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“Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking” Critique

 In “Enhancing Autonomy for Battered Women: Lessons from Navajo Peacemaking,” the author, Donna Coker, looks at Navajo Peacemaking in cases of domestic violence. She seeks to evaluate the effectiveness of Navajo Peacemaking as a form of “informal adjudication,” or alternative mediation and restorative justice, as well as how aspects of Navajo Peacemaking might be included in Anglo law practices. Previous literature, often written by Navajo judicial officials, suggests that Anglo law practices would benefit from Navajo Peacemaking by allowing parties to reach the underlying systems that lead to domestic violence and reducing the ability of the offender to minimize their responsibility. Ultimately, Coker concludes that Navajo Peacemaking, while there are faults, offers possibilities for justice that are not available through other legal means.

 Coker breaks her analysis down into three key sections – domestic violence cases in peacemaking, problems with informal adjudication, and a conclusion, which she breaks down further to cover specific aspects of each section. In the first section, she starts by providing crucial context outlining the gross mistreatment of the Navajo people by the American government and society, which has exacerbated systemic violence, especially in the home and against women and children. Then, she talks about the theory and practice of Peacemaking, and its rise in the 70s and 90s. She then highlights the potential benefits of Peacemaking to address systemic and personal factors involved in domestic violence, unlike Anglo formal adjudication, which typically only focuses on a narrow, personal view of violence. She points to Peacemaking’s ability to incorporate family and community support in remedying domestic violence situations as a means of forcing personal, familial, and community responsibility while also providing reparations. Reparations are particularly important to her analysis by increasing the capital of women, stopping the cycle of violence by giving women more resources to escape domestic violence situations.

In the second section, Coker evaluates Peacemaking according to four common critiques of other forms of informal adjudication: the coercion problem, the cheap-justice problem, the normative problem, and the communitarian/social-change problem. She evaluates each of these problems separately. For each problem, she begins with a discussion of what exactly the problem looks like. Then, she addresses how formal adjudication meets or fails to meet the problem. She ends by discussing how Peacemaking either addresses the problem or is plagued by it.

In the final section, Coker concludes the paper by evaluating Peacemaking as a whole. She discusses how aspects of Navajo Peacemaking can be used in formal Anglo adjudication to provide more support for victims of domestic violence, as well as areas of Peacemaking that could be improved. She also discusses potential limitations to her analysis and potential bias.

This organization allows Coker to provide an in-depth analysis of Navajo Peacemaking by not simply looking at the issues, but also taking into account the history of the Navajo people and Peacemaking as a response to institutional violence. This also allows Coker to really look at how Peacemaking addresses the root problems with domestic violence, unlike formal adjudication, which gives her a more positive outlook on the practice. The organization of the article is consistent with the major themes Coker seeks to address by looking not only at domestic violence, but also the institutional, structural, and historical factors that play into battering and its remedies.

In the first section, Coker explains Navajo history in Navajo terms as cultural markers that have harmed Navajo spirits. Coker employs a gender structure theory view of domestic violence by looking at domestic violence on personal, interactional, and institutional levels. She does not say this explicitly, but the organization of her chapter to cover each of these levels in relation to domestic violence mimics the gender structure theory view of gender as an interacting system playing out across the three aforementioned levels. Coker’s other main conceptual framework is in her analysis of Navajo Peacemaking across the four common problems of informal adjudication. She does a good job of providing in-depth explanations for each of the concepts she uses and carries them throughout the book. For example, her discussion of Navajo cultural markers leads to her discussion of institutional factors causing domestic violence, and then her discussion of how Peacemaking addresses institutional factors by recommending support programs, which might then cause issues by coercing victims into acting.

 Coker’s analysis is based on interviews of Navajo Peacemakers, anti-domestic violence activists, domestic violence service providers, and Peacemaking files. The data she collects is not exhaustive, as the experiences of those who access Peacemaking are only told second-hand. She felt that contacting domestic violence victims who used Peacemaking could be potentially dangerous, which I understand, but it does limit her ability to evaluate Navajo Peacemaking after services are terminated. Her data fails to account for potential feelings of regret or coercion that service providers do not see. While she is able to come to a conclusion, her analysis is hurt by not providing the other side of the story. She mentions as well that many of the potential benefits she finds in Navajo Peacemaking could be just that – potential. There is a possibility that her data is more theoretical than empirical.

 Coker draws several conclusions. First, Navajo Peacemaking as a model can help increase resources for the victim through nalyeeh – the Navajo word for reparations paid to all victims of violence, including the victim, the family, and the community – as well as referrals to social services. Peacemaking, unlike formal adjudication, also avoids victim blaming while recognizing the institutional factors that may lead to an abuser to violence. Also, unlike formal adjudication, Peacemaking values relationships, allowing women to remain in their relationships if they see a path to saving their marriages through Peacemaking.

As for problems with informal adjudication, Peacemaking can remedy some of the problems. Peacemakers, for example, are allowed to be invested, which removes the need for neutrality and rejects the normalization of misogyny. However, Peacemaking can fail when domestic violence is not the main focus of Peacemaking by equating violence with conflict, domesticating abuse. When domestic violence is centered, Peacemaking can shift the mindset of the abuser to take responsibility for battery and seek change. Peacemaking’s greatest failure is in coercing victims to take part in interventions where they may feel unsafe. Peacemaking fails to provide resources for victims to make informed decisions about whether Peacemaking is the appropriate means for intervention. This can also force women to feel they must remain married if they rely on Peacemaking. However, this particular anti-divorce problem is peacemaker-dependent and is not always the case.

Going forward, in adopting Navajo Peacemaking practices into Anglo adjudication, Coker recommends a screening process to ensure that Peacemaking is the appropriate response and to limit the abuser’s ability to use the process to continue abusing. Through screening and proper education regarding the pros and cons of informal adjudication, a new system would adopt the understanding that neutrality is not equal to fairness. Also, like Peacemaking, this system should allow for the inclusion of oppressive structures that lead to domestic violence without making the abuser into a victim. A new system should adopt aspects of nalyeeh to readjust family assets to give women greater independence and enforce their autonomy. This process should rely on family and other support systems of the abuser to help the abuser recognize the harm caused. Ultimately, while Peacemaking is not perfect, adopting these aspects of Peacemaking would expand the ability of women to escape domestic violence situations.

Coker explicitly states potential biases in her appendix. The first is that she could be engaging in “overextended borrowing” by ignoring cultural differences or romanticizing cultural differences. As a non-Native, non-Navajo woman, Coker could be ignoring cultural differences to promote Navajo Peacemaking. The second potential bias is to assume that non-Navajo expertise, such as non-Navajo domestic violence services, is superior to Navajo expertise. She tries to reduce the potential of these biases by including different perspectives, such as the perspective of Peacemakers and that of non-Navajo anti-domestic advocates, and I feel she achieves that goal, but I also worry that I have the same biases as a non-Navajo woman.

I think Coker’s work contributes to existing literature around adopting alternative sources of justice, such as Leslie Bender’s exploration of feminist theories and tort law. I think that both of these works speak to a call by historically marginalized populations to recognize the need for fluidity in law. As the treatment of women and Indigenous people shows, law is not a logical process; it is behavioral. If the law were logical, the law would not be able to make a decision giving women the bodily autonomy and revoke it only a few decades later. If the law were logical, the Navajo people would not be forced to leave their Native lands only to be allowed to return to a much smaller land. Scholarly contributions to law from feminist theorists such as Coker and Bender highlight the lack of logic in decisions regarding historically marginalized populations. They show how logic is the tool of patriarchy and racism to invalidate personal and emotional arguments against systemic violence. I may be projecting onto Coker and Bender’s works and expanding them beyond their arguments, but I think when read together, they share a call for change within the legal system, using widely accepted, scholarly evaluations of law.

I’m biased when it comes to Peacemaking because I grew up in rural Alaska, where I had a friend who went through the Inupiaq tribal courts for assault. While Inupiaq tribal courts often claim to do many of the same things as Navajo Peacemaking by working with the family and community to develop a pathway for restorative justice, my friend was not able to find support. Her abuser denied wrongdoing, and because he was family, much of her family turned against her or, equally as bad, failed to stand up for her. The tribe used victim-blaming logics to deny her claims, sending her abuser away with a slap on the wrist.

I tried throughout Coker’s piece to ignore my own second-hand experience with Indigenous methods of restorative justice, especially knowing this is Navajo and not Inuit, but some of the Peacemakers Coker quoted were incredibly harmful. I was particularly disturbed by a Peacemaker who said battery was a result of women acting like men, by trying to work and not having dinner ready. The problem with Indigenous forms of restorative justice, in my opinion, is that white Americans have committed so many acts of cultural genocide against Native Americans and Alaskans that many tribes and tribal leaders have ingrained conservative ideas of gender and sexuality that affect Peacemaking practices by framing their history in a Western lens. While I think Navajo Peacemaking could still be useful, I feel Coker ignores an obvious issue with Peacemaking that she highlights with quotes throughout her writings: Peacemakers are not always in tune with the traditional values that Peacemaking purports are necessary to building a solution. She does mention this briefly, but I do feel that if Peacemaking is to be successful, for Navajo people or otherwise, greater education for Peacemakers is essential.