

Morris K. Udall -- Selected Articles:

The Navajo and the Hopi: No Villains, Only Victims by Congressman Morris K. Udall

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In the past few weeks, the 1974 law settling a land dispute between the Hopi and Navajo tribes has become the subject of intense controversy and debate.

The relocation process has been the cause of much pain and suffering among many Navajo families and the cause of bitterness and conflict between both tribes.

In the past few months, there has been a concerted effort on behalf of all the responsible parties -- Navajo, Hopi, federal officials and Members of Congress -- to avoid further pain and suffering and the threat of violence. Due to any number of reasons, not the least being the passionate feelings on all sides of this issue, we have been unable to reach any agreement.

As one who originally voted against the Relocation Act, I am in the painful situation of having predicted the flaws of the law, and by being Chairman of the House Interior Committee, finding myself in the position of having to oversee its enforcement.

Appealing to the deep public sympathy for those who must relocate, some have vigorously advanced the notion that if the Relocation Act of 1973 were repealed, all will be well, all wrongs righted and all suffering alleviated. Repeal has been supported by numerous politicians, the National Organization of Women, and a number of other groups that are well-meaning but woefully uninformed.

Literally, for years I have weighed the options presented and I have come to the conclusion that repeal just does not make sense.

Repeal would be impractical and cruel and would be tantamount to attempting to unscrambling eggs. The law has been on the books for 12 years. Personal, physical, and legal circumstances have changed so much in these past 12 years that it would be impossible to restore the status quo. Secondly, Navajo families now living on Hopi land and subject to relocation are protected by the law, compensated for their move, and given legal status. If the law were repealed, those families would be subject to court-ordered forcible eviction without compensation or benefits.

Let me put the entire matter into perspective by briefly summarizing the events involving these good and decent Americans and how we came to the place we are today. Archaeological evidence indicates that the Hopi, as a distinct people, were occupying lands surrounding their current land as early as 1300 A.D. These lands included all the land now in dispute between the Navajo and the Hopi. Earliest European contact was by Spanish explorers who encountered them living on seven mesa villages in 1540. The Hopi live in the same area today. The village of Old Oraibi is considered to be the oldest continuously inhabited site in the continental United States.

The Hopi Tribe is recognized by the federal government and has a membership of some 8,000 persons, most of whom reside on the reservation.

Evidence has the Navajo located in northwestern New Mexico as far back as 1500 A.D., though the time of entry into the Southwest is in dispute. Eventually, they spread from this area into other parts of what is now Arizona, Utah and New Mexico and during this process surrounded the Hopi who

continued to live atop the mesas of northeastern Arizona. The Navajo membership is approximately 150,000 persons, 100,000 of whom live on a 15,000,000-acre reservation.

The Hopi are a sedentary people, the Navajo tend to be nomadic. The Hopi never engaged in hostilities with settlers, the Navajo fought settlers until defeated in 1863 by the United States Army. The tribe was scattered, with many members incarcerated in New Mexico. Gradually the Navajo moved into traditional Hopi lands prompting the Hopi to petition the United States to establish a reservation for them as had been done for the Navajo by treaty. The Hopi reservation order signed by President Chester Arthur in 1882 comprised some 2.5 million acres.

By 1958, due to constant encroachment by the Navajo brought about by their lifestyle -- not avarice -- the Hopi lands were reduced to some 600,000 acres. Litigation by the Hopi Tribe resulted in a court ruling that the 1882 lands were not vested and that the disputed lands were to become jointly used. That proved to be impossible to enforce. The Navajos continued to stay on the land and the Hopis pursued a court resolution of the dispute.

In October 1972, the court ordered compliance directed at the Navajo Tribe to permit joint use and all resources of the joint use area "to the Hopi Indian Tribe and the Navajo Indian Tribe, share and share alike." The court ordered the Navajo families on the joint use lands to be evicted. There was no provision for assistance.

It became clear in 1973 that the Congress must act. A number of proposals were made, including one by me ordering mediation and arbitration. It failed.

A compromise passed providing an initial mediating period, creation of a Relocation Commission to develop and implement a plan, and a mediator to determine boundary lines for partition of the disputed lands.

Since that time, a total of 4,023 Navajo families have applied for benefits as relocatees from the Hopi lands. Of these, 2,437 have been certified as eligible. Of those, 972 families have been relocated and paid benefits and another 57 are in the process of acquiring replacement dwellings.

The relocation has not been a ringing success. Hardships have been common to traditional Navajo thrust into a new environment. Navajos have been taken advantage of and abused. Even now, the dwellings on new lands created for relocation are of sorry construction and have inadequate facilities.

But it is impossible to turn back the clock.

Some 300 Navajo families remain on Hopi land. They have not applied for relocation benefits and have indicated no intention to move. Most of these people are sincere and well-motivated. Some are victims of outsiders with their own unknown motives. Violence has been threatened and some has occurred.

It was apparent that the situation called for a proposal for a comprehensive resolution of all the remaining issues in this 100-year dispute. Last February, I introduced legislation, H.R. 4281, which would have put in place a comprehensive plan for the resolution of this complex and frustrating situation.

My proposal would have required an exchange of land between the two tribes so that most of the remaining Navajo families would not have to move. Several other issues and disputes encompassed within the broader dispute would also have been addressed and settled. Simply put, I thought that if we couldn't move people, perhaps we could move boundaries.

The legislation was offered in good faith, both as a reasonable solution and as a catalyst -- I had hoped it might generate other proposals that could contribute to an answer. The Navajo tribe, with some conditions, thought the proposal offered a way out of the impasse.

It was not to be.

The Reagan Administration voiced strong opposition to H.R. 4281, as did Sen. Barry Goldwater and the Hopi leadership.

It became apparent that attempts to pass this bill would fail and I decided to take no further action to move the bill.

With its opposition to H.R. 4281, the Administration has insisted that existing law be implemented. In my opinion, the Administration has now accepted the burden of overseeing the fair, humane, and peaceful implementation of the Relocation Act.

Now, with final legislative remedy exhausted, I expect Secretary Hodel and Assistant Secretary Swimmer to aggressively seek the necessary funding to do justice to the Indian families who have already moved and those who are facing relocation.

What will happen next Sunday when the original relocation deadline passes and the remaining Navajos stay on the Hopi land? Technically, the Navajos have no legal right to be there and would be subject to eviction. However, the Congress has provided that no federal funds can be used for forcible evictions. The original July 6 deadline has since been extended to September 30, 1986.

There will now be costly litigation and continuing tears and heartbreak among both the Hopi and the Navajo.

It is a shame. And it is an avoidable shame. Resolution will come, but the answer clearly is not in repeal of the Act.

It is personally distressing to me that this long-standing dispute between two fine people remains unresolved. I was born and grew up among them and have many friends among the members of both tribes.

It is now up to the Navajo and Hopi leaders, their people and the federal officials charged with implementing the law as well as the other parties involved, to exercise restraint and discretion in their actions. Blood has been shed in recent weeks and passions are inflamed. Reason must prevail and the law, though flawed in some cases, must nonetheless be obeyed.

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