“BLACK WATER” – THE DEVASTATING EFFECTS OF ALCOHOL ON THE CORE VALUES OF THE A:SHIWI (ZUNI)

By Christy Chapman*

"Hon yumola a:ho’ik’yanna. Hon i:yansatdena:wa. Don dehwan illaba. Hom dehwah ukna:we”

"Be honest and trustworthy to one another. We will help one another. It is your turn. It is my turn."
A:shiwi Teaching¹

INTRODUCTION

Over the last hundred years the A:shiwi, the Zuni, have attempted to eradicate the devastating effects of “black water”² on the Zuni people. Black water is a translation of the Zuni word “Kya:bocha,” or bad/dirty water, that Zuni elders used to describe alcohol. A prophecy foretold by Zuni elders warned the Zuni people that black water would someday enter the humble village of Zuni and forever change the course of the Zuni people.³ In the late nineteenth century, black water eventually showed its ugly head at Zuni in the form of alcohol.⁴ Specifically, whiskey was introduced into the Zuni agricultural community causing Zuni men to forget the meaning and purpose of Zuni life.⁵ Generations of Zuni tribal leaders have attempted to dissuade the men from indulging in black water without success. Over the last one hundred years, the repercussions of black water in the Zuni community have eroded Zuni core values. This is demonstrated by an avalanche of problems from drunkenness, bootlegging, fighting, neglect of children, suicide, homicide, health problems leading to death, and a strain on the local tribal court system in the Zuni community. In sum, one hundred years of black water use has culminated in devastation to health and wellbeing of Zuni individuals, families, and our tribal sovereignty through the destruction of our sacred core value of caring for one another. To date, the menacing problem of black water has only been dealt with by the secular governing body of Zuni under the punitive influence of Western jurisprudence. Despite a great need, there has been little effort to create and sustain prevention programs geared toward deterring Zuni young people from engaging in the use and subsequent abuse of black water.

To prevent further erosion of Zuni core values, this paper calls for an interdisciplinary approach from secular and traditional tribal leaders, educators, health

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² Black water is the term chosen by the author to convey the Zuni word for “Kya:bocha” or bad water/dirty water as the elders once called the substance before it was known as alcohol.
⁵ Id.
professionals, the tribal courts, and the Zuni people. The hope is to deter future generations of Zuni youth from succumbing to black water’s devastating effects. By revisiting Zuni’s past, its rich cultural history, and looking at Zuni’s current form of governance, this paper will address ways to lead a collaborative effort to prevent black water abuse in the Zuni community by reaffirming the Zuni core value of caring for one another.

Part I of this article focuses on the evolution of Zuni tribal governance prior to the introduction of black water, as well as the outside influences that led to changes in traditional Zuni law. Part II describes the effects of black water after its introduction to the Zuni people, and the Zuni law that developed in response to black water. Part III of this article provides the present-day accounts and statistics that illustrate the devastating effects of black water on the Zuni and their core values. Part IV of this article suggests solutions to diminish the eroding effects of black water abuse using Zuni core values.

I. THE EVOLUTION OF ZUNI TRIBAL GOVERNANCE PRIOR TO THE INTRODUCTION OF BLACK WATER

Zuni Pueblo currently has 11,581 enrolled members and 463,278.18 acres of land situated in western New Mexico and eastern Arizona. The Zuni way of life is a result of hundreds of years of the Zuni following their Creator’s precepts in order to survive in the arid Southwest. Through the account of the Zuni emergence, migration, settlement, traditional governance, and religious land use, Zuni customary laws and core values are ascertained.

After emerging from mother earth, the Zuni migration story tells of the Zuni voyage to locate and settle at the center of the universe called Halona:we, or present-day Zuni. By relying on their Creator’s instruction, the Zuni journeyed together as one to locate Halona:we. During their journey and throughout countless generations before the introduction of black water, the Zuni core values, including the teaching to take care of one another, helped guide the Zuni.

A. Traditional Zuni Law and the Perpetuation of Core Values

After finding their home, the Zuni were destined to develop into a cultural and religious agricultural society in which caring for one another was vital. The Zuni belief system dictated their way of life. The Zuni system of governance was theocratic, meaning the Pueblo’s religious leaders had the final authority to make decisions for the people. However, the Zuni received their ultimate governing law from their Creator, On:a wil:ona,

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6 PUEBLO OF ZUNI TRIBAL CENSUS OFFICE, POPULATION BREAKDOWN INCLUDES EVERYONE OFF RESERVATION (2015).
7 Id.
9 Telephone interview with Gibbs Othole, Zuni Rain Priest (Apr. 20, 2015, and Nov. 15, 2015). Mr. Othole is a veteran of the U.S. Marines Corps who was deployed on a peacekeeping mission but faced active battle in Beirut, Lebanon in the 1980’s. He was fortunate to witness and compare his culture and values to the world outside of Zuni wanting nothing more than to keep his traditional Zuni ways to thrive for generations to come. He thanks his elders and his ancestors for their teachings. The author will be mindful and respectful to share only the relevant teachings pertinent to the writing of this paper.
10 Id.
11 Id.
the god who holds the roads of life or the keeper of souls. Before the Zuni were created, it is said that On:a wil:ona created the galaxies, the earth, and all living things. Instruction on how to live life was given to the Zuni by On:a wil:ona. From On:a wil:ona came the deities whom the Zuni look to for guidance. On:a wil:ona wanted his children to live according to his ways. All Zuni life revolved around On:a wil:ona’s precepts once the Zuni emerged from deep within mother earth.

When the Zuni people emerged from mother earth, there was a hierarchy of governing bodies that emerged to lead and guide the Zuni people in order to maintain peace and harmony with nature and the universe. The Zuni were to be a people created to enjoy the blessings of their Creator by following the Creator’s precepts. The Creator’s precepts ordained certain individuals and groups to govern the Zuni people and guide the Zuni through life. The Creator’s precepts were sacred and holy and when followed, assured longevity. From the Creator came the core values of the Zuni people that encompass caring for one another: family, responsibility, accountability, stewardship, respect, language, humility, generosity, wisdom, community, hard work, self-sufficiency, nurturing of the young, peace, resiliency, unity, strength, compassion, integrity, and faith. The ordained governing body was entrusted to ensure these core values were respected for time everlasting.

When the governing body of the Zuni emerged from mother earth, the first to emerge was the Ba:kwin:nae (Sun Priest), and the A:shiwani (rain priests) of the six directions. They were ordained by the Creator to govern the people according to nature’s cycle. After the Ba:kwin:nae and A:shiwani emerged, the Suski:kwe (coyote group) were the next group to emerge. The Suski:kwe were bestowed with the duty to take care of all the animals. The Suski:kwe were gifted with prayers from the Creator and had the responsibility of letting the animals know when to procreate in the spring and when to go into dormancy in the winter. The next important group to emerge from deep within mother earth was the Edo:weh (plant society) who brought with them shrine-like objects containing the seeds to sustain life for the Zuni people. The governing body of the Zuni was tasked with a great responsibility in sharing and maintaining the core values through the various duties assigned to them.

Of great importance was the role of the Ba:kwin:nae. The Ba:kwin:nae had the most important duty assigned to him which placed him above all other groups. The Ba:kwin:nae was charged with the duty of watching the stars and galaxies in order to set

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12 Id.
13 Id.
14 Id.
15 Telephone interview with Gibbs Othole, supra note 9.
16 Id.
17 Id.
18 Id.
19 Id.
20 Id.
21 Telephone interview with Gibbs Othole, supra note 9.
22 Id.
23 Id.
24 Id.
25 Id.
26 Id.
27 Telephone interview with Gibbs Othole, supra note 9.
28 Id.
the lunar calendar for planting and harvesting. Once the calendar was set, the Ba:kwin:nae would inform the A:shiwani, the Suski:kwe and the Edo:weh societies. Each society’s role fell into place once the Ba:kwin:nae set the calendar. The Zuni people were then set to task for the purpose of working the land for sustenance, as well as taking care of mother earth. This form of governance assured that mother earth would be cared for by the Zuni people.

In order to govern responsibly, the Ba:kwin:nae, the A:shiwani, the Suski:kwe and the Edo:weh were instructed by their Creator to never hurt the people by word or deed and thus took an oath to do no harm to the people. For this reason, they were not to involve themselves with day-to-day secular affairs, but commit themselves to look after the general wellbeing of the Zuni people and the universe.

Over time, the governing law of the Zuni molded itself to the experiences of life. Thus, other governing bodies have evolved such as; the Kyakwi:mosi, head of the house or Head Cacique - who today has taken on the role of the Bakwin:nae, setting the calendar for the Zuni, the Bekwin:ne, the spokesperson or voice of the Head Cacique, the Bišla shiwani, the Bow Priest, who instills order, the medicine groups, and the Ako:mossi, leaders of the kachina groups.

Once the Zuni settled at Halona:we, Zuni consisted of a main village and several outskirt farming villages. The governing theocracy appointed secular leaders for the main village as well as the smaller villages. Over time, the secular leaders took on the titles of Da:bubu (governor), Tsibolo:wa shiwani (Spanish priest/lieutenant governor), and the teniente (councilmen), now referred to as the Tribal council. These secular leaders were appointed in order for the Bakwin:nae/Kyakwi:mosi and Ashiwani to care for the universe through prayer and supplication to the creator on behalf of the Zuni people. They were not to engage in secular affairs, as doing so would steer them from their obligations of maintaining peace and harmony. The Zuni inherited and developed an encyclopedic
knowledge of cultivating the land from the Creator. This knowledge was shared between religious groups, clans, and kin. A glimpse of their industrious skill and abilities in cultivating the land was noted by the early American settlers who reported that the Zuni cultivated more than 10,000 acres of land for agriculture, and the Zuni would often walk up to sixty miles to gather water for their crops. Corn was their source of life and thus highly guarded and valued. A two year supply of corn was stored in case of famine. From their agricultural way of life, the core values of self-sufficiency, unity, hard work, strength, and the continued care for one another were perpetuated.

Prior to Spanish, Mexican, and Anglo-American influence, the Zuni valued being governed by their own traditional law. The Zuni practiced a theocratic form of governance placing the utmost value on the well-being of the Zuni community as a whole, with the aid of their Creator.

B. Outside Influences on Zuni’s Traditional Law and Core Values

The Zuni ability to withstand the powerful governments of Spain, Mexico, and the United States over the course of four hundred years is a testament to their cultural perseverance and resiliency as a result of their core values. However, the Zuni had no way to defend against the introduction of black water and the impact it would have on their core values. In addition, progressive western colonization caused much sadness and trauma. Early settlers and the U.S. military started to infringe on the Zuni way of life by imposing demands on Zuni crops and making faulty promises of protection and improved commerce in exchange for Zuni assistance on the settlers’ journey westward. The concomitant effects of colonization and the introduction of black water thwarted the Zuni way of life, its laws and core values. The most devastating was the introduction of black water during the era of western incursion, which continues to threaten Zuni’s ability to persevere the Zuni way of life in the face of present-day challenges.

The early colonizers no doubt attempted to rattle the Zuni form of governance, thereby threatening the Zuni core values. By the 1500’s, when the first wave of Europeans (the Spaniards) encountered the Zuni, the Zuni already had a sophisticated theocratic form of governance. However, these new outsiders insisted that the Zuni accept their paternalistic form of government. To appease these new outsiders, the Bakwin: nae (Sun Priest)/Kyakwi: mossi, met with the rest of the theocratic societies and all agreed to have the secular village leaders be recognized by these new outsiders as Zuni’s civil secular officers. This was done in order for the theocratic societies to fulfill their sacred duty of

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43 Id. at 9.
44 Id. at 10.
45 Id.
46 Id. at 11.
48 Ward Alan Minge, *Zuni’s Royal Contract with Spain, in ZUNI AND THE COURTS, supra* note 42, at 34-36 (explaining that the Spanish form of governance called for the Zuni to render obedience and vassalage to the King of Spain, thereby subjugating them to the king’s authority, commands, and laws with disobedience resulting in punishment).
49 Id. at 34-35 (explaining Spanish records indicate that the chieftains of the Zuni consulted with one another about the matter, replied, with spontaneous signs of contentment and harmony, that they wished to become vassals of the most Christian king our lord, and as his vassals they desired at once to render obedience and vassalage both in their own names and for their nations); see also
keeping nature and the universe in balance and harmony. However, the Zuni still considered the theocracy the ultimate governing body, for they received their authority from their Creator, who had given them an oath for life. It was at this point in Zuni history that the Kyakwi:mossi (Head Cacique) with the absence of his Bekwin:ne (spokesperson for the Head Cacique), designated the Ashiwna of the east to give the oath to the secular leaders. Thus, the oath that was given to the theocratic governing body of the Zuni has also been given to the secular leaders, and this is the oath of office for secular leaders to this day. The Bik:shiwna (Bow Priest) instills order and is the Bekwin:ne (spokesperson for the Kyakwi:mossi (Head Cacique). Despite Spanish and subsequent Mexican and American influences on Zuni’s form of governance, the Zuni were able to maintain their theocratic form of governance to some degree.

The theocratic governing body, along with the secular governing body, provided Zuni with the traditional laws equipped to handle all matters taking place within Zuni. The arrival of the Spaniards also introduced the Zuni to Catholicism. Spanish missionaries’ paternalistic call for the Zuni to pay vassalage to the Spanish Christian King’s authority was reported to have been accepted with open arms by the Zuni. However, oral accounts of Zuni history recount how they acted as if they accepted Catholicism, when in reality they continued with their way of life. Further still, Zuni were able to appease the Spanish authority by allowing the secular governing body to be recognized as the official, governing Zuni civil leaders, which consist of the Da:bubu (governor), tsibolo shiwna (Lt. governor), and the teniente (the councilmen). However, all Zunis knew that the theocracy was the real governing body of the people. After a while, the Spanish allowed the Zuni to continue using traditional laws.

Cohens’s Handbook of Federal Indian Law, §4.07[2][d] (Nell Jessup Newton, ed., 2012); Interview of Gibbs Othole, supra note 9 (explaining the theocratic leadership was never extinguished nor was its overarching governance of the Zuni diminished, it is doubtful Spanish rule was welcomed with open arms).

Telephone interview with Gibbs Othole, supra note 9.

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Interview of Gibbs Othole, supra note 9. (explaining the oath was an oath of origin of the Zuni. By bestowing the oath to the secular leaders, the secular leaders had the authority from the ancestors to take care of Zuni and its people. Taking the oath meant protection for the secular leaders with aid from their ancestors who are said to be the intercessors to On:awilona. Taking the oath is said to give the secular leaders a stronghold not of their own strength but of their ancestors. To take the oath meant taking the responsibility to do no harm to the Zuni people by word or deed and protecting all that is Zuni.).

Telephone interview with Gibbs Othole, supra note 9.

Interview of Gibbs Othole, supra note 9. (explaining that the entire make-up of the theocratic society ordained by their creator, Onawilona, exists today and is called the Kyak:amosso (the leaders of the house), consisting of the following hierarchical positions: the Kyawimossi (Head Cacique), the Ashiwnani (Rain Priest of the six directions), Bekwin:ne (speaker of the house or voice of the Head Cacique), Bikshiwna (Bow Priest), and the Akmossi (leaders of the Kachina society, similar to a senate). These are the leaders appointed to uphold the Zuni way and to maintain its core values.).

Ward Alan Minge, Zuni’s Royal Contract with Spain, in Zuni AND THE COURTS, supra note 42, at 34-37.

Telephone interview with Gibbs Othole, supra note 9.

Cheryl D. Fairbanks, Lecture, Indigenous Concepts of Justice (U. of N.M. School of L. Apr. 7, 2015) (copy of PowerPoint on file with author) (stating ultimate change to Zuni’s traditional law came as a result of Anglo-American influence); see EXPERIENCES AND DESCRIPTIONS, supra note 8, at 25-27 (explaining that in 1934 the Indian Reorganization Act (IRA) was passed and the U.S. Government implored tribes, to adopt model codes and boilerplate constitutions prepared by the United States Department of the Interior to further the goal of replacing traditional tribal governments; In 1970, the Zuni elected to adopt an IRA style constitution. The Zuni Constitution consisted of a Preamble with a total of twenty-one articles. After the adoption of the Constitution,
The Mexican occupation of Zuni was brief and, for the most part, uneventful. The government structure implemented and recognized by the Spanish was retained while the Zuni continued their cultural way of life, strengthened by their core values. There was no record indicating the presence of black water during the Mexican occupation.

The Zuni way of life was left unfettered even with the advent of Spanish and Mexican arrivals. The theocratic leaders ensured that the Zuni core values remained intact. The Zuni way of life was shared from one generation to the next. In keeping with their cultural beliefs, Zuni was a matrilineal society where a mother shared her knowledge with her young.\(^57\) Children born to a couple belonged to the mother’s side of the family.\(^58\) A father helped maintain the home by maintaining the structure of the home, tilling the land, hunting wild game, while the women and children brought in the harvest, maintained small waffle gardens, and did the cooking.\(^59\) Life revolved around the lunar calendar and every individual was taken care of.\(^60\)

II. **Zuni Law of Governance in Dealing with Black Water and This Law’s Impact on The Zuni Core Value of Caring for One Another**

Soon after Mexican occupation, the westward expansion of the third wave of outsiders — the Anglo-Americans — challenged Zuni traditional law with many perplexing problems. Black water was the most significant problem introduced by Anglo-American settlers to Zuni because alcohol dramatically changed how the Zuni cared for one another. Part II explores the destructive historic impacts of black water among the Zuni people, and how various legal responses from 1879 to present failed to deter Zuni community members from alcohol abuse.

Although Zuni elders long foretold of the coming of black water to the Pueblo of Zuni,\(^61\) prior to 1850, even after the arrival of the Spanish and Mexicans, there is no recorded history of black water use in Zuni.\(^62\) Zuni was a relatively peaceful society with few private and public wrongs committed among its members.\(^63\) “Wrong” that were committed, in rare instances, included witchcraft.\(^64\) Witchcraft typically was considered

\(^{57}\) *Virgil Wyaco, A Zuni Life A Pueblo Indian in Two Worlds* 8 (J.A. Jones ed. 1988).

\(^{58}\) *Id.*

\(^{59}\) Telephone interview with Gibbs Othole, *supra* note 9.

\(^{60}\) *Id.*

\(^{61}\) *The Zuni People, supra* note 3, at 3.

\(^{62}\) *Smith & Roberts, supra* note 4, at 58.

\(^{63}\) *Id.* (explaining the private and public wrongs or what is referred to as “torts” and “crimes” existed in scarcity. There was no real Zuni equivalent for the English word, “crime,” rather “right” and “wrong” which connotes morality rather than legal implications).

\(^{64}\) *Id.*
the most serious wrong, and could be punishable by death.\textsuperscript{65} Private wrongs rarely occurred, and included rape, fighting, slander, and murder.\textsuperscript{66} “Wrongs” against the public or between private individuals were often settled through domestic means.\textsuperscript{67} But when dealing with witchcraft, the theocracy would determine the fate of the accused.\textsuperscript{68}

With the introduction of black water, the relatively minuscule number of “wrongs” significantly increased and changed the scene in Zuni. The earliest black water introduced to Zuni may have been traded by other Pueblos who had received the alcohol from settlers in the Rio Grande Valley.\textsuperscript{69} In 1879, Matilda Coxe Stevenson began studying the impact of black water at Zuni.\textsuperscript{70} Matilda Coxe Stevenson was the first woman ethnographer at Zuni, and one of the earliest ethnographers working in the Southwest.\textsuperscript{71} She worked alongside her husband who was an executive officer of the U.S. Geological Survey.\textsuperscript{72} Coxe Stevenson made the first of a series of trips to Zuni in 1879, and thereafter made annual trips to Zuni over a span of 25 years.\textsuperscript{73} Reflecting Zuni matrilineal society, Coxe Stevenson is regarded as the first American ethnologist to consider women and children to be noteworthy in research.

Coxe Stevenson’s work, along with later accounts of black water in Zuni, were described by ethnographers Watson Smith and John M. Roberts in 1952.\textsuperscript{74} These ethnographic accounts are the earliest descriptions of a wave of rising new offenses as a result of black water entering into the Zuni community. In quoting Coxe Stevenson, Watson and Smith note:

\begin{quotation}
While there is a law forbidding the sale of liquor to Indians, this law is not executed; at least it was not up to 1896. The peddling of whisky is begun weeks before [\textit{Shalako}] festival…Every man in Zuni spends what money he can obtain on whisky, not only for his own use and that of his friends but to dispose to the Navahos, who come in large number to the dances.\textsuperscript{75}
\end{quotation}

From this account, it can be surmised that sometime after 1879, misuse of black water was becoming a menacing problem for the Zuni.

The annual \textit{Shalako} festival Stevenson refers to is one of the most sacred religious ceremonies for the Zuni people.\textsuperscript{76} \textit{Shalako} calls for Zuni people to give homage to their ancestors, who are deemed the intercessors to their Creator, in order for blessings to come to the Zuni and to the world.\textsuperscript{77} However, it appears from the recordings of Coxe Stevenson,

\begin{itemize}
\item \textsuperscript{65} \textit{Id.}; See also \textit{QUAM}, \textit{supra} note 3, at 4-5.
\item \textsuperscript{66} \textit{SMITH \& ROBERTS, supra} note 4, at 49.
\item \textsuperscript{67} \textit{Id.} at 58.
\item \textsuperscript{68} \textit{Id.}
\item \textsuperscript{69} \textit{Id.}
\item \textsuperscript{70} Holmes, W.H., \textit{In Memorium}, 18 Am. Anthropologist 4, 552, 59 (1916) (discussing Matilda Coxe Stevenson’s research on Zuni).
\item \textsuperscript{71} \textit{Id.} at 552.
\item \textsuperscript{72} \textit{Id.}
\item \textsuperscript{73} \textit{Id.} at 552-555.
\item \textsuperscript{74} \textit{SMITH \& ROBERTS, supra} note 4, at 58 (quoting Stevenson).
\item \textsuperscript{75} \textit{Id.} at 58 (quoting Stevenson).
\item \textsuperscript{76} \textit{Id.}
\item \textsuperscript{77} Telephone interview with Gibbs Othole, \textit{supra} note 9.
\end{itemize}
that Shalako was becoming a time for men to indulge in black water resulting in drunkenness, thereby neglecting to partake in their sacred and time honored tradition.

After 1879, acculturation substantially changed the way the Zuni were to deal with the menacing problem of black water. The moral and upright keeping of their Creator’s precepts was gradually being abandoned, demoralizing the Zuni and eroding their core values. With the introduction of black water, things turned ominous for Zuni. Black water became an especially menacing problem for Zuni men who indulged in the euphoric toxic substance. Over-indulgence led to disillusion, leading many men to lose focus on their purpose in life and their role in Zuni society. By the early 1900’s, black water created a whole host of new “wrongs,” such as drunkenness and drunk driving previously nonexistent in Zuni society.

The new “wrongs” resulting from black water use were becoming more apparent, as noted by another account reported to Smith and Roberts. The account was recalled by an informant to have taken place around 1890, and involved drunkenness and fighting. In this account, Zuni customary law was used to deal with an injury that resulted from black water use. Customarily, private wrongs were dealt with between families. When the families could not reach a resolution, the matter was taken to the tribal council for a decision. Matters to be resolved by the tribal council were held in in the public plaza for all to see and hear. The account tells of two young men, friends, who became inebriated. A fight ensued between the two. One was injured and the other not. The injured man sought compensation, and the families of the two young men met. The families argued and argued, and could not settle the issue as to who was at fault. They decided to take their case to the tribal council, the secular governing body consisting of the councilmen, and the case was heard in the plaza. Neither man could agree on who attacked whom, so the judge (head councilman) decided that the man who had been injured should receive compensation in the form of a turquoise and shell necklace, one buckskin, a big rug, and three sheep. Payment was made by the family of the aggressor and given to the injured man personally. The use of customary reparations reveals how Zuni law initially dealt with the new “wrongs” resulting from black water use.

Unfortunately, the traditional practice of reparations had little effect in the face of the new problem of addiction. Early on, the Zuni did not know the effects of the continued use of black water. All that was known about black water was its euphoric effect on the user, an experience never faced before. The Zuni did not appreciate that black water would

78 SMITH & ROBERTS, supra note 4, at 58 (describing how the Zuni endured the placement of government agents enforcing assimilation practices with in their community like many indigenous communities affected by Anglo American culture and government policies. Starting in 1849, Bureau of Indian Affairs Indian agents arrived at Zuni to enforce assimilation practices. These practices included the introduction of foreign farming techniques resulting in damage of natural flowing waters; the introduction of boarding schools; the draft of Zuni men into the military; and placement of the adult Zuni to urban cities to teach the Zuni a job trade); See generally EXPERIENCES AND DESCRIPTIONS, supra note 8, at 15-16.
79 SMITH & ROBERTS, supra note 4, at 58.
80 Id. at 60.
81 Id. at 54.
82 Id.
83 Id.
84 Id.
85 Id.
86 SMITH & ROBERTS, supra note 4, at 54.
87 Id.
88 Id.
result in “addiction.” Traditional means of dealing with wrongs, for the most part, were restorative in nature. However, individuals under the spell of the addictive properties of black water could not be deterred by reparations alone. Ultimately, because of alcohol addiction’s controlling chemical changes, Zuni customary law did not deter individuals from consuming black water.

Another account, given several years later, reveals that black water use was becoming increasingly difficult to deal with, forcing the secular leaders to turn to outside authority to handle these problems. The incident took place in the 1930’s when a man’s family and the Council attempted to persuade the man, who was a habitual drunkard and a bootlegger, to refrain from drinking and supplying black water. This intervention was to no avail.\(^\text{89}\) Seeing that customary law had little effect on alcohol users, the Council took the matter to the Indian agent who revoked the man’s driver’s license.\(^\text{90}\) The Indian agent made his suggestions to the Council regarding the man’s punishment, and the Council agreed to follow through with the Indian agent’s punishment.\(^\text{91}\) The man was sent to a penitentiary in Kansas where he stayed for four years, leaving behind his wife and children.\(^\text{92}\) Smith and Roberts related that the informant divulged that this case was atypical, as it was the only case where the Council had been unsuccessful in enforcing its authority and had to rely on an Indian agent’s aid.\(^\text{93}\)

As this account shows, black water challenged the Zuni core value of caring for one another. On one level, black water led this man to think only of himself and to stop caring for his wife and children. On another level, black water placed the Council in such a position of desperation that they acted against their oath of doing no harm to their people by allowing an outside authority to determine a Zuni man’s fate.

The last account describes the Council’s frustration in knowing that fines did little to deter a man’s use of black water and that they knew no other way to deter a man from drinking.\(^\text{94}\) One night in 1950, a man was drunk and wrecked his pickup truck on a bridge.\(^\text{95}\) The sheriff found a bottle of liquor in the man’s possession. Subsequently, the man was taken to a teniente’s (councilman) home, where he spent the night to sober up.\(^\text{96}\) The next day, a recently elected and installed Council consisting of the governor, the lieutenant governor, and the first teniente, held a trial in accordance with the tribe’s policy of using oral customary law.\(^\text{97}\) Although the newly elected Council knew that previous Councils’ heavy fines to deter drinking were ineffective, without any other solution available at the time, the new Council chose to fine the man whatever the judge suggested. With no standard penalty to enforce, the judge suggested a fine of $50, noting that Anglo courts imposed a fine of $100 for a similar offense. The Council agreed to such a fine, considering that it was about half of the amount of Anglo fines.\(^\text{98}\) With the imposition of a fine, the judge also gave a lecture informing the man that he could have avoided the penalty had the event not occurred.\(^\text{99}\) The judge went on to tell the man that the fine imposed was heavy enough, considering the man had to repair his wrecked truck. Nonetheless, according to

\(^{89}\) Id. at 60-61.

\(^{90}\) Id.

\(^{91}\) SMITH & ROBERTS, supra note 4, at 60-61.

\(^{92}\) Id.

\(^{93}\) Id.

\(^{94}\) Id. at 62.

\(^{95}\) Id.

\(^{96}\) Id.

\(^{97}\) SMITH & ROBERTS, supra note 4, at 62.

\(^{98}\) Id.

\(^{99}\) Id.
the judge, the penalty was necessary to make the man understand the gravity of the situation; he could have injured someone else or lost his own life.\textsuperscript{100} Interestingly, the judge told the man he did not want him to hold any hard feelings against the judge or the Council. The judge wanted the man to continue being friends and to know that he was still family.\textsuperscript{101} From this account, it appears that the judge was attempting to be tough on the issue while noting the man’s standing within the community and within his family.\textsuperscript{102}

As this last account shows, when customary law proved ineffective in deterring the use of black water, the western concept of punitive fines was imposed on violators of the prohibition against black water. Fines were given for first offenses and repeat offenders saw a marked increase in the dollar amount of fines.\textsuperscript{103} Imposition of fines appears to have done little to deter black water use, resulting in tribal leaders’ utter frustration.

According to ethnographers’ accounts, prior to World War II, only men partook in black water. But when Zuni men returned from World War II, some Zuni women joined in on the consumption of black water. Nevertheless, the majority of cases reported to Smith and Watson, involving drunkenness, fighting, and drunk driving, portrayed men as the primary wrongdoers. These ethnographies seem to paint a picture that all the Zuni people were consuming black water. In reality, it was probably only a handful of men. Otherwise, the traditions still in place today would have been lost. Although black water use was increasingly problematic in Zuni, there were also significant periods when the community was quiet and safe.\textsuperscript{104}

The above accounts demonstrate the historic difficulty of finding solutions to deter black water use. The accounts also reveal how the secular leaders were adapting to Anglo-American use of incarceration and fines to deter black water use when customary law provided no solutions. The use of Zuni customary law appears to have failed to deter men from consuming black water, resulting in the gradual decline of Zuni core values. What remains unanswered is why using customary Zuni law proved futile. To understand why the Zuni have succumbed to black water requires us to look back at history; the introduction of black water, coupled with accelerated acculturation, topped with the influences of federal Indian policies, created a toxic mixture designed to undermine the resiliency of people native to the land.

III. PRESENT-DAY ACCOUNTS OF THE DEVASTATING EFFECTS OF BLACK WATER ON ZUNI’S CORE VALUES

Over time, black water permeated and eventually penetrated deep into many Zuni households, eroding Zuni’s core values. As a result, an avalanche of private and public wrongs are currently being committed at Zuni, ranging from intoxication, disorderly conduct, endangering the welfare of a child, and possession of liquor. In addition, many lives have been lost due to the long-term use of black water, resulting in a public health

\textsuperscript{100} Id.
\textsuperscript{101} Id.
\textsuperscript{102} Id.
\textsuperscript{103} Smith & Roberts, supra note 4, at 59.
\textsuperscript{104} John Adair, A Study of Culture Resistance: The Veterans of World War II at Zuni Pueblo, 72 (1948) (stating that in 1922-23 an elder Zuni woman was noted to say that at the time Ruth Benedict was in Zuni, everything was quiet, no worries, and no drunkards.) What contributed to periods of quiet and safety could shed insight on what worked at that time in Zuni to deal with alcohol use. Unfortunately, information is lacking as to what helped bring periods of quiet and safety.
issue for the Zuni. Black water’s devastating effects on Zuni’s core values are extremely disheartening and a threat to the well-being and the sovereignty of the Pueblo. Part III of this article explores the current situation of the Zuni community and the continued impact black water has on the Zuni people.

No longer is an outsiders’ perspective required to gauge the well-being of the Zuni. As a member of the Zuni tribe, a mother, a nurse serving the Zuni, and recent law school graduate, I can share my account of the destruction and devastation black water has had on Zuni core values, and its unwanted effects on my people. As mentioned previously, Zuni is a matrilineal society where mothers nurture and care for the young, and children belong to the mother and her side of the family. As a mother myself, I was instilled with the Zuni core value of caring for one another, especially the young. I carry this value in every aspect of my vocation. I have too often witnessed young children left to fend for themselves while parents set off for the next party or the next drink. The disturbing accounts to follow demonstrate events I have witnessed and have heard in my roles within the Zuni community. I share these accounts here to illustrate how one hundred years of black water use has culminated in devastation to health and well-being of Zuni individuals, families, and our tribal sovereignty through the destruction of our sacred core value of caring for one another. It is my hope that these accounts and this article will inspire change in Zuni that truly reverses the effects of black water for all future generations.

A. Personal Accounts

A sweet, innocent two-year-old girl barely two feet tall with lovely black shoulder length hair and beautiful brown eyes has learned to stay alive in her home. A twenty-some-year-old female is found dead in her home. A young man’s life is brutally cut short after he is severely beaten and dumped in front of his home. These three brief illustrations described are but a glimpse of what black water has brought upon the Pueblo of Zuni today.

The Innocent Two-Year-Old and Her Mother

When core values are lost it is hard to imagine the effects on a toddler. To see a situation where a toddler in any community has to learn to survive in her own home is disheartening. Unfortunately, that situation plays out in Zuni.

I observed this scene when I went to pick up my daughter at a relative’s home in Zuni on the evening of May 23, 2015. I witnessed a sweet, innocent two-year-old girl being whisked away by Zuni social services. Prior to being removed, the two-year-old sat on the lap of a neighbor, eating fries, awaiting social services to pick her up. The two-year-old, adorned with a red t-shirt, black pants, white socks, and lovely dark brown eyes, melted my heart. This two-year-old had bravely left her own home in the midst of her mother and her mother’s friends drinking and fighting in her presence. Sensing the situation was unsafe, this toddler crossed a busy road and wandered into a stranger’s home, seeking refuge. Those in the home voiced concern that the toddler was being raised in a household where black water consumption and partying was the norm. Meanwhile, the intoxicated mother of the two-year-old sat in the back seat of a local tribal police vehicle while four other police units lit up the neighborhood. Already a survivor and still in diapers, the toddler mastered the art of crossing a road frequently driven by cars in order to seek shelter by fearlessly walking over to the neighbor’s house — the core value of caring for one another and nurturing the young was absent from this young toddler’s life.
The Twenty-Some-Year-Old Woman

This second account described deeply saddening news that spread around the community in early 2015. The cause of death of the twenty-some-year-old female found dead in her home is not known, but community members report she was hosting a “going away” celebration party. Ironically, she was supposed to be “going away” to enter an alcohol treatment facility, but in the end, it is said that alcohol played a role in her early demise. In this instance, the core value of respecting and caring for oneself as a gift from the creator was lost in the whims of black water.

The Young Man’s Life Brutally Cut Short

The last illustration involves the brutal death of a young man who was said to have been run over, dragged, dumped, and left for dead at the front doorstep of his mother’s home. Community reports from Zuni tell how he was in the company of “friends” at a party when, in a jealous rage over a girl, the “friends” beat the young man. This latest occurrence left the entire community of Zuni in shock. This account of so-called friends echoes how the Zuni core value of caring for one another has eroded in the presence of black water.

The three illustrations above have one thing in common – black water abuse. The issue of black water abuse in the community of Zuni has been grappled with by almost every elected secular Tribal Council over the years. However, black water use is a problem not solely for the tribal government to resolve. As Zunis, we all must work to restore the Zuni core value of caring for one-another to ensure events like those above do not continue into the future.

B. Increasing Crime and Premature Death Are a Result of Black Water’s Devastating Effects Among the Zuni

After reading the present-day accounts described above, in combination with data on the current effects of black water at Zuni, one can see the substantial impact of black water on the Zuni court system and the health and well-being of the Zuni people. The data analyzed in this section was obtained from the Zuni Tribal Court’s quarterly reports,105 the Zuni Census Office,106 and the Zuni Comprehensive Community Health Assessment Report.107 In conjunction, these statistics demonstrate how the Zuni, admired by many for their resistance to outside influence on their core values, have succumbed to the devastating temptation of black water. The goal of illustrating these statistics is to call the Zuni community to action, in hope that we can find effective ways to lower the incidence of alcohol abuse and lessen its devastating effects on individuals and the entire community. Most importantly, I emphasize these statistics to initiate change in the way Zuni addresses

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105 See generally ZUNI JUDICIAL BRANCH COURT CLERKS-DATA COLLECTIONS: QUARTERLY REPORT (Obtained October 8, 2015 from the Pueblo of Zuni Court Administrator and on file with author) (listing all criminal charges and numbers of occurrences in Zuni for 2012, 2013, and 2014).


107 See generally ZUNI COMPREHENSIVE CMTY. HEALTH CTR., KEEPING ZUNIS HEALTHY: COMMUNITY HEALTH REPORT UPDATE (2010).
black water abuse to ensure Zuni children are cared for and that the core values of the Zuni are not only in existence, but also cherished and valued for generations to come.

1. Criminal Statistics for Present-Day Alcohol Related Offenses at Zuni

In 1949, there were fifty-seven (57) arrests made in Zuni for drunkenness. All fifty-seven arrests were made on a single night, the first night of Shalako. At that time, the penalty for drunkenness was fifteen dollars ($15). Although those numbers seem small, given that the Zuni population in 1949 was only 2,500, two percent of the Zuni population were jailed that night because of black water.

In 2015, the Zuni population had grown to 10,586. In that same year, 1,403 individuals living in the Pueblo were held in protective custody due to alcohol intoxication, which was thirteen percent of the Zuni population. This statistic illustrates a devastating seven-fold increase in the number of arrests due to black water at Zuni from 1949 to 2015.

More generally, the overall crime rate related to alcohol in Zuni has increased. In 1949, there were only fifty-seven alcohol related charges recorded in Zuni, while, in 2014, there were 4,130 individual alcohol related charges recorded by the Zuni Tribal Court. This shows a 7,461 percent increase in the number of alcohol-related charges in the sixty-five year span from 1949 to 2014. Figure 1 below illustrates the still-increasing number of alcohol-related charges in Zuni from 2012 to 2014.

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108 SMITH & ROBERTS, supra note 4 at 59.
109 Id.
110 Id.
111 Id.
112 THE PUEBLO OF ZUNI TRIBAL CENSUS OFFICE, POPULATION BREAKDOWN INCLUDES EVERYONE ON-RESERVATION EVERYONE WITH “ZUNI” ADDRESS, supra note 106 (reporting that 9,430 enrolled members lived in Zuni Pueblo in 2015 (81%); THE PUEBLO OF ZUNI TRIBAL CENSUS OFFICE, POPULATION BREAKDOWN INCLUDES EVERYONE OFF RESERVATION, supra note 6 (reporting that in 2015 there were 11,581 enrolled members of the Zuni Pueblo).
113 ZUNI JUDICIAL BRANCH COURT CLERKS-DATA COLLECTIONS: QUARTERLY REPORT, supra note 105.
114 Id. (reporting that the nine alcohol-related criminal offenses included in the list of criminal charges the Zuni Tribal Court provided were Intoxication; Possession of Liquor; Manufacture, Sale or Delivery of Intoxicating Liquor; Endangering the Welfare of a Child; Terroristic Threats; Resisting Arrest; Disorderly Conduct; Intoxicated Persons Motor Vehicle; and DUI Intoxicating Liquors or Drugs). While these nine charges were specifically identified as alcohol-related by the Zuni Tribal Court, many of the other thirty-two criminal charges recorded by the Zuni Tribal Courts are likely to also be alcohol-related.
115 Id.
Figure 1. Alcohol related Offenses per year in Zuni Pueblo, 2012-2014
The next set of statistics reveals a breakdown of the top four alcohol-related criminal offenses between 2012 and 2014. As Figure 2 shows, from 2012 to 2014, there was an increase in arrests made for Intoxication,\textsuperscript{116} Disorderly Conduct,\textsuperscript{117} Endangering the Welfare of a Child, and Possession of Liquor; and DUI Intoxicating Liquors or Drugs.\textsuperscript{118}

\textsuperscript{116} Zuni Tribal Code § 4-4-107 (2005) (establishing the crime of Intoxication as: “(1) A person is guilty of intoxication if, under circumstances not amounting to disorderly conduct, he is under the influence of an intoxicating beverage, drugs, or other controlled substance, or a substance having the property of releasing vapors, to a degree that the person may endanger himself or another, in a public place or in a private place where he unreasonably disturbs another person. (2) A judge or the arresting law enforcement officer may order the release from custody and the dropping of a charge under this section if he believes further imprisonment is unnecessary for the protection of the individual or another and the individual is in a sober condition at the time of release.”).

\textsuperscript{117} Zuni Tribal Code §4-4-97 (2005) (establishing the crime of Disorderly Conduct as: (1) A person is guilty of disorderly conduct if, with a purpose to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he: (a) engages in fighting or threatening or in violent or tumultuous behavior; or (b) makes unreasonable noise or offensively coarse utterances, gestures, or displays, or addresses abusive language to any person present; or (c) creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor; or (d) appears in public places in an intoxicated condition and does any of the following: (i) passes out or falls or is found asleep in a public place or on the property of another without permission; or (ii) bothers, disrupts or otherwise intrudes upon another person or group of persons; or (iii) wanders about without being able to give a reasonable account of his destination to a law enforcement officer; or (iv) appears or is found in an area set aside for religious or ceremonial activities which have been traditionally or by order of the Tribal or conducting authorities set aside for use free from alcoholic beverage consumption or the presence of intoxicating persons during the period of such a religious or ceremonial activity.

\textsuperscript{118} Zuni Tribal Code § 6-1-6 (2005) (establishing the crime of Persons Under Influence of Intoxicating Liquor or Drugs as: “A. It is unlawful for any person to operate a motor vehicle within the boundaries of the Zuni Reservation while under the influence of any intoxicating liquor or drug to a degree, which renders him/her incapable of driving safely. B. It shall be unlawful for any person who has .08 or more by weight of alcohol in his blood to drive any motor vehicle within the boundaries of the Zuni Reservation. C. Every person convicted under this section for the first time shall be punished by imprisonment for not less than ten (10) days and by a fine of not less than one hundred dollars ($100). Any time spent in jail for the offense prior to the conviction for such offense shall be credited to any term of imprisonment fixed by the court. In the case of a first conviction under this section, the court may suspend the jail sentence on the condition that the driver attend a driver rehabilitation program approved by the court and participate in such other rehabilitative services as the court may determine to be necessary. D. A second or subsequent conviction under this section shall be punished by imprisonment for not less than fifteen (15) days and not more than six months and or a fine of not less than two hundred dollars ($200) or more than five hundred dollars ($500). If the sentence of incarceration is less than six months, that person may also be sentenced to a community service or a work release-type program for all or part of the difference between the period of full-time incarceration and six months. Failure to satisfactorily comply with the terms of the community service or work release program shall require imprisonment for the remainder of the community service or work release sentence. This sentence for second or subsequent convictions is mandatory and may not be suspended. E. Upon conviction or other disposition under this section, the offender shall be ordered by the court to be evaluated for the purpose of determining the offender's level of alcohol abuse and recommending treatment, if necessary. The offender shall complete any recommended treatment program required by the court. In addition to any other fine or fee, which may be imposed pursuant to the conviction or other disposition of the offense under this section, the offender shall pay the costs of any court-ordered screening and treatment programs. F. If a person is convicted of driving a motor
Top Five Alcohol-Related Criminal Offenses in Zuni Pueblo, 2012-2014

Figure 2. Top Four Alcohol-Related Criminal Offenses in Zuni Pueblo, 2012-2014

Of these alcohol-related crimes at Zuni, in 2014 intoxication is the most frequent (51%), followed by Disorderly Conduct (13%). Possession of Liquor is the third most-frequent alcohol-related criminal offense (6%) followed by Endangering the Welfare of a Child (5%), and then Driving Under the Influence of Intoxicating Liquors or Drugs (4%).

The most negative impact of black water on Zuni’s core value of caring for one another is shown by the number of cases involving Endangering the Welfare of a Child. For instance, in 2014, 248 Zuni children were placed in some kind of danger due to alcohol. This is approximately 7% of Zuni children. Even one child placed in such danger is one child too many. A child should never be placed in any dangerous situation especially in a community which once held strong to the core values of nurturing the young and caring for one another.

This high rate of alcohol-related criminal charges places a high burden on the Zuni Tribal Court System, reducing the already-limited resources of the Court and the Tribe. In 2015, there was only one judge to adjudicate all civil and criminal cases arising in Zuni. Under Zuni law, a single charge of intoxication requires an individual to be held in protective custody for eight hours or until they have become sober. However, since a majority of those arrested for intoxication also face other charges such as disorderly conduct, the individual remains in protective custody until brought to the court for an

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119 See ZUNI JUDICIAL BRANCH COURT CLERKS-DATA COLLECTIONS, supra note 105 (reporting that there were 5,127 total criminal charges recorded by the Zuni Tribal Court in 2014).
120 Id.
121 Interview with Albert Banteah, Acting Chief Judge of the Zuni Tribal Court, in Zuni Pueblo (Oct. 8, 2015).
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or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing

injury or to cause evacuation of a building, place of assemb

violence with intent to terrorize another or place such other in fear of imminent serious bodily

assistance of counsel for his defense (except as provided in subsection (b).”).

122 Id.

Inmates brought from the local jail are customarily shackled per Zuni correctional protocol. In

years prior, I had visited a couple of the individuals in their homes and by no means were they a

threat to warrant wearing shackles.

123 My observations showed that the effects seen weren’t simply the fact that their alcohol use

landed them before the court, but the physical changes to their body and their skin. Their faces

appeared flushed with facial redness due to the vascular effects of alcohol. Facial redness appears
due to enlarged blood vessels. The brain controls the vascular function of the body but vascular
control fails with sustained alcohol intake.

124 Indian Civil Rights Act, 25 U.S.C.§ 1302 (a)(6) (1968) (“...at his own expense to have the

assistance of counsel for his defense (except as provided in subsection (b).”).

125 Zuni Tribal Code § 4-4-7 (2005) (establishing the crime of Terroristic Threats as: (1) A person

is guilty of terroristic threats if he threatens verbally or in writing to commit any offense involving
violence with intent to terrorize another or place such other in fear of imminent serious bodily
injury or to cause evacuation of a building, place of assembly, or facility of public transportation,
or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing
such terror or inconvenience.”).
the man opted for a charge that unnecessarily burdened him to pay a fine and had no potential to address his underlying alcohol problem.

Based on this man’s prior experiences before the court on alcohol-related charges, he expected that he could easily resolve his legal issues by requesting community service to pay any fines related to his plea. However, allowing an individual to plea and use community service as a means to pay a fine would not address an underlying alcohol problem. In this case, an alternate plea addressing the real underlying issue of alcohol abuse may have been a more effective solution both to stop the man’s recidivism and to alleviate the burden on the Court. This case illustrates that, as in the past, the imposition of fines has little to no effect in deterring Zuni individuals from drinking black water. In sum, this case demonstrates the need for a solution that goes beyond fines and community service, and truly reflects the Zuni value of caring for one another in order to correct cycles of black water abuse.

In addition, it is likely the Court increased its future burden by not providing alternative plea deals to address the underlying alcohol problem because, without such support, the man would likely soon be before the Court again. Furthermore, this case illustrates that, after over one hundred years of alcohol impacting the Zuni, the inability of western jurisprudence to address the underlying problem of alcohol use among Zuni individuals perpetuates the loss of our Zuni core value of caring for one another.

2. Zuni Community Health Data Illustrating Present-Day Alcohol-Related Illness and Death at Zuni

Unsurprisingly, given the frequency of alcohol-related offenses, alcohol is the leading cause of death in the Zuni community.\(^\text{127}\) Notably, many of the health problems caused by alcohol use are largely preventable. Alcohol misuse, including binge drinking, alcohol abuse, and alcohol dependence, is a serious public health problem that has devastating long-term effects on the overall health and well-being of the Zuni community.\(^\text{128}\) Troubling is that alcohol contributes to many health and social ills such as fetal alcohol syndrome, cirrhosis and other liver disorders, certain cancers, digestive diseases, cardiovascular disease, and intentional and unintentional injuries such as domestic violence, homicide, suicide, sexual assault, fires, falls, drowning, and the list goes on and on.\(^\text{129}\) Figure 3 below illustrates the trend of alcohol-related deaths as a percentage of total annual deaths in Zuni from 1994 to 2007.

\(^{127}\) ZUNI COMPREHENSIVE CMTY. HEALTH CTR., supra note 107, at 6.

\(^{128}\) Id. at 17.

\(^{129}\) Id. As a former nurse, I witnessed many men and women dying from alcoholic-liver disease. Having to console a child after the loss of a parent due to alcohol was the saddest part of being a nurse. Performing blood transfusions on individuals due to gastrointestinal bleeding as a result of alcohol use was becoming too common. Hearing that one year of sobriety was required before being put on the liver transplant waiting list was very hard for patients to swallow.
This graph illustrates how the percentage of alcohol-related deaths has generally increased over the years. \(^{130}\) Considering the upward trend in deaths related to alcohol and the increasing criminal Intoxication offenses at Zuni, significant efforts must be made to reverse this trend.

As noted above, seeing my former schoolmates and former patients at their arraignment nearly brought tears to my eyes. Seeing a former classmate exhibiting the physical changes and effects of alcohol is, unfortunately, an all-too-common occurrence at Zuni and it seems to be increasing over the years. It is devastating to hear that a former schoolmate has died from alcohol or alcohol related injuries. Even more devastating is hearing about young Zuni men and women still in their twenties dying from alcohol related-injuries. This loss of life has placed the future of Zuni Pueblo in jeopardy. Among the six leading causes of death for Zuni individuals, alcohol-related conditions are the leading cause of death (22.5% of all deaths in Zuni). \(^{131}\) Figure 3 below illustrates this data.

\(^{130}\) Id. To date, no further updates have been made to the Zuni’s Community Assessment Report for the years 2008 to the present.

\(^{131}\) ZUNI COMPREHENSIVE CMTY, HEALTH CTR., supra note 107, at 10 (accounting for more than three-quarters of all deaths from 2004-2007).
Forty-seven individuals lost their lives due to alcohol in Zuni over a three-year period. To break that number down further by gender, men accounted for 22 of those deaths (five percent of all deaths in Zuni between 2004 and 2007) and women accounted for 25 of those deaths (six percent of all deaths in Zuni between 2004 and 2007). This shows a shift from the historical trend, of Zuni men abusing black water more than women, to the modern circumstance that Zuni women have higher alcohol-related death rates than men.

Additionally, younger Zuni individuals die due to alcohol-related conditions at far higher rates than their elders. Alcohol-related deaths are disproportionately higher among younger men and women in Zuni as noted in Figure 5. Figure 5, below, illustrates the proportion of alcohol-related deaths by age and sex in Zuni for the years 2004-2007. It is troubling that so many Zuni men and women are dying so young that they are unable to pass the core values onto their children and grandchildren. The Zuni must remember that they are resilient and must use their resiliency and strength to reverse this devastating trend and preserve Zuni core values and the Zuni way of life.

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132 Id. at 11.
133 Id.
134 SMITH & ROBERTS, ZUNI LAW: A FIELD OF VALUES, supra note 4, at 59; ZUNI COMPREHENSIVE CMTY. HEALTH CTR., supra note 107, at 11.
In combination, this data represents the impact black water has had on the Zuni tribal court system as well as on the health of the Zuni community. These statistics illustrate how alcohol-related problems affect every member of the tribe, from the youngest to the oldest. The social, cultural, and economic burden black water has placed on the Zuni community is overwhelming. Ultimately, these statistics show the devastating effects of black water on the core values of the Zuni. For the Zuni, there is no doubt the numbers and the graphs will elicit anger and alarm at seeing what the community has allowed. We, as Zunis, have become willing participants in allowing black water to permeate and dwell in our community for far too long. It is my hope that these statistics will propel Zuni community members to take action. As Zunis, it is time to reaffirm our core values to counter the devastating effects of black water on our most precious and valuable resource – our children, families, and community.

IV. Collaborative Approaches Must Be Used to Address Black Water at Zuni

The Zuni have long been admired for their resistance to outside influence on their religious and cultural ways. However, the alcohol-related devastation that persists at Zuni Pueblo shows it is time for the Zuni to embrace the core value of caring for one another, in order to sustain Zuni longevity and the Zuni way of life. This requires each member of the Pueblo to work together to effectuate positive change for future generations. As belief systems change over the years and laws evolve, one thing must remain the same – tribal core values. The Zuni core values are the glue that continues to hold the Zuni community together.

In order to strengthen and reaffirm the core values of the Zuni, collaborative efforts must address individuals struggling with alcohol use, and, most importantly, we must design and implement programs to educate the community. The question of where to begin...
is never easy, but is necessary. Respectfully, I rely on the Ashiwi teaching presented at beneath the title of this paper. The teaching goes, "Hon yumola a:ho’ik’yanma. Hon i:yansatdena:wa. Don dehwan illaba. Hom dehwah ukna:we" which translates into English as, "Be honest and trustworthy to one another. We will help one another. It is your turn. It is my turn." With that being stated, it would be disingenuous not to highlight that the Zuni are well known for fighting for their aboriginal lands. Zuni has undoubtedly spent thousands if not several millions of dollars fighting for their aboriginal lands and they have been successful in those cases. In light of the devastation black water has caused among the Zuni people, the same driving force used to acquire funds and resources to defend Zuni’s aboriginal lands should also be used to access resources to preserve Zuni’s core values and its people.

Effectively addressing alcohol’s eroding effects on our Zuni legal tradition of caring for one another is an important first step, however actually revitalizing what has been eroded will take long-term collaborative and culturally responsive efforts based on Zuni core values. As stated above, caring for one another embodies Zuni’s core values of family, respect, language, humility, generosity, resiliency, wisdom, community, hard work, self-sufficiency, nurturing of the young, peace, unity, strength, compassion, integrity, and faith.

A. Wellness Courts That Take a Restorative Justice Approach to Punishment Should Be Implemented by the Zuni Tribal Courts to Truly Reverse Cycles of Black Water Abuse

Western culture and western jurisprudence has had a tremendous influence on Zuni’s traditional law of governance in dealing with offenses committed within the community. The commission of an offense related to alcohol only penalizes the individual with a fine, jail time, or both. However, fines have not deterred people from consuming black water. Individuals suffering from black water dependence find themselves repeating the cycle of committing the same alcohol related offenses and participating in ineffective forms of punishment. To end this cycle, measures that are more holistic in nature are necessary. Rather than only penalizing the individual, the individual also must be provided the opportunity to address their alcohol dependence.

An ideal alternative to western punishment by fines and jail would be the re-implementation of wellness courts within Zuni. A wellness court was once available in Zuni but has since closed. Wellness courts are holistic in nature. They address individuals’ substance abuse issues, including alcohol abuse. Wellness courts tend to be tough on dealing with the issue of alcohol while helping the individual heal and mend the inner struggles that fuel alcohol abuse. Other tribes that have implemented wellness courts have found that these courts tend to facilitate access to treatment centers and help

135 See ZUNI PUBLIC SCHOOL DISTRICT, supra note 1.
136 See Hart, Zuni Relations with the United States and the Zuni Land Claim, in ZUNI AND THE COURTS, supra note 42, at 76-85 (detailing the Zuni political fight for their homelands from the 1930s to 1995).
137 See id.
138 Telephone interview with Gibbs Othole, supra note 9.
140 Id. at 412.
141 Id. at 407.
142 Id.
individuals maintain accountability as they pursue sobriety.\textsuperscript{143} Fostering facilitated care for individuals who find themselves in the cycle of committing repeated alcohol related offenses is a more thoughtful and useful resource than fines and incarceration. Thus, the implementation of wellness courts at Zuni would embody the Zuni core value of caring for one another. Addressing and remediying the reasons why the wellness court was closed in order to make a wellness court sustainable is important.

Wellness courts in combination with a Habitat for Humanity\textsuperscript{144} model could be useful in helping recovering Zuni Pueblo members remain active and contribute to the well-being of the entire Zuni community. Instead of facing fines or jail time for alcohol-related offenses, offenders could instead build homes using native natural resources used by our Zuni ancestors. Having cultural preservationists aid in teaching how the Zuni once built their homes would tremendously beautify the Zuni landscape at the behest of the Wellness courts. Developing a Habitat for Humanity type of alternative would beautify Zuni, and it would enhance the self-esteem of Zuni individuals because they would know that they made an impact in their community.\textsuperscript{145} In addition, such endeavors to beautify Zuni could possibly draw in tourists who would, in turn, buy local Zuni art and provide an economic boost to the whole community.\textsuperscript{146} Furthermore, a Habitat for Humanity type of program could facilitate the continued engagement of Zuni individuals in recovery as productive members of the community. The Habitat for Humanity concept is similar to the community service penalty placed upon those committing an alcohol related offense. Most importantly, Zunis who have been in recovery from alcohol can use their experience and take the lead in effectuating change for a healthier Zuni community.\textsuperscript{147}

Another restorative justice alternative that could be a very effective sentence in Zuni wellness courts, is programming that would allow offenders who are convicted of

\textsuperscript{143} Id.
\textsuperscript{144} See Habitat for Humanity, Impact, (last visited Apr. 29, 2017, 8:23 AM), https://www.habitat.org/ (Habitat for Humanity is a global non-profit organization that works to provide "safe, decent and affordable shelter" to low income families avoid cycles of poverty through “affordable homeownership.” Habitat for Humanity uses community volunteers as the needed workforce to build new and remodel houses for families); See also Turquoise Mountain, TURQUOISE MOUNTAIN INSTITUTE (last visited Apr. 29, 2017, 8:25 AM), http://turquoisemountain.org/ (demonstrating the Turquoise Mountain Institute as another model to look to a resource for developing community wellness based on traditional building methods and artistry that has been immensely successful in community revitalization in Afghanistan. “Turquoise Mountain is a non-profit, non-governmental organization regenerating the old city of Kabul, and spurring the sustainable development of the Afghan crafts industry. Since 2006 Turquoise Mountain has trained over 450 artisans in traditional arts, restored or rebuilt 112 historic or community buildings in the old city of Kabul, set up a local primary school and family health clinic, [and] organized major international exhibitions.”). This program is a prime example of culturally responsive programming that can reverse cycles of hardship in communities).
\textsuperscript{145} See generally Flies-Away & Garrow, supra note 139, at 414-15 (explaining the benefits of contributing to the community for people with substance abuse and addiction issues).
\textsuperscript{146} A majority of Zuni alcohol-related offenders are self-employed and make their income through their art.
\textsuperscript{147} See Pueblo of Zuni, Departments & Programs, WWW.ASHIW1.ORG (last visited Apr. 29, 8:44 AM) (stating at present, the Pueblo of Zuni has an outpatient rehabilitation program called, the Zuni Recovery Center, for those suffering alcohol and substance abuse issues. The service the Recovery center offers is limited to an out-patient setting. There is no in-patient facility situated within the exterior boundaries of the Pueblo that is culturally tailored for members dependent on alcohol.)
alcohol-related offenses to speak to youth in local schools.148 Educating the young through convicted offenders may, at first glance, appear to shame the offender. However, this programming would serve to hold the offender accountable to his or her community and, most importantly, to set the right example for the young to stay clear of black water use. This alcohol education that allows offenders to engage with children in a positive manner would exemplify the Zuni core value of caring for one another.

B. Codependency Family Programming Should be Implemented and Encouraged to Promote the Sacred Family Trust at Zuni

If you abandon the family, you lose core values. The family, after all, is the first place where a child learns about core values. My first-hand knowledge of Zuni culture and community provides insight on the dynamics of black water’s effects on Zuni families. In Zuni, since family is such a strong core value, it is challenging for many to “throw out” a family member who is dependent on black water. Thus, families become enablers of, or active participants in, alcohol abuse. There must be change in this cycle. In order to help families living with an alcohol-dependent member, families themselves must utilize the core values of respect, resiliency, hard work, strength, and self-sufficiency. The family member struggling with alcohol must be held accountable to himself or herself, the family, and the community. An interdisciplinary approach to teach effective ways for families to deal with an alcohol-dependent family member should be a priority.

One part of this approach could be to encourage people affected by an alcohol-dependent family member to utilize codependency-focused support systems such as Al-Anon149 and Alateen.150 Such programs help family members learn that black water abuse is an illness and develop strategies to ensure someone else’s addiction is not destroying their life and spirit.151 Since Al-Anon is a peer support group where self-discovery and personal growth abound, 152 Al-Anon could engage Zuni families to self-reflect, to remember what it means to be Zuni, and why Zunis are proud to be Zuni. At present, there are currently only Alcoholic Anonymous meetings held Monday’s, Wednesday’s, and Friday’s at the Christian Mission Church and on Thursday’s at the Zuni Recovery Center at Zuni each week.153 However, more frequent meetings of Al-Anon or Alateen at various times and locations would allow for more Zuni family members to participate. It would also be useful for such codependency family programming to be modified to be culturally


149 See generally Al-Anon, Al-Anon Family Groups, WWW.AL-ANON.ALATEEN.ORG, http://www.al-anon.alateen.org/ (lasted visited Apr. 29, 2017, 9:06 AM)[hereinafter Al-Anon Family Groups]; See also MELODY BEATTIE, CODEPENDENT NO MORE: HOW TO STOP CONTROLLING OTHERS AND START CARING FOR YOURSELF 32-39 (1986) (explaining how groups like Al-Anon and Alateen can help people cope with a loved one’s problem drinking).


151 See generally Al-Anon Family Groups supra note 149; See also BEATTIE, supra note 149, at 36 (discussing the importance of taking care of oneself and not trying to change loved ones with substance abuse or addiction issues).

152 See generally Al-Anon Family Groups supra note 149.

153 Telephone Interview of Zuni Recovery Center (ZRC) staff member (Apr. 19, 2017) (stating Al-Anon was held at one point in Zuni, however, these meetings stopped because the individual conducting Al-Anon meetings left the community. The ZRC program reports it intends to restart Al-Anon at some point in the upcoming year.).
responsive so that it would be most effective for Zuni people. Furthermore, educators, medical professionals, cultural leaders, and secular leaders within the Zuni community must raise awareness of the benefits of codependency programming, and should actively destigmatize it to encourage widespread participation. Ultimately, Zuni culturally-responsive codependency programming, modeled upon Al-Anon, Alateen and similar programs, would promote healthy relationships within Zuni families and, thus, complement the core value of taking care of one another.

C. School and Community Alcohol Education and Mentoring Should Be Implemented and Encouraged to End Cycles of Black Water Devastation in Zuni

At the heart of any community is the strength of a family. A breakdown in the family because of black water affects the entire community. As seen in Zuni, children exposed to adverse childhood experiences have an increased risk of alcoholism and alcohol abuse. In order for the Zuni community to recover from the effects of black water, there must be alcohol education within the public and private school systems. There is no doubt that the young need to learn about black water’s history in Zuni, and the impact it has had over the last one hundred years. The young must learn about black water so they may make an informed decision, as they become adults, on whether to consume black water.

A culturally-tailored alcohol prevention curriculum should be implemented. High school students could teach the younger Zuni children as part of their school’s community service projects. Allowing high school students to teach younger children about the devastating effects of alcohol is more powerful and meaningful to young children than such education taught by adults. Empowering high school students would not only relieve teachers from teaching alcohol prevention, it would also increase high school students’ self-esteem and give them confidence as leaders in making Zuni a better place for the future. Having high school students teach the curriculum would also reinforce the concept to the young that high school students make wise choices by not consuming alcohol. Every effort to teach the young not to consume alcohol, especially when their brains are still developing, is crucial in eliminating potential damaging effects of alcohol on their brains.

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154 Michelle Chino & Lemyra DeBruyn, Building True Capacity: Indigenous Models for Indigenous Communities, 96:4 AM J Pуб. HEALTH 596, 597-98 (2006) (discussing how culturally responsive tribal health programs designed by “tribal visionaries” to reflect and promote “indigenous thought, perspective[s], and ownership” have been “well received by tribal communities in the Southwest” since the 1990s and “has served as a framework for responding to an array of indigenous health issues, including intimate partner violence, cancer, and health disparities.”).


Moreover, education is a key step in thwarting the development of alcohol dependence, and in reducing risky behaviors.158

One such curriculum currently meeting New Mexico state core curriculum standards is the Protecting You/Protecting Me (PYPM) alcohol prevention curriculum developed by Mothers Against Drunk Driving.159 PYPM has been tailored for Native American children, but can be further tailored for the young Zuni children.160 Any effort at alcohol prevention or awareness of its effects is better than having no intervention at all. Passing down Zuni core values has always been a priority. It is important for young people within the Zuni community to learn to keep themselves safe when they are in the presence of someone who is under the influence of alcohol. Teaching the young about black water would reinforce the core value of taking care of each other among younger Zuni generations.

Another way to involve community members in passing down the core value of caring for one another, especially for the young, is to continue and grow the Big Brothers and Big Sisters Program at Zuni.161 Children who come from homes where black water abuse is rampant can benefit from a Big Brother or Big Sister program through opportunities to learn from other community members that the black water use in their homes does not have to be the norm. By having Big Brothers or Big Sisters, Zuni children can be positively influenced and supported by their mentors. Such programming could be made even more effective at Zuni through culturally-responsive efforts to adapt it to the needs and core values of the Zuni community.162 Having the entire community holding one another accountable to the young through mentoring programs would reinforce the Zuni core value of nurturing the young and caring for each other.

One other community effort that could end the devastating effects of black water at Zuni would be to develop community farms. Community farms would, in a sense, be nothing new to the Zuni. As noted previously, Zuni at one time cultivated thousands of acres of land.163 Today, only a few plots of land are cultivated. With interest in today’s market for ‘all-natural green produce,’ Zuni could develop a thriving agricultural business as well as alleviate food desert conditions at Zuni. With community farms as an alternative to facing fines or jail time, offenders could work the land and become productive members of Zuni society. Community farms could also be a way in which children could take an interest in self-sustenance. Adults could teach children Zuni traditional law by explaining how their ancestors once toiled on the land. Elders could teach the young about the connection between farming and staying healthy in mind, body, and spirit. Cultivating an environment of valuing oneself to time, place, and to the land, in this way encompasses the Zuni core value of caring for one another.


159 See generally PYPM, supra note 157 (providing an overview of the PYPM program).

160 Id.

161 See generally Big Brothers Big Sisters of America, About Us, WWW.BBS.ORG, http://www.bbbs.org/ (last visited Apr. 29, 2017) (explaining the BBBS program).

162 See Chino & DeBruyn, supra note 154, at 596 (explaining why “Indigenous people need to define and develop not only health care services but also the underlying theoretical frameworks and strategies for positive change” and that “[t]ribes must be able to advocate for indigenous health in ways appropriate to the needs and realities of indigenous communities.”).

163 See Hart, Historic Zuni Land Use, in Zuni and the Courts, supra note 42, at 10 (describing the Zuni lands).
D. Zuni Leadership Should Honor The Do No Harm Principle

No members within any society are scrutinized more than those who are called into leadership positions. Leadership is a role that must be held with utmost respect. Leaders within Zuni society, whether religious or secular, were not placed in their positions by chance. The overarching edict from the Creator of the Zuni for those in leadership positions was to “do no harm to the people.” Despite the directive of doing no harm to the people, years of western culture’s influence, especially that of black water, have also affected our Zuni religious and secular leaders. As the Zuni struggle to combat the devastating effects of black water on the community, Zuni leaders must also take the necessary steps to ensure that they are upholding their oath to maintain and perpetuate their Creator’s precepts. The religious and secular leaders of Zuni no doubt play an important role in seeing that the core values of the Zuni remain intact. Furthermore, the Zuni people must comply, not interfere, when leaders take necessary steps such as imposing curfews, or other such measures, to help combat black water. Zuni leaders have a very commendable position in Zuni society and they must acknowledge that they are stewards of carrying out their Creator’s precepts of doing no harm to the people and ensuring that the encompassing Zuni core value of caring for one another is promulgated.

CONCLUSION

Black water has eroded Zuni core values and tribal sovereignty. A hundred years of black water abuse in the Zuni community has left devastating bruises on the Zuni people by eroding their core values. The present-day rise of alcohol-related deaths and increase in alcohol-related offenses at Zuni are a challenge and a wake-up call. This calls for action by the Zuni to find culturally appropriate ways to diminish the eroding effects of black water on Zuni core values and return to our traditional focus of caring for one another. Without these core values, there is no doubt Zuni will lose its cohesive culture, which would threaten Zuni sovereignty. Zuni must embrace the positive influences of its culture, Zuni core values, and effective outside ideas in order to care for the community today and future generations. To do so would strengthen Zuni sovereignty and ensure a sustainable future for the youth of today and for generations to come. By revitalizing core values that support caring for one another, the Zuni will be able to sustain the Zuni way of life.

164 Telephone interview with Gibbs Othole, supra note 9.