

American Indian, Citizens or Slaves?

by Lana Marcussen

The United States owns all Indian lands and private property. The Indian Tribes own nothing. The individual Indian on the reservation owns only what they can carry off the reservation. An Indian cannot own land in the reservation, although a non-Indian can. Even the casinos on the reservations belong in title to the United States government under its "trust" authority. When an Indian Tribe goes to a court of law to gain more rights under a Treaty, if the Tribe wins, the winnings belong to the United States government. Under the present law, every Tribal gain for the federal government means a reciprocal loss of state and local authority.

It does not have to work this way. The national government set up this Indian policy to benefit itself. Every "Indian" victory means more power and control over local resources in Washington, D.C. This policy has done nothing to help the Indian people succeed. Indian reservations have the highest poverty levels in the nation. The Indian people are powerless to exercise their own initiative under this system. What is the point of working to improve your property or even maintain your property if it can be taken from you without warning or compensation by a Tribal government or Bureau of Indian Affairs bureaucrat?

Anyone who opposes this Indian policy is called a racist. What a convenient label for the national government to use so that the realities of the Indian policy are not discussed. The Indian people are as capable, smart and ambitious as anyone. They are just as able to participate in republican government as any of the people of the United States. But, the Constitution and Bill of Rights which give the people their political rights do not apply on the reservations. This is the reason that the Indian people cannot defend themselves against the national government to own their land or resources.

The 1968 Indian Bill of Rights was supposed to give the Indian people some of the rights of citizens on the reservations. It was quickly ignored by the courts and the governments. It never worked because our Constitution was designed to enforce the principle that "all men are created equal." Either you have the rights of a citizen or you don't. There is no enforceable in between. This was a deliberate design of our Founding Fathers to prevent the national government from ever recognizing the political right to own other persons as slaves. Either slaves were human beings entitled to equal rights or they were not capable of becoming citizens because they were sub-human. Either Indians are equal citizens, or they have no political rights. We, the people, need to make a choice.

The way this concept was stated in 1857, before our Civil War, is still the way it is. The words "people of the United States" and "citizens" are synonymous terms, meaning the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the the power and conduct of the Government through their representatives. They are what we call the "sovereign people," and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is whether the class of persons described (Indians) compose a portion of this people, and are constituent members of this sovereignty, the American citizens.

If Indians are sovereign because of their tribal status, they are not "people of the United States." The national government, in acknowledging, emphasizing and perpetuating Indian sovereignty, has deliberately preserved segregation of the Indian race. The national government continues, despite the 14th Amendment Equal Protection Clause and the Citizenship Act of 1924, to hold the Indian race in a state of pupilage.

To be in a state of pupilage is like being a slave. A slave cannot own property, the slave's owner owns all the property of the slave. The Bureau of Indian Affairs of the Department of Interior holds all Indian property in trust because the Indian people are deemed to be like slaves, incapable of handling their own affairs. The Indian people cannot be part of the "sovereign people" of the United States until the national government gives them equal status. At a minimum this means doing away with the Bureau of Indian Affairs and ending the trust status.

But the national government will never do this without massive public pressure. The national government loses too much of what it now controls in land, water and resources. There are so many rights held for the Tribes that

a whole legal doctrine was created to explain them. It is called the “reserved rights” doctrine. Almost one-third of the resources of the nation are held as reserved rights. Most of these resources are in the West and Alaska. But, the doctrine has been so successful that in the 1970’s, the United States government started to spread the doctrine East

The national government in the 1970’s created special lawyers under the Department of Justice and Legal Aid to fight for additional treaty rights, aboriginal land claims and fishing rights, at tax payer expense. This is the only way the national government can remove land and resources from state jurisdiction in states granted statehood prior to the Civil War. Minnesota was granted statehood in 1859. By placing lands in “trust” for the Indians, the lands actually are turned back into “territory.” All state jurisdiction is relinquished. Although non-Indians do not technically lose their citizenship on territorial lands, they lose all of the ability to enforce their rights because the national government’s interest to “reserve” the lands for the Tribes is considered a paramount interest. In other words, the national government, in acting to reserve lands, is not accountable to the people because they are acting for the benefit of the Indians. But anything these special lawyers win belongs to the national government, not the Tribes.

It is time to change federal Indian policy and stop perpetual discrimination against the Indian race. The first step is to end the trust status and disband the Bureau of Indian Affairs. This would force Congress to grant to the Indian people their lands. This is a very important point, because actual ownership of the reserved lands is in the United States Congress and their power over the Indians is absolute, they do not have to give title of the reservation lands to the Indian people. The very same treaty rights they are enforcing against the people at large state by state, the law says are not binding upon the Congress. Congress could easily decide to end the trust and try to keep the lands and other resources we all believed were for the benefit of the Indians.

The people must stand together and demand equal rights, equal justice under law, and equal protection. These rights are the key to accountability. They must apply not only to the state governments but, to the national and tribal governments as well. Washington D.C. is not going to willingly give away this power. We all must help to free the Indian people and ensure that the Congress gives them the same rights as all citizens, including the right to own their own property. We need grassroots leaders who are not afraid of being labeled “racist” by the persons actually committing the discrimination against the Indians.

Neither major political party will take a stand to change a system that in their eyes has been very successful. The two major parties agreed back in 1871 to hold the Indians in a special racial status for their benefit. Of course, they also committed the Army to enforce their policy of placing Indians on the reservations. This was not a pro-Indian policy then and it isn’t one now.

If the Indian policy is not changed the United States government could own all the natural resources. The effect of this would be devastating to the ideals we believe this country was founded upon. Throughout this article I have referred to the United States government as the national government, not the federal government. The reason is because this government was supposed to be a “federation” of states ceding power to create a “federal” government. It was supposed to be a dual sovereign system. The Founding Fathers did it that way to protect individual rights. Neither sovereign was intended to have power to avoid the constitutional guarantees to the people. The United States government through the Indian policy has found a way to avoid the constitutional guarantees. They found a loophole which allows them to potentially destroy a state by placing a majority of the lands in “territorial” status. A sovereign state does not exist if it has no jurisdiction to control the lands within its territorial boundaries. We no longer have a “federal” government, we have had a national government capable of ignoring the rights of all citizens with absolute Immunity.

This is not just an Indian issue. It is an issue about what this country is and is going to be for the 21st century. Are we going to be one people or many peoples with different rights depending on the national government’s classifications. Can we allow the national government to have the power to segregate the people without granting a special classification to every identifiable ethnic group. Or must it mean that a citizen is a citizen is a citizen. Do we want limited constitutional government to protect our rights or do we want the national government to own all of the resources and control every aspect of the economy. Without resolving the Indian policy of the national government we can never resolve what’s wrong. Indians must gain their constitutional

rights.