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The Mille Lacs' Battle to Assert Treaty Rights

Introduction:

Amidst a collapsing fur trade industry and economic depression in the late 19th and early 20th centuries, several Midwestern Tribes were working out deals to cede large chunks of territory to the U.S. government in exchange for money and reserved rights to hunt, fish, and gather on the ceded land. The treaty making process was facilitated by American businessmen who allowed the fur trade industry to collapse so that Midwestern Tribes would be forced to sell their land. Additionally the American government sought to acquire the land for timber, mining, and other natural resources (MIAC, 2012). This paper focuses specifically on the Mille Lacs Band of Ojibwe and the 1837 Treaty with the Chippewa. The treaty officially ceded a clear and well mapped region of Minnesota and Wisconsin, as well as clearly outlining the rights the Mille Lacs people had to the land, but the lack of autonomy and self-regulation power given to the band allowed for those rights to be abused and denied by the state government and the Minnesota Department of Natural Resources (DNR). By analyzing the economic and cultural factors that influenced this case, as well as official policies and the treaty itself, we can further understand the broader implications that the threatened cultural resources and denied Treaty Rights had on the Mille Lacs people, such as food availability, threats to cultural traditions, and income. Similar legal disputes happened across the Midwest, and this one can be applied to many other Native American communities where cultural resources were threatened, specifically in the cases of land cession treaties (Minnesota 1, 1896).

Background:

The Mille Lacs Band of Ojibwe is a federally recognized tribe located in East Central Minnesota, and is one of six Tribes of the Minnesota Chippewa Tribe. The Mille Lacs Band has approximately 4,300 members as of 2012, and they have a separation-of-powers government, consisting of an executive, legislative, and judicial branch (MHS, 2017).

Oral tribal history dictates that the Ojibwe travelled from near the Atlantic Ocean to the region surrounding Mille Lacs Lake roughly 500 years ago, where they currently reside (MHS, 2017). Upon the coming of European colonists, the Ojibwe people had to compete for resources and defend their rights and treaties which were continuously violated by U.S. and British representatives. Infectious diseases brought by European colonists killed many Ojibwe, and by the end of the nineteenth century, merely hundreds remained (MHS, 2017). Attempts at assimilation by the U.S. government prohibited the Ojibwe from practicing their religion, and the youth were sent to boarding schools to learn English and working class trades (Nesper, 2009). After their dwindling numbers were dispersed by the Indian Reorganization Acts in 1934, the Ojibwe bands in the Mille Lacs region joined five others to form the Minnesota Chippewa Tribe. The four historical bands of the Mille Lacs region (Mille Lacs Indians, Sandy Lake Band, Rice Lake Band of Mississippi Chippewa, and Snake and Kettle River Bands of St. Croix Chippewa Indians of Minnesota, were finally reorganized as the Mille Lacs Band of Ojibwe (Mille Lacs Band, 2017).

Policies Affecting the Case

Seven years after the Indian Removal Act of 1830, the Ojibwe people were in financial crises due to the poor health of the fur trade business, which the new owners of the American Fur Company intentionally collapsed for the purpose of transitioning their business model from trading furs to treaty making/facilitating (MIAC, 2012). Inevitably the Ojibwe ceded their land in exchange for 24,000 dollars in cash, goods and services such as farmers/products and blacksmith shops, and hunting, fishing, and gathering rights in the ceded territory and beyond. However, much of the money was partitioned in the form of debts towards treaty facilitators such as Henry Sibley from the American Fur Company (MIAC, 2012). This was the catalyst of the Mille Lacs' 160-year struggle to retain hunting, fishing, and gathering rights. Had the greed and lack a respect for different cultures not controlled the evil actions of colonial business men like Henry Sibley, this crisis may have never started.

Eventually the financial crises settled down and the Mille Lacs people adjusted to their new lives in a different economy. For a while, all Native people whom ceded their territory exercised their Treaty Rights without issue. However, this changed when the regulating powers over ceded territories were transferred from the federal level to the state level, and began the start of Native Treaty Rights being ignored (MIAC, 2012). Tribal members who continued to exercise their Treaty Rights were given citations, prosecuted and fined, and even had their equipment confiscated if caught without state licenses for harvesting fish or game (GLIFWC, 2017). The consequences of exercising Treaty Rights become a main theme in this story, largely due to the understanding that most, if not all, Native Americans had about what their Treaty Rights were. The Mille Lacs people were very aware of what rights were included in the 1837 Treaty, and they were also explicitly aware of the boundaries which were mapped out to mark the exact

territories. Although maps are often used to nefariously encroach on Native land by way of lying about ambiguous borders, this was not the case for the 1837 ceded territory. The maps for all the ceded territories in the Midwest were very clearly and unambiguously defined, but the politics and legal oversights of the state level government were sources of wrongdoing in this story. In the mid-20th century, Tribes began to seek legal affirmation of their Treaty Rights.

In 1990 the Mille Lacs Band sued the State of Minnesota, asserting harvest rights, two years before The Fond du Lac Band of Ojibwe followed suit and sued the State in 1992 (DNR, 2017). On January 15th, 1993, the Minnesota DNR and the Mille Lacs Band collaborated on a settlement agreement, which was narrowly defeated by Minnesota legislature because opponents were against the rights to use traditional gill nets and spear hunt in fear of decimating walleye populations (DNR, 2017). Although relinquishing the right to use gill netting practices may have resulted in the settlement's success, the Mille Lacs did not compromise, and rightly so because they were protecting cultural tradition.

The settlement agreement collaborated on by the Minnesota DNR and the Mille Lacs band would have ended what was already a lengthy court battle, and it would arguably have been quite beneficial for the Mille Lacs Band of Ojibwe. The settlement would have granted the band original and extensive Treaty Rights, \$8.6 million, 7,500 acres of land, and exclusive fishing rights on 4.5% of Lake Mille Lacs, with the only compromises being that the band had to limit walleye harvesting to 24,000 pounds per year and they would be required to adhere to a band conservation code, which means they would have self-regulating power over natural resource harvesting and fishing (MLRL, 2015). An organization called the Great Lakes Indian Fish & Wildlife Commission (GLIFWC) was also founded around this time (1984) to spread accurate knowledge about Treaty Rights to prevent their abuse in the future. Today the GLIFWC website

explains the meanings and implications of Treaty Rights, as well as provides resources such as maps, books, and legal documents for free or for sale.

Analysis

The Mille Lacs people were forced into ceding their territory by greedy colonial businessmen for economic purposes, and though the treaty included explicit hunting, fishing, and gathering rights in an explicitly defined boundary (Minnesota 1), those were ignored by state level regulators. This had several implications with the law, tribal diets, culture, and income. During the period when state governments were ignoring and denying Treaty Rights to local Tribes, Native Americans were getting arrested, fined, and prosecuted for continuing to assert their rights, namely when it came to hunting and fishing. The DNR required all hunters/fishers to have state-issued licenses and obey DNR hunting limitations like maximum kill numbers for trout.

The diets of many people became strained as well by the restrictions and redacted rights. Noncommercial fishing was a direct and important source of food for many people, as was hunting wild game, such as deer. In Larry Nesper's paper, "Twenty-five years of Treaty Rights and the Tribal Communities", Jim St. Arnold of the Anishnaabe Wolf Clan from Keweenaw Bay was quoted saying: "Around 1972, my dad and I were out in Baraga Plains and we were out bird hunting, but we took some buckshot in case we saw anything else. And got approached by the state DNR who confiscated our rifles and whatever else we had, and gave us tickets. Well, my dad and I were talking and he says, 'We have this right.' (Nesper, 2009). This story epitomizes the type of struggles associated with restricted hunting rights. Native people like Jim's father understood the rights that they were supposed to have, and they continued to exercise them even when the state did not recognize those rights. Additionally, the fact that Jim and his father hunted

despite the risk of facing penalties illustrates both the direness of their situation regarding hunting restrictions, as well as the defiance that many Native people showed to the corrupt system.

Tribal members did not continue to hunt and fish purely out of defiance, however. Hunger and money were large motivating factors to ignore the penalties and risks of hunting and fishing, and the lack of food also suppressed cultural traditions involving resources such as fish, wild game, and farming crops which are important components of family traditions, ceremonies, funerals, weddings, and gift giving (Nesper, 2009). Food is at the center of all cultures, and restricting Native people's access to such a basic human right clearly had severe consequences for all affected people.

Lessons Learned

The most important lesson to be learned from this case study comes from the vulnerability to abuse that the Mille Lacs people faced due to a lack of autonomy and self-regulating power when it came to their Treaty Rights. Even though the terms of the treaty, such as explicit rights and borders, were well-defined from the start, the Mille Lacs Band was still subject to the culturally disrespectful will of the American government when actors at the state level ignored Treaty Rights. In the original Treaty of 1837, the rights to use cede land were given "...at the pleasure of the President", rather than given by the tribal courts and tribal regulations (GLIFWC, 2017). The lesson to be learned from this is that autonomy and sovereignty are imperative rights for Tribes to have in protecting themselves from outside actors, namely the American government. We have learned, unfortunately, that the American government cannot be trusted to look out for the best interests of Native People.

Conclusion

After nine years of court battles and many decades more of redacted Treaty Rights, the Mille Lacs Band of Ojibwe reaffirmed their rights to hunt, fish, and gather, thus strengthening cultural resources and traditions, their economy, and their sovereignty (MLRL, 2015). With the help of inter-Tribal collaboration and from GLIFWC, Treaty Rights for all Native Americans affected by the Midwestern treaties have been re-asserted, but threats to the rights to cultural resources are still present due to conflicting interests of those who share those resources (Nesper, 2009). By learning from past injustices, encouraging cultural competency, having clearly defined rights and autonomy regarding resource regulations, and encouraging collaboration between those who share these natural resources, further injustices such as seen in this case can be prevented in the future. Lastly, more can be done by leveraging maps positively to reinforce Native rights to cultural resources by mapping those resources, thus encouraged their future respect. For example, mapping the cultural resources of a Tribe respectfully and accurately can reinforce the rights that Tribes have to the land. Lastly, there were many instances throughout this case study's history of non-native actors, such as the opponents of the DNR settlement, and the state government being culturally disrespectful. Leveraging maps more effectively can also teach non-Native people about important cultural places and boundaries, which could help promote culturally respectful conflict resolution in the future.



Minnesota 1 – Map of the Minnesota Land Cession Treaties

Bibliography

"Legal History." *1854 Treaty: Legal History: Minnesota DNR*. Department of Natural Resources, 2017. Web. 25 Feb. 2017.
<http://www.dnr.state.mn.us/aboutdnr/laws_treaties/1854/litigation.html>.
(DNR, 2017)

"Great Lakes Indian Fish & Wildlife Commission." *GLIFWC.*, 2 Web. 25 Feb. 2017.
(GLIFWC, 2017)

"1837 Land Cession Treaties with the Ojibwe & Dakota." *1837 Land Cession Treaties with the Ojibwe & Dakota*. Minnesota Indian Affairs Council, 2007-2012. Web. 25 Feb. 2017.
<<http://treatiesmatter.org/treaties/land/1837-ojibwe-dakota>>.
(MIAC, 2012)

"Mille Lacs Band of Ojibwe." Minnesota Historical Society. State of Minnesota, 2017. Web. 6 Mar. 2017. <<http://sites.mnhs.org/historic-sites/mille-lacs-indian-museum/mille-lacs-band-ojibwe>>.
(MHS, 2017)

"Mille Lacs History." Mille Lacs Band of Ojibwe. Mille Lacs Band of Ojibwe, 2017. Web. 6 Mar. 2017. <<http://millelacsband.com/>>.
(Mille Lacs Band, 2017)

Royce, Charles C`. "Minnesota 1." *Bureau of American Ethnology*. 140th ed. Vol. 18. Baltimore: A. Hoen & Lith., 1896. N. pag. Print.
(Minnesota 1)

"Indian Fishing and Hunting Rights." Minnesota State Legislature. Minnesota Legislative Reference Library, Mar. 2015. Web. 12 Mar. 2017.
<<https://www.leg.state.mn.us/lrl/issues/issues?issue=indian>>.
(MLRL, 2015)

Nesper, Larry. "Twenty-Five Years of Treaty Rights and the Tribal Communities." *Great Lakes Indian Fish & Wildlife Commission* (2009). Web. 12 Mar. 2017.
(Nesper, 2009)