Justice?

A Critical Look at the Leonard Peltier Trial.

Since the beginning of the relations between European settlers and Native American inhabitants there has been an imbalance. This has been primarily caused by the repeated deception of the United States government. These, “ill conceived policies” were described in the October 7th Senate Resolution that formally apologized to American Indians for these described “ill conceived policies” and other acts of violence by US citizens and Government. (I)

The Senate boldly listed out some things by name - events such as “The Indian Removal Act”, “The Trail of Tears” and the “Wounded Knee Massacre.”

Some weaker language in the bill merely states such things like “unlawful acquisition of recognized tribal land and the theft of tribal resources and assets from recognized tribal land” and lacked a stronger
statement of fact like - ‘The US stole from you’ - and what is very pertinent to the incident outlined in this paper. ‘The United States stole the Black Hills.’

And that’s the main starting point of this story. The Black Hills. It’s a classic story of land, power and manipulation:

Thus in this paper I wish to show the need for new relations between the United States Federal Government and Native Americans. President Obama recently said that “It is a history marked by violence and disease and deprivation. Treaties were violated. Promises were broken.” (O) I will show you an example of this deprivation using History as a guide and Philosophy as a tool. I will give a brief outline of items that led up to the event in question then overview the first and second trials of the event. Then using analogy and reason I will demonstrate how Leonard Peltier received an unfair trial that took little acknowledgement of the events surrounding the incident. Based on this I argue that Leonard Peltier’s time is served.

In addition this trial sheds light on numerous violations
perpetrated by the Federal Government against Native Americans. Due to this I also argue that a full divestment of all unreleased documents concerning the Federal Government and Native American relations is warranted. Many documents remain unreleased for reasons I do not understand. These must all be divulged and a panel established for full complete review.

I now pick up the story as follows:

In 1890 the Wounded Knee Massacre of around 200 Native Americans was primarily caused by Custer’s party that brought with him a survey team that confirmed gold in the Black Hills. Despite the treaties, U.S. citizens flowed into the area and withdrew gold and many other resources. This lead to confrontations that resulted in war as this land was by Treaty - the Lakota. This war led to the Natives being subjugated to a reservation system, and in this particular case, the Pine Ridge Reservation located in south western South Dakota.

The story continues and the US government enacts the policy of
‘kill the Indian, save the man’ and prescribed the “forcible removal of Native children from their families to faraway boarding schools where their Native practices and languages were degraded and forbidden”. (I)

These practices continued well into the 20th century that eventually culminated into a project called “Termination.” This was a process best described as paying someone off. A sum of money was allocated to them and by acceptance of these funds they terminated their native relationship with the federal government thus alleviating the US of any responsibility.

The story of land, power and manipulation was no different in the 1960’s and 1970’s. During this time the U.S. was establishing tribal governments to use as formal communication and relations with the US government and the native people.

In 1972 Dick Wilson on the Pine Ridge Reservation was elected and formed this type of government. Dick Wilson’s power base was comprised of many land owners and those not necessarily friendly to “Traditional” natives.
Wilson’s policies were eager to rent or sell land and reap benefits from it. The Traditionals policy was that is was not for sale at all. This, amongst other issues, this led to increasing tension and intimidation from Wilson’s self proclaimed and well armed “Goon Squad”.

The Traditionals came under intense pressure and realized they did not have the numbers or power to adequately defend themselves from the increased aggression. It became clear that violence was not beneath the Goon Squad.

Thus the Traditionals turned to AIM, the American Indian Movement, which organized a group of people to go to Pine Ridge to defend the Traditionals and their land.

In 1973 AIM decided to occupy the old Wounded Knee site to protest Dick Wilson’s policies and bring public attention to the extremely poor conditions of the reservations. This however was met with a strong response by Dick Wilson who was able to utilize much of the might of the United States government due to the new power
structure. It should be stressed that this power included machine guns and armored vehicles. (AE)

A literal war ensued. 1973. A war on U.S. soil with Native Americans with actual casualties on both sides. After a truce was declared and promises to investigate Dick Wilson and his administration were made - they were subsequently put down by Wilson and thus began his well documented “reign of terror”.

The level of violence on Pine Ridge then exceeded any per-capita measurement of any city in the United States. It was literally the most violent place in America at the time. In the span of 3 years - 60 murders occurred, and at the time, were unsolved and to this day are rank with suspicion. United States Human Rights Director for the region, William Muldrow, describes how the FBI came off as neutral to dismissive of Wilson’s terrorist activities and acted confrontational to the actions of AIM and the Traditionals. (M)

Thus the Traditionals were justifiably worried and asked AIM to protect them as a form of armed guard on the Jumping Bull Ranch.
Fear of being killed was a pervasive thought now to the Pine Ridge inhabitants. Amongst this AIM guard include: Robert Robideau, Dino Butler, and Leonard Peltier. It appeared the centuries old struggle for basic survival continued for the Traditional native.

This now brings us to the event in question: On June 26th 1975, FBI agents William and Coler were executing an arrest warrant for an individual and gave pursuit of the vehicle they thought he was in. (fbi.gov) This chase led them “in unmarked cars and clad in civilian clothes” into the ranch with “an Indian family with small children”. Anxieties were high and “it was in this climate of fear and tension that the two FBI agents were shot in a fire fight.” (W)

Only Robideau and Butler would stand trial for the killings as Leonard Peltier fled and was still being extradited from Canada.

In this first trial the prosecution accused Robideau and Butler of aiding and abetting. The nature of the trial and judge allowed the defense to proceed to explain why Robideau & Butler may have been acting in self-defense. They were able to bring the full testimony of
William Muldrow and his Human Rights Commission Reports that described the murderous “Reign of Terror” and the “Goon Squads” that were backed by Wilson that were then backed by the Federal Government. Documentation was also revealed about possible Cointelpro operations on Pine Ridge. (Cointelpro is short for counter intelligence programs. Time is a constraint in this presentation and I encourage you to investigate this more) {Cointelpro was a real program in the FBI designed to subvert individuals or organizations they deemed unfit by then discrediting or dissolving them.} (CC)

Due to this FBI tampering and the Climate of Fear - both Robideau and Butler were acquitted on the grounds of self-defense.

All attention then turned to Peltier who was now fighting extradition from Canada for the murders. It was at this time that the FBI produced an extradition that “was secured on the basis of the coerced testimony of an alleged eye-witness which the FBI knew to be false.” (AI) Later, this eye witness claimed she was intimidated into giving this testimony.
At the time this was sufficient evidence and Canada had no choice but to release Leonard Peltier. (A clear abuse of power by the FBI for manipulating Murtle Poor-Bear.)

It was clear that losing the Robideau/Butler trial was viewed as a defeat to the FBI. They describe the items that caused the trial to be judged as self-defense by the jury as “problems that impacted the Cedar Rapids trial.” (fbi.gov)

It was now that they planned to limit information in Peltier’s trial to alleviate these “problems.” This included a “pre-trial ruling that the FBI could not be placed on trial unless the information offered related to the evidence or witnesses in the case.” (fbi.gov)(174)

This maneuver allowed no evidence to be presented about the FBI coercing testimony from Murtle Poor Bear for the extradition - the testimony was deemed false and thus the judge ruled it irrelevant and inadmissible. I find this turn of events very convenient for the Federal Government, as they were not required to explain their actions and elaborate as to why they had a false testimony. (I suspect more
The prosecution was not done yet and had more to do. In order to ‘fix’ more of these “problems”, some testimony needed to go away. To do this they needed to change the parameters of Peltier’s trial. The Robideau/Butler trial was for “aiding and abetting” and allowed much actual mitigating circumstance that culminated to the self-defense verdict.

In Peltier’s trial they went after him directly and attempted to show that perhaps the killer killed the agents at very close range and did so in a very deliberate manner.

Using this perspective and then some questionable ballistic evidence tying an alleged gun of Peltier’s to the crime - they attempted to show it as a heinous cold blooded murder, true to form. Because of this perspective it is widely agreed that the Judge approved Order 174 (174). Using this order the prosecution was almost completely allowed to give their version of events without the FBI being questioned for any known wrongdoing or the fact that the reservation
was literally akin to a war zone.

Thus in the absence of these mitigating circumstances Leonard Peltier was convicted and sentenced to life.

It appears that the perspective of the court believes that due to the close range of the shooting no situation could exist where self-defense is possible.

I propose that there exists such a situation and that this situation goes simply as follows - the event starts as self-defense then one could imagine (with all the evidence allowed in the 1st trial and the truth about Leonard’s life) that it escalated to a short range killing possibly stemming from deep anger and resentment.

I recognize that the outcome of death cannot be fully defended - I realize that. Killing is a terrible act.

However one can use justified and true mitigating circumstances in the *sentencing* process. The Jury in Peltier’s trial wasn’t allowed to hear many of the reasons why someone might do it, they didn’t have all the facts. It is reasonable to ask then how a
punishment can be just if proven vital facts have been omitted.

I see it like this: Given that an interpretation of a single event lead to an actual established reasonable doubt, this single event cannot then have a second interpretation by merely allowing the suppression of established, vital, and true information about the said event.

This was the case in Leonard Peltier’s trial. A 2nd interpretation was based on suppressed information.

It is better viewed with this analogy: Imagine if this was a case of an abused wife who killed her husband, their abuser. We would think differently if the situation was only introduced in the following way - “a wife killed her husband” and no discussion about why she may have done it - only that she did. I suspect that this would lead us to convict her to a life sentence. By removing vital components we changed the condition of the event. I propose that this is unjust.

By this same reasoning I propose that Leonard Peltier’s sentence is unjust. I also go further and argue that if Leonard Peltier is guilty, then his time is served.
Since his sentencing, no legal method has managed to release Leonard. No court orders have allowed the free flow of documents the Federal Government continues to refuse to release regarding FBI/Native American relations. There also has not been the proper vetting and funding for the review of the documents that have been released.

I put to you then that I believe our Justice System has failed. It failed Leonard Peltier. It failed two entire peoples - Both Native Americans and all United States Citizens. And the “ill conceived polices” of the U.S. towards Native Americans failed agents William and Coler. If we are to move forward in our relations - this blight from our past must be seen as truth.

Given our balance of power in the United States and given that the Justice Branch has failed, it falls to the Executive and Legislative to check that power and begin to right this wrong.

The balance of powers had some effect in the 70’s. In 1976 the Senate led “Church Committee” revealed the FBI and the intelligence
community had rampant abuses of power and created the all important
United States Senate Select Committee on Intelligence that now
oversees the activities of the FBI. (CC) This check and balance did not
exist during the 1973 United States Wounded Knee reaction and did not
exist while they pursued Robideau, Butler and Peltier in the Jumping
Bull Ranch Incident.

I propose that sufficient evidence is in existence to question to
motives and activities of the FBI during the pre SSCI era. Thus all
documents must be subject to immediate review with no censoring. In
addition this activity must be a fully funded public open hearing on
Native American and US Government relations. A Truth and
Reconciliation commission must be created to oversee this entire
operation.

We cannot move forward as a true unified nation until the truth
is known, fully embraced, properly acknowledged and then an agreed
method of healing prescribed to all peoples.
Our future depends on this.

Thank You for your time,

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This is a must see for understanding some of the history.