

Can the Land Make Us One People?

Contrasting connections to the land in the Standing Rock and Malheur standoffs

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The estimated ten to fifteen thousand water protectors who traveled to NoDAPL camps to support the people of Standing Rock's right to clean drinking water constituted by far the largest gathering of Indigenous people and their supporters seen in the United States in modern times.

But what does it mean, politically and personally, for non-citizens of an Indigenous nation to invoke treaty rights on behalf of a Native nation? The role of volunteers and

NGO workers—or even their Native staff who may be from tribes that are not signees—invoking treaties remains unquestioned. At Standing Rock, what were the consequences of this in practice? Does this form of advocacy, conducted with little or no coordination with the tribes whose treaties with the US are being invoked, amount to dictating international policy for Native nations? Little has been written about how this sort of allyship was viewed by Standing Rock Sioux tribal members and leaders. Or, in the broader context, by treaty representatives of all the Seven Council Fires of the Océti Sakówin, not to mention other tribes (like the Cheyenne), who were also signees of the Fort Laramie treaties. This aspect of support for Standing Rock in 2016 needs to be studied to improve best practices and outcomes for future collaborative actions on behalf of tribes, particularly those based on treaty law.

Contrast this paternalistic role in dictating strategy played by certain allied NGOs at Standing Rock with the role the right-wing, self-identified militia played in Oregon. The Three Percenters from Idaho and other militia arrived at the Malheur Wildlife Refuge, answering the call of Ammon Bundy for “patriots all over the country” to come and stand with him. Bundy made a public appeal to his supporters to help him “free up” federal land, explicitly saying, “We need you to bring your guns.” While many militia leaders acted as bodyguards and were a presence on the refuge during the occupation, Bundy remained clearly in charge of the tactical direction of the take-over. While the armed insurgent group the Three Percenters aired their disagreement with the takeover strategy in press releases and media interviews, they still chose to position themselves as a physical and potentially deadly buffer between the Bundys and law enforcement. Their actions supported Bundy’s approach and did not take away from his leadership.

The two standoffs differ in obvious ways: unarmed vs. armed, Indigenous vs. colonial, protection of resources vs. unlimited access, and treaty rights vs. constitutional, but they are similar in certain ways. Each is a conflict with the federal government’s authority (Army Corps of Engineers vs. Bureau of Land Management/Fish and Wildlife Service) and each had critical support from auxiliary groups.

At Malheur, the chief accomplice in the occupation was the militia. Ammon Bundy, responding to a reporter asking about why they didn’t stage an unarmed protest, said, “Because they probably would just come in and stopped it from happening before it ever even started and that’s why we have our Second Amendment rights.”

On the other hand, at Standing Rock, in an early statement in August 2016 from then-tribal-chairman Dave Archambault II, the camp’s pacifist nature was clear from

the beginning: “This peaceful demonstration is a cry to stop the desecration of land and water.” The protest drew support from many nonprofit organizations.

These strategic partners illustrate the intrinsically different socio-philosophical underpinnings and moral authority drawn upon by each of these events. The differing historical origins of the county supremacy movement and the Océti Sakówin were apparent as early as 2014, when comparing Cliven Bundy’s standoff with the BLM in Bunkerville, Nevada, to the Indigenous-led pipeline protest against TransCanada’s Keystone XL Pipeline.



The standoffs of the Bundys contrast markedly with Native-led anti-pipeline protests not just in the use of arms but also in the level of partnership with other ethnic/racial groups. This collaboration was evident in the organizing of the Keystone XL Pipeline fight that preceded Standing Rock. Like the Battle of Bunkerville, the KXL fight served as both a forerunner to events in 2016 and a training ground for future leaders.

In 2013, Native American and white landowners in South Dakota and Nebraska joined together to form the Cowboy Indian Alliance to fight the pipeline. Many of the leading players in the NoKXL protest went on to play even more high-profile roles in

2016 in the fight to stop the Dakota Access Pipeline. The unity forged by the Cowboy Indian Alliance is, in many ways, a truer manifestation of the ideals of the collective and pluralistic national identity the United States motto, *e pluribus unum*—Latin for “out of many, one”—extolls. This motto refers to Roman statesman Cicero’s *De Officiis*, in which he paraphrases Pythagoras, writing, “When each person loves the other as much as himself, it makes one out of many (*unus fiat ex pluribus*).

But the motto can also be seen in a speech given by Canassatego, leader of the Onondaga Nation and spokesman for the Haudenosaunee (Iroquois) Confederation, in 1744 in Lancaster, Pennsylvania, to negotiate what became known as the Lancaster Treaty. The sachem (chief) addressed the envoys from Maryland, Pennsylvania, and Virginia, saying, “We heartily recommend union and a good agreement between you, our brethren. Our wise forefathers established union and amity between the Five Nations; this has made us formidable; this has given us great weight and authority with our neighboring nations. We are a powerful confederacy, and by your observing the same methods our wise forefathers have taken, you will acquire fresh strength and power.”

The transcripts of the Onondaga leader’s speeches at this meeting were sent to Benjamin Franklin by his friend, a trusted interpreter of the Iroquois leader, to be published. Franklin published thirteen treaty accounts over twenty-six years and in the 1750s, served as an Indian commissioner for Pennsylvania, his first diplomatic assignment. These were bestsellers in the decades before the Revolution. As such, the speeches in them inspired the Founding Father’s generation and provided them with a vision of a new political framework they would employ to challenge the British Crown’s supremacy. Canassatego’s words can be seen as exerting a decisive role in the United States’ origin story. Franklin noted this debt to the Haudenosaunee, although in not such complimentary terms. “The First American” adopted a sarcastic tone while writing to his printing partner James Parker in 1751, arguing for a union of the English colonies: “It would be a strange thing if Six Nations of ignorant savages should be capable of forming a scheme for such a union, and be able to execute it in such a manner as that it has subsisted ages and appears indissoluble; and yet that a like union should be impracticable for ten or a dozen English colonies.” In 1988, the contribution of the Iroquois Confederacy to the development of the Constitution was formally recognized by the 100th Congress in a concurrent resolution. Canassatego, described as a tall, well-made man with a kindly smile, was assassinated in 1750 by pro-French forces. “Savages we call them,” Franklin wrote in 1784 in France after he had successfully shepherded the creation of the new nation inspired by the Onondaga

leader's words, "because their manners differ from ours, which we think the Perfection of Civility; they think the same of theirs."

It is in this spirit of respect and in a rare recognition of mutually held ties to the land, even 230 years after Franklin wrote those words, that the Cowboy Indian Alliance sponsored peaceful tipi encampments along the Keystone XL Pipeline route in 2014. This tactic was coordinated for the alliance by Joye Braun of the Cheyenne River Sioux Tribe. In 2016, Braun would be invited by grassroots Standing Rock Sioux tribal activists to start the first NoDAPL camp on their reservation near Cannon Ball, North Dakota.



The tipis in the pathway of the proposed pipeline were more than just picturesque reminders of a long-ago culture. The circular encampments called *tiyóspaye* (a circle of tipis), were a political statement: our social structure, represented by the circle, is still valid and alive to challenge the extractive, one-way relationship represented by the black snake of the oil pipeline. My great-great-aunt Ella Deloria described the *tiyóspaye* as representing how "all Dakota people were held together in a great relationship that was theoretically all-inclusive and coextensive within the Dakota domain." She noted that these bonds that tie us together through kinship are

essential to what makes us Dakota (allies) and that without it, we would cease to exist as a People or, as they say in Dakota, *oyate*. It was this cultural context that NoKXL organizers in the anti-pipeline fight from 2013 to 2016 were able to connect in a meaningful way to the early twenty-first-century political and economic struggle, and which later brought the pipeline fight to national and international prominence at Standing Rock.

Similarly, Cliven Bundy's claims to unlimited access to public rangeland relied heavily on what the Bundy paterfamilias termed his "ancestral rights."

"I've lived my lifetime here. My forefathers have been up and down the Virgin Valley here ever since 1877," Bundy intoned to a local television station reporter from his small ranch home in Bunkerville, Nevada. "All these rights that I claim have been created through preemptive rights and beneficial use of the forage and the water and the access and range improvements."

Yet Bundy's vaunted "preemptive rights" are themselves preempted by the Paiute, who have preexisting claims not only to the public lands he grazes his cows on but also to the 160 acres he owns and grew melons on. The Bundy homestead was once part of their reservation under treaty. The melon farm, Gold Butte, and other BLM lands Bundy ranges his cattle on were their homeland

for thousands of years before a Bundy or his cows appeared in this hemisphere. Ideally, in a just world, the defiant rancher would pay taxes or grazing fees to the Paiute Nations, not to Clark County (as he asserts) or the federal government. Indeed, the Shoshone Tribe has a claim. The Shoshone treaty with the United States allowed only passage through their territory by Oregon Trail pioneers. But to Cliven and his sons, these tribal nations' land claims have no bearing on their fight to privatize those same lands. Both Cliven Bundy and his son Ryan have been outspoken in their opposition to the designation of the Gold Butte National Monument, a site sacred to the Paiute people, which includes public lands the Bundy cattle range. They attempt to mask the fact that their land claims are based on the extinguishment of Indigenous land rights by claiming they want Native people also to be free of the "federal yoke."

Cliven Bundy does, however, recognize one government as the "sovereign" entity empowered to charge him range fees: Clark County, Nevada. In the 1970s and 1980s, Bundy and fellow ranchers like his neighbor Keith Nay were galvanized by the Sagebrush Rebellion. It got its name because it appealed to ranchers and miners in the sagebrush steppe of western states. Supporters of this insurgency demanded state

and local control over these lands with the possibility of privatization schemes that would transfer millions of acres of publicly held lands to their ownership. This movement evolved in the 1990s to the county supremacy doctrine, which holds the county sheriff to be the county's highest authority. Under this ideology, which has no basis in law, anti-public-lands activists do not recognize the federal government's jurisdiction. Hence their battles with the Bureau of Land Management that administers rangelands and mining claims, the US Forest Service that manages forests, and the US Fish and Wildlife Service that manages wildlife refuges like Malheur.

This interpretation of land-use rights was employed again two years later in 2016, when Ammon Bundy proclaimed his goal to return public land in Harney County, Oregon, to white ranchers, miners, and lumberjacks. A Bundy on the national media, once again asserting a legal interpretation of ownership of the land that excluded Native nations, immediately caught my attention. It took me a minute to find the Burns Paiute Tribe's webpage and read the tribal history, which, shockingly, described the forced removal of the tribe in the dead of winter almost precisely 137 years earlier. Using this framing, I began to write about the occupation of Malheur from the perspective of the actual owners: the Paiute people.

This manifest disregard for Indigenous land rights pales in comparison to the overt racism Ammon Bundy's father displayed in 2014. After an interview showed him wondering if "Negroes" were "better off as slaves" hit the national news, Cliven Bundy quickly went from right-wing folk hero to persona non grata. Fox News commentators, Republican senators, and even Libertarian Rand Paul, who had championed his cause a few days earlier, quickly beat a full retreat, with Sean Hannity denouncing Bundy's remarks as "beyond repugnant" and "despicable."

Indeed they were. Still, militia leaders and right-wing Christian and Mormon "patriots" who flooded in droves to the Bundys' cause denied their movement was racist. Yet, for most Americans, the video of Bundy chatting arrogantly with a TV news reporter and proposing that millions of Black Americans and their children would be happier in perpetual servitude laid bare how out of touch and racist Cliven's worldview was. The spectacle of a white man, owing the federal government one million dollars in unpaid grazing fees, pontificating on the need for Black people to get off "the government subsidy" was grotesque to the extreme. As was Bundy calling Americans whose ancestors had been freed from bondage "less free" when they possess the constitutional rights he so proudly pontificated on from the pocket-sized Constitution he kept in his shirt pocket.

Adding to Bundy's sordid spectacle on the national stage, it turned out the welfare rancher's "ancestral rights" to graze his cattle without paying taxes for the past twenty years were easily disproved. His fore-fathers had not "been up and down the Virgin Valley here ever since 1877." A simple search by a local television station of Clark County property records revealed his parents had purchased the ranch in 1948. There was also no record supporting his maternal relatives, the Jensens, had ever owned it. Bundy's parents had not begun grazing cattle on it until 1954—eight years after the founding of the Bureau of Land Management, which he claimed his rights had superseded by several decades. When the news of this discovery broke, the Moapa band of Paiute Indians poured salt on the wound by sharing with the media a map demonstrating that the Bundy's land was promised to them in a treaty with the US government.

As a Native American, I find Bundy's unsupported claims of ancestral rights a calculated overreach. There are many ways to get what you want, and this outrageous claim is a form of bluff that moves your interests forward. It's been depicted in western films and not unheard of in the history of western land grabs and resource wars. The tribes, by law, retain all remaining preemptive rights in Nevada. These do not belong to late arrivals like the Bundy family but to the sovereign nations that have called the Great Basin—the Sagebrush steppe—their home for thousands of years.

This inability to take the ancestral rights of American Indian nations seriously is not limited to Bundy and his supporters. This blind spot is shared even in liberal bastions like the Pacific Northwest. In Oregon, farmers in the Klamath River Basin were outraged in 2002 when a judge ruled in favor of the Klamath Tribe's senior water rights. This ruling meant, in effect, the tribe could turn off the water during drought years. In 2013, after a drought emergency was declared, Tom Mallams, vice chairman of the Klamath County Board of Commissioners, warned, "They shut water off here, there could be some violence." A local rancher claimed reduction in his water rights would force him to cut his beef operation from 1,050 to 350 cattle.

Even as many Americans continue to deny the existence of Native nations' rights to land and resources—or are threatened by them—gun rights advocates are eager to co-opt our history to promote their ends. Second Amendment defenders regularly use the tragic photo from 1891 of frozen Lakota victims of the Wounded Knee Massacre being buried in a mass grave in tone-deaf efforts to protect their gun rights. They reframe the genocide their government engaged in to obtain their land with the tagline "Wounded Knee was among the first federally backed gun confiscation attempts in United States history. It ended in the senseless murder of 297 people."

Another meme features a photo of a Native leader emblazoned with the words, “I’m all for total gun control and trusting the government to protect you. After all, it worked great for us” around his face.

Disregard, if you can, the incredible callousness of using such tragedies to limit sales of automatic weapons and prevent waiting periods for gun purchase—all of which have been shown to save lives. My great-great-uncle was a witness to Wounded Knee, and my grand-mother claimed he died of a broken heart from it. Instead, note the genuine and meaningful difference between these two fights for the land. One, a battle for the sovereignty of Native nation-states reduced by genocide and held in poverty by an economic extractive enterprise disguised as a state. And the other, what Bundy and his supporters term a fight for their liberty. Which involves, in its specifics, making up the rules and getting what they want.

One reason why Native Americans do not figure readily into the worldview the Bundys espouse is not due solely to self-interest, but a glimmer of the truth. For as dishonest and disingenuous their push is for a legal framework that permits their land grab, it is also politically perceptive, as are all great cons. This is more than a well-held bluff. It is more akin to a computer virus that, once inserted, can rewrite the code that defines America in favor of the Bundys and their allies. And the truth they have discerned or intuited is that Native Americans are more than just an ethnic group or another type of American citizen. Until the 1924 Indian Citizenship Act, most were not only not citizens of the United States but were still, in essence, citizens of their own nations persisting under occupation. Once granted citizenship, Native Americans’ right to vote was not guaranteed until the Voting Rights Act of 1965. Therefore, for most of US history, the only real citizenship Native people could claim was with their respective Native nations.



I don't lay it at the Bundys' feet to comprehend tribal sovereignty, of course. I doubt that they understand that when tribes speak of being nations, they are not being poetic or nostalgic. No Bundy making his stand on the primacy of county supremacy could accept that states, much less counties, have no jurisdiction over our lands. Tribes are in the process of rolling back Public Law 280. PL280 is a 1953 law that gave six states (California, Minnesota, Nebraska, Oregon, Wisconsin, and Alaska) criminal and civil jurisdiction over tribal lands within their respective boundaries. Also, tribes seek international recognition of their retained sovereign status following invasion and occupation by the federal government. In this vein, the Iroquois issue passports for international travel. Although Canada refuses to accept them, and in 2010, the United Kingdom refused to allow the Iroquois Nationals field lacrosse team to use the passports to travel to the UK for the 2010 World Lacrosse Championship. (Modern lacrosse is based on the Iroquois version of an Indigenous game of stickball, which they call the Creator's Game.) I also doubt the Bundys understand the concept of honoring treaties; they would likely drop any pretense if a tribe's treaty rights conflicted with their interests—as they have long done with the Paiute tribes in Nevada.

I return to the peaceful Cowboy Indian Alliance in South Dakota and Nebraska as a counter to the armed and primarily white stand-off at the Bundy ranch. This coalition of Native American and white landowners created a giant crop art in a Nebraska cornfield that read “Heartland #NoKXL.” Canté is the Lakota/Dakota word for heart, and it makes sense to me that such an unforeseen collaboration would be in the heart of Maka, our mother. That it would be my Yankton Dakota Sioux relatives and white farmers and ranchers from South Dakota and Nebraska who would be leading the fight is surprising—yet still a logical consequence of what a relationship to the land, to our mother, would nourish.

Dakota elder Faith Spotted Eagle played an active role in helping to shepherd that alliance into being. When I was home on the Yankton Sioux Reservation in South Dakota in 2013, I found her busy at the Fort Randall tribal casino conferencing with Bold Nebraska, a progressive political advocacy group. There I met Jane Kleeb, the founder of Bold Nebraska, and sat in on some of their discussions as they formed the Cowboy Indian Alliance. I saw what it took to unite their efforts to protect their respective ways of life imperiled by the pipeline. I later wrote about their 2014 Earth Day event, where they presented their message to Washington, DC. That group of white farmers and ranchers and Dakota, Lakota, and Ponca people, once and still mostly embattled with one another in a fight for resources on the Great Plains, held a tipi encampment on the Washington Mall. All week those beautiful tipis faced the Washington Monument and were a sight to see. There stood the tiyóspaye, glorious in the long rectangular green grass surrounded by Federalist Greek Revival temples, a testament to America’s vision of itself. In DC, the coalition presented a specially painted tipi to the National Museum of the American Indian as a gift to President Obama, to remind him of his obligations to protect the water and the land. All of this happened just two months before the president went to Cannon Ball, North Dakota, and promised the people of Standing Rock he would honor the treaties and regard their children as his own. He was not in the country to receive the tipi or the Cowboy Indian Alliance. If he had been, would Standing Rock have happened?

If this is the vision of the relationship and shared consequences the Cowboy Indian Alliance brought to the mall of national self-conception, what does the Bundys’ Christian-based, armed militia bring? We have the assurances of the Bundys: they are not racist. They tell us their liberty will not impinge on any of ours. Is this true?

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