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Reproductive Justice, Sovereignty, and Incarceration: Prison Abolition Politics and California Indians

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In California the threat of incarceration is commonplace in the lives of Native people. This has been the case since the first years of statehood, when Indians were routinely arrested so that their labor could be auctioned to white settlers. Incarceration continues to be effective against American Indians as a tool of colonization because it accomplishes many of the desires of the settler state. By displacing Indigenous jurisprudence and imposing state punishment on Native people, incarceration legitimizes settler law. By providing a place where the state can send transgressors and deviants, incarceration enables the criminalization of Indigenous bodies. Incarceration also physically removes Indian people from their land, which leaves it open for new waves of settler encroachment, exploitation, and theft. Finally, incarceration is a pernicious tool of colonization because, much like the early practices of genocide in California, it keeps Native people from reproducing Indian identity, culture, land, and children in a way that disproportionately affects Native women.

The prison-industrial complex affects a wide range of people, especially poor people of color. In California, criminalizing poor people of color and policing their communities, as well as relying on incarceration to alleviate complex social issues, have had a devastating impact on Indian sovereignty, including Native peoples' access to reproductive justice. Tribal sovereignty requires many of the same elements as reproductive justice because, without the reproduction of Indian cultures, sovereignty loses meaning.[1] In that reproductive justice includes sexual self-determination, parental rights, cultural integrity, and an intimate relationship with land, it is essential to sovereignty. For Native women in California, the meaning of reproductive justice extends

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far beyond the mainstream feminist demand for access to abortion and birth control.[2] Understood in the context of California Indian history, reproductive justice for Native peoples must include the relationship between peoples and their land, access to ceremony and sacred sites, participation in cultural practices such as the young women's puberty ceremonies, as well as the unfettered ability to have and raise Indian children.

By intruding upon self-determination, incarceration necessarily inhibits Native peoples' reproductive freedom and inherent sovereignty. In discussing reproductive justice and how it applies to California Indians, this article explores several definitions of sovereignty and how they are enacted by both Native individuals and tribal nations. I argue that reproductive justice is essential to tribal sovereignty and analyze how incarceration denies reproductive justice to Native peoples and undermines the sovereignty of Native nations. In addition, I contend that prison abolition politics will address these concerns, because prison abolitionists advocate not only for de-carceration and the dismantling of the prison-industrial complex, but the dismantling of all violence done to communities by settler colonialism. Prison abolition means more than an opposition to incarceration; it entails a commitment to a future in which communities are safe and healthy. Since incarceration jeopardizes the future of Native peoples, I ultimately argue that prison abolition politics are indispensable to tribal sovereignty.

Reproductive Justice

When discussing Native women's reproductive capacity and its relationship to sovereignty and incarceration, I use the term reproductive *justice* rather than reproductive *rights*. Many feminist scholars of color have criticized the reproductive rights movement as primarily concerned with middle-class white women's individual reproductive rights, such as access to abortion and birth control.[3] While these individual rights are important to Native women, to emphasize them as the most important goal or sole aim of the reproductive rights movement renders invisible the context in which California Indian women are having their children. As reproductive justice activist and scholar Jael Silliman further explains, "This emphasis on individual choice . . . discounts the ways in which the state regulates populations, disciplines individual bodies, and exercises control over sexuality, gender, and reproduction."[4] Narrowing the discussion of women's rights to their own bodies to the singular issue of choice does not challenge the many structures which inhibit Native women's bodily autonomy.

The experiences of colonization that Native peoples have had to endure inform their reproductive concerns, making them distinct from the concerns of non-Native people. Considered in the context of state discipline, Native peoples in California have long had their populations regulated as a part of colonization, and their sexual practices, gender identities, and reproductive capacities have been violently curtailed by the settler state. The dominant choice paradigm of reproductive rights is entirely based on an individual's access to choices that are extremely limited by economic and political circumstances; consequently, the possibility that a tribal nation might be able to dictate the terms of its reproductive freedom is marginalized.[5] A claim for individual reproductive rights leaves out a very important part of what reproductive justice means for

California Indian women because it does not include demands for land rights, access to ceremony, bodily self-determination, and the right to raise their Indian children.

In contrast, reproductive justice more adequately speaks to the concerns of Native women because it provides a theoretical framework which allows for the complexity of Native women's lived realities within the context of community and history. Reproductive justice recognizes that the effort to control women's bodies, sexuality, and fertility is influenced by their race, gender, sexuality, and class.[6] According to Loretta Ross, reproductive justice is also a call to action wherein women can respond to the oppression of their bodies and communities in culturally appropriate ways.

> [Reproductive justice] offers a new perspective on reproductive issue advocacy, pointing out that for Indigenous women and women of color it is important to fight equally for (1) the right to have a child; (2) the right not to have a child; and (3) the right to parent the children we have, as well as to control our birthing options, such as midwifery. We also fight for the necessary enabling conditions to realize these rights. This is in contrast to the singular focus on abortion by the pro-choice movement.[7]

Since reproductive justice is a framework that enables social change, it is the most compatible with Native women's need to assert sovereignty and address colonial violence. For California Indian women, demanding reproductive justice is an opportunity for decolonization and a deliberate act of cultural revitalization.

The state of California has a long history of destroying the reproductive capacity of Indian peoples and Indian women in particular. Under the mission system of the Spanish Franciscans, California Indian children were kidnapped in order to coerce their parents into slavery, Native economies were destroyed, entire families were worked to death, and non-Catholic cultural and spiritual practices solicited severe punishments.[8] The mission system quite literally incarcerated Native people and began the process of colonizing the land.[9] When the newly independent Mexican government took over, Catholic priests continued a missionization process fraught with physical and sexual abuse, Natives were regularly hunted and killed for sport, and Indian villages were raided for slave laborers for the benefit of wealthy owners of presidios and ranchos.[10] During California's transition into US statehood, a series of heinous laws were passed to protect settlers' land interests and desire for gold. These laws of the 1850s and 1860s legalized Indian slavery, directly funded genocide, allowed for blatant land theft, and facilitated the kidnapping of Indian children.[11]

As an era of assimilation was ushered in during the late-nineteenth century, federal policies also had a hand in destroying the reproduction of Native peoples. The federal government attacked the future of Native cultures when it required that Native children be sent to boarding schools tasked with remaking the children into assimilated Americans by eradicating all traces of Native culture.[12] Indian land was divided up and given away to settlers under the Dawes Act, while cultural and spiritual practices were scorned and policed by missionaries.[13] In fact, the spiritual practices of Native people across the entire country continued to be persecuted.

In more recent history, many Indian peoples in California were divested of their tribal status during the Termination Era, lost their land, and suffered coercive adoptions of their children by non-Indians.[14] Native women's bodies have also been under attack, such as the Indian Health Services' campaign to sterilize a generation of Native women of childbearing age.[15] As a result of settler laws that are sometimes passed under the guise of environmental protections, Native cultural practices continue to be under siege; simultaneously, development interests threaten sacred sites.[16] Bearing all of this in mind, and as this article will further discuss in detail, it is clear that reproductive justice for California Indian women requires a more complex conversation than the mainstream discursive paradigm of choice and reproductive rights offers.

Land

Land is an essential aspect of reproductive justice for California Indian women. Native peoples in California come from tribal nations that have lived on their lands since time immemorial. Indeed, many Native people maintain that they were born from their land.[17] The widely successful effort by the state to divest California Indians of their land has been and is an attack on the reproductive capacity of Native peoples. As Jael Silliman argues, "Native American efforts to reassert sovereignty over their lands are inextricably tied to their efforts to reassert control over their reproduction."[18] Although many tribes were displaced or nearly annihilated by the onslaught of land-hungry settlers, many did remain on their traditional lands in spite of the violent efforts to remove them. The tenacity of Native people in asserting their belonging to the land even after centuries of violence and socioeconomic exploitation is an indication of how deeply felt are their relationships with their lands. To remove Native people from their land and disrupt or deny their relationship with it has long been a tactic of colonization.[19] For California Indians, traditional lands are imbued with meaning because they contain sacred sites, beings from oral traditions, necessary materials for survival, and, most importantly, burial sites for many generations of ancestors.[20]

Indian peoples' struggle against environmental racism and degradation of their lands is one way in which they assert tribal sovereignty and power over their fertility.[21] In Northwestern California there has been an ongoing battle over water rights between Indian tribes and farmers and a tremendous political effort to strip Native peoples of their sovereign water rights.[22] However, Indian tribes have fought back and asserted their claims on California's rivers in order to safeguard the fish and the people who depend on them.[23] The most recent political battle for water has been focused on the dams on the Klamath River and the subsequent decimation of the salmon population that several tribes depend on; the tribes include the Yurok, Karuk, Klamath, Quartz Valley, Hoopa and Resighini.[24]

The large number of tribal nations involved in the process of gaining federal acknowledgment of their tribal status under federal law is another prime example of ways in which California Indians continue to make claims on their land; in California there are seventy-eight tribal nations currently applying for recognition.[25] Federal acknowledgment is an important step to legally regain land which is held in trust for all

recognized Indian tribes, but the acknowledgment process is long, arduous, and often fruitless for applicant tribes.[26] It requires that tribes prove cultural continuity to the Bureau of Indian Affairs Branch of Acknowledgement Research, which has the power to dismiss any findings that may potentially help them gain federal recognition.[27]

The importance of gaining federal recognition and federal trust land cannot be overstated because of how private access to land facilitates cultural revitalization and the reproduction of Native nations.[28] California Indian peoples' determination to gain or regain recognition from the federal government in order to reassert sovereignty over their lands speaks directly to their desire for a future as Native people. Federal recognition is not a panacea for Native tribes' fight for land, but it is one avenue that Native peoples pursue while clinging doggedly to what guarantees their future as Native nations.

Ceremony

An indispensable element in securing reproductive justice for California Indians is access to sacred sites and the ability to perform ceremonies. Ceremony and ritual for Native peoples are both place-based and community-oriented: Indian people need to be present at ceremony in order to fulfill their spiritual responsibilities to their people and their land.[29] Among the Hupa, Yurok, Karuk, Tolowa, and Wiyot in Northern California, the peoples perform ceremony to remake the world and reestablish relationships of reciprocity with the land.[30] As Hoopa tribal member and dance organizer Merv George Sr. explains, "We pray to the spirit beings in the rocks, in the river, the animals and the plants. Praying that the food will come back, maybe there will be more food, that the weather will be good for the plants and animals, the river will be ok, that everything will be in balance."[31] The function of these ceremonies is the reproduction and continuance of the land, the animals, and the people who enact the ritual.[32]

Ceremonies held on traditional land also reproduce Indian peoples' relationships to one another and enhance social cohesion.[33] Part of ceremonial life for California Indians is fulfilling the responsibility to dance and compose songs for the community. Singing and dancing in ceremony is an act that connects the people to generations of their ancestors and to all of creation.[34] To foster the bonds to their ancestors that ceremonies create is especially important not only because of the massive genocide in California but also the subsequent practices of colonization which have attempted to deny tribes' millennia-long relationship with the land. However, Native peoples have held fast to their ceremonial practices: "It is true that the early settlers disrupted the everyday and spiritual lives of our grandparents, our great-grandparents, and their grandparents in profound ways. But as we gaze on our own children singing and dancing unselfconsciously, we realize that *their* children will be able to choose a future that includes the ceremonial fixing of the world."[35] This statement by Karuk tribal member Julian Lang speaks movingly of the efforts of Native peoples to keep their ceremonies, the importance of passing those ceremonies on to their children, and how essential these ceremonies are for the health of the world.

These ceremonies are not metaphors, but rites which restore balance between human and nonhuman beings, as well as an expression of culture. World-renewal ceremonies tie the people to their land and reestablish their stewardship of it. As Silliman argues, "For Native American activists, reproductive rights include the essential right to pass on their culture. Their struggle for reproductive rights is intimately connected to the struggle for cultural survival and control over their land base."[36] While I agree that cultural survival and land rights are deeply connected to reproductive justice for California Indians, I assert that it is not so much a struggle for control over their land base as it is a fight to remain responsible for the land. This is a moral responsibility that Native peoples have been charged with in order to ensure that the land be treated with reverence and gratitude so that all life continues to thrive.[37] Part of this responsibility is performing ceremony and strengthening the spirit of the earth, but another part is the everyday work of tending the land.

One of the most knowledgeable scholars on the subject of traditional California Indian land management practices is M. Kat Anderson. Anderson's work centers traditional environmental knowledge as it disputes settler-colonial ideologies of pristine wilderness. According to her recent anthropological research, Native peoples in California have been tending the land for at least 12,000 years.[38] California Indians' deeply felt responsibility to their land is evident in the care they have taken during the different stages of cultivation, including controlled burns, irrigation, pruning, pest control, and gathering practices.[39] The cultural practices that accompany the traditional environmental knowledge of California Indians are more than common-sense strategies for sustainability, but also expressions of indigenous cosmologies which center belonging to the land.[40] These practices of caring for the land have cultivated the rich biodiversity in California and guaranteed a future for many generations of Native peoples.[41]

When Native peoples are prevented from carrying out everyday responsibilities of tending the land, their relationships with it become fragmented and their belonging to that place is threatened.[42] In other words, removing Indian peoples from the land destroys their ability to reproduce their relationships to that place. Removing California Indian women from their land and ceremonial practices is one method of stripping them of control over their own fertility; however, the state has also made more direct attacks on the bodies and fertility of Native women.

Bodily Self-Determination

Of course, California Indian peoples' capacity for reproduction cannot be discussed without a critical look at how Native women have been targeted for violence because of their reproductive capacity.[43] Historically, as with Native women across the continent, California Indian women have been singled out for extermination and sexual violence as a part of conquest.[44] In more contemporary history, California Indian women have had their fertility challenged by the massive sterilization campaign of the Indian Health Service (IHS) in the 1960s and 1970s.[45] In fact, Indian women continue to be pressured into voluntary sterilization as other birth control options

made available to them by the IHS are often unsafe or unaffordable.[46] These circumstances, in favoring sterilization as a method of birth control, create a situation in which the federal government directly inhibits Native women's ability to have children, with severe consequences for families and communities.[47]

Controlling California Indian women's fertility is directly related to the state's and corporations' desire for Native peoples' ancestral lands, as well as settler paranoia that Native peoples will become so numerous that they will take back their land. Among other scholars, Andrea Smith argues that a powerful metaphor of pollution thus emerges: "As the ability of Native women to reproduce the next generations of Native people continues to stand in the way of government and corporate takeovers of Indian land, Native women become seen as little more than pollutants which may threaten the well-being of the colonial body."[48] The sterilization of Native women, and the lack of birth control options available to them through IHS, negates their bodily autonomy and self-determination. Not unlike physically removing Indian women from their land and ceremonies, these tactics attempt to deny Native peoples a future. Obstructing or destroying Indian women's abilities to give birth can be seen as a perpetuation of the colonial project which eradicates reproductive justice and threatens tribal sovereignty.

> This interruption of Native communities' ability to raise Indian children is not the only way in which their reproductive capacities have been controlled by the settler state. According to evidence presented to the Subcommittee on Indian Affairs in 1974, between 25 and 35 percent of all Indian children in the country were taken from their families and 90 percent of them were placed with non-Indians.[49]

Culturally, the chances of Indian survival are significantly reduced if our children, the only real means for the transmission of the tribal heritage, are to be raised in non-Indian homes and denied exposure to the ways of their people. Probably in no area is it more important that tribal sovereignty be respected than in an area as socially and culturally determinative as family relationships.[50]

The Indian Child Welfare Act (ICWA) of 1978 was passed by Congress to halt the massive out-adoption of Indian children because of the devastating impacts out-adoption has on Indian children and the future of Indian tribes. However, the ICWA has become the most contested statute of all Indian laws and is vehemently opposed by non-Indians.[51]

The ICWA is an important law for Indian tribes but it is not without flaws. As a result of complicated federal recognition politics, the ICWA has left many Indian children without protections. Indian families without the defenses provided by federal recognition are not eligible for recourse under laws such as the ICWA, making them especially vulnerable to having their children taken away. The consequences of out-adoption for Indian children have been tragic for Native youth and the communities they are taken from. So while the ICWA is an important and useful tool for recognized Indian tribes, it is inadequate for safeguarding the future of Indian peoples. Removing Indian children from California Indian communities or inhibiting Native peoples' access to their children is a violation of reproductive justice and must be considered an affront to tribal sovereignty.

Sovereignty

The meaning of sovereignty for Indian peoples has been probed by many academics. Some criticize its limits and origins,[52] while others seek to stretch its meaning to include cultural practices, literature, and indigenous rights.[53] In this section, I discuss sovereignty as it pertains to reproductive justice for California Indian peoples, mainly emphasizing legal, cultural, and individual sovereignty. Ultimately, tribal sovereignty is a vehicle with which Native peoples stake a claim to a self-determined future.[54] As a tool with which Native peoples can create a future for themselves, sovereignty works for decolonization in tandem with reproductive justice's theoretical framework; indeed, for sovereignty to function, reproductive justice is essential.

Although opinions differ about the practical definition of tribal sovereignty and its function, some consensus exists that Native tribes have an inherent sovereignty that predates the sovereignty of the United States.[55] As Andrew Light and Kathryn Rand put it, "Tribes' ability to govern their members and territories stems from their inherent powers as preconstitutional sovereign nations."[56] The inherent right of indigenous peoples to govern themselves without outside interference was not granted by any settler nation-state. In fact, throughout the relationship between Indian nations and the US federal government, for the most part the federal government has sought to deny or limit how extensively Indian nations exercise tribal sovereignty.[57] The attempts to diminish California Indian tribal sovereignty have serious consequences because they reduce Native peoples' ability to choose their futures. In order to maintain their identities as Native peoples, Indian tribes must maintain and reclaim tribal sovereignty.

Federal Law and Tribal Sovereignty

Legal tribal sovereignty, also known as the federal legal doctrine of tribal sovereignty, is often incorrectly discussed as though it is the complete definition of tribal sovereignty.[58] The emphasis on legal sovereignty makes it seem as though tribal governments and legal jurisdiction are the only ways in which sovereignty manifests. As federal Indian law scholar Robert Miller argues, "Sovereignty is the exercise of power and control over a political body—a group of people and a defined territory, for example—by independent states or political authorities."[59] This definition, while useful for thinking about tribal self-government, is a limited definition for what sovereignty could mean for Indian peoples seeking to defend their claims to a self-determined future. The legal aspect of tribal sovereignty only encompasses the elements of Native nationhood and governance that are recognized and limited by the federal government.[60] By focusing completely on these facets of tribal sovereignty, Native nations are surrendering some of their political power to the federal government—which may at any time withhold recognition.[61]

Self-government and tribal jurisdiction are certainly important, but as some scholars have pointed out, there are defining elements of sovereignty: "tribal sovereignty stems from tribes' status as self-governing indigenous nations with legal, political, cultural, and spiritual authority."[62] When legal sovereignty is treated as the entire definition of tribal sovereignty, its cultural and spiritual qualities are rendered invisible. Since

politics, culture, and cosmologies for Native peoples cannot be compartmentalized and separated from one another, this treatment of sovereignty is fallacious. Tribal self-governance must be informed by the cultural and spiritual aspects of sovereignty for Native peoples to practice self-determination. Legal sovereignty also largely excludes Indian nations that are not federally recognized and over-emphasizes the importance of recognition for practicing sovereignty. As legal scholar Robert Porter has written, "I would argue that lack of recognition only means a *weakening* of one's sovereignty, not an elimination of it."[63] As long as a people believe in their own sovereignty and are able to practice it, their sovereignty exists even without recognition; the cultural aspects of sovereignty illustrate this point very well.

Cultural Sovereignty

I analyze cultural sovereignty in order to flesh out the meaning of tribal sovereignty as California Indian nations practice it today—especially those whose legal sovereignty has been denied due to lack of federal recognition. Cultural sovereignty differs from the federal legal doctrine of sovereignty because it allows for as many unique expressions as there are Indian nations. Cultural sovereignty is necessarily fluid, with members of a tribal community changing it as needed. As Craig Womack states, "Sovereignty, it seems to me, like the oral tradition, is an ongoing, dynamic process, rather than a fixed creed, and evolves according to the changing needs of the nation."[64] In the context of reproductive justice for California Indian peoples, this definition of sovereignty provides space to politicize the reproduction of various aspects of Native communities.

Cultural sovereignty's dynamism makes it more relevant to the lives of California Indian peoples because it allows for creative interpretations of tradition and revitalization. As defined by Duane Champagne, "Cultural sovereignty for a Native community is the right to adopt or reject social and cultural innovations and make social changes that are socially compatible with Native traditions and world views."[65] To treat cultural innovations and traditions critically is an act of sovereignty because it is a claim on a particular future as determined by an Indian nation for itself. Acts of cultural sovereignty in California vary because the meaning of sovereignty comes from within a Native nation. Joanne Barker argues that "Sovereignty—and its related histories, perspectives, and identities—is embedded within the specific social relations in which it is invoked and given meaning."[66] Indian nations choose to build a future by different means, reflecting how critical cultural sovereignty is for the capacity of California Indian peoples to reproduce themselves, their cultures, and their land.

Self-determination is an essential element of cultural sovereignty. According to Robert Miller, self-determination is "the right of a distinct and identifiable group of people or a separate political state to set the standards and mores of what constitutes its traditional culture and how it will honor and practice that culture."[67] It is the prerogative of California Indians to define for themselves which practices best reflect their traditional beliefs. In the context of reproductive justice, self-determination may entail the revitalization of ceremonies or practices, such as traditional basket weaving, and teaching these practices to Indian children. Practices of self-determination do

more than invigorate Indian cultures; they also assert group autonomy and put sovereignty into action. Les W. Field argues that, "Sovereignty . . . sustains the territories where Native people enact and revive their cultural identities, creating and re-creating symbolic realms."[68] Self-determination and cultural revitalization simultaneously create the context in which cultural sovereignty can be enacted.

Individual Sovereignty

Tribal sovereignty, while being an inherent characteristic of all California Indian nations regardless of federal recognition, is enacted by the individual members of those nations. It then should follow that individual Native persons also possess sovereignty. Yet Robert Porter has dismissed the notion of individual sovereignty, arguing that, "the concept of sovereignty is only applicable to peoples, not individuals," and that "personal sovereignty" is the product of selfishness and has little to do with "maintaining an existence as a distinct people."[69] However, it is important to assert that tribal sovereignty is dependent upon the ability of an Indian tribe to act as a collective group; the ability of an individual to participate in a collective act of sovereignty is essential for the existence of tribal sovereignty. Tribal sovereignty is enacted by entire Native nations, but it is also practiced by the individual members of those nations. According to scholar Joanne Barker,

> Sovereignty seemed to belong to nations but was then understood to originate either from the people who made up those nations or as a character of the nation itself (nationhood).The former assertion has defined the work of contemporary indigenous scholars and activists, who have argued that sovereignty emanates from the unique identity and culture of peoples and is therefore an inherent and inalienable right of peoples to the qualities customarily associated with nations.[70]

Without the participation of individual Indian people, tribal sovereignty does not exist.

Yet this is not to say that individual Indian people are sovereign unto themselves, but rather that their participation in specific cultural practices, which guarantee the future of tribal nations, is essential for tribal sovereignty. Carole Goldberg reasons, "In other words, individuals may claim that their fundamental right to self-expression turns on the continued existence of their culture, because their sacred practices, language, and social systems define and enable who they are as individuals."[71] This analysis of sovereignty speaks directly to issues of reproductive justice for California Indian peoples. When individuals participate in the ceremonies that reproduce the land and the people, they are guaranteeing a future for their tribal nation; they are both responsible to fulfill the demands of the ceremony, and they also directly benefit from fulfilling these demands. Wallace Coffey and Rebecca Tsosie reaffirm this claim: "For Indian nations, the process of building community is an essential part of the exercise of sovereignty."[72] This means that an action which infringes upon the self-determination of an individual Indian person is an attack on the sovereignty of an entire Indian nation.

Incarceration

Incarceration does incredible damage to both tribal sovereignty and Native peoples' capacity to reproduce their land, cultures, and children. In fact, Luana Ross asserts that the criminalization of Indian peoples and their subsequent incarceration is directly tied to the loss of tribal sovereignty.[73] This is an apt argument, since sovereignty is a tool by which Native peoples claim a future, and incarceration limits which futures can be claimed. As Stormy Ogden argues, being incarcerated is not a new experience for Native people in this country, since their histories are filled with many forms of institutionalization, which include confinement to military forts, missions, the homes of settler slave owners, reservations, boarding schools, and, finally, state and federal prisons.[74] This argument provides compelling evidence that prisons are just another in a long line of disciplinary spaces that have been used to inhibit the reproductive capacity and sovereignty of Indian peoples.

Federal jurisdiction over Indian country has led to Indian people being incarcerated in federal prisons far from their homes.[75] When Indian peoples are removed from their land they are unable to tend it or perform ceremony, which directly affects the strength of their relationship to their land and their tribes' abilities to practice sovereignty. Incarcerating California Indian people is an attack on their reproductive rights and tribal sovereignty. Since Indians are still arrested for defending their treaty rights to fish, hunt, and gather, as well as for defending the graves and sacred sites of their people, it can be argued that incarceration perpetuates the legacy of restricting the individual and collective sovereignty of Indian peoples.[76] Similarly, when Native people with children are incarcerated, they are separated from their ability to raise their children as Indian people. Removing Native people from their children is a direct assault on their individual sovereignty and reproductive justice as well as an affront to the future of Indian nations.

Understood in the context of the historical and social situations wherein California Indian women have their children, the definition of reproductive justice must extend beyond the mainstream demands for access to abortion and birth control. Reproductive justice for Native peoples must include their stewardship of traditional territories, ability to participate in ceremony, access to cultural practices, and the freedom to have and raise children. In order for California Indian peoples to claim a future, reproductive justice and tribal sovereignty are essential. Incarceration undermines tribal sovereignty and limits the reproductive capacity of individual Native people. Since incarceration threatens the future of tribal nations, it behooves California Indian peoples to include prison abolition in their expressions of tribal sovereignty.

Notes

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25. California Courts, The Judicial Branch of California, Tribal/State Programs, "California Tribal Communities," reports that "According to most recent census data, California is home to more people of Native American/ Alaska Native heritage than any other state in the Country. There are currently 109 federally recognized Indian tribes in California and 78 entities petitioning for recognition." Available at http://www.courts.ca.gov/programs-tribal.htm.

26. Field, *Abalone Tales*, 28.

27. Ibid., 27–29.

28. Ibid., 9.

29. Vine Deloria Jr., *Spirit and Reason: The Vine Deloria Jr. Reader* (Golden, CO: Fulcrum Publishing, 1999), 325–26; Byron Nelson Jr., *Our Home Forever: The Hupa Indians of Northern California* (Hoopa, CA: Hoopa Valley Tribe, 1978), 21.

30. Field, *Abalone Tales*, 163.

31. Ibid., 130.

32. Deloria Jr., *Spirit and Reason*, 326.

33. Ibid., 328.

34. Ibid.; Field, *Abalone Tales*, 92.

35. Field, *Abalone Tales*, 91.

36. Silliman, et al., *Undivided Rights*, 106.

37. Deloria Jr., *Spirit and Reason*, 331.

38. Anderson, *Tending the Wild*, 125.

39. Ibid., 125–54.

40. The California Indian Basketweavers Association's vision statement is evidence of Native cosmologies and the intimate ways in which Native cultures are dependent upon caring for the land (www.ciba.org).

41. Anderson, *Tending the Wild*, 155–56.

42. Ibid., 153.

43. Ines Hernandez-Avila, "In Praise of Insubordination, Or What Makes a Good Woman Go Bad?" in *The Chicana/o Cultural Studies Reader*, ed. Angie Chabram-Dernersesian (New York: Routledge: 2006), 198.

44. Smith, *Conquest*, 80.

45. Ibid., 81; Silliman, et al., *Undivided Rights*, 9–10, 111.

46. Ibid., 94; Silliman, et al., *Undivided Rights*, 12, 113.

47. Silliman, et al., *Undivided Rights*, 109.

48. Smith, *Conquest*, 107. For more scholarship on how the bodies of women of color are made synonymous with pollution and social destruction, see Rajani Bhatia, "Greening the Swastika: Nativism and Anti-Semitism in the Population and Environment Debate," in *Policing the National Body: Race, Gender, and Criminalization*, ed. Jael Silliman and Anannya Bhattacharjee (Cambridge,

MA: South End Press, 2002); and Betsy Hartmann, "The Changing Faces of Population Control," also in *Policing the National Body*.

49. Getches, et al., *Cases and Materials on Federal Indian Law*, 651.

50. Ibid., 653.

51. Ibid., 648. The recent Supreme Court Case, *Adoptive Couple v. Baby Girl*, and the public outcry for an abolishment of ICWA is evidence of this. Chicago-Kent College of Law at Illinois Tech, "Adoptive Couple v. Baby Girl," *Oyez*, https://www.oyez.org/cases/2012/12-399.

52. Alfred, *Peace, Power, and Righteousness*; Glenn T. Morris, "International Law and Politics: Toward a Right to Self-Determination for Indigenous Peoples," in *The State of Native America: Genocide, Colonization and Resistance*, ed. M. Annette Jaimes (Boston: South End Press, 1992); Robert A. Williams Jr., *Like a Loaded Weapon* (Minneapolis: University of Minnesota Press, 2005).

53. Coffey and Tsosie, "Introduction: Symposium on Cultural Sovereignty," 191–221; Craig S. Womack, *Red On Red: Native American Literary Separatism* (Minneapolis: University of Minnesota Press, 1999); Steven Andrew Light and Kathryn R. L. Rand, *Indian Gaming and Tribal Sovereignty: The Casino Compromise* (Lawrence: University Press of Kansas, 2005); Robert J. Miller, "Tribal Cultural Self-Determination and the Makah Whaling Culture," in *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles For Self-Determination*, ed. Joanne Barker (Lincoln: University of Nebraska Press, 2005); Field, *Abalone Tales*.

54. Porter, "The Meaning of Indigenous Nation Sovereignty," 75.

55. Coffey and Tsosie, "Introduction: Symposium on Cultural Sovereignty," 196.

56. Light and Rand, *Indian Gaming and Tribal Sovereignty*, 19.

57. Field, *Abalone Tales*, 10, 143, 170–171. Field describes this as the hot and cold war against tribal sovereignty.

58. Light and Rand, *Indian Gaming and Tribal Sovereignty*, 18.

59. Miller, "Tribal Cultural Self-Determination and the Makah Whaling Culture," 125.

60. Light and Rand, *Indian Gaming and Tribal Sovereignty*, 19.

61. Coffey and Tsosie, "Introduction: Symposium on Cultural Sovereignty," 195.

62. Light and Rand, *Indian Gaming and Tribal Sovereignty*, 5.

63. Porter, "The Meaning of Indigenous Nation Sovereignty," 105.

64. Womack, *Red On Red*, 59.

65. Light and Rand, *Indian Gaming and Tribal Sovereignty*, 21.

66. Joanne Barker, "For Whom Sovereignty Matters," in *Sovereignty Matters*, 21.

67. Miller, "Tribal Cultural Self-Determination and the Makah Whaling Culture," 123.

68. Field, *Abalone Tales*, 168.

69. Porter, "The Meaning of Indigenous Nation Sovereignty," 106–7.

70. Barker, "For Whom Sovereignty Matters," 3.

71. Carole E. Goldberg, "Individual Rights and Tribal Revitalization," *Arizona State University Law Journal* 35 (2003): 890.

72. Coffey and Tsosie, "Introduction: Symposium on Cultural Sovereignty," 199.

73. Luana Ross, *Inventing the Savage: The Social Construction of Native Criminality* (Austin: University of Texas Press, 1998), 12.

74. Stormy Ogden, "The Prison-Industrial Complex in Indigenous California," *Global Lockdown: Race, Gender, and the Prison-Industrial Complex*, ed. Julia Sudbury (New York: Routledge, 2005), 57.

75. Ibid., 62.

76. Ibid.