

Politics on the Boundaries: The Post-Colonial Politics of Indigenous People

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Article Abstract

Politics on the boundaries as a practice and third space of sovereignty as a pursuit frame a logic of indigenous politics developed through post-colonial analysis. The post-colonial premises of this logic are defined and applied in this article through an examination of indigenous political claims and activities from different historical moments. These forms of indigenous politics articulate diverse and yet similarly woven strands of the logic of politics on the boundaries. Implicated in any logic of indigenous politics in the U.S. context is the effort to affect a more politically resonant understanding of how American political identity has been constructed through a symbolic and material relationship to indigenous people. As such, this logic can and is turned around to shed light on the tensions inherent to American politics. Finally, the article closes by demonstrating how politics on the boundaries clarifies the terms of the pro-casino arguments of California-based tribes during the Proposition 5 campaign in 1998.

Introduction

Recently, a number of indigenous tribes¹ in the United States have experienced considerable economic success from owning and operating casinos. This material success has facilitated access to mainstream American politics via the old-fashioned way, campaign contributions to political parties and candidates.

The prime example of this phenomenon came in the 1998 California elections, where a record \$90 million was spent on the Yes and No campaigns for Proposition 5,² an initiative placed on the ballot by a coalition of tribes to amend state law in order to legalize their casino operations. Proposition 5 passed by a wide margin of 63% to 37%.³ This newfound power within American politics has provoked concern amongst some indigenous people about what this activity might mean for the future of indigenous political institutions and political culture. David Wilkins, a political scientist, legal scholar and member of the Lumbee Nation recently expressed his worry: "If tribal governments and their multilayered citizens are so actively engaged in non-Indian politics, can tribes still legitimately assert that they are in fact extraconstitutional sovereigns?"⁴ Wilkins' notion of "extraconstitutionality"⁵ underscores prevailing uncertainties over tribal status within the U.S. context, and thus over the practice and purpose of a specifically *indigenous* politics.

One basis for these uncertainties stems from America's founding legal and political document, the U.S. Constitution. Article I, Section 8, Clause 3 mandates that Congress shall have the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." This clause hints at the dilemma in trying to understand the legal and political location of indigenous tribes in relation to the U.S. polity. While the "several States" are inside and "foreign Nations" are outside American political boundaries, "Indian Tribes" are not wholly positioned in either the internal or external space. They constitute a unique location not quite but somewhat like that of the other two political entities, confounding efforts to grasp indigenous people's politics in the American political context, especially concerning the issue of sovereignty.

Over time, the notion of what sovereignty means for the United States and what it means for indigenous tribes have changed in relation to each other. One way to describe this change is to note that, upon its founding in the eighteenth century, the U.S. negotiated and fought "with" indigenous tribes as if they were foreign nations, but by the late twentieth century the U.S. legislated and ruled "over" indigenous tribes as if they were a domestic concern.⁶ Historically, however, indigenous tribes in relation to the U.S. are neither solely foreign nor domestic entities,⁷ but paradoxically both at the same time. Considering the constitutional and historical ambiguity of indigenous political status, the politics of indigenous people appears to stem from a location on the boundaries separating the inside from the outside and/or the domestic from the international. This is what I call *politics on the boundaries*, a logic of indigenous political practice and purpose which this essay defines, illustrates and utilizes to shed light on indigenous people's political life.

Politics on the boundaries means that indigenous political actors, in their words and deeds, work back and forth, inside and outside American politics and history to generate the greatest possible sovereignty for their tribes. On the inside to outside trajectory, they work within the boundaries of the U.S. political system, drawing on treaty promises, legislative commitments and American

political discourse, in order to enhance the sovereignty of their tribal governments. This trajectory is complimented by the outside to inside strategy, whereby indigenous actors emphasize external sovereignty—defined temporally, as in sovereignty held prior to and thus outside American political history and/or spatially, as in sovereignty norms articulated outside the United States—to strengthen their position within the American political system. Politics on the boundaries as a practice, then, pursues a form of sovereignty that is neither complete secession from nor complete assimilation into the American polity.

The effort to denaturalize boundaries⁸ by showing them to be locations of political contest and claim-making is illuminated through a post-colonial theoretical perspective on the indigenous-American political relationship. Post-colonial theory seeks to address the constitutional role that the colonizer and the colonized have had upon one another, historically, culturally and politically. In its unique contribution to political analysis, post-colonial theory does not tend to reflect the inadequacies of political science literature dealing with race and ethnicity generally, and indigenous people specifically. Political science, on the whole,⁹ does not tend to account for the constitutional processes between group identities and the effect of this for their political relationship. Furthermore, political science all too often assumes that indigenous people are just another race or ethnicity,¹⁰ rather than seeing indigenous groups as tribes and nations whose claims for sovereignty are a defining component of their identity. Working through a post-colonial analysis suggests the presence of a “third space” of sovereignty positioned on, rather than inside or outside of, political boundaries. Rather than presuming the coherence of the colonizer’s identity and the fractured state of the colonized as the basis for analyzing this political relationship, a post-colonial third space acknowledges the fullness and complexity of indigenous people’s political identity, claims and activities.

Politics on the boundaries as a practice and third space of sovereignty as a pursuit frame a logic of indigenous politics developed through post-colonial analysis. After setting out this logic’s post-colonial premises, this article examines historical examples of indigenous political claims and activities that demonstrate the different yet linked strands of the logic of politics on the boundaries. American political identity is used to shed light on its construction. In conclusion, politics on the boundaries makes sense of the strategy behind the pro-casino arguments of California-based tribes in 1998.

Post-Colonial Theory and the Supplemental Challenge

Within post-colonial theory, many excellent works have analyzed the relationship between the colonizer and the colonized through fields such as literature, film and feminism.¹¹ However, this essay’s theoretical premises are best framed through Homi Bhabha’s analysis, in *The Location of Culture*, of the articulations of colonized peoples in contemporary political life as a “Third Space of enunciation, which makes the structure of meaning and reference an ambiva-

lent process.”¹² The ambivalence of meaning, reference and enunciation lies at the heart of the tensions defining the post-colonial condition and political identity of colonized peoples.¹³ The political identity of the colonized, in this case U.S. located indigenous tribes, is premised upon and persistently forced to address the apparent tension between past and present, tradition and change, and static and fluid identity. Indigenous people face these tensions explicitly and continuously, having to legitimize their historical relationship to territory and/or as a coherent group in the effort to gain from the U.S. Government, among other things, legal and political recognition as tribes and viable hearings of their claims. That this ambivalence is inherent to the political culture and claim-making process of indigenous people points to the value of expanding Bhabha’s “third space of enunciation” from a way to understand political articulation into a form of political claim-making that acknowledges ambivalence in the meaning and practice of sovereignty, hence the “third space of sovereignty.” A third space of sovereignty emerges out of a politics on the boundaries that seeks to widen the vision of political discourse, with specific concern for contesting how a dominant nation constructs the relationship between its political identity and its claim to authority over demarcated space.

Politics on the boundaries offers what Bhabha might call a “supplementary strategy,” in which the non-dominant group

does not simply confront the. . . powerful master-discourse with a contradictory or negating referent. It does not turn contradiction into dialectical process. It interrogates its object by initially withholding its objective. Insinuating itself into the terms of reference of the dominant discourse, the supplementary antagonizes the implicit power to generalize, to produce sociological solidity.¹⁴

By re-defining the meaning of their location on the boundary, non-dominant groups can resist the effort of the dominant group, be it a singularly defined nation or a multicultural diversity of liberals, to homogenize the discursive relationship of a people to a bounded political space. Claims to a third space of sovereignty refuse the notion that sovereignty had any simple definition and assert that no matter how it is defined sovereignty does not simply connect unhybridized identity to authority over bounded political space. Thus, a politics on the boundaries seeks to resignify state boundaries into the possible location of a form of sovereignty that does not conform to the seemingly unambiguous choices of the western state system: secession or political assimilation.

With this in mind, we can re-read the earlier discussion of Article I, Section 8 of the U.S. Constitution, mandating Congress’ relationship to “foreign Nations,” “the several States,” and “the Indian Tribes.” The “several States” occupy the *first space* within the American polity, while “foreign Nations” occupy the *second space* on the outside. This leaves “Indian Tribes” to constitute their own *third space* in both political status and claims in relation to American political

institutions and political culture. Setting forth a post-colonial framework in which a third space of sovereignty offers a way to re-conceive contemporary political relations leads us to look at how indigenous and non-indigenous political identities are constructed and located relative to the meaning and practice of sovereignty. This is because indigenous political voices seek to open for interrogation the political identity of the dominant nation regarding the presumptive legitimacy of its sovereignty over bounded political space.

Indigenous Articulations: Across Political Time and Space

In a letter to Minnesota Governor Jesse Ventura, on March 2, 1999, Marge Anderson, Chief Executive of the Mille Lacs Band of Chippewa Indians, asserted that the concept and practice of tribal sovereignty did not begin with nor did it gain its authority from within the history and boundaries of American governance:

Please understand that sovereignty is not a gift from the federal government, and it is not a gift from the state of Minnesota. Sovereignty is the inherent right of every American Indian tribal government. It is a reflection of the indisputable fact that we lived on this land and governed ourselves hundreds of years before Europeans arrived.¹⁵

Anderson's views are representative of indigenous tribes in the U.S. context who continually tell American political leaders and citizens that their claims against indigenous sovereignty reflect a basic misunderstanding of the fundamental components of the historical relationship between American and indigenous societies.

The claim to "inherent" sovereignty means that indigenous people, in their myriad communities, governed themselves before European contact. As Anderson stated, indigenous tribes and nations were not granted sovereignty by the conquering and settling European societies. Rather, sovereignty existed beforehand and the present limited nature of tribal sovereignty was a result of a reduction, not an amplification, of sovereignty. The basic notion that tribal sovereignty is both *inherent* and *limited*, however, begs the question as to what it actually means within the U.S. political context. As recently as 1991, the U.S. Supreme Court asserted that tribes are 'domestic dependent nations,' which exercise inherent sovereign authority over their members and territories."¹⁶ The term "domestic dependent nations" draws directly from the early nineteenth-century decisions of John Marshall's Supreme Court, which confirmed the legal fact of tribal sovereignty while also defining its limitations within the American governing framework.¹⁷

The notion of "inherent but limited" sovereignty for "domestic dependent nations" further underscores the ambiguity of tribal sovereignty. The idea that tribal governments could enjoy some but not other components of sovereignty—

that they could be “limited sovereigns”—has been referred to by Ward Churchill, drawing from the words of Russell Means, as the “judicial equivalent. . . [of being] partly pregnant.”¹⁸ Specifically, Churchill refers to how “American jurists and policymakers alike argue that indigenous nations were always sovereign enough to validate U.S. territorial ambitions through treaties of cession, never sovereign enough to decline them.”¹⁹ Churchill asserts that indigenous people need to demand “complete decolonization” of indigenous lands by occupying states, according to the terms of the United Nation’s Charter and declaration regarding the independence of colonized peoples. Ultimately, however, he is well aware that complete decolonization by the U.S. from all lands claimed by indigenous tribes is, to say the least, a stretch. Thus, in a footnote after calling for decolonization under U.N. rules, he offers that:

a colonized people is not legally required to opt for complete independence in order to exercise its complete independence and separation from its colonizer in exercising its right to self-determination. Instead, it may elect to limit its own sovereignty to some extent. . . . Colonizing states, however, are legally required to acknowledge without qualification the right of colonial subjects to complete independence and separation. . . .²⁰

This qualification to the strong demand for “complete decolonization” is undoubtedly driven by Churchill’s political realism. Yet, his words point to the conundrum of indigenous people’s political life.

This radical voice in indigenous politics is compelled to concede that for achieving sovereignty for indigenous nations, the “exercise of complete independence” need not mean the actual manifestation of complete independence. Rather, an acknowledgment by the colonizing state of the right of indigenous peoples to complete independence is sufficient, and will then allow indigenous nations to agree to some limits on the very sovereignty they just won. After centuries of genocide, oppression and appropriation at the hands of an untrustworthy American nation, it would seem a little surprising for Churchill to accept U.S. “recognition” as a sufficient basis for indigenous sovereignty. Churchill, of course, is not so trusting, but rather is dealing with the dilemma of political claim-making amidst the immense cultural, political and demographic presence of the American nation.

Like Marge Anderson, Churchill faces the problem of trying to defy the hegemony and seeming naturalness of American sovereignty over this land. They both do so by invoking indigenous sovereignty not just as a preexistent historical claim, but as a claim that refuses the presumption that tribal sovereignty was born from an all-encompassing American national sovereign, as if it were a “gift.” In this sense, Anderson temporally locates tribal sovereignty outside American history so as to highlight its unique spatial location as *not* seamlessly within American political boundaries. Similarly, Churchill’s demand for the rec-

ognition if not the manifestation of “complete independence” refuses the presumption of the legitimacy of American sovereignty by looking beyond American political and legal norms to draw upon those of the international community. Just as Anderson looks beyond American political *time* to find a historical foundation for tribal sovereignty claims within the U.S., Churchill looks beyond American political *space* to find the legal foundation for the same political purpose. The arguments of Anderson and Churchill indicate one way in which a politics on the boundaries shapes discourse, in that it compels indigenous political actors to look outside the boundaries of American sovereignty to locate the historical, legal, and political case for tribal sovereignty. This reaching outside, however, is done to empower indigenous sovereignty in the American political context, where tribes make political claims for the rights and resources necessary to secure the well-being of their people. That making the case for tribal sovereignty involves re-defining and challenging the temporal and spatial meaning of the boundaries of the American polity is also evident in how American political identity seeks to define the location of indigenous political identity.

America Shapes and Defends its Boundaries

Consider the conflict in upstate New York, where the Oneida Nation utilized profits from its Turning Stone Casino to buy some 10,500 acres in Oneida and Madison Counties. Backed by the U.S. Justice Department, the Oneida Nation sued both counties for approximately 250,000 acres. The Oneida assert that these areas are their legally held historical lands based upon an eighteenth-century treaty,²¹ which the New York state government defied so often that it left the Oneida with just 32 acres of land prior to their recent economic revitalization. Oneida representatives have asserted that they do not want to evict the property holders of the county, but seek “a creative solution” to the violations of the U.S.-Oneida treaty.²² To the Oneida, their treaty with the U.S. in 1794 is an agreement between two sovereign governments, which a sub-national government such as New York state cannot undermine. The response from New York officials and citizens indicates that they also view the Oneida as a sovereign entity. However, in the view of these New Yorkers, the Oneida Nation is not one whose treaty relations with the U.S. deserve respect, but rather, they are an emerging and invading sovereign presence that threatens to undermine American sovereignty.²³

Oneida County executive Ralph Eannes put it bluntly: “if they buy back 250,000 acres, they rip the community of central New York apart. If this guy pays taxes but that guy doesn’t, this guy lives by zoning laws, that guy doesn’t—what does that do to the community?”²⁴ One property owner in Vernon, New York expressed concern that the Oneida “want their own country within our country.” The lawyer for the property owners referred to the Oneida Nation as having “quasi-sovereignty,” that its claims against American private property “violates principles of the American Constitution,” and said it was “shocking to see a government of this sort within *our* government.”²⁵ These American politi-

cal voices illustrate the perplexity of the political status of indigenous sovereignty in that they, like Anderson and Churchill, see it as conceptually both inside and outside the historical, legal and political boundaries of the American polity. To indigenous political actors, this is the route to strengthening tribal sovereignty, but to some American political actors it is the path to permeating the boundaries and fabric of American sovereignty. These two sentiments are not incompatible, as the claims for indigenous sovereignty pivot back and forth across the temporal, institutional, and political boundaries of the U.S. in order to re-define a political location upon which tribal sovereignty can have the firmest foundation possible. This inside/outside movement, however, means that this location of indigenous political agency ends up right on those boundaries, calling forth the fears of Americans about what the boundaries of their own nation's sovereignty actually signify. Such fears are not uniquely contemporary, but rather harken back to the American nation's earliest days.

In *Playing Indian*, Philip J. Deloria argues that the founding and revitalization of American national identity and political culture occurred through indigenous culture in two distinct, historically-situated forms.²⁶ During the founding era on up through the nineteenth century, indigenous identity was a symbol of both rebellion and rooted independence, which helped shape the early form of American political identity. The figure of the Indian "situated within American societal boundaries" represented the rebellious and independent qualities appropriated by Americans. This Indian imagery was framed in a noble/savage doubling, with a companion image outside these boundaries in the form of the "aggressive, exterior Indian Others who justified the violent acquisition of Indian land."²⁷ Then, with the dawn of the twentieth century and the rapid influence of modernity taking hold in the U.S., indigenous identity provided Americans a means of maintaining authenticity as a people of this land. As socio-economic transformations brought the pressures of industrialization and urbanization to Americans, they drew sustenance from the "noble" figure of the Indian now outside the boundaries, representing "authenticity and natural purity."²⁸ The other half of this image is the "savage" figure inside the boundaries, "coded as drinking, tramping, and laziness, Americanized Indians were powerful examples of the corrosive evil of modern society."²⁹ This split image is not an insight into indigenous political life, but rather into the political life of America.

America was created and perpetuated upon "such dissonances" as the "constant collisions between personal liberty and social order," the "distance between the rhetoric of egalitarianism and the reality of slavery and class struggle," and the inherent paradoxes faced by "most nations and societies" that profess liberal-democratic norms yet strictly define the people for whom these norms are to have real meaning. "Playing Indian offered a powerful tool for holding such contradictions in abeyance," according to Philip Deloria.³⁰ This pretence helped to cohere the American national community through starkly illustrating the difference between the inside versus the outside of the nation. As a *New York Times* article in 1997 stated: "[Indigenous people] have been symbols and back-

drops on which America projected its values and prejudices.”³¹ Given the role of indigenous political identity in the formation and maintenance of America’s cultural and political boundaries, indigenous politics that actively question and blur these boundaries stand as a threat to America’s coherence.

Indigenous Politics on the Boundaries: Keeping Identity Whole

The depth and ambiguity of the historical, cultural and political relations between American and indigenous societies leads Deloria to suggest that “while Indian people have lived out a collection of historical nightmares in the material world, they have also haunted a long night of American dreams.”³² This “haunting” is most palpable when indigenous political voices assert the fullness of their collective identities in defiance of the spatial and temporal presumptions of American political boundaries. In expressing the coherent shape and meaning of indigenous political history, identity and claims, indigenous political voices refuse the American effort to split their identities into two stereotypical images. This indigenous challenge to the coherence of American political identity is thus also a refusal of the “abeyance” of contradictions preserving America’s unity and boundaries.

In 1933 Chief Luther Standing Bear of the Oglala Sioux called into question the status of American political identity in and over this land:

The white man does not understand the Indian for the reason that he does not understand America. He is too far removed from its formative processes. The roots of the tree of his life have not yet grasped the rock and soil. . . The man from Europe is still a foreigner and an alien. And he still hates the man who questioned his path across the continent.³³

Here the “contradictions” of political life in the United States are framed as preventing the American nation from gaining a sense of true belonging in North America. In contrast, indigenous people, though tormented for centuries, can call forth an historical coherence that positions them as the inassimilable presence refusing to legitimize American political authority over North American space. Through the imagery of Americans as “foreigners” in this land, Standing Bear defies the notion that American boundaries mark out the political community to which indigenous people must assimilate or from which they must exit. The lesson here is that in generating political claims, indigenous people need not adhere to the options set out by the American political framework. In fact, they must recast these options in order to maintain the political link between their identity and claims to sovereignty in defiance of the presumption of American sovereignty.

A striking example of the effort to upset the presumptions of American sovereignty in the course of redefining the politics of indigenous sovereignty came in November, 1969, when a group called *Indians of All Tribes (IAT)* seize

the abandoned federal penitentiary and surrounding land of Alcatraz Island in San Francisco Bay.³⁴ Asserting that “we didn’t want to melt into the melting pot. . . . we wanted to remain Indians,” the occupiers laid claim to the island to force negotiations with the federal government and to assure that Americans will not “forget us, the way they always have, but we will not be forgotten.”³⁵ The occupation, which lasted until June 1971, claimed the land for the stated purpose of setting up such institutions as a Native American Studies program, Spiritual Center, Museum, and Center of Ecology. Prior to asserting these very specific demands, the Proclamation announcing the occupation creatively and humorously inverted the discourse of European conquest. As with Standing Bear, *IAT* refused the coherence of the claim of American political identity over space.

The “Proclamation: To the Great White Father and All His People,” began with “we, the native Americans, re-claim the land known as Alcatraz Island in the name of all American Indians by right of discovery.” With the precedent of the Manhattan Island sale, *IAT* offered to “purchase said Alcatraz Island for 24 dollars.” Echoing the discourse of American colonization, they offered to “give the inhabitants of this land a portion of the land for their own, to be held in trust by the American Indian government . . . to be administered by the Bureau of Caucasian Affairs.” The imagery of indigenous conquest over idle U.S. territory refuses to forget the history and meaning of American political boundaries by turning the language of nation formation through conquest back against America. In this way, *IAT* discursively positioned themselves as a “foreign” colonizing force competing with the American nation over the marking of inter-national boundaries. This external challenge to the reach of America’s boundaries is supplemented with an internal refusal of the elision of contradictions preserving the myth that American boundaries mark out a liberal-democratic space.

Turning the history of American paternalism into a positive argument for their claim to Alcatraz, the Proclamation asserts that the island was “more than suitable as an Indian reservation, by the white man’s own standards.” Alcatraz Island “resembles most Indian reservations” in that, to name but a few of the comparisons, “it is isolated from modern facilities,” “it has no fresh running water,” “there are no oil or mineral rights,” “the soil is rocky and unproductive and the land does not support game,” “there are no educational facilities” and “the population has always been held as prisoners and kept dependent upon others.”³⁶ The occupation of Alcatraz and the claims set out in the Proclamation represent a politics on the boundaries that simultaneously calls forth the American government’s treatment of indigenous tribes within its boundaries while also posing a nation-to-nation challenge to U.S. sovereignty in general. The objective of this inside/outside strategy, which was similarly pursued by other Red Power movements of this time, was to achieve “change and inclusion in U.S. institutions while preferring to retain Indian cultural identity. This was a form of nonassimilative inclusion.”³⁷ “Nonassimilative inclusion” is similar to the inside/outside location “on the boundaries”—the third space of sovereignty—

that many and varied indigenous political actors assert. A fitting contemporary example of this form of “boundary” politics is found in the tribal casino issue.

Tribal Casino Gaming: A Post-Colonial Challenge

Through the 1990s, only a few years after the passage of the Indian Gaming Regulatory Act (IGRA),³⁸ tribal gaming enterprises earned yearly revenues that skyrocketed from \$1.5- \$2.5 billion in the early part of the decade to over \$7 billion in 1999.³⁹ Indigenous enterprises certainly do not dominate the gaming industry (accounting for under 15 percent of market share), but the substantial sum of money earned and the incredible potential for enhancing future revenues indicates why many tribes see gaming as a path toward economic self-sufficiency.⁴⁰ However, tribal casino gaming is not simply an economic issue. It is a post-colonial political challenge that could threaten or strengthen indigenous sovereignty.

This challenge is post-colonial because it reflects the ambivalent outcomes of the co-constitutive relationship between the colonized and the colonizer, in which colonial domination produces and is confronted by what Bhabha calls subaltern mimicry that “resembl[es] and menace[s]” the economic, legal, and political forms of the colonizer.⁴¹ Given the potential of casino profits to address the material needs of a people at the bottom of most socio-economic rankings,⁴² a tribe faces the challenge of determining whether “mimicking” the colonizer’s gaming economy strengthens tribal sovereignty or leads to the development of economic, social and political practices that too closely “resemble” those of the United States. By contrast, American communities, like upstate New York, face politically empowered casino tribes that palpably question the boundaries and meaning of U.S. sovereignty. Thus, by exposing America’s ambivalence over the terms of national community, tribal casino gaming can be an expression of indigenous sovereignty that “menaces” the colonizer. In truth, tribal “mimicry” of the casino economy is neither simply “resemblance” nor “menace,” but a tenuous reflection of both groups.

Tribal gaming politics, then, are a post-colonial conflict in which an emergent colonized people, as diverse collectivities, present to the colonizer a political voice that is both an enunciation of unique sovereignty and a reflection of colonial forms. The paradoxes inherent to this indigenous political expression reveal it to be a potential third space of sovereignty, in which the tribal casino economy, at once, emerges from and challenges U.S. political and legal jurisdiction. This point returns us back to David Wilkins’ question. Only now, his question can be reformulated in post-colonial terms around the present issue: Will entering the casino economy diminish a tribe’s sovereignty by locating it further within – “resembling” – American political boundaries or strengthen this sovereignty – “menacingly” – outside these boundaries? While the responses to this question are as diverse as the tribes themselves, the California tribes who engaged in the most expensive and notable indigenous-generated political argu-

ment of recent times, within what Wilkins might call the “non-Indian politics” of the American electoral system, provided an intriguing answer.

The California Referendum: Is this Indigenous Politics?

In the 1990s many tribal gaming operations in California were very successful.⁴³ However, this success occurred without any of the over forty gaming tribes and the California state government agreeing to the “tribal-state compact” seemingly required by the provisions of the Indian Gaming Regulatory Act.⁴⁴ To the tribes, the lack of compacts was in great part a result of California Governor Pete Wilson’s unwillingness to negotiate in “good faith.”⁴⁵ On the other hand, the Governor claimed that he would not negotiate with tribes until they ceased operating casinos he deemed illegal according to the state’s constitution.⁴⁶ Rather than find a way to negotiate with the gaming tribes, Governor Wilson agreed to a compact with the non-gaming Pala Band in March, 1998.

In tension with IGRA’s regulation that a tribe and a state can only negotiate for themselves, the “Pala-Wilson” compact set out, among other things, limits on the number of video gaming terminals permitted in the state generally and within each tribal casino.⁴⁷ Thus, by its very provisions, this compact was to serve as *the* model for all California tribes, if their casinos were to be considered legal by the state. In this way, Wilson sought to put a ceiling on the economic potential and also the political power of these tribes, which was thus an effort to control the scope of tribal sovereignty in the California context.

John Ramos of the San Manuel Band of Mission Indians regarded the Governor’s model compact and his general approach to the gaming tribes as an insult to both indigenous political identity and the values of American democracy. To Ramos, the Pala-Wilson compact was “a clever strategy to destroy Indian gaming in California. It does not, however, serve well the people of California and the rights of Native American tribes as recognized by the concept of Indian sovereignty.” Seemingly, the destruction of Indian gaming would occur because of proposed state limits on the profit-maximizing potential of individual tribes, thus hampering the development of casinos that could employ and entertain many Californians.⁴⁸ The political threat was that the compact negotiated by Wilson and the Pala Band erased each tribe’s right to its particular expression of sovereignty on this matter. Furthermore, Ramos argued, Wilson’s “adamant refus[al] to talk to gaming tribes on the grounds that their games are illegal” was a blatant disregard for the principle that civil dialogue is the way to “settle conflicting claims” in American politics:

Talk is the American way, especially when there is an honest difference of opinion. The logic behind [Wilson’s plan] leads to an inescapable conclusion, namely, settling this dispute by force or compulsion—and that’s just what the Governor wants to do.⁴⁹

Ramos articulated a politics on the boundaries formulation that casts the tribes as, at once, seeking the American dream in the "American way." At the same time, they sought a stronger foundation for tribal sovereignty in a way that calls forth the "inescapable" issue of competing claims to sovereignty. This seemingly irresolvable and untranslatable paradox between seeking both the American dream and indigenous sovereignty was actually key to the power and flexibility of the boundary politics employed here.

In this case, a politics on the boundaries approach allows the tribes to go after the California state administration for both "not serving well the people" *within* the American political process and not adequately respecting the "concept of Indian sovereignty" *outside* the American polity. In due course, the tribes defied the state's sovereignty by refusing to abide by and negotiate an agreement based upon the Pala model. They then sought to reverse the state's sovereign expression by offering their own model, Proposition 5, calling it "The Indian Self-Reliance Initiative" that, among other things, "amends California law" to legalize tribal gaming operations and "mandates" that the Governor "sign [a] compact upon request by tribe."⁵⁰ By proposing this initiative to the state's citizens for a referendum, these tribes looked to work within the American political system—the "American way" of electoral politics—in order to do to the state administration what the tribes thought the state administration was trying to do to them – "settle a dispute by force or compulsion." Compulsion, in this case, meant finding the avenue within state law to "force" the Governor to agree to compact terms defined by the tribes, thereby codifying the primacy of indigenous sovereignty over California state sovereignty on this issue.

The tribes' effort to persuade the public to vote *Yes on 5*⁵¹ called forth the internal discourse of American political culture while also, and often in the name of, addressing the need to strengthen tribal sovereignty's independence from American political institutions. For example, San Manuel Vice-Chairman Ken Ramirez, who was also Chairman of the *Yes on 5* committee, penned "A Letter on Sovereignty," in which he argued that with their "ever-increasing involvement in the larger American community as a result of Indian gaming" tribes find their sovereignty under greater attack and must respond with a vigorous defense of this fundamental indigenous political claim. Otherwise, tribes will be absorbed wholly within the American political system and be reduced to "just one of a multitude of interest groups fighting for their share of the pie." Such an outcome would doom the tribes, because "without sovereignty, Native Americans are too few and too feeble by comparison to other interest groups to compete effectively, as for example, against the vast wealth of Las Vegas casinos." Here, then, Ramirez gives credence to Wilkins' concern. Ramirez' solution, however, is not to abandon the realm of so-called "non-Indian politics," but rather to embolden the tribes' indispensable sovereignty through a nuanced yet direct engagement with an American polity in which indigenous people, in their own way, rightfully and historically claim a location. By their very articulation of this unique indigenous location, these tribes upset the notion that there is such a

thing as a seamless realm of “non-Indian politics,” though they must still heed Wilkins’ concerns by maintaining rather than defusing the “on the boundaries” position of “indigenous politics.” The argument here is that this is a necessary yet difficult position to maintain, as Ramirez’s argument indicates.

While at one point, echoing Means via Churchill, Ramirez states “sovereignty is like pregnancy . . . you cannot be a little bit sovereign,” he also implicitly grants such “partial pregnancy”: “Native Americans believe that their tribes have the status of sovereign nations *within* the larger American nation.” The balance Ramirez seeks here is to frame tribes as more than “just interest groups” within the American polity but still less than “fully sovereign nations” outside the American nation. The ambivalent relationship between tribal sovereignty and American politics is evident in the closing paragraph of Ramirez’s letter, in which he calls forth:

the lesson of history for both Native Americans and the American people going back to the Revolution of 1776. . . . Sovereignty is not a nineteenth-century concept—it is as vital and necessary today as when the Declaration of Independence proclaimed the right of all people to self-government.⁵²

Citing the American Revolution and Declaration of Independence—a document declaring U.S. independence from the “King of Great Britain” because he, among other things, “rais[ed] the conditions of new Appropriations of Lands” (i.e., indigenous territory) and “endeavored to bring on the inhabitants of our frontier, the merciless Indian Savages”—is boundary politics expressing the paradoxical, post-colonial relationship between indigenous and American political societies.

Drawing from two of the most renowned signifiers of American political culture to advance the cause of tribal sovereignty ominously reflects Frantz Fanon’s warning that “the settler’s world is a hostile world, which spurns the native, but at the same time it is a world of which he is envious.” Writing from his context of decolonizing Africa in the 1960s, Fanon sees:

that the native never ceases to dream of putting himself in the place of the settler— not of becoming the settler but of substituting himself for the settler. This hostile world . . . represents not merely a hell from which the swiftest flight possible is desired, but also a paradise close at hand which is guarded by terrible watchdogs.⁵³

The “hell” versus “paradise” option is similar to but not exactly the same as the inside versus outside locations defining the boundary politics of indigenous people.

The sentiment and dilemma Fanon outlines is roughly similar for colonized peoples, whether the colonizing population, culture and institutions are located

across the “blue water,” or if the colonizer’s population, culture and institutions are settled on and over the colonized, like settler societies such as the U.S. One key difference in the settler society context from that analyzed by Fanon, however, is that while the “desire” to escape from the boundaries of colonial rule is similarly articulated by the claim that colonized peoples “cannot be a little bit sovereign,” the “paradise close at hand” assumes the form of “becoming” rather than “substituting” the settler. In other words, where in Fanon’s terms the “paradise close at hand” translates into some version of overthrowing the colonizer and taking control of its institutions, in the settler society this “paradise” translates into some version of assimilating to the colonizing polity and exercising political power within those institutions. This so-called assimilation, however, also articulates a post-colonial mimicry that appropriates, refigures and seeks to “menace” with classic American signifiers by rearticulating them for indigenous political purposes.

Thus, Ramirez constructs a narrative of identification between indigenous people and the founding act and document of the United States. He drops the word “American” from the “Revolution of 1776” and frames the Declaration as if it were a United Nations declaration written for all peoples, rather than a specific group of British colonials in the eighteenth-century. This formulation is relevant to the very concrete casino gaming politics of California, because it suggests the way indigenous political actors frame the argument for a type of tribal location within American political boundaries based upon adherence to rather than a surrender of “the right of all people to self-government.” Identifying with the founding premises of American self-governance as a premise of tribal self-governance is in one way like the *Yes on 5* argument, simultaneously trumpeting the sounds of assimilation and independence. Balancing both discursive angles was necessary to generate a political claim hinged on a notion of “self-reliance” that could resonate with the California public as a classic American aspiration, while also holding to the indigenous aim of collective self-determination. In substantiating the case for the “Self-Reliance” initiative, *Yes on 5* linked American notions of self-reliance to the location of indigenous tribes in the American political context.

Press releases from *Yes on 5* in the campaign’s final weeks warned that the proposition’s defeat “would be economically devastating for many Tribes throughout the state and destroy the progress they have made in reducing welfare and achieving economic self-reliance.”⁵⁴ Instead of pitting tribal sovereignty directly against California’s state sovereignty, the *Yes on 5* campaign spoke of “giving Native Americans a hope for the American dream.”⁵⁵ In articulating what the “Native American-American dream” meant for tribes and Californians generally, *Yes on 5* called forth the history of American aggression toward indigenous people and the contemporary aggression against California sovereignty as presented by Nevada casino interests that primarily funded the *No on 5* campaign.⁵⁶ In this effort, the *Yes on 5* literature recalled, “Many times in the past, the federal and state government used their power to take away lands, resources

and rights and even the lives of California Indians.” The contemporary effort of the California Governor and Nevada casinos to place limits on tribal gaming is thus presented here as the “latest shameful assault on California Indians.”⁵⁷ Campaign material addressing the “facts” of the Proposition asserts that “the California Indian Self-Reliance Initiative will stop this new assault on California Indian Tribes and our state.”⁵⁸ These final words offer a key insight into how the tribes positioned themselves on the boundaries in this political contest.

First of all, referring to American-indigenous political history sets out how tribes have been oppressed, exploited and attacked as *outsiders* to the American nation. Thus, from one perspective, the effort of forces from various parts of the U.S. to curtail tribal gaming is another example of Americans seeking to crush tribal sovereignty. Secondly, and necessarily, the claim of “outsider” status *vis a vis* the American polity is crucially twinned with the claim that the tribes are *insiders* of a California state confronted with outsiders—Nevada casino interests—seeking to dictate California’s legal and political future. One indigenous observer of the debate, David Alvarez, director of the Yacqui Indian center, connected tribal political priorities with ostensibly American principles: “Proposition 5 is about self-reliance, sovereignty, privilege, a constitutional right, the freedom to debate and negotiate. When outsiders control gambling, they have control over our lives.”⁵⁹ *Yes on 5* framed its argument in a way that was often ambiguous about who in this conflict stood as the threatening “outsiders” (Is it all non-tribal Californians? All non-indigenous Americans? Nevada gaming interests?) and by correlation who represented the threatened “our lives” (Is it all Native Americans? California casino tribes? The state and population of California?). How one read the second sentence of Alvarez’s statement would determine one’s sense of whose “sovereignty,” “constitutional rights” and “freedoms” were at stake in the Proposition 5 debate.

The hope of the *Yes on 5* supporters was that the citizens would see the referendum as important for indigenous people *and* Californians, not simply one or the other. That 63 percent of California voters said “Yes” on Proposition 5 indicated that this argument resonated. Through their victory in this referendum the proponents of Proposition 5 employed a politics on the boundaries argument to both articulate and strengthen their third space of sovereignty. In other words, the political practice of a politics on the boundaries involved drawing on political and discursive resources both inside and outside the American polity. This practice furthered the pursuit of a third space of sovereignty, an expression of independence by which tribes determine what resources and rights within the American political system are necessary and obliged to them for the sake of securing greater autonomy from that system. Such tensions in this third space position are inherent and necessary to it, in that the very indefinability of the third space within the colonizer’s political logic upsets or at least stalls the effort of the dominant nation to define tribal sovereignty for indigenous people.

Conclusion

In general political science terms, the activity of casino tribes in the American electoral landscape might seem an example of an interest group expanding the horizons while demonstrating the value of American pluralism. By this logic, the tribes in California shaped and appealed to a larger constituency than themselves to generate the majority vote necessary to change state law. Relatedly, the referendum campaign could also be evidence of a powerful minority group within an American polity familiar with the politics of race and ethnicity. Through such a lens, this emergent minority group argued for meaningful inclusion by calling forth both the injustices of the past under American domination and the promise of the future within American liberal democracy. However, these “interest” and “minority” group approaches offer inadequate accounts, because they draw upon a logic that sees indigenous political activities and claims as reflecting the political strategies, claims and objectives found within the American political framework. As Ken Ramirez noted, an indigenous tribe is more than “just one of a multitude of interest groups.”

Indigenous political activities and claims re-articulate the experience and products of domination in a difficult but no less real effort to manifest, sustain and further the security of indigenous tribes as self-determining collectivities. The particular activities and claims of indigenous people are as diverse as the tribes themselves. Still, the myriad tribal choices that compose this diversity are best assessed through a logic of a politics on the boundaries as a practice and the third space of sovereignty as a pursuit. This logic seeks to account for how indigenous political agency and objectives have been affected but not eliminated by persistent colonization. By seeing a boundary as neither an empty space nor a barrier, but rather in Bhabha’s reading of Martin Heidegger, “the place from which something begins its presencing,”⁶⁰ we find the active, ambiguous and yet persistent post-colonial location of indigenous people’s politics. Through this discovery, a politics on the boundaries logic illustrates the coherence rather than the contradiction in the notion of indigenous tribes as simultaneously domestic participants within the American polity and inter-national actors outside this polity. This coherent indigenous political articulation “resembles” and “menaces” American political boundaries, and through this domestic-inter-national “presence” indigenous politics can open up spaces for achieving political success by drawing on and exposing the ambivalence inherent in American political life.

Notes

1. I use the term *indigenous* to indicate those groups of people who, whether referred to as tribes or nations specifically or more generally as a “people,” have a history of residing in a territory prior to European contact, and who were subsequently displaced by European colonization, immigration, nation- and state-building endeavors in this territory. Thus, this is the term I use most

often, though when appropriate given the context or sources to which I am referring, the terms "Indian," "tribe," or "nation" are used to fit with the flow of the discussion. For example, the terms "Indian Gaming" as in the *Indian Gaming Regulatory Act* or "tribal sovereignty" are such a common part of legal and political discourse that to change the terms to "indigenous gaming" or "indigenous sovereignty" (unless used in more general and abstract terms) would be unnecessarily confusing.

2. The tribes who sought the passage of Proposition 5 spent over \$60 million on the Yes campaign. For the list of the leading political contributors of 1998, see Don Morain, "Wealth Buys Access to State Politics." *Los Angeles Times*, April 25, 1999. The No campaign spent around \$29 million, which was funded in great part by Nevada casino interests. See California Secretary of State Campaign Finance Summary, Table 1. Receipts & Expenditures of Committees Opposing Prop. 5 through Dec. 31, 1998. For *Coalition Against Unregulated Gambling, No On Proposition 5, Supported by California Tribes, Law Enforcement, Labor, Entertainment Companies, Gaming Companies, Religious Organizations, Hotels, and Business Leader* (ID # 981499). [www.ss.ca.gov/prd/bmprimary98_final/Prop_5.htm] In total, this was a national record for campaign spending on a single initiative vote. The previous record was \$57.5 million for a 1996 securities fraud measure.

3. For campaign spending estimates, see "California OKs Indian gambling expansion" *CNN AllPOLITICS Election 98*. [cnn.com/ALLPOLITICS/stories/1998/11/03/election/ballots/california.gambling/index.html]; or Michelle DeArmond (Associated Press) "Massive spending pays off for tribes convinced economic survival depends on gambling." [www.pechanga.net/massive_spending_pays_off_for_tr.htm]

4. Paul Van Slambrouck, "Will Indians' involvement in nontribal affairs undermine sovereignty?" *Christian Science Monitor*, Boston, October 30, 1999.

5. For more on the legal and political basis for and Wilkins use of "extraconstitutionality" see his book *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin, TX: University of Texas Press, 1997). A number of scholars have offered varied and serious efforts to define the relationship between indigenous political status and the American polity. Some of the most notable are "A measured separatism," Charles F. Wilkinson, *American Indians, Time and the Law* (New Haven: Yale University Press, 1987); "Children to fathers," Michael Paul Rogin. *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian* (New Brunswick, London: Transaction Publishers, 1991); "A status higher than states," Vine Deloria Jr. and Clifford M. Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty* (New York: Pantheon Books, 1994); and within a "two-tier structure of Federal Indian law," Petra T. Shattuck and Jill Norgren, *Partial Justice: Federal Indian Law in a Liberal Constitutional System* (Providence, NY: Berg, 1991).

6. For a strict legal interpretation of this change, see Steven Paul McSloy, "Back to the Future: Native American Sovereignty in the 21st Century," *New York University Review of Law & Social Change*, Vol. 20, No. 2, (1993), pp. 217-302. McSloy specifically refers to the change from "negotiations with to legislation over" on p. 244.

7. By 1924 all indigenous people were American citizens. *The Indian Citizenship Act* (1924). The act granted United States citizenship to "all non-citizen Indians born within the territorial limits of the United States." (ch.233, 43 Stat. 25).

8. Along this line, but from a sociological perspective focussing more on ethnic identity, Fredrik Barth cautioned against assuming as "unproblematical" the process of maintaining boundaries which connect and separate groups. In other words, when understanding group relations we should not allow ourselves to be "led to imagine each group developing its cultural and social form in relative isolation." Fredrik Barth. "Introduction," in Fredrik Barth, ed., *Ethnic Groups and Boundaries: The Social Organization of Culture Difference* (Prospect Heights, IL: Waveland Press, Inc., 1998), p. 11.

9. A sample of some works that are, in their own distinct ways, near to what I am getting at, but still do not quite address the co-constitutive process of identity formation from which my analysis develops, include Michael Omi and Howard Winant, *Racial Formation in the United States: From the 1960s to the 1990s* (New York: Routledge, 1994); Kimberle Crenshaw, "Mapping

the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," *Stanford Law Review* Vol. 43, No. 6 (July 6, 1991): 1241-1299; and Charles Tilly, *Durable Inequality* (Berkeley: University of California Press, 1998).

10. One work, though in sociology not political science, that does seek to understand indigenous people's racial identity as politically distinct from other racial groups such as African Americans is Stephen Cornell and Douglas Hartmann. *Ethnicity and Race: Making Identities in a Changing World* (Thousand Oaks, CA: Pine Forge Press, 1998).

11. A number of these writers have proven especially valuable in my effort to understand hybridity, domination and forms of subaltern agency constructed within and through the location, articulations and relationships of colonized and colonizer. A few of the writers that have shaped my sense, either generally or more specifically, of the value of a post-colonial approach to indigenous people's politics are Edward Said, *Orientalism* (London: Routledge & Kegan Paul, 1978); Gayatri Spivak, "Can the Subaltern Speak," from C. Nelson and L. Grossberg, eds., *Marxism and the Interpretation of Culture* (Basingtoke: Macmillan Education, 1988), pp. 271-313.; Ella Shohat and Robert Stam, *Unthinking Eurocentrism: Multiculturalism and the Media* (New York: Routledge, 1994); Julia Emberley, *Thresholds of Difference: Feminist Critique, Native Women's Writings, Postcolonial Theory* (Toronto: University of Toronto Press, 1993).

12. Homi Bhabha, *The Location of Culture* (New York: Routledge, 1994), p. 37.

13. I take political identity to mean one which binds a group together through both its relationship to discernible power inequities and its collective vision of how to generate, sustain, or expand the group's capacity to determine its future. For approaches to political identity that influence my own, see "Conference Panel: On Political Identity," *Studies in American Political Development*, Vol. 6 (Spring 1992), 140-162. The three main participants were Mary Ryan, Anne Norton, and George Shulman. For Ryan, political identities "are more than just symbolically charged loyalties. . . . They are vehicles for making very major claims on the public realm." (145). Norton sees "political identities as constituted by and constitutive of relations of oppositions" (147). Finally, Shulman offers that: "politics is cultural because it involves collective identities, which people build and enact through narratives that identify the circumstances, interests, difficulties, and differences that confront and divide them, by defining the history, commitments and institutions that do or should bind them" (153).

14. Homi K. Bhabha, "DissemiNation: Time, Narrative, and the Margins of the Modern Nation," In Homi K. Bhabha, ed., *Nation and Narration* (London and New York: Routledge, 1991), p. 306.

15. Marge Anderson, Chief Executive, Mille Lacs Band of Chippewa Indians Executive Branch of Tribal Government. "Letter from Marge Anderson to Gov. Ventura," March 2, 1999. [www.pechanga.net/letter_from_marge_anderson_to_go.html]

16. *Oklahoma Tax Commission v. Citizen Band of Potawatomi Indian Tribe*. 111 S.Ct. 905 (1991).

17. The three main decisions are: *Johnson v. McIntosh* (1823), *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832). The term "domestic dependent nations" comes from the dicta of the 1831 *Cherokee Nation v. Georgia* case. Many fine analyses have been written directly on or drawing from these and other seminal decisions. See, for example, Jill Norgren, *The Cherokee Cases: The Confrontation of Law and Politics* (New York: McGraw-Hill, 1996); Wilkins (1997); Wilkinson (1987); Vine Deloria Jr. and Clifford Lytle, *American Indians, American Justice* (Austin: University of Texas Press, 1983); and Petra T. Shattuck and Jill Norgren, *Partial Justice: Federal Indian Law in a Liberal Constitutional System* (Providence, NY: Berg, 1991).

18. Ward Churchill, "The Tragedy and the Travesty: The Subversion of Indigenous Sovereignty in North America," *American Indian Culture and Research Journal* Vol. 22, No. 2, (1998), p. 30. In footnote 202, Churchill cites the analogy as coming from a lecture delivered by Russell Means in July 1986 at the University of Colorado.

19. *Ibid.*, p. 28.

20. *Ibid.*, p. 68, Note 234.

21. Specifically, the *Treaty of Canandaigua*, signed in 1794, in which, according to renowned Indian treaty scholar Francis Paul Prucha, "The United States agreed not to claim any of the Indian lands until the Indians themselves chose to sell them to the United States, and the Indians gave up claims to any other lands." Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley, CA: University of California Press, 1994), p. 96.

22. "Motorcade heads to Albany, mediator sees end to Oneida land claim," May 3, 1999, *New York Newsday*. Quotation is from Ray Halbritter, elected leader of the Oneida Nation, as stated on the television program *60 Minutes*, May 23, 1999.

23. Fred Kaplan, "A high-stakes claim: Oneida suit seeks 250,000 acres in upstate New York," *Boston Globe*, May 19, 1999, p. A01.

24. *Ibid.*

25. *60 Minutes*, May 23, 1999. (Emphasis added)

26. As Deloria puts it, "...the practice of playing Indian has clustered around two paradigmatic moments—the Revolution, which rested on the creation of a national identity, and modernity, which has used Indian play to encounter the authentic amidst the anxiety of urban industrial and postindustrial life." Philip J. Deloria, *Playing Indian* (New Haven: Yale University Press, 1998), p. 7.

27. *Ibid.*, p. 103.

28. *Ibid.*

29. *Ibid.*, p. 105.

30. *Ibid.*, p. 182.

31. Kirk Johnson, "Holding the Chips, Tribes Naturally Play Politics," *New York Time*, November 2, 1997, Week in Review, p. 5.

32. P. Deloria, (1998), p. 191.

33. Luther Standing Bear (Sioux). "What the Indian Means to America," in *Great Documents in American Indian History* edited by Wayne Moquin and Charles Van Doren, (New York: De Capo Press, 1995), p. 307.

34. For a much fuller account of the Alcatraz Occupation than I will present here, see: Troy Johnson, Joane Nagel, and Duane Champagne, eds., *American Indian Activism: Alcatraz to the Longest Walk* (Urbana, IL: University of Illinois Press, 1997); Troy Johnson, *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism* (Urbana, IL: University of Illinois Press, 1996); and Paul Chaat Smith and Robert Allen Warrior, *Like A Hurricane: The Indian Movement from Alcatraz to Wounded Knee* (New York: The New Press, 1996).

35. Indians of All Tribes, "Planning Grant Proposal to Develop an All-Indian University and Cultural Complex on Indian Land, Alcatraz. February, 1970," in *Great Documents*. p. 379.

36. Indians of All Tribes, "Proclamation: To the Great White Father and All His People." November, 1969, as printed in Adam (Nordwall) Fortunate Eagle, "Urban Indians and the Occupation of Alcatraz," Johnson et. al. eds. (1997), pp. 61-64; and also in Johnson (1996), pp. 53-55.

37. Troy Johnson, Joane Nagel, and Duane Champagne, "American Indian Activism and Transformation: Lessons from Alcatraz," in Johnson et. al. eds., *American Indian Activism: Alcatraz to the Longest Walk* (Urbana, IL: University of Illinois Press, 1997), p. 19.

38. The Indian Gaming Regulatory Act (IGRA) of 1988 delineated the federal guidelines for three classes of tribal gaming activities. (*Indian Gaming Regulatory Act of 1988*, Pub. L. No. 100-497, 102 Stat. 2467. 25 U.S.C.G. Enacted October 17, 1988.) The first two deal with "social" and "pooled-wagering" games respectively. The most politically charged of the categories is Class III, designating "all [other] forms of gaming" (*Ibid.* Sec. 2703. Definitions), including the more profitable games such as roulette, blackjack and slot machines, all normally associated with casinos. Under IGRA, a tribe can establish a gaming enterprise provided that the "gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity." (*Ibid.* Sec. 2701. Findings (5)) To operate a casino in accord with IGRA's framework, a tribe "shall request the State in which

such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact." Every eligible tribe can request compact negotiations, and the state is obliged to negotiate with each tribe separately, not all of them *en masse* unless the tribes so stipulate.

39. The entire gaming industry is flourishing, with estimated 1999 revenues in excess of \$50 billion. The National Indian Gaming Commission reported that as of March 1999 310 Indian gaming operations were run by 198 tribes in 28 states. Thus, around 1/3 of the over 550 federally recognized tribes have some form of gaming enterprise in operation. The range of success is wide as some tribes have done incredibly well, such as the Pequot of Connecticut who run *Foxwoods*, the most profitable casino in the world, and some do very poorly, such as the Lummi tribe in Washington who closed their casino due to perpetual losses. A small number of tribes earn the lion's share of revenue credited to tribal casinos generally. For example, of the 166 tribes that operated casinos in 1996, 28 lost money and only 54 made profits "worth more than \$10,000 per tribal member." Matt Kelley (Associated Press). "Despite casinos, Indian tribes still needy, federal report says," (*Sacramento Bee*, September 9, 1999). As of March 1999, "the top 20 tribal gaming operations. . . ma[de] up 55.5 percent of the total portion of Indian gaming revenue." (*National Indian Gaming Association*, "Where the Proceeds Go." [www.indiangamingorg/proceeds.html])

40. For overview and statistics on Indian Gaming, see: Wayne J. Stein, "American Indians and Gambling: Economic and Social Impacts," in Dane Morrison, ed., *American Indian Studies: An Interdisciplinary Approach to Contemporary Issues* (New York: Peter Lang, 1997), pp.145-166; Policy study, "A Historical Review of Gaming in the United States," prepared by Deloitte & Touche LLP for the *National Indian Gaming Association*; and Arthur H. Rothstein, "Indian gaming officials proclaim optimism but hope to avoid more regulation," *Associated Press* April 28, 1999.

41. Bhabha, (1994), p. 86.

42. A few statistics which support this claim of pre-gaming boom economic and social deprivation, from the 1990 U.S. Census and 1991 BIA reports as compiled by the National Indian Gaming Association: in 1990 30.9 percent of indigenous people lived in poverty, the highest rate of any ethnic group in the U.S.; in 1991, the employment rate for indigenous people on reservations was 45 percent; of those indigenous people with jobs on reservations, only 28 percent earned more than \$7,000 a year; finally, life expectancy for an indigenous person in the U.S. is 47 years, while for Americans the figure is 78 years. For this compilation, see *National Indian Gaming Association*, "Where the Proceeds Go." [www.indiangamingorg/proceeds.html]

43. In 1997, a year before Proposition 5, total casino revenue was an estimated \$1.4 billion. In the area of job creation, tribal casinos during this year employed "14,571 California residents, 90% of whom are not Indians." Additionally, an estimated 33,800 indirect jobs relied on the tribal casino economy. See the study, "The Economic and Fiscal Benefits of Indian Gaming in California," July 1998, prepared by Analysis Group/Economics, Inc., as summarized by the *National Indian Gaming Association*, "Information and Statistics." [www.indiangamingorg/statistics.html]

44. *Supra*, note 38.

45. Federal law asserts that states must negotiate "in good faith" and also places the "burden of proof upon the State to prove that the State has negotiated with the Indian tribe in good faith." See, *IGRA*. Sec. 2710. Tribal gaming ordinances.

46. In 1984, California voters approved an amendment to the state constitution which created the state lottery. While providing the legal grounds for a lottery, the amendment also had an added clause which sought to limit other forms of gaming, asserting that the state legislature "has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey." Under the guidelines of *IGRA*, since lotteries are run by the state of California, tribes had the legal right to operate lottery games but no legal right to run casino games as found in Nevada and New Jersey. By 1996, tribes without gaming compacts from around the state owned and operated a total of about 8,000 video gambling devices. The question of the legality of these devices was whether they were slot machines like those found in casinos or mini-lottery machines that replicated, in its form, the state's lottery. See Bob Egelko. "Fate of Prop 5 could rest on obscure lottery measure language," *Sacramento Bee*, May 30, 1999, N53.

47. In the words of the Pala Band commissioner, Robert Smith, according to this key provision: "Tribes get an increase in video machines allowed but a limit established for the benefit of everyone. . . . the total number of video lottery devices that will be permitted to operate on Indian lands for the first year is 19,900, an increase of 50 percent from the total number now in operation. . . [Every federally recognized tribe gets] a base allocation of 199 devices, but by leasing rights from other tribes can have up to 975 machines." Robert Smith, "Testimony before the National Gambling Impact Study Commission," June 29, 1998. Relevant points found under *Section B: What's Good About the Compact*. [www.pechanga.net/testimony_before_the_ncalg.htm]
48. *Supra* note 43.
49. John Ramos, Business Committee Member. "A letter from John Ramos," November, 1997, [www.sanmanuel.com/JRamos.html]
50. *Official Title and Summary prepared by the Attorney General, Tribal-State Gaming Compacts. Tribal Casinos. Initiative Statute*. [www.vote98.ss.ca.gov/VoterGuide/Propositions/5.htm]
51. The main umbrella group generating press releases and information in support of Proposition 5 was called: *Yes on 5: Californians for Indian Self-Reliance*.
52. Ken Ramirez, "A letter on Sovereignty," February 1998. [www.sanmanuel.com/KRamirez2.html] *Emphasis added*.
53. Frantz Fanon, *The Wretched of the Earth* (New York: Grove Press, 1963), p. 42.
54. "Press Release: New Yes on 5 Ads Highlight Strength of Indian Support for Proposition 5," September 21, 1998. *Yes on 5: Californians for Indian Self-Reliance* campaign. [<http://www.cisr.org.news0921.html>]
55. Ken Ramirez, quoted in "Press Release: Yes on 5 Coalition Announces Over 220,000 Californians Stand in Support of Proposition 5," September 10, 1998. *Yes on 5: Californians for Indian Self-Reliance*. [<http://www.cisr.org.news0910.html>]
56. *Supra* Note 2, the *No on 5* campaign spent around \$29 million. This money was mostly provided by the larger Nevada casinos. For a breakdown of all the *No on 5* contributions, see California Secretary of State Campaign Finance Summary. Table 1. Receipts & Expenditures of Committees Opposing Prop. 5 through Dec. 31, 1998. For *Coalition Against Unregulated Gambling, No On Proposition 5, Supported by California Tribes, Law Enforcement, Labor, Entertainment Companies, Gaming Companies, Religious Organizations, Hotels, and Business Leader* (ID # 981499). [www.ss.ca.gov/prd/bmprimary98_final/Prop_5.html] The five major casinos and their respective contributions were: Sahara Hotel & Casino: \$3,000,000; Caesars ITT, \$1,000,000; Circus Circus Enterprises, \$6,512,500; Hilton Hotels, \$6,500,000; Mirage Resorts, 9,562,500.
57. "Frequently Asked Questions: Why Should I Support Yes on 5—the California Indian Self-Reliance Initiative?" *Yes on 5: Californians for Indian Self-Reliance*. [<http://www.cisr.org/q18.html>]
58. "Proposition 5—The Indian Self-Reliance Initiative," *Yes on 5: Californians for Indian Self-Reliance*. [www.cisr.org/Facts.html]
59. Quoted in John Taylor. "Indian youth show support for Prop. 5 at education meeting," *The Fresno Bee*, October 1998. [www.geocities.com/CapitolHill/Lobby/4621/proposition5youth.html]
60. Bhabha, (1994), p. 5.