

An Experiment in Democracy: The politics of impeachment on the Pine Ridge Indian Reservation

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This brief case study, part of a larger research project, examines how South Dakota's new ban on abortions was an attempt to test the new and presumably conservative Supreme Court. The appointment of two perceived conservative US Supreme Court justices to the bench complicated Oglala tribal affairs and affected Cecelia Fire Thunder's tenure as the first female Oglala Lakota tribal president as an indirect consequence.¹

HISTORICAL BACKGROUND

On January 31, 2005, the US Senate confirmed Samuel Alito to fill the vacancy left by the retirement of Sandra Day O'Connor by a close party line vote. It had been assumed that, with a conservative President, Court, and Congress, *Roe v. Wade* (410 US 113 [1973]) would be one of the first social issues to receive attention and be overturned. Less than two months later, South Dakota HB 1215 was passed by the legislature, and signed into law by the Governor on March 6. It was to take effect in July of that year. The bill banned all abortions except in the case of undue risk to the life of the mother.

It must be noted here that South Dakota residents forced a referendum initiative that was added to the ballot in November 2006, whereby a 55%-45% popular vote ended HB 1215 largely because the language did not go far enough to protect to the mother, nor adequately consider rape or incest.

ETHNOGRAPHIC OBSERVATIONS

On June 29, 2006, a larger building than the Porcupine district tribal council chambers was used to accommodate the anticipated crowd that would gather to witness the impeachment trial of Fire Thunder. But there wasn't much of a crowd. Small knots of the like-minded sat together waiting on three-tiered bleachers surrounding the court where basketball hoops are played daily. Alex White Plume, the tribal vice president (because he received the second highest number of votes, not because he is politically affiliated with the president), allowed me to videotape the proceedings.²

KILI radio, “The Voice of the Lakota Nation,” had set up shop in a corner of the room. It had been sending radio transmissions of tribal council meetings across the reservation from its inception in the 1970s as a way to keep residents in the remote districts on this massive reservation informed. The other camera in the room was manned by Oglala Lakota College students who had spent significant time and resources in preparation to digitally document this historic event. Alex White Plume, flanked by two tribal attorneys, called the meeting to order.

The first motion was made by a councilwoman, who asked that all filming and electronic recording be barred because of fear for the representatives’ personal safety and possible retaliation later by members of opposing factions. Will Peters, one of the two tribal councilmen who brought the suit against Fire Thunder, asked that the students be allowed to film so the college could have a record, but by an almost unanimous vote, electronic recording devices, including the tribal radio station, were turned off, which constituted a major violation of the people’s right to free and open hearings, as promised in KILI’s charter. We shifted from electronic equipment to pen and paper.

Peters now asked that the Council vote to remove all personal attorneys from the room, but to allow the tribal attorneys to remain to advise Council. The motion passed, Fire Thunder’s attorneys exited, and the Council moved directly to the impeachment process. The tribal secretary was to oversee the proceedings since White Plume would become president in the event of the current president’s removal. After a few minor procedural matters, the proceedings began in earnest.

THE TRIAL

The 2 Pine Ridge District councilmen submitted documentary evidence³ against Fire Thunder under the cover titled, “Documents to support complaint calling for the impeachment of OST (Oglala Sioux Tribe) President, Cecelia Fire Thunder. On the cover page were two hand-drawn images, a turtle and a lizard, which have significance in Lakota tradition as leather pouches, often ornamented with bead work or quill work designs, that are made by mothers or other female relatives for a child when it is born, in which to place the child’s umbilical cord. There is often no consensus on the meaning of sacred objects. In addition, since the rise of New Age religions and because the significance of cultural objects changes over time, as in all societies, the contested specifics are often less important than the fact of its symbolic nature which is widely recognized by contemporary Lakotas at Pine Ridge.

The cover also highlighted a quotation from Sitting Bull, a Hunkpapa Lakota, “Let us put our minds together, to see what kind of LIFE we can make for our Children” was a quotation that originated from the Dawes Act proceedings in 1887, that originally referred to negotiating a good deal for future

generations concerning land. “Life” was capitalized and underlined to frame the meaning to suit the complaint.

The fifty-two page file began with a copy of the letter of suspension, dated June 2, 2006, sent to Fire Thunder by the OST tribal secretary, advising her of the charges that were to be discussed at an impeachment hearing twenty-seven days hence. There were six charges, but since the first was the only one voted on, I will cite only that one here: “[She] invited federal and state law onto our sovereign reservation by challenging the new state abortion law, to begin her own abortion clinic, under the auspices of the Oglala Sioux Tribe.” Moreover, the letter of suspension informed her that she would not conduct any business in the name of the OST, was banned from discussing her case with media (on or off the reservation), that no further contributions would be accepted, that any monies received for the clinic would be returned, and that she could not travel on behalf of the tribe.

The second document was an undated draft of a resolution, drafted by the OST Tribal Council, in which the words “resolved” and “resolution” were amended, by hand, to read “ordained” and “ordinance.” The ordinance reads:

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL PROHIBITING ANY HEALTH CARE FACILITY LOCATED WITHIN THE EXTERNAL BOUNDARIES OF THE PINE RIDGE INDIAN RESERVATION AS DEFINED UNDER ARTICLE I OF THE OGLALA SIOUX TRIBE CONSTITUTION FROM PERFORMING AN ABORTION IRRESPECTIVE OF WHETHER THE HEALTH OF THE PREGNANT MOTHER IS AT RISK OR WHETHER THE UNBORN CHILD IS CONCEIVED OF [*sic*] THROUGH RAPE OR INCEST.

The ordinance cites Chapter 5 § 1.05 of the OST Law and Order Code, and is hand circled to indicate the pertinent reasons for its inclusion in the documents supporting Fire Thunder’s removal: “a child conceived, but not born, is deemed an existing person so far as may be necessary for its interests and welfare to be protected in the event of its subsequent birth.” The ordinance, which goes much further than HB 1215 stated that “irrespective of whether the health of the expecting mother is at risk or whether the unborn child is conceived through rape or incest,” no one may administer any medicine, drug, or other substance to cause a woman to abort, and that “medical treatment provided to the mother by a licensed healthcare physician that results in the intended or unintended injury or death of the unborn child will be considered an abortion.”

It does not indicate when a woman loses her rights as an “existing person,” nor why she is “ordained” to be sacrificed for her “child conceived, but not yet born.” In essence, the tribal council asserted its right to override the medical decision, based on the medical provider’s expertise, of her physician, including those employed by the Indian Health Service.

The third document was taken from a website from the South Dakota Campaign for Healthy Families, a political action committee formed by a coalition of South Dakota citizens seeking to repeal South Dakota’s HB 1215. “Cecelia Fire Thunder, President of the Oglala Sioux Tribe” is hand circled. Others of the sixteen signatories include a sitting Republican state senator, a past Republican state representative, physicians, registered nurses, students, and an ex-director of a women’s shelter.

Pages four through twenty-nine of the documents include media coverage of the controversy, focusing specifically on Cecelia Fire Thunder, who in a relatively short time had become alternately a national media “darling” or “evildoer,” depending upon the usual criteria for political judgments when dealing with women’s issues. She became a multivalent, multifaceted symbol of female power, authority, tribal sovereignty, female reproductive rights, indigenous peoples, ethnic minorities, and emerging underdog political figure who, in many respects, became a role model, victim, traitor, upstart, naïve, savvy, ambitious, or humble, depending upon the ways in which her name was invoked, by whom, and for what cause.

The Xeroxed documents were arranged for maximum effect, beginning with the cover of *Glamour* magazine (July 2006), which does not mention Cecelia Fire Thunder, but instead, features a photograph of Uma Thurman to advertise the article, “UMA on guys, gossip, and what she’s been through.” It is in the one page section, “Glamour News: What’s going on? Heroes. Causes and News of your world,” that a one paragraph note titled, “A Women’s Health Crusader,” appeared just above “5 things you didn’t know about me,” by Elizabeth Vargas, an ABC news co-anchor. The paragraph on Fire Thunder included two short quotations on her beliefs that “it’s a woman’s sacred choice to determine when to be a mother,” and that “my culture encourages me to use my voice to speak out for my beliefs.”⁴ This article appeared on newsstands the very month she was impeached and denied her rights to free speech by the tribal council.

And it just got worse. The next article was posted on MediaMatters.org and concerned the comments of notorious CNN “shock jock” Glenn Beck, who heard an AlterNet interview with columnist Rose Aguilar. He made disparaging remarks about American Indians, making fun of her name, saying that if casino revenues fail, maybe Indians could open abortion clinics. He made slurs against tribes, and stated, “I mean, when they say we gave them sovereignty, I mean it’s, you know, more in a way like, you

know, we took their sovereignty and then loaned them a little of it back, but you know what I mean. I hope that contract isn't iron-clad—when are we gonna get out of that contract with the Indians?" Other media cited in the next twenty-one pages of supporting material include, *American Indian Report* (May 2006), *Aberdeen American News* (May 27, 2006), *Rapid City Journal* (n.d.), *Lakota Country Times* (n.d.), and *BITCH Ph.D.* (March 22, 2006) among several other blogs.

Pages thirty and thirty-one are spreadsheets that indicate the number of minor and major criminal offenses on Pine Ridge. Neither page is dated in the original, so it is unclear what year is being reported. The first indicates major offenses pertinent to this case: there were three attempted forcible rapes by adults, and one by a juvenile, sixteen forcible rapes by adults, and three cases of incest. There are also categories for various types of assaults, but the gender of the offenders and victims is not listed, so we cannot make assumptions on spousal or child abuse. There is a handwritten note stating, "40,000 population." The second spreadsheet reports five attempted forcible rapes by adults, thirteen forcible rapes by adults, and one by a juvenile. The handwritten notes on the page say: "No incest reported for FY 2005," and "40,000 population."

The balance of the supporting documents contain evidence for the story getting around by word of mouth and blogs that moved the story along to websites in the Netherlands, the conservative LifeNews site, Salon.com, the *Detroit Free Press*, Socialist Worker Online, and the *Dead Journal*, which features articles on conspiracy theories. News travels even more quickly on the Internet than the "moccasin telegraph;" but in this digital age, damage goes unseen as bloggers stumble along to something else. To see vile racist comments, such as women's right to choose being the "Sioux scalping their own," is neither surprising, nor unusual, given the racist tone of some of those who express their opinions on Lakotas. And, those bringing this suit are often the loudest voices against such ignorant rhetoric. But now that venomous rhetoric was twisted to make a case that Lakotas should suddenly care about what others were saying about them.

Upon these largely inflammatory documents, the case for impeachment went forward. The case has now been framed as an assault on Oglala men who, they claimed, were being perceived as incestuous rapists by the outside world, and that it was Fire Thunder who had drawn this negative attention to the tribe and to tribal sovereignty in general.

Peters commented that "men should be raising men, and women should be raising women" (implying that because of men's absences, women have somehow ruined the men they have raised), and that women had the duty to report unwanted attentions so that it would be dealt with by men. While changes have been made, women continue to be re-victimized by the investigative and legal processes

and, in the Lakota case, where factionalism is a fact, it is not surprising that rape and incest are doubly difficult to report by the female victims.

THE RESPONSE—A LAKOTA DISCOURSE ON “REPRODUCTIVE CHOICE”

Cecelia Fire Thunder’s response was dispassionate and reserved. She believed that she had not been given adequate time to respond to the allegations, and argued that she had not committed malfeasance and that the reason this case is going forward is because of her stance against the South Dakota state law HB 1215. She noted that the word “abortion” is a very negative word, saying it should be called what it is, “the termination of a pregnancy because of rape and/or incest,” and it was often shame that prohibits women from coming forward with claims against their attackers.

She entered into evidence a solitary page titled, “Spirituality is our Culture and Walking with the Teachings of the White Buffalo Calf Woman.”⁵ The text discussed how “The White Buffalo Calf Woman had brought the sacred bundle and the seven sacred rites on which we base our entire culture,” and the ways in which the esteem of women has declined on Pine Ridge, as well as how problematic it has been for some men to accept a female tribal president. In bold text was written, “It is time to strengthen responsibility for ourselves, for our families, communities, and tribal nation.” The last line, in capital letters, read, “restoring value to life = responsibility = accountability = ownership.” As she read this statement, two councilmen got up, turned their backs, and walked out of the room.

She argued against Councilman Peters’ point about the media by simply saying that she didn’t buy into it. She said that freedom of speech is legal everywhere in the US, including the Pine Ridge Reservation, and what was made of private conversations and then what was done with them by the media was not her concern. She reiterated her desire to build a women’s health clinic on her own land. With respect to the “natural law” language mobilized in the suit, she argued that “natural laws” deal with concerns such as floods, tornados, prairie fires, and the like, not that women must bear children.

She concluded that her due process was violated, and that the twenty day suspension she had endured was enough, and asked the Council to let her serve her remaining five months in office. After some heated debate, the Council, in a highly and contested decision, removed Cecilia Fire Thunder from office. Both councilmen who brought the suit voted, despite the established precedent of recusing oneself from voting when one is the complainant in an action. In addition, the constitution calls for a _ majority vote to remove a sitting president. The nine-to-five vote did not constitute a _ majority. Nonetheless, she was removed. Despite her appeal being upheld by the Lakota Supreme Court, it was overturned when the

tribal council reminded the judge that she also served at the pleasure of the OST tribal council, in which all power is constitutionally vested. There is no separation of powers on Pine Ridge.

FINAL THOUGHTS

The language of a woman's right to choose to terminate a pregnancy in the case of rape, incest, or the threat to the life of the mother, has morphed from the original language of "choice" to one of "abortion." The Conservative Right has chipped steadily away at federal, state, and now Indian nation's protections of a woman's right to choose. In the Lakota case, the ordinance severely limited a physician's ability to exercise his or her medical judgment even to protect the life of the mother. Again, my question for any democratic institution is, "At what point does a woman lose her right as a human being in favor of an unborn fetus that may not be viable outside the womb despite the grainy ultrasound picture that serves to technologically mediate the relationship between a fetus and its mother and—more importantly in these cases—the relationship between a fetus and society?"

Fire Thunder's argument was that men cannot fully comprehend the pain of rape, or the shame of incest, and that she was willing to draw fire to draw attention to the abuse that is perpetrated against women. She said, "We talk about children being sacred, why haven't we done more? ... If they are so sacred, why do we abuse them?" Eighty percent of Lakota households are headed by women, and men need to, as she says, "Come back into the circle." The "abortion issue is just the tip of the iceberg; women need access to contraception, we need to take care of children and protect them." She noted that "children used to be made in a good way, not by alcohol, drugs, or incest." And what can the men do? She says they can hold back violence, use self-discipline and restraint, and take their responsibility in sexual matters.

The Fire Thunder case illustrates that discourses on life constitute one of the contemporary contexts in which overlapping and intersecting discourses on social issues may be mobilized to achieve desired political results. While Lakotas have more often than not been on the receiving end of negative judgments, they are perfectly capable of deploying tactics used by those who have long sought to oppress them as a people to advance factional infighting.

NOTES

¹ This paper is based on ethnographic observations during my summer fieldwork on the Pine Ridge Indian Reservation, 2006.

² Quotations in this paper come from the fifty-two pages of documentation distributed in association with the claim against Cecilia Fire Thunder.

³ All subsequent citations in this section reference the preceding source (prosecution).

⁴ *Glamour Magazine*, July 2006, as quoted on page 5 of the fifty-two page document.

⁵ All subsequent citations in this section reference the preceding source (defense).