

LIVING IN TWO WORLDS[†]*Elizabeth Kronk Warner**

Anti-racism calls us to work toward ending racial hatred, bias, systemic racism, and the oppression of marginalized groups.¹ For many of us working in higher education leadership, this means that we are actively creating space for marginalized voices both in classrooms and through research. But the question of who should be included does not always have a clear answer. Because of the complexity of identity, not all members of a marginalized community may express themselves in a monothetic way. This essay examines such a group possessing a complex identity—Native people, from my personal lived experience. The essay explores how Native identity intersects with higher education leadership in complex ways. Ultimately, while Native identity within the United States is complicated,² we should not shy away from these conversations about identity, as our communities and institutions are ultimately better following such critical examination.

[†] Eds. Note: This essay is part of a *Rutgers University Law Review* Symposium entitled, *Taking Our Space: Women of Color and Antiracism in Legal Academia*. The Symposium features a collection of essays inspired by Meera E. Deo's *Unequal Profession: Race and Gender in Legal Academia* (2019) and was accompanied by a roundtable discussion with the authors held virtually in March 2021.

* Elizabeth Kronk Warner is Dean and Professor of Law at the S.J. Quinney College of Law at the University of Utah. She was formerly Associate Dean and Professor of Law at the University of Kansas School of Law (KU), where she was also the Director of the Tribal Law and Government Center. She is also a nationally recognized expert in the intersection of Environmental and Indian law. She is an enrolled citizen of the Sault Ste. Marie Tribe of Chippewa Indians.

1. See, e.g., Ibram X. Kendi, *The American Nightmare*, ATL. (June 1, 2020), <https://www.theatlantic.com/ideas/archive/2020/06/american-nightmare/612457/> (stating that many Americans “struggle to focus on securing anti-racist policies that will lead to life, health, equity, and justice for all, and to act from anti-racist ideas that value black lives, that equalize all the racial groups in all their aesthetic and cultural differences”).

2. See generally Cornel Pewewardy, *To Be or Not to Be Indigenous: Identity, Race, and Representation in Education*, 4 INDIGENOUS NATIONS STUD. J. 69 (2003).

In Indian country,³ we talk a lot about living in two worlds—our “traditional” Native communities and the majority communities of our colonizers. How I behave within the contours of my own Native community (both the broader Native community and my tribal community—Sault Ste. Marie Tribe of Chippewa Indians) can be very different from how I behave outside of those communities, especially when acting as an administrator at a predominantly white-serving institution (PWI). Among other Native people, there is a relaxation that comes from knowing that they “get it.” We can collectively laugh at yet another person telling us that their great, great grandmother was a Cherokee Princess,⁴ and we sigh and shake our heads when a national news outlet refers to us as “something else” rather than recognizing us as a political and racialized community within the United States.⁵ And, we are exhausted—exhausted at continually being ignored or unseen.

3. The term “Indian country” has both colloquial and legal meaning. Colloquially, people will often use the term “Indian country” to refer to spaces that Natives typically occupy. For example, I think of our Urban Indian Center in Salt Lake City as “Indian country.” But the term also has legal meaning. For the legal definition of Indian country, see 18 U.S.C. § 1151 (“(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.”).

4. Apparently, there were a lot of Cherokee Princesses running around in the 19th Century. I find it interesting that people always assume themselves to be descended from royalty. I have never heard someone say they are descended from a Cherokee indentured servant, for example. I also find it interesting that most people claim a connection to the Cherokee Nation. I assume that this might be for a couple of reasons. Perhaps this is the only tribe most people have heard of, as most Americans will learn about the Trail of Tears in their middle school social studies class, and/or because citizens of the Cherokee Nation were forcibly marched from present-day Georgia to present-day Oklahoma, they were present in numerous states in the 19th Century. And, of course, the Cherokee Nation of Oklahoma is one of the most populous tribal nations within the United States. See *Status and Trends in the Education of American Indians and Alaska Natives: 2008*, NAT'L CTR. FOR EDUC. STATS., https://nces.ed.gov/pubs2008/nativetrends/tables/table_1_3.asp (last visited Jan. 25, 2021); see also Pewewardy, *supra* note 2, at 86 (“While the willingness for many Americans to identify as part *Indian* or having *Indian* blood may be little more than their conscious (or unconscious) ability to recall a [sic] Indigenous ancestor, such self-declarations are a source of personal pride grounded in family history. But for the many Indigenous People who have heard endless stories about someone’s great-great-great Cherokee grandmother, it is little wonder that these assertions are greeted with suspicion.”).

5. Laura Zornosa, *It Appears CNN Deemed Native Americans ‘Something Else,’ Sparking a Backlash*, L.A. TIMES (Nov. 5, 2020, 2:20 PM), <https://www.latimes.com/entertainment-arts/tv/story/2020-11-05/it-looks-like-cnn-called-native-americans-something-else-theyre-not-happy>.

There is some comfort in the collective exhaustion knowing that I am not alone, and that others are “fighting the good fight.” So I find it comforting and relaxing to be among “my people”—fellow Indians⁶ who understand, and who are equally tired but can still chuckle and shake their heads at the microaggressions we experience daily. This is part of my shared Native experience. My Native experiences go beyond daily microaggressions, however, to encompass wonderful things about being Native in the United States—the joy⁷ of hearing my Indigenous language spoken during winter story telling with tribal elders (Aadizokaanan), watching my son learn traditional dances during weekly Lil Feathers gatherings for Native children in Salt Lake City, sinking my teeth into a piece of fry bread⁸ at the first Pow Wow of the year, returning to my tribal territory for summer ceremonies (when my schedule allows), and the list goes on.

Unfortunately, my reality (and I would assume that this is true for most Native academics) is that I only experience the joy and fellowship of being within a majority Native academic community a few times a year, and large gatherings of Natives generally are too few and far between. Personally, I consider myself “lucky” because I have the pleasure of working with two other Natives at the S.J. Quinney College of Law, and there are others within the larger University of Utah community who are either citizens of a tribe or have a strong tribal identity.⁹ However, except for my time as an appellate judge for my Tribe,

6. I use the term “Indian” for two reasons. First, it is the term used by my Tribe, the Sault Ste. Marie Tribe of Chippewa *Indians*. See Pewewardy, *supra* note 2, at 74 (“Hernandez contends that Indigenous Peoples know that the term *Indian* is a misnomer, but they have made it their own, just as they have made *American Indian* and more recently *Native American* their own, even though in their original languages, each of their people had (and have) their own name for themselves and for this part of the earth that is now known as ‘America.’”). Interestingly, by creating this “pan-Indian” identity, Indians have created a category that is more powerful than identifying as citizens of individual tribes. *Id.* Second, it is the legal term used in federal Indian law. See generally 25 U.S.C. §§ 1–5636.

7. Something deep within me connects with my Native language and leaps for joy when hearing Native speakers use these powerful words. I am not fluent in my Native language, Ojibwe, but I hope to learn more about the language when I step down from my leadership position.

8. I acknowledge that much has been written about fry bread – that it is not an indigenous traditional food and was a product of colonization, as our ancestors only started making it when they had to make do with rations provided by the federal government. See generally Devon Mihesuah, *Indigenous Health Initiatives, Frybread, and the Marketing of Nontraditional “Traditional” American Indian Foods*, 3 NATIVE AM. & INDIGENOUS STUD. 45 (2016) (detailing the history of fry bread). But, despite knowing this, fry bread still tastes so good.

9. A hierarchy of Native identity exists. As quasi-sovereign governments, tribes possess the authority to determine their own membership criteria. See Santa Clara Pueblo

I have never had the privilege to serve or work with someone who is a citizen of my Tribe—the Sault Ste. Marie Tribe of Chippewa Indians. As a result of this reality, I have spent most of my career largely alone (or lonely) in my political and racial identity as an Indian.¹⁰ I spend most of my life in the world of my colonizer, and, as a result, I have learned how to survive in that world—although certainly at great personal cost (and perhaps at cost to those who might look to me as a mentor).

v. Martinez, 436 U.S. 49, 72 (1978) (holding that sovereign immunity bars suit against a tribe for its membership rules under the Indian Civil Rights Act). Additionally, as a method of assimilation and classification, the United States encouraged tribes to adopt membership systems premised on “blood quantum” or the amount of genetic heritage possessed by an individual Indian. See Paul Spruhan, *A Legal History of Blood Quantum in Federal Indian Law to 1935*, 51 S.D. L. REV. 1, 1–3 (2006) (“Blood quantum is controversial among academics, policy makers, and affected individuals both inside and outside tribal communities. Some allege that the federal government applies blood quantum to eliminate its responsibilities to Indian people by legally defining Indians out of existence. In the tribal membership context, some see blood quantum as a negative force allegedly imposed by the United States and at odds with traditional forms of tribal membership. Others see it as a neutral method to define tribal membership when consistent with the policy goals of a tribe.”). Taken together, some tribes today utilize tribal citizenship with very high blood quantum requirements, while some require lineal descendency. Paul Adams, *What is ‘Blood Quantum’?*, BBC (July 11, 2011), <https://www.bbc.com/news/av/world-us-canada-14108242>; Kat Chow, *So What Exactly Is ‘Blood Quantum’?*, NPR: CODE SWITCH (Feb. 9, 2018, 6:00 AM), <https://www.npr.org/sections/codeswitch/2018/02/09/583987261/so-what-exactly-is-blood-quantum>. Some tribes also utilize patrilineal or matrilineal citizenship systems, and, as a result, even if someone possesses the required blood quantum, he or she may still not meet the citizenship requirements if they do not have the required parental lineage for citizenship. See Ryan W. Schmidt, *American Indian Identity and Blood Quantum in the 21st Century: A Critical Review*, 2011 J. ANTHROPOLOGY 1, 4 (2011) (“Most notably was the patrem rule (patrilineal descent) that stated all those with a non-Indian paternal ancestor were non-Indian, no matter the amount of ‘Indian’ blood.”). Additionally, many Indian children have been “adopted out” of tribes; “[i]n the 1960s and 1970s, American Indian children were about six times more likely to be placed in foster care than other children and many were placed in non-American Indian homes or institutions.” U.S. GOV’T ACCOUNTABILITY OFF., GAO-05-290, INDIAN CHILD WELFARE ACT: EXISTING INFORMATION ON IMPLEMENTATION ISSUES COULD BE USED TO TARGET GUIDANCE AND ASSISTANCE TO STATES (2005), <https://www.gao.gov/assets/gao-05-290.pdf>. And, because of being placed in the foster system or with a non-Native family, these Native people may be aware of their Native ancestry but may not know whether they have or are eligible for tribal citizenship. See, e.g., Lisette Austin, *Serving Native American Children in Foster Care*, CONNECTION, Winter 2009, http://nc.casaforchildren.org/files/public/community/judges/July_2010/Connection_Winter2009.pdf. The result is that some Native people have tribal citizenship, some have significant ancestry but no citizenship, and some are uncertain as to the significance of their ancestry. Finally, this footnote does not even begin to examine the issue of race and tribal citizenship. See generally Matthew L. M. Fletcher, *Race and American Indian Tribal Nationhood*, 11 WYO. L. REV. 295 (2011) (examining race and tribal citizenship).

10. Being Indian is both a racialized identity, see generally Fletcher, *supra* note 9, and a political identity, as we have a relationship with a political entity, a tribal government. Thus, Indians possess a unique status among American racialized communities. See Morton v. Mancari, 417 U.S. 535, 553 n.24 (1974).

I am a citizen of the Sault Ste. Marie Tribe of Chippewa Indians,¹¹ and I have a very fair complexion. I am haunted by people commenting that I “do not look Indian.” Although a seemingly benign comment, these sorts of comments are a perpetual source of irritation, a daily micro-aggression—a reminder that my life’s work of educating people about Indian law has failed as people define who is “Indian” by phenotype rather than political connection to a tribe. As a law professor who specializes in Indian law, I have taught hundreds of students over the last fifteen years that being Indian is a political and not a racial classification—yet it is never enough. And, of course, these comments always give me pause—what does an Indian look like? Do people expect me to wear a buckskin, carry around a teepee, braid my hair and put a feather in it?¹² The question of who is an “Indian” is a complicated one, as there are “conflicting policies of tribal government acknowledgement, federal government blood quantum criteria, and a myriad of self-identifications contribute to this paradox of cultural identity.”¹³ When I was younger, I let such comments get to me and would regularly wear bronzer so that I appeared darker skinned. With age came confidence in my identity and complexion.

Despite the confidence that comes with age and professional success, I still find myself reflecting on how my political identity as an Indian, paired with my fair skin, may have helped me in my professional advancement. I suppose this is my personal version of imposter syndrome¹⁴—questioning whether I achieved professional success through my own merit or in part because of my identity.

11. I meet the requirements for citizenship in my Tribe, as I am enrolled in the Tribe. Also, I meet the Bureau of Indian Affairs definition of an “*American Indian* person whose Indigenous blood quantum is at least one-fourth and who is a registered or enrolled member of one of the 500 or more federally-recognized tribes.” Pewewardy, *supra* note 2, at 74. Not all tribes agree with this federal definition and different tribes will have different criteria for tribal citizenship. *Id.*

12. See Arlene Hirschfelder & Paulette F. Molin, *I Is for Ignoble: Stereotyping Native Americans*, FERRIS STATE UNIV. (Feb. 22, 2018), <https://www.ferris.edu/HTMLS/news/jimcrow/native/homepage.htm>. The stereotype of an 18th or 19th Century Plains Indian seems to be the one that pervades the collective memory of the United States, which is interesting given the comment above about people thinking that they are of Cherokee descent. *See id.*

13. See Pewewardy, *supra* note 2, at 73.

14. Arlin Cuncic, *What Is Imposter Syndrome?*, VERYWELL MIND (Feb. 26, 2021), <https://www.verywellmind.com/imposter-syndrome-and-social-anxiety-disorder-4156469#> (“Impostor syndrome . . . refers to an internal experience of believing that you are not as competent as others perceive you to be.”). Women generally, and women of color in particular, seem to experience the effects of imposter syndrome more than other groups. Sheryl Nance-Nash, *Why Imposter Syndrome Hits Women and Women of Colour Harder*, BBC (July 27, 2020), <https://www.bbc.com/worklife/article/20200724-why-imposter->

We're more likely to experience imposter syndrome if we don't see many examples of people who look like us or share our background who are clearly succeeding in our field. . . . This is especially true for black and indigenous people, for whom overall representation across almost all white-collar fields is alarmingly low.¹⁵

This could not be truer of law school deans. To my knowledge, there has only been one other female tribal citizen who served as a law school dean in the United States¹⁶—Stacy Leeds, who formerly served as Dean of the University of Arkansas School of Law – Fayetteville.¹⁷ If we include people who identify as male and are tribal citizens, that number doubles to two as Dean Kevin Washburn served as Dean of the University of New Mexico School of Law and currently serves as Dean at the University of Iowa College of Law.¹⁸ There have been other law school deans who affiliate with a tribe or identify as Indigenous, but, to my knowledge, there have only been three of us who are tribal citizens serving within the United States.

Not only is my imposter syndrome fed by the lack of peers succeeding in law school senior administration (and the legal academy generally), but I am also aware of the lightness of my skin. I have found myself pondering whether I am promoted into leadership positions because I am an “acceptable” woman of color, as I lack the dark skin that may be subconsciously threatening to others in positions of power.¹⁹ In this regard, I strongly identify with Cornel Pewewardy’s examination of his personal interactions with Indigenous communities “as a ‘privileged’ educator” while fearing that “he missed the process by which he was being co-op[t]ed by the dominant English-speaking community to legitimate their discourse of Indigenous identity, race, and education as

syndrome-hits-women-and-women-of-colour-harder. One reason that this may be true is that, because there are not as many women and women of color in positions of power, we may feel less worthy as we are not surrounded by role models. *See id.*

15. Nance-Nash, *supra* note 14 (quoting clinical psychologist Emily Hu).

16. At least one tribal citizen, Angelique EagleWoman, served as Dean at a Canadian law school.

17. *Leeds Takes Permanent Role as Vice Chancellor for Economic Development*, UNIV. OF ARK. (July 12, 2018), <https://news.uark.edu/articles/42265/leeds-takes-permanent-role-as-vice-chancellor-for-economic-development>.

18. *University of Iowa Names New Dean of College of Law*, IOWA NOW (Mar. 20, 2018, 1:17 PM), <https://now.uiowa.edu/2018/03/university-iowa-names-new-dean-college-law>.

19. Ashley Simpo, *It's Time to Talk About Our Light-Skinned Leadership*, MEDIUM: THOSE PEOPLE (Oct. 22, 2018), <https://medium.com/thsppl/this-is-a-blank-page-7a31b645e494> (explaining that being “lighter skinned” helps “messaging cross over”).

a ‘problem.’”²⁰ Have I been promoted by my PWIs so they can claim my indigeneity without opening their doors to someone who would make everyone else “uncomfortable”?²¹

I have also experienced pushback from other Natives who question my indigeneity because of the lightness of my skin. Darker-skinned Natives have accused me of not being Native because I am “too white.”²² Many Indians still associate skin color with tribal identity.²³ Additionally, as the federal government has increasingly allowed for self-identification—e.g., the Census—some are concerned that allowing people to self-identify may result in non-indigenous people claiming such an identity because of “emerging ‘New Age’ philosophies” and other lifestyles searching for a Native identity.²⁴ Over the past several decades, there has been increased concern around ethnic fraud—people changing or falsifying their identities because it is believed that the change will professionally benefit them.²⁵ I certainly understand the concern and try not to be too offended when personally attacked in this way, although such questioning always stings.

I also may not be the voice of decolonization that others want me to be. I question what my “tribal voice of decolonization” is and whether I am doing enough.²⁶ I struggle with fears that I have been so co-opted by the dominant society that I cannot meaningfully contribute to efforts to decolonize higher education. Because I was not raised steeped in my tribal culture, I question whether I can meaningfully contribute to decolonization efforts.²⁷ I once read an article explaining how an

20. Pewewardy, *supra* note 2, at 69.

21. I have been a senior administrator at two PWI institutions, and both have been very receptive to my feedback and suggestions for change, but, despite generally positive interactions with these institutions, questions do still linger in my mind.

22. Intertribal racism is not uncommon within Indian country as there are historical conflicts between tribes, and Indians will perpetuate “dysfunctions from the dominant society.” Pewewardy, *supra* note 2, at 77.

23. Hilary N. Weaver, *Recognizing Our Past and Moving Toward Our Future: Decolonizing Attitudes About Skin Color and Native Americans*, 4 J. INDIGENOUS SOC. DEV. 1, 4 (2015).

24. Pewewardy, *supra* note 2, at 75.

25. *See id.* at 79–80. Specifically, “[p]erceptions of ethnic fraud, whether real or imagined, have spawned a debate among Indigenous People as to what constitutes legitimate identity and has resulted in regulatory practices requiring individuals to prove their identity.” *Id.* at 80.

26. *Id.* at 69–70 (explaining how educators are called upon to “recognize their position within their professions as transformational leaders and realize that they are their own tribal voices of decolonization”).

27. My grandfather actively sought to distance himself from his Indian identity. For example, despite his dark skin, he registered as “white” for the Army when he enlisted during World War II. His efforts to distance himself trickled down to my mother, who was not raised in a “traditional” environment. This is consistent with many other family

institution does not address its gender equality problems by simply hiring a female leader. This is because female leaders do not necessarily promote more equitable policies merely because of their status as women. Also, leaders will suffer from institutional capture, as they find themselves promoting and supporting the institution's values by virtue of being co-opted as a leader. Have I been co-opted by my PWI?

Another female law school dean once explained to me that she believes we "lose" our academic freedom when we accept senior leadership positions. Although we can still technically express our opinions, should we choose to do so in a way that compromises the goals of the institution, the reality is that we may not hold our administrative positions for long. By accepting a leadership role in a PWI, I have accepted a role to make change from within the organization. To be effective, I will, therefore, not promote policies and actions that are inconsistent with the institution's goals. While I still believe that much can be done to decolonize higher education from within PWIs, I know that many will view me as just another tool of the oppressor because of the limitations I accepted when I entered a leadership role. For example, I am writing this essay in the language of my oppressor and colonizer.

I live in two worlds—or perhaps even more—Indian country and my colonizer's world. Although I am finding my footing and confidence in my identity in the former, there is still much that I am learning and working through. Although I did not grow up learning Ojibwe or practicing traditional ceremonies of my Tribe, I have worked to learn about the customs and traditions of my Tribe, as well as ensure that my son learns about his Indigenous identity through cultural experiences and weekly interactions with other Native children. My identity—tribal citizen, light-skinned, raised off the reservation—informs how I interact with and am viewed by Indian country. In the colonizer's world, I have been successful in my career—but at what cost? I have chosen to work from within the system and will try to make a difference in smaller ways, but perhaps not in the way that many would like me to. I have served in senior administrative positions for the past six years—first as an Associate Dean of Academic Affairs and then as Dean. In both roles, I endeavored to build pipelines to marginalized communities, hire, and retain faculty and staff from diverse backgrounds, promote people from marginalized communities to leadership positions, and support diverse students in their efforts to succeed as law students. As an administrator, I do not have the same "depth" of relationship with individual students,

experiences in Indian country. *See id.* at 76 ("I remember in the early 1970s family members and close friends saying, 'it's not good to be *Indian*.' Today, it's in vogue; many of those same family members and close friends are saying just the opposite that 'it's good to be *Indian*.'").

2021]

LIVING IN TWO WORLDS

941

but I very much hope that the policies I put into place will have a broader impact.

Further, as an administrator, I recognize the power in my position. “Contrary to some popular opinion and even some professional opinion, educators and systems are extremely powerful. We can choose either powerful positive or powerful negative effects, and we can bring either into being.”²⁸ Mine, and I imagine the same for many women of color in leadership positions, is a complicated reality and one I imagine I will still be navigating and learning when I leave this world. But I cannot sit silent. Tribal cultures are not static, as they are “intrinsicly dynamic and developmental.”²⁹ And, as with other women of color succeeding in the legal academy, I must find my way forward—navigating my two worlds.

28. *Id.* at 86.

29. *Id.*