# Apples are the Color of Blood *

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ABSTRACT

Color is such a defining characteristic of America's racial disharmony that minorities often huddle together under the sobriquet "people of color." This essay examines the significance of color to American Indians – the only ethnic minority subjected to a government certification process – and concludes that neither skin color nor a certificate of degree of Indian blood from the Bureau of Indian Affairs is sufficient to define Indian identity. No alternative is suggested that would make Indians identifiable by visual regard.

Indians tended to split into two factions from the moment it became apparent that the newcomers were not benign. Some wanted to fight to the death; others opted for the constantly changing terms of peaceful coexistence with the invaders. Crow Dog's case was a microcosm of this war among ourselves over how Indian people would adjust to the new realities, over "traditionals" versus "blanket Indians." The latter are sometimes called in modern parlance "apples," as African-Americans sometimes refer to "Oreos" or Latinos refer to "coconuts:" (red)(black)(brown) on the outside and white on the inside.

Crow Dog, an Indian considered by whites to be rebellious, killed Spotted Tail, a famous Brulé Sioux chief with an assimilationist reputation in white America. I choose my words carefully because these men have

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living relatives who do not necessarily agree with the portrayal of their ancestors in the media of the time. The important point for this discussion is not who Crow Dog and Spotted Tail were, but who they were thought to be.

Crow Dog was called to account within the Indian justice system. He was ordered to pay substantial restitution to Spotted Tail's family. The duly constituted authorities within the tribe decided that Crow Dog posed no further danger to the community. This "leniency" – for so it was perceived – caused great outrage among whites, including many liberals who admired Spotted Tail's "realism."

After much public outcry, Crow Dog was indicted by a federal grand jury for the murder of Spotted Tail and quickly convicted. His sentence was this time more "civilized:" Crow Dog would hang by the neck until dead. These were the bare bones facts that led to the 1883 United States Supreme Court decision in *Ex Parte Crow Dog* (1883, 109 U.S. 556), wherein the Court opined that the United States had no jurisdiction to try an Indian for a crime committed against another Indian on Indian land. To allow the federal government to hang Crow Dog would be to try Indians "... not by their peers, nor by the customs of their people, nor the law of their land, but by superiors of a different race, according to the law of a social state of which they have an imperfect conception, and which is opposed to the traditions of their history, to the habits of their lives, to the strongest prejudices of their savage nature; one which measures the red man's revenge by the maxims of the white man's morality" (109 U.S. at 571).

Leaving aside the condescending words and that restitution is not revenge, the Court spoke the law correctly and Crow Dog escaped the noose, turning up the heat on an already inflamed public opinion. Congress responded with the Major Crimes act of 1885, stripping away the right of Indian tribes to define major crimes and impose traditional penalties for those crimes (18 U.S.C. §1153). So began the killing of Indian political identity (Harring 1994).

Indian cultural identity had always been under attack. For white conservatives, it was the condign result of military conquest, the extinction of inferior cultures. For white liberals, it was in our best interests, as expressed in the dictum "kill the Indian to save the man." Whatever the stated motive, the results were the same from the reservation years until 1933: traditional religious ceremonies banned, Indian boys forced to cut their hair, Indian adults "converted" to Christianity by withholding rations, Indian children kidnapped and forced into boarding schools where Indian languages were banned, Indian adults forbidden to criticize the government

and required to obtain passports to travel from one concentration camp, I mean reservation, to another.

The Indian New Deal, John Collier's tenure as Commissioner of Indian Affairs, began in 1933 (Lacy 1985, p. 92). Collier's attempts to reverse generations of cultural genocide met with mixed success. Indians had been granted American citizenship on paper in 1924 (43 Stat. 253), but their voting rights were as difficult to vindicate as those of African-Americans (McCool 1985). Missionaries still engage in the occasional kidnapping. A Texas school district recently appealed an order exempting Indian boys of the Alabama-Coushatta Reservation from mandatory haircuts (Zahniser 1994). The killing of Indian cultural identity goes on.

The Spanish got started earlier than the English on the task of destroying Indian culture. By the time the United States took the Southwest from Mexico by dictating the Treaty of Guadalupe-Hildago (9 Stat. 922, U.S.-Mex., Feb. 2, 1848), most inhabitants of the area – about 80% Indian by blood – were generations removed from being punished by the Spanish for speaking Indian languages in school, so they were ready to have their children punished by the Anglos for speaking Spanish in school. And if that were not enough irony, the United States has now adopted an ahistorical and nonsensical identity called "Hispanic" that places the Indians and their former Spanish oppressors in the same census category (Toro 1995)!

Indianness is now a political label, authenticity certified by the Bureau of Indian Affairs. U.S. Government Inspected Grade A Indian, decultured by the liberals at Indian boarding schools and neutered by the conservatives who cannot make the same government employer of last resort that was *un*employer in the first place. An Indian tribe has no standing as an Indian tribe unless it is federally recognized. This is Indian identity on the tribal level.

On the individual level, we have blond-haired and blue-eyed people who speak not a word of any Native language and live nowhere near an Indian community carrying a BIA certification when a fullblood Native speaker is "not Indian" by the conqueror's rules. In the interest of the colonial government, cooperativeness is more important than color, and in this distinction among Indians Crow Dog and Spotted Tail rule us from their graves.

With most tribal land bases stolen, virtually all economic resources for Indians flow from the federal government. Tribal governments, approved by the BIA, are conduits for federal funds, and tribal office is a competition for access to those funds. Traditional leadership remains outside of recognized tribal governments but traditional leaders devote themselves to survival of language and culture. Reservation economies, with few exceptions, would make the South Bronx look like heaven on earth.

There is always, of course, the tourist trade. The Diné (Navajo) carved wood into a "genuine Hopi Kachina" while the Hopi carved stone into a "genuine Zuni fetish" and the Zuni encased in plastic a "genuine Navajo sand painting." No one's sacred traditions were offended, the BIA zookeepers were amused, and the tourists never knew the difference.

Then along came the Indian Arts and Crafts Act of 1990 which, along with outlawing *faux* Indian artwork, made it criminal to mislabel the tribe of origin (18 U.S.C. §1159). Is anyone in the world dumb enough to buy a "genuine *Navajo* Kachina?" You bet. I have seen it with my own eyes. But after the laughter dies down there is a chill in the air and an uncomfortable quiet. How can they possibly know so little about the people on whose bones they walk?

Growing up in Oklahoma in the fifties, I learned it was very cool to be "part Indian." Will Rogers, the Paint Clan Cherokee with a good-natured grin and wit like a straight edge razor, was a cultural icon to all. Rogers was white enough for the yonega [1] and Indian enough for the Tsalagi. [2] Being fullblood was a different matter.

I remember coming into the barber shop where I had got my hair cut in yonega fashion since the age of two to deliver newspapers as the owner cut loose a tirade about lazy, thieving Indians who paid no taxes ... any African-American today would recognize the details. He turned around in the middle of a sentence about "not finishing the job" in the Indian wars and saw me standing there with my bundle of newspapers. He gave me a tip that day, something he had never done before. He also mumbled something about "not meaning me" as I could not help being "part Indian."

This was, as a matter of intent, an act of generosity, an invitation to be white, safely within the stockade of civilization while the half naked savages outside ululate to their heathen spirits and await the opportunity to rape and pillage. It was a forceful reminder that we are "... members of communities before (we are) members of a race" (López 1994, p. 55).

American Indians have always had the theoretical option of removing themselves from a tribal community and becoming legally white. American law has made it easy for Indians to disappear because that disappearance has always been necessary to the "manifest destiny" that the United States span the continent that was, after all, occupied. This could be contrasted with the predicament of the African-American "octoroon" Homer Plessy, [3]

[1] White people.

[2] Cherokee.

[3] Plessy's 1/8 African-American blood compares directly to the 1/8 Cherokee Chief John Ross, who unlike Plessy could choose to be Indian or to be white.

who considered himself white but was found not to be white enough to sit where he pleased on public transportation (Plessy v. Ferguson 1896, 163 U.S. 537).

"Race" is a social construct rather than a biological one (Montagu 1997, López 1994). Because the term has little significance outside of politics, the definition might be expected to answer political needs: the need to make Native Americans disappear and the need to keep African-Americans in their place, leading to a narrow definition on one hand and a broad definition on the other.

Physiognomy *is* biological but becomes political when used to apply racial labels. When there was a legal line between freedom and bondage, descent was traced through female ancestors (Finkelman 1986), presumably because in those days before DNA testing it was easier to know mothers than fathers. Raping a slave woman was not a crime under most slave codes, so the possibility of a white father was always present (Russell 1998, p. 17). Legally recognizing the possibility of a white father as a determinant of race would have created chaos for the institution of chattel slavery. López (1994) points out a case where the freedom of three generations of women turned upon the fact that their hair was long and straight. [4]

So it was that I learned an easy trip to court to shed my Indian name and staying out of the sun to keep my skin as light as possible could make me socially white just as forsaking my tribal ties could make me legally white. I commend this experience to anyone who believes perceived race creates no social distinctions.

John Howard Griffin's (1961) classic investigation of the American South as a black man was an eye opener not only for Griffin but for his readers at the time. Less well known was the effort of a white college student to replicate Griffin's experiment to prove that in this decade skin color no longer matters. He lasted two weeks, including only two *days* in Georgia (Russell 1998, p. 12). Searching for overt racism in the Old Confederacy is difficult today for the light-skinned; for people of color it is like shooting fish in a barrel.

Spanish and Portuguese colonial societies were obsessed with color as an indicator of African or Indian blood, and that obsession lives on today in Latin America. And as the Indians of America *del Sur* learned the importance of color from their colonizers, so my people in America *del Norte* were instructed by our English colonizers.

[4] Long and straight hair was held to bespeak Indian rather than African ancestry, leading to freedom for the women by what we now know to be genetic happenstance (López 1994, p. 2).

History on the popular level seldom adverts to the fact that part of the "civilizing" of the so-called Five Civilized Tribes was instruction in the institution of chattel slavery. Our oral traditions tell us that Cherokees understood slavery as a concomitant of failure in warfare, at least as a temporary status pending adoption or release (Perdue 1979).[5] Cherokees were first introduced to the idea of chattel slavery by the English, but the view was from the bottom – as slaves rather than slaveholders (Mooney 1992, p. 233; Thornton 1990, p. 19). Eventually, the English were able to convert at least well-to-do Cherokees from the Indian view of slavery to the "civilized" understanding of human beings as property (Thornton 1990, p. 45).

The slave trade was well established by the middle of the Eighteenth Century (Halliburton 1977, p. 10) among the Cherokee, a people who obviously did no raiding in Africa. This unfortunate education in racism by the English led to Cherokees lining up on both sides of the American Civil War[6] (Abel 1992; Gaines 1989) and, just as tragically, some Cherokees beginning to find social significance in skin color.

Halliburton (1977) asserts that Cherokee slavery became "... a microcosm of slavery in the southern United States," (p. 144) with all of the brutality that assertion implies. This judgment is largely unsupported by the oral histories Halliburton reports, a flaw he attributes to "... faulty memories..." (p. 145). As much as we Indian survivors of the American Holocaust would like to disassociate ourselves from the peculiar institution, kinder, gentler slavery is a fairly preposterous idea in our time, and there is no denying that when Indians began to relate servitude to color the seeds of racism were sown.

The principal differences between Cherokee slavery and yonega slavery were at the beginning of the institution and at the end of it. At the beginning, a slave was simply another clanless person (clanless meaning without legal standing) and only a marginal economic asset (Perdue 1979, chap. 1). The importation of the capitalist idea of accumulating wealth and the growth of the plantation economy made slaves economically significant and the English slave trade made color a badge of slavery.

In spite of the inroads made by color prejudice during the slavery years, the Cherokee Nation came a lot closer than the United States to the old "forty acres and a mule" promise in that freedmen were enrolled as Cherokees (Mooney 1992, p. 150) and as a consequence of

[5] If death was the result, it would happen right away.

[6] For a white population, this would mean having some influence regardless of which side won. For an Indian population, it meant losing more autonomy regardless of which side won.

tribal enrollment were able to receive an allotment of land when the United States betrayed the Cherokee Nation and broke up the reservation into individual farms – farms which soon passed into white hands as people without a tradition of private land ownership were fleeced by speculators, regardless of color (Debo 1940). Enrollment of freedmen was not without controversy within the Cherokee Nation and coercion from without (Littlefield 1978), but "... the freedmen's lot in Cherokee society was better than their lot in American society." (*Id.* P. 251).

When the United States government found it convenient to abrogate its treaties with the so-called Five Civilized Tribes it seems logical today that abrogation would return both parties to the *status quo ante.* Indians would return to their homelands and refund the compensation the survivors received after being removed at gunpoint. In fact, abrogation meant that the government not only kept the land taken but also the land given in exchange. "Indian Territory" would become Oklahoma and Indians would cease to be a tribal people holding land in common.

Every Indian was to receive an allotment of approximately 160 acres (more or less depending upon the agricultural quality of the land and the timing of the allotment) and become self-sufficient. The Dawes Commission was sent out to take the final rolls for the Cherokee, Choctaw, Chickasaw, Seminole and Muscogee (Creek). Many Indians, ungrateful wretches that they were, believed the abrogation of the treaties to be illegal and engaged in what only could be called civil disobedience. There was widespread resistance to enrollment, most notably the resistance led by the Muscogee Chitto Harjo (Crazy Snake) and the Cherokee Redbird Smith.

Harjo even had the gall to go before Congress and speak of the white man as a person, as if that person could be reached by appeal to a primary attribute of personhood, honor: "He told me that as long as the sun shone and the sky is up yonder this agreement will be kept. He said as long as the sun rises it shall last; as long as the waters run it shall last; as long as grass grows it shall last. That is what he said, and we believed it." (Debo 1940, quoting testimony before the U.S. Senate). But Crazy Snake's naive faith was misplaced. The white man is not a person and honor is a foreign concept to bureaucracy.

Harjo, Smith and other troublemakers were eventually coerced to sign for allotments. However, not every fullblood hiding in the Cookson Hills of now-Oklahoma was brought in. Some people never did enroll. Some who did enroll were listed as fullbloods when they were not (at this time, 1887 to 1907, Cherokees had been intermarrying with whites and blacks for many generations) and vice versa. Siblings were enrolled with different blood quanta.

The Dawes Rolls, meant to be the last census of the dying species known as American Indian, remain the Bible of Indianness today. Even those Indian tribes with no blood quantum requirement for membership require that a prospective enrollee trace ancestry to the Dawes Rolls, documents that the people "most Indian" in the political sense opposed at great risk to themselves.

The "protection" for individual Indians – that their allotments could not be alienated – soon vanished when turned over to the corrupt Oklahoma court system. Waivers were granted for the asking, and the allotments disappeared into white hands. The Indian land in excess of the amount necessary for individual allotments had already been declared open for white settlement.

Those of us left are mostly without whiteness or redness or blackness to call our genetic heritage. While there are certainly Cherokee racists, and for a time the Nation even had anti-miscegenation laws similar to the former Confederate states, the most common epithet pertaining to color is "apple," and this only among politically active Cherokees seeking to discredit opposition. This is the Indian side of "race" as a political label, and the reference to skin color is only metaphorical.

Seen from the outside, color still counts in the dominant culture, particularly for African-Americans (West 1993). As a Cherokee, I hear almost nothing about color. Many of the black Cherokees sold their allotments (often to the same swindlers who were absorbing the allotments of "red Cherokees") and left the Nation, but others have intermarried to the degree that red and black could mean the colors on a checkerboard or they could mean communism and anarchy but they do not mean social status within the Cherokee Nation. How much the Choctaw, Chickasaw,[7] and Muscogee (Creek)[8] have diluted the color of their black members I am not qualified to say, but the Seminole have retained black phenotype (Littlefield 1977), particularly in the band led by the legendary John Horse, and even the Cherokee have had racial controversies since acquiring the disease of racism from the yonega. But, looking at contemporary Indians generally, the very first elections to the Native American Music Hall of

[7] Littlefield (1980) claims that the Chickasaw freedmen were worse off than the Cherokee freedmen, but still not treated as badly as they would be treated later by the United States and the State of Oklahoma.

[8] Debo (1989, 115-116, footnote omitted) tells us that "(e)xcept for a few of the mixed-blood aristocrats the Creeks had little prejudice against intermarriage with … (Africans), and the children of such marriages were accepted without prejudice as members of the tribe." "Mixed-blood" in this context refers to Indian-white, and Debo's statement squares with my experience growing up in Bristow, Creek County, Oklahoma (formerly the Creek Nation) two generations later.

Fame included … Jimi Hendrix, a popularly perceived African-American who is also of Cherokee descent.[9] Most of the writing by mixed blood Indians illustrates a clash of culture rather than color (e.g., Penn, ed. 1997), and Indian writers generally have treated color consciousness as a white phenomenon (e.g., Riley, ed. 1993).

What, then, is an "apple," red on the outside but white on the inside? If the blood does not tell, if the color does not tell, what makes a person accepted in an Indian community as Indian? For a tribal people, the question "Who are your relatives?" will always have some bearing, but there is one thing that perhaps goes deeper.

As a young lawyer in the seventies doing some work for the American Civil Liberties Union, I met a man from a strange tribe, a New York Jew. He was in Texas to help organize opposition to the death penalty. We were at a well known watering hole in Austin indulging the Texas custom of cold beer at the end of a hot day, when someone asked him where he found the energy to travel the country in the service of a hopeless cause. He unbuttoned his cuff (only a New Yorker would bring a long-sleeved shirt to Texas!) and rolled up his sleeve. The number was a bit fuzzy but still legible, the tattoo from the Nazi death camp.

"I don't believe that a morally correct position is ever hopeless," he said quietly. At that moment, I understood that his path was marked by that tattoo on his arm as clearly as the star trail my people call "the place where Dog ran." And I felt that I knew him as one tribal person knows another.

After a recent speech to a group of archaeologists on why Indians object to having their graves dug up, a remark got back to me that I suppose could be taken as a compliment: "If that guy worked half as hard at being white as he does at being Indian, he could!" Well, maybe.

Like the famous Cherokee Chief John Ross, I have some Scots swimming in my gene pool. What do I have against Scots? Nothing at all. What little I know of the culture is fascinating, and I would visit Scotland at the drop of a tam. But Scots are in Scotland, where their culture still flourishes, and I do not know how to be a Scot. The blood does not tell me how.

My Oklahoma home was formerly "Indian Territory," and it is Cherokee language and Cherokee lore and Cherokee people that tell me who I am. From the European Invasion until the Indian wars ended with the Nineteenth Century, the term "Indian" was a linguistic construction of the invaders. We were not "Indians." We were Ani Yunwiya, Yahi, Diné, Nakota. Among ourselves, we were just "the people." Many tribal names

[9] http://www.nativeamericanmusic.com (visited Oct. 9, 2000).

in use today attached when white people asked "friendly" Indians the name of the "unfriendly" Indians nearby, who were typically enemies of the people being asked. The people commonly called Sioux, Pima, Creek, Winnebago, Apache and Navajo – among others – try to reclaim their former names but generally answer when called out of politeness.

Cherokees have actually taken the name into the language – Tsalagi – rather than call themselves "real people" anymore. By the time John Ross, the 1/8 Cherokee great-grandson of a Scots trader, led the tribe into its tragic collision with European greed, Cherokees were already intermarried in a major way. Clan identity was already being determined by the last Cherokee female relative rather than declare the child clanless if the mother was an unadopted white. Women were losing their former political status because Europeans were concerned that a treaty signed by a woman would appear bogus, and because Christian missionaries were presenting patriarchy as the natural order of things.

All John Ross had to do to claim the advantages of whiteness was ask. Instant assimilation. Instead, after winning his point in the Supreme Court (Worcester v. Georgia, 1832, 31 U.S. 515), he was moved out at gunpoint and force-marched to Indian Territory with the people he tried to represent. He buried his wife on the Trail Where We Cried.

The split among Cherokees over the Removal remains to this day. Some call John Ross naive for trusting the courts. Some say he could have gotten a better deal for his people by recognizing the inevitable sooner. Some blame him for the killing of signers of the bogus Treaty of New Echota, the legal fig leaf that failed to disguise ethnic cleansing. They call him naive or they call him wrongheaded, but they still call him Cherokee.

Every Cherokee is Cherokee in relation to the Trail Where We Cried, even the Eastern Band people who hid from the soldiers so desperately that they let the Sacred Fire go out. Every Diné (Navajo) is Diné in relation to The Long Walk. Every Cheyenne is Cheyenne in relation to the massacres at Sand Creek and the Washita. The Indians of California, like the Indé (Apache) of Arizona Territory, remember when there was a bounty on their scalps: men, women and children. These horrors mark our paths as clearly as tattoos on our arms.

This, I have come to understand, is the blood that matters: the blood that was spilled, and the determination to remember and to defend what remains. Color? From Redbird Smith to the sorriest blanket Indian or "apple," we are all the same to a racist even though among ourselves most of us have come the full circle back to the irrelevance of skin. In science, genotypes tell us little of what matters: heart and character. In modern Indian culture, the phenotypes of Jimi Hendrix or Will Rogers or Wilma

Mankiller (1993) or John Ross have little in common except the memory of genocide and the color of blood.

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