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Tribal Voices: Interview with Chief Harry Wallace

Harry Wallace, Elected Chief of Unkechaug Nation

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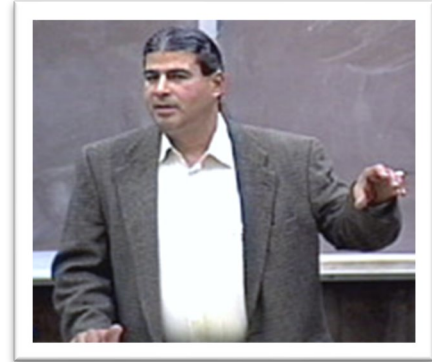
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TRIBAL VOICES

Interview with Chief Harry Wallace

Tribal Law Journal:

Our guest speaker is Chief Harry Wallace and I am going to have him [provide] his own introduction and give a basic broad overview of his community, a profile basically, and we will start from there.



Harry Wallace:

My name is Harry Wallace and I am the elected chief of the Unkechaug Nation. Unkechaug are an Algonquin speaking people from Long Island, New York. The name of our people refers to the "people from beyond the hill." We live in an area, [a] territory know as Poospatuck. Poospatuck is the name of the community [and] it refers to the location of our land, which is located at the juncture of the river, the bay, and the creek which is at the head of the waters where the salt and fresh water merge. It is on the southern coast of Long Island. We have [always] been in that particular community; we have never been relocated. In point of fact, last spring, we celebrated what we call our Strawberry Festival. It has been well documented, historically, that [this festival] was our one-thousandth celebration. So, for my people, for myself, this year is our millennium, not last year. So it was a very exciting time. It is an assertion of our will and ability to survive through all of the encroachments from the newcomers. And we are looking forward to a bright and prosperous future for the next millennium.

[Regarding] my personal background, I am a lawyer by trade. I have been part of the [Unkechaug] government since 1994. I went to Dartmouth College in the seventies when they re-established the Dartmouth Indian program, under then President John Kemeny. I went to New York Law School in New York City. I graduated cum laude in 1982, and practiced law in New York City for about twelve to thirteen years before I got involved in government back on our territory.

We are located approximately sixty miles east of New York City. There are two well-established communities there. One is Shinnecock and the other is Unkechaug. There are some native communities there that do not have their own territory, or their territory was taken from them, but they still have these small pockets of communities there. As I said, we are part of the many Algonquin Confederacies that existed on the east coast of the United States and Canada. We do [know our neighbors to the north], the Iroquois People or Six Nations People, very well. We have had many historical relations with the Iroquois and we have [also] had many associations, formally and informally, [both] community ties and government ties, with the Algonquin people from the north, up in Maine, Massachusetts, Connecticut and also [with] the Lenape, the Delaware people from the south in Maryland, Pennsylvania and New Jersey. Our community is well established. It has a strong international relation history between Holland and England.

We have had a strong relationship...with the state of New York, and we have a strong sense of self.

I came here to share some of our experiences with the students here at the University of New Mexico. I have really enjoyed myself and I hope that during our time together we have been able to take a little bit from each other and learn a little bit about how we are different and how we are the same.

TLJ:

You mentioned in your speech the international aspect and hope in the international aspect for the Native Americans in the United States. I would like to hear again your viewpoint on the state-tribal, federal-tribal, and maybe the international-tribal [relationship], and the idea that there are three different views. [You mentioned] that tribes are treated differently or recognized differently, [but] you did not see it that way [because] there was a different viewpoint [in] that, was it not the state of New York or the federal government that recognized [your tribe]?

HW:

We have an inherent sense of self and that emanates internally and it comes from our law. Our law has been established long before the United States of America, it has been recognized as law long before the United States of America, or Canada for that matter. So, when we look to the source of jurisdiction, the first source we look to is our own source. We look to see if it speaks to how we behave and how we deal with federal governments, state governments, [or] international governments. Our instructions come from that source and if there is nothing that speaks to that, then we look to other sources. In this way we have been able to maintain our integrity for what territory that we do have remaining because the state recognizes that, the federal government recognizes that, and we still have agreements that were made with international governments in the seventeenth century and they, from their point of view, still recognize that. So when the source of the origin of the law of your area, of your territory, comes from your people, then you do not have a need to worry about what the other nations or the other communities say about you because it becomes essentially irrelevant when it conflicts. If we maintain that sense of identity then we will be able to withstand any attempts on encroachment, which is what we have done to a certain extent. Of course we have taken some hits, like everybody else. And there are those who have a differing view, [although] it is not a view that I share. [In addition], being a practicing lawyer and being involved in many of the political as well as legislative and judicial matters involving indigenous people in New York, [I] have come to the realization that a lot of what they say really does not have any bearing on how we behave.

Sometimes the solution is to educate them on the source of our law. You see, a lot of criticism comes from people when they look at the so-called Federal Indian law system and look at its origins from the top down; starting with what is the position today and then going down, tracing it back to see how did we get there. We don't look at it from that point of view; we look at it from its origin of our law and how it evolved to where it

is today and I think that is the essential distinction between how they view us and how we view ourselves.

TLJ:

That is a great example because that is how [tribes] ask for [federal] recognition as well, and it is a very difficult documentation [process].

HW:

Again, these are terms of art that were created by the same people who created the situation that put some of us where we are today. So, they are making a fiction of recognition, when in fact, they were not in a position to recognize to begin with. They create these words that did not exist: not one hundred years ago, not fifty years ago, but twenty years ago. No one spoke in terms of that you needed to submit [to apply] for recognition. I mean, it so anathema to everything that we believe in, that it is difficult to comprehend how people would submit to that kind of ridicule. But, because of the potential economic benefit that is perceived from [tribal recognition] there is some validity to that. I refuse to accept that, [however], and most of my people refuse to accept that as well

TLJ:

[In your speech] you spoke about your traditional law, and you were explaining...your source of traditional law. I would like you to explain how you documented it and how you use it. You gave some really good ideas last night on how you reach back to that source if [tribes] do not know how to reach back to that source.

HW:

Let me tell you how a lot of it came to be. I was not a part of it; I was a young guy at the time. But back in the early sixties, an effort was made by the elders to try to gather [all their] knowledge [regarding] what they knew about the history and tradition of our people. It was a ten year project, and they put it together in a way in which they spoke of what traditions they knew in terms of how government was run, and how our structure was formed in the past and how it operates today. What they tried to do was to incorporate all that into a document that would be something that would control the government, something that people could look to as a source of knowledge of how government should be run. What they did was create [a first draft of this] document in 1969, and it was called Tribal Rules, Customs, and Regulations of the Poospatuck Reservation. [It was] codified...just like a regular constitutional document, [but] I would not call it a constitution. Essentially, what they called it was bylaws. It was an attempt to take everything that people knew and how they behaved and how they conducted themselves and how they managed their affairs and...put it in a document that would be a guideline for how we handle our government and our business and how we control our land.

In 1970-71, even the state of New York adopted this document [of] the rules, customs, and regulations of our territory...into their state statutes by legislation-they incorporated that document. They did not say anything about whether it was right or wrong, they said that entire document [was] incorporated. [This is similar to the situation] back in 1664

with the Duke's laws which [codified] the relationship between the Indian people and New York, the English colonies and [their] relationship to the colonial government, and [how] that was incorporated into the state constitution after the American Revolution. So, all of these things, these same references, have all been incorporated into this colonial relationship, this international relationship; this government to government relationship has been incorporated into the state's Constitution as well as the federal Constitution because the way we dealt with each other was through treaties, and as everyone knows, the United States' Constitution articulates what significance treaties play in the constitutional framework of this country. The fact that they abrogated that responsibility is a different issue; that is a whole another topic. They understood how important it was for the security of the nation to engage in treaty relations with Indian People back then and when it no longer became significant for security purposes, then it became a non-issue to the American government. But no one government can abrogate a responsibility unilaterally; it has to be done by consent and we still believe that and we will not change our belief.

TLJ:

I wanted to try and focus in on your traditional law [via] a story or an idea because a story conveys a lot of things in a short way. There is a lot of value in it. I was wondering if you cared to share an example or idea?

HW:

It is a story, [but] not a traditional story in the sense that people would typically think...[that] I like to share it with you. Before I ran for office and was elected, I spoke to a previous chief [named] Lone Otter, and he was a very wise person. [In fact, much] of the information and knowledge that I have [I received from him]. He was a mentor to me and I asked him about many things, and one of the things I asked him about [was] our traditional way of life [because] it is hard for us to do that now because of all the things [that] were taken away from us.

[In reference to this], he said that before the newcomers, that's how he called them even though we call them Europeans, we used to hunt for whale, grow corn for our staple, we built our houses out of the pine from the forest there, and all of these things sustained us in our life. We no longer have the whale because they have been hunted to extinction. We no longer have the land base sufficient to plant corn enough to feed our people. So, we do not have that base and we no longer have enough trees in order to build the homes to shelter us. We no longer have the deer to provide us with the necessary clothing we need to warm our bodies. He asked me what has replaced that? I said I did not know. He said, essentially, what do you use to shelter yourself with? What do you use to feed your children? What do you use to cloth yourself? It is essentially the money that you make. If you look at money in the traditional sense, if you look at economic development in a traditional sense, [then] it is used to replace the whale. [When you realize that money] is used to replace the forest or the trees that we no longer have [to] provide the sustenance and protection and shelter and clothing, then you realize it is a tool like everything else [and] you do not become obsessed with [money] and you do not become afraid to learn to how to use it. If you can grasp that and you can take your

people to that level, where they can restore their own sense of worth and use this tool and not abuse it or not become overwhelmed by it, then you will have restored some of the traditional faith that we had in our people. If you can learn how to do that, then you will learn that this thing the creator has given us is another tool to replace the tools we lost. To me that was a striking statement because no one has ever looked at dollars in that sense. [Typically, one] just looks at it as trying to get as much as you can, when you can, because you never know when it is going to run out. But he was looking at it from the point of view that these are things that have put us in a situation where we need to find another tool to replace those that have been lost. I thought it was a fantastic story, and if you look at it from that sense you do not have fear, you have knowledge, you have a purpose for why you do what you do.

TLJ:

And [as a result] you are not so stigmatized as being Indian, [in] that you are supposed to [live like you did] 500 years ago. [For example, you are] not allowed your language, you are not allowed your [traditional] education [or] traditional apprenticeships, you are not allowed all these things. Yet, you are measured by [these very things in order to be considered] a Native person. The first thing I have been asked a thousand times is: "do you speak your language?" The first thing you are asked [about] are all the things that were taken, [but] those are the first things that are expected of you. And the way [your story] explains that really puts it beautifully because [money] is what is there and that is how it is...if you are going to go ahead in this world the way things are now. That is a beautiful story and a powerful story.

HW:

I think it is. I am an advocate for promoting those things like language, like our songs and dances and traditions as much as we can and one of the roles as a chief [is] that you have to find a way to promote those things. In fact, I am part of the class myself, because you need to be in that class to try and relearn those teachings. But no culture is static, no culture stands still and for anyone to believe that [causes] you to get locked into a seventeenth or eighteenth century environment. Well, no culture does that. The language that the Dutch speak now is not the same language that the Dutch spoke 300 years ago; they evolved, but they are still Dutch. The language that we as people speak now is different, even if it is your native language; it is still different than what it was before. [I]f we are related to our land, and we are as interwoven into our land as people say we are, then the land has changed and we have to change with it.

TLJ:

[In your speech] you spoke about finding remedies, kind of like a conflicts of law question, [in a situation] where another nation has an issue [with your nation] and [how you went about] resolving it. I was very fascinated by the fact that you do not have court systems, [which] is a very western idea. So it speaks loudly to how you are trying to incorporate traditional law, and I would like you to explain [how you determined] a remedy by asking elders [in your community].

HW:

In that case [the tribe] had made a partnership contract with another native Indian person. We wanted to frame a different remedy to resolve any disputes between us. What we came up with was a solution [based on] the idea of arbitration because arbitration essentially puts you in an arena that I like, let's put it that way.

We decided that in order to resolve disputes, our first recourse was that he would select two elders from his community [and] I would select two elders from mine, and we would jointly select a fifth one we would agree on. Those five people would resolve any dispute between us. That would be the course of first resort to any resolution of any dispute. If the dispute, because we were operating a business on [both of our territories], arose on his territory, then the law of his nation would be applicable, and if the dispute arose on my territory, then law of my nation would be applicable. If there was a conflict, then [the law of my tribe] would apply, [or the law of his nation would apply]. It has worked out [because] whenever there have been disputes and when we have prepared to do that move, it turns out that we are able to resolve any disputes between us.

TLJ:

I have one last [request based on your speech in which] you offered words of wisdom, especially for Native [law] students. I was wondering if you would be willing to do that again and restate what it is that you came here to share with us and what advice you could give to us.

HW:

What surprised me last night was how depressed everyone seemed. I mean, I am supposed to be the one who is burnt out [because] I have been at this for a while. You guys are the ones who are supposed to be gung-ho [saying] let's go out there and go get them. You were sitting there with your chins hanging down. [Laughter] I just couldn't believe it. I don't know what they are telling you here, but it is not that bad. It is not that bad out there.

The problem is that we have a responsibility to educate [others]. Not only as lawyers [even though as] lawyers we become the first line of the defense [which] is the typical role that we think [of for lawyers]. Like I read to you [last night in the speech]: they don't know, they don't have a clue. It is our job to give them that clue and [that is possible] when you have the knowledge of your self.... Then it is easy to give them a clue. Like you said,...[my tribe is] no different than others, except that we have an international relationship and we look to this as the source of that relationship. Know your [own tribal] law first [because] you are training in their law. Federal Indian law is their law, not ours, we didn't make it up. Know your law first: if you know the source of your law, then you can educate them on how it conflicts with their [law]. If you have that source, then you build up the strength.

As I said to the students, we recognize how in many of our traditions [a sense of] being [tranquil is imposed], as I said [earlier] I didn't like the word passive I like the word tranquil because it imposes a sense of calmness, and we do not as a rule like to insult people or disrespect people in public, we simply do not talk to them. But, as a lawyer

you cannot take that tactic, you have to be very direct, you have to sometimes be very insulting. That doesn't mean that [you] do not like [the person], it just means that you are doing your job to protect the interests of your client or of your people, if that's who your client is.

[In addition], there are other methods besides...going to court. I talked to you about organizational skills, about counseling skills, about being advisors and looking for solutions to complicated problems. We operate in gray. Black and white is easy. They don't need us when it is black and white, so we live in gray. When you live [in the area of] gray you have to be creative, and if you are creative you will find solutions. And they are not always "I am going to sue you..." [because] there are other methods to the solutions. You guys should be full of solutions.

TLJ:

I think, just to really quickly answer your question, that a lot of the depression has to do with the recent Supreme Court decisions. In ultimately knowing that is where a lot of [questions] get [resolved]. A tribe goes to court and [then that decision] deals with all [Indian people]

HW:

Let me tell you a little history. Everyone knows about Plessy v. Ferguson [and the notion of] "separate but equal." The NAACP in the early twentieth century decided that they were going to assault that doctrine and it took them sixty years to do it, right? They organized in the early 1900's, and they said our strategy is to assault "separate but equal" as an illegal doctrine. In 1954, they effectively eliminated the doctrine as a legal foundation, and then took another twenty years to have it permeate in the rest of society.

You may be depressed now with the actions of the government, but [we as Indian people] have to come up with a collective strategy of how we are going to deal with these things collectively. They had a strategy, we've got to have a strategy too. The twenty-first century strategy, from what I understand, in the African-American community is reparations for slavery. I am sure you have heard about that.

[I]n some areas in Indian Country, particularly in Canada, in the northeast and in some folks out [in the southwest], the movement is to take our human rights into the international arena, [particularly] into the United Nations. [T]he Assembly of First Nations of Canada were active participants in the United Nations conference against racism in Africa [and] they were active participants in the Draft Declaration on Indigenous Rights. The biggest opponents [to these efforts are] the Canadian, United States, and Mexican governments. But [this] is, I think, part of the twenty-first century movement in Indian Country towards international law, as a forum for resolution disputes, as a forum for recognition of rights, as a forum for justice. If that is the way we go, we need to get behind it. Because it is in the colonial history of New York that whenever there was a dispute regarding jurisdiction on Indian country, there had to be an independent third forum. That was part of the law and part of the history that I gave

[in my speech even though] it has been ignored by the United States and Canada. That jurisprudence was never a part of American jurisprudence.

TLJ:

[What about the historical foundation of tribes having been dealt with as sovereigns in the international arena?]

HW:

Absolutely that is how we were dealt with. It was not [a situation that] whenever there was territorial control there was never an attempt to exercise dominion over that territory belonging to someone else.

TLJ:

I think this is really similar to what I heard James Anaya speak to in taking those same basic international laws and saying they have used them against us, now we need to use them.... Those were the concepts that, you know, were basically used when we were nations and they have turned around against us and now we need to be smart enough in the international forum to say this is how we strengthen ourselves. So your ideas are strong ideas.

HW:

Well, I support these [ideas]. They are not mine, I did not create them, I am not a genius, you know. I mean, these [ideas come from people] who have been involved in this longer than I. I just recognize that this is an alternative solution to where we are headed now.

TLJ:

[I]n closing, I would ask you as a Chief [to] please give advice to other leaders who may be coming up through that learning process [to] be the leaders of their communities. What would you advise them? [H]ow would you strengthen a young person, or whoever becomes a leader, in how to best do their job as a leader of a Native community?

HW:

Well, first, if you are insane enough to want to be part of this kind of situation, then you need to know why. You need to have an understanding of why you want to do that and why. We have an obligation and my obligation is to fulfill the promises of my ancestors to protect our land and to ensure its safety and its future benefit for our future generations. I had a sense of what I had to do, and you can be even more specific than that if you have specific goals in mind that you wish to achieve, then pursue those goals. [I]f becoming a leader means that is the way you can pursue them, then do it that way.

But, understand the source of your power and it is not the knowledge that you learn, it is not the schooling, it is not the job you have. If you are from a community and you want to become a leader of that community, well, the power is the community. The power is the history of the community; the power is the land. The power is all these things. It is not because you are really smart that is the source of your power. If you forget that, then that is when you run in to problems and you run into obstacles. I had a lady [from the southwest] who told me at a conference about two years ago "You know, many

times we see a young person who has much promise as a leader and we take that person and make them into a leader, and then we just suck them dry, we just drain the energy right out of them." And she asked me. "Why do we do that?" And I said, well don't do it, if that is what you are doing and you know it, then stop it. But I think what happens is that many times you get into a position of quote, unquote "leadership" and then you get there for a particular reason and either you forget or you accomplish what you started out for and then you don't want to leave anymore because you think the position is the power. But it is not, it was those people who saw the promise in you. And when they start draining you, you have to tell them stop, that is enough, I cannot do it any more, and...then go on and move on from there. I said take your young people and make them leaders and say this is what we want you to do and [after] you do that, then you can come back and become one of us again. You can come back and become a family man or family woman, you can take responsibility for just taking care of your own family. You can be that person again and maybe...we will call on you at another time if necessary to do something else. And then we thank you for your contribution and [you can] move on and become a normal person again, stop being a superstar.

TLJ:

I would like to thank you so very much. Is there any thing that you would like to add to this interview before we close?

HW:

No, I am just really glad that I got an opportunity to talk to the students. I focused most of my conversation with the students and they challenged me and some of the faculty challenged me to articulate my ideas. I challenged them to be the warriors: there are many ways to fight a battle without necessarily having a violent weapon in your hands. You know your brain is a weapon and I hope that they were challenged and stimulated by our discussion. If you guys are depressed, we are in big trouble. You are the ones who are supposed to be training to fight our future battles.

TLJ:

I don't think anyone who studies Federal Indian law and is native person doesn't get depressed.

HW:

You have to move on from that because all of that changes. Tomorrow that could change in a heartbeat. [The courts] have a philosophy and they are imposing that philosophy, rather than looking at it from the point of view of what is the history and bringing it forward. They are imposing their philosophy and interpreting it on all issues that come before [the court]. Can we say they are wrong? Of course. Can we stop it? Not through them, [so] you have to identify other ways you can stop it. So, that is what we need-for you to be creative, be talented, be good, be happy.

TLJ:

It was a pleasure and an honor. Thank you very much.

HW:

Okay, thank you.