included ploughs for men and looms for women. This European-American gendered system of work required the reorganization of Indian people; men were supposed to farm for their nuclear families and women to produce their clothes (styled after American fashions) and other goods. In this scheme, Indian children attended mission schools and both children and their parents embraced Christianity. In order to execute these grandiose plans, the federal government worked in collaboration with existing missionary endeavors. In 1819, the United States government established the Indian Civilization fund, part of which underwrote the cost of existing missions and aided the establishment of additional stations. In exchange for this financial support, participating missions provided the government with annual reports on the Indians’ progress in the federal program of “civilization.”<sup>10</sup>

Some Indian parents sought out mission-sponsored education for their children especially in the English language. By the early nineteenth century, many Cherokee parents eagerly awaited the presence of missionaries in their nation for the primary purpose of educating their children. Ironically, in many ways, Cherokee parents were at cross-purposes with the missionaries ideologically but in perfect sync with them pragmatically. While numerous Cherokee parents had no use for Christianity and no

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<sup>9</sup> Margaret Connell Szasz, *Indian Education in the American Colonies*, 54.

<sup>10</sup> John A. Andrew, III, *From Revivals to Removal: Jeremiah Evarts, The Cherokee Nation, and the Search for the Soul of America*. (Athens: The University of Georgia Press, 1992), 96, 114.

interest in converting their children, they saw no problem with exposing children to new spiritual practices as the Cherokee religion was inclusive, that is, it was flexible enough to incorporate new beliefs. Moreover, these parents wanted education for their children that would enable them to exist comfortably in the rapidly changing new republic. The missionaries, whose primary focus was the conversion of Indian children to Christianity, saw education and civilization as linked. Thus, while motivated by very different objectives, both Indian parents and Christian missionaries wanted Cherokee children in mission schools. However, many parents refused outsiders access to their children and removed them from missionary care upon reports of substandard conditions. In 1818, for example, a Cherokee mother instructed her brother to retrieve her daughter from the Congregational Brainerd mission in Tennessee after hearing that the missionaries did not properly feed the child.<sup>11</sup>

Throughout the nineteenth century, mission schools taught Indian youth aspects of European-American culture. Children spent as much time learning trades and “civilized” behaviors as they did academic subjects. To accomplish this, students often lived in dormitory-style housing at the schools or in the homes of the missionaries themselves. These living situations provided a way for Indian students to learn the non-academic skills missionaries considered crucial for their development. It also kept Indian children away from their communities and cultures and prevented Indian parents from influencing their children in “negative” ways. Many missionaries, such as American Board of Commissioners for Foreign Missions affiliate, Jerusha Swain, considered Indian parents inadequate caregivers. According to Swain, one Cherokee mother taught her

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<sup>11</sup> ABCFM Papers, Brainerd Mission Journal, [Sept.] 5, 1818; Meg Devlin O’Sullivan, “A Family Affair: Cherokee Conversion to American Board Churches, 1817-1839” in *Tennessee Historical Quarterly* Vol. 64, No. 4, (Winter 2005): 264-283.

daughter, Martha, “more than most Cherokee mothers can” because she herself received a Christian education.<sup>12</sup> Despite the Cherokee woman’s exposure to Christianity and white culture, however, Swain and the rest of the missionaries at Dwight Mission believed Martha was better off living away from her biological mother and in the care of a single, childless, white missionary woman.

Although mission-sponsored systems of education continued to operate throughout the nineteenth century, federally-run boarding and day schools increasingly outpaced missionary endeavors.<sup>13</sup> By the last three decades of the nineteenth century, federal agents and reformers came to understand the great obstacle to “assimilation” as the way in which Native communities organized themselves. The Annual Report of the Commissioner of Indian Affairs in 1877 argued that “As long as Indians live in villages they will retain many of their old and injurious habits. Frequent feasts... heathen ceremonies and dances, constant visiting—these will continue as long as people live together in close neighborhoods and villages.”<sup>14</sup> And the solution to the problem was simple: “interest them in the accumulation of property, which is one of the most important steps in civilization.”<sup>15</sup> The government moved to force Indians to accumulate

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<sup>12</sup> Jerusha Swain Letters, 1851-1861, State Historical Society of Wisconsin, Archives Division, Madison, Wisconsin, Jerusha Swain to her [family], May 22, 1852; Michael C. Coleman, *Presbyterian Missionary Attitudes toward American Indians, 1837-1893* (Jackson: University Press of Mississippi, 1985); Meg Devlin O’Sullivan, “Missionary and Mother: Jerusha Swain’s Transformation in the Cherokee Nation, 1852-1861” in *The Chronicles of Oklahoma* Vol. 83, No. 4 (Winter 2005-06): 452-465.

<sup>13</sup> See Robert A. Trennert, Jr., *The Phoenix Indian School: Forced Assimilation in Arizona, 1891-1935* (Norman: University of Oklahoma Press, 1988); David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University Press of Kansas, 1995); Brenda Child, *The Boarding School Seasons: American Indian Families, 1900-1940* (Lincoln: The University of Nebraska Press, 1998).

<sup>14</sup> Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1877, (Washington: Government Printing Office, 1877), 75-76.

<sup>15</sup> *Ibid.*, 4.

property by destroying tribal lands held in trust and making Indians land owners through the allotment policy. At the same time, they recruited Indian children away from their communities and educated them in federal boarding schools. According to the Commissioner of Indian Affairs: “To domesticate and civilize Indians is a noble work.... But to allow them to drag on along year after year, and generation after generation, in their old superstitions, laziness, and filth, when we have the power to elevate them in the scale of humanity, would be a lasting disgrace to our government.”<sup>16</sup>

The federal government and reformers working for Indian assimilation believed off-reservation boarding schools to be the best way to educate and transform the next generation of American Indians. During the 1870s and 1880s, Indian agents described off-reservation boarding schools as superior to reservation day schools because they kept Indian students “more under the immediate care of a teacher and the influences of a home” and resulted in more rapid transmission of “language, habits and modes of labor, which they are so slow to acquire in the very limited intercourse allowed by a day-school....”<sup>17</sup> According to Indian Inspector General Hammond, “a day school will be utterly useless and a waste of money. ...what savagery they get rid of by day will be taken on at night in the tents of their parents.”<sup>18</sup>

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<sup>16</sup> Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1881, (Washington: Government Printing Office, 1881), iii.

<sup>17</sup> Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1877, (Washington: Government Printing Office, 1877), 32. JH Stout of the Pima Agency (comprised of the Pima, Maricopa, and Papago), discussing the Pima and Maricopa.

<sup>18</sup> Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Year 1879, (Washington: Government Printing Office, 1879). Quote from General Hammond, Indian Inspector, in letter by AB Ludlam of Pima Agency.

The federal Indian boarding school system began with Army Captain Richard Henry Pratt's efforts to educate prisoners of the Plains Wars at a federal prison in Saint Augustine, Florida. Pratt gave the prisoners a rudimentary education and at the end of their captivity, he helped several of the Indian men enroll in the Hampton Normal and Industrial School in Virginia for African-American youth.<sup>19</sup> Brigadier General Samuel Chapman Armstrong opened Hampton Institute in 1868 for African American students, but after the enrollment of Pratt's prisoners the institute developed an education program specifically for American Indian students that ran from 1878 to 1923.<sup>20</sup>

The American Indian program at Hampton educated young women as well as men. Beginning in 1884, the Winona Lodge at Hampton housed American Indian girls separately from the African-American girls (with whom they bunked previously) in order to keep the two groups segregated. Yet the newly constructed Winona Lodge was too large for the small number of Indian girls who attended Hampton. To remedy the situation, the institution housed its female white teachers with the Indian girls. This setup served the double purpose of maintaining a segregated order that felt comfortable to school officials, while providing a "civilizing" matronly presence for the Indian young women.<sup>21</sup> Yet, the girls' education did not stop here. One of the implicit if not explicit goals of these living situations as well as the entire school was to "impart a semblance of mainstream culture to their 'primitive' fellows back home."<sup>22</sup> Thus not only did Indian

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<sup>19</sup> Adams, *Education for Extinction*, 44.

<sup>20</sup> <http://www.hamptonu.edu/about/heritage.cfm>, August 18, 2007.

<sup>21</sup> Donal F. Lindsey. *Indians at Hampton Institute, 1877-1923* (Urbana: The University of Illinois Press, 1995), 131.

<sup>22</sup> *Ibid.*, 182.

girls presumably profit by living with white matrons and learning European-American cultural practices, their extended kin would reap the same benefits when the girls returned home and shared their knowledge.

Upon the success of the Hampton endeavor, Pratt made plans to open a boarding school specifically for Indians in Carlisle, Pennsylvania. Speaking to a group of Lakotas at the Rosebud reservation in South Dakota, Pratt pleaded that “if they [Indian children] were brought among our people, placed in good schools, and taught our language and our industries... in a little while [they] could be made just as competent as white people.”<sup>23</sup> Pratt successfully attracted enough Indian young women and men to open the Carlisle school in 1879. The government subsequently established additional boarding schools, including Chilocco, Genoa, Pipestone, Flandreau, and others, which educated generations of Indian children far from their homes and cultures.<sup>24</sup>

The roles of Indian parents in sending their children to these boarding schools varied. Some parents maintained authority and control in the decision-making process, but federal agents coerced and forced others to relinquish their children. Many Indian parents sent their children to boarding school because they believed in the possibilities such an education offered. Parents also understood that material conditions at boarding schools potentially surpassed those in their impoverished reservation communities. The Ojibwe, for example, often sent orphans to boarding schools when extended families could no longer absorb these children through traditional means.<sup>25</sup> In these cases,

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<sup>23</sup> Richard Henry Pratt, Brigadier General, U.S. Army, Retired. Edited by Robert. M. Utley, *Battlefield and Classroom: Four Decades with the American Indian, 1967-1904* (Norman: University of Oklahoma Press, 2003), 221.

<sup>24</sup> Adams, *Education for Extinction*, 57.

<sup>25</sup> Child, *Boarding School Seasons*, 24; 17.

boarding schools promised a way for tribes to both educate their children and provide for them.<sup>26</sup> Federal agents also frequently removed Indian children from their communities and kept them in boarding schools against their parent's wishes.<sup>27</sup> Many Indian parents remained skeptical of the boarding school system and resisted federal attempts to enroll their children with varying degrees of success. Some parents physically avoided the "fall round up" for the coming school year by taking their children and leaving the "main camp." Others bargained with authorities by letting some children—such as orphans go. Parents sometimes petitioned the reservation agent to obtain a release of their children from school and encouraged their children to run away from boarding schools after their arrival.<sup>28</sup>

Once Indian children got to boarding schools, experiences and conditions varied. According to anthropologist K. Tsianina Lomawaima, the Chilocco alumni she interviewed had very fond memories of their boarding school experiences.<sup>29</sup> Yet, other sources argue that boarding school facilities and instructors ranged from inadequate and negligent to substandard and abusive.<sup>30</sup> Many young children found the experience of leaving home and being immersed in foreign practices (and often language) which denied their cultural identity, traumatic. In addition, the boarding school era existed in the larger

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<sup>26</sup> Adams, *Education for Extinction*, 211.

<sup>27</sup> Child, *Boarding School Seasons*, 46.

<sup>28</sup> *Ibid.*, 46; Adams, *Education for Extinction*, 211.

<sup>29</sup> K. Tsianina Lomawaima, *They Called it Prairie Light: The Story of Chilocco Indian School* (Lincoln: University of Nebraska Press, 1994).

<sup>30</sup> Trennert, Jr., *The Phoenix Indian School: Forced Assimilation in Arizona, 1891-1935*; Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928*; Child, *The Boarding School Seasons: American Indian Families, 1900-1940*.

context of European-Americans understanding all children as willful young adults. In other words, adults expected children to behave and work like grown men and women and when the youngsters failed—which they often did—teachers and staff meted out physical punishment and deprivation. Since Indian peoples did not sanction such treatment, children were further traumatized. Finally, Indian boarding schools theoretically centered on education but in practice focused on cultural assimilation achieved through hard labor. Most boarding school students spent the majority of their days working gendered tasks crucial to the survival of the schools. Girls worked in the kitchens and laundries, while boys engaged in farm work, animal husbandry, carpentry, smithing, and other trades. Boarding school students rarely enjoyed breaks from their labor; rather than going home during the summer months many students spent their vacations on “outing programs.” In this system, developed by Pratt, Indian students lived with white families and further “acculturated” as farm help, domestics, and even store clerks.<sup>31</sup> In addition to minimal relaxation time, Indian youth had limited communication with their families and communities.

In 1893, however, new legislation prohibited the removal of Indian children to off-reservation schools without the full consent of their parents. According to the Commissioner of Indian Affairs, Daniel Browning, “even ignorant and superstitious parents have rights, and their parental feelings are entitled to consideration.” In spite of continued skepticism about the parenting abilities of Indian adults, arguments against the efficacy of boarding schools surfaced at the turn of the century. Although these schools continued to function throughout the twentieth century, their popularity peaked in the late

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<sup>31</sup> Margaret L. Archuleta, Brenda J. Child, K. Tsianina Lomawaima, ed., *Away From Home: American Indian Boarding School Experiences, 1879-2000* (Phoenix: The Heard Museum, 2000), 35.

nineteenth century, and by the 1930s, many believed boarding schools failed in their goal of complete assimilation and fostered Indian dependency on the government.<sup>32</sup>

American Indians also began to formally challenge the boarding school system and create tribally-controlled alternatives. During the early twentieth century, Gertrude Simmons Bonnin (Zitkala-Sa), a Yankton Sioux writer, teacher, and activist, who was herself a product of the boarding school system, wrote extensively about the problems with federally-run boarding schools. Later, she formed the National Council of American Indians with her husband Raymond Bonnin and traveled throughout Indian Country to hear the needs of American Indians and petition Congress to address them.<sup>33</sup> Sarah Winnemucca, the daughter of a Paiute chief, and orator for Indian rights, started her own school among the Paiutes as an alternative to federally-run boarding and day schools. Her Peabody Institute, started in 1885 and named after Elizabeth Peabody, a Boston philanthropist and supporter of Winnemucca, taught students in Paiute and English, allowed children to live with their parents, and eschewed the harsh punishments characteristic of schools at the time.<sup>34</sup>

Arguments in favor of replacing the boarding school system with a new plan for Indian education came to a head with a 1928 study conducted by the Carnegie Institution for the Bureau of Indian Affairs. Directed by Lewis Merriam, *The Problem of Indian Administration* was a comprehensive survey of conditions in Indian Country and study of

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<sup>32</sup> Adams, *Education for Extinction*, 211-215, 308.

<sup>33</sup> P. Jane Hafen, "Gertrude Simmons Bonnin: For the Indian Cause" in *Sifters: Native American Women's Lives*. Theda Perdue, ed., (Oxford: Oxford University Press, 2001): 127-140.

<sup>34</sup> Sally Zanjani, *Sarah Winnemucca* (Lincoln: University of Nebraska Press, 2001), 266.

government services.<sup>35</sup> Among other subjects, the Merriam Commission reported extensively on Indian education. The committee found conditions in Indian schools poor and argued strongly for the termination of the boarding school system and the establishment of day schools within Native communities. According to the report, “the survey staff finds itself obliged to say frankly and unequivocally that the provisions for the care of the Indian children in boarding schools are grossly inadequate.” The committee found diet, medical care, and conditions in dorms wanting. Moreover, hard labor, substandard teaching, and punitive measures prevented the schools from meeting their objective of educating Indian youth. In addition, “... the Indian Service has lacked the funds to attempt to aid the children when they leave school either to find employment away from the reservation or to return to their homes and work out their salvation there.”<sup>36</sup> In sum, federal boarding schools offered substandard educational opportunities and inadequate training for adulthood in either mainstream American society or Native communities.

Criticism of federal boarding schools did not mean that commissioners approved of the circumstances in which children lived in their own communities. They regarded day schools as instrumental in effecting change within the children’s homes: “The chief advantage of the day school for Indians... is that it leaves the child in the home environment, where he belongs.... not only does the home retain its rightful place in the whole educational process, but whatever worthwhile changes the school undertakes... are

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<sup>35</sup> Lewis Merriam et al., *The Problem of Indian Administration* “Report of a Survey made at the request of honorable Hubert Work, Secretary of the Interior, and submitted to him, February 21, 1928.” (Baltimore: Johns Hopkins Press, 1928).

<sup>36</sup> *Ibid.*, 11, 14.

soon reflected in the home. . . . ideas of cleanliness, better homekeeping, better standards of living, have their influence almost immediately in the home and community.”

According to the report, Native communities desperately needed this guidance since Indian women made “poor homemakers. Whether due to physical inability, lack of training, discouragement, or general shiftlessness, the idleness of the housewives of many tribes constitutes a barrier to the improvement of home conditions.” Moreover, “the proper preparation of food and the care of infants and the sick are in no tribe understood or practiced.” The committee found that “it cannot be said that Indian women are either very competent or very industrious. . . .” and that “the majority of Indian homes are characterized by dirt and confusion.”<sup>37</sup>

Although the Merriam report identified legitimate problems in largely impoverished Native homes, it provided a culturally biased assessment of Indian families. The commission noted that if “a family here or there develops higher standards than their improvident relatives and neighbors, the rules of hospitality operate to reduce their status to the common level.”<sup>38</sup> From a Native perspective, the rules of kinship mandated hospitality and violations were far more serious than reducing one’s status to the “common level.” To achieve esteem in most Native cultures, one needed to live up to the high expectations of kinship and its generosity.

A complicated narrative came out of the Merriam report. Indian children needed local schools because of the boarding school system’s failures and the importance of the family in a child’s development as illuminated by new research on child psychology. Yet

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<sup>37</sup> Ibid., 412, 547, 558, 563, 560.

<sup>38</sup> Ibid, 564.

the report labeled the homes in which Indian students lived as dysfunctional and in need of assistance. The commission argued that if “Indian girls are to become better homemakers than their mothers they must be taught the essentials of homemaking either in the public schools or in the federally supported day schools and boarding schools.”<sup>39</sup> Day schools, ideally, educated Indian children about basic domestic functions. In turn, the children would leave school every afternoon and help oversee these changes in their own homes.<sup>40</sup> Like older narratives of Indian assimilation, the Merriam report understood Indians as “still primitive in their habits,” but not inherently flawed and certainly educable. Reformers and bureaucrats wondered not if, but when, Indian adults would replace old cultural traditions with new practices. In the meantime, what was in the best interest of Indian children? Federal agents and social workers needed an alternative solution to boarding schools and not yet functional Native homes. The answer soon became clear: place “orphan or *otherwise homeless children* in foster homes where they may have the advantage of *wholesome family life*.”<sup>41</sup> The recommendation of the Merriam commission to place Indian children in foster homes met the needs in Indian Country, as the commission understood them.

The findings of the Merriam report marked a shift not only in Indian education but in federal Indian policy generally. The previous system of allotment left many Indians impoverished and no closer to assimilation. Furthermore, assimilation faded as a policy objective, and policy makers now increasingly supported cultural pluralism and the

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<sup>39</sup> Ibid., 610.

<sup>40</sup> Ibid., 617.

<sup>41</sup> Ibid., 364; 659. Emphasis mine.

inherent functionality and value of various cultures. These changes combined with the visions of a new Indian Commissioner, John Collier, yielded the 1935 Indian Reorganization Act, the first policy to appreciate the integrity of Indian people and life ways.<sup>42</sup> Collier's agenda centered on the end of allotment, a return to tribally-held land, and the establishment of strong tribal administrations based on constitutional governments. In addition, the plan had structural support for Indian education, languages, and arts. Although there were problems with the new federal policy—such as an over reliance on the Pueblo Indians' experience as a model for all Indians and an insistence on constitutional governments that were foreign to most tribes—the Indian New Deal attempted to revitalize the tribes and help legitimate their cultural practices. These initiatives, like many New Deal programs, however, fell to the wayside during World War II and were rejected in the immediate aftermath of the war, which ushered in a reversal in federal policy that focused on the termination of tribes and the complete assimilation of Indians into mainstream American society once and for all.

Throughout these changes in federal Indian policy, Native communities established new ways of caring for their children. Although most Native cultures dealt with parentless children by absorbing them into the larger kinship network, by the early twentieth century, Native nations increasingly embraced orphanages as an effective way to educate and care for children without parents. Some, such as the Senecas on the Cattaraugus reservation in western New York, welcomed church-sponsored institutions. Others, like the Cherokees and Chickasaws of Oklahoma, maintained tribally-run orphanages.

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<sup>42</sup> Kenneth R. Philip, *John Collier's Crusade for Indian Reform, 1920-1954* (Tucson: University of Arizona Press, 1977).

Tribally-run orphanages exemplified the ability of Native nations to exercise tribal sovereignty and control over Indian child welfare. For some Indian communities, traditional means of caring for parentless children through the kinship system were not viable. Orphanages provided a way for Indian children to receive the care they needed while living in their communities. The boarding school system's dominance over Indian child care and education and changing attitudes about children's social welfare during the latter half of the twentieth century, however, eclipsed the relatively limited role Indian orphanages played in caring for parentless children. By mid-century, Indian orphanages declined as an emphasis on permanent adoptive care grew in popularity.<sup>43</sup>

In the twentieth century, adoption became popular as the best solution for unwed mothers and their offspring as well as for infertile couples seeking children. Stranger adoption, the parenting of children by someone other than the child's kin, had its roots in the late nineteenth century.<sup>44</sup> During the first few decades of the twentieth century, social workers assumed control over formal stranger adoptions and attempted to match adoptive parents and children along racial, ethnic, religious, intellectual, and socio-economic lines.<sup>45</sup> By World War II, a focus on direct placements—newborns sent immediately from hospitals to adoptive homes—replaced the earlier emphasis on matching. Social workers increasingly believed that if they carefully screened adoptive parents, anyone authorized to adopt made an adequate caregiver to a child, regardless of religious, ethnic, and class differences. In the late 1950s and 1960s, interracial adoption began to gain acceptability,

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<sup>43</sup> Marilyn Irvin Holt, *Indian Orphanages* (Lawrence: University Press of Kansas, 2001), 257, 49, 115-116, 251.

<sup>44</sup> Barbara Melosh, *Strangers and Kin: The American Way of Adoption*. (Cambridge, Massachusetts: Harvard University Press, 2002), 10-11

<sup>45</sup> *Ibid.*, 3-4.

but only in the 1970s did agencies abandon racial matching completely.<sup>46</sup> The growing acceptance of interracial adoption, a decline in off-reservation boarding schools, and the findings of the Merriam report facilitated Indian child adoptions by non-Indians.

As adoption became more prevalent in the decades following World War II, new programs connected Indian children with adoptive parents. In 1958, the Bureau of Indian Affairs (BIA) united with the Child Welfare League of America to form the Indian Adoption Project (IAP).<sup>47</sup> From its inception until 1967, the IAP placed 395 Indian children in non-Indian adoptive homes, often in cooperation with the Adoption Resource Exchange of North America (ARENA) that handled “hard to place” children in North America, which they defined as older and disabled children. The Indian Adoption Program addressed the needs of Indian children eligible for adoption who supposedly “passed from family to family on a reservation” in substandard living conditions.<sup>48</sup>

ARENA subsumed the IAP in 1967 and placed another 400 Indian children in overwhelmingly non-Indian adoptive care during a ten year period. ARENA described its mission as “breaking down all the barriers that prevent children from being placed in a permanent home in the United States.” The IAP claimed that its emphasis had been “to facilitate the placement of Indian children in Indian homes.”<sup>49</sup> In practice, however, the IAP, and later ARENA, had little genuine respect for or interest in Indian communities

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<sup>46</sup> Ibid., 10-11, 3-4, 54, 104.

<sup>47</sup> The Child Welfare League of America began in 1909 out of the White House Conference on Dependent Children. See: Holt, *Indian Orphans*, 9.

<sup>48</sup> “Some ‘Lost Birds’ Fly Away Home.” Pauline Arrillaga, *Los Angeles Times*, July 15, 2001, B1.

<sup>49</sup> ARENA Serves the Indian Community, NCAI, Health and Social Welfare, ARENA: Adoption Resource Exchange of North America, National Anthropological Archives, Smithsonian Institution, Washington D.C.

and tribal sovereignty, despite their rhetoric about placing Indian children with Indian adoptive parents. Once a child was “freed” for adoption, that is, relinquished from foster care to eligibility for permanent placement, ARENA cataloged the child’s information and printed his or her picture in a monthly publication that went to adoption agencies and individuals in the United States and Canada. At the same time, ARENA screened potential adoptive parents.<sup>50</sup> Neither practice targeted potential Indian foster and adoptive parents. Although ARENA did not disclose their success in placing Indian children within Indian families, in reality, ARENA and the IAP did an abysmal job of putting Indian children in Indian adoptive homes. Instead, the children went overwhelmingly to non-Indian families, which the IAP identified as best for them. The IAP crowed in 1966: “One little, two little, three little Indians—and 206 more—are brightening the homes and lives of 172 American families, mostly non-Indians, who have taken the Indian waifs as their own.”<sup>51</sup> Those orchestrating these adoptions ignored both the effects of these situations on Indian parents and children as well as the root causes of poverty and other conditions that forced parents to consider foster care and adoption.<sup>52</sup>

By 1974, the Child Welfare League of America, Bureau of Indian Affairs, and state agencies had placed twenty-five to thirty-five percent of Indian children in foster

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<sup>50</sup> Ibid.

<sup>51</sup> IAP news release, March 14, 1966. Quoted in Francis Paul Prucha, *The Great Father* (Lincoln: University of Nebraska Press, 1984), 1154.

<sup>52</sup> Robert Bensen, ed. *Children of the Dragonfly: Native American Voices on Child Custody and Education*, (Tucson: University of Arizona Press, 2001), 12; “Foster Care, Kinship Care, and Our Indian Children Today” David Simmons and Kristy Alberty, *Indian Country Today*, Oneida, New York, March 15, 2006, Vol. 25, No. 40, A5

and adoptive homes or institutions, including boarding schools.<sup>53</sup> In South Dakota, for example, 10 percent of Indian children lived away from their biological parents and home communities in adoptive homes, and in Michigan and Minnesota the percentages were 13.4 percent and 18.3 percent, respectively.<sup>54</sup> During this era, Indian parents stood a “one in four chance of losing a child to foster and adoptive care or institutions.”<sup>55</sup> Although boarding schools declined in popularity earlier in the century, the number of Indian children residing away from their families in boarding schools remained relatively high. In 1974, a total of 29,184 Indian children lived in Bureau of Indian Affairs boarding school dorms; 25,800 of these students attended BIA schools while 3,383 lived in the dorms but enrolled in public schools.<sup>56</sup> The seventy boarding schools still in operation kept seventeen percent of Indian children away from their homes for a majority of the year.<sup>57</sup>

Attitudes of state and federal welfare workers contributed to the large number of American Indian children placed in institutions, foster care, and adoptive homes. Welfare agents separated Indian children from their families of origin with greater frequency than they did white children in part because of biases that prevented them from accepting

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<sup>53</sup> Essay by William Byler, Executive Director AAIA, in *The Destruction of American Indian Families*, Steven Unger, ed. (New York: Association on American Indian Affairs, 1977), 1.

<sup>54</sup> Exact numbers of Indian children adoptive homes: Minnesota (2,331 of 12,672); Michigan (994 of 7,404); Wisconsin (1,278 of 10,176), and South Dakota (1,851 of 18,322).

<sup>55</sup> “Theft of Life,” *Akwesasne Notes*, (September 1977), 30.

<sup>56</sup> Office of Indian Education Programs, U.S. Bureau of Indian Affairs, “Fiscal Year 1974: Statistics Concerning Indian Education” (Lawrence, Kansas: Haskell Indian Junior College, 1975), 12-15; 22-23.

<sup>57</sup> “Theft of Life,” 32. This percentage accords with the BIA school census of 1971, which identified 34,538 Indian children in BIA facilities. See: Byler, *The Destruction of American Indian Families*, 1.

alternative cultural values. They had no appreciation for the crucial role of the extended family and less stringent expectations regarding material requisites for parenthood that existed in many Native communities. According to some Indian activists, social workers made ill-informed judgments about Indian families by identifying “desertion, neglect, or abandonment, where none exists.”<sup>58</sup> In 1967-68, for example, forty percent of the adoption cases handled by South Dakota’s Department of Public Welfare involved Indian families, yet Indian children accounted for only seven percent of the state’s youth.<sup>59</sup>

Social workers often failed to appreciate the importance of the extended family in caring for and raising a child.<sup>60</sup> Because of this, child welfare agents often interpreted children in the care of an aunt, grandfather, or cousin as abandoned and neglected. In such cases, however, a family member provided a safe haven for the child that accorded with his or her culture. Social workers frequently placed Indian children in protective care when their parents left them with elders, since they regarded these older adults as unable to provide proper care. Yet, most Indian people expected elders to contribute to child rearing and rejected the nuclear family model that white society embraced.<sup>61</sup>

Social welfare agents often decided that the conditions in Indian homes warranted intervention. As had been the case historically, federal and state agents justified the removal of Indian children from their families by interpreting parental care as inadequate. Some of these claims lacked substance and rested on cultural bias about the “correct”

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<sup>58</sup> *Indian Family Defense: A Bulletin of the Association on American Indian Affairs, Inc.*, No. 1 (Winter 1974), 1.

<sup>59</sup> Byler, *The Destruction of American Indian Families*, 1.

<sup>60</sup> “The Theft of Life,” 32.

<sup>61</sup> Holt, *Indian Orphans*, 11.

way to raise children, but other concerns proved more legitimate. Welfare workers often cited neglect and abuse related to alcoholism as grounds for taking Indian children from their families. A study that supported the Indian Adoption Program claimed that forty-two percent of the Indian mothers in the survey “had serious drinking problems” and twenty percent were “strikingly neglectful of [their] children.”<sup>62</sup> Cases of substance abuse and neglect required some type of intervention. Rather than assisting Indian parents with treatment for alcoholism, however, welfare workers took away their children. These agents failed to see Indian caretakers with substance problems as potentially good parents suffering from a treatable condition.<sup>63</sup> As one Indian activist pointed out, few understood that “Indians with drinking problems should be given care, rather than [have] their children removed. . . .”<sup>64</sup> Although alcohol was a problem for some Native families, social workers removed Indian children from their homes at far greater rates than they did children from non-Indian families.<sup>65</sup>

In addition to acting on their biases, social workers often failed to provide caregivers with a complete explanation and full disclosure about the terms of the child’s

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<sup>62</sup> David Fanshel, *Far From the Reservation: The Transracial Adoption of American Indian Children, A Study Conducted Under the Auspices of the Child Welfare League of America*, New York, New York (Metuchen, NJ: The Scarecrow Press, 1972), 59, 280. In mean averages, the Indian mothers surveyed were 24.9 years of age, had nine years of education, had 2.8 children, and 46.8% never married.

<sup>63</sup> Laurence Armand French. *Addictions and Native Americans*. (Westport, Connecticut: Praeger, 2000), vii; Philip A. May, “The Epidemiology of Alcohol Abuse among American Indians: The Mythical and Real Properties” in *Contemporary Native American Cultural Issues*, ed. Duane Champagne (Walnut Creek, California: Altamira Press, 1999): 227-244. In this article, May examines twelve myths about Indians and alcohol, demonstrating both how researchers can manipulate statistics, and how American Indian drinking practices do differ dramatically from that of other Americans. For the history of American Indians and early exposure to alcohol see: Peter C. Mancall, *Deadly Medicine: Indians and Alcohol in Early America* (Ithaca: Cornell University Press, 1995).

<sup>64</sup> “The Theft of Life,” 32.

<sup>65</sup> B.J. Jones, *The Indian Child Welfare Act Handbook: A Legal Guide to the Custody and Adoption of Native American Children* (Chicago: American Bar Association, 1995), 3.

removal. Instead they encouraged or coerced parents to sign a “voluntary waiver of parental rights” without describing the document or explaining that it legitimized the relinquishment of the child without court proceedings.<sup>66</sup> In other instances, parents lacked access to legal counsel as they made their decisions.<sup>67</sup> In most cases, these removal proceedings failed to include the expertise of “tribal authorities and Indian community agencies.”<sup>68</sup> As a result, Indian parents sometimes misunderstood the nature of foster care and adoptive placements. Some Indian people considered social workers as “part of the extended family,” and welcomed their help without realizing “that their action [was] perceived quite differently by non-Indians.”<sup>69</sup> What Indian parents saw as a temporary solution to a childcare problem, non-Indian child welfare agents understood as an admission of parental failure and a willing relinquishment of the child in question. Indian parents and non-Indian social workers embraced different cultural understandings of the relationship between welfare agent, child, and biological parent. Consequently, Indian caregivers sometimes lost their children to the state or federal government when they sought only temporary assistance.

In one case, two Indian parents entrusted their daughter temporarily to the local Indian Health Service facility but almost lost the child via permanent adoption. Enid and Freeland Dogskin of the Standing Rock Sioux reservation gave the local IHS provisional permission to care for their newborn daughter, Nicole June, in July of 1973, because of

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<sup>66</sup> *Indian Family Defense*, No. 2, (Summer 1974), 2.

<sup>67</sup> Jones, *The Indian Child Welfare Act Handbook*, 3.

<sup>68</sup> Steven Unger, ed. *The Destruction of American Indian Families*, (New York: Association on American Indian Affairs, 1977), iii.

<sup>69</sup> *Ibid.*, 3.

economic hardship. Upon gaining employment as a teacher's aide, Enid Dogskin sought the return of her daughter. IHS, however, had transferred the child to a non-Indian lawyer from South Dakota who wished to adopt her. The couple sought the assistance of Chief Tribal Judge Perry Manywounds, who contacted the Association on American Indian Affairs.

Formed in 1923, the AAIA worked on both the grassroots and national levels to assist Native nations and individuals with issues ranging from health and education to sovereignty and cultural preservation in order to aid "the efforts of tribes to achieve self-determination."<sup>70</sup> During the 1970s, Indian child welfare was one of the group's "primary concerns." The AAIA helped tribes and urban communities create child welfare programs, consulted with non-Indian entities at the local, state, and federal level, took cases to court on behalf of tribes and individuals, assisted with foster parent licensing. They published both statistical information on the subject and *Indian Family Defense*, a quarterly news bulletin edited by Mary Gloyne Byler that monitored Indian child welfare.<sup>71</sup> Judge Manywounds and the AAIA successfully brought the case of Nicole June Dogskin to tribal court which resulted in the return of the child to her parents.

In a similar case, in 1974, Delphine Shaving Bear authorized the South Dakota Department of Welfare to provide temporary care for her one-year-old son Christopher. Shaving Bear needed to leave the Standing Rock Sioux reservation to retrieve her two other children from temporary care. She had relinquished them willingly during a time of personal stress but was now ready to bring them home. The welfare department

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<sup>70</sup> [www.indian-affairs.org](http://www.indian-affairs.org) May 22, 2007.

<sup>71</sup> Association on American Indian Affairs, AAIA Papers, Child Welfare and Family Defense Projects, 1973-1988, Seely G. Mudd Manuscript Library, Princeton, New Jersey.

interpreted Shaving Bear's placement of Christopher in temporary foster care as evidence of neglect and attempted to put the child up for adoption. The AAIA intervened and argued failure of due process on behalf of Shaving Bear and the tribe. The South Dakota Circuit court concurred: because the child lived on the reservation, state courts had no right to intervene. The child returned to his mother's care.<sup>72</sup> In such cases, Indian parents and welfare workers misunderstood each other's intentions for the child placed in custody. Furthermore, most welfare agents did not understand jurisdictional issues related to Indian child welfare and the sovereignty of tribes.

Both the Dogskin and Shaving Bear cases reveal not only the miscommunication that occurred between Indian parents and welfare agents, but also the ability of the tribes and Indian organizations to manage issues of Indian child welfare. In both cases, the Indian parents lost their children because of the way in which welfare workers misinterpreted parental acceptance of temporary care for their children. The Dogskins and Shaving Bear placed their children in the care of the state during economically and personally challenging times. When the parents were able to provide adequately for their children once again, they sought the return of their children but encountered a hostile social welfare service that defined these parents as inadequate caregivers. Yet, the Dogskins and Shaving Bear never lost control of their children because of abuse or neglect; rather, they acted in best interest of their children as they understood it. When the Dogskin case went to tribal court and the Shaving Bear case to state court, the AAIA successfully assisted the parents by making clear their rights and the limitations that state welfare workers had in issues of Indian child welfare.

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<sup>72</sup> *Indian Family Defense*, No. 3, (May 1975), 7.

Many Indian parents felt beleaguered by the welfare system and unsure of where to go for assistance. Margaret Townsend, an Indian mother from Fallon, Nevada, argued that, “most of the Indian women are usually overwhelmed by people who think their children should be taken away from them and they really don’t stand up to anybody and they don’t have anybody to tell.” When welfare agents placed Townsend’s children in foster care without her knowledge, however, she had a friend call the intertribal council lawyer on her behalf. With legal assistance, Townsend got her children returned to her care.<sup>73</sup> Similarly, in December of 1970, Cheryl DeCoteau of Sisseton, South Dakota, attempted to retrieve her son John, age five, from his babysitter only to find that a child welfare worker had placed the child in a foster home. According to DeCoteau, “they [welfare agents] wouldn’t give him to me” and her social worker failed to assist her in getting John back.<sup>74</sup> A welfare agent informed DeCoteau that her child fared better in foster care since she provided inadequate care as a mother. According to DeCoteau, “the man [welfare agent] said that I wasn’t a very good mother... and that my children were better off being in a white home where they were adopted out. They [adoptive parents] could buy all this stuff that I couldn’t give them, and give them all the love that I couldn’t give them.”<sup>75</sup> Later, welfare agents encouraged a pregnant DeCoteau to give up her unborn child. DeCoteau refused but signed a form she did not understand while feeling ill; this form relinquished her rights to the child. Welfare agents did not inform DeCoteau

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<sup>73</sup> Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, United States Senate, April 8 and 9, 1974. Reprinted in Bensen, *Children of the Dragonfly*, 11; 106-08.

<sup>74</sup> It is unclear if DeCoteau’s babysitter turned her son over to protective care, or if social workers seized him from the care giver.

<sup>75</sup> Hearings Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, United States Senate, April 8 and 9, 1974. Reprinted in Bensen, *Children of the Dragonfly*, 119.

of the court proceedings in either case. DeCoteau, however, brought her cases to tribal court to fight what her lawyer termed “one of the grossest violations of due process.”<sup>76</sup> She eventually won her case and took her children home with her. Most parents, however, did not understand adoption documents or their legal rights, and they had little opportunity to consult with tribal leaders. Although some parents and tribes, like the Dogskins, Shaving Bear, Townsend, DeCoteau and the Standing Rock Sioux, took legal action many did not. When Indian children were in the custody of white couples, cases like these ended up in tribal courts only if Indian parents sought the assistance of tribal leaders and Indian organizations such as the AAIA. The AAIA was instrumental in petitioning that such cases of Indian child welfare proceed from tribal courts.

In addition to the actions welfare workers, the desires of white families also increased the placement of Indian children in white homes. In the early 1970s, a survey completed by the Commission on Population Growth and the American Future, an organization dedicated to addressing the population “explosion,” revealed that “more than half of [the adult Americans] queried said they would consider adopting a child if they had two children and wanted more. Almost half of those said they would approve of adopting a child of a different race.” According to the Commission this worked well since “there are few white babies available.”<sup>77</sup> The relatively small number of white children eligible for adoption compared to the number of non-white children stemmed in large measure from welfare workers’ identification of families of color as dysfunctional as well as their inclination to remove children of color from these environments. White

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<sup>76</sup> “The Theft of Life,” 31.

<sup>77</sup> Marjorie Godfrey with Caroline Bird, “Have One, Adopt One” in *MS Magazine* Volume 1, Issue 4, (October 1972), 76-77.

families experienced problems similar to those of non-white families, but they were not victims of the racism and paternalism that encouraged welfare workers to judge parents of color as incompetent. Poor families of color received social services that placed them under the surveillance of welfare workers, while middle and upper-class families avoided such scrutiny.<sup>78</sup> As a result, agents took children of color from their parents in unwarranted situations and trusted white children to their parents care in situations that were perhaps unsafe. Moreover, changes in women's ability to control their reproductive health also had an impact on the number of white children eligible for adoption. Although white women continued to give their children up for adoption, legalized abortion and improvements in contraceptive methods established safe alternative ways to prevent pregnancy and parenthood.

Many adoptive parents saw an American Indian child as a satisfactory alternative to a white child. As one adoptive couple stated, "We thought for a time about an eight-year-old Indian girl. She was very appealing..."<sup>79</sup> Ultimately this couple adopted an African-American boy who was closer in age to their two biological children. For many adoptive parents, however, adopting American Indian children seemed like an attractive option. They imagined Indian children as noble, close to nature, and "disappearing," as well as closer to white in physical appearance than other children of color.<sup>80</sup> Because of

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<sup>78</sup> Andrea Smith argues this is because "women of color are more likely to be arrested and imprisoned for drug use because, as a result of greater rates of poverty in communities of color, they are more likely to be in contact with government agencies where their drug use can be detected." Andrea Smith, "Beyond Pro-Choice Versus Pro-Life: Women of Color and Reproductive Justice" in *NWSA Journal* 17. 1 (2005): 119-140, 125.

<sup>79</sup> Ibid.

<sup>80</sup> Fanshel, *Far From the Reservation*, 89-93.

welfare workers' willingness to remove Indian children from their parents, and white adoptive parent's eagerness to accept these children, approximately eighty-five percent of the Indian children placed in foster and adoptive care resided with non-Indian families.<sup>81</sup>

Counter to the goals of foster and adoptive placements, many white adoptive families could not give Indian children adequate care because they found parenting a child of another race too challenging. One couple wanted a second child, but their adoption agency only placed "special kinds of children," including Indian children, with families who already had a child. The couple expressed anxiety about adopting an Indian child, but they agreed to do so because the adoptive mother feared that if she declined an Indian child, she would "not be given a chance for any other kind of child." The woman admitted that "the [social] worker made a mistake in promoting Indian adoption with us because she did not see that there was a frightened side of my personality." The couple adopted the child anyway. Another parent confessed, "Frankly, I was hesitant when they raised the question of placing an Indian child with us. I asked my wife if she could love an Indian baby as much as a white one.... I concluded that if she could do so, I could also." Reflecting on his adoption of an Indian girl, one father admitted, "As I look back upon it, we did not really think through the situation sufficiently. When I saw Tina, I felt troubled and continued to feel troubled even after taking her. When I am really being honest with myself, I have to recognize that I am essentially a prejudiced person."<sup>82</sup> Unfortunately, with the help of the IAP, many white couples adopted Indian children despite such misgivings.

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<sup>81</sup> Byler, *The Destruction of American Indian Families*, 2.

<sup>82</sup> Fanshell, *Far From the Reservation*, 93, 89.

On the eve of its closing, the IAP claimed that its “objective for all Indian children remains the same as when this project began in 1958: that all Indian children have the opportunity for a good life within their own family, or at least with a family of their own tribal heritage.... But if this is impossible, then on the basis of good adjustment made by most Indian children placed with non-Indian families...we should continue these transracial adoptive placements of Indian children.” The Child Welfare League of America conducted a study in the late 1960s on the experience of Indian Adoption Project children to prove the efficacy of Indian-white adoption that would continue under ARENA. The study in support of such placements examined ninety-seven Tsimshian, Apache, Pima, Papago, Chippewa, Choctaw, Assinboine, Blackfoot, Northern Cheyenne, Flathead, Chippewa-Cree, Shoshone, Paiute, Cherokee, Oglala Sioux, Oneida, Menominee, Winnebago, and Arapahoe children and their white adoptive parents over a five-year period.<sup>83</sup> The children lived in adoptive homes across the country, with a concentration in eastern urban areas “far from the reservation.” Their ages at adoption ranged from birth to eleven. Roughly fifty percent of the children came from a reservation and were the responsibility of a state department or welfare agency.

The Child Welfare League study concluded that “the children had fared well physically, intellectually, and emotionally” in their white adoptive homes. Fifty percent or more enjoyed “relatively problem free adjustments;” twenty-five percent had “adequate adjustments with strengths outweighing weaknesses;” ten percent survived “adjustments regarded as adequate and ... guarded;” and ten percent suffered “serious problems;” with one child’s “future adjustment look[ing] dim.” The study described

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<sup>83</sup> Ibid., 49, 58.

ninety percent of the adoptive homes as “good” environments. Yet the project focused on the experience of young children, an average age of six, and conceded: “It is to be expected that as our children adoptees get older, the prevalence of problems will increase” based on “other longitudinal studies which indicate increase in problematic behavior with the passage of years.”<sup>84</sup> The Child Welfare League study failed to include a longitudinal component that would have provided a more accurate picture of how adopted Indian children ultimately fared in non-Native environments. According to the study’s indices of successful adoptive care—physical health, developmental progress, adoptive parent’s satisfaction—the characterization of most of the young children placed in white adoptive care as happy and healthy appeared correct.

As the children reached adolescence and adulthood, their experience in white communities changed. External racism and internal questions about roots and identity confronted adoptees as they grew up. Specialists and American Indian activists against interracial adoption argued that although Indian youth functioned well in white homes as young children, their experiences grew increasingly complicated as they got older. Although they “looked” Indian, they had no connection to that ethnic and cultural identity, and strangers called on them to account for that discrepancy. Dr. Joseph Westermeyer of the University of Minnesota’s Department of Psychiatry argued that adopted Indians who “have no group or no identity” were more likely to encounter social, mental, and penal difficulties.<sup>85</sup> Indian children raised in white homes and communities also encountered increased instances of racial discrimination as they got older and

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<sup>84</sup> Ibid., 287, 282, 323.

<sup>85</sup> “The Theft of Life,” 32.

exercised greater autonomy within their communities. According to Westermeyer, Indian teenagers experienced problems with interracial dating, securing jobs, and racial epithets.<sup>86</sup>

As a result of alienation, many encountered subsequent problems with the law. For example, Vincent Martineau, from the Fond du Lac reservation, lived most of his life in white foster homes. Social service workers took thirteen-year-old Martineau from his family in 1963 following the death of his father. Although his mother was living, the welfare agents who intervened decided she would not be able to provide for Martineau and his seven brothers and sisters. Therefore, they placed the children in various foster homes. Authorities actually confined the adolescent Martineau in jail for seventeen days until they could find a suitable foster home for him, which was twenty miles from the reservation. The eight Martineau children ultimately lived in fourteen different non-Indian foster homes during their childhood. Martineau's anguish was palpable: "They took me away from my people, my family, all my friends, brothers and sisters, everyone." This removal and estrangement resulted, Martineau believed, in the frequent trouble he and his siblings encountered with the law as juveniles.<sup>87</sup> Being taken from his home and raised in non-Native foster homes, he explained, "built in resentment, a feeling of anger, they had stolen everything from me. I was mad at the world. I didn't care."

In the Martineau case, social workers apparently removed the children from their home because of economic concerns. Yet a study completed by the North American Indian Women's Association on Indian foster children found that the material conditions

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<sup>86</sup> Ibid.

<sup>87</sup> Indian Foster Child, AAIA Papers, Child Welfare, 1972-1987 (Minnesota), Seely G. Mudd Manuscript Library, Princeton, New Jersey.

of a home mattered little to these children. Of greater consequence to foster youth was the presence of “the foster mother at home, firm rules, and a feeling of warmth.”<sup>88</sup> Of equal importance to Martineau was connection with other Indians. Martineau felt his removal caused him to lose “of my Indianess, my language, religion, beliefs, my entire sense of belonging.”<sup>89</sup>

Although most Indian foster children did not live in Indian homes, some registered Indian foster parents welcomed Indian youth into their homes and provided a type of cultural support that other non-Indian parents could not. One licensed Indian family in Duluth, Minnesota acted as foster parents for eight years during which time they cared for fifteen children. According to the Indian foster parents, “as Indian parents, we could understand Indian children and their ways better than non-Indians.” This family “practiced our Indian values” in the home and helped foster children gain awareness of their “culture and identity.” Perhaps most importantly, these foster parents helped the children in their care maintain ties to their biological families and communities. They “encouraged the children’s family to visit our home” and “took the children to visit the grandparents.” According to the foster parents, this not only gave their foster children a sense of identity and belonging, it helped mitigate angry feelings the children had about their situation and reaffirmed their faith in their biological parents. The children in the foster family’s care felt frustrated and upset that the welfare department “were not giving [their biological] parents a chance.” The children in this particular foster home benefited

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<sup>88</sup> Lorie M. Graham, “The Past Never Vanishes: A Contextual Critique of the Existing Indian Family Doctrine” in *American Indian Law Review*, Vol. 23, No. 1, (1998-1999): 1-54, 3.

<sup>89</sup> Indian Foster Child, AAIA Papers, Child Welfare, 1972-1987 (Minnesota).

from continued contact with their families and an attitude of respect for their homes of origin that their foster parents instilled.<sup>90</sup>

The forced and coerced relinquishment of children often proved devastating for Indian parents as well. According to William Byler, Executive Director of the Association on American Indian Affairs (AAIA), the threat that “their children will be taken away from them” loomed large in the minds of Indian parents. Psychiatrists testified that upon losing their children, a majority of Indian parents experienced a “sense of hopelessness and despair” that resulted in withdrawn and unhealthy behaviors. These reactions created a self-fulfilling prophecy: Indian parents felt helpless to tackle a complicated and culturally insensitive welfare system and welfare workers felt justified in their decision to remove Indian children from parent who provided “inadequate care.”

Besides the challenges parents and children faced, Native nations and tribal sovereignty suffered through interracial adoptions. Treaties with the federal government made clear that Indian nations enjoyed a government to government relationship with the United States and were not subject to state laws. When state welfare workers, in conjunction with private organizations such as the IAP, came to Indian Country and coerced Indian parents to relinquish their children, they ignored the sovereign rights of tribes to protect child welfare. Yet, tribal courts were perfectly capable of presiding over legal issues pertaining to child placements. The problem of rampant adoption extended beyond the personal experiences of parents and children or even the cultural ramifications of more than twenty-five percent of a generation losing contact with their communities. Unmitigated adoption threatened tribal sovereignty.

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<sup>90</sup> Interview with Licensed Indian Family, AAIA Papers, Child Welfare, 1972-1987 (Minnesota), Seely G. Mudd Manuscript Library, Princeton, New Jersey.

For Native nations and Indian activists, the threats that adoption posed to tribal sovereignty called them to action. Blame for adoptions and the conditions that precipitated them fell squarely on the Bureau of Indian Affairs and the Department of Health, Education, and Welfare. AAIA activist William Byler charged that because “the BIA and HEW both provide[d] substantial funding to state agencies for foster care . . . [they] subsidize[d] the taking of Indian children.”<sup>91</sup> Activist women began to articulate a critique of Indian adoption that acknowledged the problems in Indian Country that threatened children’s welfare while condemning the removal of Indian children as the solution. They argued: “Indians realize there are times when children should be removed from their own homes, but Indians are in a better position to determine that need. In addition, children should be placed in homes in their own communities so they do not lose contact with their roots and may retain a relationship with their family...”<sup>92</sup>

Non-Native interference in Indian children’s development existed as a hallmark of Indian-white relations. Initially, missionary and federal efforts to educate children were a way to assimilate the next generation of American Indians into the larger European-American culture. Proponents of assimilation argued that children must immerse themselves in white culture, away from their families and communities, in order to adapt to the mainstream society. By the twentieth century, the goals of assimilation blended with misguided concern for the wellbeing of Indian children. In the 1960s and 1970s, welfare agents and social workers thought that foster care and adoptive placements in “stable” white homes solved the issue of Indian child welfare that Indian families and communities faced. Some of the problems welfare workers identified, such as alcoholism

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<sup>91</sup> Byler, *The Destruction of American Indian Families*, 6.

<sup>92</sup> “The Theft of Life,” 30, 32.

and subsequent neglect, presented real threats to Indian children. Others, such as the inadequate care that elders and extended family members supposedly provided Indian children, were imagined. Instead of resolving these problems, however, social workers placed children in non-Indian foster and adoptive homes.

The practice of removing American Indian children from their communities to improve their lives created new problems in its wake. As older children and young adults, adoptees faced racism from the larger community and confusion over their identity and heritage. In addition to the loss of their children, Indian parents continued to live in the desperate circumstances that contributed to the removal of their children in the first place. Rather than examine the issues, such as alcoholism and poverty, that caused foster and adoptive placements, social workers and welfare agents removed Indian children from their tribes, and offered little assistance for the problems communities faced. Finally, Native nations suffered the intrusion of state and private agencies that violated their sovereignty. Centuries of white intervention in Indian families and communities culminated in the removal of more than a quarter of Indian children from their parents and tribes, a challenge that Indian activists, especially women, answered.

## CHAPTER V

### THE CRISIS OF INDIAN CHILD WELFARE AND THE SOLUTION OF SOVEREIGNTY

American Indian women activists understood the crisis of Indian child adoption as more than a personal issue affecting individual families. The removal of Indian children from their homes and communities compromised the parental rights of men and women, and Indian women interpreted it as a larger political problem that threatened both parental rights and tribal sovereignty. Technically, tribes had a legal advantage in the battle for control over Indian child welfare because the right to oversee issues related to children living on reservations existed as an implicit aspect of sovereignty.<sup>1</sup> American Indians who did not live on reservations or belonged to nations whose terminated status rendered them subject to state laws lacked the protection that sovereignty theoretically offered residents of federally-recognized tribes. In practice, however, state courts and welfare agencies largely misunderstood or ignored tribal authority and the interests of terminated and non-terminated Indian communities. To stop the practice of removing Indian children from their homes, Indian women established tribally and community-run alternative child welfare programs and worked through Congress for legislative changes in adoption and foster care processes. In both instances, they worked for tribal control of child welfare and adequate funding of preventative social services.

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<sup>1</sup> B.J. Jones, *The Indian Child Welfare Act Handbook: A Legal Guide to the Custody and Adoption of Native American Children* (Chicago: American Bar Association, 1995), 2

Indian women activists created an Indian child welfare political agenda that not only kept Indian children in their communities but also addressed the problems that led to foster and adoptive placements. Although they acknowledged that there were legitimate issues, such as alcohol abuse and genuine neglect, which required some parents to surrender their children, Indian women did not interpret the current crisis in Indian child welfare as the result of inadequate parenting by Indians. Nor did they place blame exclusively on a culturally insensitive child welfare system. Instead, the activists condemned poverty and the vestiges of colonialism for the problems that precipitated Indian child removals. One Indian woman asserted that “the process of colonization has brought more destruction to these family ties than any internal changes... could have ever created.”<sup>2</sup> According to this woman and others, although colonization and its legacy created the problems Indian families faced, solutions to them rested with the tribes. They argued that Indian nations could and should develop and implement their own policies and programs regarding Indian families and child welfare. By doing so, Indian nations could prevent outside interference in tribal matters, strengthen tribal sovereignty, and successfully address the social problems they confronted. Both the programs Indian women activists established and their petitions to the federal government to uphold the right of Native nations to control Indian child welfare focused on increasing tribal agency in addressing the fundamental difficulties that Indian families confronted.

Indian women’s organized response to adoption differed from their activism to end coerced sterilization, although the two political issues shared many commonalities. Adoption exploitation was similar to coerced sterilization in

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<sup>2</sup> Winona LaDuke, “In Honor of Women Warriors” in *Off Our Backs: A Women’s New Journal* Vol. 11, No. 2, (February 1981), 3.

that the paternalism of the mainstream culture fostered the institution that overwhelmingly affected poor people of color. Despite this similarity, women's political response to adoption diverged from the work of other activists of color regarding adoption and from their own work to end coerced sterilization. Unlike other communities of color that lost their children to a culturally-biased welfare system, Indian parents and activists gained strength from their citizenship in Native nations and framed their work against Indian child removals in the context of tribal sovereignty. Indian women argued that adoption not only destroyed Indian families but ignored the right of the tribes to self governance. This interpretation defined the problem as pan-Indian and political, rather than individual and social.

Indian women distinguished the reform of Indian child foster and adoptive placements from their work against coerced sterilization, in part, because of the wide-spread support the cause garnered throughout Indian Country. In the fight against coerced sterilization, Indian women worked primarily in all-women's networks, but the struggle for Indian child welfare and adoption reform included Indian women in a larger coalition with Indian men. Indian women activists also obtained considerable support for their work against adoption exploitation from organizations and institutions within Native communities and tribal governments that largely had overlooked the problem of coerced sterilization. Many tribes and established groups, such as the National Congress of American Indians and the American Indian Policy Review Commission, did not include ending coerced sterilization in their political agendas but concerned themselves with Indian child

welfare. Much of Indian Country, outside of grass-roots Indian women activists, ignored the problem of coerced sterilization. Perhaps because anti-sterilization activists had a hard time quantifying rates of coerced sterilization many remained unconvinced that the problem existed. Some political organizers thought the practice was isolated rather than pandemic. Finally, tribal leaders understood sterilization as a personal issue rather than one that confronted the tribes. Tribes and organizations could see more clearly, however, the vast number of Indian children taken from their homes and the way in which these interventions threatened tribal sovereignty. Within this context, and with political support from tribes and established political groups, Indian women began to organize.

The formal campaign of American Indians against federal and state child welfare practices in Indian Country began in 1968. Overwhelmed by the number of children removed from their reservation, the Devil's Lake Sioux in North Dakota asked the Association on American Indian Affairs (AAIA) for support. The tribal council had established a policy that prohibited state welfare agents from taking Indian children off the reservation for foster and adoptive care. In response, the Benson County Department of Welfare denied the tribe Bureau of Indian Affairs (BIA) welfare monies administered by the county in an attempt "to starve the tribe into submission" and force it to repeal the legislation. The Devil's Lake Sioux refused to acquiesce. A delegation of tribal members along with representatives of the AAIA convinced the BIA to permit the tribal legislation to stand, by-pass county intervention, and give these funds directly to the tribe.<sup>3</sup>

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<sup>3</sup> *Indian Family Defense: A News Bulletin of the AAIA*, No. 1, (Winter 1974), 6.

In response to the experience of the Devil's Lake Sioux, the AAIA conducted surveys in 1969 and in 1974 on Indian child welfare. These surveys found that twenty-five to thirty-five percent of Indian children lived away from their parents and communities in institutions, foster placements, and adoptive homes. The AAIA took action and charged that welfare workers removed Indian children from their homes because of "vague standards" based on material conditions. According to the AAIA, welfare agents took Indian children from their families primarily because these homes did not meet white middle-class material standards and child-rearing expectations, not because they presented any danger to the children residing there. For example, in one North Dakota tribe, welfare agents removed only one percent of Indian children from their homes because of physical abuse. Such glaring problems with state and county welfare agents led the AAIA to conclude that the "ultimate responsibility" for child welfare must: "rest with the American Indian tribes and urban communities."<sup>4</sup> In accordance with arguments put forth by Indian women, the AAIA found fault with the existing welfare system and identified the solution to the problem as the tribes. Indian nations and organizations needed to exercise sovereignty and political agency to correct the current problems in Indian child welfare. In order to do so, the AAIA assisted tribes with the creation of their own child welfare programs.

In the late 1960s, with funding from HEW and assistance from the AAIA, the Devil's Lake Sioux created a Family Development Center to serve the children of tribal members who were incarcerated for "public intoxication and other misdemeanors."

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<sup>4</sup> Indian Child Welfare Program, Hearings Before the Subcommittee on Interior and Insular Affairs, United States Senate, 93<sup>rd</sup> Congress, Second Session on Problems that American Indian Families Face in Raising Their Children and How These Problems Are Affected by Federal Action or Inaction, April 8 and 9, 1974, (Washington, D.C.: US Government Printing Office, 1975), 4.

Following a parent's arrest, tribal children had previously gone to foster placements overseen by county officials off the reservation. The tribe used the new Family Development Center as "an alternative to incarcerating the parents," so that "the parents and the children were able to live together and receive counseling in a homelike environment." According to the AAIA, prior to the center's establishment, roughly one third of reservation children landed in non-Indian foster care placements. As a result of the Center's housing facility and out-reach program, by the 1970s "only under the most exceptional circumstances [was] a child placed off the reservation."<sup>5</sup>

Armed with their investigative analysis about the number of Indian children in foster and adoptive care and the demonstrable success of tribally-controlled solutions to the problem, such as that of the Devil's Lake Sioux, the AAIA agitated for a federal investigation on Indian child welfare. The organization demanded that the federal government "end the child-welfare crisis, both rural and urban, and the unwarranted intrusion of Government into Indian family life."<sup>6</sup> In response to this demand and the findings of the AAIA's studies, Senator James Abourezk and the Senate Subcommittee on Indian Affairs held oversight hearings on Indian child welfare in April of 1974.<sup>7</sup> The Senate hearings revealed the large numbers of Indian children in foster and adoptive care and exposed problems with state interference in tribal jurisdiction over child welfare matters, cultural bias on the part of welfare workers, and structural barriers that prevented

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<sup>5</sup> Association on American Indian Affairs, AAIA Papers, Child Welfare and Family Defense Projects, 1968-1972, Seely G. Mudd Manuscript Library, Princeton, New Jersey.

<sup>6</sup> Indian Child Welfare Program, Hearings Before the Subcommittee on Interior and Insular Affairs, 7.

<sup>7</sup> Robert Bensen, ed., *Children of the Dragonfly: Native American Voices on Child Custody and Education*, (Tucson: University of Arizona Press, 2001), 12-13.

Indian adults from qualifying as foster and adoptive parents.<sup>8</sup> At the hearings, AAIA attorney, Bertram E. Hirsch, offered seven suggestions that “promot[ed] maximum Indian self-determination in solving” Indian child welfare issues.<sup>9</sup>

Hirsch and the AAIA proposed that Congress pass a law supporting tribal control of Indian child welfare that required economic and structural support from HEW and the BIA. In the suggested legislation, all Indian child welfare cases would proceed through tribal courts, and tribes would certify foster homes. Congress would appropriate special funds for Native homes in which poverty actually endangered children. HEW needed to establish a program to reduce the number of Indian children taken from their communities and to become accountable for upholding the new standards by providing Congress with statistics on the matter. The BIA would subsidize adoptions the same way it did foster placements and create the position, Chief of the Division of Child Welfare and Family Protection Services, to monitor the issue.<sup>10</sup> Information based on the association’s 1969 and 1974 studies and Hirsch’s proposal to solve the problem convinced Senator Abourezk that the current system of Indian child welfare needed significant changes.<sup>11</sup>

Between the initial oversight hearings of 1974 and Senator Abourezk’s introduction of the Indian Child Welfare Act in 1976, Indian women continued to remonstrate against the removal of Indian children from their parents and communities

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<sup>8</sup> Indian Child Welfare Program, Hearings Before the Subcommittee on Interior and Insular Affairs, 35-37.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Francis Paul Prucha, *The Great Father* (Lincoln: University of Nebraska Press, 1984), 1155; *Indian Family Defense*, No. 2, (Summer 1974), 5.

and to establish alternatives to state child welfare agencies. The North American Indian Women's Association (NAIWA) worked for changes in Indian child welfare and the conditions that led to removal of children from their homes. For the latter issues, in particular, they considered preventative measures and BIA financial assistance as crucial to achieving their goals.<sup>12</sup> While NAIWA was concerned with the large numbers of Indian children raised away from their parents and outside of tribal communities, it focused specifically on the family problems. Although welfare agents often removed Indian children from their communities because Indians families fell short of white social and economic standards, NAIWA argued that in some cases, problems with substance abuse and neglect mandated such action. The organization identified substance abuse, suicide, and other problems "contrary to the traditional Indian way of life," that made foster and adoptive placements necessary. Although welfare workers viewed these problems as fixed and culturally determined, NAIWA understood them as part of the colonial legacy and solvable, if addressed. Therefore, NAIWA focused its work on the core causes of Indian child removals, rather than on the actions of state welfare agents. NAIWA argued that in order to prevent the taking of Indian children, tribes and communities had to confront the issues that destroyed Indian families and procure financial support from the BIA to deal with them. In a 1974 resolution, NAIWA demanded that the BIA "increase allocations for social services, including...mental health services, and... sponsor training for more Indian social workers in the areas of

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<sup>12</sup> NCAI Papers, Other Indian Organizations, North American Indian Women's Association (Box 154), Constitution and Bylaws of North American Indian Women's Association, Inc. ND, 1, National Anthropological Archives Smithsonian Institution, Washington, D.C.

child welfare, [and] counseling services.....”<sup>13</sup> According to the group, keeping Indian children in their homes meant that Native communities must establish comprehensive social services. For NAIWA, the solution to Indian Country’s problems with state welfare workers rested with the tribes; rather than allow legitimate social issues to result in non-Indian intervention, NAIWA sought preventative measures by tribes and BIA funding to support them.<sup>14</sup>

An organization of Indian women in New Mexico, Native American Children’s Advocates, also argued that Native nations should control child welfare issues. Native American Children’s Advocates emerged from the April 1974 National Indian Child Development Conference in Albuquerque, New Mexico. The conference, organized by Indian mothers and their supporters, drew a national audience and identified both problems with and solutions to Indian child welfare practices. Native American Children’s Advocates argued that tribes must create laws to protect Indian children, hold welfare agencies “accountable to the tribes they serve,” and establish “preventative counseling” for Indian families. In addition to actions Native nations should take, the organization argued that adoption agencies must find Native homes for Indian children and inform themselves about Native cultures and tribal legal rights.<sup>15</sup> Like NAIWA, Native American Children’s Advocates argued that the tribes had a crucial role to play in

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<sup>13</sup> NCAI Papers, Other Indian Organizations, North American Indian Women’s Association (Box 154), Resolution 10-74 adopted on June 23, 1974 in Sisseton, South Dakota, National Anthropological Archives Smithsonian Institution, Washington, D.C.

<sup>14</sup> In October 1980, the Arizona chapter of the North American Indian Women’s Association hosted a conference on the Indian Child Welfare Act of 1978 that focused on legal aspects of child custody as well as general issues of Indian child welfare. See: “Indian Child Welfare Conference” *Apache Scout* Whiteriver, Arizona, Vol. 10, No. 10, (October. 3, 1980), 11.

<sup>15</sup> *Indian Family Defense*, No. 3, (May 1975), 5

stopping Indian child foster and adoptive placements with non-Indians. Few effective ways existed, however, for the organization to ensure that outside agencies complied with their demands for changes in child welfare policies. Reporting child welfare agencies to local law enforcement or the state was a possibility, but action was uncertain and any complaint took time. Short of intervening directly in the child removal and foster care processes, Native American Children's Advocates had a difficult time implementing these aspects of their agenda.

In a rare case of such direct intervention, a group of White Mountain Apache women liberated Indian children from a non-Native foster home. An Apache mother sought the assistance of acting Chief Judge Anna Early, after relinquishing her son to what she thought was a temporary foster situation. The woman had placed her son in the care of a Christian foster home, the House of Samuel, in Tucson, Arizona for two years. She believed the placement was temporary and allowed her son vacation visits home during holidays and summer. After three years and several missed or abbreviated trips home, the woman turned to tribal leadership for assistance. Chief Judge Early led a group of women who also had children at the House of Samuel to Tucson to retrieve their children. Early and her group successfully brought three children home and encouraged the tribal council to pass legislation requiring that all child placements be processed through the tribe. The law ensured that parents understood the conditions of such placements and that outside agencies understood the nature of tribal sovereignty.<sup>16</sup>

Besides employing direct action to return their children to their community, these White

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<sup>16</sup> *Indian Family Defense*, No. 7, ( April 1977), .3

Mountain Apache women challenged the practices of the welfare system by promoting tribal legislation that gave the tribe an active role in Indian child welfare placements.

Indian women and men in urban settings organized child welfare alternatives similar to those created by Indian women's groups, such as Indian-run child and family welfare programs. Project Ah-be-no-gee (Anishanabeg for child), began in 1975 in Minneapolis and served the needs of urban Indians in the city. Funded by HEW's Office of Child Development and run by Indians at the Center for Urban and Regional Affairs at the University of Minnesota, the project endeavored to address American Indians' reticence to use counseling services, establish preventative social service measures for Indian families, identify the "child-welfare needs" of Indians in order to serve them better, and create legislation for state and local courts and agencies regarding Indian child welfare.<sup>17</sup> Project Ah-be-no-gee focused on the ways in which an organization run by American Indians could serve the specific needs of Indians and address the challenges they faced when welfare agents took their children away. In part, project Ah-be-no-gee worked on making courts accountable for the implementation of Indian child welfare legislation and for making placements that were truly in the best interest of children, parents, and tribes. It also established preventative services and therapeutic care that resulted in healthier Indian families and communities and lower rates of Indian child removals. Similarly, the Native American Committee (NAC) in Chicago encouraged Native communities to cultivate Indian resources in order to protect Native children.<sup>18</sup>

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<sup>17</sup>*Indian Family Defense*, No. 5, (May 1976), 2-3.

<sup>18</sup> *Indian Child Welfare: A State-of-the-Field Study, Summary of Findings and Discussion of Policy Implications*, US Department of Health, Education, and Welfare, Office of Human Development, Office of Child Development, Children's Bureau, DHEW Publication No. (OHD) 76-30096.

For NAC this meant establishing enough Native foster and adoptive homes for Indian children in need of care. To meet this objective, NAC helped Indian families navigate the foster and adoptive parent certification processes. Although tribes and Indian organizations could not legislate for non-tribal entities or hold non-Indian courts accountable for tribal legislation, their actions to educate both Indian people about their rights and non-Native institutions about sovereignty as they pertained to Indian child welfare helped them accomplish their goals of increased Indian and tribal control over Indian child welfare.

Cognizant of the issues Indian women raised about the rights of families and the issues they faced, the tribes also began to exert control over Indian child welfare. Using money from the Economic Opportunity Act and the Juvenile Delinquency Prevention and Treatment Act as well as grants from the Bureau of Indian Affairs, Native nations created tribally-run child welfare programs.<sup>19</sup> For example, the Rosebud reservation created an “Attention Center” in 1972 to meet the needs of adolescents judged delinquent by the tribal court. At the center, the youth received counseling and a place other than tribal jail to stay. This service prevented these children from being sent to foster care or a boarding school. The Mississippi Choctaws created a similar organization in hope of circumventing both the removal of children and criminal behavior among the tribe’s youth. The Choctaw Youth Development Center was a residential facility that provided therapeutic care to girls and boys who were “abandoned or neglected” or “leaned toward

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<sup>19</sup> “Brief Overview of Community-Based Indian Family Defense and Child Welfare Programs,” AAIA Papers, Child Welfare and Family Defense Projects, 1968-1972, 2, Seely G. Mudd Manuscript Library, Princeton, New Jersey.

delinquent behavior.”<sup>20</sup> These tribally-run organizations addressed the social problems that previously had brought outside intervention in Indian child welfare and kept Indian children in their home communities and with their families.

Native nations passed legislation aimed at keeping Indian children on their reservations. In response to the Cheryl DeCoteau case, the Sisseton-Wahpeton Sioux passed a tribal act to stop the removal of Indian children from the reservation to white foster and adoptive care. The act pledged to place these children in Indian foster homes if their situation legitimately warranted removal. The Three Affiliated Tribes passed similar legislation in support of placing Indian children “with Indian families wherever and whenever possible.” The Oglala Sioux demanded that “the placement of Indian children with non-Indians by the State and the BIA welfare department cease.”<sup>21</sup> In these cases, tribes exercised sovereignty and created tribal laws that kept Indian children in their communities and prevented outside interference in issues of Indian child welfare. The legislation, however, did not address the reasons why welfare agencies removed Indian children from their homes. Nor did it discuss the measures Indian communities could take to address the legitimate causes of these removals in the way that Indian women activists did in both urban and reservation settings.

Indian women working within Native nations created tribally-run child welfare alternatives to county, state, and federal programs. Similar to the child welfare projects in urban areas, these initiatives centered on the wellbeing of the entire community and the empowering of the tribe. In response to a lack of knowledge about Quinault culture by

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<sup>20</sup> Ibid.

<sup>21</sup> *Indian Family Defense*, No. 1, (Winter 1974), 7

outsiders and intervention in child welfare issues by non-tribal authorities, Goldie Denny, Director of Social Services for the Quinault Nation and member of the National Congress of American Indians, started a tribally-controlled child welfare program. According to Denny, the “Quinault tribe has developed, on its own, with no help from the Bureau of Indian Affairs, no help from the state, no help from the county, a human resource delivery system consisting of the provision of 34 different types of services on the reservation.”<sup>22</sup> After five years of operation, Denny’s social service department handled all of the Quinault Nation’s child welfare services and enjoyed more credibility in the courts “than the department of social and health services does in our area.” Licensed Indian foster homes grew from seven to thirty-one, and children’s time in foster care decreased from an average of five years to one year. Most strikingly, the tribe returned fifty-two Quinault children in foster care to their biological parents.<sup>23</sup> By putting tribal assets into a human resource delivery system, Quinaults provided stable short-term foster care for many of their children while addressing the needs of Indian families. The Quinault Nation’s social service program exemplified the argument Indian women put forth about Indian child welfare. With a focus on preventative measures, tribes addressed the issues in their communities, and in the end they exercised tribal sovereignty by solving the problems of troubled families. The Quinault social service program highlighted the need to assist Indian families with substance abuse problems, provide counseling for families in crisis, and address issues of poverty. Rather than removing

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<sup>22</sup> Testimony of Goldie Denny, Director of Social Services, Quinault Nation and National Congress of American Indians. Indian Child Welfare Act of 1977, Hearing before the United States Senate Select Committee on Indian Affairs, 95<sup>th</sup> Congress First Session on S. 1214 To Establish Standards for the Placement of Indian Children in Foster or Adoptive Homes, To Prevent the Breakup of Indian Families, And for Other Purposes, August 4, 1977, 78-79.

<sup>23</sup> Ibid., 79.

children, Quinaults sought to assist all members of the family unit to make the child's biological home a safe place to live.

As Indian women within Native nations and organizations addressed the problem of Indian child welfare, the Department of Health, Education, and Welfare (HEW), the American Indian Policy Review Commission (AIPRC), and the American Academy of Child Psychiatry studied the issue. Criticism of HEW made by the AAIA, NCAI, the National Tribal Chairman's Association, and others during the 1974 Senate oversight hearings prompted the organization's self-study of Indian child welfare. *Indian Child Welfare: A State of the Field Study* published by HEW in 1976, concurred that the federal government must support tribal governments' control over Indian child welfare and provide the tribes with adequate funding to do so.<sup>24</sup> The study examined ten reservations, seven off-reservation Indian communities, and the policies of twenty-one states regarding Indian child welfare. It found that the \$10.7 million available to tribes to share for development programs ranging from economic improvement to education was not enough for them to create tribally-run child welfare systems. The HEW study also argued that "the most pressing need is for more involvement by tribal governments and other Indian organizations in the planning and delivery of [child welfare] services." HEW acknowledged that further intervention of non-Indian child welfare agencies would only exacerbate rather than ameliorate the problem. The study put forth four goals for improving Indian child welfare practices. The first objective encouraged the participation of tribes and Indian communities in child welfare issues. The second addressed the gap between Native cultures and established child welfare policies. The third supported the

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<sup>24</sup> *Indian Family Defense*, No. 7, (April 1977), 4

placement of Indian children in Native foster and adoptive homes. The final goal was the appropriation of resources to assist Indian families and communities in their efforts to create social service programs that maintained the health of Indian families.<sup>25</sup>

The same year, the American Indian Policy Review Commission included in its sweeping survey of issues in Indian Country an investigation of adoption and foster care. The AIPRC commissioned the AAIA to prepare a study on adoption that surveyed conditions in Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming (see Table 1 at end of chapter).<sup>26</sup> The AIPRC Task Force Four on Federal, State, and Tribal Jurisdiction concluded that “removal of Indians from Indian society has serious long- and short-term effects, both for the tribe and the individual child . . . .” The study argued in favor of the tribes maintaining control over Indian child welfare matters and of the federal government providing Native nations with adequate funds to address such issues at the local level.<sup>27</sup> The AIPRC suggested that Congress create “comprehensive legislation” that solved the “problem of Indian child placements.”<sup>28</sup>

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<sup>25</sup> Indian Child Welfare: A State-of-the-Field Study, foreword, 11, 19, 25.

<sup>26</sup> Bensen, *Children of the Dragonfly*, 13; *Indian Family Defense*, No. 6 December 1976, 4; *Indian Family Defense*, Number 7, (April 1977), 6.

<sup>27</sup> Report on Federal, State, and Tribal Jurisdiction, 78; Hearing Before the Subcommittee on Indian Affairs and Public Lands of the Committee on Interior and Insular Affairs, House of Representatives, 95<sup>th</sup> Congress Second Session on S. 1214, To Establish Standards for the Placement of Indian Children in Foster or Adoptive Homes, To Prevent the Breakup of Indian Families, and for Other Purposes, Hearings held in Washington, D.C., February 9 and March 8, 1978, Serial No. 96-42, (Washington: U.S. Government Printing Office 1981), 32.

<sup>28</sup> Report on Federal, State, and Tribal Jurisdiction, 78, 87.

In 1977, The American Academy of Child Psychiatry sponsored a national conference in Bottle Hollow, Utah to address these very issues.<sup>29</sup> Child welfare specialists and American Indian women and men from across the country attended the “Supportive Care” conference. Participants discussed how Indian children fared in foster and adoptive care. They examined not only the short-term effects of removing Indian children from their homes but also the long-standing and intergenerational consequences. The conference concluded that “particularly in adolescence, they [American Indian youth] are subject to ethnic confusion and a pervasive sense of abandonment with its attendant multiple ramifications, consequently these problems, combined with their untoward early childhood preplacement experiences, adversely affect their young adulthood and their own potential parenting capacities.”<sup>30</sup> Participants argued it was crucial to keep Indian children in their families and communities of origin. The conference also focused on what precipitated these removals. They identified “alcoholism and the sense of failure of many Indian... young adults” as obstacles to successful parenting.<sup>31</sup> Like many women activists in Indian Country, the participants at Bottle Hollow saw that the solutions to Indian child welfare issues rested with tribal attention to Indian families. Those in attendance at Bottle Hollow sought to develop tribally-specific intervention services that would involve Indian communities in Indian child welfare, affirm Indian cultures as functional and valid, consolidate and clarify available services

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<sup>29</sup> *Supportive Care: Custody Placement and Adoption of American Indian Children Special Questions and New Answers A National Conference Sponsored by the American Academy of Child Psychiatry*, April 19-22, 1977, Bottle Hollow, Utah prepared and edited by Janet P. Swenson.

<sup>30</sup> *Ibid.*, 8.

<sup>31</sup> *Ibid.*, 15.

to Indian communities, and take preventative measures as well as corrective ones in order to arrest the high numbers of Indian children in foster and adoptive care.<sup>32</sup>

The Senate oversight hearings of 1974, the actions taken by tribes and organizations publicized in *Indian Family Defense*, and the subsequent studies conducted by HEW and the AIPRC culminated in the introduction of the Indian Child Welfare Act.<sup>33</sup> The bill supported tribal control over child welfare, set standards for foster and adoptive care placements, and sought to strengthen Indian families rather than destroy them. Senator James Abourezk introduced the Indian Child Welfare Act, drafted by the AAIA at the Senate Interior Committee's request, at end of the Congressional year in August of 1976 to stimulate a dialogue on the issue. He reintroduced the bill with co-sponsors Senators Hubert Humphrey (D-Minnesota) and George McGovern (D-South Dakota) at the beginning of the 95<sup>th</sup> Congress in April of 1977. The Senate and House of Representatives heard testimony from the American Indian Policy Review Commission, the North American Indian Women's Association, the Bureau of Indian Affairs, the Adoption Resource Exchange of North America, the Church of Jesus Christ of Latter-Day Saints' Indian Student Placement Service, and Native nations and individuals throughout 1977 and 1978.<sup>34</sup>

The bill sparked mixed reaction from Indian Country and those involved in Indian child welfare. Native organizations and tribes generally supported the legislation, although they expressed concern about how it affected Indian children, tribal sovereignty,

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<sup>32</sup> *Ibid.*, 19.

<sup>33</sup> *Indian Family Defense* had a circulation ranging from 3,000 to 5,000 during 1974-1979.

<sup>34</sup> *Indian Family Defense*, No. 6, (December 1976), 6; *Indian Family Defense*, No. 8, (November 1977), 2; *Indian Family Defense*, No. 10, (June 1978), 1. The Senate passed the act in November of 1977; Morris K. Udall (D-Arizona) and sixteen co-sponsors introduced the bill in the House in 1978.

and non-recognized tribes. They also argued that Congress must increase the bill's proposed funding. The BIA, ARENA, IAP, and the LDS Indian Student Placement Program challenged the bill because, they claimed, it privileged tribal sovereignty over the rights of individual children and their parents. Theoretically, these organizations had the "best interest" of Indian children at heart: they wanted Indian children in healthy, safe environments. Their focus, however, obscured the best interests of the tribes, which had a stake both in the welfare of their children and their sovereign right to manage Indian child placement issues. These organizations also failed to acknowledge the potential damage of raising Indian children away from their home communities and cultures.

Indian women, representing Native tribes and organizations, supported the preliminary version of the bill but saw ways to improve the pending legislation. Ramona Bennett, Chairwoman of the Puyallup tribe, testified before the Senate Select Committee on Indian Affairs that the "Puyallup tribe sees this National Standard [ICWA] as an opportunity to provide relief to our members and individual Indian people who currently are subjected not only to the 'state standards' but also to the racist application of those standards by non-Indian, non-sensitive social and caseworkers of 'state agencies.'" <sup>35</sup> Yet, Bennett and the Puyallup nation had serious reservations about aspects of the bill and urged Congress to resolve them before signing it into law. According to Bennett, the Puyallup nation found that "the bill requires such strict and unreasonable 'causes for removal' that children would be left for years in semi dangerous, semi functioning family situations. There is absolutely no opportunity for Tribes, or Urban programs working

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<sup>35</sup> NCAI Papers, Testimony of Ramona Bennett, Puyallup Chairwomen, Before the Select Committee on Indian Affairs, United States Senate on S. 1214, August 4, 1977, Committees and Special Issues, Health: Child Welfare, ARENA folder, (Box 299), National Anthropological Archives Smithsonian Institution, Washington, D.C.

with State or Tribal Agencies to intervene on the behalf of children who are receiving inadequate care. Some discretion must be incorporated into the final draft.”<sup>36</sup> Bennett and her tribe wanted the bill to address the issues Indian families faced, rather than merely curb Indian child removals. In its attempt to keep Indian children in Native communities, the bill focused, in the Puyallups’s estimation, on keeping children with their parents regardless of the level of care those parents provided. According to Bennett, as it stood, the Indian Child Welfare Act worked toward the goal of keeping Indian children with their families of origin without providing the social services needed to address legitimate problems. Bennett demanded that the final version of the bill include provisions for interventions by tribal, local, and state agencies on behalf of families in need of assistance. Then not only would Indian children remain in their families of origin, but their parents could receive the services they needed to make their homes safe for their children. At the same time, Indian children would get attention and care from these agencies during transitional periods.

The North American Indian Women’s Association issued a letter, penned by Hildreth Venegas, which supported the bill and offered suggestions. “Among [our] immediate concerns is the welfare of our children,” the letter asserted, but the group feared the current version of the bill threatened tribal sovereignty. NAIWA argued that the “federal standards” outlined by the bill “imposed undue limitations on tribal sovereignty” because these rules applied to “all tribes regardless of varying customs and traditions.” Although the desire to exercise sovereignty and control Indian child welfare united Native nations, each tribe had a distinct history and set of cultural practices. NAIWA feared that ICWA’s imposition of a national standard for all Indian tribes would

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<sup>36</sup> NCAI Papers, Bennett Testimony, 2.

ignore these cultural differences and compromise the ability of individual nations to control child welfare as they saw fit. NAIWA urged “tribal leaders to review very carefully the contents of S. 1214 and to testify at Senate hearings to request amendments to provide acceptable standards and the necessary special services which should be included in the Indian Child Welfare Act of 1977.”<sup>37</sup> NAIWA’s concerns over threats to tribal sovereignty made sense given its approach to the child welfare crisis; they argued that in addition to federal legislation the tribes must pass their own laws creating tribally-specific protocols and social services.

Omie Brown, Director of the Urban Indian Child Resource Center of Oakland, California, a sub-group of the Indian Nurses of California, Inc., supported S. 1214 but demanded that it include terminated tribes.<sup>38</sup> Indian Nurses of California, Inc., formed the Urban Indian Child Resource Center to help “innocent victims of parental neglect and/or abuse.” The center assisted 215 Native families in the Bay area with food, clothing, and guidance in registering to become foster parents. Prior to the organization’s efforts, only one Indian family in Alameda County held a license to provide foster care. The Urban Indian Child Resource Center licensed six foster families and planned to add an additional ten. Brown urged the Senate to rewrite the “definition of Indian in section 4, paragraph (b)” so that it included members of terminated tribes and read: “‘Indian’ or ‘Indians,’ unless otherwise designated, means any individual who (1) irrespective of

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<sup>37</sup> Letter from Hildreth Venegas, North American Indian Women’s Association, 292. Indian Child Welfare Act of 1977, Hearing before the United States Senate Select Committee on Indian Affairs, 95<sup>th</sup> Congress First Session on S. 1214 To Establish Standards for the Placement of Indian Children in Foster or Adoptive Homes, To Prevent the Breakup of Indian Families, And for Other Purposes, August 4, 1977.

<sup>38</sup> Testimony of Omie Brown, Director of Urban Indian Child Resource Center of Oakland, California, Hearings Before the Subcommittee on Indian Affairs and Public Lands of the Committee on Interior and Insular Affairs, House of Representatives 95<sup>th</sup> Congress, Second Session on S. 1214 February 9 and March 9, 1978, 29.

whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups, terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendent, in the first or second degree, of any member or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is determined to be an Indian under regulations promulgated by the Secretary.”<sup>39</sup> Despite criticism of the bill, the Center, as well as most Indian women’s organizations and tribal representatives, were willing to support federal legislation that addressed Indian child welfare.

The Bureau of Indian Affairs, however, argued it could not support the bill.<sup>40</sup> BIA officials thought ICWA was unnecessary because of the authority tribes currently held in issues of Indian child welfare and the work the BIA already did on behalf of Indian children. In their testimony, representatives of the BIA did not discuss specifically the authority that tribes supposedly exercised over these matters. Technically, sovereignty meant that Native nations took precedence over state and local agencies in matters of child welfare, but in practice this was rarely the case and thus difficult to exemplify. Therefore, the BIA criticized the bill as misguided. Testifying for the BIA, Rick Lavis, Deputy Assistant Secretary for Indian Affairs, maintained that Title I of the bill privileged first the rights of the tribes over the rights of Indian parents as well as the

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<sup>39</sup> Ibid., 138-142.

<sup>40</sup> Statement of Raymond V. Butler, Acting Deputy Commissioner, Bureau of Indian Affairs, Department of the Interior, Before the Hearing of the Select Committee on Indian Affairs, US Senate, On S. 1214, The “The Indian Child Welfare Act of 1977,” August 4, 1977, 1.

rights of Indian children.<sup>41</sup> As a result of this focus on the rights of the tribe, the BIA feared that Indian children might suffer in unsafe environments.

According to Raymond V. Butler, Acting Deputy Commissioner of the Bureau of Indian Affairs, the legislation under consideration was superfluous because “other Federal agencies already provide (or have the authority to provide) many of the family development services authorized in S. 1214; . . . and that enactment of the Administration’s major new child care legislation (S. 1928) will be of assistance to Indians as well as the general population.”<sup>42</sup> This proposed bill, ultimately passed in 1980, reformed the current foster care system for all American children with the goal of removing them from their biological families only when necessary, returning them to their homes of origin when possible, and increasing the agency of biological parents in the foster care and adoption processes. S. 1928 focused on individual families, however, and failed to address the issue of tribal sovereignty in issues of child welfare, the main goal of ICWA. Butler ignored the legal rights of the tribes and argued that Indian children would receive adequate care under the proposed national legislation.

In defense of current BIA child welfare policies, Butler argued that the BIA’s work with the Adoption Resources Exchange of North America (ARENA) effectively served Indian children in need of foster and adoptive care. He claimed that ARENA placed Indian children in white homes only because it was “generally difficult to locate families for many older or handicapped children,” a category into which most Indian

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<sup>41</sup> Indian Child Welfare Act of 1977, Hearing Before the United States Senate, Select Committee on Indian Affairs, 95<sup>th</sup> Congress, First Session on S. 1214, To Establish Standards for the Placement of Indian Children in Foster or Adoptive Homes, To Prevent the Breakup of Indian Families, and for Other Purposes, August 4, 1977, (Washington: US Government Printing Office, 1977), 54

<sup>42</sup> Statement of Raymond V. Butler, Acting Deputy Commissioner, Bureau of Indian Affairs, 3.

adoptees fell. Although this “resulted in some placements in non-Indian adoptive homes,” according to Butler, no need existed for legislative intervention. Butler also spoke in defense of boarding schools by maintaining that they provided foster care for Indian children “at the choice of the parents.”<sup>43</sup> Butler and the BIA failed to acknowledge that ARENA placed Indian children almost exclusively in white homes and that many Indian parents sent their children away to federal boarding schools because these institutions offered better opportunities and living conditions than many reservations could. The BIA’s position on the bill rested on the dated and culturally-biased notion that the best way to “solve” Indian child welfare issues was to raise Indian children in white homes and institutions. This logic ignored conditions in Indian Country, such as poverty, that sometimes predicated the need for child removals and boarding schools. It also denied the possibility of addressing these problems rather than removing Indian children from them.

Officials of ARENA, which was affiliated with the BIA and the most influential private organization in Indian child adoption, testified independently against the act. The organization concurred with the BIA that Title I of the bill, which transferred cases to tribal courts for legal proceedings and permitted parents to withdraw consent, thwarted efforts to place Indian children in safe permanent homes.<sup>44</sup> Similar to arguments made by Goldie Denny and Ramona Bennett, ARENA wanted Indian children in safe environments. Denny, Bennett, and other Indian women activists, however, thought that, in order to ensure this, Indian communities could create social service programs that

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<sup>43</sup> Ibid., 1-2.

<sup>44</sup> Testimony of ARENA, Indian Child Welfare Act of 1977, Hearing Before the United States Senate, Select Committee on Indian Affairs, 95<sup>th</sup> Congress, First Session on S. 1214, To Establish Standards for the Placement of Indian Children in Foster or Adoptive Homes, To Prevent the Breakup of Indian Families, and for Other Purposes, August 4, 1977, (Washington D.C.: U.S. Government Printing Office, 1977), 141-144.

addressed the challenges that resulted in Indian child removals. ARENA and the BIA advocated for a solution that removed Indian children from their families and ignored the conditions in Native communities that precipitated interventions.

The Church of Jesus Christ of Latter-Day Saints' Indian Student Placement Service, another powerful private organization involved in Indian child foster care, also testified against the act. Harold C. Brown, Commissioner of the LDS Social Services and Director of the Personal Welfare Services of the LDS church, complained that the bill failed to protect programs like the Indian Student Placement Program which annually placed "LDS Indian children, ages eight to 18," in schools "for educational, cultural, social, spiritual, and leadership opportunities." According to Brown, Indian families participated in the program voluntarily and could terminate their involvement at any time. Licensed caseworkers ran the program and selected "carefully prepared and selected Latter-day Saint [foster] families" who received no monetary compensation for taking Indian children into their homes during the school year. Brown stressed the programs collaborative nature: "Foster parents work[ed] closely with natural parents by inviting them to visit their homes; visiting natural parents during summer months; writing regularly to report the child's progress; [and] sending pictures, tape recordings, progress reports and other information." Supposedly, in the LDS Indian Student Placement Service, "foster parents become partners with the natural families to give the best to Indian youth." Brown testified that "a primary objective of placement is to teach Indian youth skills so they can return to the reservation and help their own people." Nevertheless, his organization could not support the bill: "although the intent of the bill is not to destroy the self-determination of Indian families, it would seriously limit or impede

their choice in being able to voluntarily place their children for educational, spiritual, or other opportunities.”<sup>45</sup>

Some American Indians supported the LDS Indian Student Placement Program in its opposition to ICWA. Nora Begay, a Navajo from Kaibeto, Arizona, who spent eight years as a participant in the LDS Indian Student Placement Program, provided her written testimony asking that ICWA be revised to protect the LDS program. Begay explained that her parents and grandmother feared she would not receive a strong enough education to continue on to college if she attended federally-funded reservation schools. Begay’s family saw the LDS program as a superior educational path for her. After her time in the LDS program, Begay attended Brigham Young University, graduated with a degree in communications, and “worked for the Navajo Tribe in a public relations program” with the goal of “helping many of my Navajo people in securing land for their families and their future.” Begay closed her letter with a plea to “keep this program alive” as it “helped make my dreams come true,” and “Indian children need some place to turn for the opportunities that are sometimes lacking on the reservation.”<sup>46</sup> Navajo Tribal Judge Isabel Naranjo, a mother and grandmother with two generations of her family having been in the LDS placement program, agreed that “the education they [Indian children] receive on the reservation is fair, but the education they receive off the reservation is far greater!” George P. Lee, Member of the First Council of Seventy of the LDS church and former President of the College of Ganado, at Ganado, Arizona, “strongly urged that

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<sup>45</sup> NCAI Papers, Committees and Special Issues, Health: Child Welfare, ARENA folder (Box 299), Statement of Harold C. Brown, Commissioner of LDS Social Services/Director of Personal Welfare Services of The Church of Jesus Christ of Latter-Day Saints (Mormon) Before the Select Committee on Indian Affairs, United States Senate on S. 1214, August 4, 1977, 1-3, 7, National Anthropological Archives Smithsonian Institution, Washington, D.C.

<sup>46</sup> Ibid., 6-7.

Senate Bill 1214 be amended to protect the Indian Student Placement Service.” Lee suggested that the bill provide “that temporary residence for a period of less than one year at a time by a child in the home of another family without charge for educational, spiritual, cultural or social opportunities for the child, and with terminable written consent of its parents or guardian, shall not be considered a placement and shall not be restricted by this Act.”<sup>47</sup>

The Church of Jesus Christ of Latter-Day Saints and Indian participants in the Indian Student Placement Program argued that their program existed outside of ICWA’s purview as it was voluntary, temporary, and focused on education. The LDS Indian Student Placement Program, however, kept Indian children away from their parents and communities for nine months of the year. It employed a paternalistic framework of “progress reports” and visits home that included Indian parents in a process that privileged white foster parents as the authorities. Beyond these challenges to Indian parental authority, the program strengthened the tradition of seeing Indian tribes and communities as inadequate by removing Indian children from their families for presumably superior religious and educational training in white society.

Despite objections from the Bureau of Indian Affairs, ARENA, and the LDS Indian Student Placement Program, Congress heeded the concerns of Native tribes and organizations and passed the Indian Child Welfare Act in November of 1978. President Jimmy Carter subsequently signed it into law (Public Law 95-608).<sup>48</sup> ICWA sought to maintain “the integrity of Indian families by eliminating abusive child-welfare practices

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<sup>47</sup> Testimony of George Lee, 7.

<sup>48</sup> Indian Child Welfare Act, Public Law 95-608, November 1978, 95<sup>th</sup> Congress, 92 Stat. 3069, Indian Child Welfare Act of 1978.

that result in unwarranted Indian parent-child separations, ending discrimination that has prevented Indian parents from qualifying as foster or adoptive families, and providing Indian communities with comprehensive child-welfare and family service programs.”<sup>49</sup> The act formally acknowledged the impact that the removal of Indian children had on Indian families, Native cultures, and tribal sovereignty. The federal government took responsibility for creating “minimum federal standards” for taking Indian children away from their homes and promised that these regulations would “reflect the unique values of Indian culture, by providing for assistance to Indian tribes in the operation of child and family service programs.”<sup>50</sup>

ICWA supported tribal control over welfare and court proceedings for Indian child removals. The act placed children in need of foster or adoptive care first with Indian families when possible.<sup>51</sup> It put Indian children who belonged to federally-recognized tribes, as well as children who were members of terminated and non-recognized groups (contingent on the group’s ability to prove their legitimacy as a tribe) with their extended family, their tribe, and finally other American Indians. In addition, parents, custodians, and tribes received full disclosure about placements and had the right to intervene at any time during placement proceedings. Parents could challenge finalized adoptions if agents wrongfully obtained their consent for the adoption. In order to remove an Indian child from his or her home, caseworkers needed to prove in the legal proceedings that they had exhausted all other options and demonstrate that keeping the child in his or her home

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<sup>49</sup> *Indian Family Defense*, No. 11, (February 1979), 1.

<sup>50</sup> Indian Child Welfare Act, Public Law 95-608, Section. 3.

<sup>51</sup> *Ibid.*, Section 105.

would cause harm. Finally, if the child's tribe observed a different protocol regarding foster care placements and adoption the proceedings would follow the wishes of the tribe.

In practice, ICWA protected the interests of Indian children, parents, and tribes in two primary ways. First, the act endeavored to keep Indian children in their home communities and with their biological families. It achieved this goal by ensuring that state courts comply with the act's regulations and that they hold welfare agencies accountable to them. Second, ICWA contained a transfer provision that allowed cases of foster care and termination of parental rights to go through tribal courts. This permitted the tribes to exercise sovereignty by maintaining control over Indian child welfare proceedings and employing whatever standards they had chosen for such matters. In cases where a parent terminated his or her parental rights prior to adoption, the tribe functioned as the "primary benefactor" of ICWA's stipulations and acted as custodian to the child. In these cases, the rights of the tribe superseded all others.<sup>52</sup>

Despite its promising agenda, the Indian Child Welfare Act initially caused mixed results. ICWA helped educate state courts and social welfare agencies about the issues specific to Indian child adoption and foster care placements. The act also upheld the sovereign right of tribes to protect the welfare of Indian children. In practice, however, courts and caseworkers struggled with the transition to new regulations. Indian communities suffered a lack of licensed Indian foster parents. Most significantly, the twenty-six million dollars appropriated to implement the act was not sufficient to execute its objectives properly. ICWA failed to provide the funding that Indian activists and tribes

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<sup>52</sup> B.J. Jones, *The Indian Child Welfare Act Handbook: A Legal Guide to the Custody and Adoption of Native American Children* (Chicago: American Bar Association, 1995), 13, 35, 83.

thought was necessary to address the social problems that caused the removal of some children from their families.<sup>53</sup>

Almost immediately after the bill became law, Indian women's groups mobilized to put the provisions of ICWA into operation. The Indian Women's Defense Committee in California held workshops to assist child welfare workers in making the transition to the new policy. The group also addressed issues specific to terminated tribes, whose members needed to prove tribal legitimacy before they could benefit from the law.<sup>54</sup> The Assembly of California Indian Women organized five state-wide meetings involving Indian people from San Diego, Fresno, Sacramento, and Ureka to discuss what the bill implied for them. Connie Reitman, president pro-tem of the organization, used information gathered at these sessions, to argue that cultural insensitivity plagued ICWA placements. Reitman insisted that in a case in which an Indian child's grandfather was alcoholic and the grandmother was stable, the child should live with her grandparents because in most Native cultures, grandmothers assumed primary responsibility for the care of children.<sup>55</sup> Reitman's critique revealed one of the act's weaknesses: it focused on keeping Indian children in Native homes without addressing the problems that Indian families faced, in this case alcoholism. Although Reitman correctly drew attention to the failure of ICWA to deal with bias on the part of social welfare workers, her critique also illuminated a problem that ICWA had created. Keeping a child in an Indian home, if it

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<sup>53</sup>Ibid., 109-112.

<sup>54</sup> Assembly Committee on Human Resources Public Hearing Indian Children: Adoption, Foster Care (AB 1041, Bates) Sacramento, California, October 9, 1979; Joseph A. Myers, ed. *They are Young Once But Indian Forever: A Summary and Analysis of Investigative Hearings on Indian Child Welfare, April 1980* (Oakland, CA: American Indian Lawyer Training Program, Inc., 1981), 23.

<sup>55</sup> Assembly Committee on Human Resources Public Hearing Indian Children: Adoption, Foster Care, 71, 81.

was unsafe, was not in the best interest of the child. Failure to contend with these issues perpetuated unsatisfactory foster placements.

Problems with licensing Indian foster parents also challenged ICWA's promises. Nearly a year after Congress passed the Indian Child Welfare Act, Los Angeles County had approximately seventy Indian children in foster care but only four to six registered Indian foster families in the area. According to Arlene Gilbert of the Los Angeles County Department of Public Social Services, "The major problem" involved in implementing the ICWA was "the inability of Indian families who were interested [in being foster parents] to meet the licensing standards." Specifically, poverty, over-crowded living space (according to licensing standards), and previous arrest records prevented some willing Indian adults from becoming foster parents.<sup>56</sup> One Indian foster family summed up the problem: "Indian peoples' standards and ways of life do not meet the standards of the welfare department." According to this couple, many Indian adults were wary of becoming foster parents because they thought that courts and social service institutions were judgmental institutions that would reject their candidacy out of hand.<sup>57</sup> These barriers also resulted in the continued placement of Indian children in non-native homes.<sup>58</sup> In Portland, Oregon the Indian Child Welfare Program of the Urban Indian Council described the "crucial need" in their area for Native foster parents.<sup>59</sup> Without

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<sup>56</sup> Ibid., 99.

<sup>57</sup> Interview with Licensed Indian Foster Family, AAIA Papers, Child Welfare and Family Defense Projects, 1968-1972, 2, Seely G. Mudd Manuscript Library, Princeton, New Jersey.

<sup>58</sup> Christine Jackson, "Conference Addresses Need for More Indian Adoptive Families" in *Indian Country Today*, Vol. 8, No. 3 (July 19, 1988), 6.

<sup>59</sup> "Indian Foster Homes Needed" in *The Skanner*, Portland, Oregon, Vol.7, No. 26, (March 31, 1982), 2.

registered Indian foster families, ICWA could not realize its goal of keeping Indian children with Native families. Licensing Indian foster parents was a particular challenge in urban areas because much of the population had recently moved there, and they were too poor or otherwise unable to serve as foster parents.

Lack of funding presented tribes with the greatest challenge to successful implementation of ICWA.<sup>60</sup> The Navajo nation, for example, requested \$2.7 million to apply ICWA's provisions to its 70,000 minors, but the BIA allocated \$47,005 to the Navajos, which the Navajo Nation's Department of Social Welfare saw as grossly insufficient.<sup>61</sup> In a 1980 Senate oversight hearing on the implementation of ICWA, testimony came from the Navajo Nation as well as the Intertribal Council of Arizona, Yakima Nation, Fort Belknap Indian Community (including the Gros Ventre and Assinboine tribes), Crow Tribal Council, Central Maine Indian Association, Sisseton-Wahpeton-Sioux Tribe of the Lake Traverse Reservation, and the Intertribal Children's Program (serving the Iowa, Sac and Fox, Kickapoo, and Prairie Band of Potawatomi in Kansas). All argued that ICWA provided tribes and organizations with inadequate funds

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<sup>60</sup> Hearing Before the Select Committee on Indian Affairs, United States Senate, 96<sup>th</sup> Congress, Second Session on Oversight of the Indian Child Welfare Act (Public Law 95-608) June 30, 1980, (Washington DC: US Government Printing Office, 1980), 35; Myers, *They are Young Once But Indian Forever: A Summary and Analysis of Investigative Hearings on Indian Child Welfare*. Funds available to the tribes came from Snyder Act provisions. In 1924, the Snyder Act granted citizenship to all American Indians.

<sup>61</sup> Statement of Anslem Roanhorse, Supervisory Social Worker, Bi-state Project Department, Division of Social Welfare, Navajo Nation, Hearing Before the Select Committee on Indian Affairs, United States Senate, 96<sup>th</sup> Congress, Second Session on Oversight of the Indian Child Welfare Act (Public Law 95-608) June 30, 1980, (Washington D.C.: US Government Printing Office, 1980), 35.

to meet its goals.<sup>62</sup> Despite these critiques, Congress continued to appropriate insufficient funding for ICWA.

In spite of problems with the implementation of ICWA, Indian activists and tribal leaders had addressed a crucial problem in Indian Country and reaffirmed tribal sovereignty through the passage of ICWA. Indian women activists issued a critique of Indian child welfare practices that demanded the tribes look at the existing social problems in their communities and address them. Real problems existed in Indian families and communities as a result of poverty and substance abuse—both remnants of colonialism. Indian women and their organizations saw these connections. In addition to creating tribally-run social service programs, these women played a significant role in agitating for reform and influencing ICWA. In doing so, Indian women shed light on the issues that faced Indian Country and urged the tribes and the federal government not only to keep Indian children in Indian families, but also to look at the underlying issues that created the need for removals in the first place. Indian women demonstrated that Indian communities needed funding, social services, and support for families in crisis. In its final form, ICWA supported tribal sovereignty, defended the role of the tribes in the adoption and foster care decision-making processes, and set up a system for keeping Indian children in Indian communities. At the same time, it overlooked the more complicated argument Indian women put forth about protecting families from the effects of colonialism in the first place. Larger than the legislation itself, however, was the victory Indian women achieved through their articulation of family rights as sovereign rights.

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<sup>62</sup> *Hearing Before the Select Committee on Indian Affairs, United States Senate, 96<sup>th</sup> Congress, Second Session on Oversight of the Indian Child Welfare Act (Public Law 95-608) June 30, 1980, 45-47, 78, 125, 128, 147, 149.*

Tribal leaders throughout Indian Country grew to embrace the protection of Indian families and their rights as a central part of sovereignty.

Table 1  
American Indian Policy Review Commission Statistics on Indian Child Foster Care and Adoption

State	Native Children in Adoptive Homes	Native Children in Foster Care
Arizona	1 out of every 52.7	1 out of every 98
California	1 out of every 26.3	No data
Idaho	No data	1 out of every 12.9
Maine	No data	1 out of every 13.2
Michigan	1 out of every every 8.1	1 out of every 90
Minnesota	1 out of every 7.9	1 out of every 17.2
Montana	1 out of every 30	1 out of every 28.3
Nevada	No data	1 out of every 47.3
New Mexico	No data	1 out of every 147
New York	No data	1 out of every 74.8
North Dakota	1 out of every 30.4	1 out of every 27.7
Oregon	1 out of every 17	1 in every 27.7
Oklahoma	1 out of every 40.8	1 out of every 135
South Dakota	1 out of every 18	1 out of every 22
Washington	1 out of every 21.6	1 out of every 28.9
Wisconsin	1 out of every 14.3	1 out of every 19
Wyoming	No data	1 out of every 28.9
Utah	1 out of every 20.4	1 out of every 26.4

From: Sherwin Broadhead, Chairman et al, *Report on Federal, State, and Tribal Jurisdiction, Task Force Four: Federal, State, and Tribal Jurisdiction, Final Report to the American Indian Policy Review Commission*, (Washington: U.S. Government Printing Office, 1976), 81-85.

## CONCLUSION

Justine Smith has written that Indian activists “reject a single-issue framework in favor of a framework of sovereignty.”<sup>1</sup> That is, they couch specific political struggles within the larger right of Native nations to self-governance. In the era of Red Power and women’s liberation this is precisely what Indian women did. They argued that “sterilization severs the tie to the unborn future [and] child stealing severs the tie to the already born,” and understood both as an attack on tribal sovereignty.<sup>2</sup> Through their work to stop coerced sterilization and reform Indian child welfare practices, Indian women expanded the meaning of reproductive freedom and established that tribal sovereignty included protecting the rights of women and families.

For the most part, Indian women activists eschewed participation in the feminist movement of white women because they felt it failed to address adequately their political concerns. These women channeled their energy into the Red Power movement that demanded respect for treaty, tribal, and human rights. Indian women were aware, however, of sexism within the movement and their communities, and they acknowledged the failure of the Red Power movement to address specifically the issues that confronted

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<sup>1</sup> Justine Smith “Native Sovereignty and Social Justice: Moving Toward an Inclusive Framework” in *Dangerous Intersections: Feminist Perspectives on Population, Environment, and Development, A Project of the Committee on Women, Population, and the Environment* Jael Silliman and Ynestra King, eds. (Cambridge, MA: South End Press, 1999), 203.

<sup>2</sup> Brint Dillingham, “Sterilization a Conference and Report” in *American Indian Journal*, Vol. 4, No.1, January 1978 (Washington, DC: Institute for the Development of Indian Law): 13-16, 13.

them as both Indians and women. Some of these concerns, such as coerced sterilization and the removal of Indian children to non-Indian foster and adoptive homes, required that Indian women create their own organizations and initiatives to address the crises.

The early twentieth century eugenic movement focused on the sterilization of the biologically “unfit,” but by the late twentieth century, concern shifted to a fear of overpopulation and resistance to the cost of welfare programs. Because eugenicists initially targeted women for sterilization based on their hereditary “deficiencies,” rather than their race or class, they did not seek out Indian women as candidates for eugenic control. Contemporaneously, reformers in Indian Country had constructed a program to transform Indians into competent, assimilated members of the larger society, the antithesis of “unfit” dependents in need of sterilization. By the late twentieth century, however, individuals concerned about the population explosion and welfare costs used population control policies to target women considered socially “unfit.” The women labeled as such—poor women and women of color—were seen as exceptionally fertile and a financial drain on the government. Paternalism and a poor understanding of federal-Indian relations and treaty benefits fostered the coerced sterilization of Indian women at the hands of Indian Health Service physicians and their contract affiliates.

In response to coerced sterilization, Indian women petitioned the federal government for a Government Accounting Office Investigation of the issue, went public with their concerns in Native and mainstream publications, and participated in International Women’s Year state and national conferences, getting coerced sterilization on the national agenda as a women’s issue that demanded immediate attention. As a result of their work, and the activism of other sterilization abuse activists, the Department

of Health, Education, and Welfare issued new comprehensive regulations regarding sterilization. Indian women's efforts arrested the practice of coerced sterilization at IHS facilities and broadened the very definition of reproductive rights to include freedom from coerced sterilization as well as access to birth control and abortion.

With the help of tribes and organizations across Indian Country, Indian women successfully reversed the centuries-old trend of removing Indian children from their parents and communities for "superior" care and education in the mainstream society. By creating tribal and community-run alternatives to state and local welfare agencies, Indian women protected Indian children from non-Indian foster and adoptive placements and demonstrated the ability of the tribes and Indian groups to oversee various aspects of Indian child welfare. Through their testimonies and input on the 1978 Indian Child Welfare Act, Indian women helped create a federal law that policed the actions of state courts in foster care and adoption cases and strengthened tribal sovereignty by placing control over Indian child welfare in the hands of Native nations and tribal courts. Indian women articulated an understanding of Indian child welfare that upheld tribal sovereignty, challenged the paternalist interventions of non-Indians, and examined legitimate problems that confronted Native communities.

Indian women activists placed the rights of Indian women and families at the center of the struggle for sovereignty. They argued that reproductive rights encompassed freedom from unwanted pregnancies and the right to bear and raise children without coercive intervention from Indian Health Services, contract facilities, or non-Indian social welfare services. Indian women fought for the right to *be* mothers; to keep their children in their homes, under their care, and safe from the interference of welfare workers

ignorant of Indian cultures. These activists acknowledged the personal impact that coerced sterilization and forced child removals had on individual Indian women and the political effect these issues had on Native nations. Coerced sterilization and forced foster and adoptive placements granted private, local, state, and federal agents control over matters that existed within tribal jurisdiction. Both practices challenged tribal sovereignty because they usurped the power of tribes to govern. Indian women charged Native nations with securing these rights for Indian women and children and argued that the tribes exercised and strengthened sovereignty by doing so.

In the 1968 Supreme Court case, *King v. Smith*, the court upheld that federal social security programs “cannot be used to enforce middle-class standards or morality” as the mainstream culture defined it.<sup>3</sup> In addition to effecting concrete changes in the form of federal regulations and law, Indian women activists made good on the spirit of *King* and challenged the paternalism and cultural and class biases of healthcare professionals, welfare agents, and local, state, and federal officials. Indian women insisted that non-Indian individuals and agencies respect Native cultures and tribal sovereignty. They demanded that the mainstream women’s movement include freedom from coerced sterilization as part of reproductive justice. And they made clear that upholding the rights of Indian women and families was a key aspect of tribal sovereignty. The women’s liberation and Red Power movements ultimately incorporated the vision of reproductive freedom and tribal sovereignty that Indian women put forth.

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<sup>3</sup> *Indian Child Welfare: A State of the Field Study, Summary of Findings and Discussion of Policy Implications* (Washington D.C. : U. S. Dept. of Health, Education, and Welfare, Office of Human Development, Office of Child Development, Children's Bureau, 1976), 99.

## **EPILOGUE**

### **THE STRUGGLE CONTINUES**

By 1980, the work of Indian women and other anti-sterilization abuse activists, predominantly women of color, resulted in awareness about the connection between race, class, and coerced sterilization as well as the more rigorous HEW guidelines that helped stop the practice. At the same time, the Indian Child Welfare Act endeavored to keep control of Indian child welfare in the hands of the tribes and Indian children in their communities. Threats to Indian women's reproductive freedom and Indian child welfare, however, did not disappear with the Department of Health, Education, and Welfare's sterilization regulations and the federal government's ICWA. The ideological issues that Indian women confronted assumed different guises.

Indian activist and academic Andrea Smith has argued that the threat of coerced sterilization for Indian women may be over, but other forms of reproductive coercion are not.<sup>1</sup> Prior to the approval of Depo Provera in 1992 for use in the United States, the Indian Health Service gave the hormonal birth control agent to Indian women. IHS official, Burton Attico of Phoenix, admitted that the IHS gave Depo Provera to women without informed consent and that the drug was seen as a "side benefit" for patients with disabilities because it prevented them from getting pregnant and having menstrual

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<sup>1</sup> Smith, Andrea, *Conquest: Sexual Violence and American Indian Genocide* (Boston: South End Press, 2005), 88.

periods.<sup>2</sup> While working with Indian women in Chicago, Smith learned that welfare and IHS workers often coerced Indian women to take Norplant, another form of hormonal birth control, but failed to inform them of the drug's side effects.<sup>3</sup> In both cases, the IHS used deception and coercion to arrest the fertility of Indian women and knowingly prescribed drugs with both unknown and potentially life-threatening side effects.

Execution of the Indian Child Welfare Act has not been without setbacks. In 1982, for example, a white couple successfully adopted five year-old Navajo Jeremiah Holloway, despite the provisions of ICWA that make Indian-white adoptive placements a last resort. Holloway was born to teen-aged Cecilia Saunders in 1977 and raised in accordance with traditional Navajo practices by his mother, grandparents, and aunts for the first three years of his life. One of his aunts, Polly Ann Kirk, a graduate of the LDS Indian Student Placement Service and devout Mormon, expressed concern about the care Holloway received in this arrangement. She pressured Saunders to relinquish her child to a white Mormon couple unable to have biological children themselves. The adoption proceeded privately, without notifying the tribe. Two years later, however, Saunders regretted the decision and took legal action to retrieve her son. Ultimately, Navajo Tribal Judge Calvin Yazzie found in favor of the white adoptive parents, giving Saunders visitation rights but declaring Holloway (renamed by his adoptive parents Michael Carter) the “permanent ward of his white adoptive parents, Dan and Patricia Carter.”<sup>4</sup>

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<sup>2</sup> Ibid., 92. See also: Lin Krust and Charon Assetoyer, *A Study in the Use of Depo-Provera and Norplant by the Indian Health Services* (Lake Andes, South Dakota: Native American Women's Health Education Resource Center, 1993).

<sup>3</sup> Smith, *Conquest*, 98.

<sup>4</sup> T.R. Reid, “Navajo Boy Case: Mormon-Navajo Adoption Fight Settled; White Couple Keeps Indian Child; Biological Mother Retains Rights” in *The Washington Post* (October 30, 1987), A03.

The Holloway case raised several interesting issues. First, it demonstrated that post-ICWA adoptive placements can circumvent the transfer provision of the act that sends these cases to tribal court and the conditions that govern Indian child adoptions in state courts. Although the case ultimately went to tribal court, it did not start there, and as a result Holloway had lived as the Carter's son for two years. This circumstance led Judge Yazzie to find that the best interest of the child mandated that he remain in his adoptive situation. Second, the details of the case provide a chilling example of the very things ICWA endeavored to eradicate: a white couple gained custody of an Indian child, renamed him at three years of age, and raised him in a non-Native cultural context.

Moreover, state courts have not embraced the spirit of ICWA, even when they seek to follow the letter of the law. When state courts interpret ICWA, they often have subverted the "collective rights protected by the act" in favor of the "American emphasis on individual rights."<sup>5</sup> According to one analysis, the "language of individual rights" is so pervasive in the mainstream culture that it dominates discussions of collective rights, such as those expressed by ICWA.<sup>6</sup> Therefore, when Indian child welfare cases land in state courts, the law suffers from an interpretation that privileges the welfare of individuals rather than that of the tribe.

The continued struggle for Indian women's reproductive freedom and the challenges of implementing ICWA do not diminish the successes Indian women achieved in the battle against coerced sterilization and Indian child adoption. Rather, it demonstrates the salience of these issues and the sustained need to construct an Indian

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<sup>5</sup> Jill E. Adams, "The Indian Child Welfare Act of 1978: Protecting Tribal Interests in a Land of Individual Rights" in *American Indian Law Review*, Vol. 19, No. 2 (1994): 301-351, 303.

<sup>6</sup> *Ibid.*, 301.

women's feminism with sovereignty at its core. Indian women continue to embrace a Native feminism that "extends beyond pro-choice and pro-life" and addresses basic issues of self-determination for both Indian women and their tribes.<sup>7</sup> This creates an Indian women's political agenda that revolves around issues of sovereignty and takes into consideration both white constructs of feminism and aspects of Native sexism.<sup>8</sup> Through this understanding, Indian women define feminism for themselves and address the political issues they think relevant. As one Indian woman commented, identifying feminism as white women's prerogative

"Presumes that Native women weren't active in shaping our identity before white women came along. And that abusive male behavior is somehow traditional, and it's absolutely not. ... That is a claim against sovereignty. I think that's a claim against Native peoples. I think it's an utter act of racism and white supremacy. And I do think it's important that we say we are feminists without apology."<sup>9</sup>

The Sacred Circle, a National American Indian Resource Center for Domestic and Sexual Violence in South Dakota, argues that "sovereign women strengthen sovereign nations." Their publication of the same title, defines tribal sovereignty as the "inherent right" of "all tribal nations" to self-governance over their land base, resources, economic system, and people. As a corollary, Indian women demand control over their bodies, labor, and identities.<sup>10</sup> The familiar Cheyenne proverb applies: "A nation is not

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<sup>7</sup> Andrea Smith, "Beyond Pro-Choice Versus Pro-Life," 120.

<sup>8</sup> Andrea Smith, "Native American Feminism, Sovereignty, and Social Change" *Feminist Studies* 31.1 (Spring 2005): 116-32, 2.

<sup>9</sup> *Ibid.*, 3.

<sup>10</sup> *Ibid.*, 6-7.

conquered until the hearts of its women are on the ground.”<sup>11</sup> Despite the vestiges of colonialism, the challenges of poverty, and the pervasiveness of paternalism, neither Indian women, nor tribal sovereignty, have been conquered.

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<sup>11</sup> Mary Crow Dog with Richard Erdoes, *Lakota Woman* (New York: Harper Perennial, 1991), 3.

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