

8/2/99

Excluding Indians Not Taxed: Federal Censuses and Native-Americans in the 19th Century

by

William Seltzer
Department of Sociology and Anthropology
Dealy 407
Fordham University
441 East Fordham Road
Bronx, NY 10458
e-mail: seltzer@fordham.edu

Paper prepared for presentation at the
1999 Joint Statistical Meetings
Baltimore, August 8-12
Session on Statistics, Human Rights, and Ethics: Some Goods and Bads
August 9, 2:00-3:50pm

A shorter version of this paper may be found in *1999 Proceedings of the Government and Social Statistics Sections of the American Statistical Association*. Alexandria (Va): American Statistical

Association, 2000, pp. 161-166.

I. Introduction

The present paper reports on recent research into the role of population data and data systems in the treatment of Native Americans in the 19th century, including their coerced removal, first from their lands east of the Mississippi river in the first part of the century and then from virtually all of their traditional lands and places of refuge west of the Mississippi. Finally, they lost title to most of the Indian Territory (modern Oklahoma) which had been set aside for them and to which they had, for the most part, been forcibly moved.

The motivation for this research is twofold. First, having previously completed a study of the use of population data systems by the Nazis in planning and carrying out the Holocaust in World War II [Seltzer, 1998], I was interested in examining the hypothesis that the Nazi experience of using otherwise benign statistical operations and outputs central to the field of population statistics to identify, describe and target a victim population reflected a more general phenomenon and a continuing common danger. (It should be stressed that I am not advocating the suspension of population censuses and other governmental data collection efforts in the field of population statistics, rather the paper argues that its findings suggest more robust policies and arrangements designed to protect against the abuse of these data systems.) Second, a recent workshop on the demography of forced migration organized by the National Research Council's Committee on Population concluded that demographers should investigate the phenomenon of forced migration using existing historical data in order to better understand the process [Reed, Haaga, and Keely, 1998: 22].

Traditionally, historical demography has focused on the interaction between population processes and outcomes, on the one hand, and political, social, and economic factors and processes, on the other hand. Such research uses population statistics as an important tool to advance our understanding of these processes and interactions. To better understand substantive results or problems in the data, historical demography also sometimes attempts to describe and evaluate the data systems that generated these population statistics. The present paper reports on the results of research that shifts the focus from the substantive role of data to that of the data systems themselves and the interactions between these systems and historical events and processes. In addition, during the course of this investigation, a number of possible new data sources have been identified. Some of these may yield population data of relevance to substantive research on the demographic history of Native Americans and the broader issue of forced migration.

Two broad sources of data are examined. First, the paper takes up the treatment of native Americans in successive decennial censuses between 1790 and 1890. As part of this review, some attention is given to the role of Francis A. Walker, Superintendent of the Ninth and Tenth Decennial Censuses, in transforming the coverage of Native Americans in the decennial census. Mr. Walker also served as Commissioner of Indian Affairs between his two appointments as Census Superintendent. Second, the paper looks at the numerous federal enumerations of

American Indian Nations and Tribes, whether called for by various treaties concluded in the 19th century or otherwise carried out for civil or military purposes.

Covered only in passing in this paper are the treatment of Native Americans in state and territorial censuses as well as in enumerations carried out in the colonial period and enumerations or registrations carried out primarily under the authority of Native American Nations or Tribes themselves.

The 1890 cut-off for the present study is a logical one. Whatever the reality of Turner's proposition that the American "frontier" had vanished by 1890 based on his review of the results of the eleventh census [Turner, 1893; Nash, 1980], by then the last of the "Indian wars" was over and the twelfth decennial census in 1900, consistent with federal Indian policy of detribalization, treated Native Americans differently than its predecessors. The Act for this Census implicitly assumed that Native Americans were to be included in the total population of the country like everyone else, although a special schedule was still used for their enumeration.

Moreover, most 20th century studies of the Native Americans, while clear about what happened in this century are increasingly vague about what happened previously. For example, Jaffe [1992: 247-248], in part citing Clark [1877], identified the 1870 Census as the first one which made a significant attempt to count the Indians, was unclear whether the 1880 Census counted the Indians, and indicated that beginning with the 1890 Census the number of Indians was reported every 10 years. Referring to the 1890 and 1900 Censuses, Johansson and Preston [1978: 3] stated that earlier national censuses did not include Native Americans living on their reservations or in a tribal situation. Petersen [1987: 214] believed that the 1890 Census was the first one in which Native Americans were covered, while Alterman [1969: 293] summarized the situation in these terms,

Until 1860 there were no reference to the Indian in any census. . . .The report of the 1850 census includes an estimate of the number of Indians in various parts of the country. But these are the estimates of one man, not the results of any enumeration.

In some sense, each of these descriptions contains elements of the truth, but none the whole truth. At least some of the confusion arises because the census legislation, the census form, the enumeration instructions, the coding schemes used, the completed census schedules, and the published results do not necessarily tell the same story. None of those just cited, moreover, seemed to be aware of the other well-established tradition of population data use and census-taking by the federal government described in part III of this paper below.

II. Decennial Population Censuses

The same degree of ambiguity and sorts of anomalies that run through most other aspects

of relations between the United States and the Indian communities (see, for example, *United States v Kagama* [1886] and *Prucha* [1994: 1-19]), were also present in the treatment of Indians in the early decennial censuses. Even the constitutional mandate, excluding Indians not-taxed, while at first seeming clear enough, in retrospect presents ambiguities. The historical background of the phrase is complex and its meaning and impact changed over the first eleven U.S. censuses.

On the one hand, several of the colonies and some localities did include Native Americans in censuses carried out prior to 1790. For example, Indians were separately identified and tabulated in the general population censuses of Connecticut in 1756, 1774 and 1782, Massachusetts in 1764 and Rhode Island in 1748-1749, 1774 and 1783, while the New York census of 1786, four years before the first federal decennial census, specifically identified a small number of Indian Tax Payers [U. S. Bureau of the Census, 1909; Greene and Harrington, 1932]. Similarly, the Articles of Confederation, while assigning congress the responsibility for managing all affairs with the Indians, specifically limited this responsibility to those who were not members of any state (Article 9).

On the other hand, the phrase excluding Indians not-taxed predated the Constitutional Convention by several years. (It was used in a proposed amendment to the Articles of Confederation that attempted to shift the method for allocating expenses among the individual states from the land valuation system specified in Article 8 to the population based system used in the Constitution itself.) These divergent approaches are also reflected in quite different views of Native Americans expressed, for example, in *The Federalist Papers* by Jay, Madison, and Hamilton.

Appendix Table A summarizes the experience of the treatment of Native Americans in successive decennial population censuses between 1790 and 1890. The table clearly demonstrates that this evolution reflects in part political and social history, including particularly federal policies toward Native Americans, in addition to technical issues related to the organization and mechanics of census-taking. The table also shows that to correctly understand how the treatment of Native Americans evolved, one must move beyond looking at changes in census legislation, forms or outputs individually. Instead one must examine all relevant aspects jointly, along with the results of historical studies of local areas and individual tribes that may also provide evidence on whether and how Native Americans were covered in early decennial censuses. In addition, the insights and findings of some demographic studies of the post 1900 experience can help to elucidate the earlier experience (see, for example, Johnston [1966] and Johansson and Preston [1978]).

In whatever manner the phrase excluding Indians not taxed was interpreted in the first few decennial censuses, by the middle of the 19th century those responsible for the federal decennial census began, with increasing explicitness, to interpret the phrase to exclude only those Indians from the census who did not pay taxes, who lived on Indian reservations or who continued to sustain tribal relations. Several factors influenced this change. The predominant factor seems to have been the set of issues related to the enumeration of African-Americans, both

those who were slaves and the free colored population. Second, there was a growing interest, particularly in the latter part of the period, in having the census provide a comprehensive picture of the total population of the country. Third, changes in federal policy toward Native Americans and some of the factors that brought about these changes also promoted an explicit effort to count or estimate the Native American population, beginning in a minor way in the 1850 Census.¹ Finally, there was an emerging interest by some communities of Native Americans, or their advocates, in being enumerated in the decennial census.

The Censuses of 1860 and 1870 represent a major transition in the enumeration of Native Americans, directly pointing to current practices of census coverage. As Appendix Table A indicates the increased attention to the coverage of Native Americans in the 1860 and 1870 censuses was achieved without any changes in either census legislation or the topics included in the census schedules.² The coverage of Native Americans in the 1860 Census, nevertheless, went well beyond what was done in 1850, including the enumeration of over 23,000 Indians in the 34 States and about 13,000 in the 8 Territories [Kennedy, 1862: Table 2], the enumeration of the non-Indian population living in Indian Territory west of Arkansas [1862: Table 3] and the compilation of a table showing a total of about 294,000 as the Indian population in the States and Territories not enumerated in the Census and retaining their tribal character [1862: 136]. The 36,000 Indians enumerated in the Census were included in the total population of the country and, it would seem, were included among the white population in those tables that divided the country into three groups (i.e., white, free colored, and slave) [1862: Table 1].

The specific motivation for the improved attention to Native Americans in the 1860 Census is not yet known, although it must have been a deliberate act by someone in the Census Office, given that the law and the census forms used in 1860 made no provision for the enumeration of Native Americans. The change was accomplished by adding a new instruction in the materials provided to the field workers responsible for the census enumeration covering Indians. This instruction, while repeating the standard phrase from the past, Indians not taxed are not to be enumerated, also specified that Indians who have renounced tribal rule, and who under State or Territorial laws, exercise the rights of citizens are to be included in the census schedule for free inhabitants. The instruction provided that they were to be identified by writing Ind. opposite their names in the column used for recording information on color [see Appendix Table A below].

Whatever uncertainties surround the changes introduced in the 1860 Census, the record for the 1870 Census is well documented. With the end of the Civil War, the search for a solution to the Indian problem was able to emerge as an important policy issue. In addition, the 1870 Census marked the start of the influence of Francis A. Walker on the decennial population census. Walker served as Superintendent of the 1870 and 1880 decennial censuses and was responsible for many organizational and technical advances in census-taking [Wright and Hunt, 1900; Alterman, 1969; Anderson, 1988]. Moreover, after the completion of the field work of the 1870 Census and while the compilation activities were underway, Walker was appointed to be Commissioner of Indian Affairs [Munroe, 1923]. (He replaced Eli S. Parker, the first

Commissioner of Indian Affairs with Native American ancestors, who was criticized as being both soft on Indians and corrupt.)

Walker's rationale for including all Native Americans within the scope of the decennial population census was clearly articulated in his report to the Secretary of the Interior as Superintendent of the Ninth Census, reproduced at the beginning of Volume I of the results of the 1870 Census [U.S. Census Office, 1872: xvi-xvii]. Walker first distinguished between the constitutional and the true population of the country. Turning his attention to the implication of this distinction for the coverage of Indians not taxed Walker argued that this phrase of the Constitution

seems to have been adopted by the framers of the census law as a matter of course. Now the fact that the Constitution excludes from the basis of representation Indians not taxed affords no possible reason why, in a census which is on its face taken with equal reference to statistical as to political interests, such persons should be excluded from the population of the country. They should, of course, appear separately, so the provisions of the Constitution ... may be carried out; but they should appear, nevertheless, as a constituent part of the population of the country viewed in the light of all social, economical, and moral principles. An Indian not taxed should, to put it on the lowest possible ground, be reported in the census just as truly as the vagabond or pauper of the white or colored race. The fact that he sustains a vague political relation is no reason why he should not be recognized as a human being in a census which counts even the cattle and the horses of the country.

The position argued by Walker here clearly treats Native Americans as part of the common family of humanity. It should be understood, however, that Walker's view of the humanity of Native Americans was within the context of an explicit racism that ran through most of his writings, whether on Native Americans or on the new immigrants to the United States. He considered the new immigrants from Eastern and Southern Europe, millions of Hungarians, Bohemians, Poles, south Italians, and Russian Jews, as having none of the inherited instincts and tendencies which made it comparatively easy to deal with the immigration of the olden time. They are beaten men from beaten races; representing the worst failures in the struggle for existence [Walker, 1899: 437]; (see also Walker, [1891; 1892]).

Reflecting the same social Darwinian perspective and using some of the same imagery, he characterized the early settlers' conquests of the American Indian in terms of beating the savages with their own weapon, as men of the higher race will always do . . . [Walker, 1873: 331]. He also described Native Americans in highly demeaning terms [336-337] and considered that what he termed the Indian question boiled down to two quite separate issues [337]: What shall be done with the Indian as an obstacle to the national progress? What shall be done with him when, and so far as, he ceases to oppose or obstruct the railways and the settlements? Walker's answer to the first question was to push the less aggressive tribes onto reservations by the slow wasting-away of their means of subsistence [342], temporizing, avoiding a general Indian war, but using

force when required. His answer to the second question was essentially a semi-permanent system of *apartheid*, with whites forbidden to enter and Indians forbidden to leave (except under highly controlled circumstances) one or two grand reservations west of the Mississippi [364-375]. His 1872 report as Commissioner of Indian Affairs reflected many similar views [Cohen, 1942: 18-19]. At the same time he could be highly pragmatic, so that even during the relatively short period he served as Commissioner, Walker was also active in initiating several new tactical approaches [Utley, 1993: 92-93, 95].

Walker implemented his new vision for the treatment of Indians in the census in a variety of innovative ways, even while he was forced to carry out the 1870 Census under the provisions of the 1850 Census Law. For the first time, the decennial census form provided explicitly for the enumeration of Native Americans. This was accomplished by adding an additional coded response category, I for Indian, to the long-standing census item on color [US Bureau of the Census, 1979:18] and strengthening the instructions to the assistant marshals used in the 1860 Census relating to the enumeration of Indians out of tribal relations (i.e., those termed Indians taxed in the Eleventh Census [U.S. Census Office, 1894]). The assistant marshals were also instructed for the first time to enumerate Indians sustaining tribal relations, (i.e., Indians not taxed) on special memoranda [1979: 19]. Indians not taxed also appear to have been enumerated on the basis of inquiries...conducted extensively through agents of the Indian Office during...1870" [US Census Office, 1872: xvi]. Finally, separate estimates were made of nomadic Indians and the unenumerated Indians living on reservations [1872: xvii].

Table 1 Components of the Indian Population in the True Population for the United States
[Data for all States and Territories combined]

<u>Component</u>	<u>Number</u>	<u>Percent</u> ^a
Total Indian population	383,712	100
Out of tribal relations	25,731	7
Sustaining tribal relations	357,981	93
On reservations or agencies	123,241 ^a	32
Enumerated	96,366	25
Estimated	26,875	7
Nomadic (estimated)	234,740	61

^a Figures provided by author

Source: US Census Office, 1872: Table of True Population, page xvii.

This complex set of counts and estimates used to derive the aggregate true population of the country is effectively summarized in tabular form in the 1870 Census report for the country as a whole and for each state and territory [1872: xvii]. Table 1, which closely follows the

terminology and structure of Walker's table, illustrates his approach. Over-all, data on nearly one-third (122,097) of the Native Americans covered in the census were obtained by enumeration, of these nearly 79 percent were Indians not taxed. However, the relative share of these components varied greatly among the individual States and Territories.

The Tenth Census in 1880, also carried out under Walker's direction, but in accordance with an updated census act, strengthened considerably the procedures used to enumerate both taxed and untaxed Indians. The instructions to the enumerators regarding the need to include Indians not in tribal relations in the general enumeration is more emphatic and detailed than in 1870 and a special detailed schedule was provided for the enumerating Indians living as part of tribes (see Appendix Table A and US Bureau of the Census [1979: 20-25]). For the Eleventh Census (1890), the instructions were further strengthened and clarified. Expanding on the methodology of 1880, a series of special schedules, some tailored to individual nations and tribes, were used in 1890 to enumerate Native Americans in tribes or living on reservations.

The major innovation, however, in the 1890 Census was a series of publications that focused exclusively on census data and related information on the Indian population. These included a comprehensive report on Indians taxed and not taxed [US Census Office, 1894] and four unnumbered extra census bulletins issued between 1892 and 1894 dealing with individual tribes or groups of tribes [US Bureau of the Census, 1974: 27]. The data in these publications consolidated and augmented census results pertaining to Native Americans that in the past had only appeared in the general census reports. As already indicated, beginning with the Twelfth Census in 1900 the distinction between taxed and not taxed Indians was dropped, although from time to time, special reports focusing on the total Indian population were issued (for example, US Bureau of the Census [1915]).

The evolution of decennial census practices related to the collection and dissemination of data on Native Americans sketched here and summarized in Appendix Table A makes clear that the enumeration of Indians, whether taxed or not taxed, was only explicitly provided for beginning with the 1870 Census after Francis Walker became Superintendent of the Census. Prior to then no provision was made for such enumeration in the census forms, although some estimates of Indians not taxed appeared in the 1850 Census report and some counts and estimates of the same group appeared in the 1860 Census reports. This at least is the conclusion one reaches based on the official record. This record, however, does not tell the full story.

Another way of approaching the question is to look where known groups of Native Americans lived, particularly communities of Indians not living on established reservations, and see when they began to be covered by the decennial census. Alternatively, the detailed history of individual tribes or families may contain evidence of early census coverage. This approach has so far identified one substantial instance of pre-1870 enumeration: the enumeration of the Eastern Band of Cherokees who lived in Qualla town, Haywood (subsequently Jackson) County, North Carolina, beginning with the 1850 Census [Finger, 1984: 70; 80-81].

Once the fact of this coverage is accepted one can identify occasional references to it in the official record. For example, the 1850 Census report accompanied the table providing population estimates of various Indian tribes with the observation that those included in the table ... form a portion of the inhabitants of the territory of the United States though they are not included in any of the Census enumerations, *except in a few individual cases* [emphasis added], which cannot affect the general correctness of the table [US Census Office, 1853: xciv] and US Census Office [1892: 7]), with specific reference to the Eastern Cherokee.³ Finger made the discovery, however, by investigating the history of a specific group of Native Americans and then examining the completed enumeration schedules for the 1850 and 1860 Censuses.

As related by Finger [1984], the Cherokees still living in Qualla town and the neighboring parts of North Carolina after the forced migration of nearly all the other Cherokees in the late 1830's, successfully resisted further inducements to emigrate in the 1840's and continually attempted to establish both their right to stay in North Carolina and their citizenship. While they achieved tacit approval from North Carolina authorities to remain, their efforts to secure recognition of their claims for citizenship were not immediately successful. It was in the context of this effort that they managed to get the Quallatown Indians included in the Haywood County enumeration by insisting they were citizens. They were listed separately, however, and identified as Indian In contrast, the Cherokees of Macon and Cherokee counties were not listed, though a few mixed-bloods were found among the lists of whites [1984: 70]. It is not unreasonable to believe that one or more other communities of Native Americans were also included among enumerated population figures in the decades prior to the 1870 Census, whether classified as white, colored or identified in one way or another as Indian in the completed census forms.

III. Other Federal Censuses

This paper now takes up another tradition of census-taking widely used by the federal government in the 19th century to plan and carry out federal policies directed at Native Americans, including programs of forced migration. This tradition is even less well-known, at least by demographers, than the coverage of Native Americans in the decennial population census in the 19th century.

Numerous treaties concluded between individual Indian nations and tribes and the United States between 1817 [Kappler, 1904, II:142] and 1868 [1904, II:1023] provided for population censuses of one kind or another to be carried out. These censuses ranged from one-time enumerations to annual administrative censuses. Their stated purposes varied widely as did the range of information sought. With few exceptions, these treaties provided that the censuses were to be carried out by Indian agents working for the Bureau of Indian Affairs, or its predecessor organizations, with little or no involvement by Native Americans. This treaty record is summarized in Appendix Table B. There were also two additional major traditions of 19th century enumerations of Native Americans: first, those carried out by the Indian nations and tribes

for their own purposes; and second, enumerations carried out by federal military or civilian authorities beyond those authorized by ratified treaty.⁴ After 1868, most enumerations were of the latter type. The present section primarily, but not exclusively, deals with the treaty-based tradition.

The first treaty so far identified calling for a census was the Treaty of 1817 with the Cherokee Nation [Kappler, 1904, II: 140-144]. The chief negotiator for the United States Government in the treaty negotiations was then General, and future President Andrew Jackson. On July 13, 1817, shortly after this treaty was concluded, Jackson wrote to Brigadier-General John Coffee, a trusted friend and political confidant [Ratner, 1997], summarizing the treaty and explaining the function and strategic importance of the census,

We were detained in council with the Cherokees 17 days before we concluded a treaty, which was signed on the 8th We obtained a cession of the lands adjoining Georgia . . . and a small part north of the Tennessee, a little more in all, than two millions [of acres]. This of itself would be unimportant, was it not for the principle established by the treaty, which will give us the whole country in two years. A few of its provisions are first that a census is to be taken next June by commissioners appointed by the United States accompanied by a commission from the Cherokees East of the Mississippi and one from those settled on the Arkansas. Those [Cherokees already] on the Arkansas, those who are going there, and those who when the enumeration is taken, declare their intention of removing there, are to be considered as the numbers on the Arkansas. The Cherokee Nation has agreed to cede to the United States . . . land agreeable to [the] numbers . . . [of Cherokees on the Arkansas divided by] the whole number of the Nation, [times] the whole quantity of land owned by the Cherokee East of the Mississippi. The United States bind themselves to convey to the Cherokee on the Arkansas acre for acre so to be ceded, including the quantity ceded by the Nation [in the past]. This at once secures half the whole country, as at least half is there and enrolled to go there. In short Sir, my opinion is that few will remain, none except those prepared for agricultural pursuits, civil life, and a government of laws. There are but few in comparison prepared for this . . . [Bassett, 1927, II: 307]

Jackson's final assessment was wrong on at least two counts. First, few Cherokees left for the west voluntarily. Second, most of those who remained followed a style of life so characterized by settled agriculture and a government of laws that the Cherokees were widely considered to be a civilized tribe in the language of the time. As part of their rapid assimilation of a number of United States institutions and practices, the Cherokees carried out a census on their own initiative in 1825 [Thornton, 1990: 49-50]. This census, according to a source quoted by Thornton, was taken by order of the National Council [of the Cherokee Nation] to ascertain the amount of property and taxable individuals within the Nation [1990: 49].

The Cherokees had had a prior experience with an actual enumeration in 1808-1809, sometimes referred to as the Meigs census, after the U.S. government's agent for the Cherokee Nation, Return J. Meigs, who had conducted it [Thornton, 1990: 47-48]. The 1808-1809 census, moreover, may have been the source of the idea of providing for a census in the Treaty of 1817, since Meigs' name also appeared on the 1817 Treaty [Kappler, 1904, II: 144]. In any case, the census called for in the Treaty of 1817 with the Cherokees was canceled in the Treaty of 1819, ostensibly to save money and to speed up the payment allotments, but in fact under the Treaty of 1819 the Cherokees gave up a substantial amount of additional land in exchange for the census not to be taken [Kappler, 1904, II: 177].⁵

The last ratified treaty dates from 1868, and in 1871 Congress decided that the United States would no longer conclude treaties with Native American nations and tribes, although existing treaties would remain in force. (Walker attributed this to the jealousy of the Senate by the House [Walker, 1873: 334]. Cohen [1942: 16-18], however, indicated more substantive grounds for this new policy.) In any case by 1885, as part of the appropriation legislation for the Indian Department, Congress instructed Indian agents to carry out a limited annual administrative census of the population age 6 and over in all tribes [Kappler, 1904, I: 32].

The treaties summarized in Appendix Table B comprise an extensive record of tangible intentions regarding the collection and use of population data. Of the 367 ratified treaties cited by Prucha [1994: 1 and 448-500], 54 (about 15 percent) either specifically called for a population census or registration or indicated that data based on such a census or registration were available or were required. Treaty references to censuses and data grew over time: prior to 1826, only 2 of the 133 ratified treaties included such references (less than 2 percent), between 1826 and 1850, 16 of the 115 treaties did so (about 14 percent), and after 1850, 36 of the 119 treaties contained such references (over 30 percent) [Prucha, 1994: Appendix B and Appendix Table B below].

Even a quick review of the treaty provisions summarized in Appendix Table B reveals a very wide diversity of cited or implied uses for these data. These uses included, for example, the equitable apportionment of land and per capita-based annuities and other benefits, the determination of the number of seats individual tribes and bands of Indians were to be allocated on Tribal Councils, and the provision of population data needed for routine planning purposes as well as to assist Indian removal and resettlement programs. Equally diverse were the concepts and classification variables specified in these treaties. In addition to age, sex, marital status, and household relationship, individual treaties provided for gathering data on such topics as: intentions to emigrate or apply for U.S. citizenship, competency to manage one's own affairs, orphanhood, idiocy, insanity, and loyalty during the recently-concluded Civil War.

A question that may quite properly be asked is how well these treaty provisions were followed, particularly given how common it was that other provisions of these treaties were ignored. In other words, were there any actual federal censuses of Indians? Although they seem to have been largely ignored in the demographic literature, a number of historians have referred to the results of such censuses. Perhaps the best documented set of results is based on the 1835

census of the Eastern Cherokee carried out by special agents working under the auspices of the U.S. War Department [Foreman, 1953: 250; Tyner, 1974; McLoughlin and Cosner, 1977; and Thornton, 1990: 50-54].⁶ Foreman [1953: 47-48] also reports the results of the Choctaw census of 1830 and both Foreman [1953: 111] and Debo [1967: 99] the Creek census of 1833. These three censuses were directly related to the forced expulsion of Native American populations from their lands east of the Mississippi river pursuant to the Indian Removal Act of 1830 as described by Foreman [1953].

The specific role these censuses played in the various Indian removal efforts was described in somewhat different terms by those historians who refer to them. For example, according to DeRosier [1970: 137] a careful census of the Choctaw nation was conducted to determine the exact number of Indians who were eligible for removal. He noted that the results, which indicated that the nation consisted of 17,963 Indians, 151 white persons, and 521 slaves, were important because the War Department wanted to move approximately one-third of the nation in the first group. Guided by [the] census, [George S.] Gaines [the civilian assigned over-all responsibility for this phase of the removal] ordered supplies for 6,000 Indians in early February 1831.

The results of other censuses were used in connection with other removal efforts, the provision of annuities and other benefits, and eventually to assist in the breaking up of tribal lands. The 1835 Cherokee census was basically a listing of households or families with information on each unit. It should be understood, however, that this was the method of enumeration used in all decennial censuses prior to 1850.

The extent to which these and later non-treaty censuses were sometimes used as instruments of control, whatever other purposes they also served, is clear from a 1901 memoir written by Captain Charles P. Elliot that described a census carried in the San Carlos Indian Reservation in what is now Arizona under the authority of General George Crook [Elliot, 1948: 98]:

In 1884 a complete census had been made, the tribes being enumerated under their head chiefs and each camp of Indians of the same tribe under its head man. Brass tags of different shapes with one shape for each tribe had been provided. The band or subdivision of a tribe was designated by a letter of the alphabet, and each [mem]ber of a band had his number, stamped by the provost officer on the tag of the proper shape and given to each Indian whose name was recorded in books kept for the purpose. Each man was required to wear his tag at all times and to produce it when called upon by the proper officer. Any failure to comply with these regulations was severely punished, and in a short time the system worked to the perfection I found it on my arrival.

Elliot also made clear one motive for and use of the census and tag link,

Any American who would attempt to burden himself or his memory with a number of Indian names would soon be hopelessly lost, but tag numbers and the records made it very simple to locate a special individual [1948: 98].

Describing the successful use of the brass tags in wrapping up an investigation of some off-reservation Indian deer poachers, Elliot noted

The officer ... called the band of Indians together and walking down the line without a word, only looking at their tags, selected the men he wanted....The chief and all his band were astonished but promptly complied and their culprits were duly punished [1948: 100-101].

When deciding how much credence to place in this old soldier's tale, it may be helpful to recall how Francis A. Walker [1873: 355] described the initial stages of these events: The brilliant campaign of General Crook in Arizona during the past season has been prosecuted with the most scrupulous observance of the reservation system . . . Military operations thus conducted are not in the nature of war, but of discipline . . . It does not merely serve to chastise offending individuals . . . , but it is more the means of impressing the less enterprising Indians with an increasing sense of the power of the government.

Clearly, the mere fact that a result is quoted does not definitively establish the census took place, nor does the absence of such a citation mean that no census took place. At a minimum, however, these citations may provide useful sign-posts for further research.. Carmelita Ryan's comments at a 1968 conference organized in cooperation with the National Archives [Fishbein, 1973: 101] suggest that many of these censuses did indeed take place and that a considerable body of useful primary source material related to them is readily available (see also Ryan [1968]).⁷

IV. Discussion

The discussion section of the paper takes up three broad issues. First, the similarities and the differences between the governmental use of population data and data systems related to Native Americans in the United States in the 19th century and the experience with respect to Jews in Germany and occupied Europe between 1933 and 1945. Second, some of the implications this research related to Native Americans in the 19th century to the study of the phenomenon of forced migration and other major human rights abuses today. Third, the range of future research suggested by the present paper, including the value of broadening the focus of historical demography and the history of statistics to cover how population data systems themselves and their results can become factors in history.

Similarities and differences. Several scholars of the Native American experience have likened it to the experience of the Jews under the Nazi Holocaust [Thornton, 1987; Churchill, 1997]. It is beyond the scope of the present paper to attempt a full comparison of these two sagas of persecution, expropriation, cultural destruction, forced migration, death, and deeply scarred, but ultimate survival. Suffice it to say, there seem to be important similarities and important differences. Indeed, while there is value in acknowledging the many common themes that run through the 19th century Native American experience, the experience of the Jews during the Holocaust, and that of other genocidal experiences, there is also a need to recognize the uniqueness of each.

These similarities and differences can best be examined in terms of several individual factors (for example, extent of intentionality, the nature of these intentions, degree of state sponsorship, methods employed, immediate impact, and long-run impact). The point of such an approach is to provide some indication of the complexity of comparisons between different events rather than the specific assessments made. Ultimately, this comparison, or any similar comparison, reflects a number of highly subjective assessments of individual factors. Over-all judgements, in turn, depend on the relative weightings given to each factor, an even more subjective undertaking.

Turning to the narrower issue of comparing the role of data systems in government programs aimed at Jews in Nazi-occupied Europe and at American Indians in the United States in the 19th century, we again see similarities and differences. Both the Nazi authorities and the U.S. government used population data to assist in planning and administering programs aimed at their respective target populations and both specified large bodies of data to be collected. On the other hand, data systems in 19th century America were seldom, if ever, used to develop lists of Native Americans who were to be apprehended prior to their forced migration. By contrast, data systems were used in this way by the Nazis [Seltzer, 1998]. Furthermore, like the treaty system itself [Prucha, 1994], some of the treaty-based censuses simultaneously served both to preserve and undermine Indian sovereignty and independence. The tribal rolls based on these censuses, whether carried out for the Commissioner of Indian Affairs or for the tribal authorities, helped to provide a continuing record of tribal membership.

Contemporary implications. Does the 19th century experience recounted in this paper have any implications for those interested in current and future forced migrations, genocides, or other instances of gross abuse of human rights? I believe this question can be answered with both a weak and a strong yes. A weak yes because, although statistics and data systems were used in the process of the forced migrations ensuing from the federal Indian removal policies and programs of the 1830's and later, their use seems to be focused entirely on the government's largely unsuccessful efforts to ameliorate the conditions of the migrants. It is hard to decry the use of statistics when they are used to further beneficent humanitarian goals, even when the over-all government effort is unjust or criminal.

On the other hand, there can be circumstances in which some forms of assistance to

potential victims constitute complicity in the process of victimization. It is also worth remembering that the first treaty-based use of a census was introduced in the field under the authority of a frontier general (i.e., Jackson) as part of an effort to liberate as much Indian land as possible for the benefit of American settlers. Along similar lines, Walker's objective, as Census Superintendent, of covering all Indians in the decennial census can be viewed as a contribution to his objective, developed during his service as Commissioner of Indians Affairs, of forcing all surviving Indians into an *apartheid*-like existence. It would therefore not be surprising if modern generals, or their civilian counterparts, intent on instituting a program of ethnic cleansing, racial exclusion or overt genocide, were to look to statistical and related data systems for assistance.

Standing by itself, the 19th century U.S. experience recounted here could be classified as a smudgy data point, and possibly dismissed. However, it does not stand by itself. As already indicated, the role of statistics, statistical and related data systems, and statisticians and demographers in the Holocaust has been documented. Two other data points can also be cited: the role of special outputs from the 1940 U.S. Population Census and Bureau staff in the round-up and internment of Japanese-Americans following the U.S. entry into World War II [Anderson, 1988; Choldin, 1994] and the use by the perpetrators of 1994 attempted genocide of the Tutsi population of Rwanda of information from that country's population register. Reports of other possible instances are still being investigated. Collectively, the confirmed experience spans both the developed and the developing world, totalitarian and democratic countries, and nearly 170 years.

In view of this diversity of experience, it would seem a sound policy for those investigating modern instances of forced migration and other gross human rights abuses to examine routinely the possible role that national data systems may have played in planning or implementing the abuse under investigation. The involvement of such data systems, statistics, and personnel in these abuses is often clear evidence that what took place was an organized effort and not an uncoordinated explosion of violence.

Similarly, those concerned with preventing such abuses should be alert to the assistance that statistical and related data systems have provided to perpetrators in the past and support the development and implementation of prudent safeguards. Such safeguards may be substantive, technical or legal in nature. In addition, the availability of suitable ethical guidelines and related training may be helpful. Although a strongly motivated perpetrator can overcome many safeguards, whether substantive, technical, legal, or ethical, safeguards can raise the costs of using data systems to a level that may deter the effective use of such systems and their outputs in carrying out genocide and similar crimes. If we believe that statistical outputs and related data systems do contribute to the development and implementation of sound and cost-effective policies and programs, then we have a responsibility to do what we can to discourage the use of our tools and outputs to assist in programs of forced migration or genocide.

Future research. The results presented in this paper, together with the many unanswered questions that arose during its preparation, suggest four broad areas of further research: (1)

research aimed at clarifying some of the smudginess referred to above concerning the use of statistics and data systems in carrying out federal policies and programs directed at Native Americans in the United States in the 19th century; (2) research aimed at extending our knowledge and understanding of the history and social demography of Native Americans; (3) research aimed at updating our knowledge and understanding of the career and diverse contributions of Francis A. Walker, the founder of the modern census; and (4) research aimed at better describing and assessing the more general phenomenon, hypothesized above - that is, the use of statistical and related data systems and outputs in planning and implementing gross human rights abuses.

In indicating some useful areas of further research no attempt has been at prioritizing the items on this list. Much of the research suggested requires expertise in different fields, so that the issue of priorities is somewhat irrelevant. One common element that does run through much of the research suggested is the need for archival research. The present paper was based almost exclusively on available published materials and most of these published sources were not focused on the problems and issues addressed here. Accordingly, it will be important to return to primary sources with the new set of research aims in mind.

(1) Research into the role of statistics and related data systems in developing and implementing 19th century federal Indian policies and programs

One primary focus of research in this area would be to identify the source and evolution of interest in data and data systems in the process of Indian treaty-making and in the administration of Indian affairs by the federal Government. This would involve archival research into the organization, procedures, outputs and uses of the various federal censuses and other enumerations of Native American nations and tribes carried out in the 19th century as well as any information available on the problems encountered in these enumerations and the quality of the results obtained. It would also involve a re-examination of official and private papers and correspondence of those involved with the development and carrying out of U.S. policies and programs related to Native Americans to ascertain the extent and manner in which population data systems contributed to such policies and programs.

Another element of this research would be an investigation into the censuses and other enumerations taken in the 19th century by Native American nations and tribes themselves in terms of motivation, procedures, problems, outputs and actual uses. Finally, an examination of related executive, legislative and decennial census files may help to provide further understanding of the evolution of the meaning of the phrase "Indians not taxed" in the context of the census and of the decisions by Walker and other census officials to progressively broaden the scope of the coverage of Native Americans in successive decennial census after 1850.

(2) Research into the history and social demography of Native Americans

Two different potential sources of largely unexplored micro-data pertaining to the

demographic and socio-economic circumstances of Native Americans in 19th century have been identified in the course of the present paper: micro-level data on communities of taxed Indians in early decennial censuses and micro-data based on the results of the federal censuses or registers of Indian nations and tribes, such as those described in Appendix Table B.⁸ Based on his knowledge of the history of a specific tribe, Finger [1984] was able find a community of taxed Indians enumerated in the decennial census schedules beginning with the 1850 Census. Do other such communities of enumerated Indians exist in this or other decennial censuses? Similarly, McLoughlin and Cosner [1977] demonstrated how micro-data from a treaty census can be used to advance our understanding of the Cherokees prior to their forced removal from the Southeastern United States. Both Finger's study and that of McLoughlin and Cosner were based on data for the Cherokees. Do similar data sets exist for other Indian nations and tribes? Unless these two studies used all the available material, it seems highly likely that there is still a body of untapped materials pertaining to censuses of Native American in the National Archives, given the comments of Ryan quoted in Fishbein [1973]. Some of these records may also be preserved in state, local and tribal archives. For example, Doran [1975-76: 494] refers to the efforts of the Oklahoma Historical Society in gathering various census fragments together.

(3) Research on Francis A. Walker

The contributions of Francis A. Walker to 19th and indeed 20th century America were extensive and diverse. These included modernizing census-taking procedures and outputs, serving as a highly articulate 19th century advocate of immigration restrictions that led to the immigration quotas of the 1920's, and service as the third President of the Massachusetts Institute of Technology for the last 16 years of his life, in addition to his contributions in the area of Indian affairs, both as Superintendent of the Census and as Commissioner of Indian Affairs. Although Anderson [1988] described a number of his contributions, her primary focus was the population census and not Walker himself. The only biography of him extant was written by James Phinney Munroe [1923], who characterized his own relationship to Walker as that of a young disciple [1923: vii]. The resulting work is a glowing tribute to Walker's accomplishments, but it lacks almost any sense of balance or critical judgement. A modern biography of Walker, written by someone knowledgeable about the institutions and issues to which he devoted his professional life, would be a valuable addition to our understanding of several different aspects of 19th century American history. Such a biography, based on a search of archival material at the various institutions that Walker led, a more objective and knowledgeable assessment of Walker's own published writings, and the added perspective of 75 years, would move us well beyond the simple praise of Munroe.

(4) Research on the general phenomenon

On the broader question of the role of statistics and statistical and related data systems in carrying out gross abuses of human rights of one kind or another, for the present, research could follow three distinct avenues: (1) the full documentation of established cases and the investigation of allegations related to examples in other countries, (2) the synthesis of available information on

confirmed examples, and (3) the development of appropriate safeguards. One element of the second approach is the promotion of the translation of important documents and the publication of readers that reprint examples from different countries.⁹ To date, research in the first two areas has been hampered by the relative newness of the topic and the essentially interdisciplinary nature of such research.

In addition, research in these two areas has been opposed by some in the data collection community who express a concern that the study of rare instances of misuse may be misunderstood by the public and needlessly harm ongoing data gathering operations. To be sure, this view is not universally held, but it would be unfortunate if such thinking were strong enough to derail sound proposals for research and discussion. Research and development work on safeguards is proceeding on several fronts, particularly on technical and ethical safeguards. However, in the absence of open discussion about the full range of potential threats based on detailed knowledge of past abuses, research on safeguards could lead to misguided, or at best sub-optimal solutions.

References

- Altman, Hyman. 1969. *Counting People: The Census in History*. New York: Harcourt, Brace and World.
- Aly, Götz and Karl Heinz Roth. 1984. *Die restlose Erfassung: Volkszählen, Identifizieren, Aussondern im Nationalsozialismus* [Complete Registration: Population Census, Identity, and Separation under National Socialism]. Berlin: Rotbuch Verlag.
- Anderson, Margo J. 1988. *The American Census: A Social History*. New Haven: Yale University Press.
- Bassett, John Spencer (Ed.). 1927. *Correspondence of Andrew Jackson*. In 6 volumes. Washington, D.C.: Carnegie Institution of Washington.
- Choldin, Harvey M. 1994. *Looking for the Last Percent: The Controversy Over Census Undercounts*. New Brunswick (NJ): Rutgers University Press.
- Churchill, Ward. 1997. *A Little Matter of Genocide: Holocaust and Denial 1492 to the Present*. San Francisco: City Light Books.
- Clark, Sheldon N. 1877. *Are the Indians Dying Out?* Washington, D.C.: Office of Indian Affairs, Department of the Interior.
- Cohen, Felix S. 1942. *Handbook of Federal Indian Law*. U.S. Department of the Interior, Office of the Solicitor. Washington, D.C.: U.S. Government Printing Office.
- Debo, Angie. 1967. *The Road to Disappearance*. Norman: University of Oklahoma Press. Originally published in 1941.
- Debow, J. D. B. 1854. *Statistical View of the United States being a Compendium of the 7th Census*. Washington, D.C.: A. O. P. Nicholson.
- DeRosier, Arthur H. Jr. 1970. *The Removal of the Choctaw Indians*. Knoxville: The University of Tennessee Press.
- Doran, Michael F. 1975-1976. Population statistics of nineteenth century Indian Territory. *Chronicles of Oklahoma* 53:492-515.
- Elliot, Charles P. 1948. An Indian reservation under General George Crook. *Military Affairs* 12 (2, Summer): 91-102.

- Finger, John R. 1984. *The Eastern Band of Cherokees: 1819-1900*. Knoxville: University of Tennessee.
- Fishbein, Meyer S. (Ed.). 1973. *The National Archives and Statistical Research*. National Archives Conferences, Vol. 2. Athens: Ohio University Press.
- Foreman, Grant. 1953. *Indian Removal: The Emigration of the Five Civilized Tribes of Indians*. Norman: University of Oklahoma Press. Originally published in 1934.
- Garfield, James A. 1869. *The American Census: A Paper Read Before the American Social Science Association*. New York: Nation Press. [Reprinted 1980, as appendix F, to *The Decennial Census: An Analysis and Review*, prepared for Subcommittee on Energy, Nuclear Proliferation and Federal Services, Committee on Government Affairs, US Senate, 96th Congress, 2nd session. Washington, D.C.: US Government Printing Office.
- Greene, Evarts B. and Virginia Harrington. 1932. *American Population before the Census of 1790*. New York: Columbia University Press.
- Jaffe, A.J. 1992. *The First Immigrants from Asia: A Population History of the North American Indians*. New York: Plenum Press.
- Johansson, S. Ryan and Samuel H. Preston. 1978. Tribal demography: The Hopi and Navaho populations as seen through manuscripts from the 1900 U.S. Census. *Social Science History* 3: 1-33.
- Johnston, Denis F. 1966. *An Analysis of Sources of Information on the Population of the Navaho*. Bulletin 197. Washington, D.C.: Smithsonian Institution.
- Kappler, Charles J. 1904. *Indian Affairs: Laws and Treaties*. Vol. I (Laws) and Vol. 2 (Treaties). Washington, D.C.: Government Printing Office.
- Kennedy, Joseph C. G. 1862. *Preliminary Report of the Eighth Census, 1860*. House of Representatives, 37th Congress, 2nd session, Ex. Doc. No. 116. Washington, D.C.: Government Printing Office.
- McLoughlin, William G. and Walter H. Cosner Jr. 1977. The Cherokees in transition: A statistical analysis of the Federal Cherokee Census of 1835. *The Journal of American History* 64(3): 678-703. [Reprinted as Chapter 7, "The Cherokee Censuses of 1809, 1825, and 1835," in *The Cherokee Ghost Dance: Essays on the Southeastern Indians, 1789-1862* by W.G. McLoughlin, with Walter H. Cosner Jr. and Virginia Duffy McLoughlin. Mercer University Press, 1984.]

- Mooney, James. 1928. *The Aboriginal Population of America north of Mexico*. Smithsonian miscellaneous collections, Volume 80, No. 7, Publication No. 2955. Washington, D.C.: The Smithsonian Institution.
- Munroe, James Phinney. 1923. *A Life of Francis Amasa Walker*. New York: Henry Holt.
- Nash, Gerald. 1980. The Census of 1890 and the closing of the frontier. *Pacific Northwest Quarterly* 71 (July): 98-100.
- Petersen, William. 1987. Politics and the measurement of ethnicity. In *The Politics of Numbers*, William Alonso and Paul Starr (Eds.). New York: Russell Sage Foundation, pp. 187-233.
- Prucha, Francis Paul. 1994. *American Indian Treaties: The History of an Anomaly*. Berkeley: University of California Press.
- Ratner, Lorman A. 1997. *Andrew Jackson and his Tennessee Lieutenants: A Study of Political Culture*. Westport (CT): Greenwood Press.
- Reed, Holly, John Haaga, and Charles Keely, (Eds.). 1998. *The Demography of Forced Migration: Summary of a Workshop*. Committee on Population, National Research Council. Washington, D.C.: National Academy Press.
- Rémond, René, et al. 1996. *Le Fichier Juif : Rapport de la Commission présidée par René Rémond au Premier Ministre*. Paris: Plon éditeur.
- Ryan, Carmelita S. 1968. *Vital Statistics in the National Archives Relating to the American Indian*. National Archives Reference Information Paper No. 61. Washington, D.C.
- Seltzer, William. 1998. Population Statistics, the Holocaust, and the Nuremberg Trials. *Population and Development Review* 24 (3): 511-552.
- Søbye, Espen. 1998. Et mørkt kapittel i statistikkens historie? [A dark chapter in the history of statistics?]. *Samfunnspeilet* 8, no.4 (10 September). Oslo: Statistics Norway.
- Thornton, Russell. 1987. *American Indian Holocaust and Survival: A Population History*. Norman: University of Oklahoma Press.
- _____. 1990. *The Cherokees: A Population History*. Lincoln: University of Nebraska Press.

- Turner, Frederick Jackson. 1893. *The Significance of the Frontier in American History*. *Annual Report of the American Historical Association*, pp. 199-227. Reprinted in *History, Frontier, and Section: Three Essays by Frederick Jackson Turner*, Martin Ridge (ed.). Albuquerque (NM):University of New Mexico Press, 1993.
- Tyner, James W. (Ed.). 1974. *Those Who Cried - The 16,000: A Record of the Individual Cherokees Listed in the United States Official Census of the Cherokee Nation in 1835*. Pryor (OK): Pryor Printing.
- US Bureau of the Census. 1909. *A Century of Population Growth: From the First Census of the United States to the Twelfth, 1790-1900*. Washington, D.C.: US Government Printing Office. [Reprinted 1966, New York: Johnson Reprint Corporation].
- _____. 1915. *Indian Population in the United States and Alaska, 1910*. Washington, D.C.: US Government Printing Office. [Reprinted 1973, Millwood (NY): Kraus Reprint Co.].
- _____. 1974. *Bureau of the Census Catalog of Publications: 1790-1972*. Washington, D.C.:US Government Printing Office.
- _____. 1979. *Twenty Censuses: Population and Housing Questions, 1790-1980*. Washington, D.C.: US Government Printing Office.
- US Census Office. 1853. *The Seventh Census of the United States, 1850*. Washington, D.C.: Robert Armstrong, Public Printer.
- _____. 1860. *Eighth Census of the United States: Instructions*. Washington, D.C.: Geo. W. Bowman, Public Printer.
- _____. 1872. *Ninth Census of the United States. Volume I. Statistics of the Population*. Washington, D.C.: US Government Printing Office.
- _____. 1874. *Statistical Atlas of the United States based on the Results of the Ninth Census, 1870*. New York: Julius Bien.
- _____. 1892. *Eastern Band of Cherokees of North Carolina. Eleventh Census of the United States, Extra Census Bulletin, Indians*. Washington, D.C.: US Census Printing Office.
- _____. 1894. *Report on Indians Taxed and Indians Not Taxed in the United States (except Alaska) at the Eleventh Census: 1890*. Washington, D.C.: US Census Printing Office.
- Utley, Robert M. 1993. *The Lance and the Shield: The Life and the Times of Sitting Bull*. New York: Henry Holt. Reprinted by Ballantine Books, 1994.

Walker, Francis A. 1872. *A Compendium of the Ninth Census (June 1, 1870)*. Washington, D.C.: Government Printing Office.

_____. 1873. The Indian question. *North American Review* 116 (239): 329-388. Reprinted, along with other papers by Walker on the same subject, in *The Indian Question*. Boston: np, 1874.

_____. 1891. Immigration and Degradation. *The Forum* 11: 634-644. Reprinted in Walker [1899].

_____. 1892. Immigration. *Yale Review* 1 (August): 125-145. Reprinted in Walker [1899].

_____. 1899. *Discussions in Economics and Statistics*. Davis R. Dewey (ed.). New York: Henry Holt.

Wright, Carroll D. and William C. Hunt. 1900. *The History and Growth of the United States Census, prepared for the Senate Committee on the Census*. Washington, D.C.: US Government Printing Office. [Reprinted 1966, Johnson Reprint Corporation].

Acknowledgments

I would like to thank Margo Anderson, Mary G. Powers, and Herbert F. Spirer for the helpful comments and corrections provided in connection with earlier versions of this paper. I would also like acknowledge the research assistance provided by Mr. Nan Lai, a graduate student in the Department of Sociology and Anthropology, Fordham University, for helping to compile portions of Appendix Table B and the IPUMS project, Department of History, University of Minnesota for providing a copy of the instructions to enumerators used in the 1860 Census. Responsibility for the final paper remains with the author.

Appendix Table A. Treatment of Native-Americans in US Decennial Population Censuses: 1790-1890

Census (1)	Census Law (2)	Census Form (3)	Instructions to field workers (4)	Codes (5)	Dissemination (6)
First (1790)	"omitting in such enumeration Indians not taxed" §2	No federal form.	None	None	None
Second (1800)	No new law	No federal form. Some state forms provide for "All other free persons, except Indians not taxed"	None	None	None
Third (1810)	No new law	Same as 1800	None	None	None
Fourth (1820)	No new law	No federal form. Some state forms provide for "All other persons except Indians not taxed" included under "Free Colored Persons"	Available state instructions do not refer to treatment of Indians	None	None

Fifth (1830)	No new law	No reference to Indians on form	"include all persons of a family (except Indians not taxed)"	None	None
Sixth (1840)	"(omitting, in such enumeration, Indians not taxed)" and "except Indians not taxed" §1	No reference to Indians on form	Same as 1830	None	None
Seventh (1850)	"omitting from the enumeration of the inhabitants Indians not taxed" §1 and "excluding Indians not taxed" §25	No reference to Indians on form	"Indians not taxed are not to be enumerated on this or any other schedule."	No Indian code on form	Debow [1854: 41 and 191] cites a current (1853) estimate from the Commissioner of Indian Affairs of unrepresented and untaxed Indians. See also US Census Office [1853: xciv].

Eighth (1860)	No new law	No reference to Indians on form	"Indians <i>not taxed</i> are not to be enumerated. The families of Indians who have renounced tribal rule, and who under State or Territorial laws exercise the rights of citizens, are to be enumerated. In all such cases write Ind. ... under the heading Color.	No Indian code on form	Kennedy presents limited data on Indians enumerated in the territories [1862: 131] and in the states and territories [133- 135], as well as estimates of the Indian population in the States and Territories not enumerated in the Census and returning their tribal character [136].
------------------	------------	------------------------------------	---	---------------------------------	---

<p>Ninth (1870)</p>	<p>No new law</p>	<p>Item 6 Color includes "Indian (I)"</p>	<p>"'Indians not taxed' are not to be enumerated.... Indians out of their tribal relations, and exercising the rights of citizens under State or Territorial laws, will be included.... Although no provision is made for the enumeration of 'Indians not taxed,' it is highly desirable, for statistical purposes, that the number of such persons not living on reservations should be known. Assistant marshals are therefore requested where such persons are found ... to make a separate memorandum of names, with sex and age, and embody the same in a special report to the census</p>	<p>Code provided on form</p>	<p>Walker presents counts by sex from the 1860 and 1870 censuses for the Civilized Indian population [1872: 18] and an extensive discussion on the importance of proper coverage of Native Americans in the decennial census [19 and 22-23], as well as a table that combines the decennial census count with counts and estimates from Office of Indian Affairs [21]. See also U.S. Census Office [1872: xvi-xvii and Tables 1 and 2]. Statistical Atlas [U.S. Census Office, 1874: Plate 38] shows age pyramids for Civilized Indians for 1860 and 1870.</p>
-------------------------	-------------------	---	---	--------------------------------------	--

<p>Tenth (1880)</p>	<p>"Provided, That Indians not taxed shall be omitted from the enumeration; but the Superintendent of Census may employ special agents or other means to make an enumeration of all Indians not taxed, within the jurisdiction of the United States, with such information as to their condition as may be obtainable." §7</p>	<p>Main census form, Item 4 (Color), Same as in 1870; Indian Division Schedule No. 1, Population, 48 items; Schedule No. 2, Vital Statistics, 11 items; Schedule No. 3, Industries; Schedule No. 4, Education</p>	<p>"It is the prime objective of the enumeration to obtain the name and ... particulars ... of every person ... with this singular exception, viz: that 'Indians not taxed' shall be omitted from the enumeration. By the phrase 'Indians not taxed' is meant Indians living on reservations under the care of Government agents, or roaming individually, or in bands, over unsettled tracks of country... Indians not in tribal relations... who are found mingled with the white population ... or living on the outskirts of towns or settlements are to be regarded as part of the ordinary</p>	<p>Code provided</p>	<p>[To be completed]</p>
-------------------------	--	---	--	----------------------	---------------------------------

Eleventh (1890)	"The Superintendent of Census may employ special agents or other means to make an enumeration of all Indians living within the jurisdiction of the United States, with such information as to their condition as may be obtainable, classifying them as to Indians taxed and Indians not taxed." §9	Main census form, Item 4 (Color), Same as in 1870 and 1880; General schedule for tribal Indians, 80 items; Special schedule for Six Nations and Atlantic states, 30 items; Special schedule for Five Civilized Tribes, 30 items; Special schedule for Indians in Tribes or Living on Reservations..., 9 items; Special schedule for Indians Living Away from Reservations, 8 items; Special schedule for Schools, 23 items	By the phrase Indians not taxed is meant Indians living on reservations ... or roaming ... over unsettled tracks of land. Indians not in tribal relations...who are found mingled with the white population ... are to be regarded as part of the ordinary population of the country and are to be embraced in the enumeration. The enumeration of Indians living on reservations will be made by special agents... The object ... is to obtain an accurate census of all Indians and to prevent double enumeration...	Code provided	Very extensive reporting on the Native American population. In addition to the comprehensive report [US Bureau of the Census, 1894] a series of extra census bulletins were issued on selected individual Tribes or former Nations.
--------------------	---	--	--	---------------	---

Sources:

Col. (2) Wright and Hunt, 1900, appendix E.

Cols. (3) and (4) US Bureau of the Census, 1979, pp. 7-39; also Wright and Hunt, 1900, pp. 894-908 for 1880 and 1890.

For 1860 col. (4), US Census Office, 1860, provided by the IPUMS project (Department of History, University of

Minnesota) is used in place of incorrect information for 1860 in US Bureau of the Census, 1979.

**Appendix Table B. Summary of Federal Indian Treaties Requiring Population Data
or Providing for Population Censuses or Registrations: 1817-1868**

Nation or Tribe and Year	Treaty Article	Relevant Treaty Provision	Native Americans Involved	Citation ^a
Cherokee, 1817	3	a census shall be taken of the whole Cherokee Nation to aid in the division of land and the apportionment of annual annuity payments	Yes ^b	142
Cherokee, 1819	Preamble and 6	Initial census provided for in 1817 treaty canceled and further lands ceded to avoid further delay, or the trouble or expense of taking the census. However if the Western Cherokee object to the assumed allocation ratio, then the census, solely for distributing the annuity, shall be taken . . . as the President of the United States may designate.	No	177 and 179
Creek, 1826	6	the United States agree to purchase for them . . . a country, whose extent shall . . . be portioned to their numbers	No	266
Creek, 1832	2	a census . . . shall be taken under the direction of the President	No	341
Seminole, 1832	2	Payments to Seminole s for claims and compensation to be divided among the . . . several towns in a ratio proportioned to their population	No	344

Winnebago, 1832	3	the United States pay to the Winnebago nation, annually . . . in sums proportional to the numbers residing most conveniently to those places respectively.	No	346
Potawatomi, 1832	5	The United States agree to provide for the Pottawatimies . . . an amount . . . and to an extent equal to what has been furnished any other Indian tribe or tribes emigrating, and in just proportion to their numbers.	No	368
Creeks, 1833	Preamble	And the United States agree to purchase for them, if the same can conveniently be done upon reasonable terms, wherever they may select, a country, whose extent shall in the opinion of the President, be proportioned to their numbers.	No	388
Seminole, 1833	Preamble	The Seminoles Indians relinquish to the United States all claim to the land . . . and agree to emigrate to the country assigned to the Creeks . . . it being understood that an additional extent of territory proportioned to their number will be added to the Creeks country . . .	No	394
Cherokee, 1835	15	the balance of . . . [the net assets] . . . shall be equally divided between all the people belonging to the Cherokee nation east according to the census just completed...	No	446
Ottawa, 1836	6	The following principles shall regulate the distribution. A census shall be taken of all the men, women, and children, coming within this article.	Yes ^d	452

Chippewa, 1837	4	The annuity . . . shall be divided among the heads of families, agreeably to a census, to be taken for the purpose	No	483-484
New York Indians, 1838	2 and Schedule A	It is understood and agreed that the above described country is intended as a future home for the following tribes . . . and the same is to be divided equally among them, according to their respective numbers, as mentioned in a schedule hereunto annexed. Schedule A. Census of the New York Indians As Taken In 1837 . . . [Summary counts provided] . . . The above was made before the execution of the treaty.	No	504 and 508
Stockbridge & Munsee, 1839	2, 3 and Annex	Whereas a portion of said tribes, according to a census or roll taken, and hereunto annexed, are desirous to remove west and the others to remain where they now are . . . the monies payable to the emigrating party shall be distributed . . . according to the schedule hereunto annexed . . . Roll and schedule referred to in articles 2 and 3 . . .	No	529 and 531
Seneca, 1842	6 and 9	. . . such of the said Seneca nation, as shall remove from the State of New York . . . shall be entitled in proportion to their relative numbers to the funds of the Seneca nation . . .	No	540-541

Seneca, 1842 - continued		Second, . . . any number of the said nation, who shall remove . . . shall be entitled in proportion to their relative numbers to all the benefits to the said Treaty.		
Potawatomi Nation, 1846	7	. . . the said annuity shall thenceforth be paid . . . in proportion as the present number shall bear to the number then in existence.	No	559
Stockbridge, 1848	2 and Annex	That no misunderstanding may exist, now or hereafter, in determining who compose said tribe and are parties hereto, it is agreed that a roll or census shall be taken and appended to this agreement, and in like manner taken annually hereafter . . . Roll or census of the Stockbridge tribe of Indians, taken in conformity with the provisions of [article 2 of this treaty] . . .	No	575 and 577-578
Comanche, Kiowa, and Apache, 1853	6	. . . the same to be given them . . . and to be distributed amongst the said several tribes in proportion to the respective numbers of each tribe.	No	601
Shawnee, 1854	2	A census of the Shawnees residing at each of these settlements, and of the minor orphan children of their kindred, and of those electing to reside in said communities, shall be taken by the United States agent of the Shawnees, in order that a quantity of land . . . may be set off and allocated to [each person] . . .	No	620

Kaskaskia, Peoria, etc., 1854	2, 3, 13 and Annex	List of persons or families, by sex, shown in annexed schedule	No	637 and 639-641
Miami, 1854	4	no persons other than those . . . in the corrected list agreed on by the Miamis of Indiana . . . and the increase of the[se] families . . . shall be recipients of the payments . . . stipulated	Yes	644
Chippewa, 1854	12	the Bois Forte Indians . . . shall have the right to select their reservation . . . equal in extent, in proportion to their numbers, to those allowed to other bands	No	650
Kalapuya, etc., 1855	2	if any band . . . shall not accede to the terms of. this treaty, then the bands becoming parties . . . agree to receive such part of the . . . payments . . . as shall be in the proportion that their aggregate number may bear to the whole number of Indians residing in [the area] . . .	No	666
Wyandot, 1855	3	They shall also make up carefully prepared lists of all the individuals and members of the Wyandott tribe . . . which lists shall exhibit, separately, first, those families the heads of which . . . are sufficiently intelligent, competent and prudent to control . . . their affairs Second, those families the heads of which are not competent . . . to be entrusted with their shares of the money . . . ; and third, those who are orphans, idiots, or insane.	No	678-679
Wallawalla, Cayuse, etc., 1855	1	[Same as provision quoted above from article 2 of the treaty with the Kalapuya, etc., 1855.]	No	695

The Tribes of Middle Oregon, 1855	1	[Same as provision quoted above from article 2 of the treaty with the Kalapuya, etc., 1855.]	No	715
Ottawa and Chippewa, 1855	1	For the purpose of determining who may be entitled to land . . . lists shall be prepared by the Indian agent, which lists shall contain the names of all persons entitled, designating them in four classes. Class 1st, shall contain the names of heads of families; class 2d, the names of single persons over 21 years of age; class 3d, the names of orphan children under 21 years of age, comprising families of two or more persons, and class 4th, the names of single orphan children under 21 years of age . . .	No	726-727
Stockbridge and Munsee, 1856	5, 16, and Annex	persons to be included in the apportionment of the land and money . . . shall be such only, as are actual members of the said . . . tribes, (a roll or census of whom shall be taken . . .,) Annex consists of the Roll and census made in conformity with Article 5 . . . and Roll and census of . . . [those] who prefer to remain in Stockbridge according to article 16.	No	744, 746 and 748-751
Creek and Seminole Tribes, 1856	9	The United States agree to remove comfortably to their new country west, all those Seminoles now in Florida who can be induced to emigrate thereto; . . . And to encourage the Seminoles to devote themselves to the cultivation of the soil, . . . the United States do further agree to expend three thousand dollars . . . the same to be proportionately distributed among those now	No	760

		west, and those who shall emigrate from Florida.		
Ponca, 1858	2	In case of any material decrease of the Poncas in number, the said amounts shall be reduced and diminished in proportion thereto, . . .	No	772
Potawatomi, 1861	2	It shall be the duty of the agent of the United States for said tribe to take an accurate census of all the members of the tribe, and to classify them in separate lists, showing the names, ages, and numbers of those desiring lands in severalty, and those desiring lands in common, . . .	No	824
Ottawa of Blanchard s Fork and Roche De BSuf, 1862	8	That upon the ratification of this treaty a census of all the Ottawas entitled to land or money under the treaty shall be taken under the direction of the Secretary of the Interior.	No	833
Kickapoo, 1862	2	It shall be the duty of the Secretary of the Interior to cause to be made an accurate census of all the members of the tribe, and to classify them in separate lists, showing the names, ages, and numbers of those desiring lands in severalty, and those desiring lands in common, . . .	No	835
Chippewa - Red lake and Pembina Bands, 1863	3	. . . the said sum to be distributed among the Chippewa Indians of the said bands in equal amounts per capita, and for this purpose an accurate enumeration and enrollment of the members of the respective bands and families shall be made by the officers of the United States . . .	No	853-854

Chippewa - Red lake and Pembina Bands, 1864	2	. . . said sums shall be distributed to the members of the said bands, respectively, in equal amounts per capita, for which purpose an accurate enumeration and enrollment of the members of the respective bands shall be made by the officers of the United States.	No	861
Osage, 1865	15	. . . thence afterwards receive an equitable proportion, according to their numbers, of all moneys, annuities or property payable, . . .	No	881
Cheyenne and Arapaho, 1865	7	For the purpose of determining from time to time the aggregate amount to expended . . . it is agreed that . . . an accurate census of the Indians entitled shall be taken . . . in the Spring of each year by their agent or other person designated by the Secretary of the Interior . . .	No	890
Comanche and Kiowa, 1865	5	[Same as provision quoted above from article 7 of the treaty with the Cheyenne and Arapaho, 1865]	No	895
Seminole, 1866	4 and 7	<p>Previous to said investigation the agent of the Seminole Nation shall prepare a census or enumeration of said tribe, and make a roll of all Seminoles who did in no manner aid or abet the enemies of the Government, but remained loyal during said rebellion [i.e., the Civil War] . . .</p> <p>The Seminole Nation also agree that a general council . . . shall be organized . . . as . . . hereinafter described: 1st. After ratification of this treaty . . . a census or</p>	No	912-913

		enumeration of each tribe lawfully resident in said Territory shall be taken, under the direction of the superintendent of Indian Affairs . . . 2nd. The first general council shall consist of one member from each tribe, and an additional one thousand Indians, or each fraction of a thousand greater than five hundred . . .		
Choctaw and Chickasaw, 1866	8	[With minor changes, same provisions as those quoted above from article 7 of the treaty with the Seminole, 1866]	No	921
Creeks, 1866	4 and 10	a census of the Creeks shall be taken by the agent of the United States for said nation, under the direction of the Secretary of the Interior, and a roll of the names of all soldiers . . ., loyal refugee Indians, and freedman, be made by him [With minor changes, provisions of article 10 are the same as those quoted above from article 7 of the treaty with the Seminole, 1866]	No	933 and 935
Delawares, 1866	9	the Secretary of the Interior shall cause a registry to be made of . . . all said Delawares who have elected to dissolve their tribal relations and to become citizens of the United States . . . with the names, ages, and sex of the members of the family of each of said Delawares, [sending copies to the federal district court and the Commissioner of Indian Affairs]	No	940

Cherokee, 1866	12	[With one minor change, same provisions as those quoted above from article 7 of the treaty with the Seminole, 1866]	No	945
Seneca, Mixed Seneca and Shawnee, Quapaw, etc., 1867				
(a) the Wyandottes	13 and 14	<p>A register of the whole people, resident in Kansas and elsewhere, shall be taken by the agent of the Delawares, under the direction of the Secretary of the Interior, . . . which shall show the names of all who declare their desire to be and remain Indians, . . . together with incompetents and orphans . . . and all such persons, and only those, shall hereafter constitute the tribe . . .</p> <p>Whenever the register . . . shall have been completed and returned to the Commissioner of Indian Affairs, . . . the amount of money . . . due the Wyandottes shall be divided, and that portion . . . due to the citizens . . . shall be paid to them . . . and the balance . . . [after specified deductions] . . . shall be paid to the Wyandotte tribe per capita.</p>	No	963
(b) the Peorias, Kaskaskias, Weas, and Piankeshaws	28	Inasmuch as there may be those . . . who may wish to remain in Kansas and become citizens of the United	No	966-967

		States, . . . within six months after ratification of this treaty, a register shall be taken by the agent, which shall show the names separately of all who voluntarily desire to remove, and all who desire to remain and become citizens; and . . . they shall be entitled to receive the proportionate share [for] themselves and their children in the . . . funds and other common property of the tribe . . .		
Potawatomi, 1867	4	A register shall be made, under the direction of the agent and the business committee of the tribe, . . . which shall show the names of all members of the tribe who declare their desire to remove to the new reservation, and all who desire to remain and become citizens of the United States . . .	Yes ^c	971-972
Kiowa and Comanche, 1867	10	. . . the United States agrees to deliver . . . each year, for thirty years, the following articles, to wit: For each male person over fourteen years of age, a suit of good substantial woolen clothing, . . . For each female over twelve years of age, a flannel skirt, . . . For the boys and girls under the ages named, . . . ; and in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent, each year, to forward him a full and exact census of the Indians on which the estimates from year to year can be based; . . .	No	980
Kiowa, Comanche, and Apache, 1867	3	In all cases where specific articles of clothing are	No	983

		agreed to be furnished to the Kiowas and Comanches, similar articles shall be furnished to the Apaches, and a separate census of the Apaches shall be annually taken and returned by the agent, as provided for the other tribes.		
Cheyenne and Arapaho, 1867	10	[Substantially the same provisions as those quoted above from article 10 of the treaty with the Kiowa and Comanche, 1867]	No	987
Sioux - Brulé, Oglala, Miniconjou, Yanktonai, Hunkpapa, Blackfeet, Cuthead, Two Kettle, Sans Arcs, and Santee - Arapaho, 1868	10	[Substantially the same provisions as those quoted above from article 10 of the treaty with the Kiowa and Comanche, 1867]	No	1001
Crows, 1868	9	[Substantially the same provisions as those quoted above from article 10 of the treaty with the Kiowa and Comanche, 1867]	No	1010
Northern Cheyenne and Northern Arapaho, 1868	6	[Substantially the same provisions as those quoted above from article 10 of the treaty with the Kiowa and Comanche, 1867]	No	1014
Navaho, 1868	8	[Substantially the same provisions as those quoted above from article 10 of the treaty with the Kiowa and Comanche, 1867, except that the period covered is reduced to from thirty ten years]	No	1017-1018
Eastern Band Shoshoni and Bannock, 1868	9	[Substantially the same provisions as those quoted above from article 10 of the treaty with the Kiowa and	No	1023

		Comanche, 1867]		
--	--	-----------------	--	--

Note: The table excludes: (1) treaties that provide for registration of vital events or of land or other property alone as opposed to people and (2) those that simply list, usually as part of the treaty itself, the persons covered by the treaty. The second exclusion gives rise to a degree of arbitrariness in a few cases. Also excluded are censuses or registrations not referred to in the 367 ratified American Indian treaties, such as those authorized by statute or carried out pursuant to civilian or military decisions.

^a References are to page numbers in Kappler [1904], volume II.

^b Treaty provided for participation by both the Eastern and the Western Cherokees in the over-all management of the census.

^c Treaty provided that the census would be carried out in consultation with the business committee of the Potawatomi.

^d Treaty provided that a tribe council would provide guidance on a classification of capacity to use property.

Notes

1. The introductory portion of the 1850 Census report contains a one page section, "Indian Statistics of the United States 1789, 1825, and 1853" which consists of table presenting estimates for all Indian tribes combined for 1789, 1825, and 1853 and the location and population of each tribe in 1825 and 1853, based on a statement of the Commissioner of Indian Affairs, dated November 10, 1853 [US Census Office, 1853: xciv].
2. The effort to produce a new law for the 1870 Census was led by then Congressman (and future President) James A. Garfield [1869], with staff assistance provided by Walker. Although the House approved legislation, the proposed law became caught up in late reconstruction era politics and was never enacted.
3. One possible explanation for the new instruction dealing with the enumeration of "Indians who . . . exercise the rights of citizens" inserted into the enumerators instructions for the 1860 Census was the need to provide guidance for handling Native American communities, such as those in Qualla town, who insisted on being enumerated. This is consistent with Anderson's observation [1988: 60] that for the 1860 Census, J. C. G. Kennedy, the Census Superintendent, who had also been responsible for the 1850 enumeration, merely modified the schedules and instructions to the enumerators to remedy the misunderstandings of 1850.
4. In addition, dating back to the Spanish missions, various religious bodies have kept registers of one kind or another of Native Americans considered to be converts or congregants.
5. According to Thornton [1990: 55], under the terms of the 1817 Treaty over 650,000 acres were ceded (far less than Jackson's estimate of 2 million), while under the terms of the 1819 Treaty over 3.8 million acres were ceded, covering land in Alabama, Georgia, North Carolina, and Tennessee.
6. This census appears not to have been carried out pursuant to any treaty with the Cherokees. It was referred to, after the fact, in article 15 of the treaty with the Cherokees concluded in December 1835.
7. Several recent attempts to obtain a copy of this reference paper [Ryan, 1968] from the National Archives have, unfortunately, been unsuccessful, even though it remains on the list of currently available research studies.
8. Thornton [1990] did make use of data from both types of sources in his population history of the Cherokees, drawing explicitly on both Finger [1984] and McLoughlin and Cosner [1977]. The question remains do other useful data sets exist, particularly for other localities or tribes.
9. For example, the availability of translations into English of Aly and Roth [1984], Rémond [1996], and Sørbye [1998] would be useful.