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Governing disaster: The politics of tribal sovereignty in the context of (un)natural disaster

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ABSTRACT

Disaster is a fruitful field of study for Native scholarship – and Indigenous Studies for disaster scholarship – because it happens in the medium of land, water and air, which is the original medium of oppression, or colonization, for Native people. Using a framework ‘beyond disaster exceptionalism’, this article examines recent changes in US tribal disaster policy to explore implications both for discrete disaster events that occur on reservations and for the ongoing disaster of colonization. I use the case of a recent wildfire on the Northern Cheyenne reservation in Montana to highlight the challenge of materializing government-to-government relations through federal tribal policy. During the course of the wildfire fieldwork, the Sandy Recovery Improvement Act was passed by Congress, giving tribes the right to request a disaster declaration directly of the US president. The events of the Ash Creek fire suggest that sovereignty requires economic justice, and that legislated sovereignty remains an oxymoron.

KEYWORDS Native; sovereignty; decolonization; disaster; FEMA; economic justice

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Introduction

During the summer of 2012, the air of Big Sky country in Montana was often hazy with smoke. There were massive wildfires throughout the Northwest. One burned through the Northern Cheyenne reservation, taking much-needed housing with it. The Ash Creek fire began on 25 June 2012 and was contained on 10 July 2012 after scorching 249,562 acres (NWCG 2012). Nineteen houses were lost on the reservation and a third of the territory was damaged, including destruction of forest and grazing pasture.¹

I am a white sociologist and had been living part-time in Montana and part-time in New Orleans for approximately a decade. I read about the Federal Emergency Management Agency (FEMA) trailers that had been delivered to Tribal residents. FEMA trailers are a primary form of post-disaster temporary housing distributed by the federal government, in this case procured by the

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Northern Cheyenne Housing Authority. I knew about trailers from personal experience – I had been issued one when Hurricane Katrina struck New Orleans in 2005. After the levee failure flooded the region and with it my apartment, I inhabited the trailer for nine months. The space was cramped and toxic; the formaldehyde fumes from the construction materials, obvious from the first moment of entry, have since been well documented (Smith 2015).

While trailers are a centrepiece of the government's interim emergency housing strategy, there were no federal plans for transition to permanent structures on the reservation. An article in the *Billings Gazette* featured a story about Twila Speelman, a Northern Cheyenne woman who was raising her four grandchildren and had lost her home in the fire. The paper described her sober assessment of the trailer that would now house her family of six: it 'will be home for the foreseeable future' (26 August 2012). Since Hurricane Katrina, I had been conducting research on the tensions between permanent and acute disaster. In the case of the Ash Creek fire, these tensions were layered and bitterly ironic: a community living with permanent disaster because of ongoing settler colonialism experiences an acute crisis, loses permanent housing, receives temporary shelter, but because of the settler state's definition of disaster, is ineligible to receive permanent structures.

Permanent disaster

The first decade and a half of the twenty-first century have been marked by an increase in the rate and severity of 'natural' disasters in the USA and globally (IPCC 2012). The increase has been followed by mounting scholarly and public interest in acute, discrete disaster events. Recognition of climate change as a source of natural disaster has broadened understanding of the relationship between social and natural causes, as has the study of the racial, economic and gendered dimensions of natural catastrophe (Phillips et al. 2010). While engaged in this larger conversation about the social context of disaster, there is a sub-field of disaster scholarship that is turning away from a focus on disaster events so narrowly construed. Seeking to 'de-exceptionalize' disaster, it points to the way in which 'the challenges of life are a "permanent disaster"' for people already living with the effects of structural oppression (Maskrey in Luft 2009). It seeks to:

displace "natural" disasters as the greatest risk to human well-being and to replace them with an understanding of the social and ongoing conditions that produce daily risk, suffering, and trauma. [This approach contextualizes communities that] already experience daily hazards because they live at the intersection of poverty, racism, and/or sexism when they face what appears to be a discrete disaster. (Luft 2009, 506–507)

Studying disaster from a perspective beyond disaster exceptionalism reframes the analysis and re-centres race, nation and other social forces.

Examination of disaster on Native reservations in the USA from an approach beyond disaster exceptionalism is particularly illustrative of the limitations of a narrow, disaster-centric approach to crisis. Disaster is an especially fruitful field of study for Native scholarship – and Indigenous Studies for disaster scholarship – because it happens in the medium of land, water and air, which is the original medium of oppression, or colonization, for Native people:

Within settler colonialism, the most important concern is land/water/air/subterranean earth ... This is both because the settlers make Indigenous land their new home and source of capital, and also because the disruption of Indigenous relationships to land represents a profound epistemic, ontological, cosmological violence. This violence is not temporally contained in the arrival of the settler but is reasserted each day of occupation. (Tuck and Yang 2012, 5)

Land is the paradigmatically literal and figurative site of Native exploitation. When natural disaster strikes, the 'permanent disaster' that haunts reservation life is exposed in symbolic and substantive detail. More importantly, tribal disaster policy, as a microcosm of federal tribal policy, helps to reveal the shortcomings of current US frameworks for addressing the larger, enduring crisis. Analysis of the politics of disaster management, that is, can expose the incongruities of a 'relief and recovery' approach to Native communities when the problem is ongoing colonization. Examination of current tribal disaster policy demonstrates the internal contradictions of contemporary approaches to tribal politics for Indigenous nations when driven by the federal government.

In this article, I use the case of a recent wildfire on the Northern Cheyenne reservation to highlight the challenge of actualizing government-to-government relations through federal tribal policy. While changes in the last fifteen years in tribal disaster policy have provided opportunity for greater self-governance, the broader conditions of extreme poverty and lack of infrastructure make substantive self-determination, at least for some tribes, nearly impossible. Poverty and lack of infrastructure are themselves both tool and symptom of the primary and enduring disaster of colonization. This discussion points to the limits of policy change – here, regarding federal disaster management – absent the broader political, structural and economic changes necessary to operationalize it. Relief and recovery without decolonization are inadequate measures at best; at worst they become a bureaucratic distraction, appropriating the language and struggle of self-determination with neither the substantive commitment nor mechanisms to enact it. While this study² is an analysis of poverty, infrastructure and economic justice, it has broader implications for sovereignty struggles in the context of a federal trust relationship.

The Northern Cheyenne

The Northern Cheyenne reservation consists of 444,000 acres in Southeast Montana. The Fort Laramie Treaty of 1851 established a large territory on the Northern Plains for the Cheyenne and half a dozen other tribes (Ambler et al. 2008, 53). After the discovery of gold, the federal government sought to remove them. In 1876, the Cheyenne, Arapaho, Lakota and others defeated General Custer at the Battle of Little Big Horn. The following year the Cheyenne were rounded up and taken south to Indian Territory in what became Oklahoma. After a year of hunger and disease, Cheyenne Chiefs Dull Knife and Little Wolf decided to return to the tribe's favoured territory in the Tongue River region of Montana. They headed north on what would become a 1,500-mile trek together with almost 300 Cheyenne men, women and children. Attacked and trapped repeatedly throughout their journey, they eventually made it to Fort Keogh in 1879. President Chester A. Arthur signed an Executive Order in 1884 to create the Tongue River Indian Reservation, later changed to the Northern Cheyenne Indian Reservation (Ambler et al. 2008).

Over the next 130 years, the tribe would face many efforts by government and corporate bodies to seize land. The Northern Cheyenne have been exceptionally successful at staving off such incursions, as two examples will demonstrate. After years of land allotment to individual members and non-members of the tribe following the Dawes Act of 1887, the tribe developed an 'unallotment program' to reconsolidate reservation land to Cheyenne (Ambler et al. 2008, 147). By the 1980s, the reservation was '98% Indian owned and 77% tribally owned' (Lopach, Brown, and Clow 1998, 86). The rare accomplishment demonstrates that a 'traditional and persisting Northern Cheyenne value is that the tribe and its land are identified with each other' (Lopach, Brown, and Clow 1998, 86).

The centrality of land to Cheyenne self-determination is similarly revealed in the tribe's fifty-year resistance to fuel speculators. Spearheaded by a Northern Cheyenne grassroots group, Native Action, the tribe has fought against corporate efforts to control exploration and extraction of coal, minerals, oil and, most recently, methane. As described by Northern Cheyenne historians: 'They used modern tools to exercise their sovereignty over their land, their air, and their minerals' (Ambler et al. 2008, 142). Despite extreme poverty, the tribe has repeatedly sought to ensure tribal claim to fuel leases and environmental decision-making. In the words of Ted Risingsun, a tribal leader who fought against Consolidation Coal leases and the energy workers they bring: 'I would rather be poor in my own country with my own people, with our way of life than be rich in a torn up land where I am outnumbered 10 to one by strangers' (Ambler et al. 2008, 137).

Today the tribe continues to debate the costs and benefits of fuel speculation while still facing extreme poverty. There are 4,939 residential members living on the reservation and an additional 5,111 living elsewhere (Northern Cheyenne Tribe 2012). The reservation has 70% unemployment and a severe housing shortage. Ambler et al. (2008, 101, 149) writes: 'One might well say that Custer did less violence to the Cheyenne people than a hundred years of poverty.' Years of exploitation and expropriation have produced a lack of infrastructure on the reservation, which in turn exacerbates economic instability:

Millions of dollars flow into the reservations each year in the form of contracts, grants, loans, and salaries. If the local economy has not been developed most of this money flows out again, spent at non-Indian owned businesses ... far from the community. (Ambler et al. 2008, 149)

The politics of disaster as a site for the politics of sovereignty

After centuries of federal tribal policy defined by removal, coercive assimilation and termination, the 1960s ushered in an era of self-governance as a formal approach to US–Native relations. Not only advanced by Indigenous movements from the ground up, self-governance also characterized a shift in orientation at the federal level. The language of self-governance has endured ever since, if still fraught with federal ambivalence and competing US aims. David E. Wilkins and Heidi Kiiwetinepinesiik Stark (2011, 132) note: 'By the late 1980s, federal policy was a bizarre and inconsistent blend of actions that, on one hand, affirmed tribal sovereignty and, on the other, aimed at severely reducing tribal sovereign powers, especially in relation to state governments.' Despite the inconsistencies of federal practice, self-governance was an important step forward in the recognition of tribal sovereignty. At the time, some tribal leaders put it this way:

Self-Governance is fundamentally designed to provide Tribal governments with control and decision-making authority over the Federal financial resources provided for the benefit of Indian people ... Self-Governance returns decision-making authority and management of responsibilities to Tribes. (in Wilkins and Stark 2011, 132)

Other Native leaders and scholars have been more circumspect. Vine Deloria Jr. and Clifford Lytle (1984, 14, 15) sought to reframe the emergent discourse: 'To suggest now that the movement for self-government was wrong may shatter modern Indian beliefs and cause great consternation. Self-government was not wrong; it was simply inadequate ... Self-government is not an Indian idea.'

The meaning of self-governance in a context of colonization and debilitating poverty is still far from resolved. Indeed, while self-governance is a critical

component of sovereignty, the discourse can serve as a smokescreen. What is self-governance for communities with little infrastructure and few resources, particularly when the lack of infrastructure is the direct result of centuries of colonial governance? What is self-governance without sovereignty? What, ultimately, is sovereignty under occupation? Pursuit of federal policy intended to increase self-governance may be an important component in the long struggle for Native sovereignty. As the recent experience of wildfire on the Northern Cheyenne reservation suggests, however, it cannot be the only one.

Self-governance in FEMA tribal policy

In 1998, thirty years after the federal turn to self-governance, FEMA released its first Tribal Policy to 'ensure that the Federal Government operates within a government-to-government relationship with Federally recognized Tribal governments' in the area of disaster management (FEMA 1998). In the fifteen years since launching this new initiative, FEMA has continued to issue reform.

On 29 January 2013, President Obama signed legislation that provided a significant policy change regarding disaster declaration protocol. Previously, as mandated by the Robert T. Stafford Act, only state governors had been able to make the declaration request to the president. Tribes experiencing disaster petitioned the governor, who in turn brought it to the president. Disaster aid was disbursed from the federal government to the states to the tribes. Tribes criticized this protocol, which denied direct government-to-government privileges in subordinating them to the state in which they reside. In 2011, FEMA Administrator Craig Fugate acknowledged that:

The Stafford Act ... only identifies that the governor of a State or territory can request a declaration of a disaster from the President of the United States. That means that federally recognized Tribes were oftentimes depended (sic) upon the governor to make that decision, and it was also based upon the impact statewide, not Tribal FEMA did not recognize the nation-to-nation relationship between the Tribes and the Federal Government (US Senate 2011, 13)

The policy was a clear denial of sovereignty, leaving tribes with a compromised and sometimes incoherent pathway to disaster assistance during certain kinds of crisis. For example, some emergencies that are disastrous to a tribe may not be disastrous to a state, for as Fugate indicates, the unit of analysis for meeting the state threshold for disaster declaration is the measure of impact on the state, not on the community. Similarly, the lack of equivalence between state, reservation and disaster borders means that state-requested disaster support only extends to state borders, while both reservation and disaster may reach beyond it. The hierarchical

relationship determined by the declaration protocol meant that a state-driven policy at best subordinated the tribe to the state and at worst left it with no recourse.

Native advocacy groups like the National Congress on American Indians, the Inter Tribal Long Term Recovery Foundation and the Inter-Tribal Emergency Response Commission urged revision of the policy. By the time of a 2011 Senate Committee on Indian Affairs Hearing on tribes and disaster, committee members and witnesses alike were critical of the long-standing policy for its disregard of the nation-to-nation relationship. By 2012, legislation had been introduced to both the House and the Senate to revise the Stafford Act, and passed the House. Then, in late October 2012, a major disaster struck the USA as Hurricane Sandy battered the East Coast. In early January 2013, Congress passed the Sandy Recovery Improvement Act, which included an amendment to tribal disaster policy. Section 1110 reforms Sections 401 and 501 of the Stafford Act to include 'an Indian tribe or authorized tribal organization, or Alaska village or organization' in the definition of local governments. With this amendment, tribes are also now equivalent to states in their ability to request a major disaster declaration or an emergency declaration from the president (Brown, McCarthy, and Liu 2013, 3).

The policy revision was hailed by Native groups. It provides important and actionable recognition of tribal sovereignty, as tribes can now go directly to the federal government to request a disaster declaration. However, it brings additional financial and bureaucratic obligations that are challenging for impoverished tribes. The Sandy Amendment gives tribes the same rights as states in seeking disaster aid, while leaving the attending state-level criteria, protocol and thresholds intact. For example, the threshold for a state's disaster request is a million dollar impact to the state and a statewide per capita impact of \$1.37, adjusted annually. By what criteria should tribal impact be measured? Size of tribal population? Size of reservation population? Value of the dollar in communities living many degrees below the poverty line? Similarly, the federal cost share for declared disasters for Public and Individual Assistance is 75:25, leaving states to cover 25% of recovery costs, which are tackled in part through county levies. Tribes that receive disaster aid through a state declaration become sub-grantees and have the 25% covered by the state, but direct disaster declaration means direct grantee status, in which case tribes must cover the cost share on their own. Back in the Senate Hearing of 2011, when tribes had the right to request grantee status and the federal government was exploring the reform of declaration protocols, Administrator Fugate recognized that '[m]any Tribes don't have the ability, because of the complexity of the programs and the size of the Tribe, to serve as a grantee because of the financial oversight requirements' (US Senate 2011, 14). What is an appropriate cost-share ratio for communities that have no capital reserves and no ability to levy a tax? The Sandy

Amendment thus provides additional kinds of opportunities for self-governance that 'many Tribes don't have the ability' to meet.

Self-governance, the Ash Creek Fire and the crisis of infrastructure

The summer before Hurricane Sandy, on 25 June 2012, the Ash Creek fire was kindled by lightning. In a single day it grew from 500 to 100,000 acres. Normal reservation disaster protocols include a division of labour between the Bureau of Indian Affairs (BIA) Fire and Aviation department, law enforcement, Tribal Emergency Services and tribal volunteer firefighting units. However, normal disaster protocols did not work for the Ash Creek fire. Ed Joiner, coordinator of Emergency Services for the Northern Cheyenne, explained: 'We had a breakdown in communication between the Wildland Fire people and Tribal departments as to the severity of the spreading fire (Joiner 2012, 1). When speaking with me, he added: 'They didn't really communicate to us its potential.' There were harrowing last-minute evacuations, elderly people without adequate shelter sleeping in wheelchairs, and the loss of nineteen structures on a reservation that frequently sees fire but almost never loses a precious building. According to Joiner:

Usually on a regular fire situation where we have communication ... BIA Fire and Aviation handles the fire. If it's moving toward the house[s], they call for structure protection. And when they do that, we go out there and then we start ... thinking about evacuating people or not. And we never got the call for structure protection from that fire ... I mean we were so far behind to start with, we couldn't get caught up ... It was pretty unorganized from the firefighting standpoint.

The breakdown meant that the tribe was not able to initiate structural protection measures. Nor were they prepared for the mass evacuation of Ashland, one of the largest towns on the reservation. Residents who had been watching the fire were caught off guard when it turned quickly and 'blew up' (Joiner 2012, 1). On 26 June, the entire community fled – Native, white and a neighbouring Amish settlement. Reservation families, some with hastily packed belongings and some without, piled into cars and made it to the Tongue River Road where they encountered a caravan of Amish women and children in buggies drawn by galloping horses.³ The fire was downing power lines; by the time they reached Lame Deer, twenty minutes away, the power was out. No shelters had been prepared and the Red Cross did not arrive until the next day. Tribal residents located generators and established a temporary shelter in the Boys and Girls Club. Ashland residents slept at the club or in cars in the parking lot.

Tribal members described a chaotic scene during and immediately after the fire. In what they represented as a leadership vacuum, several younger members jumped into action as lay first responders. One woman in her

twenties, Felicia, had been appalled at the failure of all governments to respond to the disaster: 'There is an emergency plan and it wasn't followed . . . At the level of the tribe, the state, the federal government, they are all failing to step up.'

Similarly, a young man named Ray described a terrifying ordeal as the fire approached his family home. After they loaded his truck with family possessions, the vehicle would not start. They crammed into another car and barely made it out of the fire's path in time. Huddling with other evacuees in the graveyard of the St. Labre Mission where they could watch the flames, he recalled: 'We're just sitting there in quiet and we're just kinda like, it was almost like a death, you know?' He arrived in Lame Deer and worked with Felicia to organize makeshift relief efforts. They helped to establish the Boys and Girls Club shelter and procure provisions of bottled water and peanut butter from a feeding programme. Ray's comments echo Felicia's regarding the lack of tribal leadership and organization. He too was perplexed that the tribe had not turned to its emergency plan:

Where's our government in this? Where's our disaster – our Emergency Plan? We had a meeting with all of the directors in the Tribe . . . I was like, "Do we have any type of Emergency Plan? . . . Why aren't we following it? Why are we doing improv right now on all of this?" . . . It was just chaos and nobody had any direction.

Most of the fire survivors I spoke to agreed that there had been mismanagement at both the BIA and the tribal levels. During the crisis, the BIA superintendent stepped down. A few months later the tribal president, vice president and several council members were voted out of office.

Despite the leadership errors, it would be a mistake to read the chaos during and after the disaster as a story of tribal disorganization.⁴ Many of the tribal members I spoke to did believe that there were missteps either during or after the fire. However, this is often the norm, not the exception, in disaster response (Carroll et al. 2006). Indeed, average citizens – as on the reservation – are usually de facto first responders. More importantly, to focus on the details immediately surrounding a discrete emergency event in a context of permanent disaster is short-sighted. Instead, it is more illuminating to situate the acute in the longer trajectory of chronic structural devastation. The lack of infrastructure on the reservation and the dearth of resources are themselves the result of the original, ongoing disaster. What is disaster preparedness under these conditions? Indeed, which disaster? To locate disaster tribal policy legislation in the broader context of colonization points to the limitations of the notion of disaster readiness as currently conceived.

The organizational breakdown as the Ash Creek fire tore through the Tongue River valley had material consequences for tribal members. However, even if everything had gone according to plan, says Ed Joiner,

there was little they could have done. He had been coordinator of Emergency Services for five years, and had extensive work in firefighting before that. A white man, he was married to a Cheyenne woman and had lived on the reservation for twenty-two years; he seemed generally respected by tribal members. He explained:

[U]ntil we get a Type Two [federal Incident] Team, we're lucky to be able to put like five engines and one helicopter out on this fire. And as big as they are, it was just like throwing a rock into the ocean. Not much you're gonna do.

The chronic lack of infrastructure on the reservation exacerbated early errors. Communication systems, like fire prevention equipment, are inadequate under the best of circumstances. There is no mobile phone/cell service on the almost half a million acre reservation. Residents communicate by landlines or Internet as long as there is power. Because of the amount of time spent in cars traversing the rural reservation, they are often without contact. Emergency Services relies on radio simplex frequencies and repeaters. Repeaters are powered by electricity and transfer sound within a line of sight – if unbroken by mountains or valleys. When the fire swelled it hit the power lines, knocking out the repeaters as well as the landlines. Joiner described the domino effect that ensued:

When the electricity went out, the phones went out, so there was no way to call for help ... I drove out there just to see what was going on 'cause we weren't even sure. And by the time I got out there it was already a mess.

Charlie Hanson, who works for the Montana State Department of Disaster and Emergency Services, emphasized the technical communication breakdown over the personnel even more than Joiner, pointing to the lack of backup generators and battery power for the repeaters. The absence of resources for emergency preparedness extends to most areas of life. While most tribal households have cars, for instance, which are considered essential in the rural community, they are not always reliable and gas tanks run low until there is money to fill them. The downed power lines took the gas pumps with them, and water as well.

The Ash Creek fire happened seven months before the Sandy Amendment became law. The lack of infrastructure that produced the emergency response on the Northern Cheyenne reservation significantly forecloses the possibility of selecting new Stafford Act options that increase self-governance. More broadly, it represents a similar dearth of resources across Indian country. While the legislation to change tribal declaration protocols had not yet passed, it was clear that many at the federal level were moving in this direction. When I met with Ed Joiner for the second time, in November 2012, he had just received the FEMA worksheets for Public Assistance disbursements for the fire. The award was given to the tribe as sub-grantee of the state.



Despite the fact that tribes could request direct grantee status, most went the route of sub-grantee. When I asked Joiner why he had elected the latter, he explained:

[T]here's a lot more paperwork involved [in being a grantee]. So if we go in as a sub-grantee with the rest of the state and counties ... we get our 75% from FEMA and we get 25% from the state ... So we get 25% more by playing the game with the rest of the people than if we went through as a tribal nation. (emphasis added)

When I asked Joiner about the impending possibility that tribes might be able to make their own requests for presidential declarations, he was similarly unenthusiastic. Again his answer was largely informed by concerns about cost share:

I hate to say, but ... they're trying to make the tribal nation sovereign so it can go straight to the president. But when you skip the state, you're missing your 25%, and you're getting a ton more paperwork to do.

While the financial obligations appeared to be the greatest obstacle, he referenced other disincentives as well. Challenges facing all rural communities to meet impact standards⁵ were further exacerbated for tribes because of the jigsaw puzzle-like jurisdictions within reservations:

And then really if the tribe ever declared a disaster on their own, we never meet the threshold really with this Tribal property because most of the ... roads, the houses, and all that ... some are HUD [U.S. Department of Housing and Urban Development] houses, the roads are all ... state highway, county roads on the outside and then the BIA road system on the inside.

Cost-sharing obligations, assessment responsibilities, density thresholds and the complex bureaucratic arrangement that is tribal land converge to make it highly impractical for many tribes to make direct requests or to choose grantee status.

Joiner had made a good case for the material constraints against greater tribal autonomy. I was surprised, however, at his apparent disinterest in at least the symbolic politics of sovereignty in what was shaping up to be a significant policy shift. As a non-Native resident of the reservation holding an appointed office, it is possible that his identity informed his (lack of) investment. His positionality is instructive, however, for without a political commitment to sovereignty his assessment as emergency coordinator was that entering into direct relationship with the federal government was not necessarily in the best interests of the tribe, nor was it worth the effort.

In March and April 2013, as part of its mission to carry out the Sandy Recovery mandate and suggest supplementary policy reform, FEMA held twenty-six conference calls in a consultation process with federally recognized tribes about the Sandy revision. Organized by FEMA region, the calls featured

senior FEMA regional officials and a collection of tribal representatives, including tribal emergency managers, department specialists and Native representatives from intertribal agencies. The purpose of the calls was to solicit tribal input on the Sandy reform and the subsequent policy changes that would be made to accommodate it. I read transcripts, and when available, listened to recordings of the three calls for Region VIII, which includes Montana, as well as the longer national call that was the culminating twenty-sixth session.

Concerns offered by tribal representatives about the new legislation fell into four categories: general confusion about the process, prohibitive financial obligations, a need for technical assistance, and sovereignty. The areas reflected Joiner's comments voiced months earlier, aside from the interest in sovereignty, and Fugate's in the years leading up to the Sandy Amendment. Without an understanding of the meaning of sovereignty – which was laced throughout the calls in direct and indirect remarks – it would be possible to read the output of the calls as mostly financial and technical issues regarding government aid.

In fact, comments by tribal representatives, few and brief as they were, pointed not only to a broader investment in sovereignty beyond the technocratic opportunities of the legislation, but also to the irreconcilability of federal policy with genuine self-governance, much less self-determination. They demonstrated rejection of the very terms of the discourse even as they had to engage it. For example, some representatives sought to resist the artificial, telescoping nature of disaster exceptionalism by pointing to the complex web of policy and social challenges in which disasters on reservations occur. Rod Mendez, of the Hoopa Valley Tribe, recontextualized the discussion in this way by noting: '[T]here are so many other things in the system that are not right, right now, that are broken that are going to affect our ability to provide a service to tribal nations and to people in Indian country' (FEMA 2013, 15).

Similar efforts to bring a historical, structural perspective to the conversation characterized the statements of several representatives. For example, several callers problematized the use of states as a comparison group. Mendez put it this way:

[F]or us to be rated ... or to be assessed as to whether or not we have a viable plan, well most tribes don't have plans because they haven't had money for plans. I don't think that you can put tribes in the same arena with states in terms of their capability because they haven't had funding. (FEMA 2013, 15)

Ralph Johnson, of the San Carlos Apache Tribe, said:

I mean states, now they all have very vibrant, vital emergency management programs, and that's because they've been funded by the feds for decades now. But the tribes are just getting on this horse ... I'm talking really if you sit there and



figure out the amount of money that it's going to take for tribes to develop an emergency management program, so that pool of money is there. (FEMA 2013, 14)

Vernon James, also of the San Carlos Apache Tribe, reminded others on the call that 'we tribal governments did not have the luxury of time as it relates to other governmental entities developing resources, and it's usually supported by a tax revenue structure, something that my tribe doesn't have' (FEMA 2013, 11).

Ultimately, representatives pushed back on the policy's disciplinary tendencies. In the following statement by Jake Heflin of the Tribal Emergency Management Association, he points to the weakness of tribal disaster policy, even as amended. His comments go beyond any specific policy adjustment as he calls into question the fundamental elements of federal tribal policy for its homogenizing and institutionalizing effects:

[O]bviously many disasters that we talk about don't ever hit the Stafford declarations, but none less (sic) they pose a significant impact on those tribal communities ... there's no one solution for this, and many instances I think this is going to have to be on a tribe by tribe basis ... because ... [i]t doesn't fit into a box with regard to tribal processes and tribal government ... [M]ore and more its going to be important that the [federal coordinating officers] are very aware of the tribal nuances and the importance and the relevancy placed on our cultures, traditions and customs and our specific elements with regard to sovereignty and self-governance. (FEMA 2013, 24-25)

Heflin resists the subjectification process inherent in a self-governance driven by the federal government. When framed in this way, self-governance can be placed in a long history of US strategies for dealing with Native people, hearkening back to General John Coffee's plan of 1830 to 'reduce them to plain citizenship' (in Takaki 1990, 97). Glen Coulthard (2014, 42) argues that 'the dominance of the legal approach to self-determination has over time helped produce a class of Aboriginal "citizens" whose rights and identities have become defined more in relation to the colonial state and its legal apparatus'. Tribal representatives on the consultation calls seemed to share this perspective, demonstrating resistance to being reduced to its terms. Ralph Johnson, for example, points to the absurdity of determining threshold amounts for communities that cannot meet them by proposing that the obligation be waived altogether: '[W]hat I'm thinking is, if we drop that down to ... zero during the pilot project and see how it goes' (FEMA 2013, 14). Such comments – eminently practical if the aim were truly to recover communities from disaster – suggest three kinds of slippage: between isolated disaster events and chronic disastrous conditions; between disaster policy and substantive disaster recovery for impoverished communities; and between a federally managed self-governance and Indigenous sovereignty.

Sovereignty

Settler colonialism has taken many forms over the years, as has the concurrent struggle for sovereignty. The federal turn to self-governance has been tricky, as liberal regimes of ruling often are (Coulthard 2014). As a discourse, self-governance has proffered nothing less than sovereignty itself in small bureaucratic bits. Indeed, Mark Rifkin (2009, 89) writes: '[O]ne could characterize the concept of sovereignty as a shorthand for the set of legal practices and principles that allow one to determine the rightful scope of U.S. authority.' Rifkin makes the case that sovereignty, when defined and adjudicated by the USA, is a contradiction in terms. Sovereignty cannot be brokered by the US government, nor doled out in incremental allotments of legislative space.

In late 2013, I spoke several times by phone with an official from the Montana Department of Disaster and Emergency Services (DES), the state's emergency management office. It had been almost a year since Sandy's passage, and government employees were still trying to understand the implications of the law. Montana DES runs the state side of emergency operations. Historically, the office has managed disaster business with the tribes. Under the new legislation, if a tribe goes directly to the president for a declaration and becomes a grantee of federal aid, it will bypass this office. When I asked the official about the new option for tribes to work directly with FEMA at the national level, he repeated the disincentives with which I was by then familiar, noting: 'That would be a real struggle for all the nations in Montana. It would be a struggle to come up with that, they don't have lots of resources lying around.'

When I asked him about the benefits to selecting that option, he paused. His answer is telling for the view of sovereignty it conveys:

Frankly I do not know the answer to that. I don't understand why Fugate was very insistent on this ... I don't see the benefits. Maybe they felt that we on the state side were not properly recognizing and respecting the sovereignty of the tribe ... Maybe that was the issue, the sovereignty thing. I've never seen that in fifteen years ... I've never seen an example where we've belittled or tried to minimize tribal sovereignty ... [It is made clear to us] from the first day of orientation ... I don't see a lot of benefits of them bypassing the state in Montana. ... nor have I had it explained.

While state employees are taught to appreciate it 'from the first day of orientation', sovereignty appears a signifier void of substantive meaning. In an age of multiculturalism, 'the sovereignty thing' has been reduced from a national status to a kind of racial difference where 'properly recognizing and respecting' it is the goal, and withholding it amounts to 'belittlement'. Within the liberal state, status, once recognized, comes with choice, and choice comes with bureaucratic responsibilities. Choice and responsibility are things that the Montana DES official can get behind: 'Our position is to



encourage their choice. Sovereignty is established in law. At least we tell them we respect them. And I believe we doBut we also tell them that if they take state money there are some requirements.'

As Coulthard (2014, 3) argues in the Canadian context, a politics of recognition at its most substantial can include 'the delegation of land, capital, and political power from the state to Indigenous communities' through 'land claim settlements, economic development initiatives, and self-government agreements'. No matter how meaty the material exchange, however, such offerings 'reproduce the very configurations of ... state power that Indigenous peoples' demands for recognition have historically sought to transcend' (Coulthard 2014, 3). The question before us has to do with the implications of legislation like the Sandy Amendment that are a part of a collection of:

reformist state redistribution schemes like granting certain cultural rights and concessions to Aboriginal communities via self-government and land claims processes. Although this approach may alter the intensity of some of the effects of colonial-capitalist exploitation and domination, it does little to address their generative structures. (Coulthard 2007, 446)

In the end, self-governance policies function as a 'strategic "domestication" of the terms of recognition in such a way that the foundation of the colonial relationship remains relatively undisturbed' (Coulthard 2007, 451).

Conclusion

The Sandy Amendment is currently undergoing pilot guidance, the exploratory trial run before its terms are solidified. In the present context the legislation is a gesture of recognition unlikely to increase self-determination without structural and economic reform. Sovereignty is inextricably linked to economic justice and the relationship is dialectical. As the case of the Ash Creek fire suggests, the ability to self-govern requires economic viability. At the same time, 'Comparative research across a spectrum of tribal contexts has found that successful economic development is most likely to occur when tribes effectively assert their sovereignty, and back up such assertions with capable and culturally appropriate institutions of self-government' (Harvard 2007, 123). Tribal leaders and activists understand the interdependence of sovereignty and economic justice, even when they do not agree on the methods for achieving them; some favour capitalist development (Harvard 2007) and others the creation of alternative, Indigenous economic forms (Coulthard 2014).

It has been thirty years since Deloria and Lytle observed that 'Self-government is not an Indian idea' (Deloria and Lytle 1984, 15). Decolonization, however, as Eve Tuck and K. Wayne Yang (2012, 4, 31) remind us, is not only an Indian paradigm, it is 'incommensurable' with other strategies of

reform. Federal tribal disaster policy adjustments, in sum, should not be confused with decolonization, a 'radical intersectional' political, economic and cultural transformation, even as the latter cannot be 'codified' because 'the Indigenous knowledges that sustain it are diverse and, due to the embedded nature, unique to particular contexts and geographies' (Coulthard 2014, 14; Sium, Desai, and Ritskes 2012, 1). Decolonizing practices include 'the resurgence' and application of Indigenous political thought and the revitalization of land-based education and sustainable economies (Coulthard 2014; Sium, Desai, and Ritskes 2012).

It is useful to recall Andrea Smith's recommendation:

[A]ny project for decolonisation begins with the political and legal conditions under which we currently live, so our goal must be to make the most strategic use of the political and legal instruments before us while remaining alert to how we can be co-opted by using them. (Smith 2010, 9)

The Sandy Amendment may be better than no Sandy Amendment and may contribute to greater self-governance. The Northern Cheyenne, in their own words, have historically 'broken new ground for tribal sovereignty in education and environmental law' (Ambler et al. 2008, 145). Sovereignty, for the tribe, is wrested in part through legal and legislative battles with the state. Revised tribal disaster policy in the context of economic justice has the potential to create a more just response to sudden crisis. Only decolonization, however, addresses the original disaster.

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Notes

1. The Ash Creek fire began on 25 June 2012. On 27 June, Montana Governor Brian Schweitzer signed an Executive Order proclaiming an emergency in Rosebud and Powder River counties and the Northern Cheyenne reservation. On 25 July, he requested a presidential disaster declaration. On 2 August 2012, President Obama declared the event a major disaster.
2. I employed mixed methods that emphasized interviews and policy research. I visited the reservation three times: October 2012, two and a half months after the presidential declaration of disaster; November 2012; and July 2013, when I was invited to the annual powwow. I conducted informal interviews with twenty-four people: eighteen members of the tribe and/or residents of the reservation, including tribal officials, and six non-Native government disaster officials. Beyond the six government officials I spoke to by phone, I corresponded with several more by email regarding details of emergency policy. In addition to the interviews, I read FEMA policy, policy analysis and transcripts of four FEMA consultation calls with tribal representatives from the region. I also read news reports about the fire and other fire-related documents.
3. For extraordinary footage of the Amish evacuation, see '2012 Ashland, MT Amish Fire Evacuation' <http://www.youtube.com/watch?v=Mx6PjuUGFFo>
4. Indeed, three weeks after the containment of the Ash Creek fire, while the community was still recovering, the reservation faced another major fire, the Chalky Fire. The response went smoothly, with Tribal Emergency Services handing out evacuation notices, establishing a preliminary shelter at the St. Labre Mission, and mobilizing structural protection.
5. This excerpt is an exchange between Senator Murkowski from Alaska and FEMA Administrator Fugate, regarding the structural bias against rural – and therefore Native – communities regarding disaster impact assessment:

Senator Murkowski: [D]o you agree that we see a situation more often than not with our smaller, more rural communities, including some of our Alaska Native communities that are disadvantaged when it comes to FEMA providing the individual assistance?

Mr. Fugate: Senator, the assistance is based upon impact to the State. And again, when you deal with small communities, those numbers oftentimes don't show that it has overwhelmed the State's capability.

Senator Murkowski: It just seems like in so many situations you can read the writing before you have even made the application, that even though the consequence to that small village, that remote community ... is devastating, that the way the system is built, that individual assistance just can't be there ... it just causes me to wonder if we need to look at ... a different model here. (US Senate 2011, 42)

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