

“NO SOVEREIGN NATION, NO RESERVATION”: OPPOSING
HAUDENOSAUNEE SOVEREIGNTY THROUGH LAND CLAIM AND FEE-TO-
TRUST DISCOURSE

By

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A DISSERTATION

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

Anthropology—Doctor of Philosophy

2015

ABSTRACT

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In 1974, the United States Supreme Court *Oneida Indian Nation of New York v. County of Oneida* decision opened the federal courts to Native American land claims against states and many Native Nations have since used the United States legal system to file land claims. In the wake of the now landmark 2005 United States Supreme Court decision *City of Sherrill v. The Oneida Indian Nation of New York*, Native Nations have found it nearly impossible to seek redress through the courts and many have turned to the fee-to-trust process as a means of regaining land. Beginning in the 1970s and 1980s when the Oneida Indian Nation and Cayuga Indian Nation successfully filed their land claims, non-Native communities—affected by 50 years of economic decline—organized and systematically challenged the exercise of Haudenosaunee sovereignty in Central New York State. Specifically, since its inception in 1980 the Cayuga Nation’s land claim has been met with local opposition in the form of organized grassroots anti-Indian sovereignty movements—most notably Upstate Citizens for Equality (UCE).

This dissertation draws from ethnographic research of UCE and analyzes varying interpretations of law, policy, race, and class that inform non-Native understandings and attitudes towards Haudenosaunee sovereignty. Social norms of public discourse

discourage direct conversations of race and class and, as a result, such discourses must take other normative forms; in UCE land claim and fee-to-trust discourse, linguistic frames of property (and property rights), patriotism, equality, and assimilation are used to challenge Indigenous sovereignty while also serving to resist labels of racism/anti-Indianism. This analysis also includes UCE's use of litigation and legal discourse to formulate—and in turn perpetuate—(mis)understandings of Indigenous land rights, identity, and sovereignty.

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ACKNOWLEDGMENTS

This dissertation would not have been possible without the openness and kindness of members of Upstate Citizens for Equality who welcomed me into their meetings and homes. I am profoundly grateful for their willingness to share their voices and opinions with me over a period of almost fifteen years. I am also indebted to members of Strengthening Haudenosaunee Relations through Education and citizens of the Cayuga Indian Nation for teaching me about Indigenous sovereignty and land rights; Julie and Jim Uticone, Wrenaye and Joe Matzen, and Cayuga Heron Clan Mother, Bernadette “Birdie” Hill, were especially influential.

My committee members, Mindy Morgan, Bill Derman, Heather Howard, and Matthew Fletcher, were pivotal to this process and provided many helpful insights and feedback. I am also thankful for my wonderful graduate student colleagues at Michigan State, especially Heather Mustonen, Michael Walker, and Jane Wankmiller. I began this research as an undergraduate student at Wells College and words cannot express my gratitude for the ongoing support of my former professors and administrators at Wells; Ellen Hall, Laura McClusky, Vic Munoz, and Ernie Olson were all invaluable mentors, without whom this dissertation would not have been possible.

While teaching an average of 6-7 classes a semester contributed to a delay in finishing this dissertation, I definitely relied on the support of my colleagues at Jamestown Community College. I would like to specifically thank Amanda Bartels, Shannon Bessette, and Jessica Kubiak for their constant encouragement and friendship. I

would also like to thank the Seneca Nation of Indians, whose land I resided on during the writing of this dissertation.

Most importantly, I would like to thank my family—my parents, Renee and Bill McCune and, my partner and best friend, Justin Schapp for his countless hours of discussion, editing, and support. And lastly, I would like to thank my soon-to-be daughter, Gloria Lorraine (who is due any day now) for the extra motivation to “birth the dissertation” before giving birth to her.

TABLE OF CONTENTS

Introduction – The Anatomy of an Anti-Indian Sovereignty Movement.....	1
“Lock and Load”	1
Background.....	4
Selection of Field Site.....	10
Methodology.....	15
Theoretical Foundations.....	17
Contemporary United States Ethnography and Native American Studies.....	18
Theoretical Approach: The Anthropology of Law and Discourse.....	20
Dissertation Structure.....	21
 Chapter One – Land (Claim) History: Place, Identity, and the “Friction” of Contested Space.....	27
Foundations of Indigenous Land Dispossession in New York State.....	30
Situating the Cayuga Claim within the Context of Non-Native Economic Land Dispossession.....	39
Cayuga Land Claim and Land Claim Opposition – 1990s to Present.....	45
Non-Native Reaction to <i>City of Sherrill</i> and Second Circuit Dismissal.....	50
Conclusion.....	52
 Chapter Two – Landowners “Held Hostage”: Upstate Citizens for Equality.....	54
Origins of UCE.....	56
UCE Meetings in Cayuga and Seneca Counties.....	64
Potential Neighbors or Terrorists?.....	69
UCE Post- <i>City of Sherrill</i>	71
UCE Meetings in Oneida and Madison Counties.....	75
Post-Sherrill: Fighting the Future Settlement “Like Hell”.....	77
Conclusion.....	79
 Chapter Three – Scapegoating Sovereignty: Linguistic Frames, Race, and the Masking of Social Class.....	80
Understanding Sovereignty and Rights through Discourse Analysis.....	81
Whiteness, Class, and the Limits of Settler-Colonialism.....	84
Asserting Rights and Framing Equality.....	88
“Upstate”: The Frame of Victimization.....	88
“Citizens”: Citizenship and Patriotism.....	93
“Equality”: Law, Property, and Taxes.....	96
Conclusion.....	100

Chapter Four – Influencing Public Opinion and Framing Land Claim Opposition: The Reciprocal Relationship between Federal Indian Law and Anti-Indian Movements.....	103
Indigenous Rights: Power and Unequal Access to Law.....	107
Legal Foundations of Anti-Indianism.....	110
Fighting Settlement and Advancing Laches: Framing “Innocence” in the Courts and Counties.....	117
Changes in the Legal Landscape: <i>City of Sherrill v. Oneida Indian Nation</i>	123
UCE’s Continued Resistance to Haudenosaunee Sovereignty after <i>City of Sherrill</i>	126
Conclusion.....	128
Chapter Five – “It’s a Question of Fairness”: Fee-to-Trust and Opposition to Haudenosaunee Land Rights and Economic Development.....	130
Fee-to-Trust and Economic Development: Gaming in “Upstate”.....	132
Illustrating the Double Bind: The Cayuga Scoping Meeting.....	138
Rethinking the Double Bind.....	150
Conclusion.....	156
Conclusion – Haudenosaunee Sovereignty in a New Era of Termination.....	159
Limitations and Directions for Future Research.....	160
Relevance of Research.....	162
BIBLIOGRAPHY.....	164

Introduction – The Anatomy of an Anti-Indian Sovereignty Movement

“Lock and Load”

Once or twice a month, twelve to fifteen people meet in a volunteer firehouse in the small village of Canoga, New York. The room is small, with old folding tables and chairs stacked up against the wall. On this particular evening in late summer 2007, the parking lot is packed with cars and nearly all the folding tables and chairs are occupied in the small meeting room. As usual, there are no signs to indicate what the meeting is for, however over forty people are in attendance. A group of retired women exchange newspaper clippings and many middle aged and elderly men sit back in their seats with their arms crossed over their chests, waiting for the meeting to begin. At the front of the room three men and one woman sit behind a long table, facing the audience. To the side of the table a tall man with white hair paces nervously back and forth, looking down at his notepad.

The meeting begins and the floor is handed over to the tall man, who has stopped pacing and now stands still at the front of the room. David Dresser is an elected county board member, and does not usually attend these meetings. He looks around the room, making eye contact with several people and begins talking;

I'm here to tell you everything I know...you know I don't believe in Indian sovereignty. So why did Dave Dresser seem to abandon his commitment to equal rights? We had nothing to do with these treaties not being negotiated. And because, and only because it holds us harmless, I support this settlement. I don't think we are going to change federal Indian policy—over 200 years that supports Indian sovereignty.
God grant me the serenity
to accept the things I cannot change;
courage to change the things I can;
and wisdom to know the difference.

I cannot, *we* cannot change the federal government's commitment to Indian sovereignty.

An old woman in the back of the room interrupts Dresser and shouts "But we need one nation! We need to go back to what our forefather's founded!" At this point, a middle aged man with dark hair and a booming voice stands up. He identifies himself as Rich Ricci, a former county board member. He points his finger and addresses Dresser directly,

Ever heard the phrase 'He who owns the economy owns you?' They will run this county, this state, and eventually this country! Our founding fathers founded this country on equality and in 215 years we couldn't fix the Indian sovereignty issue...Believe me, in ten years you're not going to recognize this county, you're not going to recognize this country...If it's my last breath, if it's my left arm, I'm going to make sure this thing is defeated in the Supreme Court...There's a lot more than this group, there's an undertone here...I got a rifle, I'm a pretty good shot. [Laughs] Well, I don't see very well. But when I see that flag [the Haudenosaunee Confederacy flag] flying the same height as the American flag, my blood boils!"

A small woman with salt and pepper hair yells "lock and load!" and the phrase is repeated by many in the audience who cheer and clap enthusiastically—"Lock and load!!"

The energy in the crowd builds and an older man shouts "This is America and we have to keep it American; we've got to stop the Indians from taking the country back over!" Ricci, sitting this time, begins to speak again,

There is nothing done with Native Americans that ever works out for us peon white people...I have a business here, I have a family here. My great grandfather settled here. This sovereignty crap, it was set up by lawyers. Remember, when people fought the revolution, they didn't just sit there!

A middle-aged man in the front of the room speaks up,

They are gonna control water ways up to the source. They're gonna control the environment. Pretty soon there is not going to be any state. The American Indians would have control over the whole state. Pretty soon we won't have control over anything. Why should we capitulate to a small bureaucracy like it is a dictatorship? And the BIA [Bureau of Indian Affairs] is a dictatorship! Federal policy is changing, slowly, but it is changing. It will probably outlive us, but it will change.

People in the audience cheer and clap. David Dresser nervously looks around the room, Rich Ricci sits back in his chair and crosses his arms.

~

The meeting described above took place in Seneca County, a rural county in Central New York State, in summer 2007; the issue at hand was a proposed settlement of the Cayuga Indian Nation's ongoing land claim. At the time of this meeting, the Cayuga Nation's 64,015 acre land claim had worked its way through the federal court system over a 27 year period and had recently been dismissed by the Second Circuit Court of Appeals. The Cayuga Nation was now pursuing the fee-to-trust process in the hopes of reestablishing a reservation in Seneca and Cayuga Counties and some county officials and residents wanted to settle with the Cayuga Nation in the hopes of limiting fee-to-trust. The ethnographic vignette described above is a small piece, yet representative, of 27 years of non-Native opposition to Cayuga sovereignty and land rights in Seneca and Cayuga Counties.

This dissertation analyzes the growth of predominantly white anti-Indian sovereignty groups in the United States, and of their and political and legal power. I focus on Upstate Citizens for Equality (UCE), a grassroots anti-Indian sovereignty organization in Central New York State. During the UCE meeting described above, Rich

Talcott, chairman of one of the three UCE chapters spoke up in response to comments such as “lock and load”;

Now, now. Remember, we are fighting the federal government, not the Indians. The Indians didn’t make federal policy, the federal government did. We need to focus on our politicians—here, in Albany and in D.C.

However, embedded in the discourse of opposition is a willingness to fight Indian sovereignty, both in the courts and—as illustrated above—with physical force. Indian sovereignty is perceived as not only an economic threat, but a threat to nationhood and as such challenges the individual identity of UCE members.

Background

In 1978 United States Supreme Court *Oneida I* ruling, opened up the federal courts to Native American land claims against states, and many Native American Nations have filed land claims throughout the Northeast to regain or build upon historic land bases. In 1980, the Cayuga Nation filed a 64,015 acre land claim in Seneca and Cayuga Counties in Central New York. The basis for the land claim was a series of treaties initiated by New York State beginning in the late 1700s (and consequently never ratified by Congress) that resulted in the dispossession of Cayuga land in Central New York. Presently, the Cayuga Nation is the only nation within the Haudenosaunee (Iroquois) Confederacy without a land base; Cayuga Nation citizens live on Seneca and Tuscarora Nation territories, as well as in Canada and Oklahoma. Initially, in 2001, the courts awarded the Cayuga Nation over \$248 million to buy land within the land claim region in order to establish a reservation.

Since its inception in 1980, the Cayuga land claim has been met with local opposition in the form of organized grassroots anti-Indian sovereignty movements, such as Upstate Citizens for Equality (UCE). Local opposition also extends to Cayuga owned businesses and—more generally—any action by the Cayuga to exercise sovereignty in New York State. Throughout this dissertation, I use the term “anti-Indian sovereignty movement” to describe groups like UCE. However, many Native nations have characterized UCE (and other local and national organizations) as “anti-Indian.” UCE members self-identify in opposition to Indian sovereignty and actively challenge accusations of racism. The links between Indigenous sovereignty, political status, race, and identity are extremely important and subsequent chapters take up the issue of attacks on Indian sovereignty and racist ideology.

In June 2005, the Second Circuit Court reversed and dismissed the land claim, effectively ending the Cayuga claim and other similar land claims. On April 14, 2005 and May 25, 2005, the Cayuga Nation filed fee to trust applications in order to place roughly 200 acres (purchased on the open market by the Nation) into trust. The background and process involved in fee-to-trust is outlined in later chapters and the Bureau of Indian Affairs (BIA) is currently reviewing the applications, which if successful will result in the recognition of Cayuga Nation reservation land in Seneca and Cayuga Counties. UCE has since shifted land claim opposition to fee to trust opposition, actively lobbying politicians, writing letters to the BIA, and organizing community members to oppose the Cayuga Nation’s application.

In 2001, a headline of Cayuga County’s local newspaper, the Auburn Citizen, read “UCE stirs debate but is it racist?” (Auburn Citizen, 2001). The question is extremely complex, for UCE’s rhetoric against the land claim uses both ideologies of place and class that are hinged upon a sense of identity drawn from economic prosperity and security. In earlier research I articulated that the economic factors which influence Central New York’s agricultural and small town communities are crucial to an analysis of group opposition to the land claim, and larger Haudenosaunee sovereignty (McCune 2003). I place Cayuga and Seneca Counties within a larger national context in order to illuminate the sociopolitical consequences of economic decline; as each small manufacturing plant closes or relocates, and as family farm and small business gives way to large agribusinesses and mega retailers, the change is reflected socially and economically. While some rhetoric and actions at UCE meetings can easily be classified as racist, to label UCE as racist without considering the economic, social, and legal foundations of opposition defeats an understanding of the pervasive power of knowledge production and ideology. Moreover, dominant ideology championing the American Dream—an ideology pervasive in the minds of Seneca and Cayuga County residents—is itself a form of assimilation (cultural and economic), seeking to eliminate both diversity and dissension. While the conflict exists over land, the conflict is itself reflected *in* the land; landscape becomes the medium by which conflict over place and identity is articulated. In this study, I am not so concerned with directly labeling UCE speech as “racist” but rather understanding the legal and social class foundations of such speech.

This ethnographic study examines how (predominantly white) residents of Seneca and Cayuga Counties in Central New York State formulate—and in turn perpetuate—local and non-Native understandings of Haudenosaunee sovereignty. Studies of land and land use are common in historic and contemporary ethnographic studies and this research adds to and expands upon this existing literature by examining competing concepts of place. Conflicting definitions of land have both local and global repercussions and through anthropological analysis I will illustrate how a local land rights case directly informs ideas of indigenous sovereignty. Specifically, I analyze how the land claim and Haudenosaunee sovereignty have become a scapegoat issue for other social and economic issues in New York State. The racial and nationalist rhetoric deployed by groups like UCE mask socioeconomic issues such as the continuing agriculture crises and recent collapse of the housing market and manufacturing industry. However, by attaching economic meaning to the Cayuga claim and general principle of Indian sovereignty, groups like UCE are able to garner large non-Native appeal for anti-Indian sovereignty initiatives.

In examining local grassroots opposition to and support of Cayuga sovereignty and attempts to regain land in New York State, I address three main themes: 1) How anti-sovereignty groups use discursive power to advance their interests as well as the reciprocal nature of law, history, and local discourses of opposition; 2) How anti-sovereignty movements are products of larger socio-economic trends within rural communities and how Native economic development challenges these local discourses; 3) How connection to and dispossession from place, experienced by both Native and non-

Native communities, affect land claim discourse, identity, and conflict. I will deal with each theme in detail below.

First, conceptions of Native sovereignty both inform and legitimate perceptions towards (and within) the Haudenosaunee Confederacy; these competing concepts serve to garner support for or against the Cayuga Nation and the Haudenosaunee Confederacy. How has the court system—local, state, and federal—been used to mediate disputes between non-Native residents and the Cayuga Nation? How do historic and recent court decisions affect land claim opposition? And what is the relationship between local discourses and recent court rulings? These questions reflect the overarching question of how law is used within knowledge production and help illuminate the reach of law in informing anti-land claim opposition (Biolsi 1999). To understand and explain how law is used, I examine this production of knowledge by investigating the various competing perceptions and definitions of Native sovereignty as it relates to the Haudenosaunee Confederacy and the Cayuga Nation. Specifically, law and Federal Indian policy are used by many groups and individuals to justify either anti-sovereignty or pro-sovereignty positions.

The second theme addresses the idea that conflict over various aspects of Haudenosaunee and Cayuga sovereignty cannot be separated from the larger context of rural North America and more specifically, the interaction between Native and non-Native communities. The questions that arise from this theme are as follows: To what extent do social and economic factors shape anti-Indian sovereignty movements? Specifically, what references to socioeconomic factors are found in land claim

opposition? What are some of the issues (social, economic, and political) that exist with or without attempts by the Cayuga Nation to regain a land base? How do local residents, politicians, and newspapers portray the region in general? Together, these issues address how land claim rhetoric is tied to larger socioeconomic factors in Central New York and the United States in general; as a result, I situate this study within the larger framework of contemporary United States ethnography. Dominant U.S. ideologies of rural culture, along with shifting economic factors, form the backbone of opposition to the Cayuga land claim. These factors provide insight into the formation of anti-Indian and anti-sovereignty movements by linking social and economic forces to land claim/sovereignty opposition.

The overarching theme is that of discursive power in framing and defining conflict over land between Haudenosaunee communities and their neighboring rural communities. A number of questions emerge from this theme. First, how is anti-sovereignty and anti-Cayuga rhetoric legitimated within the local non-Native community and state? Second, how is anti-land claim rhetoric formulated and controlled? Finally, how do anti-land claim arguments translate/transfer to opposition to other means of regaining land and asserting sovereignty? Specifically, has anti-land claim discourse changed with the recent judicial decisions? If so, how? These questions address issues of the dissemination of knowledge and serve to link the local discourse of the Cayuga claim with national and global discourses concerning indigenous land rights.

Continued attempts by the Cayuga Nation to regain their historic land base involve more than issues of land; land is inherently tied to indigenous sovereignty.

Opposition to indigenous land rights is often deployed and legitimized through economic frames focused around issues of taxation and law. Power is inherent in the formation and deployment of discursive frames and I analyze the various sources of power—both institutional and individual—in the dissemination of concepts that inform perceptions of Cayuga sovereignty.

Non-Native opposition to Indigenous land rights is also informed by larger attachment to land and place; definitions of and emotional attachment to land is evident in both sides of land claim litigation and current involvement in the fee-to-trust process. Thus, an analysis of UCE's agrarian support includes both rural economic conditions and the prevalent ideology reinforcing identity tied to land. While economic conditions certainly influence opposition to indigenous sovereignty, this dissertation extends that analysis to the use of American law, or more specifically, federal policy and Indian law. How does United States law and policy, combined with changing economic and social factors, influence opposition toward indigenous sovereignty?

Selection of Field Site

I use Cayuga and Seneca Counties as case studies of the foundations, both legal and economic, of anti-Indian sovereignty movements. Both counties have been embroiled in lengthy litigation and political lobbying over issues of Haudenosaunee land rights and sovereignty. I focused a large portion of my study on an analysis of the social and economic factors that influence anti-land claim membership. Concurrently, these counties exhibit the social effects of failed economic and agricultural policy and, more specifically, illustrate how resulting rural ideology encourages grassroots opposition to

any assertion of indigenous sovereignty. While both counties are rural, each county also consists of one city that has a history rooted in manufacturing; Auburn (Cayuga County) and Seneca Falls (Seneca County). Though the counties have struggled with a decline in both agriculture and manufacturing, there is still a divide in terms of class. The region is known for tourism and many lake front properties in the region are owned by wealthy out of town residents. Thus, both counties have representation from upper and middle/working class residents.

Seneca and Cayuga Counties are named in the Cayuga land claim and together comprise the totality of the claim. Currently, the Cayuga Nation owns and operates two businesses in both counties (in the town of Seneca Falls and the village of Union Springs) and one faction of the Cayuga Nation has applied for this land to be taken off of the tax roles and recognized as reservation land. Aside from these obvious indicators, I selected Seneca and Cayuga Counties as a research site for three reasons. First, Seneca and Cayuga Counties have an active land claim opposition group, Upstate Citizens for Equality (UCE) and a 30+ year history of similar anti-sovereignty groups. Additionally, UCE is affiliated with the umbrella organization Citizens Equal Rights Alliance (CERA), a national anti-Indian sovereignty lobbying group; during my fieldwork, the Chair of the Seneca/Cayuga chapter of UCE served as a CERA board member. Second, because the Cayuga Nation has no land base, both counties are predominantly non-Native with a relatively homogenous population; over 90 percent of the population is white (2000 and 2010 U.S. Census). Third, the counties are rural with farming as a principle occupation

and have been subject to a variety of social and economic change over the past decades (Barlett 1993; Fitchen 1999; Stewart 1996).

My study is focused on the Seneca/Cayuga chapter of Upstate Citizens for Equality, a grassroots anti-Indian sovereignty organization with a membership of over 4,000 residents in both Seneca and Cayuga Counties. The organization usually meets once or twice a month and has a core membership of roughly 30 members. The Seneca/Cayuga chapter is largely comprised of older members (55 years and above), the majority of which are retired or work in an agricultural related field. Additionally, the Seneca/Cayuga chapter has been well received in the local community. This support is reflected in successful bottle and can recycling drives, the prevalence of UCE yard signs throughout the counties, and vocal support from local elected politicians. In order to provide comparison, I also attended the meetings of the Madison/Oneida chapter of UCE an hour to the east in the City of Sherrill, Oneida County. The Madison/Oneida chapter opposes the Oneida Indian Nation, another Haudenosaunee nation that has land near Verona, New York. This chapter has a larger active membership (approximately 50-60 members who attend bimonthly meetings) and a more diverse socioeconomic representation. Most importantly, the Oneida/Madison chapter faces opposition by non-Native community members, a majority of whom are employed by Oneida Nation Enterprises (the largest employer in the region). Thus, a comparison yields important data as to the general organization of both groups, differing tactics in the creation and dissemination of knowledge, and the extent of support garnered from the surrounding communities.

Throughout this dissertation, I use both real names and pseudonyms when referring to UCE members. Real names are used when describing UCE leadership and politicians who attend UCE meetings, as those are public positions. Furthermore, UCE leaders and politicians regularly appear in local media and through other forms of public record. I also use the real names of UCE members and non-Native residents whose names and views appear in public record—through written letters or statements to the Bureau of Indian Affairs, letters to the editor, or written statements to elected officials. For all other participants, I have used pseudonyms and restricted naming to only first names.

I began researching the Cayuga land claim as an undergraduate at Wells College (located in Cayuga County, New York). During this time I worked alongside Cayuga and Onondaga members and local community members as a board member in the grassroots organization SHARE (Strengthening Haudenosaunee Relations through Education). SHARE's goal was to educate the local community about issues of Indigenous sovereignty with the goal of minimizing conflict and helping the Cayuga return to the region. The group purchased a 70 acre farm that has since been transferred into Cayuga ownership. Lastly, at the time of my research, I was single but during the writing of this dissertation, I married a citizen of the Seneca Nation of Indians and now live in the Seneca Nation's Allegany Territory in Western New York State. All of these experiences inform my strong commitment to supporting Indigenous sovereignty. Clearly, my views are at odds with UCE members.

When I first began researching UCE, I was open and honest about my involvement with SHARE. I repeatedly told participants that my goal was to understand their opinions and experiences. While I support Indigenous sovereignty, I also have a strong affinity towards the non-Native residents of Seneca and Cayuga counties; I grew up in Detroit, Michigan and am very cognizant as to the ways in which categories of “race” have been used to divide people in terms of social class. While I may personally disagree with many of the views expressed by UCE members, the point of this study is to understand the influences and motivations behind anti-Indian sovereignty activism.

My undergraduate research on the Cayuga land claim and Upstate Citizens for Equality culminated in a senior thesis and subsequent publication (McCune 2003). As a graduate student at Michigan State University, I expanded my research to include issues of Haudenosaunee sovereignty with a continued emphasis on the Cayuga Nation. During the summer of 2005 I conducted pre-dissertation fieldwork funded by a National Science Foundation Grant awarded through Michigan State University in Seneca and Cayuga Counties. My preliminary research focused on the anti-land claim/anti-sovereignty group Upstate Citizens for Equality and non-Indian perceptions and constructions of Haudenosaunee sovereignty and federal Indian law.

Most importantly, I chose Cayuga and Seneca Counties (and Central New York in general) because of my own experiences and attachment to place. Since I was an undergraduate at Wells College, I have lived in Central New York off and on for eight years; I have grown attached to the landscape, towns and villages, and above all the people. Central New York is a place that feels like home to me and a place that I

discovered my passion for anthropology and ethnographic research. In this regard, I follow the methodology of Sven Lindqvist (1978) and decided to “dig where I stand” and attempt to make an anthropological contribution to a place that I have lived and continue to visit.

Methodology

From September 2006 through August 2007, I built upon previous years of fieldwork and conducted ethnographic research in Seneca and Cayuga Counties in Central New York. From my preliminary fieldwork I solidified contacts with UCE, the Cayuga Nation, and local community members. In order to understand local perceptions of Haudenosaunee sovereignty and the Cayuga land claim, I attended regular UCE meetings of both the Seneca/Cayuga chapter as well as the Oneida/Madison chapter. In the first stage of research (Fall 2006), I took notes during meetings and observed leadership, attendance, and the range of issues addressed during each meeting. After I established my return and continuing presence at meetings, I began to tape record Oneida/Madison meetings. Audio recording allowed me to collect a complete audio record and thus focus an analysis of the discourse of each meeting. The Oneida/Madison chapter of UCE frequently has members of the media present and the use of tape recording devices in addition to video cameras is not out of the ordinary. I chose not to use audio recording for Seneca/Cayuga meetings because of the small size of the group and the fact that Seneca/Cayuga UCE members do not have the same media presence at meetings. Also, the Seneca/Cayuga meetings involve fewer individuals and are conducted at a much slower pace; both factors made note taking easier.

I also attended public town, village, and county meetings in order to situate the land claim into a larger context. In this regard I was able to analyze how Cayuga land acquisition is positioned in relation to other key issues in both counties and New York State. In these meetings I gauged the importance local politicians place on issues surrounding Cayuga sovereignty. These meetings provided information in regard to other social and economic issues that are of import locally. At these public meetings I collected data through written observations and audio recordings. Additionally, in order to further contextualize anti-land claim and anti-sovereignty sentiment within the larger community, I attended local community events such as Empire Farm and Field Days, village and town picnics and celebrations, among others. These events serve two purposes; first, UCE distributes information at many local events and these events thus serve as a way to observe how UCE members interact with and distribute information to non-member residents; second—in addition to village, town, and county meetings—local events are an arena where residents discuss issues of local concern. I conducted semi-structured interviews with residents of Cayuga and Seneca Counties and members, including the leadership, of UCE. These interviews, coupled with participant observation data, elicit uses and understandings of Indian law and policy both inside and outside of the legal system (Merry 2005). In addition to UCE meetings and local government meetings, I also attended a series of Bureau of Indian Affairs public scoping meetings for both the Cayuga and Oneida fee-to-trust applications and a series of court cases specific to the Cayuga land claim.

In total, I attended over 50 Upstate Citizens for Equality meetings, 23 village, county, and school board meetings, several community events, two court cases, and four Bureau of Indian Affairs fee-to-trust public scooping meetings. I also analyzed archival data from local and state museums, census records, and local/regional print media, and conducted several semi-structured interviews with Upstate Citizens for Equality members and local community members. I have focused my dissertation research questions around themes that arose from meetings and interviews which represent a particular span of time, 2005-2007, in the now thirty four years since the Cayuga Nation filed its land claim. The period that I gathered data was significant in that the Cayuga Nation's then 27 year old claim was dismissed and UCE shifted its attention to fee-to-trust. The themes that emerged during the heightened period of opposition from 2005 to 2007 are similar to those that exist today in anti-sovereignty discourse; these themes include the following: non-Native definitions and ideas about Haudenosaunee sovereignty, the use of federal policy and Indian law in validating opinions about the Cayuga land claim and Haudenosaunee sovereignty, the dissemination of knowledge between UCE and the larger community, as well as between the UCE chapters and larger anti-sovereignty organizations.

Theoretical Foundations

My study of opposition to Native land claims and sovereignty is informed by four main areas of anthropological research; discourse analysis, legal anthropology, American Indian Studies, and rural United States ethnography. I draw upon and integrate the following areas of inquiry: the role of law and federal policy in anti-sovereignty

movements; the overlap of rural United States socioeconomic factors with issues facing Native communities; issues surrounding knowledge production and the maintenance and challenge to power; and competing definitions of land, land use, property rights, law, and sovereignty. In addressing these issues, I seek to illustrate how land and federal policy, along with shifting economic factors, inform and influence anti-sovereignty movements.

Contemporary United States Ethnography and Native American Studies

This study examines the intersection between contemporary United States and Native American communities. Few studies detail the interaction between Native communities and surrounding non-Native communities, including ethnographic data from both populations. Such an omission depletes an understanding of both conflict and commonality between Native and non-Native communities (Biolsi 2001; Wagoner 2002). In particular, I offer an examination of anti-Indian and anti-sovereignty movements, topics which are generally overlooked in the literature (Cattelino 2008). I situate ethnographic data that illustrates Native and non-Native interaction surrounding Cayuga and Haudenosaunee sovereignty within the literature of changing economic landscapes of Central New York (Thomas 2003). I draw upon Barlett's (1993) assertion that the struggle between industrial and traditional agrarian values translates into conflict within the wider society. This research bridges anthropological studies of Native communities with ethnographic research from rural non-Native communities, paying specific attention to the changing economic—and corresponding social—landscape of rural North America (Barlett 1993; Ching and Creed 1996; Durrenberger and Thu 1998; Chibnik 1987; Puckett 2000; Stewart 1996).

The first component of my research concerns contemporary Haudenosaunee struggles for land and treaty rights (Bilharz 1998; Josephy 1982; Kalant 2004; Landsman 1988 Pertusati 1997) and is specifically centered on literature addressing Haudenosaunee land claims (Hauptman 1986, 1988, 1999; Mohawk 2004; Shattuck 1991; Vecsey and Starna 1988). I diverge from this literature by infusing a legal analysis with an ethnographic account of the conflict surrounding the Cayuga land claim. Differing—and conflicting—ideas of sovereignty feed into a legacy of Iroquois disposition and resistance (Venables 1980; Hauptman 1986, 1999). More specifically, I combine the ethnographic approach utilized by Nesper (2002) in his study of attempted Ojibwe treaty abrogation with Biolsi's (2001) analysis of the impact of federal policy and Indian law on non-Native perceptions of indigenous sovereignty and rights.

Opposition to indigenous treaty rights and sovereignty does not exist in a vacuum and must be contextualized within a larger socioeconomic analysis (Wagoner 2002). With a careful analysis of the economic and social issues in the land claim region, the second component of this study is to illustrate the underlying social, political, and economic factors that inform land claim opposition. In this respect, my research builds upon James McCarthy's (2000) assertion that rural social movements continually appeal to white working class communities who feel victimized by changing economic conditions. This analysis is important as it reveals the complexity behind anti-sovereignty movements by focusing analysis on factors that are seemingly unconnected to the Cayuga land claim and Haudenosaunee sovereignty, such as the decline of manufacturing and agriculture in the Central New York region. As a result, this study is

situated both in a local and national/global context and considers a range of local and global factors that inform local conflict (Tsing 2004).

Theoretical Approach: The Anthropology of Law and Discourse

The analysis of data will draw and build upon the theoretical framework of discourse analysis and legal anthropology. This study is influenced by Biolsi's (2001) illustration of the power of legal discourse in shaping anti-Indian sentiment and builds upon this framework by incorporating legal insights regarding conflict between Native and non-Native communities with the external economic factors that—along with legal history—inform sovereignty opposition. Specifically, I will analyze how conflict and law are conceptualized and articulated (Conley and O'Barr 1990, 1998; Brenneis 1988; Merry 1990, 2001; Mertz 1988, 1992; Greenhouse 1986, 2003) and how systems of power inform the knowledge produced to describe and address conflict between Native and non-Native communities. In this analysis, I address not only the production of meaning and knowledge, but also how interpretations of law shape land claim discourse.

My approach is influenced by the language of white racism (Hill 2008) and the reciprocal relationship between language use and cultural meaning (Basso 1979, 1996). Specifically, I use Hill's notion of discourse as "all varieties of talk and text" and language ideologies as "essential scaffolding" for discourses of inequality (Hill 2008: 32-33). This form of analysis concerns individual language knowledge and usage as it relates to conceptions of the world; while language use varies individually, language itself is socially created and individual discourse is affected by socioeconomic factors such as race and class. Embedded in individual and cultural language use are systems of

power—the ability to construct and reproduce discursive frames (Bourdieu 1982; Fairclough 1995; Foucault 1972; Lakoff and Johnson 2003). This study analyzes individual and group language use in context with the social processes that validate discursive frames; I am most interested in how language and law are used to assert authority and create validity on issues surrounding Haudenosaunee sovereignty and land rights.

Concurrently, I address how the dissemination of legal texts and interpretation of legal documents inform individual and group knowledge of Haudenosaunee sovereignty (Bourdieu 1982; Fairclough 1995; Foucault 1972). The texts used by UCE—in addition to those used by groups in support of the Cayuga Nation—reflect the underlying beliefs and ideology espoused by the group. Legal texts are circulated nationally between similar anti-sovereignty groups and can be accessed by anyone globally through the internet; an analysis of texts thus serves to reveal the interconnections between institutions in the production and dissemination of knowledge (Fairclough 1995).

Dissertation Structure

Chapter One, “Land (Claim) History: Place, Identity, and the ‘Friction’ of Contested Space” situates conflict over Haudenosaunee land rights and sovereignty within the framework of history and law. Since the initial dispossession of Cayuga land throughout the 1700s, the Cayuga Nation has sought to regain their land rights through various legal and international means. Up until the landmark *Oneida I* and *Oneida II* cases, options for litigation were absent. This chapter provides a succinct overview of Haudenosaunee land loss in New York State, while at the same time outlining the

expansion of non-Native settlement (which would later result in economic land dispossession). I present the historical “friction” of this “doubly occupied space” (Stewart 1996; Tsing 2004). While friction is evident in historic and current disputes over land, the space shares a common theme of dispossession—outright for the Haudenosaunee and economic for non-Native populations. In other words, both groups derive identity from this “place,” but both also live with either the reality or very real threat of land loss.

Chapter Two, “‘Landowners Held Hostage’: Upstate Citizens for Equality,” introduces the local case study of an anti-Indian sovereignty organization. Since its inception in 1980, the Cayuga land claim has been met with local opposition in the form of organized grassroots anti-Indian sovereignty groups—most notably Upstate Citizens for Equality. This chapter provides detailed descriptions of UCE meetings, interviews with members and leadership, and textual analysis of print materials. Specifically, I compare and contrast the composition, mission, and discourses of the organization from the height of the land claim through the dismissal of the claim in 2005.

Most importantly, this chapter also presents the ethnographic “voice” of UCE and in doing so, employs a form of narrative ethnography (Behar 1996; McClusky 2001; Tedlock 1991). While the majority of this dissertation is not written in narrative ethnography, I made the conscious decision to use this style of writing to describe and represent UCE. While my aim is to analyze and understand the foundations of anti-Indian sovereignty movements, it is equally important to understand that these groups are comprised of people, not simply isolated quotations sandwiched between theories; in this

regard, Chapter Two is a foundational chapter which serves to humanize UCE and offer the reader a descriptive portrait of UCE. Lastly, when I attended meetings and interviewed UCE members, I disclosed that although they may not agree with my final analysis, I would make sure their voice was represented in my dissertation; this chapter fulfills that promise. Subsequent chapters will provide overt analysis that builds on the themes described and introduced in this chapter.

Chapter Three, “Scapegoating Sovereignty: Linguistic Frames, Race, and the Making of Social Class,” outlines the relationship between social class and anti-sovereignty discourse. When the Oneida and Cayuga Nations successfully filed their land claims, non-Native communities—affected by 50 years of economic decline—organized and systematically challenged the exercise of Haudenosaunee sovereignty in Central New York State. Social norms of public discourse discourage direct conversations of race and class and, as a result, such discourses must take other normative forms; linguistic frames of property (and property rights), patriotism, nationalism, equality, and assimilation are stand-ins for class and race. In this chapter, I argue that larger discourses of class and race (particularly whiteness) are couched in anti-sovereignty rhetoric; in other words larger social problems, like declining jobs and economic marginalization, directly feed anti-Indian sentiment. Consequently, economically devastated non-Native communities scrutinize and demonize Haudenosaunee Nations for asserting land rights and fostering strong Indigenous economies. In addition to discursive theory, I specifically draw upon Sherry B. Ortner’s (2006) call for anthropologists to deconstruct public discourses so as to reveal the hidden underpinnings of race and class, this chapter analyzes the social class

foundation of anti-Indian discourse and outlines potential strategies for gaining non-Native support of Haudenosaunee sovereignty and land rights in New York State.

Chapter Four, “Influencing Public Opinion and Framing Land Claim Opposition: The Reciprocal Relationship Between Federal Indian Law and Anti-Indian Movements” illustrates how the language of law influences local discourses, and how in turn local discourses are reflected in contemporary legal decisions. Varying interpretations of law, policy, and race inform non-Native understandings and attitudes towards Indigenous sovereignty in the United States. As a result, litigation has become the primary means of challenging tribal jurisdiction, economic development, sovereignty, and indigenous land rights. This chapter incorporates ethnographic research of anti-Indian sovereignty groups and analyzes their use of litigation and legal discourse to formulate—and in turn perpetuate—(mis)understandings of Indigenous land rights, identity, and sovereignty.

Chapter Five, “‘It’s a Question of Fairness’: Fee-to-Trust and Opposition to Haudenosaunee Land Rights and Economic Development,” analyzes the changed legal landscape as a result of *City of Sherrill v. Oneida Indian Nation* and how growing Native economic development can influence non-Native opinions of sovereignty and land rights. After *City of Sherrill*, Haudenosaunee Nations are left with little practical legal recourse. Now, Haudenosaunee Nations have turned to the fee-to-trust process to regain or build upon land bases and establish and grow economic development. In this chapter, I analyze gaming and land discourse directed at the Cayuga Nation and Oneida Nation through the public comments on their respective land into trust applications. While both regions are rural, the Oneida Nation had a land base, albeit small, before land claim litigation and

began the process of large scale economic development earlier than the Cayuga Nation. As a result, the Oneida Nation is the largest employer in Oneida and Madison Counties. In Central New York, increased economic development can affect the “double bind” of Indigenous sovereignty (Cattelino 2010) and can result in non-Native support of both sovereignty and land rights.

Finally, my conclusion, “A New Era of Termination?: The Social and Legal Characteristics of a Post "Sherrill" Landscape” considers the legal and social fate of land claims and tribal sovereignty. This final chapter ties together the major themes of the dissertation. First and foremost, Indian law and federal policy serve as a foundation for anti-Indian sentiment in the United States and inform the attempts to erode tribal sovereignty. As recent court cases illustrate, federal policy has moved in a new direction of “judicial termination,” whereby Native nations are systematically stripped of sovereignty in the United States court system. Second, socioeconomic conditions in rural America also influence anti-Indian sovereignty movements. Often tribal sovereignty, namely the exercise of land rights and economic determinism, become scapegoats for larger socioeconomic issues—issues that have plagued rural families and communities for over twenty years. Finally, I make observations as to the future of Haudenosaunee land claims and the exercise of tribal sovereignty in New York State and beyond. Specifically, I discuss the shortcomings—and tangible dangers—of using the United States court system as a mediator in disputes between Native and non-Native communities as well as options for commonality outside of the court system.

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Felix Cohen paralleled the political and legal treatment of American Indians to miner's canaries, emphasizing that policies applied to Native populations reflect future policies in dominant society (Cohen 1953). In this respect, this study of reactions and constructions of Haudenosaunee sovereignty and land rights has both national and global relevance; issues of (and debates over) sovereignty are not limited to Native North America but have far reaching global implications. Questions such as "Who has the power to define, assert, or remove sovereignty?" are extremely relevant in current global politics. This dissertation analyzes systems of power as they relate to debates over issues of sovereignty in Native North American and beyond. In the following chapters, it is my aim to dismantle the boundary between rural studies and American Indian Studies, providing ethnographic data illustrating Native and non-Native conflict and commonality within a socioeconomic context.

Chapter One – Land (Claim) History: Place, Identity, and the “Friction” of Contested Space

“As roundly ubiquitous as it is seemingly unremarkable, place-making is a universal tool of the historical imagination. And in some societies at least, if not in the great majority, it is surely among the most basic tools of all.”

-Keith Basso (1996: 5)

At its most basic level, the conflict surrounding the Cayuga land claim is a controversy over place—history of place, control of place, and belonging to place. To borrow from Lawrence Hauptman, conflicts over land in Central New York “color as well as poison the air” (Hauptman 1986: 18). Land is not only the major source of conflict between Haudenosaunee and New York State communities, but arguably represents the single most important ongoing source of conflict between American Indian and non-Native peoples throughout the United States. These sites of struggle represent the notion of “doubly occupied space;” a space where two populations lay claim to a given area of land (Stewart 1996).

In the counties of Central New York, claims to land manifest themselves in ideas of place and identity. Embedded in the discourses of place are competing ideas of non-Native property rights and Cayuga cultural ties to land. As I articulate in later chapters, both ideas are also tied to economics—making a living off of, and sustaining a connection to, land. Competing claims to place are reflected in shared and individual histories (written and oral), assertions of legal power, legal text, and ideas of land ownership. Although conflict is often between two unequal entities, particularly in a doubly occupied space, those on the perceived periphery retain the power of narration;

through narration that claims to place are emphasized and disseminated, and these stories can also influence action—legal or otherwise (Stewart 1996).

Interwoven in the stories of place and descriptions of landscape is the undercurrent of narrative power—power to assert and define authority and claims over the space that is Cayuga Homeland and now called Cayuga and Seneca Counties. Narratives and experiences mark spaces with meaning and create “place,” however place-making is not simply an exercise of marking landscapes (whether physically or ideologically). Socially, place marks a relationship between individuals, institutions, and societies; individuals “[belong] not only to a place but in its institutions and with its people” (Fitchen 1991: 253). The construction of community and individual identity is therefore tied to place and place becomes a very tangible symbol of identity and belonging. Broadly stated, place is the product of relationships within communities and reflects how individuals relate relationships and experiences to the space they occupy. Thus, it is how people talk about place—and the history of place—that reveals meaning behind these socially constructed spaces. Moreover, places are not static and therefore are subject to change; how individuals react to changing space, including threats to their conceptions of place, reveals underlying ideologies and constructions of both place and identity.

Narratives of place are situated in identities and claims to land. Through stories and histories, place becomes a means of remembering and aids in cultural continuity (Basso 1996; Stewart 1996). As Matthew Potteiger and Jamie Purinton (1998) note, “We come to know a place because we know its stories” (as quoted in Price 2004: 28).

Definitions of specific places often have a tandem effect as a means of remembering and as forms of resistance. Landscapes and places are not immune to change, yet narratives of place—when consistency referenced by individuals and communities—serve as reminders of the past; narratives assign ‘fixity’ to land and identity even in periods of change (Price 2004: 23).

The same process occurs when individuals or groups battle over definitions of, and control over, places. Thus places that are sites of contestation and crisis are affixed with greater value—a value consequent of individuals willing to battle, even to death, over the control of specific places (Price 2004). Places that are the sites of contestation—claimed by more than one group—are what Stewart refers to as a “doubly occupied place”;

There is a quality of a doubly occupied place—a place that was taken over and surrounded by an occupying force and then resettled to occupy THIS place HERE with a force of its own. These are the kind of places where the matter has already been settled that this is a place apart—an “Other America” defined within and against an encompassing surround and become an inhabitable space of desire (Stewart 1996: 41).

While dissimilar claims to space can co-exist without conflict, especially without a mutual awareness of difference, in terms of the land claim, conflict is ever-present. In doubly occupied places, differing claims to place intensify conflict, as Price writes, “Land, both in the possession of it and possession by it, evokes an affective response, one that can turn bitterly angry if one’s claim is challenged” (Price 2004: 27). The Cayuga Nation’s 1980 claim to land in Seneca and Cayuga counties has been consistently perceived as a “threat” by local non-Native residents—an “attack” on property rights and livelihood. It was this initial claim to land that resulted in intense opposition to Cayuga

(and larger Indigenous) sovereignty. While an initial loss of land motivated the Cayuga to fight for land rights, the assertion of Indigenous land rights in turn motivates non-Native individuals and groups to fight Indigenous sovereignty.

In this chapter I outline two histories of land loss—one through colonial legal force and the other through economic neoliberal dispossession. In this regard, the two conflicting parties have points of commonality—both have been affected by land dispossession and resulting “friction.” Tsing defines friction as “the awkward, unequal, unstable, and creative qualities of interconnection across difference” (Tsing 2005: 4). In the case of the Cayuga land claim, the friction results from two unequal groups claiming and struggling to maintain the same doubly occupied space. While friction is evident in historic and current disputes over land, the place shares a common theme of dispossession—outright for the Haudenosaunee and economic for non-Native populations; the Cayuga Nation was removed from the land in question through a series of fraudulent treaties, while the predominately poor and working class non-Native residents of the counties negotiate to maintain their economic livelihood—namely land, houses, and businesses. In other words, both groups derive identity from this “place,” but both also live with either the reality or very real threat of land loss.

Foundations of Indigenous Land Dispossession in New York State

On February 25, 1789, the State of New York claimed all but 64,015 acres of land from the Cayuga Nation—one week before the ratification of the United States Constitution (Porter, 1999). This initial dispossession of Cayuga land was a military taking; Cayuga land was used to pay soldiers for their service in the Revolutionary War

and in the subsequent Sullivan and Clinton campaigns enacted against Haudenosaunee Nations that had sided with the British during the War. Later land takings were fueled by individual land speculators (namely Ogden Land Company) as well as the salt industry and New York's growing emphasis on rail and canal transportation (Hauptman 1999: 107-108). In the years that followed, the Cayuga would lose their remaining land through the 1795 and 1807 treaties between New York State and some members of the Cayuga Nation that resulted in land loss—actions that would leave the Cayuga Nation landless. A 1915 report titled, “Report of Special Committee to Investigate the Indian Problem of the State of New York, Appointed by the Assembly of 1888,” also known as the Whipple Report, summarized Cayuga land dispossession as follows:

The Cayugas, by treaty, sold to the State February 27, 1798, the principal part of their lands, only reserving 100 square miles around Cayuga lake, a small tract on the Seneca river, and a square mile at Cayuga ferry. These reservations were also sold to the state July 27, 1795, and the Cayugas have now no lands (New York State 1889: 9).

During this time, the other four original Haudenosaunee Nations were also fighting New York's attempts to cede land; in 1796, Mohawk leaders—in a process of resisting further land secessions—told New York State agents that “a nation or people without lands are like rogues without friends” (New York State 1889: 11).

Haudenosaunee Nations had legal justification for resisting New York State's land grabs. In the Cayuga case, both treaties were enacted after the 1790 and 1793 Trade and Intercourse Acts. The 1790 Nonintercourse Act required the United States Congress to ratify all treaties with Native Nations; “Under the Nonintercourse Act, no conveyance of lands from any Indian tribe shall be valid unless made by treaty or convention entered

into pursuant to the Constitution” (25 U.S.C. 177). The subsequent 1793 Non-Intercourse Act further stipulated that a federal agent must be present during land purchases with Native Nations;

no purchase or grant of lands, or of any title or claim thereto, from any Indians or nation or tribe of Indians or, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by a treaty or convention entered into pursuant to the constitution...[and] in the presence, and with the approbation of the commissioner or commissioners of the United States. (25 U.S.C. 177)

None of the treaties made between New York State and the Cayuga Nation met the requirements of either the 1790 or 1793 Acts. Since states cannot make treaties with Native Nations, the term “treaty” is problematic. Some use the term “agreement” or “fraudulent treaty.”

The 1795 and 1807 state treaties occurred after the 1794 Treaty of Canandaigua which reaffirmed the Six Nations land within New York State. Article Two of the Treaty of Canandaigua recognized and reaffirmed Cayuga sovereign possession of the 64,015 acres around the northern tip of Cayuga Lake (what is now present day Seneca and Cayuga counties). Specifically, the Treaty of Canandaigua reads,

The United States acknowledges the lands reserved to the Oneida, Onondaga, and Cayuga Nations in their respective treaties with the State of New York, and called their reservations, to be their property; and the United States will never claim the same, nor disturb them, or either of the Six Nations, nor their Indian friends, resider thereon, and united with them in the free use and enjoyment thereof; but the said reservations shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase (7 Stat., 44).

Here, the newly passed Trade and Intercourse Acts were interwoven within the treaty.

From the perspective of the Haudenosaunee, the Canandaigua Treaty reaffirmed

Haudenosaunee control of their remaining territories—during a period of rampant speculation and state fraud (Hauptman 1999). From the perspective of the United States, the Canandaigua Treaty recognized United States underlying ultimate title—the land would remain Haudenosaunee until it was sold to the United States.

Although the Cayuga have not consistently occupied the land in question since the years following the 1789 state taking, they have fought New York State's dispossession for over 200 years. Since the 1795 and 1807 fraudulent treaties, the Cayuga Nation filed numerous petitions with the State of New York seeking some form of redress for lost land. The Cayuga Nation did not have access to federal courts and under the Articles of Confederation, the United States lacked a national judicial system and the burden of both state and national cases fell upon state courts. Native Nations were barred access to state courts and instead had to petition the President. In turn, under the United States Constitution, access to federal courts was severely limited as tribal access to courts was hinged upon the federal government, in its role under the trust relationship.

While the Cayuga could not use federal and state courts to adjudicate claims, the fraudulent nature of the 1795 treaty did not go unnoticed by everyone in New York State government. In 1919, New York State created yet another Indian Commission charged with solving the "New York Indian Problem." E.A. Everett was elected chairman; the commission held an initial meeting, visited reservations in New York (and even held one meeting in Canada, and invited representatives from Native communities to Albany for a

hearing. Everett even tried, unsuccessfully, to have New York State cover the transportation expenses for Native representatives (New York State 1922).

On August 24, 1920, the commission visited the Seneca Nation's Cattaraugus Territory with the express purpose of speaking to Cayuga Nation citizens who resided on Seneca lands. At the outset of the meeting, Everett told the Cayuga in attendance,

I don't bring a promise of reward or the turning over of an immense amount of property, but we do say that if the facts show you are entitled to something you haven't got, we will use our best effort to see that you get it. No nation or people can live and not settle their debts (New York State 1922: 213).

Everett mentioned several times the commission's sincerity in wanting to understand and hear the thoughts and experiences of Haudenosaunee living in New York and beyond.

Based on the transcript of the meeting, many Cayuga in attendance spoke only Cayuga; after Everett spoke, Cayuga Nation members held a discussion that they would not allow to be translated into English. After this discussion a few Cayuga addressed the commission. One such individual was Austin Johnson who stated,

Here we are today, we are in this Seneca Nation, we are Cayugas. [H]ow we came here and so on, because of this pre-emption right they called it. The white man wanted our land and wanted us to go to the Rocky Mountains and the [Ogden] Land Company got our lands...come to find out, it was illegal what the legislature passed anyway, because the United States did not agree to it and they have to make an agreement and contract with the government of the United States" (New York State 1922: 222-223).

Johnson's quote illustrates a frustration with the power dynamic that exists between the Cayuga Nation and New York State (as well as the federal government). Louis Jimerson, another Cayuga at the meeting, expanded upon Johnson's frustration;

We have been stripped. [I]t is very queer, I am standing here with my clothes on for I have been stripped. Think of it in olden times my forefathers, we had land and dealt with the white man, the Cayuga Lake, where is it all now? Just think what a great robbery that is to sell the land for a cent or two an acre! (New York State 1922: 225-226).

Anger and frustration stemmed not only from the land loss, but also for the minimal compensation received for the land. Most of the speakers, directly or indirectly, displayed an understanding of the questionable circumstances that surrounded Cayuga land dispossession. Everett promised to send copies of the treaties and relevant laws related to Cayuga land loss (New York State 1922).

In 1922, Everett compiled a report titled “Report of the Indian Commission to Investigate the Status of the American Indian Residing in the State of New York,” now known as the “Everett Report,” asserting that New York and the United States had acted illegally in the treatment of Indigenous peoples in New York State. The report contains a brief introduction, followed by a transcript of the proceedings of the committee. At the end of the introduction, Everett directly speaks to the loss of land in what is now New York State;

I am lead to make this suggestion and call attention of the Legislature to the fact that these several parcels of land now in contention, were made available to the citizens of the state by reason of the laws that were enacted by the state or by the nation or were permitted to be taken possession of under the protection of either or both governments and that the Indians had time after time been advised, by Governor Clinton of New York and General Washington of the Confederacy and President Washington of the United States, that their land would be secure to them as long as water runs, and grass grows. Have we kept our agreement?” (New York State 1922: 14).

In the subsequent transcribed proceedings and testimony of Haudenosaunee and other Native leaders, the answer was clearly “no.” As a result, upon publication and

presentation to the State Assembly, New York categorically rejected the report and destroyed all copies. It was not until 1971 that a single remaining copy was found in the files of Lulu Stillman, the committee's clerk and stenographer. When discovered, the report would serve as important evidence for Haudenosaunee Nations in land claim litigation; the report, though rejected, was submitted to the state and therefore the state could not contend that it was unaware that its land dealings in the late 1700s to mid-1800s were in violation of federal law (Hauptman 1988).

Although aware of the questionable legality of New York State's acquisition of Haudenosaunee lands in the late 1700s and early 1800s, Native Nations could not file any type of law suit until 1946, the same year that the Indian Claims Commission was formed (Green 2003). Until its absorption into the United States Court of Claims in 1978, the Indian Claims Commission provided tribes with a means to sue the federal government for failing to fulfill its trust responsibility; however compensation was only monetary and did not include the reinstatement of land. In 1966, the Indian jurisdiction statute was passed by Congress and opened federal district courts to tribal civil claims pertaining to the Constitution or laws and treaties enacted with the United States (Nelson 1994). Since the 1970s several Native Nations on the East Coast filed land claims in federal courts; together, these claims sought the return or compensation for millions of acres of land. However, Native Nations could not seek legal action against states because their claims were barred from federal and state courts. George Shattuck, a lawyer for the Oneida Indian Nation, expressed frustration with a system that did not allow for Indian legal claims;

So the State has done a very great job, they take away the land fraudulently from people who couldn't even sign their full names, then they conveniently make the law that says, 'We are sorry we have got your land, but you are not a person or a corporation or an entity which can bring a lawsuit to get it back, and furthermore the State has sovereign immunity and you can't sue us anyway.' So they were just locked out, they were just locked out, they had no recourse (Shattuck as quoted in Hauptman 1988: 22).

However, in 1970, through an effort to bypass state sovereign immunity in federal courts, the Oneida Indian Nation of New York, the Oneida Indian Nation of Wisconsin, and the Oneida of the Thames Band Council filed a claim against two Upstate New York counties.

The Oneida claim is very similar to the Cayuga claim and both should be analyzed together. The initial Oneida claim was small and sought rental compensation from both counties for 100,000 acres of Oneida homelands over a two year period. Like most subsequent Haudenosaunee land claims, the Oneida claim was hinged upon New York State's failure to comply with the Trade and Intercourse Acts of 1790 and 1793. The Oneida argued the United States had recognized Oneida title to the land in question under the 1784 Fort Stanwix Treaty and since the land transfer to New York State occurred after the Trade and Intercourse Acts—and was never ratified by Congress—the transfer was thus void (Shattuck 1991).

In what would become the foundational land claim case *Oneida Indian Nation v. County of Oneida*, access to federal courts was again a main issue raised by the county; as the defense argued against the right for the claim to be heard in federal courts. Initially the New York courts sided with the state and the action was dismissed. However, in 1973 the case was heard in the United States Supreme Court and on January

21, 1974 the Supreme Court unanimously ruled in the case *Oneida Indian Nation of New York v. County of Oneida* (hereafter *Oneida I*) that the Oneida Nation had a right to state and federal courts. The Supreme Court also ruled that the 1790 and 1793 Trade and Intercourse Acts were indeed applicable to the original thirteen colonies—including New York State (Shattuck 1991). More specifically, the Court stated that the Oneida claim involved aboriginal title and treaties that fell under federal law and thus qualified the case under federal jurisdiction; “the possessory right claimed [by the Oneidas] is a federal right to the lands at issue in the case.” In other words, because of underlying federal title to reservation lands (*Johnson v. McIntosh*), the taking of Oneida land by New York State was interpreted as taking of federal land. *Oneida I* was a landmark decision; previously Haudenosaunee Nations had no means or access to regain land in state or federal courts. *Oneida I* not only affected New York state but also applied to nations across the United States and made it possible for many Native nations to file land claims in state and federal courts (Hauptman 1988).

Because *Oneida I* established that the Oneida Nation had legal standing in federal courts and that the land in issue was a federal concern, not just an Oneida concern, the Oneida Nation proceeded with land claim litigation. The actual land claim case also made its way to the United States Supreme Court; in the 1985 case *County of Oneida v. Oneida Indian Nation of New York State* (hereafter *Oneida II*), the court upheld a lower court decision and ruled that New York State had violated the 1793 Trade and Intercourse Act. Furthermore, the majority opinion stated that a statute of limitations did not apply (as the defense had argued) and remanded the case back down to the Court of

Appeals.¹ From 1985 until 2005, the case sat in the court system, caught up in a series of appeals regarding compensation for the Oneida's loss of land.

Shortly after the *Oneida I* ruling, the Cayuga Nation filed its land claim in federal courts in 1980 for 64,015 acres in Seneca and Cayuga Counties. The legal strategy employed by the Cayuga's lawyers named individual land owners as defendants in the case. Additionally, the case came about during a recession and growing farm crises in the United States. In other words, while the Cayuga Nation was asserting claim to their homeland, many current residents of Seneca and Cayuga Counties were already struggling to hold on to their homes, farms, and businesses.

Situating the Cayuga Claim within the Context of Non-Native Economic Land Dispossession

In her research on land claims in New York, Nelson notes "Most people, raised on old movie and television westerns, consider Indian land claims ancient history. News that Native Americans have filed suit to recover land currently occupied by non-Indians is usually met at first with disbelief and even treated as a joke" (Nelson 1994: 548). In addition to being perceived as a joke, many non-Native residents view land claims and land re-acquisition as a new phenomenon, an assertion from "out of the blue," even though Haudenosaunee Nations have continually sought the return of their lands (Hauptman 1986, 1999; Vecsey and Starna 1988). However, as the claims progressed the resulting cases were met with heightened resistance by non-Native residents.

¹ However, because the petitioners did not raise the issue of laches in their appeal, the court did not weigh in on whether or not the doctrine of laches applied in this case. Laches is a topic discussed at length in Chapter Four.

Resistance, negative opinions, and fear are rooted in more than just Native land claims, but rather compounded by other issues of economic insecurity. When the land claim was filed, residents in both Seneca and Cayuga counties were already experiencing an economic recession and the decline of family farming and manufacturing in the counties. For example, in 1950 there were 2,935 farms in Cayuga County with 353,569 acres under cultivation; the average farm size was 120.5 acres. In Seneca County, the more rural of the counties, there were 1,275 farms with 153,602 acres under cultivation and an average farm size of 120.5 (1950 U.S. Census Report). By 1982, the number of farms had dropped by over half to 1,174 in Cayuga County and 499 in Seneca County. However, the number of acres under cultivation did not drop by half (276,170 in Cayuga County and 124,304 in Seneca County); both counties are illustrative of the 1980s farm crisis (United States 1982 Community Survey). In the years leading up to the 1980s, American agricultural policy shifted from controlling production levels by sometimes paying farmers to leave fields fallow to a policy of overproduction with government subsidies for economic loss at the end of the season. As a result, agriculture developed into a big business, with large farmers buying out their smaller neighbors through a process of consolidation (Strange 1988).

Land consolidation in the hands of a few and land loss through recent agricultural economic crises can be an affront to place and identity. As Peggy Barlett (1993) has illustrated in her work with rural Georgia farmers, American rural identity is most often manifested through property and land. Similarly, Fitchen writes, “As the pace of farm failures and farm consolidations quickened, residents of rural communities expressed a

sense that what was happening was not only the loss of individual farms but the loss of farming as the basis of their own social and ideological identity” (Fitchen 1991: 245).

For example, in 2001 I interviewed family farmers in Cayuga County and was introduced to Jim and his assistant Dave who work as farriers in Cayuga County. At the time, Jim and Dave working for six medium size dairies; their largest employer was a medium sized—yet family owned—dairy in the small town of King Ferry. For thirty years, Jim witnessed dairy farming shift from small-scale, family-owned farms to large, big business operations. When asked about the then current struggle of family farmers in the county, Jim exclaimed, “it’s a crying shame.” During his lunch break, kneeling on the lawn by the side of his Chevy pickup in the dairy’s gravel parking lot, Jim opened his arms wide, as if he were embracing the farm; “I’ve seen farms like this go out of business suddenly.” Dropping his arms, he continued, “We work on two different farms, the big ones and the bigger ones. And the bigger ones are trying to eat up the big ones.” Jim’s assistant Dave added, “Dairies are going now. I feel sorry for the ones who don’t see it.”

When conversation shifted to the rural landscape of the county, Jim lamented, “It makes me sick to drive through these towns that had small stores when I was young. Now they’re dead. There is no such thing as a mom and pop grocery store anymore. It’s sad.” With an amused look on his face, Jim spoke of his former teacher who told him and his class that “one day you would see Auburn, Ithaca, and Cortland as one city.” Jim stopped smiling and continued, “We used to laugh and think it was funny. I don’t laugh anymore” (McCune 2003).

Auburn, Ithaca, and Courtland may not have progressed to urban sprawl, however the surrounding area that encompasses the small cities share the same characteristics that embody economically devastated landscapes—abandoned houses, collapsing barns, and socially and politically neglected villages and towns. As small family farms disappeared through consolidation, many manufacturing businesses closed or relocated out of Seneca Falls, Auburn, and even small villages like Union Springs. A quick drive through any of the cities and villages in both counties will yield a contrast between the wealthy tourist lakeside villages and wineries alongside empty factories, shuttered family businesses, and dilapidated barns.

Changes in the landscape, namely the industrialization of agriculture and changing economic conditions, changes ideology and threatens both the existence and identity of family farmers and small business owners; as Marty Strange writes, “At the heart of the process of industrializing agriculture lie the changes in the relationship between people and the land” (Strange 1988: 42). Changes in the land affect identity since constructions of place are so often tied to identity formation. Fear and loss of identity manifest themselves to an overall aversion to change in Cayuga County. As illustrated, often rural identity is tied to an autonomy, or control over land and land ownership (Barlett 1993); land is central to rural ideology and the loss of property undermines agrarian identity (McCarthy 2000).

While the overall U.S. economy in the 1990s grew at a fast pace, most of this growth was absent in rural Central New York State. In 1993, writer Deborah Tall reflected on the economy and landscape of the Finger Lakes;

This is wine country. But this is also poverty country. For all the fecundity of the vineyards and nearby corn and cabbage fields, the human habitat is in disrepair. Houses may boast a graceful colonial front, but around the side is the sagging porch holding a broken washing machine and a snarling dog, window fluttering with last winter's polyethylene covers, three or four wrecked cars stalled in the back yard...a damaged economy spackles the natural beauty of this land with rusting "For Sale" signs and sagging, unused barns (Tall 1993: 13-14).

Well before the most recent 2008 recession, the main and back roads of both counties were littered with real estate signs and foreclosures/bank auctions.

In 2000, at the height of land claim opposition, 13.9% (4,919) of housing units were vacant in Cayuga County and 14.6% (2,164) in Seneca County. Houses that are abandoned create an increased strain on the tax base. New York State has the highest tax rate in the nation; most taxes are regressive (not progressive) and create an increased burden on those living on fixed or low budgets. The 1999 median income in Cayuga County was \$37,487, with a poverty rate of 11.1%. In Seneca County, the median income was \$37,140, with a poverty rate of 11.5%. Although both counties had poverty rates lower than the national average of 12.4%, the poverty rate actually decreased nationally from 1989 to 1999, but increased in New York State. Cayuga and Seneca Counties were no exception; Cayuga and Seneca Counties saw an increase of 0.9%, up from 10.2% and 10.4% (respectively) in 1989 (1990 and 2000 U.S. Census Reports).

In recent years, the economy has not improved; in the most recent U.S. Census 2012 Community Survey poverty has increased in both counties: 15% of Seneca County's population lives in poverty with 22% of children living in poverty. The median household income is \$49,377 and 13% of households have incomes below \$15,000. In Cayuga County, the median income is \$50,782 with 10 percent of households making

below \$15,000. 12% of Cayuga County residents live in poverty; 16% of children in Cayuga County live in poverty. Both rates are still below the national average of 15.9% (U.S. Census 2012 Community Survey).

While poverty statistics are helpful for analyzing long-term economic trends, such data is not reliable for understanding quality of life and economic security. The data sets I presented were compiled after the 1996 Federal Welfare Reform, which lowered the income threshold for poverty. As a result, there are many families struggling to meet daily expenses who are not considered to be “poor” and furthermore are not eligible for many federal and state social welfare programs. Many sociologists argue that families just above the poverty line (of which there are many in both counties) struggle more because of their ineligibility for state and federal aid (Seccombe 2011). For example, while only 12% of Cayuga County residents and 15% of Seneca County residents are officially categorized as “poor” by federal and state governments, the poverty threshold is far from a living (or “survival”) wage. Massachusetts Institute for Technology’s living wage calculator, adjusted for each county’s cost of living (housing, food, transportation, etc), places a living wage for a single person in Cayuga County at \$18,740.80 and \$19,484.00 for Seneca County. A single person with just one child needs to make \$41,932.80 in Cayuga County and \$42,785.60 in Seneca County to comfortably cover an annual cost of living (MIT Living Wage Calculator). In 2012, 23.1% of families in Cayuga County had annual incomes below \$35,000 compared to a slightly higher 25.4% in Seneca County (U.S. Census 2012 Community Survey).

In sum, the Cayuga land claim came about during a period of larger economic insecurity for non-Native residents of Cayuga and Seneca Counties. Uncertain rural economies and threats to land use and property rights result in a variety of social consequences. In this case the social consequence is bitter conflict over the exercise of Haudenosaunee sovereignty. Competing definitions of place—and struggles to regain and/or retain place—result in various forms of conflict; place is sometimes negotiated and other times fought brutally over. Likewise, conflict also serves to enhance attachment to place and crisis—both economic and personal—strengthens people’s attachment to place (Barlett 1993; Stewart 1996).

Cayuga Land Claim and Land Claim Opposition - 1990s to Present

In the 1980 Cayuga land claim, the Cayuga Nation filed its claim against the counties and 11,000 landowners in the 64,015 acre land claim region. At the time, each individual landowner was issued legal papers. Furthermore, the initial legal strategy employed by the Cayuga prosecution was the ejectment of current landowners. Since the interpretation of the Nonintercourse Act does not allow for restoration of land and because, under the Eleventh Amendment, tribes are not able to sue states, one of the remaining legal options is to include landowners as plaintiffs in land claim cases. It was not until 1992 that the United States entered as plaintiff-intervener thereby allowing the Cayuga Nation of New York and the Seneca Cayuga of Oklahoma to directly sue New York State (Halftown 1998).

The threat of eviction is often evoked by local media and opposition groups when landowners are named as defendants. While land that is still held in title by tribes (e.g.

the United States never extinguished title) can theoretically be restored by evicting non-Native residents, eviction has never served as a resolution for a New York State land claim. According to U.S. law, courts can either settle claims by specific relief—restoring the actual land—or by substitution relief—usually through monetary awards (Green 2003). Unless the land in question is owned by the state, all successful land claim cases have resulted in substitution relief. However, UCE (and previous anti-Indian sovereignty groups in Central New York) cling to the fear generated through specific relief and frame their arguments against land claims through the threat of eviction—discursively positioning non-Native residents as “innocent landowners.”

Addressing the potential threat of eviction, early in the case, U.S. District Judge Neal P. McCurn ruled “no private landowners will be evicted from property upon which they are currently residing” (199 F.R.D. 61 (N.D.N.Y. 2000)). Drawing upon the cases *Yankton Sioux Tribe v. United States* and *Felix v. Patrick*, McCurn continued, “it is unfathomable to this court that the remedy for such harms, if proven, should be eviction of numerous private landowners more than 200 years after the challenged conveyances” (199 F.R.D. 61 (N.D.N.Y. 2000)). Even though ejectment was off the table, state sovereign immunity contributed to further local tensions; because Native Nations are often barred from suing states, rural and financially strapped counties are named as defendants. In sum, what may be viewed as inadequacies in the legal system in regard to tribal participation in turn feeds opposition of land claim cases. In retrospect, if the Cayuga Nation had the option of bringing suit directly against New York State, instead of counties and individual landowners and businesses, perhaps non-Native perceptions of

“victimization” could have been avoided. Unfortunately, the Cayuga Nation was limited by no such legal recourse.

One option in handling land claims (and avoiding direct litigation against counties) is settlement, but while settlement is an alternative to avoid lengthy court cases and expensive legal bills, in order to offer a settlement, small communities are dependent upon state involvement through the infusion of funds (Nelson 1994). The most economically challenged counties are often rural and state settlement (especially in New York) is difficult to negotiate. Rural counties do not have the political leverage of larger urban areas and as a result, politicians often ignore calls for settlements (Nelson 1994). As I will discuss in Chapter Four, the inability for New York State to seriously negotiate a settlement creates adversarial relationships and further contributes to land claim factions; “court battles exacerbate tensions among the tribe, state, and local residents, often leaving bitter resentment that impair future relations (Nelson, 1994). While the federal and state governments usually cover the settlement amount, local communities are still left with the burden of legal fees (see 25 U.S.C. s 11771a(c) (Supp. V 1993), 25 U.S.C. s 1724 (1980), and 25 U.S.C. s 1754 (1986)). For example, 1986 to 1994 legal fees for the defendants in the Cayuga land claim totaled over \$1 million; since the state was not named as a defendant the local community was responsible for the legal fees (Nelson, 1994).

In 2001, over 20 years since the initial filing, Judge McCurn ruled in favor of the Cayuga and the Cayuga Nation was awarded over \$248 million for the loss of land through New York’s violation of the Trade and Intercourse Acts. The decision was

quickly appealed; the counties and state clearly disagreed with the ruling, while the Cayuga Nation took issue with the amount of compensation. The case sat in appeals in the Second Circuit Court until the *City of Sherrill* case changed the entire legal landscape in 2005.

While the Cayuga and Oneida cases were in appeals, both Nations began buying up land (on the open market from willing sellers) in their historic reservation boundaries and taking the acquired parcels off of the tax rolls. In Oneida and Madison Counties, the Oneida Nation built a large Class III - Las Vegas Style gaming facility on purchased land as well as numerous tax-free gas stations and tobacco stores (in addition to other forms of economic development such as a golf course, resort, etc.). Oneida and Madison Counties began foreclosure proceedings against the Oneida Nation for unpaid taxes which resulted in the court case *City of Sherrill v. Oneida Indian Nation*. The Oneida Nation, using *Oneida II*, argued that the land had never ceased to be reservation land because New York State failed to follow the Trade and Intercourse Acts in its land deals and as such, any land purchased by the Oneida Nation automatically reverts back to reservation land, which is tax exempt. The Northern District Court sided with the Oneida Nation, as did the Second Circuit Court of Appeals; in the nearly identical case in the Northern District Court revolving around Cayuga land purchased during the same period, Judge Hurd ruled, "Since Congress has not divested the Cayugas [sic] of their title to the land claim area, it stands to reason that the reservation status of that land remains in place to this day" (*Cayuga Indian Nation v. Village of Union Springs* 5:03-

CV-1270, 2004). However, the case was heard by the U.S. Supreme Court and, despite victories in the lower courts, was decided against the Oneida Nation.

In the Supreme Court case of *City of Sherrill v. Oneida Indian Nation*, the court held that substitution relief cannot be used to expand or establish a homeland. As Justice Ginsberg noted in her majority opinion,

Given the longstanding, distinctly non-Indian character of central New York and its inhabitants, the regulatory authority over the area constantly exercised by the State and its counties and towns for 200 years, and the Oneidas' long delay in seeking judicial relief against the parties other than the United States, standards of federal Indian law and federal equity practice preclude the Tribe from unilaterally reviving its ancient sovereignty, in whole or in part, over the parcels at issue. The Oneidas long ago relinquished governmental reigns and cannot regain them through open-market purchases from current titleholders...

...The Oneidas did not seek to regain possession of their aboriginal lands by court decree until the 1970s...And not until the 1990s did OIN acquire the properties in question and assert its unification theory to ground its demand for exemption of the parcels from local taxation. This long lapse of time during which the Oneidas did not seek to revive their sovereign control through equitable relief in court, and the attendant dramatic changes in the character of the properties, preclude OIN from gaining the disruptive remedy it now seeks.

The Supreme Court ruled that the Oneida Nation had waited too long to exercise sovereignty (in this case taxes) over their land. While this case centers on issues of taxation, the same doctrine of laches was applied by the Second Circuit Court to both the Cayuga and Oneida land claim cases; the Second Circuit Court equated taxes to sovereignty and land title and the Cayuga and Oneida cases were dismissed.

Non-Native Reaction to City of Sherrill and the Second Circuit Dismissal

The day of the Second Circuit decision which ended the Cayuga Nation's 25 year long land claim, I received an email from Rich Tallcot, the chairman of the Seneca/Cayuga chapter of UCE, with a subject line "It's Party Time!" and read,

BREAK OUT THE CHAMPAGNE !!!!!!!

WE WON THE CAYUGA INDIAN LAND CLAIM !!!!

NO LAND - NO MONEY - ALL TRIBAL CLAIMS DISMISSED

The email was sent out to the entire Seneca/Cayuga chapter membership and Rich had added me to the list serve. I quickly emailed Rich back and asked if he was planning a celebration party. The next day he responded:

A bunch of us are getting together this Friday July 1st 6 p.m. at the SMS on Rt. 414 in Seneca Falls to celebrate. You're welcome to join us.

The SMS is a bar/meeting house just outside of Seneca Falls. At the height of land claim opposition, UCE meetings held on its second floor would draw over a hundred people.

When I arrived on July 1st, the parking lot was full. Many vehicles were adorned with UCE bumper stickers, the most popular of which is bright yellow and reads "Boycott Cayuga Tribal Enterprises." Another bumper sticker on the back of an old pickup truck, "Should you trust the government? Ask an Indian." As soon as I opened the door on the side of the meeting hall, I could hear the loud chatter of people talking and laughing and I followed the noise down the stairs. Behind a second door were 40 or-50 people. I was the youngest by about 40 years. To my right, a round table was set up and displayed all of the week's headlines. Seven people stood around the table reading the articles. One of the older women held up the local paper, *The Citizen*, with two other

women reading intently over her shoulder. From where I stood, the large headline “Deal Breaker” all but covered their three gray heads. The paper shook as the woman laughed and smiled at her friends and she recounted the highlights of the article.

As I walked toward the bar, passing groups of UCE members, I picked up snippets of conversation. Most of the conversation was repetitive; I passed a local politician explaining, “I believe in complete equality for everyone; it’s as simple as that!” and an elderly woman who kept saying, “I can’t believe it! The day has finally come when we have won!” When dinner arrived (pizza from a local Seneca Falls restaurant), I sat down at a table covered with newspaper articles and photos of members testifying at local and state land claim meetings. The event felt somewhat like a high school reunion.

I was soon joined by Oscar and Gloria. Oscar was 89 years old at the time and had a friendly face that comes to some with age. He is easy to talk to and introduced me to his wife. Gloria told me all about their family and their grandchildren who now operate the family farm. “They are six or seventh generation. That’s longer than the Cayuga were here!” Soon Larry and Gwen, a middle aged couple, joined our table. All four were quick to discuss their opinions on Indians and the land claim;

Gloria: “There are the wild Indians and then there are good Indians. You can’t generalize because it is not fair to the good Indians—they are out there.”

Gwen: “But what about the Indians who are making money from the Casinos, they don’t give anything back to the people”

Gloria: “That’s not true, some of them do. There is a man I know in Florida who is Indian and he goes back to Oklahoma for doctor’s appointments and his prescriptions. They built hospitals and pharmacies for the Indians out there with casino money and it is helping the Indians.”

Gwen: “Well that’s good. That is what they should do.”

The mood of the party was celebratory, but many members were already discussing lingering challenges in their fight against Haudenosaunee sovereignty.

After dinner I said goodbye to Rich; “You are leaving? You can stay you know.” I felt awkward staying since they were all beginning to drink; I didn’t want to observe anything or take notes while they were tipsy. Phil, UCE’s secretary, came up to me and shook my hand, “Thanks for coming. We’re not all bad, are we? You don’t think we are bad people do you? Some people think we are horrible. You don’t think we are horrible, do you?” I remember briefly hesitating before I told him “No,” thinking to myself that motivation behind anti-Indian sovereignty activism is more complex than “good” or “bad.”

Conclusion

History of land loss motivates both the Cayuga Nation and non-Native residents to assert, and fight for, land rights. Motivated by economics and shared rural identity, UCE both prides itself in its “fight” against the Cayuga land claim and Haudenosaunee sovereignty. At the same time, UCE is also conscious of its public image—as evident by the final quote in the ethnographic vignette above. What began as a series of small groups reacting to a local “threat” of Cayuga sovereignty, has grown into a longstanding, organized, and nationally networked grassroots movement with a mission expanded well beyond the initial land claim.

Even before the Cayuga land claim was dismissed by the Second Circuit Court, UCE had already engaged in goal displacement—actively organizing not only against

local land claims, but also the larger issue of Indigenous sovereignty. The local “threat” of Cayuga land has shifted to a general fear of Indigenous sovereignty—now interpreted by UCE members as greater threat to United States nationhood and their economic livelihood. In the next chapter, I outline the rise of Upstate Citizens for Equality and present the motivation of members through their own words and ethnographic examples. For most CE members, the reversal of the Cayuga and Oneida land claims did little to alleviate potential socioeconomic threats that they see linked to the exercise of Haudenosaunee sovereignty.

Chapter Two – Landowners “Held Hostage”: Upstate Citizens for Equality

As outlined in the previous chapter, Central New York has been hit hard by the continuing downward economic spiral of agriculture. Today, Cayuga and Seneca Counties contain disparate lives; the lakefront full of large vacation homes and lake view vistas covered with grapes—feeding the very popular Finger Lakes wine industry. Further up the ridges on either side of the lake are pockets of hidden poverty; once the water view disappears, so do the pricey homes and tourist driven businesses. At the tops of the ridges are large ornate farm houses that were constructed during the height of the Erie Canal, but the railroad and trucking industry carried agricultural wealth—albeit fleetingly—further westward, leaving in its path deteriorating mansions encased within corn and soybean fields.

UCE members Bob and Michelle bought an all but condemned Georgian Revival farmhouse in the early 1970s situated on the western ridge of Cayuga Lake. A long sliver of the lake is visible from their kitchen window and in the evening the view is breathtaking. One evening they showed me photos of the house before, during, and after its restoration. Bob learned how to roof, insulate, and wire over a ten year period. “The first year we had to live with my parents because we discovered that the wall facing the lake had been infested and eaten away by bees,” Michelle told me while flipping through the photo album. Now, nothing remains of the original woodwork or decorative front porch; most of the woodwork was lost to inclement weather before Bob and Michelle purchased the abandoned house. “We put a lot of work into this place, but we can’t move. This area is zoned agricultural, and we will never get enough money to move

somewhere else” Michelle explained while Bob just shook his head. In an attempt to encourage agriculture, Seneca County designated the region as agricultural land, thereby ensuring low acreage prices—conducive to farming but not to home investment. At the time, Bob rented out a good portion of his 100 acres to neighboring farmers; “I don’t make a lot from it, but it pays some bills and allows them to keep farming.” Michelle and Bob may express remorse over their inability to pick up and move—preferably to a warmer climate—but they also emphasize their strong connection to the land; “I raised a family here. My wife’s family is here. This has been a good place.” When I comment on the beauty of their property, Michelle quips, “Yeah, that’s why we don’t want to give it to the Indians.” Michelle’s sentiments are echoed by other residents; an August 11th, 1999 letter to the editor of one of the local papers stated, “...well-kept farms dot the country landscape. These improvements have a value far and above the wilderness they replaced.”

For many residents, each year is another struggle to stay financially afloat. The slow demise of small, family farming agriculture and manufacturing has had far reaching economic consequences leading to increased unemployment and an eroding tax base. For those living with mortgages and economic insecurity, the land claim—and Cayuga sovereignty in general—are viewed as legitimate threat to their livelihood. At a June 2007 public meeting in Seneca Falls in regards to a possible settlement between Cayuga and Seneca Counties and the Cayuga Nation, two men chatted before the meeting began; “If things get too bad, I still have my truck. I can pick up and leave.” A second man

said, “You can do that because you are still renting.” “Always have,” the first man replied.

~

The purpose of this chapter is to provide narrative background on UCE and its members. In doing so, I employ a narrative style to give the reader a detailed description of UCE members and meetings; in doing so, the themes of victimization, citizenship, and ideas about “equality” and “fairness” are first introduced through UCE voices and later analyzed in subsequent chapters. Presentation of UCE voices in this style serves several purposes. First, it humanizes members of UCE. Before picking apart discursive strategies and presenting underlying neoliberal and legal foundations of anti-Indian sovereignty discourse, it is important to remember that the voices behind the academic analysis are real people. This line of narrative description reflects McClusky’s approach to “rehumanizing research” (McClusky 2001: 19). Second, I promised UCE members that while they might not agree with my analysis, I would make sure their voices are present in the work. With that said, narrative ethnography still undergoes a process of editing and analysis, it is “not raw data, but rather is carefully chosen and presented” (McClusky 2001: 15). In compiling this chapter, I have carefully selected descriptions, portions of interviews, and vignettes from meetings that best represent the voices and views of UCE members.

Origins of UCE

Most UCE members trace their involvement with anti-land claim groups back to when the Cayuga and Oneida Nations served individual landowners with legal papers.

June is one of the youngest UCE members that I observed attending meetings. She remembers her parents being served with papers naming them as defendants in the Cayuga land claim case;

I first heard about the land claim when my parents were served with the papers. When I say served, I mean they received them in the mail. And actually I have a copy. I have the original that they had. My mom gave it to me. I was younger than you at the time. I was a teenager and it's like "Wow." It's [still] kinda hard to comprehend that after so many years. The history that we are taught in school, when you think about it, that people are being sued for their land. That they don't legally own it. Fraudulent things. You just kinda shake your head and wonder, what's going on here.

David Vickers, president of the Oneida Madison Chapter of UCE, also pointed to the lawsuit as the main impetus behind people joining the organization;

An awful lot of our membership stems from the 1998 decision of the Oneidas to sue 20,000 land owners. That was a huge political mistake on their part. They sued them for ejectment—throwing them off the land. That caused our membership to swell.

Many of the people I talked to remembered being confused and either dismissive or fearful about a potential outcome.

Rich Talcott was the longtime chairman of the Cayuga/Seneca Chapter of UCE when I conducted my fieldwork. He greets everyone he meets with a smile and a strong handshake and I often describe him as the kind of person you would be relieved to see if your car had broken down at the side of the road—no nonsense, but friendly and helpful. During meetings his smile quickly changes to a look of stern anger; anger with New York's governor George Pataki, anger with local politicians, and most of all anger with what he perceives as a threat to private land and jobs. This anger drives Rich to research Federal Indian law, lobby in Albany and Washington, and write countless memos, letters

to the editor, and letters to local, state, and federal politicians. Since 1997, Rich's life has been dedicated to "fighting" the Cayuga land claim. His mantra—and email signature—is "Fight Like Hell."

Although he has spent his life in Central New York, Rich was not always involved in Native American issues. Rich currently works for the Village of Union Springs; he grew up in neighboring Onondaga County and moved to Cayuga County to work at TRW, a factory in Seneca Falls. As he recounted his employment in Central New York, he named a long list of now closed or relocated manufacturing companies, from bakeries to factories. After listing each, he said with a chuckle,

So there hasn't been any place that I've worked in this state that's stayed here. The bakery, Freihofer, bought them out and they just truck in from Pennsylvania. So this is the only job I'd ever had where I can actually wind up with a retirement out of it, if the village doesn't get taken over before I retire.

Rich's employment history is not uncommon, as many Central New Yorkers have moved from one manufacturing job to another as companies move from New York State, down south or even overseas.

Unsatisfactory working conditions and the instability of manufacturing lead Rich to invest in his own small business. While working at one factory, Rich married his second wife, who was a fellow employee. Together they decided to open their own business, a small bookstore in Union Springs. At this point Rich was unaware of the Cayuga Nation's land claim.

But when she bought the place, well when we were thinking about buying it—she was aware of [the land claim] because she'd been served the papers. Which I didn't know anything about. She said, "Well I'm just concerned because it's a land claim." And I said, "Land claim? What's

that?” It didn’t make any sense to me; totally illogical. [Laughs] I didn’t see a problem. We only paid about \$18,000 for the building and I put about that much into it. I think it was about ’78. She was all concerned because [a friend had told her] that nobody has to be evicted, you just transfer the deeds at the court house. You just pay the tribes what you’re paying in taxes. And she got all excited over it.

Rich and his wife had decided “we could either accept a settlement, be evicted, or pay rent” (McCune 2003). They decided to challenge the claim and organize community members with similar concerns. The group started with roughly six people sharing information, because as Rich notes “we all had the same questions.” In late summer/early fall of 1997, twelve people began meeting regularly;

...we started going to a few meetings, must have been in August. There were different people holding different meetings, running for elected office. One of the meetings we met up with Mel Russo, from the other side of the lake, and spoke finally. [My wife and Mel] had the same concerns. So we decided to start having meetings. We met in the bookshop... There was initially about twelve of us that started going to meetings at least once a week for probably three or four months

Rich laughs as he recalls how the group “spent six meetings arguing over what name to give ourselves.” In November of 1997, the group decided on the name “New York State Residents for an Equitable Resolution to the Land Claim”—shortened to the abbreviation of NYSER (McCune 2003) The actual purpose of the group remained undefined.

I tried to get it decided, well, do we actually want to form a group or just get together informally. We should have a set of bylaws, and somebody’s got to write them up. A lot of the people at that time were really scared as far as having their name known, that they were associated with it. Because they thought, “Well the government’s gonna...”; well, they were paranoid. So everything was totally formal. Nobody’s name was listed for a long time. As far as motions, it would say a motion was made and seconded.

The paranoia of group members was not directed towards the Cayuga but towards the federal government—as Rich recalls, “Well, what [is the Cayuga Nation] going to do? Come knock on the door and evict us? It’s just not going to happen.” Group members were cognizant that the position they were taking ran contrary to the legal position of the United States, as the federal government had entered into the claim by intervening on behalf of the Cayuga Nation. This is reoccurring theme in Rich’s leadership of the Seneca/Cayuga chapter of UCE; his opinion is that county residents are not fighting Indians, but rather the federal government.

Before his involvement in what would become UCE, Rich (like other members) did not have a lot of background in Native American issues or much personal experience with actual Native Americans. I asked Rich how much knowledge he had about Native Americans before becoming active in the land claim;

Nothing. Well, I won’t say nothing. I was an officer, secretary and then president, of the Syracuse chapter of ABATE (American Bikers Aimed Toward Education) and then state coordinator. So I would say that my basic involvement with the Indians was with the Onondaga tribe in Syracuse. I worked with them to have a forming point for the motorcycle rally to form up on so that the cops couldn’t touch us. So I thought that was pretty neat. [Laughs]...[Now] I have personal one on one relationship with a chief there. As far as personal problems, tribal problems, alcoholism, how to deal with that and how do you relieve tensions and have people get along. I mean, they’re people just like anybody else. I wholly believe the same as George Ferron (a Cayuga County politician); people are people, it doesn’t matter. It’s the inequalities being forced on us by politicians to think that everybody has a price.

Rich admittedly had limited interaction and knowledge regarding Native Americans in general and the Haudenosaunee specifically. Upon starting NYCER and becoming more

active in early land claim opposition, Rich and his wife decided to take a road trip to gather first hand information. Rich recalls,

We went through the Onondaga reservation, not that we hadn't been there before, but we started out with. It's...you know...there's all these junk cars piled all over and buses and unkempt yards. We went from there up to the Mohawk reservation. And we saw all the signs, "No FBI" "No State Police," "This is not America," "Yankee Go Home," or whatever. And we saw them, well actually they'd started filling in the wetlands there to put up a casino—which nobody else could have done.

We went over into Vermont, and talked to people. They were dealing with the Abenaki Sioux, which are still trying to get federally recognized. Then down to Ledyard, Connecticut and we talked with the business owners around there. And they all said "The only difference we saw was that the property values dropped. The immigration went out of sight. The only people who stop anymore are asking directions to the casino; they go there and they leave." And we heard about all the political maneuverings involved. I said, "How did you put up with it?" But they just, they didn't get together and fight it until after the fact. And after the fact is too late. They agreed to the settlement, which is standard procedure throughout the country and then they tried to stop the trust applications.

So we came back, [my wife] and I were both probably more depressed than we had ever been in our lives. Really. Normally one offsets the other. [Laughs]. But this was not good. So we figured, well we met with [people], and well, this is going to be war. And we are not going to be fighting the Indians, we are going to be fighting federal marshals. So I got prepared to do that. And we took a stand, "We are not going to back down" and we just kept pushing. We realized it was the politicians that were basically our enemies, and not the tribes.

Rich and his wife returned from their trip feeling better informed, but more committed to fight what they perceived as racism and inequalities perpetuated by federal Indian policy. Early on, it is clear that Rich had both positive and negative feelings toward sovereignty and reservations; reservations were a place to evade New York troopers, but also a place of severe inequality and social problems. At the same time NYCER was meeting, a

similar group—Upstate Citizens for Equality—was forming in Oneida and Madison Counties.

NYCER and UCE were not the first anti-Indian sovereignty organizations in the area. At the outset of the Cayuga Nation's claim in 1980, many groups formed and then dismantled. In the 1980s, two groups, the Cayuga Seneca Property Owners Association (CSPOA) and the Seneca County Liberation Organization (SCLO) organized and met regularly to oppose the claim. Early opposition was directed at both the Cayuga Nation and state and federal governments. A June 11, 1980 *Auburn Citizen* front page included the Citizen's mascot cartoon crow giving the following advice, "Cayuga Crow says 'One quick solution to the Indian land claims issue would be to have principals of all the parties involved run the gauntlet'" (Auburn Citizen 6/11/80).

Anger towards New York State and the federal government had not dissipated by the 1990s. Rich discussed a possible merger with UCE at NYCER meetings in 1998.² He remembers thinking "Well there is only a dozen of us, maybe it is wise to join another group, we've all got the same theme and goals in mind. That way we can claim we have 1,500 members to try to get more clout." June recalls attending some of the early meetings of the newly formed Cayuga and Seneca County chapter of UCE; "People were getting together and having meetings. And eventually in summer of '99 is when UCE formed. When people decided to go that way. I got involved." At the time, she remembers that UCE was not popular in the press and linked this to a problem of internal organization;

² According to founding UCE member Scott Peterman, the Oneida/Madison chapter of UCE was formed on March 5, 1998.

Some people have never been involved in anything in their life. But I know from working with a non-profit organization that you really do need to have a mission. A goal. A direction...UCE really needed a press kit. Really needed to define who they were and what they stood for. Because at the time, they were taking a pounding in the media. Being called racist.

Accusations of racism are still commonly directed towards UCE. June answered to those charges;

I have yet to meet anyone in that group who is racist. They are very angry in their government...not only federal government, because they are suing them, but also the state government for not defending them. And I think that's where their anger is focused on. But people misinterpret that and think they are angry at Native Americans. They would not mind having Native Americans as neighbors. But if they felt that their government was treating them equally, it would be great. But, they are being told that the federal government and the state government treats Native Americans differently. And that's the way they will be treated. We're taught from the first day of school basically that this is the land of freedom, opportunity and equality and this whole thing goes against what everyone has been led to believe all their life.

With equality as their rallying cry, UCE expanded to Cayuga and Seneca Counties grew their membership. The first public information meeting was held in February 1998, and the Cayuga/Seneca chapter signed up over 1,200 people. In 1999, it was not uncommon for UCE sponsored open meetings to draw crowds of over 500 people. The popularity of the group spread westward and in 2000 the Niagara/Frontier chapter was added; by 2007, UCE boasted a membership of 14,000 between the three chapters (UCE 2007).

During the height of land claim opposition in the late 1990s, Seneca/Cayuga chapter meetings drew an average of 150-200 people. Public rallies numbered in the hundreds. While UCE claims a large membership, not all members are active. One community member told me,

They were at a fair with a petition and asked if I was against the Indians taking my land. All of a sudden I was a member of these Upstate Citizens. I agree with most of what they say, but they are too extreme...like attacking Nozzolio (a local state senator). I'm not into that. I think there are less extreme ways to go about this.

Another member recalled,

I have to say though back in 1999 and 2000 when UCE was even more active there were younger people involved. Now the core of diehards who just keep staying at these meetings are mostly seniors and you've seen that. I think it's just part of life itself. People who are younger have kids and they just can't do everything and they worry about what they need to worry about up front first. Their kids. Their house payment. Their job. After that when you get older you are more apt to volunteer for different activities or be involved with some kind of community organization that is not related to your kids. You have to go through the girl scouts, baseball and things like that. Some of the protest marches that they had. People would bring their kids and their kids would march. That was back then. But they can't constantly do that. I can see a child kinda get tired of being dragged like that. You know "I'm not doing that!"

By 2005, the group still met regularly but active membership had plummeted to less than 30 people in the Cayuga/Seneca chapter. Rallies still drew larger crowds, but with the City of Sherrill decision and subsequent Second Circuit Court dismissal, even public events waned in number.

UCE Meetings in Cayuga and Seneca Counties

Once or twice a month, ten to twenty members of the Cayuga/Seneca Chapter of UUCE gather to discuss the status of the Cayuga land claim. In the summer of 2005, the group consistently met twice a month, alternating their meeting location between Union Springs in Cayuga County and Canoga in Seneca County. By 2007, UCE was only meeting once a month in Canoga. The Village of Canoga is located on Route 89 and is extremely small—I drove right through it the first time. All along Route 89 are UCE

signs, as well as historical signs chronicling the Clinton/Sullivan Campaign, and 1930s New York State historical markers that designate sites of interest, such as “Red Jacket’s Landing,” just outside of the village.

The firehouse, where UCE meets, is on the west side of Route 89. A large sign along the road and in front of the firehouse advertises upcoming community chicken barbeques. When I pulled into the parking lot there were four cars, all older models. One had an “Impeach Pataki” bumper sticker. Five minutes after I parked, Rich Talcott arrived along with two other cars. Rich’s older model GM minivan sports UCE decals on the sides of the rear windows, an “Impeach Pataki” bumper sticker, as well as “Boycott Oneida Enterprises” and “Boycott Cayuga Enterprises” and the usual anti-Indian land claim bumper sticker; “No Indian Land Claims.”

At the beginning of UCE meetings, Rich sits at the front of the meeting hall at a folding table reserved for the chapter officers. He empties his manila folder, divides papers into piles in front of his seat. One pile is usually recent newspaper articles and another is a pile of Indian related stories circulated by CERA (Citizen’s Equal Rights Alliance), a national anti-sovereignty organization that Rich serves as a board member. The piles vary depending on meeting. Sometimes there are bills introduced by Congress, letters written by UCE leaders to local politicians, and statements from local politicians.

Members, mostly middle-age to elderly couples, mingle and take their seats as Rich sifts through his papers, getting ready for the meeting to start. He calls UCE meeting to order with the pledge of allegiance. The chatting stops and everyone rises from their seats and place their hands over their hearts.

I pledge allegiance to the flag,
Of the United States of America,
And to the Republic for which it stands,
One nation,
Under God,
Indivisible,
With liberty and justice for all.

When I first started attending meetings in 2002, members emphasized “one nation,” almost shouting the words. More recently, the emphasis on “one nation” has disappeared, however many members look forward to reciting the pledge. “It’s my favorite part of the meeting,” one man told me. Another, entering the firehouse late, stated, “Oh good, I didn’t miss the pledge!” Rich laughed and said, “Don’t worry, sometimes we say it twice.” Two years earlier I recited the pledge twice with the group when a soybean farmer arrived late and asked for the pledge to be repeated; “Sorry, I was busy in the field and lost track of time.” Near the end of the summer in 2005, the meeting house in Union Springs had accidentally booked two meetings for the same time slot, and UCE met outside. Aside from the onslaught of mosquitoes, many members were worried when they could not find a flag. The problem was solved quickly: Tom—a long time UCE member—volunteered his shirt as a stand in for the flag. His shirt, commemorating an annual golf outing, had a large American flag printed on the front. Tom stood beaming as the twenty members recited the pledge to his shirt.

After the pledge, the treasurer gives a report on the group’s finances. The Cayuga/Seneca chapter has a checking and savings account; in any given month, the total for both is around ten thousand dollars. UCE relies on donations and money earned from their semiannual bottle and can drive, as well as periodic garage sales, to cover operating

expenses. In the late 1990s, the group rented out a store front in downtown Seneca Falls. Now materials for mailings and rallies are stored in members' homes or in a small trailer. From 2005-2007, the main expenses were mailings and travel money to cover Rich's involvement with Citizen's Equal Rights Alliance (CERA), a national anti-Indian sovereignty organization.

A few times a year, Rich traveled to Albany and Washington D.C. to meeting with CERA members and lobby politicians. At the March 2007 meeting, a member asked Rich about a recent CERA lobbying trip; "Did you get any feedback on the handouts at the CERA conference?" The Cayuga/Seneca chapter of UCE had produced and printed handouts to be included with CERA lobbying material. Rich answered, "Carol Kelly, she's a Salamanca evictee on the board, she liked the handouts and put them in the CERA packets to go to the legislators."³ He continued, "We lobbied every Congressional office. We got the information out there." A woman interjected, "That's worth a thousand bucks right there!" Rich replied, "Well the Oneida spent \$400,000 in lobbying this year." Mimi, the group's treasurer added, "When you don't pay your taxes, you can do that."

At the same meeting, Phil, UCE's secretary, read an email from Rich regarding the need for a new computer. In the email, Rich noted that 95% of his need for a computer is UCE related. He wrote, "I make posts on the forums to counter the pro-tribal propaganda." Phil asked that UCE cover the cost of a new computer for Rich. "Money

³ In 1991, ninety nine year leases for non-Native residents and businesses in the City of Salamanca, NY expired with the Seneca Nation of Indians. The city of Salamanca is predominantly white and located within Seneca Nation's Allegany Territory. Sixteen individuals, all members of the Salamanca Coalition of United Taxpayers (SCOUT), refused to sign new lease agreements with the Seneca Nation and were removed from their homes by U.S. Marshalls.

well spent!” a woman interjects. Rich modestly stated, “I wasn’t going to ask for it, but I won’t turn it down either. I’ve just had two caps and a root canal. That’s three grand right there.”

A large portion of each meeting is devoted to Rich updating the group on upcoming legal cases and pending decisions. Throughout the month he collects news articles locally and from around the country and informs the group about issues related to Indigenous sovereignty in other states. Sometimes he reads entire articles, and other times he reads headlines and then inserts commentary. His commentary ranges from is critical, to the point of hostile, to even empathetic. When he read a headline about a tax protest held by the Seneca Nation of Indians in Buffalo, he admonished the Seneca; shaking his head in disgust, he said, “You’ve got five United States Supreme Court justices saying the state can tax.” Later, he read an article about the Shinnecock Nation’s attempts for federal recognition; “The Shinnecock Tribe is waiting to be recognized, considering they lost their lawsuit.” Rich said. Mimi briskly chimed, “Let them wait!” Rich said, “Oh, they were ripped off.” Mimi conceded, “Yeah, I agree with that.” Rich continued, “Congress ripped off the tribes just as much as they ripped off our social security.” Rich does not lead the group authoritatively, but many members look to him to form their opinions about issues.

Not all members agree with Rich’s views; points of divergence usually boil down to political affiliation. Rich is a conservative republican, and while most members are republican, some members do identify as democrats. At one meeting, Rich was discussing a local politician who advocated for the counties to settle with the Cayuga

Nation. Rich sneered, “Well, he *is* a democrat.” “Oh, they’re not all bad,” Mimi said dismissively. To which George, a democrat, said “She took the words right out of my mouth!” Because the group is narrowly focused on fighting Indigenous sovereignty, larger disagreements in terms of political association are rare. However, while the group is united against sovereignty, there are some disagreements on how UCE should interact with the Cayuga Nation.

Potential Neighbors or Terrorists?

When I first began attending meetings I usually sat next to an elderly couple Harry and Evelyn. Harry is UCE’s historian and a self-proclaimed Mohawk; “I’m 1/16 Mohawk on my grandfather’s side.” He has been researching the history of the Cayuga Nation for years and carries a folder with him to meetings and gives all new visitors to meetings a packet of “correct historical facts.” The various facts are written by Harry and his friend Dr. Hickman, a former Eisenhower College professor (a now defunct college in Seneca Falls). Their papers argue that the Cayuga Nation was never really a nation, but rather a group of nomadic people who voluntarily left the region after the Revolutionary War. His position on the land claim, like all others, is unique. When he speaks during meetings, his usually calm voice becomes raised and authoritative.

Shortly after the Second Circuit Court reversed and dismissed the Cayuga claim, Harry suggested that UCE take an ad out in the local paper and lead a fundraising effort to build a Cayuga longhouse in the vicinity of the land claim region; “It would be a good gesture. It would show that we are good neighbors; no hard feelings.” Other members scoffed at the idea; “There’s already a longhouse at Ganondagon. Tax payers are already

spending too much money on these things, we don't need another one. We won, they didn't." Yet, Harry maintained—even after years of fighting the claim—that UCE should lead an effort to heal wounds between local residents and the Cayuga Nation.

Most active members dismiss the olive branch approach, and as illustrated in the introduction, sometimes UCE members' critique of sovereignty can take a violent tone. At a 2007 spring meeting, Rich read an article about an upcoming Seneca Nation tax rally in Irving on the Cattaraugus reservation. He turned to Phil and said, "It's May 22nd, if you want to go." Phil sarcastically replied, "Yeah right, I'll gas up tomorrow." The group then began discussing Governor Spitzer's intent to tax Haudenosaunee cigarette sales. Rich read an article to the group that said, "It might not be an easy task." He quickly commented "I don't know why not. Rhode Island does it." This then ensued into discussion about whether or not Seneca Nation citizens would shut down I-86 and the Thruway again, as they had in 1992 and 1997. Rich scoffed at the idea and likened Seneca assertions of sovereignty to terrorism; "I think it would be a matter of [us] contacting Homeland Security."

Earlier, at a summer 2005 meeting, UCE members speculated about trailers that were parked off the Thruway on the Oneida Nation's territory. "Are they planning on tearing up the Thruway [because they lost *Sherrill*]?" one member asked. Another member asked rhetorically, "Isn't that why we have a national guard?" Rich added that if they did damage the Thruway, the government should "treat them like any other terrorist." At that point someone in the audience yelled, "Shoot them!" Another person added, "You damage the Twin Towers, it is the same as damaging the Thruway!"

Although many UCE members are critical of New York State and the federal government, perceived attacks on either entity by Native Nations are framed as personal threats. Furthermore, these threats are not limited to just public property (in this case the Thruway) but linked to economic threats.

Following the *City of Sherrill* decision a woman exasperatedly asked, “Do the Indians know that we spend all this time only because they don’t pay their taxes?” Another member sighed and said, “They don’t care.” The conversation shifted to what UCE members view as apathy on the part of the larger community. Rich expressed dismay with the amount of local people who frequent the Cayuga Nation’s gas stations and tobacco stores; “They own 13% of the village now. The people [non-Native residents] here are giving them money to take the land away. After 7 years, if they still haven’t gotten the point now, they’re still going to the gas stations.” Phil added, “The only twelve people who don’t believe the Indians will be good neighbors are in this room right now!” “[But] you never hear any outside voices but us,” a man said exasperatedly. “But they’ll pat us on the back and say ‘Good job, UCE!’ when we win court cases,” a woman answered. “Everyone knows what you people do,” Mimi assured the group.

UCE post-*City of Sherrill*

While UCE members were elated to have “won” the land claim, the celebratory feeling following the City of Sherrill decision and subsequent dismissal of the Cayuga land claim by the Second Circuit Court was temporary. At the meeting immediately after the Second Circuit ruling, some members were still in celebration mode; “What’s wrong with us saying we’ve won?” Harry asked. “We didn’t win anything. Nothing has

changed,” Mimi replied. Rich then began to explain the new battle of fee-to-trust, noting, “The whole fee-to-trust application process is another deck of cards. It’s totally separate than land claims, you can’t negotiate with fee-to-trust.” Later he added, “We are heading back to square one.”

~

At a summer meeting in 2005, the group was strategizing about next steps. This particular meeting was held in Union Springs and as soon as I took my seat, Edna, and elderly UCE member, turned to me while looking toward a man at the front of the room and said, “I wonder what politician that is.” I told her that I thought that it might be a local Cayuga County politician, but I was not sure. I had noticed that when he walked into the room, he had on a suit and tie. After glancing around the room, he quickly discarded the jacket and within a few minutes had taken off his tie and unbuttoned his collar. Everyone else at the meeting was wearing jeans or Dickies—most looked as though they had just come from the fields. Rich opened the meeting with introductions; “I think we all know everyone here, well maybe for the exception of David Vickers, president of Oneida/Madison UCE.” Edna mumbled, “I could have sworn he was a politician.”

David Vickers is an imposing figure. Every time I have seen David he is in a suit and at over six feet tall he towers over the average person. He is trained as a lawyer but conducts himself as a politician—even running (unsuccessfully) for local office in 2004. Before Oneida/Madison meetings he mingles with members, shaking their hands and joking about the latest newspaper articles and court decisions. The first Oneida/Madison

meetings I attended in late summer 2005 were run like a court room; David carries a gavel with him and calls the meeting to order and bring points of action with a series of swift bangs on the table. Although he stands out from the predominantly retired membership of the Seneca/Cayuga chapter, David has the charisma of a young pastor and preaches his cause to the audience, appealing to audience members' individual experiences as residents of Seneca and Cayuga Counties.

People in positions of trust and respect are punting, what do we do? We need to educate the fellow citizens. But I am preaching to the choir. We are the people who are making a difference.

Audience members nod their heads in agreement and Vickers makes eye contact with several members as he speaks with increased emphasis;

If there is a fight worth fighting, this one brings it together. Culture doesn't change like that [snaps his fingers]. It takes time. This is the foundation for that change. Look how many of us are here. You are the salt of the earth. People here still depend on the land for their economic livelihood. That is why you are the center of the resistance. It warms my heart to drive out here and see all of these signs. You couldn't pay people in Oneida City to put signs up.

It is commonplace to find UCE signs scattered along the roads of both Cayuga and Seneca counties, but a short hour drive to the east, into the Oneida Nation's land claim area, yields far fewer signs. One or two homes outside the City of Sherrill have UCE signs displayed on their front lawns, but the vast majority of homes have a notable absence of signs. As Vickers explains,

Most people [in Oneida County] do not depend or work on the land; they don't own the land. Many collect paychecks from Oneida [Nation]. UCE is not very popular because we are threatening their jobs. Here [in Seneca and Cayuga Counties] people still depend on the land.

At this particular meeting, David uses this contrast between the two chapters, and the struggling economy of Seneca and Cayuga Counties, to implore Seneca/Cayuga UCE members to donate money from their chapter to fund litigation; “If you give money, the lawyers will make note; ‘This is funded by poor people who don’t have the money.’”

The composition of the Cayuga/Seneca Chapter of UCE is different in many ways from that of the original (and larger) Oneida/Madison Chapter. Aside from what David views as differences in terms of member’s connections to land, the Oneida/Madison chapter draws more members to meetings, but is less visible (and arguably less popular) in the local community. While UCE claims a membership of over 14,000, few are active in the organization;

[Most] members, aren’t active. They looked at what our organization was about and they joined. We got some people to donate 10 or 20 bucks at the time, but the core people who go to our meetings, you’ve already seen. They are probably between 60-80 people. Average age is probably 60 or over, I would guess. Many are retired. Many are self-employed. And in the Cayuga chapter, many get their livelihood from the land, which is not true here. Most of our members are either business people, or teachers, or nurses, or whatever. In Seneca/Cayuga, there are a lot of people who are farmers, who work the vineyard, who do a variety of different things in agriculture. Or they have a bed and breakfast, whatever. They rely on the land to be their source of income and that’s why those folks are a bit more engaged in the land issues. Our folks tend to be more focused on the taxation and the equality legal issues.

The larger membership may be inactive; however the City of Sherrill falls within the Oneida land claim area and has a much larger population than the rural villages of Seneca and Cayuga counties and, as result, the Oneida/Madison chapter tends to draw more members to its monthly meetings.

UCE Meetings in Oneida and Madison Counties

Oneida/Madison UCE meetings follow a similar format to Cayuga/Seneca chapter meetings; the meeting is opened with the pledge of allegiance followed by a reading and approval of last meeting's minutes, and the treasurer's report. Like Rich, David brings a stack of papers and shares legal updates and local and national news articles with the group. David follows Robert's Rules of Order and moderates questions from the audience of members.

In early spring 2007, UCE members were angry with what they perceived as a lack of state action in regards to the Oneida Nation. David had just finished discussing the Oneida Nation's "good faith payment" of back taxes to the City of Sherrill as a result of the City of Sherrill case. A member raised his hand and asked why the Oneida Nation had not made a payment in full; "The Oneidas can't pay their taxes, is that what you are suggesting?" David answered, "No, they can," explaining that they have enough money from gaming to pay all of their tax bills and are just choosing to make a partial payment. "But the poor farmer can't [pay their taxes]," lamented another member. A fourth person added, "How we've had to fight for years to keep the living we make!" At that point, an older man wearing a Winnie the Pooh t-shirt stood up and sternly said,

As soon as that decision [*City of Sherrill*] was made, the county should have gone in and exercised New York State sovereignty. The Supreme Court said it is not Oneida sovereignty, so it has to be sovereign to someone. Who is the somebody? It's New York State. They made a mistake by not asserting their sovereignty. Right now it is not too late to do it. We've got to exercise our sovereignty. That's all there is to it.

Later, another UCE member expressed concern about the possibility that the state and counties might still settle with the Oneida Nation;

I feel as though we are winning, but I am concerned that either [the state or counties] will attempt a settlement that will negate the Supreme Court. If we negotiate with Halbritter [The Oneida Nation Representative and CEO of Oneida Nation Enterprises] and let him set the terms, it would be as if we lost Sherrill.

His comment was followed by another man who said, “[You know] ‘Iroquois’ is a Huron hate word for vipers who strike without warning,” which was met by laughter in the audience. David, while sarcastically laughing said, “You’re missing the point! They’re good neighbors!” “Yeah, just ask them!” a man shouted from the audience followed by a chorus of laughter.

After the official business is covered, the floor is opened up to members in an “open forum.” At a May meeting in 2007, a middle age man wearing a green t-shirt with “Many Cultures. One People. One Nation.” in yellow lettering stood up during the forum to express disgust with New York State; “New York State has not responded or given receipt of the letter I sent.” David jokingly reprimands him, “Fred, who the hell do you think you are?!? Wanting to talk to your elected representatives!!” Everyone laughs at David’s retort. Fred, still irritated with the state, says, “I think it would be good if a number of us called the governor’s office and asked for specific things and then ridicule them when they can’t give answers.” “I don’t think the federal government gives a damn about the Indians. They just want the land and jurisdiction. The federal government is more or less taking care of themselves,” a man responds to Fred. Someone then asks, “Do you think Indians can put land into trust? Do you think the federal government will approve that?” David answers, “I think the only recourse is to start enforcing the laws.” Now frustrated, David continues, ““What elected officials need to say to Indian tribes is

‘Here’s the deal, follow the law. Take it or leave it.’ We are seeing a submissive position without being clear about who is running the show...If we had a governor with a spine, or you name the body part, he would say ‘You’re going to intimidate us? You are going to intimidate the state of New York?!?’

Post *Sherrill*: Fighting the Future Settlement “Like Hell”

After the *City of Sherrill* ruling, both chapters of UCE redirected their energy to preventing the state or counties from settling with the Cayuga and Oneida Nations and lobbying against fee-to-trust. In 2006 and 2007, several elected leaders sought settlement as a way to prevent both Nations from filing fee-to-trust applications. Those advocating for settlement argued that circumventing fee-to-trust would give the counties more control over the exercise of Haudenosaunee sovereignty in the region. UCE leadership, on the other hand, opposed settlement.

At a 2007 meeting in Canoga, a Cayuga/Seneca chapter member decried the apathy of Cayuga and Seneca County residents; “It’s amazing how many people think this is over!” With both counties engaged in settlement discussions, many UCE members were puzzled, if not downright angry. Upset by recent events, a man told Rich,

[The Cayuga] didn’t win. Sucked canal water, that’s what [they] did. Why bother making a deal when we are on a roll? There is something coming farther up the ladder, there’s no doubt about that. They’re getting everyone, the D.A....

A woman interrupted him, “They all must be Indian lovers!” Another woman sitting next to me sighed and said, “I’m ready to slit my wrists with a butter knife just thinking about [a potential settlement].”

During the same month, over in Oneida County, David angrily described the settlement negotiations; “Meanwhile, behind the scenes they are laughing about how stupid we are. ‘Now that we have them convinced that we don’t get along, let’s make a deal!’ They are substituting land to trust for land claim so they have leverage. The state wants any artificial threat because they want casinos and they will use Indians as a vehicle for that.” David told the group to have patience and commit to the long haul; “These are not arguments coming from a crackpot organization that is irritated about what is happening. These are legal arguments...I think groups like us are finally being heard so this is no time to slack off.”

David’s view was repeated by Rich, who gave the Cayuga/Seneca chapter the same pep talk; “Now it comes full circle and we have to show people we are still here.” He urged people to contact politicians and neighbors; “We’ve got thousands of members and less than 200 emails. Calls. Calls are important. The discussion then turned to framing UCE issues in the media; “Constructing an ad that is simple and clear is hard because the issue is so complex.” Rich began listing papers and radio stations that were “fair” to UCE and those that were unfavorable; “That Geneva radio host, he thinks we like the fight.” A woman added, “We’re not bad like everyone says. We raised our kids here. We are just like regular people.” Edna added, “The people who do the work do it because they believe in it. I don’t think they expect a thank you.” Tom concluded, “We did not get into this hoping to get praise. We got into it hoping to be winners in the end.”

Conclusion

Much of UCE's discourse centers on "fighting" Haudenosaunee sovereignty. Privately and publically, UCE does not shy away from using linguistic frames to shape the larger debate (local and national) over Haudenosaunee sovereignty. As illustrated, members are passionate about their cause and feel threatened by the potential exercise of Indigenous sovereignty in their counties. While the Cayuga Nation (directly or indirectly) is often identified as the source of the threat, UCE also seeks to control its image and is careful to distance itself from accusations of racism.

Economic insecurity undoubtedly motivates UCE, however dominant portrayals and stereotypes (particularly in the law) about Native Americans also influence UCE. However, much of their animosity and fear is not limited to the Cayuga and Oneida Nations, but directed at New York State and the federal government. Through framing, UCE scapegoats the Cayuga nation but shifts blame from the Cayuga to the federal government—calling for the United States to eliminate Indigenous sovereignty. At the same time, this discursive strategy positions the organization and its members as "victims" of social class and what they see as "flawed federal policy" (UCE 2007). In this chapter, I presented the voices of UCE in order to convey the composition of the group and humanize individuals within the organization. In the next chapter, I analyze the social class and racial foundations of the UCE discourse and how the organization frames itself through the themes of victimization, citizenship, and equality.

Chapter Three – Scapegoating Sovereignty: Linguistic Frames, Race, and the Masking of Social Class

Beginning in the 1970s and 1980s when the Oneida and Cayuga Nations successfully filed their land claims, non-Native communities—affected by 50 years of economic decline—organized and systematically challenged the exercise of Haudenosaunee sovereignty in Central New York State. Social norms of public discourse discourage direct conversations of race and class and, as a result, such discourses must take other normative forms; linguistic frames of property (and property rights), patriotism, nationalism, equality, and assimilation all are manifestations of settler colonialism and used as stand-ins for class and race. In this chapter, I argue that larger discourses of class and race (particularly whiteness) are couched in anti-sovereignty rhetoric; in other words larger social problems, such as declining jobs and economic marginalization, directly feed anti-Indian sentiment. Consequently, economically devastated non-Native communities scrutinize and demonize Haudenosaunee Nations for asserting land rights and fostering strong Indigenous economies. In addition to discursive and critical race theory, I specifically draw upon Sherry B. Ortner's (2006) call for anthropologists to deconstruct public discourses so as to reveal the hidden underpinnings of race and class. Also, in a general sense, I draw upon Jane Hill's model analyzing inequalities through the "essential scaffolding" of language ideologies by linking concepts of discourse and power (Bourdieu 1982 and Fairclough 1989) to Teun van Dijk's (1992) analysis of contemporary denials of racism. In the process, I also attempt to complicate settler colonialism through an analysis of the social class (and neoliberal) foundation of anti-Indian sovereignty discourse.

Understanding Sovereignty and Rights through Discourse Analysis

While the initial conflict was over land in Cayuga and Seneca Counties, the longstanding conflict is a battle over “rights”—rights to land and rights to sovereignty over land. Because rights exist—and are reified and challenged—on individual, local, and global levels, the study of rights involves a combination of both an ethnographic approach to local community and a macro level analysis of the connectedness of rights and law. Since rights are interpreted locally, an ethnographic approach to rights needs to analyze how law and rights are understood, asking specifically how rights are discussed and employed in everyday action. In my use of discourse analysis, I employ an approach from Norman Fairclough (1989) of translating the theoretical into the practical. In order to change, or even challenge power structures, we must understand how language is tied to power; as Fairclough notes “consciousness is the first step towards emancipation” (Fairclough 1989: 1). Discourse surrounding sovereignty reveals how language is created through systems of power while at the same time the very use of language forms and reinforces relationships to power (Fairclough 1989). UCE’s discourse is a product of both white oppression of Native Americans and the social class oppression experienced by rural working class and working poor communities. Moreover, the continued use of these discursive strategies can serve to reify—or even challenge—interactions between settler populations and indigenous peoples.

A key question raised through discourse analysis is, who has access to specific linguistic resources and, consequently, how are these resources utilized within and across a given speech community? Perhaps equally important are the questions of whose

discourses are privileged and in what ways do those dominant discourses reflect larger power structures? Dominant discourses are often normalized—for example the universal call for “equality”—and therefore go unnoticed as reflections of power; as Fairclough notes, “ideological power, the power to project one’s practices as universal and ‘common sense,’ is a significant complement to economic and political power, and of particular significance...because it is exercised in discourse (Fairclough 1989: 27). Individuals subscribe to dominant views—by consent or by coercion—through a deployment of ideology which relies on discourse for its very existence; discourse is the main tool of ideology and as such informs power relations (Fairclough 1989: 27). As Brenneis argues, “Language is not an epiphenomenal reflex of other relations; indeed, it often creates and shapes those relations” (Brenneis 1988: 229). Because speech and culture are formed through a series of relationships and the interactions that those relationships produce (Berger and Luckman 1967; Bauman and Briggs 1975; Bauman 1975), it is the context of the speech that is important—discourse analysis cannot be based upon speech alone (Hymes 1964). But words do shape relationships (and in turn relationships shape words); Fairclough notes, “the stake is more than just ‘mere words’, it is controlling the contours of the political world, it is legitimizing policy, and it is sustaining power relations” (Fairclough 1989: 75). In the courts and communities of Central New York, the dispute over land and sovereignty is exercised through assertions of speech and power—frictions based on an assumption of conflict, which I have defined earlier as contested spaces.

In understanding conflict, discourse analysis is employed to study not only the language of dispute, but the ways in which language reflects the relationships between

individuals or communities involved in dispute (Brenneis 1988: 222). While relationships and language resources differ, success in a dispute is dependent upon presentation;

One function of language in conflict is the creation of accounts—at times competing, at times consistent—of disputed incidents...the effectiveness of these narratives depends in large part upon the degree to which they meet audience expectations of sensibleness, appropriateness, and good form (Brenneis 1988: 227).

The concept of rights has many interpretations and while different parties may have differing goals in the assertion of rights, they all seek to harness the power that arises from rights based discourse. Successful claims to rights depend upon presentation, or rather frames. Broadly defined, a frame is “a metacommunicative device which signals the interpretive context within which a message is to be understood, a set of interpretive guidelines for discriminating between orders of message (Bauman and Sherzer 1975 [Bateson 1972]). Ideas expressed through successful cultural frames are easily diffused through society and those who employ successful frames in turn shape individual and social meaning (Kendall 2011). Frames are culturally established means of obtaining and maintaining control over language—and ideological—meaning (Lakoff and Johnson 2003). The frames employed by UCE have been adopted socially and—as will be illustrated in the following chapter—politically and legally. As such, UCE framing seeks to influence public opinion and individual perceptions of Haudenosaunee sovereignty and land rights; at the same time, this framing also shapes how non-Natives construct their own identity and claims to place.

Whiteness, Class, and the Limits of Settler-Colonialism

In 2001, a headline of Cayuga County's local newspaper, the Auburn Citizen, read "UCE stirs debate but is it racist?" (Auburn Citizen, 2001). If you ask UCE members, they will be quick to tell you that their organization is not racist—that in fact it is the Cayuga Nation (and other Native Nations) that are racist because, as one UCE leader told me, the Cayuga and other Native Nations use "race-based policies that favor tribalism." Instead, UCE members contend that they are, unlike the Cayuga, against racism because they promote "equality under the law" (UCE 2007). But race is not the only topic embedded—and systematically denied—in UCE discourse; rather discourses of race and assimilation are really covertly rearranged discourses of social class. Sociologists and anthropologists have long documented Americans' reluctance to talk about class and conflict between classes. As Sherry Ortner writes, the dominant social class taboo causes "displacement of class strain and friction into other areas of life, as displacement not without its costs for experience in those other areas" (Ortner 2006: 26). Within UCE class discourse, social class strain is displaced into rhetoric surrounding Cayuga land rights and the general exercise of Haudenosaunee sovereignty. This is not an unusual story; throughout most of American history the Black working class is negatively represented in similar ways by the white working class; the Black working class represents the fear of downward mobility for whites. Working class whites adopt the discourses of the white middle class—a discourse centered on a "fear of falling" (Ortner 2006).

A prohibition of class discourse has very similar effects to other discursive prohibitions—in the same vein as Foucault’s “incitement to discourse” (Foucault 1990 [1978]); when certain speech is prohibited the resulting effect is an amplification of that speech, albeit in coded and concealed ways. Prohibitions on discourses of class mean that these discourses must take other forms; instead of class, the discourse is “nationality” and “patriotism” which is bound in the ideology of egalitarianism and middle class values. In other words, class discourses are present, but are marked in different forms—Americans in reality talk a lot about class (Ortner 2006: 25). Aside from the obvious discourses of money what is missing are overt and critical discussions of power and the relationships between classes (Ortner 2006: 24). But as I will illustrate, UCE rhetoric are manifestations of the strain—and powerlessness—endemic in poor, rural communities. The conflict between classes, articulated by Marx, is still present in contemporary American interactions and speech. For example, the “pain of class relations” in UCE discourse is displaced into racial/ethnic relations and rhetorics of “equality.”

In my analysis of race and anti-Indian sovereignty movements, I borrow from the work of Teun A. van Dijk (1992). As van Dijk notes, contemporary racism is characterized by its denial; very few individuals will openly admit to being racist, however racism is covertly reproduced and supported through everyday discourse/communication. Furthermore, this discourse occurs on many levels—through the individual, in the media, and in government and law (van Dijk 1992: 88-89). Communication on these levels illustrates the individual and social dimensions of racist

discourse; racist discourse reinforces group membership, while the denial of racism serves to protect the image of that particular in-group:

Not only do most white speakers individually resent being perceived as racists, also, and even more importantly, such strategies may at the same time aim at defending the ingroup as a whole: ‘We are not racists’, ‘We are not a racist society’ (van Dijk 1992: 89).

What individuals say (to each other and the media) is important because of the fact that everyday discourse illustrates systems of power (van Dijk 1992: 88). As Bourdieu writes, “Each agent, wittingly or unwittingly, willy nilly, is a producer and reproducer of objective meaning” (Bourdieu 1999: 79). This creation and dissemination of meaning is at the heart of white/settler oppression of Indigenous Peoples.

The vast majority of UCE discourse is not overtly racist (for example, members do not openly state “I hate all Indians,” etc.), though racist sentiment does shift from being covert to overt. For example, at the 2005 celebration party in Seneca Falls after the Second Circuit Court dismissed the Cayuga Nation’s land claim, a small group of elderly UCE members engaged in the following conversation:

- Do [Indians] smoke their own cigarettes?
- I hope so. Maybe they’ll die of cancer.
- Do we have to take care of them in hospitals?
- We’ve educated them so much that they’re screwing us over.

The above transcript illustrates overt racism, however the majority of UCE’s racist speech is couched in discourses of white privilege and is presented as non-racist—many members will preface their speech by denying any racist sentiment. Building upon van Dijk’s analysis of the denial of racism, I contend that UCE members deny racism through

as series of discursive strategies. Furthermore, this denial rest on a foundation of social class—where the denial of racism relies on covert references of class.

The following is a discursive analysis of race and class. I recognized that settler-colonialism critiques the conflation of race and colonization; in settler colonial states, Indigenous peoples are often “raced” instead of treated as sovereign political entities (Byrd 2001). It is not my goal to argue that the two are the same, but rather to argue that settler colonialism cannot operate without exploiting categories of race and class. In this analysis I also attempt to briefly complicate notions of settler colonialism; UCE discourse reflects more than just settler ideology—it is displaced angst about class and power. The exercise of settler colonialism depends upon manipulation of marginalized settler populations. To limit analysis to a supposedly homogenous settler population (or even whiteness and race/ethnicity) is missing the larger picture. This theoretical stance draws from a multiple domination position and intersectionality (Collins 2000; Crenshaw 1989; and Ortnner 2006).

The discourses of race employed by UCE members are influenced by the socioeconomic conditions of Central New York and rural America in general. As outlined earlier, many residents of Seneca and Cayuga counties outwardly conceptualize Indigenous sovereignty as a “threat” while their economic livelihoods are in reality threatened by larger socioeconomic conditions. In this case, discourses of race and class are intertwined. Whiteness cannot be understood without class and class cannot be understood without an analysis of race. Furthermore, settler colonialism cannot be understood without an analysis of the interrelationship of race and class.

Asserting Rights and Framing Equality

Three of the most prominent frames employed by UCE are reflected in the group's name; "Upstate" illustrates the victimization felt by "upstate" residents due to the upstate/downstate dichotomy present in New York politics and social life (Landsman 1988). "Citizens" emphasizes American citizenship and patriotism as both identity and a means of asserting claim to place and land. The most dominant frame, "Equality," is tied to assertions of property rights, taxes, and "equality" under the law—which is a strategy used to deny racism. In the following section I present three dominant UCE frames: "Victimization," "Citizenship and Patriotism," and "Property, Taxes, and Equality." All three frames have overlapping, yet distinct effects on shaping social relations and individual understandings of Indigenous sovereignty.

"Upstate": The Frame of Victimization

In her ethnography of the 1974 Mohawk and non-Native conflict over Ganienkeh in New York State, Gale Landsman writes,

Many of those involved in opposing Ganienkeh probably were racist in their attitudes, motivations, and fears; the use of racial epithets and war whoops by motorists passing the encampment was fairly common. However, the symbols around which the white groups mobilized were not those of racial hatred, but rather of the existing upstate-downstate controversy in New York State politics...the controversy was presented more generally as between rich and poor, rural and urban, interests (Landsman 1988: 44).

Much like the non-Native groups that opposed the establishment of Ganienkeh, UCE extends the rural/urban dichotomy within a larger frame of victimization. For example, the 2005 address to the Seneca/Cayuga chapter of UCE by David Vickers, presented in

the previous chapter, illustrates this point; Vickers referred to Seneca/Cayuga chapter members as the “center of the resistance”—different from Oneida and Madison county residents because of their reliance on the land and landownership for work. Vickers’ quote reflects a nostalgia that reveres agrarian society as a hallmark of American identity; rural communities are presented as the American ideal—“salt of the earth.” However, their connection to the land is both a source of valorized identity and the cause of economic victimization. Depending and working on the land is at the root of rural economic insecurity.

UCE members believe a sovereign nation would pose a serious economic threat to the Cayuga Lake region resulting from a loss in tax base and analogous tax increase if and when property is transferred from tax roles. Despite federal government assurances, a common fear centers on the eviction of current landowners. UCE claims that current landowners face the risk of “displacement” and the potential of “becoming tenants of the Cayuga” (UCE brochure 2002). The perception held by UCE is that the land claim will strip farmers, and other residents, of their land, independence, and livelihood. They also predict that free enterprise is at risk with the “adoption of **unfair business practices** in which local businesses are forced to compete with non-taxpaying reservation businesses unencumbered by state and federal regulations” (UCE 2002). Land, taxes, and autonomy all form the basis of an American rural ideology. Thus, UCE leaders evoke that ideology in order to encourage others to oppose the land claim. At the heart of this opposition is the pervasive belief that rural residents and land are intrinsically connected, each defined by the shared relationship. American rural ideology defines individuals by their land, and

the intermediacy of the economic livelihood—and ability to maintain land-ownership—determines their identity (Barlett 1993).

The formation of Upstate Citizens for Equality is not unique, as grassroots movements across agrarian America present similar characteristics—opposition is most often framed through rural nostalgia and influenced by changing economies that disadvantage rural workers. James McCarthy’s work with the Wise Use movement found that,

In each case, a group of capitalists deeply invested in rural production responds by mobilizing and using a larger class of rural workers and property owners to lend numbers and ideological legitimacy of populism to its defense of existing property rights and relations of production (McCarthy 2000: 126).

Rural movements traditionally attract white, working-class individuals who “feel threatened by a rapidly changing international economy and regulatory structure virtually beyond their power to affect” (McCarthy 2000: 126). Groups like UCE thus play into a “pervasive sense of victimization” found throughout rural America (McCarthy 2000:126). As a 2007 UCE meeting to discuss a potential settlement between Seneca and Cayuga counties and the Cayuga Nation, one UCE member said,

There is nothing done with Native Americans that ever works out for us peon white people...I have a business here, I have a family here. My great grandfather settled here. This sovereignty crap, it was set up by lawyers. Remember when people fought the revolution, they didn’t just sit there!

UCE appeals to the rural working class by providing a sense of power as well as a projected ability to effect change that will result in economic and social stability. By

harnessing rural economic concerns UCE gains power and legitimacy against the land claim. In many cases, non-Native residents are not specifically fighting the land claim, but rather the surreptitious economic and social issues that plague rural America.

UCE frames of victimization are hallmark characteristics of a neoliberal state—a state comprised of “infantilized” citizenship (the “innocent child”) repeatedly employ “narratives of rescue” (Berland 1997 as quoted in Lancaster 2008: 41). The moral panics created through neoliberalism directly result in scapegoating; a mythical “enemy” is fought in place of the oppressive structure of neoliberalism. In a discussion of the role of media in distracting audiences from neoliberalism, Roger Lancaster writes,

Just as the mass media create “audiences,” media panics tend to forge a certain kind of citizenship and a certain kind of state; when audience-communities become truly alarmed, they demand action, usually repressive action against an “enemy.” As panic has become a defining feature of media culture, it has become ever more intricately woven into the basic structure of governance (Lancaster 2008: 47).

Similarly, Diane Kendall notes that media narratives “organize and bring order to events”—moreover media frames wield power because they influence how we make sense of the world (Kendall 2011: 5). Media presentation of the land claim and fee-to-trust process can serve to reify UCE framing and add to a sense of panic and resulting scapegoating in Cayuga and Seneca Counties.

Local newspapers contribute to the construction of agrarian myth through sensationalist reporting that captures a nostalgia for the past. The July 18th edition of the *Syracuse Post Standard* for Cayuga County proclaims “Rally at Farm Sows Discontent.” The rally refers to a 1,200-car motorcade July 17, 1999, followed by a gathering of

roughly 2,000 individuals at a local farm to protest the land claim. An adjoining article describes the Shuster Farm—located within the land claim and the site of the rally. The reporter paints an idyllic image of farm life when he writes,

[T]hey talked about elders eating breakfast before waiting for the sun to rise to begin the day's work. The (Shuster) brothers remembered binding grain by hand and stacking bundles east to west to take advantage of the day's sunshine. Peter Shuster recalled their use of gas-powered threshers, the family's purchase of its first electric milk machine and his start operating heavy farm equipment by age 11 (Johnson 1999).

The passage continues to tell the story of the Shuster family, their relationship to the land, the construction of the historic barns, and the family's occupation of the land for 105 years. The Shusters have since expanded to 360 acres and the original buildings comprise only a piece of the total Shuster Farms (Johnson 1999). The article taps into the notion of imperialist nostalgia (Rosaldo 1994), painting the classic American image of a farm family working harmoniously within the larger community. Indeed, as Bill Shuster notes, farming was "a community effort." Both brothers reminisce and create a romantic view of farming before mechanization. From this archetypal image, the text moves to a discussion of the land claim and the perceived threat it poses to the farming lifestyle exhibited by the Shusters. The land claim thus becomes an agent of change, ominous to the livelihood of the farmer. Farmers and landowners in general, seek the authority of the government to remove the identified threat. As Peter Shuster states, "They're the ones with the power to regulate these rascal Indians" (Johnson 1999).

UCE positions itself as "innocent" and repeatedly calls upon the government to fix the "Indian problem." Consider the following quotes from UCE members:

I think people don't want to settle in a place and have the Indians take over, you know.

Why should we give them anything? When they are after our land, then it kind of sticks a little bit. They say they want to be good neighbors, but how can you be a neighbor when you talk about eviction. They kept bringing that up and they appealed for it. Good neighbors don't evict each other; that is not what being a neighbor is about. You can't be both.

I'm only an old farm boy, so I might not know much, but what I do know is that our boys are in the wrong country. They need to be brought back here and fight the Indians!

In the above examples, UCE members create an image of white residents as blameless—their very economic and social survival threatened by Cayuga sovereignty. This discursive strategy is also known as “reversal” where individuals or groups “being routinely accused, also explicitly, of racism, [go] beyond mere denial, and reverse the charges” (van Dijk 1992: 114). Moreover, this impending threat of Indigenous sovereignty, for some, justifies the use of force against Native Nations. Calls for force are intensified when UCE feel their identity threatened. In place of a racial or class identity, UCE members cling to a larger notion of “American” identity—specifically the romanticized “rural American identity.”

“Citizens”: Citizenship and Patriotism

Settler populations tend to link their identity to the nation-state, but the identification as “American” is also a product of prohibitions on racial and class discourses. “American” identity an imagined community (Anderson 1991) and is challenged by the exercise of Indigenous sovereignty within the borders of the nation-

state. Jessica Cattelino notes, “Indigenous peoples can form or threaten the boundaries of citizenship and sovereignty in settler states” (Cattelino 2010: 284). The history of federal policy and law in the United States illustrates that Indians are not a threat as long as they assimilate to white culture; more specifically, through settler colonialism and neoliberalism, Native Nations are expected to assimilate their behavior while submitting to the governmental and legal control of the United States. The hallmark of United States assimilation methods is through citizenship, not only for Native Nations but also for other marginalized groups within the settler state. Once assimilated, economically marginalized groups take on citizenship as an in-group identity—one that has foundations in both race and class.

UCE members frequently express anti-Indian sentiments through a discussion of citizenship (a.k.a. assimilation). The following is an example of UCE citizenship discourse:

- You said the Indians were citizens.
- Yes they are.
- But they deny it!
- Clint Halftown [the federally recognized representative of the Cayuga Nation] said ‘I am not a citizen of the United States.’
- Shows how much he knows.

American citizenship as described by UCE members is an embodiment of whiteness, but also a marker of social class. And because citizenship (whether as a marker of whiteness or class) is a crucial component of UCE’s in-group identity, perceived attacks on American citizenship carry enormous weight.

In defining imagined communities, Benedict Anderson notes that even though it is impossible for individuals within a given nation-state to know each other personally, “in

the minds of each lives the image of their communion” (Anderson 1991: 6).

Furthermore, “regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship” (Anderson 1991: 7). Even though some UCE members may acknowledge past wrongs against Indigenous peoples by the United States, these wrongs are not justification for resisting American identity. When this imagined camaraderie is challenged or questioned, individuals who rely on its existence for identity come to its defense. For example, when Cayuga Nation citizens do not say the pledge of allegiance at BIA meetings it evokes a strong response from UCE members;

When they came to those meetings and they did not
say the pledge, because they don’t think they are
U.S. citizens; it is a slap in the face to my
grandfather, uncle, brother, and me.

From the perspective of this UCE member, his family has fought, through military service, for all “Americans”—the imagined community that includes Indigenous peoples. His opinion is not in isolation and extends to Haudenosaunee individuals who identify as citizens of Native Nations and U.S. citizens. For example, David Dresser told the Cayuga/Seneca UCE chapter that Cayuga Nation members cannot claim to be dual citizens; “You cannot be a citizen of two countries like they claim to be. I choke when I read “The Foreign Minister of the Seneca Nation.” To which a woman in the audience shouted that the Cayuga should “Get out of America and go back to Mongolia!” What is interesting about the above exchange is the duality of both race and national identity. Rejecting membership—in this case “citizenship”—within the community threatens the entire process of imagining. As a result, race and nationality are conflated and through

this process Native Americans are racially “othered” for not adhering to a nationalistic American imagining.

De facto placement of Indigenous Peoples into nationalistic imagined communities is a form of assimilation and used as a means to deny racism; this denial is akin to saying “I’m not against Indians, I just want them to act like Americans/white people.” In other words, UCE members want Indigenous Peoples to accept their placement within an imagined settler community. In fact, UCE member Mel Russo expressed this very sentiment to a local newspaper, stating “We welcome the Cayugas as individuals. Everyone welcomes everybody in the Finger Lakes as long as they pay property taxes and live by the rules of the area” (Lovell 1999). This particular frame is common; a local politician told me during an interview “The Cayuga are welcome to live in this county. I just want them to pay their taxes.” In essence, American citizenship as described by UCE members is an embodiment of whiteness but also a way to express identity absent of social class.

“Equality”: Law, Property, and Taxes

Anti-Indian sovereignty organizations gain momentum by channeling economic concerns—essentially, social class—into discussions of sovereignty and Indigenous rights and by creating linguistic frames that cover racism with discourses of equality. As I will discuss at greater length in Chapter Four, equality and justice for Indigenous Peoples is framed by anti-sovereignty groups as antithetical to the rights and freedoms of Americans (mostly white Americans) as a whole, something Elvi Whittaker describes as a “double discourse on equality and restitution” (Whittaker 1994: 319). In this case,

Haudenosaunee rights are interpreted presented as a specific economic threat to property rights and tax bases of non-Native communities.

As noted earlier, middle and working class discourses are marked by a “fear of falling” into a lower social class. In the economically depressed rural communities of Central New York, this fear is a reality. State Senator, Mike Nozzolio illustrates this point; in a statement to the BIA he described the “landowners” in both counties as “living with the nightmare of losing their homes and property to the Cayuga Nation” (BIA). While no one has lost their homes to the Cayuga, many have lost their homes to banks or the county through foreclosure. Ejectment is a reality, but it is a reality at the hands of Chase and Wells Fargo (supported by lax regulation standards), not the Cayuga. The justifiable fear of losing a home or business (to a bank or the county) becomes displaced into other arenas. For UCE losing homes to banks is normalized but losing homes to “Indians” is unacceptable.

Economic struggle also manifests itself through discourses equality through taxation. Taxes are both a frame for economic burden and also identity. Taxation—and adherence to a capitalist system—functions as a means of assimilation; UCE members call for the Cayuga to conform into a rural, market driven culture. The method of assimilation through capitalism and taxation is not a new approach. In 1878, Benjamin Rush expressed the merits of pushing farmers into a market economy for “in proportion as he increases in wealth, he values the protection of laws: hence he punctually pays taxes toward support of the government” (Sweet 1994: 59). Capitalist rhetoric embedded in agrarian ideology encourages assimilation and promotes taxation as a means of identity

(even when taxes are presented as a burden); taxes result in a sense of belonging, in this case belonging to a larger “American” identity. For example, Roberta Halden, speaking against the fee-to-trust process, commented,

I am a landowner. I don’t have a lot, but I have enough. My taxes are fairly high...What I can’t understand is why a certain group of people have the right to come in and want to just take over our land. By take over the land, and by putting it into trust...It’s very hard to stand up here and tell somebody: We don’t want you. That’s not what we are saying: you pay your fair share. Do what the government tells you to do. And you are more than welcome (BIA).

Halden’s call for equality is couched in neoliberal ideology. Instead of questioning the larger economic structure that produces disproportionately high taxes and land insecurity, she identifies the Cayuga as “taking over the land” and instructs them to abide by perceived government authority—“do what the government tells you to do.” Similarly, Chris Puylara stated,

I’m not against the Indians. What I am against is inequality. That’s what this is. It places one group of people out of everyone. And that’s un-American...I find it somewhat ironic that I have to ask my government which I pay taxes to, to do its job and protect my rights as a citizen of this country (BIA).

Here, Puylara applies the neoliberal frame of the “infantilized” citizen in need of rescue by the nation-state (Berland 1997 [Lancaster 2008: 41]). However, unlike Halden, Puylara accuses the federal government of failing in its neoliberal paternal role.

The general criticisms reflected in Halden and Puylara’s comments—aside from being misdirected on the Cayuga—are not entirely unwarranted. A drive around the

scenic Cayuga Lake includes derelict barns, abandoned houses, empty—or near empty—villages. The oppression felt by white residents of Seneca and Cayuga Counties is not oppression from Indigenous Peoples, but rather larger oppression based factors such as socioeconomic class and neoliberalism. Although not every UCE member occupies the same social class, even those at higher income levels employ a middle class “victimization framing” (Kendall 2001: 195). Indeed, many non-Native residents are victims, but this victimization is not at the hands of the Cayuga. Through a settler colonial analysis, calls for the Cayuga to forgo sovereignty and participate “equally” as “American citizens” reflect the deployment of an assimilative ideology; however demands for assimilation are more than just relics of a colonial system. Through the lens of social class, emphasis on a “level playing field” can also be interpreted as a response to continued neoliberal policies that have eroded local tax bases, businesses, jobs, and wages. For UCE members, the Cayuga are the scapegoat for much larger issues, regardless of assimilation. If anything, such demands for assimilation are a result of a continued split labor market; as previously discussed, both the Cayuga and rural non-Native residents have been affected by disruptive colonial and neoliberal forces, however the split labor market prevents non-Native individuals from seeing commonality with their Haudenosaunee neighbors. But, interestingly enough, blame is placed on the federal government for perpetuating a system of inequality; both UCE and the Cayuga Nation isolate state and federal governments as the problem.

Conclusion

An overarching frame that goes unnoticed is the settler colonial state. Settler colonialism undoubtedly shapes interactions among all populations—Native and non-Native—in settler states (Cattelino 2010: 282). As a theoretical model, settler colonialism has clear strengths over an analysis that relies on race alone. Additionally, analyzing settler and indigenous conflict through the lens of race would serve to reify a colonial system that has “raced” indigenous populations as a main means of eroding sovereignty (Barker 2005 and Byrd 2011). In this case, UCE race-based discourse fits into a large framework of settler colonialism—UCE asserts that its members do not question race, but rather the right of Native Nations to exist as political entities. However, in denying racism by attacking indigenous sovereignty, UCE is attempting to “race” Haudenosaunee Nations, all-the-while distancing themselves from racial accusations. To deny Indigenous Peoples a Native political identity is in fact an ongoing method of “racing” identity.

While settler colonialism provides a useful, and much needed, theoretical foundation for understanding indigenous sovereignty and citizenship (as well as ongoing threats to both citizenship and sovereignty), an analysis of race and class is imperative to interpreting how settler colonialism reproduces itself and gains support from settler populations. This analysis must also consider how settler colonialism functions within a larger system of neoliberalism. Neoliberalism influences “faux-populist rebellions against ‘useless government bureaucracies’” along with “a novel melding of classical economic theory with an identity politics reading of civil liberties” (di Leonardo 2008: 7). As I will

illustrate in the next chapter, UCE focuses its attention on Federal Indian Law and the legitimacy of the Bureau of Indian Affairs. Both institutions are viewed as perpetuating inequalities between Native and non-Native populations. Under the frame of “equality,” UCE positions itself as a civil rights movement (fighting for “equality” for all). But this focus on “rights”—no matter how problematic—serves to draw attention away from a gross lack of economic rights inherent in neoliberal states. In an U.S. neoliberal society individuals are socialized to avoid discussions (and even the very acknowledgement) of social class—by default, social class takes other forms. In the case of UCE, a focus on Indians and the “threat” of Haudenosaunee sovereignty draws attention away from the ongoing and debilitating local effects of neoliberalism.

This case, like many other indigenous rights cases, only furthers the divide between indigenous and non-indigenous groups; while rights based discourse has been successfully employed by indigenous groups, the discourse of “equality” and “rights” can also be appropriated and re-framed to counter indigenous rights. While some rural residents are conscious of connection between neoliberal policies and localized economic insecurity, many are still distracted (or encouraged) by scapegoating;

Many dispossessed rural people are coming to understand the broad systemic forces that are undermining economies and cultures the world over. But the mix of hopelessness and anger, particularly in America’s economically broken heartland, has made others susceptible to right-wing conspiracy theories that blame rural woes on racial minorities (Gorlick 2000).

In these cases, discourse analysis is especially helpful as it illuminates the strategies that are used in the denial of racism and the promotion of “equality” at the expense of

Indigenous rights—and arguably marginalized social classes in general. Discourse analysis also illustrates the multiple domination at play in the doubly occupied space of Seneca and Cayuga counties. Rural counties have already been disrupted through neoliberal policies that adversely affect working class rural regions throughout the U.S.

The continued practice of settler-colonialism is predicated on the maintenance of a system of privileges—privileges not only in terms of race, but arguably and most importantly privileges and inequalities of social class. One way these privileges are maintained and embedded into the fabric of American culture is through law—in this case the United States legal system. The next chapter attempts to illustrate how contemporary inequalities and conflicts are understood and justified through law and how these understandings shape local discourses.

Chapter Four – Influencing Public Opinion and Framing Land Claim Opposition: The Reciprocal Relationship between Federal Indian Law and Anti-Indian Movements

In her 2003 autobiography, then United States Supreme Court Justice Sandra Day O’Conner reflected on the relationship between social movements and law; “Real change comes principally from attitudinal shifts in the population at large. Rare indeed is the legal victory—in court or legislature—that is not a careful byproduct of an emerging social consensus” (O’Conner as quoted in Williams, Jr. 2005: xxix). Anti-Indian sovereignty movements, though not new, are becoming more visible in the United States; the rise in the organization and lobbying efforts—as well as increased participation in the legal system—by such groups has arguably affected legal outcomes for Indigenous Peoples. The same strategy has been employed by anti-environmental “Wise Use” groups in the western United States (McCarthy 2000) and more recently by local and national “Tea Party” groups. A central question in the Cayuga land claim conflict is whether the real case exists in the court or in the larger United States culture. Is the law a reflection of society or does society shape the law?

Use of the court system by grassroots groups may be due in part to the fact that the Cayuga case named individuals as defendants or it could be another byproduct of American litigious culture (see Merry 1990). Regardless, UCE members—especially the leadership—are well versed in federal Indian law, devoting substantial amounts of time at meetings to presenting and critiquing current and historic cases. UCE’s use of law illustrates how varying interpretations of law, policy, and race inform non-Native understandings and attitudes towards Indigenous sovereignty in the United States. As a

result, litigation has become the primary means of challenging tribal jurisdiction, economic development, sovereignty, and indigenous land rights. This chapter incorporates ethnographic research of UCE and analyzes its use of litigation and legal discourse to formulate—and in turn perpetuate—(mis)understandings of Indigenous land rights, identity, and sovereignty.

Justice O’Conner notes that social movements influence outcomes of legal cases, but this relationship is not one sided, as the language of law also influences social movements. UCE relies directly on the language of legal cases to justify their positions related to Indigenous sovereignty—and the language of U.S. Supreme Court cases vis-a-vis Native Peoples is often problematic, to say the least. Legal scholar Robert Cover argues that law is reflective of culture and analyzes this relationship through the concept of jurisgenesis, “For every constitution there is an epic, for each decalogue a scripture. Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules, but a word in which we live” (Cover as quoted in Williams, Jr. 2005: 20). This evokes Bourdieu’s notion of the law, best described as the processes through which individuals conceptualize legal order in relation to themselves and other groups and individuals in a given society; “process” includes how these conceptualizations are created, maintained, and reproduced (Bourdieu 1987: 806). For Bourdieu, law—like all other institutions—has its own culture, which includes specific values and assumptions. With these values and assumptions, it becomes paramount to recognize the underlying social, economic, and linguistic factors (to name a few) that—while often unnoticed—allow for the reach and function of law (Bourdieu 1987: 807).

In Central New York, legal rights and law (and more generally, knowledge) are interpreted locally, however local understandings are asserted under universal (read “legal”) understandings of rights and law. In other words, the language of United States case law is used to support local understandings of rights and law, or legal consciousness;

[T]he way people conceive of the ‘natural’ and normal way of doing things, their habitual patterns of talk and action, and their common sense understandings of the world...[It] is not only the realm of deliberate, intentional action but also that of habitual action and practice (Merry 1990 as quoted in Just 1992: 407).

While legal consciousness involves individual agency—the ability to form and reproduce knowledge—individual interpretations of law and history are reflective of larger power structures. For example, using Giddens’ concept of structuration (1979), individuals are not only conscious of the structures in which they live, but also actively form and reform social structures. Power is not an abstract concept or a force employed only by elites, instead power is manifested in everyday actions of all individuals. As a result, power and social structures are best observed through the activities of everyday life. In this sense, structuration bridges both micro and macro analyses of society; it combines both an analysis of the individual and that of society. Structure is not static and can be actively and consciously altered by individuals. However structure can only be changed if individuals consciously ignore, or disavow, the traditions and norms that reproduce existing structure. Law, and legal consciousness, has the possibility to both challenge and reinforce structure/hegemony.

Rules and norms stemming from legal cases are filtered through individual and local systems of meaning; local and legal ideology are a result of a convergence of law and social order (Greenhouse, Yngvesson, and Engel 1994: 92); Merry writes,

Parties to dispute operate within systems of meaning; they seek ways of doing things that seem right, normal, or fair, often acting out of habit or moral conviction. The normative framework shapes the way people conceptualize problems, the way they pursue them, and the kinds of solutions they look for (Merry 1987 as quoted in Just 1992: 385).

The idea of rules and norms helps to conceptualize the process of negotiation where individuals process rules and justify their interpretations and actions through norms. Carol Greenhouse (1982) provides a framework for analyzing law as both a set of rules and norms. First, rules consist of the following characteristics: they “require a legitimate rule-maker, imply accountability (although not obedience), and finally have some predictive value, even when ignored or violated” (Greenhouse 1982: 60). While rules are relatively firm in their meaning, the interpretation and adherence to rules varies among individuals. Individuals and groups justify following some rules and not others and rationalize the interpretation of rules. For example, the Cayuga followed legal rules that allowed ejectment, however UCE denied those rules as legitimate. While rules are invoked as reason (Greenhouse 1982), it is norms that are actually the reasons or justifications for a specific action or interpretation.

In sum, through the process of jurisgenesis, law shapes culture while, to harken back to Justice O’Connor’s “emerging social consensus,” culture simultaneously shapes law; the dominant norms of a society or group influence interpretation of law and law in turn creates and reinforces norms. The relationship between law and culture/norms is

reciprocal and, using legal consciousness and structuration as models, individuals have opportunities to challenge or reinforce norms and law—whether consciously or unconsciously.

UCE extensively references federal Indian law, presenting law as “truth” and repeating biased language from United States legal rulings to position non-Natives as “innocent.” While UCE focuses in on the Cayuga and Oneida cases, neither case exists in a legal vacuum; UCE responses to the cases are influenced by previous case law. In other words, the language of law (or precedent) directly shapes UCE discourse; use of case law allows UCE to select legal language that they want to promote while evading criticisms of racism by declaring certain laws as normative and just. At the same time, local UCE discourse is replicated in more recent court decisions. This reciprocal relationship illustrates the national frictions in law that inform local conflict. The legal foundations of these frictions exist in the very foundation of federal Indian law—stemming from the Marshall Trilogy onward—and generally leave the power to decide in the hands of United States courts.

Indigenous Rights: Power and Unequal Access to Law

The relative effectiveness of rights—in this case, indigenous sovereignty and specifically the Cayuga Nation’s right to self-determination—depends largely upon how “rights” are translated to local communities (Merry 2005). In other words, rights stemming from legal discourses need to be put into terms that people understand. However, this is just one part of the equation, for the assertion of rights must be retranslated and framed into legal and political discourse in order to be enforced. For

example, the *Sherrill* decision rests on a complicated legal concepts (namely the theory of latches) related to taxation, but it is framed in later cases as a denial of all Native land claims. Thus, the assertion of rights on a local level goes through many processes of translation and framing. As Bourdieu notes, the struggle for control over the social field of law often takes place through the strategic use of language and texts (Bourdieu 1987: 808-9) and the assertion of rights—especially indigenous rights—is also a site of struggle.

Within the universe of rights, language and law are both tools for continued colonialism and as a means of indigenous resistance. The successful assertion of rights depend upon “laws” and “citizenship,” yet indigenous rights, and the right to land in the Cayuga case, have—through the process of colonialism—been undermined by these same factors. Concomitantly, indigenous groups have used colonial law to their advantage; “Native American people have a long history of reading and using the law in ways unintended and unforeseen by the elites who wrote and thought they controlled that law” (Biolsi 2001: 210). This idea bolsters the argument that in every system, there are tools to change the system (Giddens 1979; Gramsci 1971). Within the United States courts, land claim cases, water rights, gaming, assertion of hunting and fishing rights, and Indian adoption laws all show the ability for Native interests to be heard successfully in colonial courts (Getches et al 2005). But, these cases are met with limited success and much opposition from non-Indigenous groups and individuals who see the assertion of Indigenous rights to undermine notions of “equality.” As a result, indigenous rights cases, in general, are sites of struggle for control over interpretation of law and rights.

Specifically, the Cayuga case became a struggle of the court to either continue down a path of correcting past wrongs or to alter course and again return to termination era rulings.

Thomas Biolsi (2001) contends that the discourse surrounding Indian law in the United States—law that presents itself as “protecting” American Indians—actually increases Indian-white conflict. How does a system aimed to mediate conflicts between Native and non-Native communities end up producing conflict? The answer is found in varying interpretations and uses of indigenous law and rights. Equality and justice for Indigenous Peoples is framed as antithetical to the rights and freedoms of settler populations as a whole, something Whittaker describes as a “double discourse on equality and restitution” (Whittaker 1994: 319). While rights based discourse can be appropriated successfully by indigenous groups, the discourse of “equality” and “rights” can also be appropriated and re-framed, through the process of jurisgenesis, to counter indigenous rights. Both UCE and the Cayuga Nation assert claims to land and rights over land, however the law benefits those who have the means of access to systems that enforce law and punish legal violations; since power is not equal, the application of law is not equal.

Robert Williams, Jr. discusses how unequal power dynamics and racism are reflected through legal language; “You can tell the justices know all about the language of racism historically directed against Indians in America simply by reading their opinions on Indian rights” (Williams, Jr. 2005: xviii). The opinions of justices are undoubtedly influenced by their social location/process of enculturation, where racist court decisions are products of racist culture. However, the language codified in law

directly influences how future generations regard issues and groups, which is often used to justify or even dismiss accusations of racism or discrimination (van Dijk 1992).

Supreme Court justices, while products themselves of American hegemony, become master editors and builders of hegemonic systems; “The justices in fact hold tremendous power over this process by exercising the state’s privilege of selecting and enforcing one particular narrative, one singular interpretation, as the law of the land” (Williams, Jr. 2005: 21). But Williams Jr. notes that law does not limit the actions of groups; “some groups, in fact, will defy the state and the justices and engage in their own creative, law-making acts of jurisgenesis” (Williams Jr. 2005: 21). In this regard, groups like UCE will harness legal language to bolster their positions but when court cases run contrary to their views, they undertake their own process of jurisgenesis. Of particular interest in the Cayuga case is how this creative process of jurisgenesis in the context of anti-Indian sovereignty movements influences future court decisions.

Legal Foundations of Anti-Indianism

Before I begin discussing the Cayuga case, it is important to understand how the Cayuga have been barred from obtaining their land since the 1807 treaty. From the outset, Indigenous land dispossession through federal policy and Indian law is often couched in paternal language such as “protection” and “guardianship” and these concepts are reflected in current United States case law and in historical debates regarding the rights of Indigenous peoples. Charles Wilkinson argues that federal policy towards Native Americans has, from its inception, “been the product of two conflicting forces—separatism and assimilation” (Wilkinson in Getches et al, p. 30). The two conflicting

forces can be analyzed in terms of United State land policy (and federal policy in general) directed at Indians. Congress can set the tone for the treatment of Native Americans, through power derived from the Commerce Clause in the United States Constitution. Aside from the statement “Indians not taxed,” Native nations are only mentioned briefly in the United States Constitution. Section Eight, Article Three of the Constitution, also known as the Commerce Clause, reads

The Congress shall have the power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes (United States Constitution).

From a broad interpretation of these twenty two words, Congress claims all of its power over Native governments, Native land, and Native people without Native consent. The power that Congress wields from the Commerce Clause is termed “plenary power” and is exercised over everything from definition of Indian country to health care and education. What first began as a regulation over Indian trade has metamorphosed over time and consequently, the growth of Congressional power is linked to efforts to both suppress and reaffirm tribal sovereignty. The Constitution, like all documents and law, is subject to varying interpretations, specifically interpretations by the United States Supreme Court.

Given the demand for more land in early American history, and the need for the United States to assert itself as a power, the Euro-colonial precedent of “discovery” was incorporated into formative United States Supreme Court decisions. The foundation for “Indian Law” in the United States lies with the Supreme Court decisions penned by Chief Justice John Marshall. Marshall grappled with the same questions bantered back and forth by European leaders and intellectuals, namely the question of Indian land rights and

concepts of property. While Marshall argued for limited rights of Native governments and peoples, he also systematically eroded those rights by enforcing colonizing theory, namely the doctrine of discovery. An analysis of what is now known as the “Marshall Trilogy,” illustrates the transfer of European “cultural racism” to United States case law (see Williams Jr, 2005 and Echo-Hawk 2010). The Marshall decisions are a reflection of 19th Century anti-Indian sentiment and the power of that language continues to be infused in American culture today and reflected in contemporary UCE discourse. The sentiment in the Marshall decisions is exposed, in law and in anti-sovereignty discourse, when Native nations, like the Cayuga Nation, attempt to challenge previous legal rulings.

The first case in the Marshall Trilogy is the 1823 case *Johnson v. McIntosh* which concerned a dispute over land title, namely title procured directly from Indians and title purchased from the federal government. Once discovered, Indians can only sell their land to the discoverer; in other words, Marshall stated that the federal government had ultimate title to Indian land (should Indians choose to sell their land). The verdict supported the core premise of the doctrine of discovery and today is consistently cited in contemporary cases. *Johnson v. McIntosh* also provides federal protection for Indians from individuals and is a strange amalgamation between the doctrine of discovery and the need (or a paternalistic approach on the part of the federal government) to protect Indian rights. The decision both reaffirmed Indian title to land and undermined Indian property rights as Marshall recognized Indian land ownership, but limited their right of sale:

Their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental

principle, that discovery gave exclusive title to those who made it (*Johnson v. McIntosh*).

While some view *Johnson v. McIntosh* to be a protectionist policy (by shielding Native Nations and individuals from shady land transactions by speculators), many Native law scholars argue a racist undertone to the decision. For example, Williams Jr. writes,

In holding that American Indian tribes had no power to give title to lands to private individuals recognizable in a United States court, Marshall's opinion in *Johnson* relied exclusively and directly upon the mediievally-derived tradition of Christian European crusading conquest and denial of non-Christian infidel people's rights brought to the New World by Columbus (Williams Jr. 1992 as quoted in Getches et al 2005: 36).

The Marshall decision raises important questions, but at the forefront is the overarching issue of justice; can Native Nations own property and exercise sovereignty over land?

Later Justice Marshall penned *Cherokee Nation v. Georgia* (1831) which sought to protect Indians from states by "clarifying" the Commerce Clause and established Native American tribes as "domestic dependent nations," the limitation/diminishment of indigenous sovereignty was justified through increased federal "protection" of Native Americans; "[T]hey are in a state of pupilage. Their relation to the United States resembles that of a ward to his guardian." Diminishment of indigenous sovereignty is rationalized through the concurrent establishment of a paternal colonial system. It is important to note that it was during this time period that the Cayuga became landless and because they were removed by the state, had no legal recourse. For other Native nations, in order to retain land, they were forced to turn to the very legal system that reinforced federal land acquisition.

Maintaining place and asserting land rights and sovereignty through the United States legal system, by default, involves participation in a colonial system. Rights depend upon “laws” and “citizenship,” yet indigenous rights have been—through the process of colonialism—undermined by these same factors. At issue here is not the idea of land rights, but rather the system in place to assert those rights. For example, in the final Marshall Trilogy case, *Worcester v. Georgia* (1832), the court recognized Native sovereignty over Indian land and ruled that state laws could not be enforced in Indian Territory. However, there was no recourse when those rights were expressly ignored by President Andrew Jackson and Congress, resulting in the removal of the Cherokee from their lands.⁴

The Marshall Trilogy is an example of jurisgenesis, as it reflects dominant attitudes towards Indigenous peoples in the 1800s. Marshall’s language has far reaching effects, as it continues to shape contemporary ideas about Indigenous peoples and sovereignty. UCE often refers to the Marshall Trilogy to justify their position towards sovereignty and land rights; in a 2001 online publication titled “Federal Indian Policy and the Oneida Indian Land Claim,” UCE contends

Indian tribes in the United States are not fully sovereign nations; they are quasi-sovereign rather than sovereign, domestic rather than foreign, and dependent rather than independent nations within our nation. There is a very limited sovereignty that exists solely at the complete discretion and pleasure of the United States Congress. Indian tribes are wards of the federal government since the federal government has taken on the responsibility of “protecting” the tribes from the states (UCE December 9, 2001).

⁴ In this case, the court was out of step with anti-Indian hegemony.

Here, UCE emphasizes the paternal relationship between Native Nations and the United States and highlights the point that the federal government has the power to eliminate Indigenous sovereignty at any point. UCE goes on to reference 1800s law to argue for the eradication of even this “quasi-sovereign” status;

Justice McClean concurring in the U.S. Supreme Court decision of *Worcester v. Georgia* (1832) stated that, “The exercise of the power of self-government by the Indians, within a state, is undoubtedly contemplated to be temporary” (UCE December 9, 2001).

It is important to note that UCE leadership legal analysis is not limited to the majority opinions in these cases, as concurring and dissenting opinions are also used to inform and support their views. As I will outline later, dissents are prime examples of “loaded weapons” against Indigenous sovereignty in federal Indian law—perhaps the best example being the dissent in *Oneida II* which led to the *City of Sherrill* decision.

UCE’s use of legal discourse extends beyond the Marshall Trilogy. For example, the 1901 case *Montoya v. United States* reads,

The North American Indians do not, and never have, constituted “nations” as that word is used by writers upon international law, although in a great number of treaties they are designated as “nations” as well as tribes. ...the word “nation” as applied to the uncivilized Indians is so much of a misnomer as to be little more than a compliment.

Similarly, UCE argues,

An increasing number of American Indian tribes claim international sovereignty, the sovereignty of nations. Some tribes even claim “foreign nation” status. In a spirit that seems to be “humoring” the tribes, the federal government still refers to tribes as “sovereign nations.” They are neither sovereign in the international sense of the term, nor are they nations...

...The demand for ethnic sovereignty by American Indian tribes is beginning to be heard and felt by more and more Americans throughout the United States...The tribes claim to be “sovereign nations,” some even

claiming sovereignty equal to that of Canada or Mexico. Members of the Iroquois tribes of New York State claim not to be American citizens and some have even manufactured their own passports. In truth, tribes are quasi-sovereign communities whose level of sovereignty is completely determined by Congress, but Congress has become too generous with its “sovereignty” handouts, and has stepped beyond the bounds of our constitution (UCE December 9, 2001).

Both the legal language of Montoya and the public stance of UCE use the same frame of sovereignty as “humoring” and unnecessarily “complimenting” Native Nations. In both cases, sovereignty exists as a courtesy, superfluously and graciously extended by the United States.

In the Oneida and Cayuga land claim cases, treaties are at the foundation of both Nation’s claims. In formulating and asserting their opinion on treaties, UCE again looks to legal discourse. For example, in *Tee-Hit-Ton v. United States* (1955), Justice Reed wrote in his majority opinion,

Every American schoolboy knows that the savage tribes of this continent were deprived of their ancestral ranges by force and that, even with the Indians ceded millions of acres by treaty in return for blankets, food and trinkets, it was not a sale but the conquerors’ will that deprived them of land.

Echoing *Tee-Hit-Ton*, UCE claims

Clearly treaties (cessions of land from Indian nations) with the Indian tribes were neither contracts between equals nor contracts granting or recognizing the sovereignty of tribes (UCE December 9, 2001).

Like UCE’s position on sovereignty, and using cases like *Tee-Hit-Ton* to further bolster their view, treaties were needless concessions in the history of United States conquest.

As such, UCE dismisses what it sees as the reinterpretation of treaties through a contemporary lens—especially when such an interpretation favors Native Nations.

Furthermore, the biased language of U.S. law is represented as “truth.” The UCE strategy of positioning legal language as “truth” is an example of “referentialist ideology” where statements and claims are evaluated in terms of “truth.” As Hill notes, this “ideology makes the question of whether or not statements are ‘true’ into a very salient issue...” (Hill 2008: 39). According to this ideology, legal truths differ from stereotypes—the former is neutral and “fact” while the latter is racist. A reliance on this ideology through the framing of legal language as “truth” helps to position UCE as “innocent” in the Cayuga land conflict.

Fighting Settlement and Advancing Laches: Framing “Innocence” in the Courts and Counties

When the Oneida Indian Nation’s litigation reached the United States Supreme Court in 1974 and 1985 the court sided with the Oneida, opening the door to similar land claims in the Northeast. Groups like UCE immediately criticized the ruling, with UCE arguing at the height of land claim opposition in 2001, “Both the 1974 & 1985 Supreme Court cases dealing with the Oneida land claim were examples of using late 1900’s law to interpret late 1700’s events” (UCE December 9, 2001). And while UCE uses case law as a foundation to their argument against Indigenous sovereignty, they also in turn criticize what they see as a larger body of “flawed policy”;

Severely flawed federal Indian policy has resulted in ancient land claim lawsuits brought forward by Indian tribes with the assistance of our own U.S. Department of Justice that seek the eviction of totally innocent landowners from their homes (UCE December 9, 2001).

This criticism manifests as more than just public rhetoric at meetings and letters to the editor in local papers; UCE also pursues litigation to advance their issues. The frame of

“ancient,” casts the Cayuga and Oneida Nations as unjust, while the frame of “innocence” casts UCE and non-Native residents as needing protection. Both frames became codified into law through the *City of Sherrill* decision.

In the initial years following *Oneida I* and *Oneida II*, New York State and, at times, the individual counties, entertained settlements with both the Oneida and Cayuga Nations. Bolstered by their interpretation of United States case law and motivated by what they see as an inherently unfair action on the part of the Cayuga and Oneida Nations as well as the United States (who intervened on behalf of both Nations), UCE consistently lobbied against settlement. By positioning non-Native residents as “innocent landowners” whose livelihood and identity is continually threatened by Indigenous sovereignty, UCE sought to block any type of settlement with the Cayuga Nation and Oneida Nation.

Even before the formal organization of UCE, local politicians were engaged in discussions regarding potential settlements between the state and the Oneida and Cayuga Nations. In a June 21, 1994 letter to Secretary of the Department of Interior, Bruce Babbitt, U.S. Representative Sherwood Boehlert wrote,

Dear Mr. Secretary:

Due to a March 4, 1985 United States Supreme Court ruling, the Oneida Indian nation factions are seeking a settlement for lands illegally bought by new York State in the 1790s.

Constituents and homeowners living in Oneida and Madison Counties in New York State, the subject of the 270,000 acre claim, are alarmed that eminent domain may be employed in a settlement arrangement.

At a meeting held in New York City on Jun 17, 1944, the Governor of New York State’s representative, Patrick Brown, who is negotiating a

settlement among the three Oneida factions, the New York, Wisconsin, and Thames, state that "...no eminent domain to remove people from land in question. We will resist the involuntary removal with everything we have."

Any land claim settlement that includes eminent domain would surely fail in congress, where it ultimately must be approved.

At your earliest possible convenience, please inform me of your department's policy regarding the resolution of the Oneida land claim. I am particularly interested in your assurances for local property owners and local tax bases affected by the negotiations that the Department of the Interior also opposes the use of eminent domain (Boehlert 1994).

Counselor to the Secretary, John J. Duffy responded to Boehlert on August 4, 1994, reassuring the Congressman that eminent domain would not be used in any land claim settlement;

I have repeatedly informed State and Tribal officials that the Department of the Interior will not agree to use the Federal power of eminent domain to acquire land for the purpose of settling land claim litigation in New York State (Duffy 1994).

With eminent domain off the table, Boehlert advocated for New York State to settle the Haudenosaunee land claims.

In October 1994, Boehlert again wrote Babbitt, this time in regards to the "impasse" of negotiations between the state and the Oneida Nation; "it is essential that we lift the cloud of uncertainty that hangs over many properties in Madison and Oneida Counties in Central New York due to this unresolved land claim" (Boehlert 1994). Four years later, Boehlert was still urging state and federal representatives to help settle the land claims. In a December 8, 1998 letter to then Governor Pataki, Boehlert wrote,

Today I am writing to Judge Neal McCurn, who is handling the Oneida Land Claim, and asking him to appoint a settlement master. It is high time for a serious, and final, settlement of these claims.

At this point, 20,000 homeowners and businesses in New York find the titles to their land clouded. Our real estate market and our corporations could be affected. This can have dire consequences on our economy – which you have worked so hard to help us rebuild.

It is a pity that the land claim is still unresolved, considering that numerous tribes have reached similar agreements with other states without a single person being forced off their land.

I urge you to appoint and lead a negotiation team that will work to protect Madison and Oneida County residents and businesses...

This land claim can be a win-win situation in Central New York. The settlement should explore ways to reduce the heavy state tax burden on business and energy in the region. It should be a catalyst for economic development. It should encourage new business in the region. It should result in peaceful cooperation among Indians and non-Indians who will want to share in each other[‘s] success (Boehlert 1998).

Once assured that a settlement would hold landowners “harmless,” Boehlert believed that a settlement could help “heal divisions among the parties and help people live and work together for a common future” (Boehlert 1998).

In 1998, when the United States intervened on behalf of the Oneida and Cayuga Nations, U.S. Representative Sherwood Boehlert sent a letter to Neal P. McCurn (the judge in the Oneida land claim case). Boehlert wrote,

As I understand it, this action will make the State of New York the lead defendant in the case, as well as preserve the rights of the Indians in this litigation. It will name a class of landowners as defendants. This action threatens innocent landowners and raises tensions in the community. These are people, who through no fault of their own, are being dragged into a land claim that puts them at risk. It will cloud titles to the land and create more confusion and uncertainty. It will weaken the people’s faith in a fair process to settle these claims (Boehlert 1998).

As outlined in Chapter One, both the Oneida Nation and the Cayuga Nation named individual landowners in their cases. Reflecting on that initial strategy, Hagan writes,

“the tactic of filing suit against landowners as well as states has proved highly successful in generating pressure for settlement” (Hagan 1988: 28). Even though the federal government repeatedly assured state and local politicians that win in court or a settlement outside of court would not involve eviction of landowners, the strategy of naming individual landowners served to further inform anti-Indian sentiment in Central New York State.

Eviction and ejectment continued to be rallying cries for UCE members and as late as 1999, there was still confusion in local communities about the possibility of eviction. Assistant Attorney General, Lois L. Schiffer wrote to Representative Boehlert about persistent misunderstandings in the counties and the benefits of settlement;

As you told us and as we have heard from other sources, there are some residents within the claim area who fear that the United States’ motion to join a defendant class means that the United States seeks to remove tens of thousands of residents within the claim area from the land. That is not so.

As we discussed, I would like to emphasize several points. First, we have intervened in the claim after a thorough review of the facts and the law, which convinced us that the claim has merit. Second, although ejectment is a remedy that is legally available to a court in a land claim such as this, as we have informed the court in other cases, the remedy of ejectment may be fashioned in a way that avoids eviction or ouster of private landowners, and when the time becomes appropriate we will so inform the court in this case. Third, to our knowledge, all Indian land claims like this one that have been resolved have in the past been successfully resolved by agreements that provide relief for the tribes without eviction of anyone. For example, settlements have provided for a fund to assist tribes in purchasing land within the claim area from willing sellers. The United States has actively sought, and will continue to seek, a settlement of this case that similarly provides for appropriate remedies for the tribes without eviction of private landowners (Schiffer 1999).

When Boehlert’s involvement in advocating for a settlement was revealed in the press, UCE members launched a critical media campaign against the

representative, accusing him of bias toward the Oneida Nation. Some individuals asserted that his wife and son worked at Turning Stone Casino (which was false) and many criticized the fact that he accepted seven thousand dollars in campaign donations from the Oneida Nation over a four year period (Bonafice 1999). While the state and federal government advocated for settlement, the local counties and UCE opposed the move.

Lawyers for the counties and UCE members took hold of the dissent from *Oneida II* which raised the issue of laches. Although the prosecution had not raised the issue in the case, the minority opinion posited whether laches would apply; “[The] claim is barred by the extraordinary passage of time” and “The counties and the private property owners affected by the litigation...have erected costly improvements on the property in reliance on the validity of their title” (*County of Oneida v. Oneida Indian Nation*). In other words, some of the justices wondered if the Oneidas had waited too long to bring a claim. It is important to note that while the Supreme Court questioned the applicability of laches in *Oneida II*, the ruling did not fully address whether the doctrine of laches was applicable to Native land claims. However, this small piece of *Oneida II* would sit—as Robert Williams, Jr. argues—like a “loaded weapon” until the questions was revisited in the *City of Sherrill* decision (Williams, Jr.: 2005).

When the issue of laches re-emerged in 2005 and at the center of the *City of Sherrill* case, it effectively halted Haudenosaunee land claims. As a result, the state benefited from the doctrine of laches by deemphasizing its role in land dispossession and instead emphasizing the frame of “innocent landowners.” In essence, New York State

caused the problem in the 1870s and never provided resolution, instead (using state sovereignty immunity) pitted the Cayuga Nation against residents of Cayuga and Seneca Counties. The history of the Haudenosaunee claims ceased to be a history of inequalities between the state, Haudenosaunee Nations, and the federal government, and instead became a frame that put Haudenosaunee Nations in conflict with individual landowners.

Changes in the Legal Landscape: *City of Sherrill v. Oneida Indian Nation*

When Vescey and Starna's edited book "Iroquois Land Claims" was published in 1988, shortly after the Oneida victories, the legal climate was much more favorable to Native Nations. In fact, because of *Oneida I* and *Oneida II*, many Northeastern claims had been settled out of court with both money and land as conditions of the settlement. Based upon the majority opinion in *Oneida II*, the scale of justice seemed to tip toward Native Nations in regards to land claims. Reflecting this period, Vescey notes that "federal and state officials no longer scoff at the notion of Indian rights to claims, rights to land" and ends his introduction to the classic Haudenosaunee land claim book with measured, but positive outlook;

[Haudenosaunee Nations] learned that once the claims won court cases—as they have over the past decade and more—then non-Indian policymakers might be moved to regard the claims seriously. They also learned that legal decisions depended largely on the climate of opinion in which they were made (Vescey *in* Vescey and Starna 1988: 16).

Today these words read not as a positive outlook for the future, but as an ominous prediction of the reversal of legal rulings to come. Local discourses against land claims mark what O'Conner notes as an "altitudinal [shift] in the population" and has affected the "climate of option" in the courts (Williams, Jr. 2005: xxix and Vescey and Starna

1988). While anti-land claim sentiment existed in both counties long before UCE, increased grassroots organization and lobbying efforts aided in UCE's jurisgenesis and is reflected in recent court decisions ruled in favor of the state and counties.

In the height of land claim opposition, UCE members were quoted in local newspapers expressing anxiety about a possible Cayuga return to the region; "I think people don't want to settle in a place and have the Indians take over, you know" (Rapp, 1999). The idea of Cayuga Nation citizens "taking over" and asserting what UCE members view as outdated and invalid Indigenous sovereignty is not only reflective of early Indian case law, but informs contemporary U.S. Supreme Court decisions.

The reciprocal processes of jurisgenesis would not be possible without Williams, Jr.'s idea of "loaded weapons." In the case of *City of Sherrill*, the loaded weapon was unquestionable the dissent in *Oneida II* authored by Justice Stevens and joined by Chief Justice White and Justice Rehnquist; the last section of the dissent reads,

This decision upsets the long-settled expectations in the ownership of real property in the Counties of Oneida and Madison, New York, and the disruption it is sure to cause will confirm the common law wisdom that ancient claims are best left to repose (*County of Oneida v. Oneida Indian Nation* Dissent 1985).

During oral arguments for *City of Sherrill*, Justice Scalia picked up the dissent in *Oneida II* and mirrored UCE discourse when he stated, "[Oneida sovereignty] would just create a chaotic situation in New York State if we say you have jurisdiction over any piece of land you buy." The next day, The Syracuse Post Standard ran an article with Scalia's quote under the headline "Scalia: Sovereignty Would Create Chaos" (Elliot-Engel, 1/12/2005). When the decision was handed down a few months later on March 29, 2005, Scalia's

view of Oneida sovereignty as “ancient,” “disruptive,” and “chaotic” was codified in Justice Ginsburg’s majority opinion in *City of Sherrill*;

Given the longstanding, distinctly non-Indian character of the area and its inhabitants, the regulatory authority constantly exercised by New York State and its counties and towns, and the Oneida’s long delay in seeking judicial relief against parties other than the United States, we hold that the tribe cannot unilaterally revive its ancient sovereignty, in whole or in part, over the parcels at issue (*City of Sherrill v. Oneida Indian Nation* 2005).

Not only does Ginsburg’s opinion reflect the *Oneida II* dissent and contemporary UCE frames, but it is also reminiscent of the majority opinion the 1886 case *United States v. Kagama*, which reinforced the Major Crimes Act and is used by UCE to attack the concept of Indigenous sovereignty;

The power of the General Government over these remnants of a race once powerful, now weak and diminished in numbers, is necessary to their protection, as well as to the safety of those among whom they dwell. It must exist in the government, because it never has existed anywhere else..(*United States v. Kagama* 1886).

Legal attempts in the 1800s to eliminate Indigenous sovereignty, shaped by cultural attitudes of racial superiority and manifest destiny, are preserved in case law and continue to influence contemporary culture and judicial decisions.

City of Sherrill also illustrates the power of dissents. In a recent interview following the 2014 *Burwell v. Hobby Lobby Stores, Inc.*, Justice Ginsburg reflected on the power of dissents; “many of those dissents are now unquestionably the law of the land” (Flatow 2014). Ginsburg’s admission reinforces Williams Jr.’s contention that even in cases decided in favor of Native Nations, dissents are weapons against Indigenous sovereignty (Williams, Jr. 2005). *City of Sherrill* provides a contemporary example of jurisgenesis through the reciprocal relationship between case law and public

discourse; the language initially present in cases like *Kagama* and the dissent of *Oneida II*, influences non-Native discourses of opposition, which in turn fuel and shape “social consensus” and are reflected in contemporary court decisions.

UCE’s Continued Resistance to Haudenosaunee Sovereignty after *City of Sherrill*

Shortly after *City of Sherrill*, the Second Circuit Court of Appeals applied the new doctrine of “Indian” laches to the Cayuga Nation and Oneida Nation’s land claims.⁵ The majority opinion in *Sherrill* did note one remaining avenue for regaining land—the fee-to-trust process. Immediately after the *City of Sherrill* and Second Circuit Court decisions were handed down, UCE began preparing to fight the fee-to-trust process, through both public hearings and litigation. During this period both Seneca and Cayuga County, as well as Oneida and Madison Counties, reopened settlement discussions with the Cayuga Nation and Oneida Nation. While the counties were trying to head off fee-to-trust, many county residents viewed the negotiations as unnecessary. One UCE member told me in 2007, “We won. We won in the courts. There is no need for settlement.”

Addressing the Seneca/Cayuga chapter of UCE in 2005, Oneida/Madison Chapter President David Vickers told the group, “One of the things I am obviously committed to doing is using the law for our advantage in a way that won’t financially break our backs.” He continued,

In my neck of the woods both Oneida and Madison County are engaged in sort of secretive behind the door talks about giving away 5,000 acres of each county to create a continuous Oneida reservation. It’s ridiculous. And again the only way that could possibly happen is through this land into trust process which I am willing to stake my professional credential on as being inapplicable, unconstitutional, and invalid in New York. And I am drooling at the chance to get that into court. So if they are going to

⁵ See Kathryn E. Fort’s work on “New Laches” created by *Sherrill* (Fort 2009).

go forward with some nonsense like that they are not going to go in unchallenged.

David's commitment to using litigation was echoed in a 2007 summer meeting of the Seneca/Cayuga chapter. The *City of Sherrill* case is another example of UCE leaders selectively choosing legal narratives. *Sherrill* is widely heralded by UCE in that it resulted in the dismissal of the Oneida and Cayuga land claims; however, in the above quote, the leadership of the group is ready to litigate in order to challenge the Cayuga and Oneida Nations' right to file fee-to-trust applications, even though fee-to-trust was specifically mentioned in *Sherrill* as a means to regain land. UCE called a public meeting to discuss the potential of settlement between the Cayuga Nation and Seneca and Cayuga Counties as well as the ongoing fee-to-trust process.

The opening vignette of this dissertation recounts this meeting, where UCE members angrily addressed the county representatives in attendance. Dave Dresser, a Seneca County Board of Supervisors member, argued for settlement and told the audience, "I cannot, we cannot change the federal government's commitment to Indian sovereignty. It is my opinion that the three branches of government support land into trust." He went on to cite sections of the Indian Reorganization Act, verbatim, without looking at his notes, as well as portions of Ginsburg's majority decision that refers to land into trust as a remaining option. "[Everything] is lined up against us. Especially with the Indian lobby the way it is," he sighed.

Most of the audience was visibly mad listening to his position. One man, wearing overalls, shouted, "We're farmers. You talk about giving these people 10,000 acres? We bought all that land. We pay taxes and we're farming. It's harder. Dirtier." Someone

interjected, “Honest!” The farmer continued, “We have to pay for fuel, dry corn, and machinery has sky rocketed and we still pay taxes.” The Vice Chairman of UCE, Russ Wheeler, added,

They’re gonna control waterways up to the sources. They’re gonna control the environment. Pretty soon there is not going to be any state. The American Indians would have control over the whole state. Pretty soon we won’t have control over anything. Why should we capitulate to a small bureaucracy like it is a dictatorship? Federal policy is changing, slowly, but it is changing. It will probably outlive us.

“Not our children!” a woman shouts. “But it will change,” Russ continued. Another woman said, “I’m gonna continue living until that day just to be mean.” “You look at the country. You are going to take my country and state away!” another woman yelled at Dresser. She continues, “I would like this [land] to go to the Seneca County so my kids and grandkids won’t look at us and say ‘they gave it all away.’” After years of losing in the courts, UCE members were emboldened by recent “wins” in the U.S. Supreme Court and Second Circuit Court and set their sights on fighting fee-to-trust.

Conclusion

Throughout the land claim litigation, UCE was able to create strong frames, and distance themselves from accusations of racism, by using legal language to bolster their claims. Publically, on their website and in open meetings, UCE leadership grounds criticism of Haudenosaunee sovereignty in case law. The language of these cases, while undoubtedly used to support their position, also serves to inform their views on Indigenous sovereignty; an analysis of the law as culture in relation to the Cayuga case clearly indicates that the courts continue to reflect anti-Indian sentiment established in the 1800s which in turn is reflected through present day UCE discourse. Furthermore, the

local discourses of anti-Indian sovereignty in turn support contemporary cases like *Sherrill*—providing an example of O’Conner’s “careful byproduct of emerging social consensus” (O’Conner as quoted in Williams, Jr. 2005: xxix).

Movement away from land claims (and “winning” in the courts) had emboldened UCE to promote more frames, this time against the fee-to-trust process. However, in the time that the land claim cases made their way through the court system, both the Cayuga and Oneida Nations pursued land reacquisition, by purchasing land off the open market and opening businesses. For the Oneida Nation, this economic development has drastically changed the social and economic landscape of Oneida and Madison counties. As a result, the social consensus against Oneida sovereignty has shifted. In the next chapter, I discuss the transfer of UCE’s land claim frames to fee-to-trust and compare the relative success of these frames through case studies of the Cayuga and Oneida fee-to-trust applications.

Chapter Five – “It’s a Question of Fairness”: Fee-to-Trust and Opposition to Haudenosaunee Land Rights and Economic Development

Stereotypes and misconceptions about Indigenous sovereignty, particularly gaming, are rampant throughout the United States and are reflected in pop culture discourses. The satirical cartoon *South Park* took up the issue of Indian gaming in 2003, dedicating an entire episode titled “Red Man’s Greed” to the topic. The episode centers on an unnamed Native Nation that operates “Three Feathers Casino” outside of the fictional Colorado town of South Park. In order to grow casino profits, the Nation plans to buy and demolish South Park to build a superhighway from their casino to Denver. Upon learning of the plan, father Randy Marsh tries to comfort his son Stan—“It will be ok boys. We’ll just move to the next town over,” he tells them. To which Stan replies, “Oh sure, until the Native Americans decide they want that land too. What if the Native Americans keep building their casinos and highways until we have nowhere else to go? We have to stand up to them now!” (South Park 2003).

While the South Park situation is fictitious and the humor of the episode is rooted in the irony that it was Native Nations who lost their land to rampant United States economic and political expansion, in reality anti-Indian economic and sovereignty discourse deployed towards Indigenous gaming uses similar linguistic frames articulated by the fictional *South Park* characters. For example, in response to the Cayuga Nation’s request to put 125 acres into trust, local resident Gerald Masculoso told the BIA,

It’s a question of fairness. Not to what occurred two hundred years ago, we cannot correct that. It’s a question of fairness as to what will occur two hundred years hence, to the inhabitants of this particular area. (United States 2006a: 39).

Maculoso does not deny the past wrongs experienced by the Haudenosaunee (namely disposition of land), his view—which reflects the consensus of UCE members—places non-Native residents of the counties as modern day victims. This sentiment is reflected in the *City of Sherrill* majority opinion;

The wrongs of which [the Oneida Indian Nation] complains occurred during the early years of the Republic, whereas, for the past two centuries, New York and its local units have continuously governed the territory...

The unilateral reestablishment of present and future Indian sovereign control, even over land purchased at the market price, would have disruptive practical consequences...

As discussed in the previous chapter, *City of Sherrill* flipped the script of Indigenous land dispossession established by *Oneida I* and *Oneida II*—the decision positioned the reestablishment of sovereign Oneida land in Madison and Oneida Counties as “disruptive,” and, in essence, *unfair* to non-Native residents and non-Native governments

In the wake of *City of Sherrill*, Haudenosaunee Nations are left with the legal hurdles of laches and disruption, which makes continued litigation extremely difficult. As a result, the Cayuga and Oneida Nations have turned to the fee-to-trust process to regain or build upon land bases. Land is a crucial element for the exercise of Indigenous sovereignty and land is also necessary for economic development. Although Native Nations can exercise sovereignty without a land base, a lack of land can put increased strain on Native governments and stand as a barrier to economic development. For many Native communities, land, tribal businesses, bingo halls, and casinos have become practical symbols of Native sovereignty and economic self-determination (Cattellino 2008, 2010; Light and Rand 2005). As Native nations gain economic and political

power, non-Native opposition to Indigenous sovereignty manifests through anti-gaming and anti-Indian economic development discourse. In addition to UCE, in New York State, Cayuga, Oneida, and Seneca economic development western and central New York has been met by increased opposition from grassroots organizations such as, Citizens Against Gambling in Erie County, Coalition Against Gambling in New York, and Citizens for a Better Buffalo.

This chapter contextualizes opposition to Cayuga and Oneida economic development and fee-to-trust. Specifically, I analyze gaming and land discourse directed at the Cayuga Nation and Oneida Nation through the public comments on their respective land into trust applications. Opposition to Cayuga and Oneida gaming is tied to opposition to land claims and recent fee-to-trust applications; additionally, both Nations operate gaming facilities in very rural regions. Even in land claim cases, contemporary anti-Indian sovereignty movements center on opposition to Indigenous economic development; as illustrated in the previous chapter, a perception of “unfair business practices” is at the heart of UCE discourse and Indigenous sovereignty is framed as an affront to the economic livelihood of non-Native individuals and businesses. In essence, Haudenosaunee gaming and economic development is at the center of UCE fears regarding the exercise of Haudenosaunee sovereignty in Central New York.

Fee to Trust and Economic Development: Gaming in “Upstate”

As discussed in previous chapters, the 2005 landmark United States Supreme Court case *City of Sherrill* effectively ended all indigenous land claims in the State of New York and nationwide. Here I am referring to the legal strategy employed by Native

Nations on the East Coast of asserting Indigenous land rights through the 1790 and 1793 Trade and Intercourse Acts. This strategy had been successful, however the decision rendered in *Sherrill* does not accept land claims (and corresponding assertions of sovereignty) based upon the Trade and Intercourse Acts. It is important to note that while current legal landscape may be inhospitable to land claims, this does not mean that all avenues (legal and otherwise) of regaining land and addressing past injustices have been exhausted.

Sherrill created a new legal landscape that privileged the fee-to-trust process over land settlement—while the Supreme Court of the United States (SCOTUS) ruled against the Oneida Nation, citing concerns over checker boarding, disruption of non-Native jurisdictions, etc., the majority opinion noted the option of fee-to-trust;

...Congress has provided, in 25 U.S.C. § 465 a mechanism for the acquisition of lands for tribal communities that takes account of the interests of others with stakes in the area's governance and well being. Section 465 provides the proper avenue for OIN to reestablish sovereign authority over territory last held by the Oneidas 200 years ago.

With little available recourse in the courts, a remaining option for regaining and expanding Cayuga and Oneida land bases is through the fee-to-trust process. Both Nations have submitted fee-to-trust applications to transfer land purchased on the open market (land held in fee simple) to reservation land (land held in trust). While this process—developed as part of the Indian Reorganization Act—is not new, the Cayuga and Oneida Nations are the only Native Nations to file fee-to-trust applications in New York State. In Western New York, the Seneca Nation has used a modified process that

bypasses fee-to-trust in order to expand reservation land for housing—Seneca territories in Buffalo and Niagara Falls were re-acquired with Salamanca Settlement Funds.

The fee-to-trust process was developed in the 1930s under the Indian Reorganization Act. Specifically, 25 U.S.C. § 465 reads,

The Secretary of the Interior is authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

...Title to any lands or rights acquired pursuant to this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.) shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

As part of the process, the Bureau of Indian Affairs (BIA) is required to review all requests to put land into trust by federally recognized Native Nations. UCE, as well as other anti-Indian sovereignty groups, opposes the fee-to-trust process. Although the BIA addressed the legal standing of fee-to-trust in the Oneida application, some anti-sovereignty groups have challenged the constitutionality of the process in court.

A BIA review is required by the 1969 National Environmental Policy Act, which considers environmental—including human social environment—factors. The summary analysis is published in an Environmental Impact Statement (EIS); before the final EIS is completed, the public can submit comments on a draft EIS, either in writing or at a scheduled public hearing. While the main goal of the EIS is to “address the [Oneida and Cayuga] Nation’s need for cultural and social preservation, political self-determination, self-sufficiency, and economic growth as [federally] recognized Indian tribe[s],” non-

Native concerns are also taken into consideration. UCE has since shifted land claim opposition to fee to trust opposition, actively lobbying politicians, writing letters to the BIA, and organizing community members to oppose both the Oneida and Cayuga Nations applications.

Non-Native opposition to the Cayuga and Oneida fee-to-trust applications centers around removal of land from county tax rolls and the establishment of tax-free businesses—most notably bingo halls and casinos. The Oneida Nation already operates a Class III gaming facility (Turning Stone Resort and Casino) and the Cayuga Nation has, off and on, operated two Class II bingo halls in Seneca Falls and Union Springs (LakeSide Entertainment). Gaming is a contentious issue within the Cayuga Nation. One faction of Cayuga leadership is in favor of gaming and expanding the Nation's existing gaming, while another faction strongly opposes any type of gaming enterprise. While both Nations' desire to reacquire land within their homelands is driven by more than gaming, public opposition to the process often centers on gaming. Compounding these issues is the fact that the legal foundations of gaming (and fee-to-trust) are largely misunderstood in non-Native communities.

In 1987, the Supreme Court of the United States (SCOTUS) upheld the Cabazon Band of Mission Indians' right to operate bingo games and a card club within the boundaries of its reservation (*California v. Cabazon Band of Mission Indians*, 480 U.S. 202). The ruling also served to reaffirm tribal sovereignty, as SCOTUS decided against California's argument that its criminal jurisdiction extended to jurisdiction over gambling on reservation; this decision thereby reaffirmed tribal authority over civil matters on

Indian land. In *Cabazon*, the Cabazon Band argued that Native Nations retain the reserved right to game, while California argued that gaming was a criminal matter as it would increase organized crime and prostitution. Shortly after *Cabazon*, Congress passed the Indian Gaming Regulatory Act (IGRA) in 1988, which is essentially a “Cabazon fix,” limiting Indian gaming by providing guidelines for the establishment of gaming facilities. Under IGRA, gaming is divided into three categories with Class III gaming (slot machines, card games played against the house, etc) allowed only “in a State that permits such gaming” (Getches, Wilkinson, and Williams 2005; Light and Rand 2005). Because New York State allows lottery, horse racing, and other gaming activities, federally recognized Native Nations within the state have the ability under *Cabazon* and IGRA to engage in gaming.

A key component of IGRA requires Native Nations seeking to conduct Class III gaming to sign a “Compact” with the state, with one stipulation—the state must negotiate in good faith with the Nation seeking to establish a casino. Under IGRA, casinos are both an exercise and limitation of tribal sovereignty (Light and Rand 2005)—Native Nations exercise economic self-determination, while still being subjected to federal, and at times, state and encroaching local regulation; encroaching state and local regulation also feeds and bolsters anti-Indian groups. IGRA aside, the *Cabazon* ruling stands as a recent affirmation of tribal sovereignty and many Native Nations closely tie the right to operate casinos to the inherent right of tribal sovereignty and self-determination.

Several Native Nations have used IGRA and state compacting as a method to reacquire land in urban areas located in their ancestral homelands. In these areas, there

are competing economic and political interests vying to control how and where Native Nations purchase land for casino development. For example, the City of Buffalo lobbied for the Seneca Nation's Buffalo Creek Casino to be built within city limits, as opposed to neighboring suburbs, but then sought to restrict Seneca hotel and restaurant development in an effort to prevent competition with non-Native businesses. While cities, towns, and municipalities debate the economic benefit of casinos, Indigenous land acquisition and economic development are often framed as "special rights" by non-Native individuals and groups critical of Indigenous sovereignty (Cattelino 2010). Cattelino describes this as the "double bind of American Indian need based sovereignty";

American Indian tribal nations (like other polities) require economic resources to exercise sovereignty, and their revenues often derive from their governmental rights; however, once they exercise economic power, the legitimacy of tribal sovereignty and citizenship is challenged in law, public culture, and everyday interactions within settler society (Cattelino 2010: 235-236).

According to this model, gaming and other forms of economic development have resulted in a "double bind" for Native governments; non-Native individuals and groups criticize both poverty and wealth in Indigenous communities and use both to advocate for termination of Indigenous sovereignty (Cattelino 2010). For example, in 2006 and 2007 meetings, Seneca/Cayuga UCE members consistently argue against Indigenous sovereign economic development, either portraying economic development as a way to skirt taxes; "They don't need to develop. They already developed. They just want to be shielded from taxes." Or critiquing the local economic benefits of development; "There will be no Seneca County. Ten years from now it will be like the Seneca Reservation. Desolate. There is nothing there. It's terrible."

For some Native Nations, economic development is pivotal for achieving and sustaining self-determination. However, such development necessitates increased interaction with state and local politicians and non-Native communities. In the following section, I present state, local, and Indigenous discourses surrounding Cayuga and Oneida fee-to-trust applications as well as Oneida and Seneca gaming in order to engage Cattellino's concept of the double bind as well as her 2007 call to examine the local facets of Indigenous sovereignty. Specifically, I outline examples of increased economic development by Haudenosaunee Nations that can reinforce and actively challenge aspects of the double bind. While fee-to-trust and gaming has resulted in increased non-Native opposition to Haudenosaunee sovereignty, it has also led to better understandings—and support—of sovereignty in some non-Native communities.

Illustrating the Double Bind: The Cayuga Scoping Meeting

On March 1, 2006, the BIA held a public scoping meeting to collect oral and written comments on the Cayuga Indian Nation's (Cayuga Nation) fee-to-trust application for 125 acres of land in Cayuga and Seneca Counties in Central New York State. A notice of the meeting was placed in local papers and communicated to County government offices in early February. Informally, UCE also advertised the meeting through their email list serve and in their monthly meeting. Approximately 500 people were present for the first scoping hearing and over 100 submitted written and/or verbal comments to the BIA.

The hearing was held in Seneca Falls at the New York State Chiropractic College in the college's gymnasium. Large sets of bleachers divided the large gym in half, giving way to rows of folding chairs, and at the front of the gym, folding tables marked with

name cards for BIA representatives. Behind the BIA, a row of chairs lined the wall, designated for Cayuga representatives as well as state and local government representatives and members of the press. The rows and bleachers filled with residents of both Cayuga and Seneca counties; save for a few Cayuga Nation members and one or two college professors, the audience was largely white and middle age or elderly. There were a handful of teenagers and children present, sitting with their parents. Before the meeting began, UCE members greeted each other—most sitting together and some wearing UCE t-shirts. While most in attendance were prepared to speak in opposition to the application, a few people were in attendance with the goal of learning more about the issue; one Cayuga County resident told me “I haven’t heard much about fee-to-trust and I want to know how it is different from the land claim. I don’t really have an opinion yet, but I would like to side one way or the other once I get some information.”

The meeting began shortly after 6:30pm, with an opening from Kurt Chandler, the Regional Environmental Scientist for the BIA, who introduced the other BIA representatives, including an Attorney Advisor from the Department of Interior and an Environmental Protection Specialist. Chandler briefly explained fee-to-trust;

Taking into trust is a means that the Federal government holds the land for their fair use and enjoyment. What it does is that it makes the property tax free for the Nation, and no one can take that property away from them.

He also outlined the National Environmental Policy Act (NEPA) as well as the next steps after the initial scoping meeting;

So what we are looking for is what are the potential impacts? We will have a public comment period. And after the public comment period today, we will ask you to focus on what potential impacts we should be looking at. That’s the whole purpose of the meeting, to do that. I

appreciate it. Some people want to talk about, you know, a lot of different things. But please, keep your comments to what the EIS should be looking for now.

The process of drafting an EIS is uncommon and as such is new to residents of the counties. Furthermore, the process serves to position residents as victims of (unwanted) change and creates a venue for scapegoating and opportunity for residents to echo Sherrill's notion of disruption.

The first oral comment was from Clinton (Clint) Halftown, the Cayuga Nation's Federally Recognized Representative to the BIA.⁶ Halftown addressed an audience that was overwhelmingly opposed to the Cayuga Nation's application—opposition evidenced by t-shirts (designed and printed by UCE in the late 1990s during the early stages of land claim opposition) adorned with the UCE logo, facial expressions, occasional jeering, and a few signs—most notably a mass produced UCE sign that read “ONE NATION.” When Halftown arrived in the gymnasium before the meeting began, many in the audience turned in their seats to stare as he walked to the front of the gymnasium. Two elderly women sitting in front of me remarked, “Where are his feathers?” and “He's not a real Indian.”

At the outset of his prepared remarks, Halftown stated,

I have not actively encouraged a huge outpouring of support from our Nation members, our Nation employees, or our valued customers, so that each member here could have an opportunity to speak. I am sure you are also aware that the Cayuga Nation provides jobs for residents, payments to local vendors, and value to our customers.

⁶ Currently, a faction of the Cayuga Nation is challenging Halftown's status as Federally Recognized Representative. At present, the BIA has not weighed in on the leadership dispute, choosing not to recognize any leader until the dispute is solved internally within the Nation. At the time of this scoping meeting, Halftown's leadership had already been challenged within the Nation.

He continued by further acknowledging the large crowd that had gathered to oppose the application,

In providing your comments for our application, you should base your opinion on the facts. Please do not rely on some preconceived misconceptions of what we are asking for...First we are a small Nation. Very small. And the land in comparison to other Indian nations, even in comparison to other public and private land owners in Seneca and Cayuga counties [is small].

As illustrated by this statement, Halftown recognized—and sought to dissipate—fears surrounding the exercise of Cayuga sovereignty over land in Seneca and Cayuga Counties.

The vast majority of the comments of opposition were phrased with NEPA in mind; commenters mentioned topics ranging from possible impacts to the environment (land, water, air, etc.), potential increased demands on infrastructure and services, to an alteration of land use patterns. Most comments were directed towards concerns over socioeconomic impact (namely employment and income). The only topics deemed outside of the scope of the EIS were the various legal issues raised by county representatives and UCE members (United States 2006a). The three most common themes in the discourses of opposition were economic unfairness and “special rights,” concern over a “slippery slope” of establishing reservation land, and environmental impact from economic development.

The most common theme in the comments was a concern that the Cayuga Nation was exercising “special rights” over non-Natives in both counties. For example, David Dresser, member of the Seneca County Board of Supervisors and chairman of the

county's Indian Land Claim Committee, questioned whether sovereign Cayuga land was necessary to preserve Cayuga culture;

[T]rust status is not necessary to preserve the Cayuga culture. Instead, what we see is a tribe seeking economic advantage over non-Indians with commercial and gaming enterprises in both counties. (United States 2006a: 43)

In a similar vein, Robert Shipley (also a member of the Seneca Falls Board of Supervisors) stated,

While we have great respect for the Native American culture, we do not believe that unfair competition with local businesses, or special rights to gambling are necessary—are necessary to preserve any culture. Furthermore, we do not believe the spirit of American equality should be circumvented to grant special privileges based on race or ethnicity. (United States 2006a: 26).

Both comments illustrate a characteristic of the double bind, the tenuous relationship between the concept of Indigenous sovereignty and that of “equality” within nation-states. Dresser argues that Cayuga culture does not need land to survive and challenges the legitimacy of Cayuga government. Shipley expresses support for Indigenous “culture,” but sees economic development as separate from that culture. Whereas economic development goes unquestioned “American culture,” it is framed as a “special right” when applied to Indigenous cultures.

As articulated in Chapter Three, citizenship is a powerful frame deployed in settler ideology. Because citizenship is contextualized within the “individual,” notions of Indigenous sovereignty—a collective operating both within and yet distinct from United States sovereignty—challenge this conceptual structure. As Cattelino posits, “how can nation-states that commit to equality among the citizenry take account of the differential

political status of indigenous peoples as citizens both of indigenous polities...and of settler states?” (Cattelino 2010: 241). What happens is that Cayuga rights to Indigenous citizenship is reduced to a right to practice “culture” and, as opponents argue, Cayuga culture is separated from the sovereign right to operate gaming and tax free businesses. Furthermore, because Indigenous identity is limited to non-Native perceptions of Indigenous culture, the right to pursue economic development is placed outside of the maintenance of culture and at odds with the economic rights of non-Native individuals.

The reason why frames of “equality” and “fairness” are so powerful in discourses of opposition is because of the seemingly untenable relationship between non-Native perceptions of sovereignty and assertions of economic self-determination by Native nations. In a classic illustration of the double bind, Richard Talcott, the then chairman of UCE, argued, “The Cayuga have demonstrated their ability to open, operate, and succeed in their businesses, which meets the intentions of the IRA without trust status and negates the need for such.” (United States 2006a: 46). In his statement, Talcott frames the Cayuga not as a Nation but as a collection of individuals. As such, the Cayuga do not need sovereignty to exist, and prosper economically, as individuals; the Cayuga are so successful, they do not need the perceived crutch of Indigenous sovereignty—especially when it is viewed as unsustainable for non-Native populations and harmful to local economies. Seneca Falls resident Brad Jones builds on this perspective commenting that if the Cayuga application is approved “this area will become a wasteland occupied by gambling parlors and social service agencies.” (United States 2006a: 37). In short, Cayuga sovereignty—and perceived culture—is portrayed as not only unnecessary but

also harmful to non-Native economies. To use the *City of Sherrill* frame, Indigenous sovereignty is “disruptive” to non-Native communities.

Perhaps the most common context for discussions of “fairness” is that of gaming, and as Cattelino argues, “gaming has revived need-based sovereignty” (Cattelino 2010: 248). As Russell Wheeler, then the Vice-Chairman of UCE (and now Chairman), stated,

Presently there are...228 Class III gambling tribes participating in a race-based Congressionally sanctified—economic monopoly...[with] 38 states whose communities are imploding from escalation of the special preferential Indian economy created by Congress and funded by tribal contributions (United States 2006a: 48).

In his statement, Wheeler conflates political identity with that of racial identity—reducing the Cayuga Nation to a racial special interest group. As illustrated in the previous chapter, in settler states, “racing” Native nations is a contemporary means of eroding/terminating sovereignty (Baker 2005). Discursively, “racing” sovereign nations fits within a referentialist ideology (Hill 2008) where the Cayuga and Oneida nations are treated as individuals instead of sovereign political entities. Reducing Native nations from political entities to racial groups then makes it easier to deploy arguments of “equality” (though these arguments are still problematic when they are race-based).

Because the double-bind reduces Native nations to racial groups—by terminating political status and establishing racial/ethnic status—discourses of opposition are often discourses of whiteness. Richard Delgado and Jean Stefaniec (1997) argue that as minority groups actively resist discrimination, dominant groups view their actions not steps toward equality, but as an “imposition.” Wheeler’s comments typify two interrelated types of imposition outlined by Delgado and Stefaniec; “Baselines and

Tipping Points,” where reform is a “departure from a situation we have come to regard as neutral and fair,” and “The Rule and the Exception” where members of the dominant group “view outsiders as seeking an exemption from universal rules that all of us must obey” (Delgado and Stefanic 1997: 101). For example, Darrell Carter, a Cayuga County resident, argued

We all know that the land-in-trust issue is for the construction of casinos. No big surprise there. The Americans who are working or want to work at these establishments say there are no jobs in New York State that pay as well. They may have a point. But in my opinion, using gambling as a foundation for any state’s economy is foolish. And if we are going down that road, it would [be] better to legalize it for all, and level the playing field (United States 2006a: 64).

Whiteness changes the legal landscape as outsiders (the Cayuga) are forced to conform to the fee-to-trust process where their right to exercise economic sovereignty is placed at direct odds with—and weighed against the economic interests—of non-Native populations.

As illustrated, many Cayuga County and Seneca County residents are fearful about the possible effects of the establishment of reservation status and the corresponding exercise of Cayuga sovereignty over 125 acres of land. Speakers concerns were not limited to the current request for 125 acres of trust land (a small percentage compared to the total 64,015 acres included in the initial land claim); many residents expressed a fear that Cayuga sovereignty would spread beyond the small parcels requested in the application. As Peter Same, Town Supervisor of Seneca Falls, stated “We are concerned about the Cayugas growing their reservation once land is taken into trust” (United States

2006a: 36). Same's comment again echoes the Sherrill frame of "disruption" and positions any Cayuga land acquisition as harmful.

As part of their model of "imposition," Delgado and Stefanic argue that the assertion of rights by minority groups creates fears in the dominant group that granting some rights will quickly snowball to more demands—a sentiment parodied in the satirical South Park vignette at the beginning of the chapter. This snowballing starts with the idea of imposition "through Effects and Implications," where speakers decry the assertion of rights over fears of increased demands (e.g. "where will it all stop?"). Linked to this form of imposition is the argument "If You Give Them an Inch"; as Delgado and Stefanic note, "Many deployments of the imposition figure rest on a fear of the floodgates. Because the first request strikes us as extreme, the possibility of others raises real fears" (Delgado and Stefanic 1997: 101). In his comment to the BIA, Peter Schuster, a farmer and Seneca County resident, deploys both forms of imposition;

The 125 acres doesn't sound like very much—out of 55,000. But it's like the camel getting his head in the tent. They are not going to stop. A few years ago, they propositioned me for my farm. It's 300---about 300 acres for a casino. Now I can't think of anything worse to be facing the environment than replacing my strawberry patches with a casino (United States 2006a: 68).

Even though the Cayuga Nation did not outline any plans for a Class III gaming facility, speakers at the scoping meeting viewed the initial request as so extreme that it validated their fears that even more extreme changes would ensue from a Cayuga land base.

While there are many factors that influence fear and opposition towards Cayuga sovereignty, some opposition is rooted in a disconnect between stereotypes of Indigenous

Peoples and a perceived reality. For example, John Saeli, resident of the Town of Varick, said

This fee to trust thing, you think about the Indians, you see it on TV, clear water, fresh water. It isn't about water. It isn't about clean land. It's about money. Gambling. For crying out loud. Gambling casino. People go in, this LakeSide Entertainment, you talked about, it isn't entertainment. It's dirty. It's filth (United States 2006a: 90).

In this case, the Cayuga Nation does not fit Saeli's idealized image of the "noble redman" stereotype, best typified by Ironeyes Cody, of Indigenous peoples living off with minimal environmental impact (Stedman 1982). This sentiment exists within UCE, where a clear distinction is made between "traditional Cayuga" and Cayuga who want to pursue gaming—while both are regarded as an "imposition," expanded Cayuga economic development is regarded as the greatest imposition. The stereotypes of the "gaming Indian" and the "traditional Indian" are played off each other in opposition discourse and both stereotypes of Indigenous Peoples are at the heart of Cattelino's double bind.

Contemporary Indigenous/settler relations in the United States are complicated by new forms of economic development and post-colonial assertions of sovereignty. Kevin Bruyneel argues that the disconnect between Indigenous economic development and non-Native conceptions of Indigenous Peoples influences public opposition; "By succeeding economically the tribes temporally outpaced their claim to sovereignty, while still being seen as somewhat alien to American political life (Bruyneel 2007 as quoted in Cattelino 2010: 247). Because Cayuga sovereignty is viewed as an "alien" concept and because non-Native residents occupy a marginal position in the neoliberal state, thus experiencing economic insecurity, Indigenous assertions of sovereignty are viewed as a "Fear of Loss

of Control”; “All of us derive part of our self-definition from the wider society. Thus on some level we understand that radical changes in our surroundings could change us as persons” (Delgado and Stefanic 1997: 102).

After all of the county politicians and leadership of UCE had a turn to speak, Rich Ricci, a former Seneca County chairman of the land claim committee and UCE member, approached the microphone to address a panel of Bureau of Indian Affairs representatives,

... You expect us to roll over and [accept] the settlement. We will not. We won in the courts. You expect us to welcome the sovereign Nation that does not play by the same rules. You expect the hard-working taxpayers to pay more. You expect our businesses to compete when they cannot. You expect one group to obey the laws of this great nation, and another not. We will not stand for the balkanization of this land... One final thing, while I have eight seconds. I hope it wasn't against the law. You come into this auditorium. What comes out of this hearing will affect generation after generation, and you do not have the courtesy to salute the flag. So I ask all of you to stand up now and salute it. I would like to say the Pledge of Allegiance (United States 2006a)

At this point, all but a handful of the auditorium's 500 plus attendants rose from their seats, faced the large American flag hanging from the east side of the gymnasium and recited the pledge of allegiance, shouting the words “one nation” with particular emphasis. As discussed in previous chapters, ideas of citizenship and American identity are central to UCE's discursive frames and illustrative of the identity they perceive as under threat. The pledge, recited at UCE meetings and public events, is a consistent assertion and defense of this identity. The pledge, coupled with Ricci's statement, embodies all of the discourses of imposition; the Cayuga are framed as an economic threat (as well as a threat to individual identity within the settler nation-state)—and entity

that does not play by the rules and places an undue burden on the non-Native residents of the counties. In other words, the Cayuga are too powerful economically and thus should not be able to exercise sovereignty over land in Cayuga and Seneca Counties.

Although an overwhelming majority of speakers channeled their preexisting economic concerns into opposition of Cayuga sovereignty, a small handful of speakers, including two employees of Cayuga Nation Enterprises and an anthropology professor from Wells College, articulated the potential economic benefit of Cayuga sovereignty. Richard Kidder, Seneca Falls resident, spoke of the declining tax base and loss of manufacturing,

Creating new industries and business in Seneca County hasn't happened in over 40 years. The last was I.T.T., Goulds Pumps is on its way out. And like it or not, a casino is going to be built here. It should be built here. It would provide hundreds of construction jobs." He continued, "As far as it being a casino and gambling: Look around. Every convenience store in town has a Lotto machine. You go into a restaurant and a bar, they have Quickdraw. There is an [Off Track Betting] up the street. They just put slots in a racetrack up in Farmington. So gambling is here. And like I said, it's about—all I ever wanted to say other than we should at least look at the casino being built there instead of another area where they would get the jobs and benefits (United States 2006a: 99).

Kidder's comment does not fit neatly into the double bind; in the context of the EIS, he positions Cayuga sovereignty as having a potentially positive socioeconomic effect on the counties—one of the few entities willing to invest in the region. Additionally, Kidder reframes the argument of "equality," noting that the state currently operates gaming; this statement positions the Cayuga Nation as a sovereignty entity—like states, not individuals. Statements like this begin to complicate the double bind; Kidder frames

gaming activities not as “special rights” but as rights already exercised by other governments (in this case New York State).

The Cayuga Nation does not presently operate a Class III gaming facility and its economic enterprises are small. As a result, the Nation’s economic visibility is limited and subject to speculation and fear. Under these conditions, the opposition to Cayuga land into trust fits well within Cattelino’s double bind. However, a different framework was deployed by non-Native residents to the east in Oneida and Madison Counties. While the Cayuga discourse centered on individualism, “special rights,” and a clear double bind, the Oneida public discourses deployed the frame of Haudenosaunee sovereignty and positive economic development.

Rethinking the Double Bind

The Oneida Nation submitted its application to the BIA to put 17,370 acres of land into trust in April 2005. A draft EIS was made available to the public for comment and two hearings were held, December 14, 2006 and February 6, 2007, to collect oral and written comments. The Final EIS addressed common concerns ranging from loss of property taxes to whether or not the Oneida Nation could legally use the fee-to-trust process. Unlike the Cayuga hearing, the majority of public comments were in favor of the Oneida’s request to place land into trust. The Oneida case provides an example that challenges the dominant double bind and construction of Indianness that pervades dominant non-Native thought (Cattelino 2010; Deloria 1998). Although UCE is active in Oneida and Madison Counties, the majority of county residents work either directly or indirectly for Oneida Nation Enterprises. Driving through Oneida and Madison Counties at the height of land claim and sovereignty opposition was visually different from Cayuga

and Seneca Counties—visible signs of land claim opposition were rare in the towns and villages that surrounded Oneida Nation businesses.

When I attended the December 14, 2006 Oneida fee-to-trust draft EIS public hearing at the Stanley Theater in Utica, UCE members were clustered in a small group near the front of the theater and the audience was a sea of red t-shirts, distributed by the Oneida Nation, which read “My Job, My Vote.” One after another, non-Native residents and employees (often one and the same) addressed the BIA in support of the Oneida Nation’s application to take over 17,000 acres into trust. One of the most common concerns was the potential loss of employment if the application was not approved. The EIS addressed this concern and noted that if Turning Stone Resort and Casino was closed along with other Nation businesses “there would be a significant loss of 5,265 jobs affecting the 86 percent of workers (or 4,556 residents) of Madison or Oneida Counties who are directly employed or indirectly supported by the Nation’s economic activity” (EIS, 15). This concern was reflected in many of the public comments; speakers spoke to the declining manufacturing base in Central New York and some even chronicled their history of employment at companies that have since closed or moved out of the area.

A number of the speakers in support of the application were small business owners—suppliers to the Nation’s businesses and emphasized the economic impact of a sovereign Oneida Nation for off-reservation, non-Native businesses. Pat Castello, President of Mohawk Valley Building Trade Council, stated,

The expansion and development of the Turning Stone Resort and other Oneida holdings has been one of the few bright spots for the construction industry over the past 10 years. There was a time when the only construction cranes—I mean not tearing things down, but building

things—from Buffalo to Albany were located at the Turning Stone Resort...There was times when there were over 400 construction workers on-site working, sometimes perhaps close to 500. That's 500 families that are getting health care, pensions benefits and paychecks. Employees or construction workers are a benefit to our region, they spend their paychecks locally. They buy automobiles, they take their families to dinner and they buy clothing and support local charities. They are a driving force in the economic well-being of Central New York. (United States 2006b: 106).

Some speakers expressed distain for UCE and fear about a potential loss of Oneida employment. Robert Wielt, a Casino Services Department employee, proudly told the BIA, "I don't have a job anymore, Mr. Chairman, I have a career. This is an amazing opportunity and responsibility I'm truly proud of. And I owe it all to the Oneida Nation."

Wielt addressed the handful of statements against the proposal from UCE members,

Mr. Chairman, there is a group of very outspoken people who call themselves Upstate Citizens for Equality, who want to crush the Oneida Indian Nation, close down their businesses and put 5,000 people out of work. That is their stated objective. Mr. Chairman, the UCE does not represent my interests nor those of my family. I implore the BIA to do the right thing here. If the UCE gets their way it would be a monumental disaster, a horrific nightmare, a catastrophe of truly epic proportions. There will be only one Turning Stone ever, please don't let them kill it. (United States 2006b: 139-141).

Where Cayuga and Seneca County residents were fearful of the economic impact of a sovereign nation, Madison and Oneida residents expressed anxiety over the repercussions of a loss of tribal sovereignty. In fact, in Wielt's statement, the Sherrill/UCE frame is reversed and it is UCE—not the Oneida Nation—that is "disruptive."

In fact, Oneida Nation employees pointed to UCE as the cause of many of the tensions. Dale Romleski, Turning Stone employee, addressed the comments of UCE Oneida Madison chapter President directly,

Mr. Vickers stood up here and said that there is no racism involved. You're right, it goes way beyond racism. I am not Oneida Indian but yet every day for the 10 years I have worked for Oneida Nation I face harassment, criticism, threats, picketing. And it's all because of where I work, not because of the color of my skin, but because I work for the Oneida Indian Nation...As you sit here and listen to the comments of those stating that land trust could only make it impossible for local and state governments to function, I simply remind you of the benefits that Turning Stone has brought to your community. If bettering your communities makes it impossible for you to function, then it is only because you refuse to adjust to change. (United States 2006b: 186-188).

Another Turning Stone employee, Vincent Lercara, directed his comments to UCE and Vickers and accused UCE and county officials of wasting time and money on court cases;

Can you recall a time in recent years that our elected officials have saved 5,000 plus jobs? The Empire Zone is a program that offers free money to companies that are interested in building, functioning and/or relocate to this area for a predetermined period of time. However, once that time has expired and the company is to start payment in addition to taxes, ironically these companies desert our area. Thus causing massive unemployment and financial hardships and a feeling of discouragement among citizens. (United States 2006b: 193).

After going over the allotted three minutes, Lercara's time was cut off; at the very end of the evening he was allowed to return to the microphone and he said to Vickers "You claim to be the President for Upstate Citizens for Equality. What equality are you fighting for exactly?" (United States 2006b: 216). Both Romleski and Lercara reverse UCE frames of economic victimization and equality, identifying the Oneida Nation and non-Native residents as victims of anti-Indian sentiment. This victimization is tied to a larger economic threat where UCE is now identified as the disrupter, potentially eliminating thousands of jobs through their attacks on Oneida sovereignty.

Comments like Lercara's acknowledge the double standard applied to Native businesses; New York State implemented "Empire Zones" beginning in 1999, which

offer a temporary tax free status to businesses that relocate to struggling regions. Groups like UCE who include tax equality in their platforms do not address non-Native businesses that receive tax free status. Helen George, an Oneida Bingo Hall employee, pointed out the disjoint in UCE tax rhetoric, “Why do you suppose that everyone isn’t screaming and running around about the tax breaks they’re offering to these other businesses? How come it isn’t a disastrous problem then that’s going to put us all in the poor house?” She continued,

If you close our casino down you’re going to have 5,000 people on unemployment, collecting food stamps, on Medicaid, depressed and hopeless. We will be stuck in a hateful situation. No jobs, we can’t afford to move out of the state to work because nobody is going to want our homes. Who wants to live in an area where there is no work and no future? We are in an extremely vulnerable position. If you don’t place the Oneida Nation land into trust you will be destroying our lives and our futures. (United States 2006b: 99-101).

George’s statement is another example of a reversal of UCE frames; instead of scapegoating the Oneida Nation for the region’s economic insecurity, she posits that a potential lack of jobs and declining real estate value would be linked not to the exercise but to the elimination of Oneida sovereignty. Again, UCE is positioned as “disruptive” in this reversal.

While the Cayuga case illustrates that economic insecurity can result in scapegoating and subsequent attacks on Indigenous sovereignty—even when that sovereignty comes with proposed economic development. However, Oneida and Madison Counties have experienced positive economic growth and employment from years of Oneida economic development. As a result of a positive economic shift directly

influenced by the Oneida Nation, many residents such as Cesar Valdez, Jr., Security Director at Turning Stone Casino, confront the double bind head on;

As great as this country is we are not perfect. There are some folks that refuse to accept the prosperity of the Oneida Nation, they would like to see them back on the reservation in a state of poverty, in a state of despair. Please be honest, racism is alive and well. Not in everyone, but in a good percentage of folks that resent that it is not they who have prospered. (United States 2006b: 90).

Valdez acknowledges the economic growth of the Oneida Nation and relative power as compared to other entities in the region. However, he does not frame this economic power as a result of “special rights” or a “threat” to non-Native business. Rather, he accuses critics of the Oneida Nation of racism. For Valdez, economic success is not a reason to erode Indigenous sovereignty.

And it was not just Oneida Nation employees who directly challenged the double bind while speaking in support of the application; Bob Larson, who identified himself as a “taxpayer, landowner, and veteran”—a typical frame used by members of UCE—argued,

Some have said that we would not have to close down all of the businesses, only the casino. This is a brilliant idea. I can see the tourists flocking to the hotels located in the middle of the corn field. I can also see the PGA proudly announcing to America the kick off of their fall tour located at “that place down the road from the big cow...Beyond taxes it is obvious to me and to many others that there are those among us whose sole purpose it so discredit the Nation. They do not want to see Indian people get ahead of them in any way. This is pitiful. The only thing I can think is worse is when the rest of us listen to them and allow them to take the lead (United States 2006b: 94).

Like speakers before him, Larson flips the typical UCE frame of “victimization” and argues the economic threat to the region is not the Oneida Nation, but rather those who

seek to challenge and eliminate Oneida sovereignty. In a similar vein, Peter Day, President of Day Wholesale, Inc. spoke about the benefits to suppliers;

My point is that the Nation has positive far reaching economic benefit for off-reservation business located in New York State...An old saying in the tourism business is that 'A rising tide floats all boats.' With the Oneida Indian Nation what is good for the Oneidas is good for all of New York State. In summation, the Oneida Indian Nation is not looking for a handout from the federal government or New York State. They just want to be left alone and unhindered while they pursue their quest for economic development for their Nation and their people (United States 2006b: 157-159).

The above quotes demonstrate how non-Native residents and employees discursively complicate the double bind; the above speakers do not “race” the Oneida Nation (even while accusing UCE of racism) and Indigenous sovereignty is not framed as a “special right” doled out by the Federal government and “unfair” to non-Native businesses and individuals, but rather something that makes the Oneida Nation autonomous from state and federal governments. In other words, the Nation is portrayed in an idealized capitalist frame—operating with wealth trickling down to local non-Native populations.

Conclusion

As a result of UCE goal displacement after the dismissal of both the Cayuga and Oneida land claims, opposition to Haudenosaunee economic development is now front and center in UCE’s fight against Indigenous sovereignty. While Cattellino’s double bind provides a helpful framework for analyzing many non-Native responses to Indigenous economic development, the Oneida case in particular provides examples of how to successfully challenge the double bind without compromising Indigenous sovereignty. The Oneida fee-to-trust case study illustrates that mutual economic interests, a vision of a

shared future, and Native and non-Native connections to land and place complicate the traditional double bind.

Instead of merely complicating the double bind, some non-Native residents see more of a shared future with the Oneida Nation than New York State. As a result, the traditional double bind is dismantled and instead of calling for Oneida termination, some residents go so far as to call for New York State termination; Brenda Sears, Utica resident and vendor for Turning Stone and other local businesses. “And I really think—you could give all of New York to the Oneida Indian Nation and they would do a beautiful job with it” (United States 2006b: 177). With that said, the Oneida model may not apply to Native nations across the United States; such challenges to the double bind might only be applicable to economically struggling regions where a Native nation’s development results in increased non-Native employment, but those characteristics apply to Central and Western New York where many Haudenosaunee Nations have faced challenges to their sovereignty.

Successful reframing of “sovereignty” and a reversal of UCE frames in Oneida territory most likely would have similar success in Cayuga territory, which is also a rural area with a need for increased employment and economic development. The process of reframing is important for Haudenosaunee Nations, and those who support Indigenous rights and self-determination; countering UCE discourse and contemporary judicial termination of Indigenous sovereignty depends on rethinking the traditional double bind that pervades in non-Native interpretations of Indigenous peoples. Although the double bind greatly influences how non-Natives conceptualize sovereignty (legally and locally)

the Oneida example provides insight into the potential of reframing sovereignty. Such reframing does not just benefit Native nations, but can also reduce local conflict, expensive litigation, and help Native and non-Native communities work together.

Conclusion – Haudenosaunee Sovereignty in a New Era of Termination

When I first began my research as an undergraduate in 2000, I wanted to understand the perspectives and motivations of UCE members with the goal of minimizing conflict between Native and non-Native populations in Seneca and Cayuga counties. When I served on the board of the grassroots organization Strengthening Haudenosaunee Relations through Education (SHARE), I was often called upon to articulate the views of UCE and explain how social class and rural identity shape non-Native perspectives of the Cayuga land claim. In my pre-dissertation and doctoral research in graduate school, I expanded my analysis to include not only social class, but the influence of legal discourse in informing grassroots anti-Indian sovereignty movements. This case study is a culmination of my research and analyzes the social class and legal foundations of UCE's rhetoric, addressing the following issues: The underlying economic foundations of UCE's anti-sovereignty movement; How frames are used by UCE to gain support and distance the group from accusations of racism; How UCE frames are influenced by and reflected in legal discourses; and the limitations of UCE frames in the changing social landscape of Central New York.

Economic insecurity, declining manufacturing in the region, shifting agricultural trends, and a general "fear of falling" underscores UCE discourse. From ethnographic analysis as well as a discursive analysis of fee-to-trust comments, it is evident that UCE members are genuinely fearful of Indigenous sovereignty and feel threatened economically. As a result, the Cayuga are used as a scapegoat for larger economic issues. Linking anti-Indian sovereignty sentiment to more general themes of economic insecurity

helps UCE bolster support—locally and through the courts, where Indigenous sovereignty is framed as “disruptive.” This frame of disruption, coupled with frames of non-Native “innocence” and “victimization,” was deployed through local discourse and then reified in the *City of Sherrill* decision. UCE uses this discursive power—through framing—to advance and justify their anti-Indian sovereignty interests. At the same time, UCE distances itself from criticism (such as accusations of racism) by using legal language to justify their position. Furthermore, these frames are repeated and reinforced in contemporary United States court rulings. Lastly, while UCE and legal frames of non-Native “victimization and “disruption” have been successful in shaping public opinion and legal decisions, Indigenous economic development and processes of reframing/counter framing can complicate these discourses. As the Oneida fee-to-trust example illustrates, prominent UCE frames can be flipped in defense of Indigenous sovereignty.

Limitations and Directions for Future Research

This case study is situated during the period right after the *City of Sherrill* ruling (2006-2007) and focuses exclusively on UCE. Clearly, there are new developments in the region since 2007. Most notably, the Cayuga Nation has persisted in purchasing land and operating business in Seneca and Cayuga counties. During this time, a number of Cayuga citizens have moved off of Seneca Nation lands and returned to Cayuga homelands, namely to the villages of Seneca Falls and Union Springs. As part of this homecoming process, the Nation has sponsored a number of community events aimed at finding commonalities and decreasing conflict with non-Native residents. While my

research was aimed at analyzing UCE discourses, a full understanding of the conflict should include expanded research that considers Cayuga discourses and perspectives, especially since the Cayuga Nation is actively engaged in framing to promote Indigenous sovereignty and reduce local conflict.

In addition to Cayuga voices, the perspectives and frames employed by non-Native allies are also important. Opposition to the Cayuga land claim—and Cayuga sovereignty in general—was commonplace in Seneca and Cayuga counties; from the plethora of signs that border the roads and farmland, to headlines in the local papers, and court rulings decided against the Cayuga Nation. During my fieldwork, images and scenes of resistance to the dominant land claim discourse seem sparse on the rural landscape both counties. At the time, a close friend and dedicated supporter of the Cayuga Nation once told me that she tries to think positively when passing sign after sign proclaiming “No Sovereign Nation!” “For every sign that is up there is another farm without a sign. I think that says just as much. Choosing not to put up a sign says a lot.” she said.

There is also active resistance to UCE frames; past non-Native ally groups such as SHARE and current groups such as Neighbors of the Onondaga Nation (NOON) have impacted local discourses through purposeful framing. Most recently, NOON sponsored a “Two Row Wampum Renewal” event with the Onondaga Nation to raise awareness about treaty rights and build a sense of community between Native and non-Natives through the commemoration of the first treaty made between the Haudenosaunee and a European colonial power. The voices of non-Native allies, like the voices of Oneida

Nation employees, help to complicate Cattelino's double bind—supporting Indigenous sovereignty in traditional forms of government and in large scale economic development—and illustrate the plurality of frames involved in non-Native understandings of Indigenous sovereignty. Researching voices of Indigenous allies will assist in developing a model of historical and contemporary support of Haudenosaunee sovereignty.

Relevance of Research

Haudenosaunee Nations have survived hundreds of years of colonial intrusion and assimilative policies; current legal setbacks in the courts fit into this much larger pattern of land dispossession. However, throughout this dispossession Haudenosaunee people and governments were resilient. Interestingly, contemporary Haudenosaunee self-determination and economic development arose during a period of economic decline in much of New York State. As Hauptman notes,

Even though the Iroquois lost more than 99 percent of their lands, their presence today remains in central and western New York, whereas the great cities created during the transportation revolution—Utica, Syracuse, Rochester, and Buffalo—have rapidly declined in the last half-century. Thus, ironically, the so-called vanishing race, the American Indians, in some ways have outlasted the forces that were unleashed in the promotion of frontier settlement” (Hauptman 1999: xvi).

Tenacity aside, the current reality faced by Native nations is judicial termination. While the Cayuga and Oneida Nations made great strides in the courts in the 1960s-1990s, such legal victories are improbable today. As a result, the Cayuga, Oneida, and other Haudenosaunee Nations are now turning to local non-Native communities—the same communities that were adversarial in the past—for support in asserting and exercising sovereignty. An understanding of the influences and frames in anti-sovereignty

movements is necessary for successful reframing/counter framing and can shape a new “emerging social consensus” that supports Indigenous sovereignty.

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