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## *Tribal Sovereignty Movements Compared The Plains Region*

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Plains tribes are among the "energy tribes" of the Western states. In 1938 they gained more control over energy development, but in the 1980s, even with a favorable Supreme Court decision in 1982, control over income from minerals remained problematic (table 2, 1938; table 5, 1982; table 6, 1985, 1989). Today, isolated from markets, they are impoverished despite their mineral wealth. In Western states, oil and gas, coal, and uranium are important to both state and tribal economies. Tribal leaders struggle to protect and develop resources and ward off state efforts to siphon off income from mineral development. There are pressures for tribes to negotiate with states over shared taxation.<sup>1</sup> Fowler's chapter discusses how tribal control over management, distribution of income, and environmental impact affects relations between grassroots community groups and elected officials, and she addresses the social repercussions of negotiation for tribes attempting to exercise sovereignty.

The tribal sovereignty movement has taken hold in all High Plains communities. Yet sovereignty is implemented in different ways, aspects of sovereignty are given different degrees of emphasis, and sovereignty agendas may be based on community consensus or subject to contention between officials



Figure 8. An American Indian Movement rally in South Dakota to oppose the reinstatement of a local sheriff accused by the community of discriminatory behavior toward Native Americans. David Bartecchi and Kathleen Pickering © 2004. Used with permission.

and grassroots groups. Through a comparison of twelve communities in South Dakota, Montana, Wyoming, and Oklahoma during the 1990s, I situate sovereignty movements within regional and local contexts to examine how different political views and choices about economic and cultural rights emerge.<sup>2</sup> A focus on the local exercise of sovereignty complements a large literature that deals almost exclusively with federal policy and legal cases in the sovereignty movement in the United States.<sup>3</sup>

State by state, I discuss how state-tribe relations influence commitment to the exercise of tribal sovereignty. I also describe the political organization of each tribe in the state and examine how that organization affects the local expression of sovereignty. What the comparisons show is that, first, for a tribe to attempt to exercise sovereignty fully, grassroots commitment is necessary and grassroots commitment to sovereignty issues is influenced by state actions, especially by the perception of state violence against Indians

(figure 8). The greater the fear of violence, the greater the support for a sovereignty agenda. Second, where defense of a homeland (maintaining control over a sizable land base or recovering land through a treaty-based claim) is possible, grassroots groups can be more easily mobilized to support the exercise of tribal sovereignty. Third and finally, the more that political authority is diffused in a community, the more likely that broad-based consensus exists between grassroots groups and officials. In fact, grassroots groups have been working toward greater participation in self-determination by supporting constitutional revisions that decentralize tribal government.

### *South Dakota.*

Earl Bordeaux, one of the Rosebud councilmen, remarked: "Look what the State of South Dakota is doing to her Indians, you know. They show in a glowing picture. Those of us who live within the State of South Dakota really know the spirit of the South Dakota non-Indian world. It's not a true reconciliation. They won't recognize our Treaty Rights. They won't recognize our jurisdiction." Suspicion and hostility appear to be mutual. The four Sioux reservations in the western part of the state are large: Pine Ridge is 3.1 million acres; Rosebud, 3.2 million acres; Cheyenne River, 2.8 million acres; and Standing Rock, 2.7 million acres. In the 1990s all these reservations were in conflict with the state over several issues, one of which was juvenile justice. Sioux people argued that the state judicial system was biased against the Sioux. In fact, South Dakota's incarceration rate was the highest for a state with an Indian population. Sixty percent of youths in South Dakota's prison system were Indian; yet Indians made up only 10 percent of the population in the state. In contrast, in Montana, youths composed 25 percent of the prison population, and the state's Indian population was 6.5 percent; in Oklahoma, youths were 18 percent of the prison population, and Indians, 8.1 percent of the state population. Sioux advocates referred to Indians as a "cash crop" in the state, where Indians were discriminated against in terms of fines. Child custody was another point of contention. South Dakota had the highest rate of termination of Indian parents' rights in the nation; 60 percent of cases were Indian. The state and the tribes battled over highway jurisdiction, game and fish regulations, and taxation in Indian Country. Also, the tribes took special umbrage at the state's opposition to the return of tribal land not used by the Oahe Dam project.<sup>4</sup>

The Oglala Sioux Nation of the Pine Ridge Reservation has a history of conflict between "hostiles" and "friendlies" that pre- and postdates reservation settlement. The American Indian Movement precipitated an "Indian Renaissance," to use Herbert Hoover's terminology, and, from the 1970s

on, the sovereignty movement grew. The number of participants increased significantly as the years passed, and, in the aftermath of the civil war during the Wounded Knee takeover, there was a reconciliation of sorts between the hostiles and the friendlies (who were both Full and Mixed Bloods, sociologically and culturally defined). By the 1990s the sovereignty agenda had extensive and passionate grassroots support, nourished by the State of South Dakota's intransigence over sovereignty questions and its general pattern of state violence toward Indians.<sup>5</sup>

On Pine Ridge (settled by Lakota Sioux of the Oglala division) during the 1990s, Oglala political organization was based on the principles of diffusion and circumscription of leadership. The elected tribal council consisted of eighteen representatives from districts in which they resided. The districts had councils of representatives from smaller "communities" within each district. The districts effectively exerted pressure on their representatives. Much of the tribal council's work was done by committees and boards made up of people from all the districts, as well as tribal council members. Districts also administered tribal and private funds, as did political advocacy groups that crosscut districts. During the 1990s the tribal council was committed to mitigating tensions between the council and the people in districts and advocacy groups (such as treaty committees, women's rights organizations, and the tribal college movement).<sup>6</sup>

These advocacy groups pursued an aggressive sovereignty agenda. Petitions from grassroots groups dissuaded the tribal council from waiving sovereignty to get a bank loan, and petitions helped persuade the tribal council to file a court case against South Dakota for trespass by law enforcement agencies. The constitution (accepted along with the Indian Reorganization Act) was revised in 1985, and voters eliminated provisions that the secretary of the interior had to review tribal council decisions. After the successful claim filed against the federal government for the violation of the Treaty of 1868 (described by one leader, Harold Salway, as "divine intervention from the spirit world"), the grassroots community in the 1990s consistently rejected a monetary settlement (see table 5). "The Black Hills is not for sale" has been central to the ideology of the sovereignty movement and used by communities to reject the establishment of dumps or the building of pipelines on community land. The tribal law and order code was revised in response to grassroots pressure. In 1996 the tribal court adopted a position of leniency in sentencing, stressing rehabilitation instead. Counseling and supervision by groups of elders became mandatory in domestic abuse cases. Court decisions could be reviewed by a board of elders, and officers of the court did not have to have law degrees. Even though the reservation community was very poor and the tribal government had to rely on taxes

(of business activity on tribal land, usually non-Indian businesses) and federal programs, public sentiment favored precedence of treaty and cultural rights over economic development projects or per capita payments. As one leader at Oglala Lakota College explained, they were "beginning an intellectual revolution" in order to reverse the damage done to them by "alien concepts."<sup>7</sup>

The other three Sioux reservations also participated in the Indian Renaissance. Passionate support for a sovereignty agenda existed at Rosebud, and considerable grassroots commitment to it, at Cheyenne River and Standing Rock in the 1990s. All three reservation communities rejected a monetary settlement for the Black Hills. Charles Murphy, a Standing Rock leader, remarked, "We cannot forget the sufferings our people endured by signing these treaties—that is our driving force [that their suffering will not be in vain]." At Rosebud (settled largely by Lakota Sioux of the Brule division), the tribal council officers were elected at-large, and eight districts elected community residents as representatives to the tribal council. Each district also elected a council that chose officers, held meetings, met with the tribal council, and owned enterprises. A recent amendment to the IRA constitution eliminated provisions that required review of tribal council actions by the secretary of the interior. Only 27.2 percent of the reservation land is Indian owned (compared with 55 percent at Pine Ridge), which feeds the conflict between Indian and white residents. Descendants of four Lakota Sioux tribes settled on the Cheyenne River Reservation, 49.5 percent of which is Indian owned. An IRA constitution provided for a tribal council with officers elected at-large and councilmen elected from thirteen districts. Districts also had councils with elected officers. Standing Rock (which straddles North and South Dakota) was settled by people from two divisions of the Lakota Sioux and from Yanktonais bands, whom the United States regarded as hostile factions resisting the surrender of the Black Hills. Sitting Bull was a symbol of resistance and, after he was murdered on the reservation, a martyr to the cause. Like the residents of Cheyenne River, these Sioux were particularly damaged by the Oahe Dam. Only 32.1 percent of reservation land is Indian owned. Land recovery has been a major issue here, and the constitution requires that sale, exchange, or leasing of tribal lands be approved by a vote of the membership. Standing Rock rejected the IRA but adopted a constitutional government: the tribal council officers are elected at-large, six members of the council are elected at-large, and eight are elected from eight districts. Tribal council members are required to attend district council meetings. In the 1990s multiple committees took responsibility for programs and other activities on the reservation, including defending treaty rights.<sup>8</sup>

## Montana.

Montana is less overtly hostile than South Dakota, although not really supportive of Indian communities. Backlash usually follows state legislature efforts to support Indian issues, but Indians have some leverage with the Democratic Party and moderate Republicans because the Indian vote can determine the outcome of close elections in some parts of the state. Whereas the Sioux in western South Dakota were regarded as "hostile," only two tribes in Montana had this kind of reputation. Despite the seemingly greater tolerance in Montana than in South Dakota, state officials have opposed even changing place names that are offensive to Indians (for example, Custer Battlefield and geographical features named Squaw). Indian leaders have complained of state violence and discrimination against Indians in judicial, child custody, and welfare matters. Compared with the Sioux tribes in South Dakota, the Blackfeet, Crow, Fort Peck Assiniboine and Sioux, Northern Cheyenne, and Fort Belknap Assiniboine and Gros Ventre have less grassroots involvement in the sovereignty movement generally, although people from all these communities once participated in a mass demonstration to protest "anti-Indian" legislation. In Montana, grassroots passion usually focused on local, land-related issues in the 1990s. Most of these tribes were better off economically than the tribes in South Dakota. In fact, almost 48 percent of Indian families in South Dakota had incomes below the poverty level; at Pine Ridge and Rosebud, a higher percentage. In Montana, the percentage for impoverished Indians in the state was 39 percent. At Fort Peck, it was 46 percent; Northern Cheyenne, 43 percent; Fort Belknap, 37 percent; Crow, 32 percent; and Blackfeet, 31 percent. Subsistence hunting and fishing were important, to some degree, on all these large reservations.<sup>9</sup>

The Blackfeet have a 1.5 million-acre reservation and were relatively wealthy in oil and gas in the 1990s. Together, the tribe and individual Blackfeet owned 63 percent of the reservation. Some of that land was in fee status, owned by nonmembers who were descendants of Blackfeet; this land was in jeopardy of passing out of Indian ownership. Despite the mineral resources, 64 percent were unemployed. The tribe used most of its income from oil and gas for social programs, attorneys, and land purchase, but, at public insistence, a portion went to make one or two small per capita payments a year.<sup>10</sup>

Most authority was concentrated in the business council, which had nine members elected at-large from four districts. To run as a district representative, an individual had to reside in the district but did not have to win a majority of votes in that district. The business council appointed committees that included people from the districts (but did not always respond to

their concerns). An honorary council of elderly men, all Blackfeet speakers, who had lifetime appointments and were selected by the business council, was the most important mitigating influence on the business council, although the former was not mentioned in the constitution.<sup>11</sup>

The constituency had less input than was the case on the Sioux reservations, and the grassroots support for a sovereignty agenda was less pervasive or wide ranging. Leadership for sovereignty implementation primarily came from the business council, except for protection of wilderness areas, in which several grassroots groups took passionate interest. Speaking in opposition to proposals to drill for oil in a wilderness area, Leland Ground linked religious duty to prevention of drilling: "In the name of Creator, don't do this." The business committee focused on negotiating with Montana on legal jurisdiction, water, and taxation issues. On one hand, their constituents expressed concern that these efforts would undermine Blackfeet sovereignty, frequently charging that the council would not properly manage tribal assets. On the other hand, constituents supported land purchase and lobbied the business council to file suit against the United States for fraudulent land sales. The Blackfeet constitution (accepted under the auspices of the Indian Reorganization Act) was revised to allow the business council to buy fee land. In fact, part of the tribe's income was used annually to buy land.

In an 1895 agreement between the Blackfeet and the United States, the land that is now Glacier Park was transferred to the United States. The Blackfeet people believe that they did not cede the rights to hunt, fish, gather wood and other plants there, and visit and protect sacred sites in the park. Michael Desrosier put it this way: "Ever since we live in the country, we camp, hunt, gather from the mountains, and, since horses, graze them there. We have lived and died, we have played and dreamed and roamed those mountains and hills for more than a thousand years.... It belongs to us and we belong to it." During the 1990s grassroots organizations demonstrated and sought international support for Blackfeet rights there, and the honorary council pressured the business council to sue to establish Blackfeet rights in the park. The business council cooperated with grassroots organizations, such as traditionalist groups, and with individuals whose rights to operate businesses in the park were challenged by park officials. Many Blackfeet supported a traditionalized tribal fish-and-game program—for example, with no hunting seasons for people in need and designated hunters for the elderly.<sup>12</sup>

The Crow, who have a history of alliance with Americans in the nineteenth century, have a 2.2 million-acre reservation, with large deposits of coal and oil in their home territory. In the 1990s the Crow was the wealthiest tribe in Montana. The tribe and Crow individuals owned 65 percent of the land, but some of it was in fee status. The Crow used tribal income for

some land purchase, small per capita payments, and job creation to supplement federal programs. Unemployment was high—57 percent.<sup>13</sup>

The Crow's 1948 (non-IRA) constitution provided that every two years the Crow elect four officers. These officers managed the tribe's programs and represented the tribe to the state and federal governments. The constitution also provided that major decisions and budget ratification were the responsibility of the "tribal council," a meeting open to all adult Crows. By tradition, decisions have been made by voice vote or "walking through the line" (standing with representatives of a position). Both practices subjected participants to peer pressure. Thus, clan leaders and/or tribal officials often have had the opportunity to influence tribal members to support a particular position. Also, a committee of district representatives—two elected officials from each of the six districts and two from off the reservation (Billings)—were supposed to offer advice to the four tribal officials. Frequently, the district elections were by acclamation; in practice, these representatives have had little influence. In 2001 the Crow amended the constitution, most significantly, to provide for separation of executive, legislative, and judicial powers—a checks and balances system. Representatives from six districts thereafter constituted a "legislative branch," which could adopt ordinances and codes and approve executive (the four officers') decisions. The executive branch could veto legislation, and tribal members elected judges.<sup>14</sup>

In the 1990s grassroots people and tribal officials alike viewed the United States' disregard of the Crow Act of 1920 as a serious betrayal in light of the support the Crow gave the United States during the Indian wars. This act, which provided for allotment, precluded non-Indians from owning more than 3,200 acres of reservation land. In fact, non-Indians acquired much more, and many Crows were unilaterally given fee patents on their land; therefore, less than half the reservation is in trust status. The land issue and associated water rights were the driving force of a grassroots-supported sovereignty agenda, largely because ranching is important to Crow identity. The Crow Tribe pursued legal action in the Crow Act case, despite the expense. Tribal officers also have obtained tribal council consent to buy land and to pay taxes on fee land owned by Crows so that the land would not be sold to non-Indians. Crow officials retained consistent public support through the 1990s by using a large portion of tribal income for job creation. Unemployment dropped by half, and the tribal employees increased from 450 in 1989 to 1,300 in 2000. In 2000 most of the tribe's \$12 million budget was spent on wages. Some income from leasing tribally owned land and minerals was used for moderately-sized per capita payments. Income from court settlements against corporations was programmed, for example, to help the Little Big Horn College and the tribal court (whose judges are



fluent in Crow). But the tribal college, established in 1980, was not as central to the sovereignty agenda as on Sioux reservations. In 1990 the college president, commenting on the college's recent accreditation noted, "People will start to believe that we are a real school now."<sup>15</sup>

At Fort Peck are Assiniboines, historically allies of the United States, and Sioux, who agreed to peace when they settled there. The Fort Peck Reservation is 2 million acres, only 43 percent of which is Indian owned. More than 56 percent is in fee status, creating a reduced land base for development and conflict over jurisdiction with the state (for example, over hunting and fishing on fee land within the reservation). Half the residents are non-Indians, and they have controlled the school system on the reservation. Unemployment was about 53 percent in the 1990s, even though the tribes had the largest income from oil in the state. Tribal income was used to purchase land, purchase and support tribally owned businesses, and supplement federal programs. The tribes made a small, annual per capita payment from the mineral leases and tax income.<sup>16</sup>

The Tribal Executive Board (TEB)—twelve representatives, a chair, vice chair, and sergeant-at-arms, all elected at-large every two years—managed the tribal businesses, programs, and income. This body was very stable throughout the 1990s, with most incumbents achieving re-election. The 1960 non-IRA constitution (amended in 1971) provided for the possibility of a "general council" to initiate a decision or reject enactments by the TEB, but meetings of the general council of adult enrolled members have been rare (only one in the 1990s). Authority and resources were broadly diffused (as was the case on Sioux reservations in South Dakota). In addition to the TEB, there were several "community organizations," the largest and most important of which were Poplar (a Sioux community) and Wolf Point (an Assiniboine community). These organizations elected officers, had sizable budgets (from treaty claim settlements), owned their own businesses in the community, gave assistance to individuals, and had control over some programs. They obtained loans and funds from the TEB. There also were two tribal organizations with elected officers that managed funds from treaty claim settlements. They made per capita payments, operated businesses, and bought land. In addition, the TEB appointed community members to all the boards that directed tribal businesses, the tribal college, and certain programs and to the oversight committees and commissions (for example, the fish and wildlife commission).<sup>17</sup>

Some grassroots groups pursued particular sovereignty issues and, toward that end, effectively put pressure on the TEB. People in the communities were outraged at the state's attempt to interfere with the traditional ways they had handled hunting and fishing on the reservation. The reservation has had a

tradition of restricting hunting and fishing to Indians even though half the residents are non-Indians. Tribal fish and wildlife officers enforced tribal code. Through public pressure, grassroots communities prevented the TEB from negotiating an agreement to share authority with the state. The communities also spearheaded an effort to tribalize the educational system on the reservation, by working to elect Fort Peck Assiniboine and Sioux individuals to school boards and by supporting Native language and culture curriculum. However, the constitution still required that the secretary of the interior review TEB actions with regard to non-Indians on the reservation, the tribal court system, and loans and contracts to which the tribal government was party. And the Sioux at Fort Peck expressed willingness to accept money for the Black Hills treaty claim.<sup>18</sup>

After the Northern Cheyenne ended their war with the United States and settled on their reservation in 1884, they embarked on a strategy of isolation, determined to maintain their traditions. In fact, the tribe waives a one-half blood requirement for membership for individuals who reside in the reservation community. At 445,000 acres, their reservation is one of the smallest, but the tribe and Cheyenne individuals own 99 percent of the land. In the 1990s they did not exploit potential mineral wealth but rather concentrated on negotiating for jobs in local, energy-related industries and the Tongue River Dam project. Unemployment was about 50 percent. Leases on grazing land and timber and taxes were the main sources of tribal income; much of it has been used for small per capita payments. Tribal income in the 1990s was very low compared with that of the Blackfeet, Crow, and Fort Peck, but tribal leaders in prior decades had made a policy of buying back all the land alienated after allotment and had obtained federal assistance to do that.<sup>19</sup>

In 1935 the Cheyenne accepted the Indian Reorganization Act and a constitutional government, largely to enable the older, traditionally oriented men to gain more political influence during a time when the tribal government was dominated by younger, "progressive" men. The constitution was revised in 1960. It provided for a president elected at-large and a tribal council elected by the districts in which they lived (ten individuals from five districts). The districts have had frequent meetings. The 1960 constitution required that the secretary of the interior review most of the tribal council's actions. In 1996 the constitution was amended again: Cheyennes approved a "separation of powers" provision so that some tribal judges attained office by election and some (appellate judges) by appointment by the tribal president. In the 1990s there was great turnover in the positions of president and council member, producing instability in leadership and policy. This pattern developed, in large part, because of disagreement over coal leases.<sup>20</sup>

The issue that generated the most grassroots passion in the 1990s was the plan for the creation of a reservationwide school district so that Cheyennes could control the education of their children, who were bused off the reservation. Cheyenne communities worked on this project for thirty years and finally succeeded in 1994, overcoming strenuous opposition from the local, non-Indian-controlled school districts. They obtained money from Congress to build the school. "Traditionalists" have been very influential in grassroots politics. They have resisted coal mining on the reservation, because it would bring outsiders to their community and would damage the environment: these objections were presented as tradition or religion based. Conflict erupted over this decision because many Cheyennes wanted the per capita payments that coal mining would bring. Cheyenne leaders, working with environmental groups, focused on negotiating air quality agreements with companies near the reservation. Traditionalist interest groups also put pressure on the tribal council to create a leadership sphere for themselves in response to repatriation issues following NAGPRA and issues associated with the Sand Creek Massacre (see table 6). The tribal court has used a traditional model of social control relatively more than the other Montana reservations.<sup>21</sup>

The Gros Ventre and Assiniboine, historical allies of the United States, share Fort Belknap Reservation. The cession of the southern portion of the reservation in 1895 removed from their control the major mineral resources on the 650,000-acre reservation. The reservation land is 95 percent Indian owned, but the tribes (which own about 28 percent of the land) received little income from leasing tribal land. With no mineral resources on the reservation, the Fort Belknap community government was largely dependent on federal programs and contracts, and the reservation had an unemployment rate of 52 percent. Fort Belknap leaders attempted to sue in order to force the state to negotiate a gaming compact, but their suit was unsuccessful, as was an attempt to stop mining companies from polluting the water on the reservation. Elected leaders negotiated agreements with the state concerning taxes and water; Fort Belknap tried unsuccessfully to secure the right to market water.<sup>22</sup>

In 1935 Fort Belknap accepted a constitution under the auspices of the Indian Reorganization Act and instituted a twelve-member community council consisting of six Gros Ventres and six Assiniboines elected at-large. The constitution required that the secretary of the interior review most of the council's actions. In 1993 the constitution was amended; thereafter, the community council consisted of two Gros Ventres and two Assiniboines elected by their respective districts and a president and vice president elected at-large. The president-vice president team consisted of one Assiniboine and

one Gros Ventre tribal member. The 1993 constitution also provided for the recall of these officials. There is a Gros Ventre treaty committee and an Assiniboine treaty committee, each with its own funds.<sup>23</sup>

In the 1990s grassroots efforts at Fort Belknap centered on amending the constitution to allow for more community participation and for acknowledgment of tribal identity, as well as on revising the law code. In the new 1999 code, the judges of the tribal court are appointed by the community council; judges must have a high school diploma. Laws regarding fish and wildlife conservation and child welfare received the most attention. Regarding fish and wildlife conservation, the Fort Belknap community assumed exclusive jurisdiction over non-Indians on trust land and established a committee of community members to oversee the tribes' Fish and Wildlife Department. The code authorized cooperative agreements with the state, county, and federal governments. It was to be enforced by tribal officers or federal officers; state conservation officers would need an agreement in place before they could enforce the code, and they would have to institute proceedings in tribal court.<sup>24</sup>

### *Wyoming.*

In Wyoming, there is only one reservation, shared by the Eastern Shoshone and the Northern Arapaho. The Indian population in Wyoming is only 3 percent of the total and has less clout than the Indians in Montana, even though the oil and gas resources on the Wind River Reservation make it the wealthiest of all the reservations considered here. The state has shown great intransigence toward Wind River sovereignty, forcing the tribes there to go through expensive court proceedings over water rights and other matters of jurisdiction. Even when the water rights case was decided in Wind River's favor in 1989, the state refused to cooperate in the administration of those rights.<sup>25</sup>

Eighty-five percent of the oil and gas income is distributed in monthly per capita payments (from 40 to 325 dollars a month). The tribal governments rely on the remaining 15 percent, plus money from taxation, to hire legal assistance and create jobs by establishing tribally owned businesses. During the 1990s unemployment was about 51 percent, and 39 percent of the families lived below the poverty line. The establishment of fisheries and businesses that take advantage of the huge 118,000-acre wilderness area on the reservation has been thwarted by the state's opposition to the tribes' exercising their water rights.<sup>26</sup>

Each tribe has its own six-member business council, elected at-large every two years, and each has a general council (a meeting of voters) that can overrule the business council, initiate policy, and even disband the busi-

ness council and hold a new election. A combined Shoshone-Arapaho business council has responsibility for managing the tribally owned trust lands. Neither tribe adopted a constitution, and both rejected the Indian Reorganization Act. The lack of a constitution is regarded as the perpetuation of "tradition." This means that the business councils must have the general councils' support for the sovereignty agenda.

The large 2.3 million-acre reservation is 90 percent Indian owned, but water rights are an issue. Arapahos boycotted merchants in neighboring towns for several weeks to protest lack of support for the tribes' "treaty-based water rights," a matter of "dignity" and "respect," and fairness, one council member insisted. Shoshone councilman Wes Martel explained that, in the matter of water rights, the "Creator and Creation" guided them. Both general councils have supported the pursuit of water rights. In the 1990s the Arapaho general council approved the separation of joint Shoshone and Arapaho federal programs into tribally controlled ones. With general council approval, Arapaho elders initiated a Native language program with tribal funding, and Shoshones, a cultural center. In the late 1960s the Arapaho led the successful effort to tribalize the school system on the reservation. During the 1990s, even with considerable turnover on the business councils, there was consistency in sovereignty goals. Also, in an effort to diffuse authority, the general councils created boards of tribal members to oversee tribal businesses, economic development, and water resources.<sup>27</sup>

### *Oklahoma.*

In western Oklahoma, the non-Indian and the Cheyenne, Arapaho, Kiowa, Comanche, and Plains Apache populations live in small towns, where their children attend the public schools. In the 1990s Indians made up about 8 percent of the state population, but less in western Oklahoma. Nineteen percent of Indian families in the state had incomes below the poverty level; among the Cheyenne and Arapaho, 23 percent, and among Comanche, 27 percent on average—significantly lower than on Northern Plains reservations. Western Oklahoma Indians have access to urban centers, where they obtain employment, and these areas are close enough to allow them to return to western Oklahoma for tribal meetings and celebrations. State violence against Indians is less an issue here than on the Northern Plains. The majority population in Oklahoma employs romantic Indian imagery mostly to promote tourism. In eastern Oklahoma, where there has been extensive intermarriage with non-Indians, state officials often promote projects that recognize Indian heritage. Yet in western Oklahoma the treatment of Indians has come under fire by the civil liberties organizations. As I have argued

elsewhere, the majority population has promoted an Indian imagery that works to marginalize and trivialize the Indian way of life, as well as undermine Indian confidence in their own political institutions.

The Cheyenne and Arapaho settled on a reservation in western Oklahoma in 1869. After the reservation was allotted in 1892, the federal government permitted the ownership of the remaining "surplus lands" to pass into the hands of non-Natives. About 10,000 acres were assigned to the federal government and have since been recovered and put in trust status, owned by the tribes. The tribes' oil and gas income is derived from these lands. Most of the allotments eventually were sold.

During the 1990s the elected Cheyenne-Arapaho business committee initiated efforts to implement sovereign rights over trust land, primarily so that they could generate income on these lands. The business committee has eight members, four from two Arapaho districts and four from four Cheyenne districts. There is no residency requirement for candidates or voters. The Arapaho and Cheyenne pre-World War II rural communities have largely been replaced by housing projects in small, multiethnic towns. The constitution written under the auspices of the Oklahoma Indian Welfare Act (and amended in 1975 and 1993) provided for an annual meeting of the general council, as well as a business committee (see table 2). Although the meeting is open to all enrolled tribal members, about 75-130 people attend, and here they vote on a budget presented by the business committee. All the tribes' income from oil and gas is budgeted for a small, annual per capita payment. In the 1990s the business committee operated as independently of the general council as possible.

The Cheyenne-Arapaho business committee drove the sovereignty agenda. Its constituents supported the committee in the unsuccessful struggle to prevent the state from taking income from cigarette and fuel businesses on trust land, but the general council voted down land-buying proposals and there was no grassroots sentiment for such an effort. Cheyennes and Arapahos celebrated Native traditions in powwows, but no grassroots pressure for a tribal college emerged. Most Cheyenne and Arapaho people favored the per capita distribution of all tribal income (although not all tribal income can be distributed per capita, because of federal constraints). The business committee implemented a program to tax non-Indian and tribal businesses, despite objections from constituents, and this income largely supplemented federal programs. There was no grassroots pressure to traditionalize the tribal court, although, in sentencing, the code provided for banishment, which reflects Cheyenne legal tradition. Cheyennes and Arapahos generally did not view their tribes or the combined tribes as a corporate entity within which individuals are subsumed. Rather, the "tribe" was viewed as a collection of individual

members, each with an equal share in whatever resources the tribe has. The sovereignty movement was kept alive and pursued by a small group of elected officials either descended from the chiefs who fought and eventually won payment for the United States' violation of the 1851 treaty or from individuals who were exposed to American Indian Movement ideology in the 1970s while living in cities away from western Oklahoma.<sup>28</sup>

The Comanche Nation lost most of its reservation land at the time of allotment but in the 1990s had some income from oil on the remaining trust land. The Comanche refused to organize their government under the Oklahoma Indian Welfare Act but eventually adopted a constitution. The Comanche constitution provides for a tribal council, which meets at least once a year and has authority to approve budgets and leases and contracts on tribal property. Comanche voters also elect a seven-member (including three officers) business committee at-large. As among the Cheyenne and Arapaho in the 1990s, grassroots political activity focused on revising the constitution to restrict the business committee's powers. In the revised constitution, voters did not strike a provision that required the secretary of the interior to review tribal council actions. They did change enrollment requirements so that descendants of allottees need one-eighth Comanche ancestry (instead of one-fourth) to be members of the Comanche Nation. Opposition to business committee actions interfered with the development of several projects, but the business committee contracted programs, issued licenses, and operated small businesses.<sup>29</sup>

### *Comparisons and Conclusions*

Tribal officials in all the Plains communities saw the exercise of sovereignty as entwined with control over tribal land and resources. Where they could generate income from energy resources and businesses established on tribal land, they tried to commit at least some of that income to strengthening the tribe as a corporate entity, for example, by buying land and putting it in tribal ownership. Grassroots commitment to a sovereignty agenda, however, was an equally important component of sovereignty movements. Tribal officials' success largely depended on the extent to which grassroots groups supported their goals. With strong grassroots support, there also were aggressive efforts to protect and extend cultural rights, for example, to indigenize the educational system. The extent to which the exercise of sovereignty had grassroots support depended on several factors: tribal-state relations, a "sustainable homeland," and a tribal government that allowed for diffusion of authority.

The degree to which grassroots people believed that they had a problem

with state-supported violence against Indians varied among the four states considered here. Indians were visible minorities in Plains states and owned significant amounts of land in trust status—more so in some states than in others. Presumably, states with larger Native populations acted in response to a perceived threat. In any case, during the 1990s grassroots commitment to tribal sovereignty was greatest where Native people most feared state violence.

Plains communities were established as the result of treaties, but some land bases offer more potentially sustainable homelands than others do. A sustainable homeland has adequate economic resources to enable its residents to have real control over economic development, education, health care, and other aspects of life. Where the grassroots community was committed to the defense of a sustainable homeland, tribal members viewed the “tribe” as a corporate entity and supported investing tribal income to augment and protect the land base rather than distribute all tribal income per capita. Defense of homeland was rooted in collective memories about the treaty era in which these homelands were established in South Dakota, Montana, Wyoming, and Oklahoma. Treaty symbolism propelled modern sovereignty agendas and was linked to ideas about the connection between contemporary and ancestral peoples and among the natural, social, and sacred realms of life. During the 1990s tribes with sustainable homelands (Blackfeet, Crow, Northern Cheyenne, Northern Arapaho, Sioux, and Assiniboine) or potentially sustainable homelands (Sioux of South Dakota), which included wilderness areas and mineral resources, had some grassroots commitment to a broad sovereignty agenda and to resistance to compromises with states. The Gros Ventre and Assiniboines and the tribes of western Oklahoma have homelands that currently lack substantial economic resources.<sup>30</sup>

The exercise of sovereignty by tribal governments created conditions for alienation of constituents from elected leaders. A constitutional revision movement emerged on many Plains reservations. These movements worked for greater diffusion of authority. Where authority was widely diffused, grassroots support for sovereignty goals developed, and the idea of tribal corporateness was strengthened. Where there was little effort to diffuse authority, an individualized notion of “tribe” prevailed, and public pressure developed to distribute all tribal resources per capita.

In the 1990s grassroots commitment was greatest among the Sioux of South Dakota, who exhibited the most fear of state violence. Among these Sioux was passionate support for multiple spheres of a sovereignty movement: recovery of the Black Hills, protection of the homeland environment, protection of legal jurisdiction on reservation land, and cultural rights (especially an indigenized tribal court and educational system). The Sioux



had a strong sense of “tribe” as a corporate entity, and they had the most developed system for the diffusion of authority positions.

At the other extreme, in western Oklahoma, Native people lived in counties where non-Indians outnumbered them ten to one. The tribes’ land base is very small. The fear of state violence was less than on the Northern Plains. There was little grassroots commitment for and considerable controversy over a sovereignty agenda, and that agenda, which was pursued by elected officials, was narrowly defined (collection of taxes and establishment of businesses to generate income for distribution). In western Oklahoma, an individualized notion of “tribe” prevailed, and sporadic efforts to diffuse authority positions throughout the Native community have not succeeded.

Federal policy changes in the 1970s and 1980s opened the door for aggressive pursuit of sovereignty agendas. But the growth and direction of sovereignty movements on the Plains also was influenced by local circumstances and local views—and by Indian people taking the initiative and developing localized versions of sovereignty and sovereignty goals.

## Notes

1. Marjane Ambler, *Breaking the Iron Bonds: Indian Control of Energy Development* (Lawrence: University Press of Kansas, 1990); Richard White, *It’s Your Misfortune and None of My Own: A New History of the American West* (Norman: University of Oklahoma Press, 1991); and Brad Bays and Erin Hogan Foubert, eds., *The Tribes and the States: Geographies of Intergovernmental Interaction* (Lanham, MD: Rowman and Littlefield, 2002).

2. The term *community* refers to ten reservations on the Northern Plains, the Cheyenne-Arapaho people in west-central Oklahoma, and the Comanche people living in west-central Oklahoma. The research for this chapter was supported by Wenner-Gren Foundation for Anthropological Research and is based on records from the 1990s.

3. For example, see Russell Lawrence Barsh and James Youngblood Henderson, *The Road: Indian Tribes and Political Liberty* (Berkeley: University of California, 1980); Vine Deloria Jr. and Clifford Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon, 1984); Lyman Legters and Fremont Lyden, eds., *American Indian Policy: Self-Governance and Economic Development* (Westport, CT: Greenwood, 1994); David Wilkins, *American Indian Sovereignty and the United States Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1997); Troy Johnson, ed., *Contemporary Native American Political Issues* (Walnut Creek, CA: Alta Mira, 1999); Dean Howard Smith, *Modern Tribal Development: Paths to Self-Sufficiency and Cultural Integrity in Indian Country* (Walnut Creek, CA: Alta Mira, 2000); David Wilkins and K. Tsianina Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001); and David Wilkins, *American Indian Politics and the American Political System* (Lanham, MD: Rowman and Littlefield, 2002).

4. *Lahota Times*, see March 20 and July 31, 1990; October 23, 1991 (quoted in); vol. 2, nos. 5, 9, 15, 37, 47, 48 (2001); Herbert Hoover and Carol Goss Hoover, *Sioux Country: A History of Indian-White Relations* (Sioux Falls, SD: Center for Western Studies, Augustana College, 2000),

171. Also see Thomas Biolsi, *"Deadliest Enemies": Law and the Making of Race Relations on and off Rosebud Reservation* (Berkeley: University of California Press, 2001).

5. Hoover and Hoover, *Sioux Country*, 164–171; Herbert Hoover, personal communication, February 2004; and Frank Pommersheim, personal communication, February 2004.

6. Constitution and By-Laws of the Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota, 1935, amended 1985; on the districts' political role, see, for example, *Lakota Times*, May 20, 1990.

7. Constitution and By-Laws of the Oglala Sioux Tribe; Oglala Sioux Tribe's Law and Order Code Book, 1996; on grassroots sovereignty activity, see *Lakota Times*, October 10, 1989, February 6, 1990, February 5, 1991, and May 7, 2001. Quotations are from February 6, 1990, and May 24, 1991. My study and comparison of tribal law codes was inspired by Bruce Miller's "Contemporary Tribal Codes and Gender Issues," *American Indian Culture and Research Journal* 18, no. 2 (1994): 43–74.

8. Hoover and Hoover, *Sioux Country*; Constitution, Bylaws and Corporate Charter of the Rosebud Sioux Tribe, 1935, amended 1962, 1966; and *Lakota Times*, vol. 9 (17, 18:1889), and November 16, 1990. On grassroots activity, see *Lakota Times*, January 9, 1990, vol. 1 (47:2000) and vol. 2 (22, 24:2001). The quotation is from *Lakota Journal*, November 13–19, 2000. Constitution and By-Laws of the Cheyenne River Sioux Tribe, South Dakota, 1935, amended 1960, 1980; Constitution of the Standing Rock Sioux Tribe, 1959, amended 1961, 1963, 1974, 1984. On committees at Standing Rock, see *Lakota Times*, vol. 2 (44:2001).

9. *Big Horn County News*, October 9 and November 4, 1992; James Lopach, Margery Hunter Brown, and Richmond Clow, *Tribal Government Today: Politics in Montana* (Boulder: University Press of Colorado 1998), 17, 36. Data on poverty levels are from 2000 Census, Summary Social, Economic, and Housing Characteristics, for South Dakota, Montana, Wyoming, and Oklahoma.

10. Lopach, Brown, and Clow, *Tribal Government Today*, 204–205; see also Native American Development Corporation (NADC), *Tribal Economic Contributions to Montana* (n.p., 2004), 11–12. There has long been tension between the so-called Full Blood group and a group of Blackfeet who are descendants of American Fur Company employees. The American Indian Movement influenced the younger generation of both groups, and this has resulted in support for sovereignty from both groups. Stanley Clay Wilmoth, "The Development of Blackfeet Politics and Multiethnic Categories" (Ph.D. diss., University of California at Riverside, 1987).

11. Constitution and By Laws of the Blackfeet Tribe of the Blackfeet Indian Reservation, 1935, amended 1978. On the honorary council, see *Glacier Reporter*, January 26, 1995, February 13, 1997, and January 22, 1998.

12. On land issues, see *Glacier Reporter*, February 5, 1998, and April 15, 1999. On Glacier Park, see *Glacier Reporter*, March 7 and 17 and October 17, 1991, May 14, 1992, March 18 and June 17, 1993, March 10, 1994, April 14, 1994, February 13, 1997, July 16, 1998, and January 13, 2000. Ground is quoted in March 7, 1991, and DesRosier in October 10, 1991.

13. Lopach, Brown, and Clow, *Tribal Government Today*, 204–205; and NADC, *Tribal Economic Contributions*, 12–14.

14. Constitution and Bylaws of the Crow Tribe of the Crow Reservation, 1948, amended by resolution in 1959, 1986, and 2001; and *Big Horn County News*, October 8, 1997.

15. *Big Horn County News*, July 4, 1990 (quoted in), January 27, 1993, November 22, 1995, January 10, June 5, and October 9, 1996, February 18, 1998, May 26, 1999, March 29, May 10, August 16, and November 29, 2000.

16. Lopach, Brown, and Clow, *Tribal Government Today*, 204–205; and NADC, *Tribal Economic Contributions*, 15–16.

17. Constitution and Bylaws of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, 1960. *Wotanin Wowapi*, August 26, 1993, August 18, 1994, January 30, 1997, and July 22, 1999; on taxes, July 11, 1991, April 2, 1992, July 3, 1996, and July 16, 1998; on gaming, December 16, 1993, and January 26, 1995; and on water rights, December 6, 1991, and September 22, 1994.

18. *Wotanin Wowapi*, on hunting and fishing, February 3, June 2 and 30, August 25, and September 1, 1994; on the Black Hills Claim, July 2, 1998; and Constitution of the Assiniboine and Sioux Tribes, VII, 3, 5 and X, 6–8.

19. Lopach, Brown, and Clow, *Tribal Government Today*, 204–205; and NADC, *Tribal Economic Contributions*, 17–18. The Cheyenne also face considerable hostility from the Crow, whose reservation borders theirs. The Crow often challenge Cheyenne rights to land and resources in what was once Crow land.

20. Constitution and By-Laws of the Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, 1935, amended 1960, 1996; Graham Taylor, *The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934–1945* (Lincoln: University of Nebraska Press, 1980), 104; and Separation of Powers Code, 1997.

21. On the new school district, see *Big Horn County News*, January 16 and July 3, 1991, September 30, 1992, June 30 and November 10, 1993, and August 17, 1994; on coal mining and tribal income, February 3 and October 6, 1993, and September 4, 1996, and *Wotanin Wowapi*, April 25, 1991. On traditionalist issues, see Tribal Code of the Northern Cheyenne Reservation, 1987; and *Wotanin Wowapi*, March 14, 1991, March 3, 1994.

22. *Wotanin Wowapi*, January 27, 1994; Lopach, Brown, and Clow, *Tribal Government Today*, 204–205; and NADC, *Tribal Economic Contributions*, 14–15.

23. Constitution and By-Laws of the Fort Belknap Community of the Fort Belknap Reservation, Montana, 1935, amended 1993.

24. *The Laws of the Gros Ventre and Assiniboine Tribes of Fort Belknap*, 1999.

25. *Wind River News*, February 6 and August 20, 1990, April 9, 1991, April 21 and 28, 1992, and December 13, 2001.

26. *Wind River News*, January 2 and 23, February 27, and June 19, 1990, September 7, 1993, May 11, June 29, July 27, and November 9, 2000. Also see Geoffrey O'Gara, *What You See in Clear Water: Indians, Whites, and a Battle over Water in the American West* (New York: Vintage, 2000).

27. *Wind River News*, January 2, March 20, April 10, May 20 (quoted in), September 25 and October 2 and 9, 1990, August 13, 1991, January 14 and July 7, 1992, May 9, 1995, September 25, 1997, and November 10, 1998.

28. On the Cheyenne-Arapaho, see Cheyenne-Arapaho Tribes of Oklahoma Law and Order Code, 1988; and Loretta Fowler, *Tribal Sovereignty and the Historical Imagination: Cheyenne-Arapaho Politics* (Lincoln and London: University of Nebraska Press, 2002).

29. Constitution of the Comanche Nation, 1966, amended 1976, 1978, 1979, 1981, 1984, 1985, 1994, 2002.

30. The term *sustainable homeland* is Earl Old Person's, *Glacier Reporter*, May 9, 1991. The Rocky Boy Reservation was settled by Native people who did not sign a treaty with the United States.