

DAKOTA TREATMENT OF MURDERERS*

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THE Dakota Indians commonly known as Sioux made a clear distinction between the killing of outsiders and the killing of a fellow tribesman. In the one case it was regarded as a legitimate part of warfare while in the other it was murder, and therefore a crime against society and liable to punishment. But what that punishment consisted of has not been generally studied. For that reason it is my intention to give you briefly at this time some interesting material on that question which I have been able to find.

The material is not complete as yet. It comes from but two of the three cultural groups of the Dakotas, Yankton and Teton. I have still to get it from the third group, the Eastern Dakota or Santee. But as far as I have gone I find three distinct methods of dealing with murderers. These I shall discuss in the following order:

1. Immediate reprisal killing of the murderer by a male relative of the slain; peace-making optional.
2. Trial by ordeal.
3. Adoption of the murderer in place of his victim, by the latter's relatives.

The order is purely arbitrary. I do not aim to imply any consistent progress of the entire tribe, as time went on, towards a more humane treatment of the guilty. On the contrary it comes out quite clear that the method chosen in each instance was dependent upon the mood and character of the injured relatives.

The first method may be easily explained, for it was the simplest. Some angered relative, usually a brother or cousin, took it upon himself to settle the score in behalf of his kinsmen by stabbing or shooting the murderer at once. In such a case, the murderer's relatives generally accepted his act as an inevitable consequence,

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and did nothing about it. As for the kinsmen of the murdered, they looked upon the man of their number who did the reprisal killing as admirable. An ugly job had been facing them all and he had done it. Naturally they were morally indebted to him because of it. "Our kinsman has soiled his own hands to spare us."

But occasionally it happened that the murderer's relatives were displeased. Perhaps they felt that there had been enough provocation for the murder. That being their attitude, one of them might swear revenge on the man who had done the reprisal killing. Then between these two men there was bad feeling, affecting all the people, for they were all related tribally; if not through blood or marriage, at least through social kinship. But if the two men were of no special importance anyway, nothing was done about their quarrel. "Let them fight it out" seemed to be the council's attitude.

If, on the other hand, either man or both were normally men of peace and good will within the tribe, then something was done. From the augmented council comprising not only the current councilmen but also prominent leaders, two men of good character, who were likely to command the respect of the two men in trouble, were sent to the quarreling ones to persuade them to make peace. The language in which they were commissioned is interesting. The speaker of the council handed each a pipe of peace and said in effect:

"Take this pipe to our unhappy brother. . . . Ask him to accept it. . . . While there is bad feeling in our midst our children cannot be safe, our women cannot be at ease in their hearts. . . . It is every Dakota's responsibility to maintain peace, for peace is our heritage; it is in our name." (N.B. *Odakota* means peace; the *O* is the locative prefix, and the word literally says: "In a state or condition of Dakota-ness." Dakota, the tribal name, means: in friendship, fellowship; allied; in understanding of one another's speech and thought.)

It was both a great honor and a fearful re-

sponsibility for the ones sent out. Their success was a measure of their influence for good and their worth to the people. Sometimes such a messenger returned unsuccessful, finding a very angry man who refused to listen to his pleading; and then another man was sent. In the end the two at odds were brought to the council tipi, having finally yielded; and there they were caused to smoke the peace pipe in communion, and kindly words were said to them, and they were feasted. Then those tribesmen who were especially desirous of peace and were able to contribute goods, assembled two piles of presents which were given to the two men "to cool off their hearts with them." And it was not the intrinsic value of the gifts that mattered; it was what they symbolized: that, to their friends, the happiness of those two men was more important than mere goods.

The two who had acted as mediators expected and received nothing for their offices. Their reward lay in the added prestige which their success had brought them.

It has been suggested to me, facetiously I think, that it must have been profitable among the Dakotas to become involved in a bitter quarrel and thereby come into great wealth all in a day. But anyone who knows Dakota life knows that no Dakota man would go to so much trouble for mere things. Only sudden anger or grief, and a desire for revenge, or family pride, or some such feeling, could cause a quarrel of this sort. In a society where giving rather than getting was glorified, and material goods were constantly changing hands, where it was considered unsocial to amass worldly goods for oneself, and anybody who did so was immediately suspect, a material motive would hardly answer.

In trial by ordeal which I list second, there appear to have been two different forms for carrying it out. One was called "C'a-ápsil-k'iyapi" (which I shall call the Hurdles) and the other was called "Wayáka Kiyúskapi" (Captive Released).

Trial by ordeal was resorted to if nobody from the injured family took prompt vengeance by killing the murderer. One of my informants explained it thus: "Occasionally it happened that all the male relatives of the slain were pacifists and would not kill even in retaliation. Such men preferred to let the Great Mystery decide the murderer's fate."¹

¹ Contrary to the prevailing notion that every Dakota was a killer, meriting the term "cut-throat" given the

Another said: "If it happened that all the male relatives were weak-hearted men (that means cowardly) and were afraid to kill even though their family had been outraged, they turned the matter of punishment over to the council." One informant was in sympathy with such relatives while the other was openly contemptuous of them.

Perhaps we shall get a clearer picture of the ordeals if we have an account of them, so I give now my free translation of the description of White Horse (Teton) as he gave it to me in the native language.

"This my grandfather witnessed, and told to me. A youth had been wantonly slain whose relatives were all gentle, timid people who aimed to keep out of trouble. These said to the council: 'We cannot kill. We are pained, but we cannot kill. Do with the murderer as you will.' And so the council resorted to trial by ordeal, using the Hurdles. This is how it was:

"Four hurdles were set up at reasonable intervals along a course. It was kept clear of people and dogs. It ran in front of the council tipi where the men of importance sat to watch, able to see, because the bottom of the tipi was propped up all around, it being a warm day. Horizontal bars were laid on uprights at a level suited to the man's height, but they were not tied on. It was possible to clear them all without knocking any off—but only with supernatural help. Otherwise, even the movement of air as he passed could knock them off.

"My grandfather said it was a solemn day, oppressive to every one. Especially it was so to the relatives of the murderer. Having no hope of a happy outcome for him, they were already mourning while they stood waiting. The timid relatives of the slain man were also on hand. They were required to stand ready with their bows and arrows and, if the runner failed, that instant they were required to shoot at him together and so kill him; thus all inflicting on him together the punishment that none would undertake alone.

"Men, women, and children thronged about, for this was something everyone dreaded both to see and to miss seeing. The murderer was now

tribe by their enemies, actually there were men who were opposed to taking human life, who chose life occupations far removed from warfare. Now and then when I ask some old man about a point in war I have had such answers as: "I have always been a man of peace so I do not know. . . Ask my cousin, for he was a fighting man."

escorted from a nearby tipi to the starting line. He was nude but for a breech cloth; his feet were bare. At the usual signal cry, 'Ho-ka-hé!', he ran, and cleared three hurdles but failed on the fourth; and then, almost before anyone could see, he was down, with as many arrows sticking into his back as his victim had male relatives. And that was right. The Something-Holy could very well have helped him clear that last hurdle, but he had not. That meant he must die. So nobody could blame those who shot him. It was supernatural justice.

"If ever a murderer survived one of these ordeals, it was because the Something-Holy, the Great Mystery, had exonerated him. He was therefore set free to come and go among the people as formerly. None dared to molest such a one. Whom the Supernatural had helped, no man might presume to judge."

The alternate form of the ordeal, the Captive Released, was substituted whenever the council so ordered. The scene was about the same except that, instead of hurdles being set up, a very spirited horse which till then had run wild and never been ridden was brought in for the murderer to ride, bareback and without reins.² Men struggled to hold it, until the man was seated, and then they released it and it went bucking and rearing and whirling about in an effort to throw him. He clung to the mane for dear life, literally, knowing that if and when he fell he would be killed by the arrows of his victim's relatives, perhaps even before he struck the ground. One informant added that the youth of the community took delight in waving blankets and shouting to frighten the horse even more. He said it was generally thought that this form was even harder than the Hurdles.

There is a gruesome variant to these ordeals, or I should better say, an added feature, which I cannot omit. It appears that occasionally it was decided that the passing of the ordeal as already described would not be quite enough; that the murderer ought to pay still more. So they laid the corpse of his victim in the honor-place of the tipi, and arranged the hurdles so that as he cleared the last one he landed within the entrance to the council-tipi. Or if he was undergoing the Captive Released, he was expected to leap from the horse when it neared the place, and

² The trial by ordeal in which a horse was used might be more recent than the Hurdles. The Dakotas did not get horses until sometime in the latter part of the eighteenth century, it is said.

enter. The councilmen sat solemn on either side of the room and the murderer was ordered to lie down on the cold naked body and feel it with his entire body; warm limb against cold limb, face against face; and so to learn the enormity of his act: that he had taken what he could never restore. Then a piece of cooked meat was touched to the dead lips and he was caused to eat it; and the pipe, lighted and ready, was inserted between the dead lips and he was caused to smoke it. And so at last he atoned for his deed.

"They say this is what happened" is the way my informants spoke of this feature, "they say it happened long ago." Nobody could say of it, "Yes, my great-grandfather said his grandfather saw it." It almost belongs with the legends.

We have still to consider the third method; that of adopting the murderer in his victim's place.

My best account comes from Antelope, a Yankton Dakota, well known and universally respected for his integrity. A man well over seventy, but keen of memory and forthright of speech, who weighed each word before he spoke it; a most reliable informant. I think once again I shall quote:

"This method of dealing with a murderer was to my mind the finest of all. But it took great self-mastery and generosity, and so it was rarely used, since those are rare qualities.

"Suppose a man had been killed, and his relatives met, to decide what to do. They asked themselves: 'Shall one of us go now and finish off the murderer? Or, shall we turn the matter over to the councils asking for trial by ordeal?'

"Now, once in a while, in such a group of relatives was to be found a man of supreme influence both in his own family group and in the entire tribe; one who was brave and generous and had a commanding personality, the kind that men instinctively follow and obey. (A weak, flabby character did not do.)

"Such a man waited tolerantly while the young and impulsive ones had their say. And then he spoke.

"My kinsmen, a great wrong has been done to us; we have been outraged and caused to weep, men though we are. . . So of course it would be right for us to go out and do to the murderer what he has done to our loved one. . .'

"He waited. Then he spoke again: 'But, my kinsmen, there is an even better way. That

neither his relatives nor ours may continue to feel anger and hate for each other, for we are Dakotas all, we will choose that better way.

"Go home now, and bring here the best thing you own. It may be a horse, or arms, or apparel, or a robe. They shall be a token of our purpose, for we are going to take this man who has wronged us, and he shall become "something-to-us" in our loved one's stead. Was the dead your brother? Then this man shall be your brother. Or your son? Or your cousin? As for me, he was my nephew, so this man shall be my nephew in his stead. We will give those gifts to him, and he shall be as though he were our loved one returned to us."

"Whatever the kinsmen felt as he talked, they gradually accepted their leader's proposal for they could see that it was good. This was even better than to retaliate in kind. Shooting would take only an instant and it would be simple, but it would not end the hate. But to win the murderer by kinship, and kindness, was the surer way. It was hard, too, but they undertook to do it. How proud must their murdered kinsman have been, looking backward from Ghostland and seeing what they were doing!

"The council was then informed, and on the appointed day the leading men of the tribe, and the relatives, assembled in the council tipi; and the people, knowing something very rare was about to take place, thronged outside to see and hear as much as possible. The murderer was escorted there. He had not been hiding nor pleading insanity. He was in his right mind; he had done this thing, and he was willing to pay. Whatever the punishment decided for him, he was ready. Only he did not want pity, so he hardened his countenance and did not look about him. He did not want men to say after him in recalling the day, 'Poor thing, how I pitied him! Like some hunted animal he furtively tried to read mercy in men's eyes!'

"But soon the speaker was announcing something. He was saying, 'Smoke now, with these your new kinsmen, for they have decided to take you to themselves in place of One-who-is-not-here. [A euphemism for Dead.] Those goods stacked yonder are for you. Take them, for a token of their purpose to regard you always

as they regarded him. Whatever it was that provoked you to such anger, forget it henceforth. And live happy, going in and out among your relatives in perfect confidence that you have their love and loyalty forever!'

"And then the pipe was lighted, and the murderer smoked with the kinsmen of his victim, and so he became something-to-them, that is to say, a relative; and all anger and hate were purged away from all their hearts. Such a man it is said made an even truer relative than many who were related through blood—because he had been bought at so great a cost."

This rare custom seems not to have come up for recording before. After Antelope's account, several Teton were questioned about it, and some said they had heard of such a thing and others said they had not. Antelope rather thought it was a Yankton tradition, and of Yankton origin, as far as the Dakotas were concerned. I am not prepared to say at this time.

It is not inconsistent with the plains custom of adopting captives. Some Dakotas even adopted enemy warriors who were known to have killed their own relatives. In such cases, the relationship was maintained at a distance, and gifts were sent back and forth at intervals, and when there was a time of truce they visited each other, showing each other every courtesy.

And I have a further sidelight on this, in the instance of a Dakota woman of the Teton group who came upon a slain Crow scout where he lay. He was uncommonly handsome and well dressed. And this woman wailed over him as for her own son. "O, my handsome one, my son! Why have you ventured here, once too often? O, my son!" So she wailed, while she stroked the dead man's cheek and shoulder tenderly. It was known later that her own son, just as handsome, had been killed in a battle with the Crow; and so she had for the moment adopted this man in his place.

The Iroquois, of course, adopted their captives generally; and even whole tribes, which they conquered. These they called "Younger Brother tribes," while they were "Elder Brother tribe." This Yankton custom would then be an understandable feature of the whole pattern of Indian behavior, it would seem.