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AN INDIGENOUS PEOPLES' HISTORY OF THE UNITED STATES

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LAND CLAIMS

With a large part of Indigenous nations' territories and resources in what is now the United States taken through aggressive war, outright theft, and legislative appropriations, Native peoples have vast claims to reparations and restitution. Indigenous nations negotiated numerous treaties with the United States that included land transfers and monetary compensation, but the remaining Indigenous territories have steadily shrunk due to direct federal appropriation by various means as well as through government failure to meet its obligation to

protect Indigenous landholdings as required under treaties. The US government has acknowledged some of these claims and has offered monetary compensation. However, since the upsurge of Indian rights movements in the 1960s, Indigenous nations have demanded restoration of treaty-guaranteed land rather than monetary compensation.

Native Americans, including those who are legal scholars, ordinarily do not use the term “reparations” in reference to their land claims and treaty rights. Rather, they demand restoration, restitution, or repatriation of lands acquired by the United States outside valid treaties. These demands for return of lands and water and other resource rights illegally taken certainly could be termed “reparations,” but they have no parallel in the monetary reparations owed, for example, to Japanese Americans for forced incarceration or to descendants of enslaved African Americans. No monetary amount can compensate for lands illegally seized, particularly those sacred lands necessary for Indigenous peoples to regain social coherence. One form of Native claim does seek monetary compensation and might provide a template for other classes. Of the hundreds of lawsuits for federal trust mismanagement that Indigenous groups have filed, most since the 1960s, the largest and best known is the *Cobell v. Salazar* class-action suit, initially filed in 1996 and settled in 2011. The individual Indigenous litigants, from many Native nations, claimed that the US Department of the Interior, as trustee of Indigenous assets, had lost, squandered, stolen, and otherwise wasted hundreds of millions of dollars dating back to the forced land allotment beginning in the late 1880s. By the end of 2009, it was clear that the case was headed for a decision favoring the Indigenous groups when the lead plaintiffs, representing nearly a half-million Indigenous individuals, accepted a \$3.4-billion settlement proposed by the Obama administration. The amount of the settlement was greater than the half-billion dollars that the court would likely have awarded. However, what was sacrificed in the settlement was a detailed accounting of the federal government’s misfeasance. As one reporter lamented: “The result will see some involved with the case, especially lawyers, become quite rich, while many Indians—the majority, in all likelihood—will receive about a third of what it takes to feed a family of four for just one year.”¹³

Another important form of reparations is the repatriation of remains of dead ancestors and burial items. After considerable struggle on the part of Indigenous religious practitioners, Congress enacted the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), which requires that museums return human remains and burial items to the appropriate Indigenous communities. It is fitting that Congress used the term “repatriation” in the act. Before NAGPRA, the federal government had used “repatriation” to describe the return of remains of prisoners of war to foreign nations. Native American nations are sovereign as well, and Congress correctly characterized the returns as repatriations.¹⁴

Although compensation for federal trust mismanagement and repatriation of ancestral remains represent important victories, land claims and treaty rights are most central to Indigenous peoples’ fight for reparations in the United States. The case of the great Sioux Nation exemplifies the persistence among Indigenous nations and communities to protect their sovereignty and cultures. The Sioux have never accepted the validity of the US confiscation of Paha Sapa, the Black Hills. Mount Rushmore is controversial among Native Americans because it is located in the Black Hills. Members of the American Indian Movement led occupations of the monument beginning in 1971. Return of the Black Hills was the major Sioux demand in the 1973 occupation of Wounded Knee.¹⁵ Due to a decade of intense protests and occupations by the Sioux, on July 23, 1980, in *United States v. Sioux Nation of Indians*, the US Supreme Court ruled that the Black Hills had been taken illegally and that remuneration equal to the initial offering price plus interest—nearly \$106 million—be paid. The Sioux refused the award and continued to demand return of the Black Hills. The money remained in an interest-bearing account, which by 2010, amounted to more than \$757 million. The Sioux believe that accepting the money would validate the US theft of their most sacred land. The Sioux Nation’s determination to repatriate the Black Hills attracted renewed media attention in 2011. A segment of the PBS *NewsHour* titled “For Great Sioux Nation, Black Hills Can’t Be Bought for \$1.3 Billion” aired on August 24. The reporter described a Sioux reservation as one of the most difficult places in which to live in the United States:

Few people in the Western Hemisphere have shorter life expectancies. Males, on average, live to just 48 years old, females to 52. Almost half of all people above the age of 40 have diabetes.

And the economic realities are even worse. Unemployment rates are consistently above 80 percent. In Shannon County, inside the Pine Ridge Reservation, half the children live in poverty, and the average income is \$8,000 a year.

But there are funds available, a federal pot now worth more than a billion dollars. That sits here in the U.S. Treasury Department waiting to be collected by nine Sioux tribes. The money stems from a 1980 Supreme Court ruling that set aside \$105 million to compensate the Sioux for the taking of the Black Hills in 1877, an isolated mountain range rich in minerals that stretched from South Dakota to Wyoming. The only problem: The Sioux never wanted the money because the land was never for sale.¹⁶

That one of the most impoverished communities in the Americas would refuse a billion dollars demonstrates the relevance and significance of the land to the Sioux, not as an economic resource but as a relationship between people and place, a profound feature of the resilience of the Indigenous peoples of the Americas.

ECONOMIC SELF-DETERMINATION

The relationship of economic development and Indigenous peoples in the United States is not a twentieth-century phenomenon. The collusion of business and government in the theft and exploitation of Indigenous lands and resources is the core element of colonization and forms the basis of US wealth and power. By the end of the nineteenth century, Indigenous communities had little control over their resources or their economic situations, receiving only royalties for mining and leasing, funds held in trust in Washington. During the Johnson administration's War on Poverty, most reservation economic development was spurred by funding and grants from the

Economic Development Administration, the Office of Economic Opportunity, and other government agencies. The Bureau of Indian Affairs began a program to woo industrial plants to reservations, promising cheap labor and infrastructure investment. The largest such experiment was that of the giant electronics company Fairchild's assembly plant in the Navajo Nation.

Established at the town of Shiprock (in the northeastern part of the reservation, in New Mexico) in 1969, the plant became the single largest industrial employer in New Mexico by 1975. Twelve hundred Navajos made up the initial workforce. By 1974, the numbers had lessened to a thousand, but still Navajos were 95 percent of the workforce. Then, during 1974–75, the Navajo workforce shrunk to six hundred. Fairchild's Mountain View, California, headquarters claimed that Navajos were quitting, something very common in the electronics assembly industry. Non-Indians were being hired to replace Navajos. What actually had been happening were layoffs, not resignations. The federal government subsidized the wages for the six-month training period on the job, for which little training is required, and Fairchild was laying off those workers whom they would have to pay and hiring new trainees at no cost. Local Navajo activists and former Fairchild employees, along with help from American Indian Movement leaders, organized a protest at the plant, which led to the workers occupying it. Fairchild decommissioned the plant and moved it overseas. Documents recovered by protesters revealed that Fairchild was seeking a pretext to break its lease. The Navajo Nation had built the plant to Fairchild's specifications at a cost of three and a half million dollars.¹⁷

The Indian Self-Determination Act of 1975 validated Indigenous control over their own social and economic development with continuation of federal financial obligations under treaties and agreements. Acting upon the new mandate, a number of Indigenous nations with mineral resources formed the Council of Energy Resource Tribes (CERT). Patterned after the federation of oil-producing states, OPEC (Organization of the Petroleum Exporting Countries), CERT sought to renegotiate mineral leases that the BIA had practically given away to energy companies. Native lands west of the Mississippi held considerable resources: 30 percent of the

low-sulfur coal in the United States, 5 percent of the oil, 10 percent of the natural gas, and 80 percent of the uranium. CERT was able to establish a center of information and action in Denver to serve its members with technical and legal assistance. The Jicarilla Apache Nation slapped a severance tax on the oil and gas taken from their lands. A corporate legal challenge to this wound up in the Supreme Court, which found that Native nations had the right to tax corporations that operated in their boundaries.

Navajo chairman Peter MacDonald was the force behind the founding of CERT and was its first director. But he quickly found his scheme of mining as the basis for economic development challenged by young Navajos who perceived the downside of ecological destruction. Strip-mining of coal and uranium in the Navajo Nation was bad enough, but then a coal-gasification plant was established to feed into the Navajo electricity-generating plant that sent power to Phoenix and Los Angeles but provided Navajos with little or none. Navajo activist John Redhouse, who became director of the National Indian Youth Council, led decades of struggle against unrestricted mining, with new generations continuing the fight.¹⁸

Like many de-industrializing US cities and states in the 1980s, some Native nations turned to gaming for revenue. In 1986, they formed the National Indian Gaming Association for the purpose of lobbying state and federal governments and to represent the interests of its members. But in 1988 Congress passed the Indian Gaming Regulatory Act, which gave the states some control over gaming, a dangerous surrender of sovereignty for those Native nations operating casinos. Indigenous gaming operations now constitute a \$26 billion industry annually that employs three hundred thousand people, with about half the 564 federally recognized nations operating casinos of various sizes. Profits have been used in myriad ways, some for per capita payments, others earmarked for educational and linguistic development, housing, hospitals, and even investing in larger projects such as the Smithsonian Institution's National Museum of the American Indian. A good portion of profits go to lobbying politicians of state and federal governments. The Indian gaming lobby in California, for instance, is second only to the prison guards union in the state.¹⁹