

RUNNING HEAD: CONSIDERING INDIAN COUNTRY

Considering Indian Country

A Topic Proposal

Duane Hyland

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Proposed Resolutions

1. Resolved: The United States federal government should substantially increase its support of one of the following throughout Indian Country: K-12 Education, post-secondary education, environmental protection, healthcare, sovereignty, or criminal justice reform.
2. Resolved: The United States federal government should substantially increase its control over one or more of the following throughout Indian Country: K-12 Education, post-secondary education, environmental protection, healthcare, sovereignty, or criminal justice reform.
3. Resolved: The United States federal government should substantially increase its control over one of the following throughout Indian Country: K-12 Education, post-secondary education, environmental protection, healthcare, sovereignty, or criminal justice reform
4. Resolved: The United States federal government should substantially increase its regulation of one or more of the following throughout Indian Country: K-12 Education, post-secondary education, environmental protection, healthcare, sovereignty, or criminal justice reform
5. Resolved: The United States federal government should substantially decrease its regulation of one or more of the following throughout Indian Country: : K-12 Education, post-secondary education, environmental protection, healthcare, sovereignty, or criminal justice;
6. Resolved: The United States federal government should substantially decrease its regulation of one or more of the following throughout Indian Country: K-12 education, environmental protection, sovereignty, criminal justice, and/or child welfare.
7. Resolved: The United States federal government should substantially increase its regulation of one of the following throughout Indian Country: child welfare, criminal justice, or environmental protection.

Introduction

Currently, 5.2 million American Indians and Alaskan Natives reside within the United States a number constituting 2% of the American population (US Census Bureau, 2011). American Indians and Alaskan Natives live in every state in our union, and 25 U.S. states contain federally recognized tribal reservations or corporations within their boundaries. The links between American Indians and Alaskan Natives and the history of our nation are deeply entwined and the subject of several thousand, if not hundreds of thousands of tomes more scholarly than this paper. However, as the Bureau of Indian Affairs, points out that “Article 1, Section 8 of the United States Constitution vests Congress, and by extension the Executive and Judicial branches of our government, with the authority to engage in relations with the tribes, thereby firmly placing tribes within the constitutional fabric of our nation (BIA, 2013).” Yet, despite this place in our national being, Attorney General Eric Holder notes: “But it’s also necessary that we acknowledge that our relationships have not always been so constructive. Far too much of our history has been defined by violence and deprivation. Far too many promises have been broken. Far too many tribes have been told that their lands, religions, cultures, and languages were somehow not theirs to keep, and that their rights could be abridged or denied without the guarantee of due process. That they could not vote. And that the only course of action available to them would be to move on, to give up, and – quite simply – to forget.” Echoing Holder’s words, a recent PSA produced by the National Congress of American Indians, in response to the ongoing controversy regarding the name of the Washington D.C. football organization, admits that Natives use the word “forgotten” to describe themselves (Gupta, 2014).

The relationship that Holder describes, and which other literature confirms, this state of “forgottenness” means that “Native Americans suffer from many of the same social and economic problems as other victims of long-term bias and discrimination - including, for example, disproportionately high rates of poverty, infant mortality, unemployment, and low high school completion rates (The Leadership Conference, 2014).” Due to the systemic neglect, racism, and at

times, out-and-out genocidal mindset that natives must deal with on a day-to-day basis, “death records show that American Indian and Alaska Native death rates for both men and women combined were nearly 50 percent greater than rates among non-Hispanic whites during 1999-2009.”(Indian Country Today, 2014).

Threats to Native Americans are found in a wide range of affronts, and result in diminished physical and psychological wellbeing. From rates of alcoholism, cancer, and diabetes which outpace those of non-native society (Indian Country Today, 2014), to imperiled mental health, and attendant rates of suicide (Indian Country Today, 2014) brought about by stress, poverty, and inappropriate social representations of natives – for instance, the current name of the NFL’s Washington franchise as well as stereotypical portrayals of Natives in our nation’s film, art, and literature; to violent crime – where the FBI estimates that 3.3% of hate crimes committed in 2012 were committed against Native Americans or Alaskan native - a rate larger than the total size of the population of Native Americans or Alaskan Natives in the United States (FBI, 2012).

Rates of alcoholism, suicide, cancer, diabetes, motor vehicle accidents, violent crime, etc., remain higher among native populations than in the majority, non-white Hispanic, culture (Indian Country Today, 2014). Beyond the attendant threats to mortality caused by the ongoing relationship between white and Native America, there are also substantial violations of the civil rights of Native Americans, as noted by the FBI hate crime statistics already cited. Native Americans are also victims of ordinary crimes at a rate higher than all but the most violent cities in America (Williams, 2012). According to recent statistics, a Native American male or female runs a 46.9% chance of being a crime victim during their lifetime, as opposed to a 25% victim risk for white, and up to 65% of rape cases on native lands are not prosecuted (Crane-Murdoch,2013), types of crimes that Native Americans are likely to be victimized by include: murder, assault, drug trafficking, human trafficking, and gang violence (Tighe, 2014).

A review of the evidence shows that Native Americans are victims of conditions caused when a population and its needs are forgotten. Sadly, this forgetfulness extends to our debate community, as not once in the recorded history of high school debate, reaching back to 1928 when the national high school resolution was established, have students been asked to focus their attentions, for an entire season, and in the main, on substantive policy questions surrounding the impact of federal policies on Native Americans and Alaskan Natives.

A Note on the Word “Tribe”

The author is aware that many find the term “tribe,” or “tribes” objectionable, and in many cases has tried to avoid its use in this paper. However, writing about some of the issues that affect Indian Country, especially the notion of sovereignty for Native American governance, makes use of the word hard to avoid. When used, it is only being used because the legal discussion of the concept requires its use. The author apologizes for any potential offense. It is possible that, perhaps, some of the debate this year could originate a new term that better describes groups of like-Native Americans which is not offensive.

Timeline and Interest

Policies affecting Native Americans are solely in the purview of the United States federal government through negotiation with the individual tribes. Chief Justice Marshall articulated this arrangement in the 1830s, explaining: “That tribes possess a nationhood status and retain inherent powers of self-government.”(BIA, 2014). Several parts of the Constitution grant this power: “The Commerce Clause, the Treaty Clause (Article II, Section 2, Clause 2), the Property Clause (Article IV, Section 3, Clause 2),” each grant power to the federal government to regulate the activities of Native Americans. Also, numerous decisions by the U.S. Supreme Court further codify this power, including *Cherokee Nation v. Georgia* and *United States v. Kagama* (1886), wherein the Court held that “(Native Americans) Indians as “wards” in a trust relationship with the United States government. (BIA, 2014). An earlier decision, *Worcester v. Georgia* (1832) declares that “The

treaties and laws of the United States contemplate the Indian territory as completely separated from that of the States; and provide that all intercourse with ... [Indian tribes] shall be carried on exclusively by the government of the union. (NARF, 2000). Additionally, almost all activity in Indian Country is regulated by the Bureau of Indian Affairs. Given these facts, the topic is certainly one that the federal government has control over.

The timeline for the topic is also immediate – every day the nation’s news services report on events in Indian Country. Several national organizations, including: The National Congress of American Indians, The Center for Native American Youth, The National Indian Gaming Association, The American Indian Higher Education Consortium, The National Indian Health Board, and several others, represent native interests to the federal government and in the course of doing so issue reports urging any number of federal actions to correct any number of shortcomings in federal relations with Indian Country. While the future is impossible to predict, it is a near certainty that there will be a wide variety of policy discussions to be had during the 2015-2016 school year specific to any of the proposed resolutions.

Existing Programs

Nearly every agency of the federal government has programs which intersect with Indian Country in nearly every regard to the quality of life that Native Americans and Alaskan Natives experience. Just a few of the government agencies whose policies and decisions intersect are the U.S. Department of Justice, Department of Commerce, Department of the Interior, Department of Agriculture, Department of Health and Human Services, Department of Energy and many others, including, of course, the Bureau of Indian Affairs (Tribal Court Clearinghouse, 2014).

Range and Scope

A topic considering the impact of federal government policy on Native Americans and Alaskan Natives would include any number of possible affirmative proposals given the sheer weight volume of policy that the federal government creates each year in Indian Country. While consideration of every single affirmative position that could possibly be considered in a season would be impossible in this paper, only a few, demonstrating the viability of the topic for debate, could be introduced in this paper. These will be broken down into a few categories: Governance, health and welfare, criminal justice and public safety, education, environmental protection, and child welfare.

Governance

In the area of tribal governance, several areas exist for debate. For years Native Americans have lobbied the government for an increase in Tribal Priority Allocations through the BIA. According to the NCIA: “Tribal priority allocations are a critical funding area for tribal governments because they cover such needs as economic development, welfare assistance, and natural resource management. Yet, for two decades, inadequate funding for Tribal Priority Allocations has hindered tribes from fully exercising their right of self-governance.”(NCIA, 2014). Diminished allocations prevent tribal groups from fully funding contracts for work on their reservations, hinders their ability to issue grants for services and programming throughout Indian Country, and further diminish the sovereignty of the tribes. A good example of this was recent testimony given to the House of Representatives that talked about road repair budgets, part of the allocations, being stagnant for Alaska Natives for the last twenty years, hindering the ability of Natives there to build and maintain roads, limiting social interaction and commerce (House of Representatives, 2014). Affirmatives would have many options within this single area, helping to increase allocations for any number of priorities: transportation, sanitation, governance, education, etc., throughout Indian Country.

While various Courts have ruled that Native American areas are in fact separate nations, the U.S. Constitution does establish a dependency on the federal government. The federal government has, in many cases, allowed Native Americans to be sovereign in the areas in which they inhabit in terms of tribal government, tribal courts, etc., the general consensus is that the tribes are more “quasi-sovereign,” allowed to regulate some things on their lands, but more fully dependent on the federal government for many other things: program funding, healthcare, education support, housing, etc.

While court rulings have held that tribes do have a degree of tribal sovereignty, most recently the U.S. Supreme Court ruling in *Michigan v. Bay Mills Indian Community* affirming that the state of Michigan had no power to stop the building of a casino on lands owned by the Bay Mills Indian Community (SCOTUSBLOG, 2014), the ruling was a 5-4 with the conservative wing of the Court taking a much different view – arguing that states could, in fact, trump native sovereignty, and with Justice Roberts stating, during oral arguments, that native communities were indeed “dependent sovereigns.”(Newcomb, 2013).

With the notion of sovereignty fully established, if somewhat conflicted, by the courts, some argue that it is time to look past mere sovereignty and move to full autonomy as laid out by the United Nations Declaration on the Rights of Indigenous People (UNDRIP). “To adopt the language of autonomy represents a necessary conceptual shift in the way indigenous peoples in the United States are viewed, and is consistent with international legal regimes based on UNDRIP and others. The shift is a move away from the language of “sovereignty,” especially as it is used by the federal government, language that favors subordination, and the ongoing structural paternalism of the U.S. government.”(Gilio-Whitaker, 2014). Duane “Chili” H. Yazzie, Navajo Nation Human Rights Commission Chairperson, perhaps put it best, explaining to the United States Senate Committee on Indian Affairs in 2011: “...the U.S. need not continue to tell Native Americans what is sacred and important to us.”(Yazzie, 2011). Yazzie went on to explain to the committee that acting on UNDRIP would fill several gaps brought about the current framework of relations between the federal

government and Native Americans in at least two of the envisioned topic sub-sets for any resolution coming out of the Committee. Yazzie notes that adoption of UNDRIP, or its protocols, would fill gaps in the: American Indian Religious Freedom Act – wherein the federal government is urged to respect the traditions and practices of Native American communities, but in which did not create any “substantive rights or remedies for Native American religious practice; the National Environmental Policy Act – wherein respect for resources on Native lands, and the lands themselves, is urged, but which lacks specific remedies for abuses of those lands and resources; the National Historic Preservation Act – which includes no specific way for Native Americans to fully protect native lands.” (Yazzie, 2013)

Discussions of sovereignty could allow teams to focus on a wide range of issues – how can tribes best regulate business and property issues with those outside the tribal structure? How can tribal sovereignty be strengthened without damaging the unique relationship between the U.S. government and the tribes? How can Native Americans, themselves, more fully balance their rights under prevailing laws? Inclusion of sovereignty within the resolution space ensures robust discussions on those issues, and no doubt, given the creativity of our community’s members, many, many more.

Criminal Justice and Public Safety

In the areas of public safety and justice, some of the harms areas that exist in Indian Country have been covered in the opening paragraphs of this paper. “Studies suggest that crime rates are much higher for Native Americans compared with the national average.”(National Criminal Justice Reference Service, 2014). The blame for this is put squarely on the federal government, with the National Congress of the American Indian commenting in its annual budget report: “The public safety problems that continue to plague tribal communities are the result of decades of gross underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and the historic, abject failure by the federal government to fulfill its public safety obligations on American

Indian and Native lands.”(NCAI, 2014). From fully funding tribes to enforce laws, investigate crime and prosecute suspects, to funding violence prevention programs, to restructuring laws throughout Indian Country, Affirmatives will have many case options in this subset of the topic. One of the most important cases an affirmative team could structure on the topic would be to clarify jurisdiction of criminal investigation and prosecution throughout Indian Country: “Confusion about jurisdiction in Indian country remains a problem. Jurisdiction still is a patchwork of tribal, state, and federal jurisdiction that varies depending on the crime, identity of the perpetrator, identity of the victim, and location of the offense. TLOA does not offer a magic cure for this confusion. However, it does provide the hope of a better quality of life in Indian country.”(Bulzomi, 2012). This subset of the topic would also give students a great overview of the multiple systems of justice in play in Indian Country, and a good introduction to Native American theories of justice, which they might not have previously encountered in other forms of jurisprudence literature.

Another part of the discussion on the possible criminal justice subset would be the discussion of national security and homeland security components throughout Indian Country. “Many tribes have critical national infrastructure on their lands, including oil pipelines, nuclear facilities, missile sites, and dams. Tribal governments are the only major governmental presence in many rural and isolated locations.” (NCIA, 2014). From funding, to laying out first response procedures, to increasing federal oversight for protection of these key infrastructure points, to increasing FEMA cooperation with tribes, there will be no lack of affirmative cases.

Education

A key area of any topic on Native Americans might be education throughout Indian Country, which "is a disaster," says David Beaulieu, a professor of educational policy and community studies at the University of Wisconsin-Milwaukee and a member of the Minnesota Chippewa Tribe-White Earth.(Maxell, 2013) "It's been almost 12 years since No Child Left Behind was implemented, and we essentially have no appreciable results to show for it," said Mr. Beaulieu, who was the director of

the office of Indian education in the U.S. Department of Education from 1997 to 2001.”(Maxwell, 2013). Currently, there are “There are 378,000 Native students in U.S. public schools, comprising 0.7 percent of the total public school population (2010-11 school year),” and “49,152 students in Bureau of Indian Education Schools (2010-11 school year). BIE oversees 183 elementary, secondary, residential, and peripheral dormitories in 23 states.” (NIEA, 2013). Sadly, the state of education throughout Indian Country has negatively impacted these students. “The national dropout rate of AI students is double that of their non-Indian peers. In some states the high school dropout rate of AI students is over 50%. AI students drop out of high school at a higher rate and score lower on achievement tests than any other student group. AI 8th grade students are 18% more likely to read or perform in mathematics at a "below basic" level than their non-Indian peers. AI students also have the highest rates of absenteeism, suspension, and expulsion.”(TEDNA, 2014). Going beyond these issues, Native American students are often not well prepared to integrate into either university life or the economy: “We also know AI/AN students are less prepared for college and career. Looking at the high school graduation rates and drop-out rates for 2011, we see AI/AN students dropout at a rate that is nearly twice that of all students. In fact, AI/AN students account for the highest dropout rate of any racial or ethnic population. And AI/AN students are lagging in increasing their graduation rates. The average graduation rate for all students increased six points, from approximately 75 percent in 2007-08 to 81 percent in 2011-12. Yet, over this period the graduation rate for AI/AN students increased just four points, from approximately 64 to 68 percent.”(Mendoza, 2014)

Teams could increase funding in any one of a number of areas: Head Start, STEM K-12, reading programs, school budgets, school maintenance, establishing programs to ease transition between high school and college, and etc. Affirmatives, however, would not be limited to simply expanding funding, improve the accreditation process for Native schools (AIHEC, 2014); or concentrate on teacher training, native language preservation, or any one of another hundred possible case areas.

Environmental Protection

Native Americans have stated that the health of their cultures and the health of the environment are intertwined. This is perhaps summed up best by Stuart Harris, a Cayuse Indian, who explains "Our culture is derivative of the natural resources" (Charles W., 2009), or perhaps even better by David Lewis who writes "Native Americans have long had an immediate relationship with their physical environments. At contact most lived in relatively small units close to the earth, cognizant of its rhythms and resources. They defined themselves by the land, by the sacred places that bounded and shaped their world."(Lewis, 1995).

This relationship with nature makes tribes particularly vulnerable to changes in their environment: "Native communities are one of the most disadvantaged groups in the United States. Widespread poverty and lack of services are common throughout Indian country, leading to vulnerability on many levels.²¹ For example, tribes and their indigenous traditions may be particularly vulnerable to damage caused by environmental change, as "[t]ribal cultural practices and religious beliefs are rooted in the Earth and woven into the web of life. Tribal members use wildlife and plants and other natural resources in ways that are different from other ethnic groups that exist within the American society."²² This dependence and closeness with the environment is true even today; while some tribes in urban areas or with wealth sources (e.g., minerals, gaming) have been able to modernize their lands and lifestyles, "traditional cultural and religious beliefs and practices are still important components of the identities of contemporary Indian people."²³ Indeed, when Native lands are threatened by disaster, tribal members may lose access to food sources and important cultural sites, and further suffer emotional trauma from the disaster itself." (Adams, 2012).

Specific environmental threats to Indian Country include toxic waste, with nearly "25% of all Superfund sites being found in Indian Country," (Hansen, 2014). Hansen then explains the legacy of environmental damage these sites have inflicted on Native Americans, including: failure to disclose mining waste in lakes and other bodies of water used by Native Americans for fishing and shell-fish

harvesting; mercury poisoning; radiation exposure; and contaminated soil, all of which have contributed to health problems and ecosystem damage throughout Indian Country.

In addition to environmental hazards, Native Americans must also contend with the hazards posed by climate change: “Tribal communities are deeply connected to local ecosystems and are economically and culturally dependent on the fish, wildlife, plants, and other resources of their lands. 6 Thus, climate-induced shifts or outright loss of the habitats suitable for native species and resources can result in the loss of economic and cultural resources,”(Curry, R., et al., 2011). Some have described the potential impact of climate change on Native Americans as “staggering” (Voggesser and Bonogofsky, 2014). Already, twelve native villages in Alaska are experiencing the threat that climate change proposes.

Additionally, teams could argue –depending on the selected wording – that federal environmental policy goes beyond protecting the interests of Native Americans, but actually hampers them. An example can be found in the instance of the Navajo Nation purchasing a coal-mine. The mine is critically important to the Nation and its economy, with experts noting: “The most immediate purpose for buying the mine was to preserve the stability of the Navajo Nation’s economy,” Gundersen says. “If the mine and power plant were removed from the Navajo economy, the results, within a year, would have been devastating. We needed to preserve the business and income.”(Clay, 2013), however environmental regulations have stymied the mine’s use and all sorts of exceptions to federal rules will be needed before it is restored to full operations. The Nation plans to use the revenue generated by the mine as a means of further investing in “green energy.” Additionally, it has been argued that Native Americans should be allowed to pursue solutions to environmental problems outside of the channels of the Environmental Protection Agency, as they “may not adequately protect, or even may ignore, the tribal values of due process.”(Wolfley, 2014).

From fishing rights to water usage, to environmental pollution and fair use of environmental assets, debaters should be able to craft approaches on the environmental segment of the topic no matter what direction the topic takes.

Child Welfare

Although not in the first draft of this paper, it was felt – by reviewers – that including a discussion of child welfare within Indian Country would be a crucial inclusion in any topic crafted by the Wording Committee.

“Nearly 700 Native American children in South Dakota are being removed from their homes every year” (Sullivan & Walters, 2013), this is despite federal policy vested in the Indian Child Welfare Act (ICWA) that discourages the practice. Additionally, “few federal laws govern the disposition of state court cases involving adoption, guardianship, and abuse and neglect, the existence of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) (Jones, No Date Given). Also, the odds of a Native American child being abuse, being the victim of traumatic events, a victim of familial violence, or struggling to live with one parent incarcerated are great. “Compared to their non-Indian peers, AI/AN children are 2.5 times more likely to experience trauma.³ AI/AN children experience a rate of child abuse and neglect of 11.4 per 1,000 children, compared to the rate for all children of 9.1 per 1,000.⁴

Alcohol abuse, related to child abuse and neglect, is more likely to be reported for AI/AN families.⁵

Violence is more likely to be reported among AI/AN families, both as an element of abuse and/or neglect and in general.⁶” (National Indian Child Welfare Association, 2013). From the trauma of abuse to the trauma of being removed from their familial and native environment – there is substantial debate to be had about what to do in Indian Country.

Additionally, the U.S. Supreme Court ruling *Adoptive Couple v. Baby Girl* in 2013 has damaged the rights of non-custodial, Native fathers, who are seeking custody of children who are otherwise eligible for adoption by non-Natives. The ruling also indicated that most of the IWCA’s

standards for preserving tribal unity and racial identity can be set aside (*Adoptive Couple v. Baby Girl*, U.S. 570, 2013). The provisions of the IWCA were drafted to “protect the rights of biological parents and extended families as a response to the egregious violations of parental and extended family rights that had been taking place in state courts.(Association on American Indian Affairs et al., 2013). However, the ruling has left doubt in Native American communities that the federal government takes its obligations under IWCA seriously, noting “Most significantly, this decision did not provide any sweeping rulings on the constitutionality of ICWA. Further, with the exception of Justice Thomas and a passing comment in the majority opinion, the Court did not address the long-standing ability of Congress to legislate Indian affairs. Finally, this decision does not overturn state ICWA laws that provide greater protections to non-custodial parents.”(NICWA, 2013). Until proper support of ICWA is given by the federal government, through either policy changes, court decisions, or clarification to the states on ICWA provisions, Native families will continue to be torn asunder, with children being separated from their heritage.

Affirmative teams should be able to create any number of cases addressing the issues facing children throughout Indian Country. From policy changes, including the reversal of court rulings, to improvements of the IWCA, to funding changes to programs designed to mitigate abuse and other family issues throughout Indian country, or program creation to address those programs. There should not be a shortage of discussions points on this segment of any topic.

Negative Approaches

The Native Americans topic is a balanced. Even though the Affirmative would command a great number of case areas, negatives would not be left without options. The sheer amount of literature on the topic guarantees that almost every affirmative position would have its detractors – allowing for specific case debates as well as plan specific counterplans. Also, 85 tribes in the United States are not recognized by the federal government but are the sole purview of the governments of 16 states (NCSL, 2014), allowing teams to discuss state options for those tribes which would be ignored under any of the affirmative proposals. Additionally, since many Native Americans attend public schools off of their reservations, it is conceivable that negative teams would get this ground as well, and be able to talk about policy options for these students. Also, negative teams would be able to argue that the federal government should extend total sovereignty to the tribes, removing the federal interaction entirely.

With the addition of the more specific examples found throughout this paper, negative teams should be able to also engage in substantive case debates – delving into the solvency mechanisms of cases, especially in the environmental protection and child welfare areas where large bodies of competing literature offer many ideas for solving the problems presented.

Of course, traditional disadvantages would still be in play on this topic. Teams could discuss the impact of the affirmative on federal spending, federal politics, etc. Teams will also have the option to run more creative disadvantages – specific to select tribes or regions of the country – since our community’s creativity is boundless, I am confident that the topic will not suffer for a lack of negative positions.

A Native Americans topic would certainly offer a possibility of kritical argumentation on this topic. The literature base features thousands of pages on the use of the word “tribe” alone, not to mention “Native American” or “reservation,” or discussions of U.S. treatment of Native Americans in general, given historical fact, and debates about the appropriateness of federal help for natives,

given the history, kritical analysis is guaranteed. While the author is not a particular fan of K debating, he believes that on a topic like Native Americans it would be an important element of any debate – given the philosophical issues that surround so much of our nation’s history with natives.

Additionally, teams who engage in the relatively more modern form of debate that rely on spoken word narratives, personal examples, poetry, or other non-conventional sources of support for argumentation will quite likely be able to find suitable material to support their approach. I will add that while some of the nation might find these non-conventional approaches unacceptable, they have won two of the last four major college debate championships for our community and seem likely to stay a permanent part of the debate landscape, so they must be considered, at least in this author’s opinion, within any topic paper.

As always, traditional negative arguments like inherency and topicality will still be part of this topic as well. Teams should be able to mount effective debates over the inherency of Affirmatives, given the amount of legislation each year that affects Native Americans. This is not to say that there is a problem with inherency on the topic – there is no shortage of literature pointing out that the government still has much work to do in the area of support for Native Americans. For those teams who still run topicality, debates could be held over the meanings of many terms in the resolution.

Why “Indian Country?”

While some on the Committee may feel that “Indian Country” is not a proper term for the resolution, it would seem that it is. First, it is the legal definition, under the U.S. Code for the areas set aside for Native Americans. The term’s legal status means it would be the term used in nearly all of the literature on the topic when that literature refers to efforts which can take place on more than one reservation or other area, and its inclusion would be specifically advantageous for mapping out topicality debates. Additionally, the largest Native American newspaper is “Indian Country Today,” meaning that the term is already in use throughout the reservations and other areas, indeed an article

in Indian Country Today on July 4th of this year, exhorted celebration of Independence Day by going RVing in “Indian Country.”(Staff, 2014). Also, the last time issues surrounding Native Americans were debated the topic utilized the term as well as it is the official word given to area, so there is precedence for its use in debate resolutions. Lastly, the term is better than some of the other words the Committee might use, including: “Reservations,” “Tribal Areas,” “Tribal Lands,” etc., all of which carry heavy kritical baggage in our community. The term’s compactness, legal specificity, and use in the literature make it the best term that can be used in the proposed topic, and I would beg the Committee to keep the term in any resolution that may emerge from this conference.

What Happened in College?

One of the reviewers of this paper suggested I include the reactions of college debaters and/or coaches the 2001-2002 CEDA topic: Resolved: “RESOLVED: That the United States Federal Government should substantially increase federal control throughout Indian Country in one or more of the following areas: child welfare, criminal justice, employment, environmental protection, gaming, resource management, taxation.”

I was able to find three debaters who debated that topic. Two reported a literature heavy topic with great ground for the Affirmative and Negative side. One felt the topic was slanted negative due to the “increase” requirement and the prevailing anti-government sensibility of the college debate community – which is far smaller than the community this Committee serves. All three reported that popular affirmatives, insofar as they can recall, given it’s been over a decade since that topic was last debated, were ones dealing with environment, child welfare and criminal justice. They all felt that negative ground was ample, affording many teams a viable counterplan/disadvantage/case debate area, although one did note that the debate was rather K heavy, but that some of the best literature came from K’s based on literature written by natives. They included no evaluation of project oriented debates.

A review of the 2001-2002 NDT cases list, shows a wide range of cases, but mostly centered on the areas described by the debaters. A review of the negative arguments does bear out the observation that there was a mix of negative approaches: various agent counterplans, various disadvantages (Federalism, Funding, International Modeling, Politics, Tribal Federalism, various case specific disadvantages relating to stricter environmental controls, etc.). There will be no shortage of creative negative arguments on any topic the committee may write.

Summing It Up

Any topic that centers on the relationship of the U.S. federal government and Native Americans will be ripe for debate; offer ample literature; and offer numerous affirmative and negative arguments. The Committee may wish to limit the topic due to the massive amounts of literature available – however, I have endeavored to list the most popular and debatable areas in the topic. Decreasing or increasing federal control will see robust direction either way. Although, decreasing control might be more competitive for the Affirmative, but that will be for the committee to decide.

The serious issues within this topic's parameters will be educational across a broad swath of our nation – forcing students of all walks of life to consider our nation's treatment, often shameful treatment, of Native Americans and challenging them to discuss those problems critically. Additionally, the topic may allow for outreach into Native communities and opportunities for native students to become involved in debate. The topic would also allow for close collaboration between the NFHS, National Speech and Debate Association, and the National Catholic Forensic League with Native American organizations, allowing policy experts and native leaders to interact with students, further enhancing the educational valid of the topic.

The topic area has strong potential to be a win-win for all involve and promises to foster in-depth and needed discussions on this vital area, and I thank the Committee for their consideration of it.

Definitions

Native American: A member of any of the indigenous peoples of the Americas (Oxford Dictionary Online, 2014)

Native American: The term “Native American” means an individual who is of a tribe, people, or culture that is indigenous to the United States. (U.S. Code § 1059f)

Indian Country: (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and

(c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. (18 U.S. Code § 1151)

Criminal Justice System: the criminal justice system is the set of agencies and processes established by governments to control crime and impose penalties on those who violate laws (NCVC, 2014)

Tribal Justice System: The term “tribal court”, “tribal court system”, or “tribal justice system” means the entire judicial branch, and employees thereof, of an Indian tribe, including, but not limited to, traditional methods and fora for dispute resolution, trial courts, appellate courts, including inter-tribal appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribunal authority whether or not they constitute a court of record. (Legal Information Institute, 2014)

Indian: “Indian” means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services

from the Bureau of Indian Affairs and any “Native” as defined in the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

Tribe: Tribe” means any Indian tribe, band, group, pueblo, or community, including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

Reservations: “Reservation” includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

Summary

Resolutions: The proposed resolutions provide adequate options for topic areas while still providing focus.

Timeliness: Issues surrounding federal interaction with Native Americans are always timely and focus of debate in our nation. There will be no shortage of literature on the topic and, subsequently, no shortage of policy proposals available to be analyzed and incorporated into the debate.

Scope: The topic provides adequate ground to both sides of the debate, Affirmatives will be able to analyze a broad sector of federal policy, while negatives will have access to literature proposing counter-solutions, state action, etc.

Range: This topic will allow both novice and skilled debaters to expand their knowledge and skill. The postsecondary education topic allows for the research and development of specific plans for novice debaters while allowing for creative, large-scope plans for skilled debaters.

Quality: The debates on this topic will not only make the debaters think, they will also make judges and parents think. With luck, maybe those outside the debate community will listen to the students' thoughts Native Americans, a topic our community has so far all but ignored.

Material: The sheer volume of writing on the issues of federal interaction with Native Americans ensures that there will always be a surfeit of material for debaters to work with. If anything, there may be too much literature on the topic, meaning that kids will have to be very selective about their choices.

Interest: The issues surrounding Native Americans demand our attention and are interesting because they encompass so many areas and allow for so many debates across a wide spectrum of issues.

Balance: This paper illustrates the potential ground for arguments for both the affirmative and negative. As educators, politicians, and students discuss education, there is no shortage of differing opinions and research countering other opinions and answers.

Works Cited

- Adams, H. K. (2012). Sovereignty, Safety, and Security: Tribal Governments Under the Stafford and Homeland Security Acts. *American Indian Law Journal*, Vol.1 , #1. Fall, 2012. P. <http://www.law.seattleu.edu/Documents/ailj/Fall%20Issue/Stafford%20and%20Homeland%20Heidi%20AdamsFinal.pdf>
- Bulzomi, M. (2012). Indian Country and the Tribal Law and Order Act of 2010. *FBI Law Enforcement Bulletin*. Retrieved on April 30, 2014, from <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/may-2012/indian-country-and-the-tribal-law-and-order-act-of-2010>
- Bureau of Indian Affairs (No Date). U.S. Department of the Interior – Bureau of Indian Affairs: Frequently Asked Questions. P. <http://www.bia.gov/FAQs/>
- Clay, R. F.(2014). Tribe at a Crossroads: The Navajo Nation Purchases a Coal Mine. *Environmental Health Perspectives*. Vol. 122, #4. P. <http://ehp.niehs.nih.gov/wp-content/uploads/122/4/ehp.122-A104.pdf>
- Crane-Murdoch, S.(2013). On Indian Land, Criminals Can Get Away With Almost Anything. *The Atlantic*. February 23, 2013. Retrieved on April 28, 2014, from <http://www.theatlantic.com/national/archive/2013/02/on-indian-land-criminals-can-get-away-with-almost-anything/273391/>
- Curry, R, Eichman, C., Staudt, A., Voggesser, G., and Wilensky, M.(2011). Facing the Storm: Indian Tribes, Climate-Induced Weather Extremes, and the Future for Indian Country. *National Wildlife Federation*. P. <https://owl.english.purdue.edu/owl/resource/560/06/>
- Erickson, M. (2014). Opinion analysis: Michigan draws a bottom pair, but Indian Country does not have a straight flush. *SCOTUSBLOG*. May 28, 2014. P. <http://www.scotusblog.com/2014/05/opinion-analysis-michigan-draws-a-bottom-pair-but-indian-country-does-not-have-a-straight-flush/>
- Federal Bureau of Investigation (2012). 2012 Hate Crime Statistics. 2012. Retrieved on April 27, 2014 from http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2012/topic-pages/victims/victims_final
- Gilio-Whiaker, D. (2014). Moving From Sovereignty to Autonomy. March 10, 2014. P. <http://indiancountrytodaymedianetwork.com/2014/03/10/moving-sovereignty-autonomy?page=0%2C1>
- Gould, L. S. (2003). Tough Love for Tribes: Rethinking Sovereignty After Atkinson and Hicks. *New England Law Review*. Vol.37:3, 2003. P. <http://www.nesl.edu/userfiles/file/lawreview/vol37/3/gould.pdf>
- Gupta, P. (2014). National Congress of American Indians: We do not call ourselves Redskins. *Slate*. January 31, 2014. Retrieved on April 27, 2014 from http://www.salon.com/2014/01/31/national_congress_of_american_indians_we_do_not_call_ourselves_redskins/

- Hansen, T. (2014). Kill the Land, Kill the People: There Are 532 Superfund Sites in Indian Country. Indian Country Today. June 17, 2014. P.
<http://indiancountrytodaymedianetwork.com/2014/06/17/532-superfund-sites-indian-country-155316>
- Indian Country Today Staff (2014). Native Death Rates Nearly 50 Percent Greater Than Those of Non-Hispanic Whites. Indian Country Today. April 23, 2014. Retrieved on April 27, 2014 from <http://indiancountrytodaymedianetwork.com/2014/04/23/native-death-rates-nearly-50-percent-greater-those-non-hispanic-whites-154571>
- Indian Country Today Staff (2014). Camp Out July 4 Weekend at Top-Rated RV Parks in Indian Country. Indian Country Today. July 4, 2014. P.
<http://indiancountrytodaymedianetwork.com/2014/07/04/camp-out-july-4-weekend-top-rated-rv-parks-indian-country-155661>
- Jones, B.J. (No Date). The Indian Child Welfare Act: The need for a separate law. American Bar Association. No Date. P.
https://www.americanbar.org/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_index/indianchildwelfareact.html
- Lewis, D. R.. (1995). Native Americans and the Environment: A Survey of Twentieth-Century Issues. American Indian Quarterly, Vol.19, #3. Retrieved from JSTOR on July 5, 2014.
- Maxwell, L. (2013). Education in Indian Country: Running in Place. Education Week. Retrieved on April 30, 2014, from <http://www.edweek.org/ew/projects/2013/native-american-education/running-in-place.html>
- Mendoza, W. (2014). Testimony Before the United States Senate Committee on Indian Affairs Hearing on Indian Education Indian Students in Public Schools – Cultivating the Next Generation. Retrieved on May 1, 2014, from
<http://tribaleddepartmentsna.wordpress.com/tedna-congressional-materials/>
- National Congress of the American Indian (2014). Fiscal Year 2015 Indian Country Budget Request: An Honorable Budget for Indian Country. Retrieved on April 29, 2014 from
<http://www.ncai.org/resources/ncai-publications/indian-country-budget-request/fy2015>
- National Criminal Justice Reference Service (2014). Justice in Indian Country. Retrieved on April 29, 2014, from <https://www.ncjrs.gov/justiceinindiancountry/>
- National Indian Education Association (2013). 2013 Policy Agenda: Standing for High Quality Native Education. Retrieved on April 30, 2014, from
http://niea.org/data/files/policy/briefingbook2013_mobile.pdf

- National Indian Child Welfare Association (2014). FY 2015 Testimony
United States House of Representatives Committee on Appropriations, Subcommittee
Interior, Environment, & Related Agencies Department of the Interior; Bureau of Indian
Affairs Recommendations. P.
<http://docs.house.gov/meetings/AP/AP06/20140408/101765/HHRG-113-AP06-Wstate-MartinA-20140408.pdf>
- Native American Rights Fund (2000). Indian Education Legal Support Project: "Tribalizing Indian
Education." Retrieved on April 28, 2014, from <http://www.narf.org/pubs/edu/purple.pdf>
- Newcomb , S. (2013). On Diminishment and Reduction. Indian Country Today. December 2, 2013.
P. <http://indiancountrytodaymedianetwork.com/2013/12/02/diminishment-and-reduction>
- Sullivan, L. & Walters, A. (2011). Native Foster Care: Lost Children, Shattered Families. National
Public Radio. October 25, 2011. P. <http://www.npr.org/2011/10/25/141672992/native-foster-care-lost-children-shattered-families>
- Tighe, S. (2014). Of Course We Are Crazy': Discrimination of Native American Indians Through
Criminal Justice. Justice Policy Journal, 11(1). 1-38. Retrieved on April 28, 2014, from
http://www.cjcj.org/uploads/cjcj/documents/tighe_discrimination_final_formatted.pdf
- The Leadership Conference (2014). Native Americans. 2014. Retrieved on April 27, 2014 from
<http://www.civilrights.org/resources/civilrights101/native.html>
- Tribal Court Clearinghouse (2014). Retrieved on April 28, 2014, from <http://www.tribal-institute.org/>
- U.S. Department of Commerce, Census Bureau. American Indian and Alaska Native Heritage
Month: November 2011. Retrieved on April 27, from
http://www.census.gov/newsroom/releases/archives/facts_for_features_special_editions/cb11-ff22.html
- US Department of the Interior, Bureau of Indian Affairs. Frequently Asked Questions. 2014.
Retrieved on April 27, from <http://www.bia.gov/FAQs/>
- U.S. House of Representatives , Committee on Appropriations , Subcommittee on Interior,
Environment, and Related Agencies (2014). Testimony of the Tribal Caucus of the Tribal
Interior Budget Council for the Hearing on American Indian/Alaska Native Programs.
Retrieved on April 29, 2014, from
<http://docs.house.gov/meetings/AP/AP06/20140408/101853/HHRG-113-AP06-Wstate-HallT-20140408.pdf>
- Voggeser, G., & Bonogofsky, A.(2014). Back to 350, Part 2: Confronting Climate Change in Indian
Country. Indian Country Today. April 30, 2014. P.
<http://indiancountrytodaymedianetwork.com/2014/04/30/back-350-part-2-confronting-climate-change-indian-country-154673>
- W. C. (2009). Native Americans and The Environment. 2009. P.
<http://www.ehso.com/ehshome/Native%20Americans%20and%20the%20Environment.htm>

- Wicks, M. (2005). Mascots: Racism in Schools by State. Obtained on May 3, 2014, from <http://www.aics.org/mascot/mascot.html>
- Williams, T. (2012). Higher Crime, Fewer Charges on Indian Land. The New York Times. February 20, 2012. Retrieved on April 28, 2014, from <http://www.nytimes.com/2012/02/21/us/on-indian-reservations-higher-crime-and-fewer-prosecutions.html?pagewanted=all>
- Wolfley, J. (2014). Tribal Environmental Programs: Providing Meaningful Involvement and Fair Treatment. Journal of Environmental Law and Litigation. Vol. 29, #389. P. <http://law.uoregon.edu/wp-content/uploads/2014/05/Wolfley.pdf>
- Yazzi, D. (2011). Setting the Standard: Domestic Policy Implications of the UN Declaration on the Rights of Indigenous Peoples. Hearing for the Committee on Indian Affairs. United States Senate, 2011. P. <http://www.gpo.gov/fdsys/pkg/CHRG-112shrg67606/pdf/CHRG-112shrg67606.pdf>,