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The Indigenous vote: Protecting or endangering sovereignty?

by David Wilkins

Much ado has been made about the 2002 mid-term congressional and gubernatorial elections. Democrats are bemoaning the Republican's treble triumph – congressional control, an invigorated Bush administration, and conservative rule on the supreme court. Republicans are exulting in their perceived conservative mandate – to assuage the War on Terror, privatize Social Security, and roll back environmental regulations that are deemed overly restrictive of private and public property development. And the inconsistent American voter, depending on race, socio-economic status, and issue salience, seems either unenthusiastic, ambivalent, or wildly animated about politics.

Interestingly, while overall voter turnout remained an anemic 38-39 percent, in several important races the American Indian vote appears to have played a decisive role in several Democratic victories. This is no small feat, given two important facts. First, according to the 2000 Census, Indigenous peoples make up only 1.5 percent of the U.S. population and thus historically have not been deemed worthy of mainstream party courting. Second, since the birth of the American republic, Indian peoples have generally sought to retain a measure of political exclusion from the U.S. – given their sovereign status and treaty relationship with the federal government – while every other racial, ethnic, and gender group has sought to gain a measure of political inclusion in the body politic.

The 2002 mid-term elections suggest that when certain conditions are met, an attractive candidate who supports issues of importance to native peoples in a region where the potential Indian voters are concentrated, even the comparatively small aboriginal population can wield influence far out of proportion to its actual size in certain elections.

This occurred in the senate race in South Dakota, where incumbent Tim Johnson (Democrat) received a majority of the Pine Ridge Sioux vote (4,000 new Indian

Democrats were signed up in counties that border or include Indian reservations) and won a close election.

And it occurred in several governor's races: in New Mexico, Bill Richardson (Democrat) was elected with considerable support from Pueblo and Navajo voters; in Arizona, Janet Napolitano (Democrat) gained over 15,000 votes in three counties that include parts of the Navajo Reservation whose citizens overwhelmingly support Democrat candidates when they vote; and in Oklahoma where Brad Henry (Democrat) received ample support from the Choctaw, Creeks, and Cherokees and was able to defeat former Representative Steve Largent (Republican) by less than 7,000 votes.

Indian voters also made a difference in certain state legislative races (Montana now has 7 Indian lawmakers, an increase of 1 as a result of this election) and in some local sheriff and county commissioners officer-elections. The Indian vote and intense lobbying of non-Indian voters and policy makers was also key in ushering in several Proposition measures, like Arizona's Prop. 202, an initiative that will allow for the expansion of 17 tribal casinos, with a percentage of the revenues going to state coffers.

This increased level of aboriginal electoral involvement in non-Indian elections makes pragmatic sense for many native people, given the tenuous nature of their people's rights and resources in the current political and economic climate – threats to Indian gaming compacts, government lacked the authority to extend its citizenship to their peoples absent their informed consent and active pursuit of this status.

Since then, American Indians have coped with a dual citizenship status – citizens of sovereign tribal nations; citizens of the U.S. Some Indians, including many who belong to the Iroquois Confederacy, resent the forced imposition of American citizenship and refuse to acknowledge or accept it. They participate solely, if at all, in indigenous

elections.

For many others, including a number of Oglala Sioux on Pine Ridge, a rising percentage of Pueblo of New Mexico, and an increased number of Cherokee of Oklahoma, dual tribal and American citizenship represents a mark of political distinction and they enthusiastically participate in both tribal and state/federal elections.

The recent election provides stunning empirical proof that an increasing number of American Indians are willing to engage the American electoral process as a means to exercise their individual rights as Native Americans and simultaneously to protect their sovereign rights as tribal citizens.

How this level of non-Indian political participation will be construed by the Republican-led Congress, the Bush Administration, and the Rehnquist Court, will be most telling. We should recall that active and exemplary Indian participation in World War II and in their subsequent attempts to gain the right to vote – Indians in New Mexico and Utah were denied the vote until 1948 and 1956 respectively – provided justification for the Congress to initiate its last concerted assimilation campaign beginning in the 1950s.

This campaign consisted of the relocation program, which encouraged Indians to leave their reservation homes and move to selected cities; Public Law 280, which gave several states challenges to hunting and fishing rights, environmental concerns, etc.

But does it make good diplomatic sense if native peoples still desire to maintain their status as citizens of sovereign tribal nations? With Indians voting in record numbers this election, while the overall Latino and African American vote declined, according to *The Economist*, does such participation diminish their preexisting sovereignty as citizens of the original governments in the Americas?

Or by supporting candidates, both Indian and non-Indian, or voting against candidates with anti-Indian records or agendas, like ex-Senator Slade Gorton of Washington in the

2000 elections, are Indians actually enhancing their existing sovereign powers and distinctive individual and collective rights?

How these questions are answered and what the aboriginal vote amounts to in forthcoming U.S. elections will serve as a barometer on whether or not native peoples have finally come to fulfill the unique political status accorded to them by Chief Justice John Marshall in the 1831 case *Cherokee Nation vs. Georgia*. In that ruling, Marshall concluded that Indian tribes were neither "foreign states" nor "states" in a constitutional sense, but were instead "domestic dependent nations," an entirely new political standing reflecting their physical location in the ever expanding U.S. and their allegedly war-like status in relation to the federal government.

The U.S. coercive assimilative campaign, which began in earnest in the 1870s, culminated in the passage of a 1924 congressional law that extended the franchise to American Indians. This unilateral action overjoyed some individual Indians, but was received over the vigorous objections of many tribal nations and their citizens who maintained that the federal criminal and some civil jurisdiction over reservation residents and activities; and the infamous Termination policy that amounted to the legal and political extinguishment of the federal trust responsibility to a number of tribes and the severance of specific federal benefits and support services to thousands of aboriginal peoples. Each of these policies were set up ostensibly to "reward" Indians for their allegedly patriotic fervor exhibited during and after World War II.

Whether American Indians will face a new wave of assimilationist policies is difficult to predict, although the Rehnquist Court has already issued several rulings in recent years that undermine the sovereign character of tribal governments and reduce treaty rights.

Tribal nations face a calculated decision: by actively engaging in non-Indian electoral politics they run the risk of acting in a disloyal fashion to their own nation's separate sovereignty. But if they opt to remain disengaged, they ran an equal risk of having little if any voice in local, state, or federal policies and programs that may harm or benefit their remaining sovereignty and treaty rights.

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