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Tribal Justice: Honoring Indigenous Dispute Resolution (Symposium Keynote Address)

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Congresswoman

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Tribal Law Journal – 20th Anniversary
Symposium Keynote Address
Tribal Justice: Honoring Indigenous Dispute
Resolution

Remarks by Congresswoman Deb Haaland*

Hello everyone and thank you so much for your warm welcome—it is great to be home! Thank you to the Tribal Law Journal at the University of New Mexico School of Law for inviting me to speak today and congratulations on your 20th Anniversary! I am honored to be here as the keynote speaker for the *Tribal Law Journal* that has dedicated its work to highlighting the internal law of indigenous people and contemporary legal issues that Tribes and Native people face today. I'm proud that we're here to celebrate the 20th Anniversary Symposium and would like to extend a special thank you to Professor Zuni Cruz for her work to establish the *Tribal Law Journal* and the students' combined effort to keep the journal moving forward.

I was also on the *Tribal Law Journal* when I was a law student here! I understand that running the journal is hard work and learning Bluebook citations probably isn't the highlight of your law school career—but the work you are doing is invaluable and will continue to pay off after you become attorneys. The Indian law program here at UNM School of Law is unique and has provided many former law students with the tools they need to advance our indigenous communities through both leadership, policy and—of course—the law.

During my time here, I was also active in the Native American Law Students Association (NALSA), moot court, and the Southwest Indian Law Clinic where I held the first jury trial at the Laguna tribal court! In my free time, I also helped pass Senate Bill 482 that redefined the state's definition of "resident student" to include Native Americans. This allowed Native American students to be eligible for in-state tuition rates for higher education. I did this for Native American students because they tried to charge me as an out-of-state resident after I moved back from Colorado to attend law school.

* United States House of Representatives for New Mexico's 1st congressional district. The Tribal Law Journal's 20th Anniversary Symposium and Representative Haaland's keynote address was delivered on March 29, 2019 at the University of New Mexico School of Law. As of the date of publication, Congresswoman Haaland was nominated for Secretary of the Interior by the Biden Administration. When confirmed by the Senate, Congresswoman Haaland will be the first Native American Cabinet secretary.

If 35 generations of our families living within the state boundaries doesn't establish residency—then I am not sure what will!

The skills I learned during my time here at UNM law school were critical to the work that I'm doing now as a member of Congress—especially for federally recognized Tribes and New Mexico. Indian law is a collective work of “legal fictions” that has been pieced together through different federal policy eras beginning with the Doctrine of Discovery that was established through the Marshall trilogy. As you know—the first case of the Marshall trilogy was a Supreme Court decision that was decided 196 years ago—in 1823—and remains the foundation and framework that guides Indian law and policy today.

To put this into historical perspective, about 7 years after this legal fiction was decided—Congress enacted the Indian Removal Act, forcing tens of thousands of Native Americans from their lands to move to Indian territory in Oklahoma on the 1,200-mile Trail of Tears. As a result, about 5,000 Cherokee and 3,500 Creek Indians died from the forced removal. Subsequently in Minnesota—39 years after the Trail of Tears in 1862—303 Santee Sioux were found guilty of raping and murdering white settlers and sentenced to mass execution. Although President Abraham Lincoln ended up commuting a majority of these death sentences, 38 Sioux were still hung simultaneously in front of a large crowd. Professor John LaVelle, member of the Santee Sioux Nation, (who may be here today) knows intimately of this travesty since two of the prisoners were his great-great grandfathers.

Further, here in New Mexico in 1864—only two years after the mass hanging of the Sioux people—the U.S. Army forced over 10,000 Navajo and Apaches on a death march over 300 miles to Bosque Redondo. However, it wasn't until 1868—one year *after* Congress passed the 13th Amendment to abolish slavery—were those imprisoned at Bosque Redondo released after about 3,500 Navajo and Apache had died.

If we fast forward 19 years to 1887, Native Americans were granted citizenship under the Dawes Act—but *only if* a person disassociated themselves from their Tribe. And by 1924, of course, all Native Americans were granted citizenship and the right to vote under federal law.

But it wasn't until 1948 that Native Americans gained the right to vote here in New Mexico after Miguel Trujillo of Isleta Pueblo sued the state of New Mexico for the right for Indian people to vote in state elections. I would like to draw attention to this *very* brief overview of Native American history because these legal fictions that have been created do not accurately depict who we are as people—they are exactly what they say they are—*fictions*. These stories that have been memorialized in Supreme Court decisions from 200 years ago have shaped federal policy and laws, continue to impact our Tribes and Pueblos to our detriment today.

The work I am doing to advocate for Tribes in Congress is the result of these corrosive federal policies that were established through the fictitious stories that other people told about OUR people and the consequences from

that. During the presentations today, you'll hear about the importance of indigenous dispute resolution and how traditional peacemaking is being developed and incorporated into modern tribal justice systems. These efforts to weave our indigenous voices into an adversarial legal system that is not traditionally our own are vital to keeping our culture alive and finding more wholistic approaches to problem solve to benefit our communities.

This is the approach that I am taking in Congress also—I am working to weave our Native voice into a system that is not traditionally our own to make sure these legal fictions do not persist into another detrimental federal policy era. This week I spoke to former President Obama who kept his promise to Indian Country and respected the trust responsibility the federal government has with Tribes. During Obama's time as President, the federal government increased the number of Tribal consultations, passed the Tribal Law and Order Act, and made the Indian Health Care Improvement Act permanent unlike Trump who is undoing all of that work.

As we have observed from our own history in America, representation matters—our voices matter! Our representation is not only important at the federal and state level, but also at the local level within our own tribal governments where often Native women have not had the support or opportunity to represent their own communities. In February, a public discussion was held during the 20th Annual American Indian Studies Association Conference here at UNM about Pueblo feminism and the lack of women and two-spirit people in modern tribal governance. One of the female students said, "I am never going to be a governor or hold a leadership position in my Tribe, because these are only positions reserved for males. This is probably why Deb Haaland ran for Congress—because she knew she couldn't have political power within our existing system." Regardless of whether you are a new or seasoned leader in state, federal, or tribal systems—we *have to do better to show our youth that all of their voices are valued.*

This symposium is highly valuable because it shows our community how important it is to incorporate indigenous traditional values into our legal system—but this is also important to highlight in our political systems and my effort to encourage more Native Americans to run for office and will continue. Native American people need to redefine *all* aspects of our governance systems to have leadership representative of our *entire* communities, instead of practicing a European tradition of patriarchal governments that refuses to allow women a seat at the table.

On my swearing-in day, I was able to see the number of women, and racial diversity, amongst my democratic colleagues. However, when I looked over to the republican side of the House floor, I could see the diversity is still lacking. It's shocking to me that in almost 200 years, Sharice Davids and I are the first Native American women in the halls of Congress! We still have more work to do to increase the number of our people who represent our

communities. This is important because, unlike any other group, Tribes benefit directly from federal programs—and that work is all done at the federal level.

However, no matter what level of government Native Americans secure leadership in—that representation is important to serve our people. If we want to modernize the entirety of tribal governance—and all governance—then we should make sure that we show our women, especially our youth that they are valued and they are heard so we can bring up the next generation of leaders.

As part of this, I will leave you with one of my favorite quotes that came from one of the young women that presented during the Pueblo feminism panel who said: *“We are survivors of colonialism, but we don’t have to continue to live in it.”* I thank everyone here for your continued work in Indian Country to make Native Nations a better place and I respect you deeply for your efforts.

Thank you.