

## Simple, Uninformed, and Inferior People

**The manner in which the United States Supreme Court views Native peoples impacts not only the case they are addressing but future cases as well. It is important for Native peoples to know how the United States Supreme Court has viewed them in the past to understand the extent of the ignorance of the United States Supreme Court when it comes to Native peoples. We become prisoners of their stereotypes.**



In *U.S. v. Sandoval*, 231 U.S. 28 (1913), the US Supreme Court ruled that pueblo tribal lands in New Mexico are "Indian country." Their characterization of Indian peoples must never be forgotten. This characterization led me to many legal doctrines still in effect today.

There are as many as twenty Indian pueblos scattered [231 U.S. 28, 39] over the state, having an aggregate population of over 8,000. The lands belonging to the several pueblos vary in quantity, but usually embrace amount 17,000 acres, held in communal, fee-simple ownership under grants from the King of Spain, made during the Spanish sovereignty, and confirmed by Congress since the acquisition of that territory by the United States...

The people of the pueblos, although sedentary rather than nomadic in their inclinations, and disposed to peace and industry, are nevertheless Indians in race, customs, and domestic government. Always living in separate and isolated communities, adhering to primitive modes of life, largely influenced by superstition and fetichism, and chiefly governed according to the crude customs inherited from their ancestors, they are essentially a simple, uninformed, and inferior people...Be this as it may, they have been regarded and treated by the United States as requiring special consideration and protection, like other Indian communities. Thus, public moneys have been expended in presenting them with farming implements and utensils,

With one accord the reports of the superintendents charged with guarding their interests show that they are [231 U.S. 28, 41] dependent upon the fostering care and protection of the government, like reservation Indians in general; that, although industrially superior, they are intellectually and morally inferior to many of them; and that they are easy victims to the evils and debasing influence of intoxicants. We extract the following from published reports of the superintendents:

Albuquerque, 1904: 'While a few of these Pueblo Indians are ready for citizenship and have indicated the same by their energy and willingness to accept service from the railroad companies and elsewhere, and by accepting the benefits of schools and churches, a large per cent of them are unable, and not yet enough advanced along the lines of civilization, to take upon themselves the burden of citizenship. It is my opinion that in the event taxation is imposed, it will be but a short time before the masses of the New Mexico Pueblo Indians will become paupers. Their lands will be sold for taxes, the whites and Mexicans will have possession of their ancient grants, and the government will be compelled to support them or witness their extermination.'

Sante Fe, 1904: 'The Pueblo have little or no money, and they cannot understand why they should be singled out from all other Indians and be compelled to bear burdens [territorial taxes] which they are not able to assume... They will not vote, nor are they sufficiently well informed to do so intelligently.'

Zuni, 1904: 'Last November when they had their Shaleco dance I determined to put a stop to the drunkenness. I wrote to the Indian Office asking for a detachment from Fort Wingate. I soon received a reply that my request had been granted. I said nothing to anyone. The afternoon the Shaleco arrived the detachment rode in, the Indians thinking they were passing through, and were making preparations to have a good time. When they were notified that a Navaho was celebrating, they [231 U.S. 28, 42] promptly arrested him and brought him over to the guardhouse, and during the evening two others were arrested with whisky in their possession, and also a Pueblo Indian. The detachment remained until the dance was over and the visiting Indians had left for their homes.'

Sante Fe, 1905: 'Until the old customs and Indian practices are broken among this people we cannot hope for a great amount of progress. The secret dance, from which all whites are excluded, is perhaps one of the greatest evils. What goes on at this time I will not attempt to say, but I firmly believe that it is little less than a ribald system of debauchery. The Catholic clergy is unable to put a stop to this evil, and know as little of same as others. The United States mails are not permitted to pass through the streets of the pueblos when one of these dances is in session; travelers are met on the outskirts of the pueblo and escorted at a safe distance around. The time must come when the Pueblos must give up these old pagan customs and become citizens in fact.'

Santa Fe, 1906: 'There is a greater desire among the Pueblo to live apart and be independent and have nothing to do with the white race than among any other Indians with whom I have worked. They really care nothing for schools, and only patronize them to please their agent and incidentally to get the issues given out by the teacher. The children, however, make desirable pupils, and if they could be retained in school long enough more might be accomplished. The return student going back to the pueblo has a harder task before him than any other class of returned students I know. It is easier to go back to the Sioux tepee and lead a white man's life than to go back to the pueblo and retain the customs and manners taught in the school.'

'In pueblo life the one-man domination-the fear of the wrath of the governor of the pueblo-is what holds this people down. The rules of the pueblo are so strict that [231 U.S. 28, 43] the individual cannot sow his wheat, plant his corn, or harvest same in the autumn without the permission of the pueblo authorities. The pueblos under my jurisdiction that adhere religiously to old customs and rules are Taos, Picuris, Santo Domingo, and Jemez, the there are none of them that have made much progress away from the ancient and pagan rites.

Intemperance is the besetting sin of the Pueblo...If the law against selling intoxicants to this simple and ignorant people is allowed to stand as now interpreted [act of 1897, as construed by territorial court], it simply means the ultimate extermination of the Pueblo and the survival of the fittest.'

Santa Fe, 1909: 'While apparently the Pueblo Indians are law abiding, it has come to my notice during the past year that in the practice of the Pueblo form of government cruel and inhuman punishment is often inflicted. I have strongly advised the Indians against this, and your office has, through me, done likewise. The Pueblos, however, are very insistent upon retaining their ancient form of government. As long as they are permitted to live a communal life and exercise their ancient form of government, just so long will there be ignorant and wild Indians to civilize. The Pueblo form of government recognizes no other form of government and no other authority. While apparently they submit to the laws of the territory and the government, they do so simply because they are compelled to acquiesce. The returned student who has been five years at the boarding school is compelled to adopt the Indian dress upon his return to the pueblo; he is compelled to submit to all the ancient and heathen customs of his people. If he rebels, he is punished. He therefore lapses back and becomes like one who has never seen the inside of a school.'

Zuni, 1909: 'The Zunis, especially the old people, are very much opposed to sending their children to school, and [231 U.S. 28, 44] to every influence that tends to draw hem away from their old ways and habits, of living; but by persistent effort, and by appealing to their reason, we succeeded in filling the school with children. The children are happy and contented while at school, but when they go home for a visit, their mothers and older sisters talk with them and make them dissatisfied and they do not wish to return. This is especially true of the girls...Immorality and a general laxness in regard to their family relations, together with their pagan practices, are the

great curse of this tribe. They have no marriage ceremony that is binding, and a man will often live with two or three different women during one year. This custom is very demoralizing. In some cases the father will sell his daughters and the husband his wife for the purpose of prostitution. If marriage and divorce laws could be enforced, it would be a great blessing to these people... We have had very little trouble with liquor on the reservation during the past year, and the Pueblo officers co-operate with me in trying to keep it from being brought on the reservation.'

This view of Pueblo customs, government, and civilization finds strong corroboration in the writings of ethnologists, such as Bandelier and Stevenson who, in prosecuting their work, have lived among the Pueblos and closely observed them...

During the Spanish dominion the Indians of the pueblos were treated as wards requiring special protection, were subjected to restraints and official supervision in the alienation of their property, and were the beneficiaries of a law declaring 'that in the places and pueblos of the Indians no wine shall enter, nor shall it be sold to them.'... After the Mexican succession they were elevated to citizenship and civil rights not before enjoyed, but whether the prior tutelage and restrictions were wholly terminated has been the subject of differing opinions... In the last case this court observed: 'The improvement of the Indians, under the influence of the missionary establishments in New Spain, which had been specially encouraged and protected by the mother country, had, doubtless, qualified them in a measure for the enjoyment of the benefits of the new institutions. In some parts of the country very considerable advancement had been made in civilizing and christianizing the race. From their degraded condition, however, and ignorance generally, the privileges extended to them in the administration of the government must have been limited; and they still, doubtless, required its fostering care and protection.'

As was said by this court in *United States v. Kagama*, 118 U.S. 375, 384 , 30 S. L. ed. 228, 230, 6 Sup. Ct. Rep. 1109: '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 that government, because it never has existed anywhere else, because the theater of its exercise is within the geographical limits of the United States, because it has

never been denied, and because it alone can enforce its laws on all the tribes.'