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Native American Women and Coerced Sterilization: On the Trail of Tears in the 1970s

SALLY J. TORPY

During the 1970s, the majority of American protest efforts focused on the feminist, civil rights, and anti-government movements. On a smaller scale, Native Americans initiated their own campaign. Network television periodically broadcast scenes of confrontation ranging from the Alcatraz Occupation in 1969 through the Wounded Knee Occupation of 1973. The consistent objective was to regain treaty rights that had been violated by the United States government and private corporations.

Little publicity was given to another form of Native American civil rights violations—the abuse of women's reproductive freedom. Thousands of poor women and women of color, including Puerto Ricans, Blacks, and Chicanos, were sterilized in the 1970s, often without full knowledge of the surgical procedure performed on them or its physical and psychological ramifications. Native American women represented a unique class of victims among the larger population that faced sterilization and abuses of reproductive rights. These women were especially accessible victims due to several unique cultural and societal realities setting them apart from other minorities. Tribal dependence on the federal government through the Indian Health Service (IHS), the Department of Health, Education, and Welfare (HEW), and the Bureau of Indian Affairs (BIA) robbed them of their children and jeopardized their future as sovereign nations. Native women's struggle to obtain control over reproductive rights has provided them with a sense of empowerment consistent with larger Native American efforts to be free of institutional control. The following two situations are examples of the human rights violations committed against Native American women. Both reflect the socioeconomic climate of the 1970s that led to the overt and massive sterilization that irreversibly changed thousands of Native American families' lives forever.

Sally J. Torpy resides in Sacramento, California where she works with the California Department of Parks and Recreation's Indian Museum and the California Museum Services archives. She obtained her master's degree in history from the University of Nebraska, Omaha, which recently bestowed upon her the Elton S. Carter award for excellence in a thesis for 1999.

Armstrong County Child Welfare Service agents appeared at Norma Jean Serena's home in Apollo, Pennsylvania in August 1970 and took her three-year-old daughter, Lisa, and four-year-old son, Gary, out of her custody, stating that the children appeared malnourished and needed medical attention. Later that same month, Norma Jean, a Native American of Creek and Shawnee ancestry, underwent a tubal ligation after delivering her son, Shawn, whom workers immediately removed to a foster home. She signed the consent form for the surgical procedure the following day. Norma Jean's children would not return home for three years, after a jury determined that the social workers had placed her children in foster homes under false pretense.[1]

In November 1970, an unnamed twenty-six-year-old Native American woman entered a Los Angeles physician's office requesting a "womb transplant." Upon examination, the doctor informed her that she previously had been sterilized by means of a hysterectomy, a permanent and irreversible surgical procedure. The young woman, engaged and planning to have a family, was devastated.[2]

These two women are examples of poor women and women of color in the 1970s who found themselves in situations in which physicians determined their reproductive rights. Paternalistic and racist beliefs regarding who should reproduce can be traced to ancient times. The Athenian philosopher Plato believed in social stratification through controlled breeding to ensure a genetically superior race. In his *Republic*, he recommended testing and educating everyone from infancy into adulthood in order to place each person in his or her appropriate class. The most intelligent individuals would be philosopher-kings who would utilize their superior wisdom to govern and guide the populace, and the worker class would carry out their directions.[3] British political economist Thomas Malthus, whose doctrines became the foundation of most modern family-planning programs, expanded upon Plato's ideology.[4] The main premise of Malthus' philosophy contended that, "the number of people grows geometrically while the food supply increases only arithmetically."[5] Even though future studies revealed weaknesses in his premises, such as his failure to recognize that every new mouth to feed was also a person who could produce more food, his theory gained a large following worldwide. Later in the century, Malthus' followers split into two schools. Traditional Malthusians thought sexual restraint and stronger moral standards would be sufficient to control the rising population rate. Neo-Malthusians believed government and science should be in charge of family-planning programs and thus promoted contraception methods. These two doctrines reflect the increasing debate over who controls reproductive rights. Is it a personal human right or an issue that demands government intervention?[6]

Population control advocates gained momentum when, in 1907, Sir Francis Galton, the cousin of Charles Darwin, founded the Eugenics Education Society, which was based upon his ideas regarding who was fit to reproduce and who was not.[7] Galton first used the word *eugenics* in 1883 to describe "the use of genetics to improve the human race." Galton's writings helped produce a new discipline: the science of "race improvement." His the-

ories moved increasingly toward the utilization of eugenics to check the birth rate of the "unfit."[8] Many early eugenicists incorporated into their discipline Gregor Mendel's theories concerning transmission of common traits in plants. Expanding on Mendel's discoveries, eugenicists "espoused the theory that a wide variety of individual maladies and even social ills, such as poverty, were eugenic (incurable) in nature and that the best solution was prevention by sterilization."[9]

The eugenics movement, popular throughout the world by the early twentieth century, prompted some American states to introduce compulsory sterilization statutes. Prior to that time, the government sterilized persons only for punitive reasons.[10] In 1907, Indiana enacted America's first compulsory eugenic sterilization(CES) law, with fifteen other states enacting similar laws during the following two decades. Although these statutes were eventually declared unconstitutional, the ground-breaking 1927 case of *Buck* v. *Bell* upheld Virginia's CES law. This case looked at three generations of women: Emma Buck, her daughter Carrie, and Carrie's daughter Vivian. Because these women were all considered slow, eugenicists argued that this family provided proof that mentally retarded genes are inherited. The decision justified the state's right to intervene in an institutionalized mentally retarded person's reproductive rights. Eugenic lobbyists declared victory when they learned that Carrie Buck's mother, Emma, had been committed to the Virginia Colony for Epileptics and Feebleminded at Lynchburg four years prior to the case. A Red Cross worker, Caroline E. Wilhelm, testified that Carrie's seven-month-old baby, Vivian, appeared slow and feebleminded.[11] This case affirmed eugenicists' beliefs that undesirable qualities in a productive society, such as mental retardation, poverty, and immorality, are inherited.

Justice Oliver Wendell Holmes' decision to allow the sterilization of Carrie Buck helped launch a "negative eugenics" era. This meant that eugenicists had moved on from a "positive" eugenic attitude, which encouraged those considered the carriers of superior genetic material to reproduce, to a more drastic solution. Negative eugenics called for fertility control of the so-called unfit by segregation in institutions and asylums where they could be monitored or sterilized. Holmes stated that, "it is better for all the world if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sanctions compulsory vaccination is broad enough to cover cutting the Fallopian tubes."[12] Within the following decade, twenty-six more states passed laws allowing involuntary sterilizations. Vivian Buck, however, did not end up in an institution. She attended Venable Public Elementary School in Charlottesville where she qualified for the honor roll in 1931.[13]

Even though several states had no statutes to prohibit voluntary sterilization, physicians and hospitals avoided aggressive sterilization practices because of possible malpractice suits. Attitudes changed following the 1969 *Jessin* v. *County of Shasta* (California) case which determined that no legislative policy existed to prohibit sterilizations.[14] Another liberalization of sterilization practices occurred when the American College of Obstetricians and

Gynecologists (ACOG) dropped its "Rule of 120," an age/parity formula for female sterilization. If a woman's number of living children, multiplied by her age, equaled 120, she could undergo sterilization. Though not legally binding, a majority of hospitals observed this formula. In addition the ACOG dismissed its recommendation for two physicians' signature along with the rule that a psychiatric consultation be obtained before scheduling a sterilization procedure.[15] While middle-class libertarians celebrated easier access to and control over their reproductive rights, poor women and women of color became the major targets of coercive sterilization abuse.[16]

Other significant influences in the late 1960s, such as government concern over the growing population, prompted President Richard M. Nixon's appointment of John D. Rockefeller III as chairman of the new Commission on Population and the American Future. President Lyndon B. Johnson's previous War on Poverty reflected fear that world resources would not be able to provide for the future population. Political and social pressures to limit family size and push sterilization helped lead to the new Office of Economic Opportunity, an organization that sought federal funds to provide not only education and training to the poor, but also a less well-known service: contraception. The Family Planning Act of 1970 passed the Senate by an overwhelming vote of 298 to thirty-two.[17]

Statistics reflect the combined impact that this new legislation and medical practices had on minority women. During the 1970s, HEW funded 90 percent of the annual sterilization costs for poor people. Sterilization for women increased 350 percent between 1970 and 1975 and approximately one million American women were sterilized each year.[18]

Physicians and social workers found themselves in a potent situation in which they could use, but in reality abuse, their authority in dealing with poor and minority families and their reproductive rights. The conflicting needs and rights between women of different economic background and color coinciding with new fertility laws, medical advancement, and tenacious eugenic lore, culminated in disaster for many women. Inevitably, examples of blatant and subtle coercion became public. The tragic sterilization of two black sisters, Mary Alice Relf, age twelve, and Minnie Lee, fourteen, on 14 June 1973 shocked the nation. The medical procedure was completed through the illegal actions of the Montgomery, Alabama Community Action Family Planning Clinic, an HEW funded and controlled agency. The illiterate welfare mother of these girls had signed an *X* for her name on medical forms that she believed gave doctors permission to administer shots to prevent pregnancy.[19] Federal suits filed by the girls' father, Lonnie, asked for the cessation of sterilization funding and experimental drug use. This case ultimately stimulated a backlash from many women's civil rights groups and led to the formation of several anti-sterilization organizations such as the Committee to End Sterilization Abuse, and the Committee for Abortion Rights and Against Sterilization Abuse.[20]

Their studies confirmed that low-income women and women of color suffered great psychological, physical, and emotional pain during this time as a result of the sterilization. One study conducted in 1973 indicated that some

25 percent of sterilized patients in general displayed regret. Hysterectomies had a potential surgical complication rate ten to twenty times greater than that for tubal ligations.[21] In *Review of Law and Social Change,* Edward Spriggs, Jr. made the following observation regarding involuntary sterilization: "to the extent that they involve racial or socioeconomic biases, [these] are perhaps the best contemporary examples of incipient genocide by private persons, often with public sanction, in the United States."[22]

Though all the victims suffered great loss, Native American women were easier targets than other minorities due to many unique cultural and societal realities. As a result of these differences and their relatively small population percentages, Native Americans failed to gain much from the broader feminist movement and the liberal attitudes of the late 1960s and 1970s.

In addition to problems of general societal invisibility, Native Americans have been hidden behind an additional curtain of bureaucratic secrecy. Lawyers representing Indian women in court could not, because of the government's request, reveal sealed trial proceedings. In fact, the Federal Freedom of Information Agency refused further release of documents regarding IHS facilities' sterilization policies of the 1970s, claiming that this author did not present adequate justification.[23] Yet years of investigation, government hearings, and court cases finally aided Native American women's efforts to organize and address their needs, their rights, and their futures as the cultural forbears of their race. Oversight hearings, trials, news reports, investigative publications, and interviews with attorneys and Native American women revealed the devastating impact these events had upon the individuals, their families, and their tribal communities.

Norma Jean Serena, the Creek Native American mentioned previously who lost her reproductive rights following the birth of her son in 1970, is one of thousands of Native American women sterilized during the 1970s. The thirty-seven-year-old divorcee also lost custody of her infant son in that same year. Child Welfare and Board of Assistance authorities in Pittsburgh, Pennsylvania convinced Serena that she was too ill and exhausted to care for a baby and they placed her son, Shawn, in a foster home.[24] Months prior to this incident, social workers had come to Serena's home and demanded that she accompany her two-year-old son and her three-year-old daughter to Children's Hospital in Pittsburgh for medical examinations; once there, the caseworkers told the mother that the two children were seriously ill and needed to stay at the hospital. Shortly after, however, they were placed in homes with foster parents who were led to believe they could adopt the children.

When Serena's repeated attempts to visit and regain custody of her three children failed, the distraught mother employed legal assistance from the Council of Three Rivers American Indian Center in Pittsburgh. She eventually filed a civil suit, the first of its kind, to address sterilization abuse as a civil rights issue.[25] She asked for $20,000 in damages from the Department of Public Welfare for the violation of her civil rights.[26]

The all-white jury of six men and two women found the two Welfare Department's social workers "guilty of misrepresenting Serena's case and placing her children in foster homes under false pretenses."[27] Serena

received $17,000 in damages in this initial part of her suit, which the Pittsburgh press considered a great victory. However, it would take the threat of contempt of court before Armstrong County Child Welfare authorities released her children in March 1974. By this time, Gary and Lisa had spent three years away from their natural mother, and the baby, Shawn, had been absent from her for two years.[28]

The second part of Serena's case took place in January 1979 and involved the blatant abuse of her reproductive rights. Welfare agents and doctors claimed that Serena agreed to the sterilization and looked forward to having no additional babies. She had no clear recollection of signing the consent form and testimony in court indicated that she had signed a consent form dated the day after the sterilization surgery and childbirth had taken place.[29] Serena's attorney, Richard Levine recalled that the jury had sympathy for a mother being separated from her children, but they did not experience similar feelings over the loss of her fertility. Instead, Levine believed that the jury did not approve of her living situation—Serena was living, unmarried, with a Black man—even though her civil rights obviously had been denied. The attending physician convinced the jury that he had explained the operation adequately and that she had agreed to it. The jury decided Serena had given consent and its members acquitted the doctors and one male social worker.[30]

Although Serena lost the second part of her suit, many, including Levine, considered the guilty verdict for the illegal removal of her children a victory. Levine stated that the decision, the first of its kind, finally held social workers accountable to the poor.[31] In addition, Serena's case exposed the American public to the reality of epidemic numbers of Native American children being taken from their families, coupled with an equally staggering number of sterilizations of Native American women of childbearing age during the 1970s.

As a result of the publicity generated from this case, along with suspicious sterilizations at the Claremore, Oklahoma IHS hospital, Constance Redbird Pinkerton-Uri, a physician with the IHS in Oklahoma and a law student of Choctaw/Cherokee ancestry, began to call the office of Senator James Abourezk, chairman of the Senate Subcommittee on Indian Affairs, in South Dakota to inform him of this growing problem in Indian Country. She, along with registered nurse Phyllis Jackson and Milo Fat Beaver, an inhalation therapist, had held clinics in a tipi to provide services for patients who either did not want to seek medical attention at IHS facilities or were unable to travel to the closest IHS hospital. It was during these sessions that questionably unethical sterilization practices were revealed to the team. Pinkerton-Uri was not the only concerned person to seek Abourezk's expertise. The senator, also received phone calls from Charlie McCarthy, then an IHS employee in Albuquerque, regarding the same issue. Joan Adams, an intern on Abourezk's staff, handled these calls and subsequently investigated the allegations that Indian women were being sterilized without their consent and under duress. After interviewing tribal leaders and Indian women's groups, as well as examining IHS records, Adams concluded that some of the complaints were legitimate and merited further investigation. Abourezk's intern called for a General Accounting Office (GAO) report in April 1975 to look into both ster-

ilization abuse and the experimental use of drugs on Native American children.[32]

The GAO study, involving Albuquerque, Phoenix, Oklahoma City, and Aberdeen, South Dakota, found that between 1973 and 1976 IHS facilities sterilized 3,406 Native American women. Of these, 3,001 involved women of childbearing age (between fifteen and forty-four). Of these, 1,024 were performed at IHS contract facilities.[33] Since the records of only four of the twelve IHS hospitals were examined over a forty-six-month period, and only 100,000 Native American women of childbearing age remained, the ramifications of these operations were staggering. After studying the report, Senator Abourezk commented that given the fact of the small population of Native Americans, 3,406 Indian sterilizations would be comparable to 452,000 non-Indian women. He noted that the study itself revealed some significant weaknesses in the report. For example, only four of the twelve IHS service areas were examined, and during those three years of investigation, not one woman was ever interviewed to find out whether or not she received adequate counseling and education beforehand or had even consented to the procedure.[34]

The report found that although some kind of informed consent had been acquired from these women, no one common consent form was used, and the majority of the forms did not adequately satisfy the federal regulations of informed consent. The US District Court defined "informed consent" as the "voluntary, knowing assent from the individual on whom any sterilization is to be performed," and this only after she has been given information pertinent to the operation.[35] In addition, the GAO study discovered that thirty-six females who were either under the age of twenty or were judged mentally incompetent had undergone sterilization procedures. This was in direct violation of moratoriums that HEW had sent to all IHS directors on 2 August 1973. HEW ordered this moratorium primarily to protect these two vulnerable groups. In fact, continued violations forced HEW to reconfirm the moratorium by way of memorandums and a telegram on 16 October 1973, 29 April 1974, and in another memorandum containing copies of revised HEW regulations sent directly to IHS physicians and directors on 12 August 1974.[36]

New requirements for obtaining informed consent applied to an individual when that person was considered "at risk" in regard to her health. Six basic elements comprised HEW's revised consent forms:

> (1) A fair explanation of the procedures to be followed, including an identification of those which are experimental. (2) A description of the attendant discomforts and risks. (3) A description of the benefits to be expected. (4) A disclosure of appropriate alternative procedures that would be advantageous for the subject. (5) An offer to answer any inquiries concerning the procedures. (6) An instruction that the subject is free to withdraw his consent and discontinue participation in the project or activity at any time.[37]

The GAO study noted that these HEW regulations did not comply with US District Court Judge Gerhard Gessel's 1974 court order that any individual contemplating sterilization should be advised orally at the outset that at

no time could federal benefits be withdrawn because of failure to agree to sterilization. Gessel's rulings were published in the 14 April 1974 *Federal Register* and they specifically addressed this issue to protect individuals from sterilization coercion. The GAO report recommended to the secretary of HEW: (1) the development of a revised and uniform consent form as soon as possible; (2) a program for educating and training physicians regarding sterilization regulations and eligibility; and (3) more frequent monitoring of physicians' compliance with new regulations. GAO investigators called for HEW regulations to be in compliance with the US District Court's ruling that patients be informed orally that they could not lose their welfare benefits. The consent form was also required to have the signature of the person obtaining a patient's permission on the same document.[38]

After reviewing the GAO report and conversing with several IHS health planners, Patty Marks, staff member of Abourezk's Senate Select Committee on Indian Affairs, believed that IHS physicians' attitudes played a significant role in sterilization abuse. She felt they lacked cultural sensitivity, possessed a middle class attitude towards family planning that favored only two children per family, and promoted the belief that unwed mothers and families that were economically deprived should not reproduce. She agreed with the GAO study proposals and strongly advocated consistent and thorough monitoring and enforcement of regulations along with adequate counseling for individuals considering sterilization as a means of birth control.[39] Marks said some tribes, such as the Navajo, already employed counselors; in areas such as Montana, South Dakota, and Oklahoma, however, only the doctor was present to explain to the patient what sterilization involved. This lack of counseling, Marks argued, could result in misunderstandings.[40]

Pinkerton-Uri's reaction to sterilization abuse was not as empathetic as Marks'. She scathingly attacked the Association of American Indian Physicians (AAIP) for ignoring her initial requests for records from the Claremore Indian Hospital. Everett Rhoades, vice-chairman of the Kiowa Tribal Council and a member of AAIP, denied knowledge of the request. Pinkerton-Uri addressed the Indian Health Advisory Board in 1974, expressing the urgent need to improve Indian health care. There would be a real threat to the continuance of Indian tribes' bloodline, she argued, if sterilization procedures went unchecked. The physician commented, "we have a new enemy and the enemy is the knife."[41] Through her own investigations of Claremore Hospital records, she discovered that 132 Native women had been sterilized at Claremore, and of that number one hundred underwent sterilization procedures labeled non-therapeutic, meaning that sterilization was the sole purpose.[42]

The first legal response to the GAO's study came in the form of another class-action suit filed against HEW in 1977 and involved three Northern Cheyenne women from Montana. This case reflects the deep cultural beliefs and attitudes that Native American women possess regarding motherhood. Michael Zavalla, a Tucson attorney, remembered the case's sensitivity and the young women's embarrassment and shame over the loss of their reproductive abilities. He alleged that they were sterilized without their full consent or

knowledge of the surgical procedure and its ramifications. Their names were withheld from the media out of their fear of public condemnation within their tribes. Zavalla filed the case in Washington State with the hope that a favorable decision would send a message to hospitals and physicians about the need to obtain proper informed consent and provide full knowledge regarding any operation.[43]

Zavalla directed his suit only against the hospital physicians who allegedly coerced the women into sterilization by implying that they would lose their welfare benefits, that they needed the surgery, or that the surgery could be reversed at a future date. By taking such action, the doctors failed to comply with federal consent regulations. The case, however, never went to trial. Each of the three women was approached by the defendants' lawyers and offered a cash settlement on the condition that the terms of the agreement would remain sealed, along with their names. The women's attorney believed the lawsuit ended this way in order to avoid additional publicity that might encourage further litigation by other victims. Zavalla expressed frustration and disappointment over the outcome of the case, but respected and sympathized with the victims' hesitancy to pursue their suit.[44]

Marie Sanchez, chief tribal judge for the Northern Cheyenne Reservation in Lame Deer, Montana, having heard of these lawsuits and other similar allegations from her tribe, conducted her own investigation on her reservation and found that thirty women were sterilized between 1973 and 1976. Sanchez learned from her interviews that two girls under the age of fifteen were told that they were having their appendix taken out only to discover later that they had been sterilized. Another woman who complained to a physician about migraines was told that her condition was a female problem and was advised that a hysterectomy would alleviate the problem. Her headaches continued, however, until she was diagnosed with a brain tumor.[45]

Sanchez hoped she could motivate these women to file lawsuits against the IHS, but unfortunately the women's traumatized emotions resulting from their sterilizations kept them from coming forward. Sanchez empathized with them and explained that Native American cultures are based on the value of family. For them to publicly admit that they had unknowingly given up their reproductive rights would be devastating for them and their relations. She concluded that "even more discouraging than high legal bills is the risk of losing one's place in the Indian community, where sterilization has particular religious resonance."[46]

What Pinkerton-Uri, Sanchez, Abourezk, and many other Native American advocates attempted to accomplish through government investigations, rallies, and media attention was twofold. They realized the need not only to put an end to further sterilization of a people who could ill afford it, but also to preserve their cultures and traditions. An understanding of these unique cultures and their special relationships with the federal government presents three important factors: (1) how and why Indian women were more vulnerable to sterilization abuse than other minorities; (2) what motivated physicians' abuses of Indian women's reproductive rights; and (3) how social welfare workers' attitudes affected Native American families.

In 1831, Supreme Court Justice John Marshall designated Native American tribes "domestic dependent nations," comparing the relationship to that of a guardian and its ward.[47] Originally the BIA, within the Department of the Interior, held sole responsibility for medical and health-related issues. In 1955, IHS transferred to the Public Health Service (PHS), claiming to provide a "full health program including curative, preventive, rehabilitative, and environmental health services through an integrated system" of hospitals.[48] IHS hospitals were built for Native Americans because most tribes lived in areas where no private medical care or state health services were available.[49]

As of 1977, IHS facilities consisted of fifty-one hospitals, eighty-six health centers (including twenty-six in schools), and several hundred other health stations across the nation. But the health facilities were often located miles from major hospitals and Native American communities.[50] In April 1984 the number of hospitals and health centers had dropped to forty-eight and seventy-nine, respectively.[51] Although it would appear that IHS had an organized, functioning health care package for Native Americans, a 1977 study prepared by the American Indian policy review commission for the United States Congress found the system antiquated and lacking in (1) adequate policy to solve the problems of Indian health; (2) adequate appropriations; (3) adequate mechanism for delivery of services; (4) responsiveness on the part of state and local agencies toward Indians; and (5) oversight and accountability at all levels of Indian Health Service.[52] A 1975 study conducted by the Joint Committee on Accreditation of Hospitals found that over two-thirds of the IHS' fifty-one hospitals were "obsolete and in need of complete replacement." Only twenty-four, less than half, met the committee's standards, and just twelve of the fifty-one hospitals met the fire and safety codes.[53]

Senator Abourezk, longtime advocate for Native Americans, found their health situation disgusting and blamed President Richard Nixon's administration for impounding funds for Indian health care during four out of five years of his term. Abourezk stated that the $15.5 million appropriated and impounded by the Nixon Administration "literally is forcing IHS to play Russian Roulette with the lives of Indian people." By the administration's actions, thousands of people requiring medical attention would have to go without help. Abourezk's office reported that as of June 1974, a waiting list of 20,000, including 13,000 children, existed for corrective surgery.[54] The senator estimated that approximately $40 million more was needed to bring up the level of IHS medical care to that of the national norm, and an additional $10 million was needed to staff hospitals. In 1974 there was only one doctor for every 1,700 reservation Indians. To add to the problem, most of the 492 doctors then assigned to IHS hospitals were recruited from the military draft. When the doctor draft terminated in 1976, IHS lost many physicians, resulting in a severely understaffed medical staff. In addition, the US Senate's decision to exclude PHS personnel from acquiring a bonus of up to $10,000 for every year that military doctors serve past their minimum tour of two years further discouraged recruits.[55]

According to Everett Rhoades, one of only thirty-eight Indian physicians in the United States in the 1970s, the isolation in rural communities, long

hours, low pay, and lack of quality housing, schooling, and recreation left physicians disinterested and unenthusiastic about working at an IHS hospital.[56] To compensate for the lack of physicians in the IHS system, to provide supplemental specialty care, and to complement the basic services available to Indian people, the IHS paid for the use of alternative health service facilities. For example, in Claremore, Oklahoma, the IHS hospital had just thirty-five beds to accommodate 33,000 northeastern Oklahoma Indians. Director Thomas Talamini said that because of these figures the hospital must treat the majority of patients on an out-patient basis. As a supplement, the hospital was allotted $373,000 to contract health services with other university medical centers, county hospitals, and private physicians. Unfortunately, Talamini claimed that their quarterly allocation was often spent within six weeks.[57]

Because of inadequate health care, the quality of life on most Indian reservations suffered. Infant mortality was three times the national average and the tuberculosis rate was eight times the national average. The life expectancy for a Native American in 1977 was forty-seven years compared to 70.8 years for the general population. For every seven babies born, one Indian woman was sterilized.[58] With a total Native American population of approximately 800,000 as of 1976, sterilization within many tribes could have a devastating impact on a particular tribe's survival. Pinkerton-Uri made the observation that "there are about only 100,000 women of childbearing age left total. A 200 million population could support voluntary sterilization and survive, but for Native Americans it cannot be a preferred method of birth control. Where other minorities might have a gene pool in Africa or Asia, Native Americans do not; when we are gone, that's it."[59]

This lack of concern for Native Americans' welfare filtered down through the government agencies and directly affected the health and well-being of Indians. An example of this may be found in legislation passed in 1970 that had a direct impact on the economic and sociological attitudes of many eager physicians fresh out of their residencies. President Jimmy Carter approved the Hyde Amendment, which cut off 98 percent of all federal funding for abortions but maintained reimbursement to hospitals or physicians for 90 percent of sterilization costs. An HEW study reported that if all federal funding for abortions was eliminated, an estimated 250 to 300 deaths could be expected each year and 25,000 serious medical complications would result from self-induced or illegal abortions.[60] With fewer options for Indian and non-Indian women to exercise control over their reproductive rights, physicians took the initiative and pushed the risky surgical sterilization rather than safer alternative means of birth control.

Robert E. McGarrah, a staff attorney for Public Citizen's Health Research Group, wrote that surgeons were trained to look upon surgery as a powerful tool, a talent that they were encouraged to use with freedom. The American Board of Surgery fostered this attitude by establishing required numbers of operations in which residents had to assist or perform to complete their residencies. McGarrah believed that these early rewards for performing operations on the poor or minority members in the form of residency certification and specialty board qualifications translated into later financial rewards whereby the more a

doctor cut the more he or she could earn.[61] Physicians were convinced that welfare patients were unreliable and not intelligent enough to properly use other methods of birth control such as contraceptive devices or pills. Physicians played God, deciding for the poor or minority member what they felt would provide a higher standard of living by limiting the size of families. Many physicians, government administrators, and health corporation planners felt that sterilization provided an inexpensive and permanent method of controlling population, reducing poverty, and insuring who could reproduce. The reality was that many doctors failed to explain to women the surgical procedure, its risks, and its permanency. They also often neglected to obtain appropriate informed consent.

A study published in 1971 involving a southeastern town of 200,000 inhabitants appeared to corroborate McGarrah's beliefs. Researchers questioned physicians regarding their birth control policies and attitudes. Only 6 percent of the responding physicians recommended sterilization as a birth control method for their private patients, yet 14 percent favored sterilization as the first method of contraception for welfare patients. In that same poll, 94 percent of gynecologists approved compulsory sterilization for welfare mothers who had three or more children.[62]

Lack of staff, quality care, and accessibility to hospitals or clinics, along with the rekindled 1970s interest in eugenics, created an explosive situation

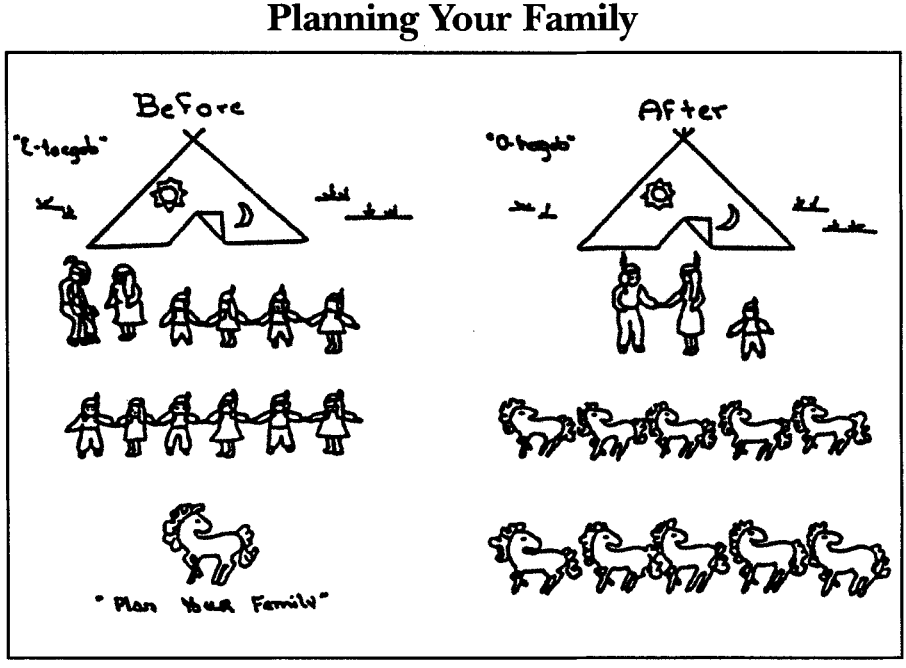

Figure 1 These illustrations are from a family planning pamphlet produced by the Department of Health, Education, and Welfare and are reprinted in *Akwasasne Notes* (1974):6 and *Caduceus* (Winter 1974).

for women of color and low income brackets. Family planning workers eagerly introduced Native Americans to sterilization as a form of birth control in the 1960s through HEW pamphlets such as "Plan Your Family" (see fig.1). This booklet illustrates a before sterilization picture—a caricature of haggard parents with only one horse and ten children—next to an after sterilization image—a cartoon of happy erect parents surrounded by one child and many horses.[63] This type of paternalistic mindset was widespread throughout the nation.

One of the most common violations of Native American women's right to informed consent was the lack of an interpreter to explain in their own language about the surgical procedure. Frequently, physicians also refrained from explaining its irreversibility or offering optional means of birth control. In many cases, doctors worked in conjunction with a social worker, threatening to withdraw patients' welfare benefits or take their children from them unless they underwent sterilization.[64]

Physicians who claimed they had orally informed Native American women about the surgical procedure and obtained consent were not taking the time or precaution to have a witness present who spoke the woman's language. This led to enormous misinformation and neglect of a woman's right to know and understand in her own language what the operation involved. However, because of the large number of Native languages spoken today, it would almost be impossible for a physician to learn all languages in their serving area. Consequently, considerable confusion occurred in communicating the necessary information on sterilization.[65]

Women interviewed later verified that public and private welfare agencies threatened to cut off their benefits if they bore additional children or to remove the children they already had from their homes. One of the most typical situations in which welfare agents and surgeons would try to convince a mother to agree to sterilization was during labor when she was vulnerable and often medicated. Some women avoided having their babies at IHS facilities for this reason, but unfortunately the majority of women were unaware of the coercion they were often subjected to. The threat of losing one's children to social welfare agencies if the mother did not agree to sterilization, however, proved the most persuasive and coercive technique. Native American women scattered throughout the nation on reservations had little if any access to the pro-choice movement, which might have raised their consciousness, leaving them especially vulnerable to manipulation. Their population—already devastated by disease, inadequate health care and education, wars, removal, cultural genocide through assimilation, broken treaties, and now sterilization—placed a high priority on children as their one hope of survival. Native Americans had and still have a deep sense of family and the importance of extended families.[66]

To appreciate a Native American woman's deep-rooted fear of losing her children to a foster family, boarding school, or adoption, one can look back in history and find ample examples of families losing their children. The phrase *kid catching* in the 1930s on the Navajo reservation will always reverberate through time among Indian families. The phrase referred to the stock-

men, police, farmers, and mounted men who came on their reservation to literally round up school-age children to attend faraway government boarding schools. These children, often roped like cattle, were sent to white schools where they were given white names and clothing, forbidden to speak their Native tongue, and often prevented from returning home for three years, sometimes never. Dande Coolidge, a Navajo eyewitness to the yearly roundup of Indian children, recalled that many parents hid their children when they heard the sound of a truck approaching.[67]

Various churches also threatened Native American families through organizations such as the Mormon Church's Placement Program. Joan Rose, a Ute woman from Nevada, remembered the Mormons taking in children from poverty-stricken Indian families. There was great concern for the children's religious education as it was common knowledge that Mormons believed Indians were sinners and Lamenites, one of the lost tribes of Israel, who could become white and immediately be saved if they accepted the Mormon faith.[68] As many as two thousand children per year left their homes to live with a culture that held Native Americans as "dark and loathsome," "cursed by God because of their moral turpitude and ancient wickedness." In fact, they believed that as the children became indoctrinated into the Mormon faith, their skin would lighten.[69]

Statistics reflecting the high number of children placed in boarding schools in a 1971 school census conducted by the BIA were staggering. Approximately 35,000 children lived in such facilities rather than at home.[70] Of the total number of Native American children attending federal schools, over two-thirds—33,672—were in boarding schools.[71] Native Americans expressed grave concerns about the impact that BIA schools had on their children since classes were conducted only in English, and the intent was to assimilate them into the white man's world. Of even larger concern was the distance between the boarding schools and the children's homes. Suicide rates among the teenagers were as high as one-hundred times the national average. Children as young as ten-years-old attempted suicide. In the late 1970s, two BIA-boarding-school boys ran away and froze to death in their attempts to reach their home fifty miles away. Another school on the Northern Cheyenne Reservation reported twelve attempted suicides in an eighteen month period among the two hundred enrolled student.[72]

Thousands of Native American women in the 1970s were faced with either the solicitude of losing their children or the fear of losing their ability to have children. Even if they agreed to sterilization there was no guarantee that they could keep their already-born children. The majority of men and women who exposed sterilization abuse of minority women in the 1970s sought solutions through federal legislation such as monitored enforcement of informed consent forms and more explicit explanation of sterilization procedures. Feminist groups such as the Boston Women's Health Book Collective (BWHBC) and the National Women's Health Network obtained results by appearing at congressional hearings; they also provided certain Native American groups with financial and political support. Native Americans, however, believed that they needed to address their own reproductive rights, to

retain their own identity, and to address the specific issues endemic to their cultures. They also saw a connection between protecting their population growth and guarding their land rights. Consequently, during the turbulent 1960s and 1970s, Native American women and men from different tribes throughout the nation initiated their own method of preventing further loss of reproductive rights. Influenced by other activist groups within society, they assumed the title Red Power following a 1967 meeting of the National Congress of American Indians (NCAI) in Denver. Their goals were to demonstrate a committed and patriotic fight for their own self-determination and freedom from oppressors. Red Power activists took on slogans such as "We shall overcome" and "Custer died for your sins." Pan-Indian movements arose across the country uniting tribes in a common purpose.[73] Although the Red Power movement and the NCAI did not specifically address sterilization abuse, they did influence and inspire Native American women to incorporate some of their policies, such as self-determination over their reproductive rights, into their own organizations.

Several powerful national and international organizations emerged in the 1970s, including United Native Americans, Women of All Red Nations (WARN), and the International Indian Treaty Council (IITC), launching campaigns against the IHS and other government institutions. These organizations attempted to raise the nation's awareness about the oppression of Indian cultures in many areas of their lives. In 1978 Lorelei DeCora Means, a Minneconjou Lakota, met with several other women at the Black Hills to instigate WARN, a militant offshoot of the American Indian Movement (AIM). Loss of women's reproductive rights, loss of Indian children through coercion, the destruction and erosion of the Native land base, and the ultimate loss of cultural continuity were some of their concerns. This organization reflected the abuse that occurred during the 1970s and made concerted efforts to stop unethical sterilizations. Three of the founders, DeCora Means, Madonna Thunderhawk, and Phyllis Young, the latter two both of Hunkpapa Lakota decent, had all been active members of AIM but felt that women needed to have their own voice.[74] At their first meeting women from over thirty Native nations attended this historic occasion where they unanimously recognized that "truth and communication were among our most valuable tools in the liberation of our lands, people, and four-legged and winged relations."[75] The organization published its own newsletter, conducted conferences, and participated in speaking engagements at meetings such as the International Year of the Child Native Conference and Cultural Festival in Seattle. They worked closely with IITC, at that time headquartered in New York, which assisted the organization in distributing WARN newsletters nationally and internationally.[76]

DeCora Means and other WARN activists, although appreciative of feminist groups and their support, wanted to be identified separately because of their own issues. DeCora Means believed in these feminist issues and recalled traveling to Boston to speak with the BWHBC about sterilization. She expressed gratitude toward the group for sharing their resources with WARN through posters and financial support for the Rosebud Reservation. She cred-

ited the feminist movement with having the political clout to bring about federal regulations to protect women against further sterilization abuse. However, some Native American women were insulted when certain feminist members implied that Native American women needed to move beyond their culture, become liberated, and avoid "self-hatred as women." Oneida tribal scholar Pam Colorado sensed a presumption among feminist writers that the acculturation of Native Americans should continue for their own good, regardless of the paternalistic mechanisms employed to achieve these goals. These judgmental attitudes caused many Indian women to realize that they needed to become "more Indian." If they needed support from outside groups, they felt it more appropriate to obtain support from other minority women who experienced similar abuse and maintained their own ethnic ties.[77]

On a different front, Marie Sanchez, past tribal judge for the Northern Cheyenne, and Lehman Brightman, past president of the United Native Americans, represented Natives who believed that the United States sought to possess and control Indian land rich in natural resources. When Brightman learned of the GAO report on IHS reservations, he became actively involved in exposing sterilization abuse, linking it to legislation before the Senate that would prevent Native Americans from suing for the return of lands guaranteed them through treaties. To the majority of Native Americans these two issues appeared to have a common link. They realized that Native Americans owned only 3 percent of their original land base and yet owned over 33 percent of North American coal and almost 80 percent of North American uranium.[78] In order to prevent suspected federal plans to reduce the Indian population, Brightman, Sanchez, and many other Indian leaders fought battles on several fronts. They also realized the need to prevent the further removal of their children to foster homes and to protect the reproductive rights of their people.[79] In 1978 and 1980, Brightman helped coordinate and lead two different marches to Washington, D.C. The sterilization of thousands of Native American women was one of the main reasons for these walks.[80]

AIM, another militant group founded in Minneapolis in 1968, also addressed Indian land rights and health concerns. In 1974 Russell Means, one of its leaders, appointed Cherokee Jimmie Durham to establish the IITC to secure a United Nations II (Consultative) Non-Governmental Organization (NGO) status. Their goals were similar to other movements with the exception that they intended to gain international attention and status for Native nations. This included all indigenous "Redmen of the Western Hemisphere," and the group sought to initiate negotiations with the United States government through the State Department. Their biggest achievement came in 1977 when Jimmie Durham achieved NGO status for IITC. Theirs was the first indigenous entity in the world to acquire such status. Durham succeeded in scheduling a hearing on Native American rights through the United Nations Commission on Human Rights. The meeting, which took place in Geneva, Switzerland from 20 to 23 September 1977, drew representatives from ninety-eight indigenous nations from North, Central, and South America. As a result of these hearings, the UN created a Working Group on Indigenous

Population in 1982, which produced a Universal Declaration on the Rights of Indigenous Peoples.[81]

Sanchez, an active member of the Northern Cheyenne resistance to corporate development of reservations and a representative for Native American women, organized a group of North American Indians from the IITC office in New York to attend that same UN conference in Geneva. She addressed the group regarding Native American women's sterilization, accusing multinational corporations of being indirectly responsible for this abuse by targeting 500 billion tons of coal on Indian land. She stated that in order for Native Americans to survive, they must gain back control of their lands, and she beseeched the conference to recognize North and South Native American nations as sovereign. "As a woman, I draw strength from the traditional spiritual people ... from my nation. The oil and gas companies are building a huge gas chamber for the Northern Cheyenne," she said.[82]

In order to preserve their cultural identity, Native Americans realized that their children had to be taught the languages and traditions of their individual tribes. WARN founders Young and Thunderhawk were instrumental in providing Indian children with an alternative educational opportunity to BIA schooling. Launched in the 1970s, these autonomous Indian-taught schools called Survival Schools saved many children from the dreaded boarding schools and gave students an opportunity to be taught by Native Americans who could also provide knowledge of their cultural heritage. By teaching about traditional ways, Indian educators hoped to bolster self-esteem and pride in their race, giving students strength and knowledge to become self-governed indigenous nations. Survival School supporters hoped this would motivate students to acquire a sense of ethnic identity and stability that might equip them with the tools to better address any future violation of Native American rights.[83]

It must be noted that federal regulation played a significant role in providing protection for children from another major threat: adoption agencies and foster care. In the 1970s, there occurred a heightened awareness about Native American culture and concern over the mass displacement of their children to non-Indian foster and adoptive homes and institutions. To ensure the continuance of their race and the preservation of their families, Senator Abourezk sponsored the Indian Child Welfare Act. It took approximately four years of congressional hearings and investigations before President Jimmy Carter signed the bill in 1978.

The act established the extended family as the primary means by which Native Americans maintain their complex culture. In order to preserve the family, minimum federal standards for the removal of Indian children to foster or adoptive homes must be established. The act also acknowledged that Indian tribes, as sovereign governments, should have a vital voice in any decisions made regarding removal of children from their families. The legislation gave back parental and some tribal authority in regard to Native children's welfare. Although this legislation did abate physicians' and social workers' threats to remove Indian children if mothers did not agree to sterilization, there remained a powerful opposition group that went unchallenged. The

Mormon Church, which was excluded from the act, was allowed to adopt Indian children through its placement program. When Senator Abourezk was questioned about the church's exemption, he claimed that the Mormon law firm of Wilkinson and Barker, Mormon Congressman Gunn McKay, and the Mormon Deputy Commissioner of Indian Affairs, M. E. Seneca, lobbied for and won exemption from the regulations.[84]

Despite some setbacks, Native American women generally feel more secure about their reproductive rights in regard to sterilization procedures. DeCora Means observed that on the Rosebud Reservation, it is a policy now to have Indian midwives or nurse advocates file reports on hysterectomies, which are subject to committee review every three months. Census figures are encouraging, reflecting a steady rise in births from 27,542 in 1975 to 45,871 in 1988.[85]

Native Americans generally believe they have ample reason to fear the extermination of their people through the perceived carelessness of health care and government officials. They feel that their unique relationship with the government lends itself to neglect, lack of quality health care, and land-base threats. As a result of these fears, Native Americans have struggled to gain recognition as sovereign nations through organizations such as IITC. Its current director, Andrea Carmen, continues to actively work on international policies, "protecting human rights, biological diversity, self-determination and traditional cultures." WARN founder, DeCora Means, continues to work on the Rosebud Reservation in South Dakota as a health care advisor, encouraging people to return to traditional foods and food preparation.

In this context Native Americans have survived and continue to challenge the institutions with which they must coexist, especially the IHS and the BIA. It remains to be seen what the future holds for Native Americans. Certainly they have gained greater unity and political stature as a result of IITC and WARN. Self-awareness as a culture has grown and the desire for education and preservation of traditions is evident through their survival schools and efforts to achieve national and international sovereignty.

However, the reality is that Native Americans are a small minority of the nation's population, and they will always struggle to have a voice and be recognized as First Peoples. The impact of Native American efforts not merely to exist but to thrive and multiply as an indigenous and sovereign people remains to be seen. The Cheyenne Nation has an old saying that states, "A nation is not conquered until the hearts of its women are on the ground. Then, it is done, no matter how brave its warriors nor strong its weapons."[86]

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