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Contemporary Modernity and 'Death Ethics': Antecedents and Impacts of Western Expansion as
War in the Northern Plains, 1820 – 1880

By

Leece Michelle Lee

A dissertation submitted in partial satisfaction of the requirements for the degree of

Doctor of Philosophy

in

Ethnic Studies

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Patricia Penn Hilden, Co-Chair
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Spring 2013

Abstract

Contemporary Modernity and “Death Ethics”: Antecedents and Impacts of Western Expansion as War in the Northern Plains, 1820 – 1880

by

Leece Michelle Lee

Doctor of Philosophy in Ethnic Studies

University of California, Berkeley

Professor Patricia Penn Hilden, Co-Chair

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In the broadest sense, the dissertation identifies the "death ethics of war" during Western expansion of the United States, its claims to exceptionalism, and its enduring legacies in Native American contexts historically and today. The logic of Western European expansion in the Americas can be argued to have exemplified the theory the “death ethics of war”. I engage Nelson Maldonado-Torres’s articulation of the "death ethics of war" to identify the political logics behind the normalization of genocide in western expansion. I argue that its gendered dimensions engendered violence against Native Americans and fostered an anti-“Indian” logic that traversed the historical boundaries of its inception and became embedded in American institutional and social imaginaries. As one of the most enduring legacies of colonialism, anti-“Indianism” was enabled by racial and gendered logics that permeated the laws and discourses of colonial expansion and became part-and-parcel of the Western imaginary largely through popular culture mediums. The resulting compulsory subject formations established the ostensibly natural human difference between “Indians” and Western European civilizations and in doing so negated the humanity of Native Americans while substantiating the incomparable superiority of Western European and “white” settler societies in America. It was a paradigm, I argue, that continues to underpin Western modernity, American social relationships, and ultimately the systemization of differential political justice for Native Americans in the United States.

I centralize the 1864 Sand Creek massacre because it is one of the highest points of state sanctioned anti-“Indian” violence in during Western expansion on record. Because of the inhumane violence exacted by American military personnel who perpetrated the massacre, the Sand Creek massacre most clearly exemplifies how Western expansion was infused with “death ethics” that facilitated epistemological and literal forms of death in the Native American context. In response to the enduring legacies of anti-“Indianism,” the activism of Native American women across the U.S. exemplifies the “ethics of revolutionary love”. I employ Dr. Patricia Penn Hilden’s theory of the “Red Zone,” which identifies Native American activism as a political and spatial consciousness. I explore the myriad life-affirming efforts of Native American women activists to combat and ameliorate the negative effects of contemporary anti-“Indianism”.

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Early mentors of mine, including loved ones, have extended their guidance, counsel, and commitment. The following people must be added to these acknowledgements because they enabled the development of my scholarly and activist concerns in ways that help develop my work and maintain my commitment to excellence in scholarship and activism. Without their support, this project would simply have not been possible. I learned at home and in my work with Native American peoples that scholarly work in the Native American context is severely underrepresented in academic institutions, but is critical to understanding the foundations and current realities in the U.S. Therefore, I have learned to value what has been an invisible reality to much of the world that is, the lived realities of Native American peoples and what these

realities can teach us about American life and democracy itself. Therefore, I learned that scholarship must have real-life applications. I am deeply indebted to my mother, who was my first teacher and the first person who taught me to see myself as an intellectual, a scientist, and as a person who had the capacity and potential to do meaningful work in this world. My sister Portia and brother Jason have always supported my intellectual processes with their commitment. Their questions and commentaries about my work always remind me to remain vigilant about how my work applies to people outside of the so-called scholarly world. Tolah Oliver has exhibited a rare patience with the demands of my work and offers only love, admiration and safe harbor. He is a living example of an “organic intellectual” and our many conversations have helped me to advance my work greatly. Moreover, I would not have become a teacher and scholar without the deep commitment and mentorship of Standing Rock Sioux elder Wilma Crow and Lakota elders Twila and Dwight Souers. These elders carry the greater part of our community and their tireless mentorship, generosity, humor, critical questions, honesty, and their constant reflection of good mentorship continues to provide invaluable sources of support and reflection of the importance of this type of work. Because they are living examples of Native American activism in its most life-affirming manifestations, these elders stand as role models of the critical interventions made in Native American communities, that is, the work of Native American peoples who ameliorate the negative effects of anti-“Indian” racism and sexism in our communities. My mother, Pat Hilden, Wilma Crow and Twila and Dwight Souers are prime examples of those who respond to corrosive racist and sexist ideologies with no-nonsense resistance that is replete with the ethic of revolutionary love, strength and fortitude.

UC Berkeley staff members Carmen Foghorn, Cindy Andallo, Carla Trujillo, Francisca Cazares, Dewey St. Germaine, and Laura Jimenez have advised and supported me through this process in a thousand times over. If I can model your support to students, I will have learned to better serve the person beyond the student. I owe you all a great debt of gratitude for helping me turn every corner with their willingness to go above and beyond the job and extend real support to others.

Above and beyond the intellectual commitment that each person above has extended, it has been their integrity and love of social justice that likely have had the most profound effect on the growth and development of this project and myself as a person. Their love, commitment and personal integrity have made the arduous journey of getting a Ph.D. possible. Their examples as mentors, their political integrity, and commitment have lifted me out of the depths of self-doubt and despair by their example and, at times, insistence that I remember why I do this work. All of these people helped a person with an idea produce a meaningful dissertation.

Chandler, Levi, Jackson, Jordan and Kaidence, having your love and presence in my life are constant reminders of why social justice work is imperative. I’ve said it before and will say it again; you are the best gifts that life has ever given me.

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“Contemporary Modernity and ‘Death Ethics’: Antecedents and Impacts of Western Expansion as War in the Northern Plains, 1820 – 1880”

My dissertation examines the logic and legacies of western expansion in the United States and its claims to exceptionalism. I engage the concept of the “death ethics of war” as it is used in the work of Nelson Maldonado-Torres to examine the rhetoric of human difference that underpinned modernity and colonial subjecthood and inspired decolonialism. I assert that the logic of the “death ethics of war” governed western expansion, shaped and is shaped by racial and gendered ideologies, and facilitated the normalization of genocide. I draw on the Sand Creek massacre of 1864 to illustrate the material ways in which the “death ethics,” race ideology and gendered discourses serve to foment the dehumanization and super-subordination of Native Americans. I utilize decoloniality as a framework for considering the roles of Native American activists who confront the legacies of colonialism today.

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Introduction

“Contemporary Modernity and ‘Death Ethics’: Antecedents and Implications of Western Expansion as War in the Northern Plains, 1820 – 1880”

In 1999 I was gifted an oral history of the United States military massacre of Cheyenne and Arapaho peoples at Sand Creek, Colorado, in 1864.¹ The great-grandson of two of its survivors imparted the history to me and when he finished, he said, “Now you can really teach about the Sand Creek massacre.” My aim here, however, is not to draw attention to the massacre as a phenomenon or event associated with Native American peoples. Rather, first and foremost, this dissertation is dedicated to addressing anti-indigenous female violence and its different forms as a postcolonial phenomenon that is rooted in colonial expansion. For that, the Sand Creek massacre serves as one of the best exemplifications of the roots of this phenomenon. Its examination exposes the broader narratives of Western power and its hegemonic discourse in the U.S., the semiotics and lexicon of American exceptionalism and its dependence on the racial formations of Native American peoples, and the roots and logics behind the current “epidemic” level of violence against Native American females today.² This project emerges from a set of concerns about how the legacies and the lingering social ideologies of colonialism come to bear on Native American females and how this phenomenon, and the histories of abject subjecthood and vicious subjectivity, illustrates the normalization of the death of the Indigenous “Other”. In addition to legal discourses, I also argue that within the spaces of movies, novels, and popular culture venues, the concepts of “savage Indians” and “squaws” emerged and helped to sell the story of a benevolent, if necessarily violent, West against a “vanishing” racialized peoples, while simultaneously bearing witness to the physical and cultural dispossession of Native American peoples. No one person stewarded “Indian” eradication alone. Rather, a number of people helped to usher in anti-“Indian/squaw” logic and the legal and systematic employment of that logic, within the philosophical, moral, and ethical codes of nation-formation. The resulting discourse deeply implicated “Indians” and “squaws” as perennial enemies of not only the nation, and its settler society, but also Western ideals. This aspect of the project is most pointedly concerned with the ethical suspensions that some of these figures construed with respect to the treatment of those subjected to such an enemy status, especially those whose racialized and gendered “nature” were purportedly rooted in their criminality.³ I contend that the institutional and social

¹ The term “gifted” and this phrasing is a cultural expression common among Native Americans. Gifting refers to material and non-material “gifts” have been extended from one person to another usually for the purpose of recognizing the receiver and his or her state of being as it relates to the gift. The expectation of reciprocity is inherent in the gift. In my case I have, as I was instructed, taught about the massacre from a tribal perspective and I continue to write about the massacre in my attempts to contribute a more complex and historically honest representation of the massacre.

² The comment regarding the “epidemic” level of violence against Native American females references a letter distributed to legal authorities by the American Bar Association. The letter acknowledges that contemporary violence against Native American females has reached epidemic levels and asserts that the Supreme Court holds the responsibility to advance legislation that extends jurisdiction to tribal authorities on reservations where the rate of violence is highest. Authority to ameliorate the issue has been a power held by U.S. federal law enforcement agencies who are far removed, literally, from reservations. Moreover, the letter acknowledges that neglect, historical legal precedent, and what is referred to as the “jurisdictional maze” of federal-Indian law has left these victims virtually unprotected. This matters is examined in the final chapter of the dissertation.

³ The term ethical suspension is used by Nelson Maldonado Torres in *Against War* (2008) to connote the absence of value placed on institutionally marginalized peoples of a particular group, whether the subjects of colonizers or

apparatuses that enable justifications for the types of subjugation examined in this project, including genocide, are born of these raced and gendered ideologies.

In this investigation, I attempt to make intelligible the logic of imperialism that was at the heart of Western expansion in the U.S. and its various manifestations of “death”. I contend that once the logic is visible, it will demonstrate how anti-“Indian” logic was encapsulated in the laws and the metaphor of “just war,” how the discursive process to legalize Western expansion and American settlement was fostered by anti-“Indian” logic, and how this paradigm set the stage for the opaquely brutal and unconditional expression of state violence that the Sand Creek massacre represents.⁴ Moreover, I endeavor to locate the Sand Creek massacre within the broader schema of Western expansion and produce a gendered analysis of this period of Western expansion by contemplating the massacre’s framing as an act of “civilized warfare”. In reality, it was a military coup that resulted in extreme and sadistic forms of violence committed by male military personnel primarily on the bodies of Native American females. I was perplexed then as I am now by the nature of the violence during the Sand Creek massacre and that this reality of American military history, at least for much of the dominant society, lays quietly dormant, nestled deep behind western nostalgia and nationalism. I seek to understand how racist sexism operated then and how it continues to operate against Native American females today.

I draw on documented oral and written histories of the massacre, historical archives, and the testimonies of the massacres’ commanding officer, Colonel John Chivington, and his troops to illustrate the racial and gendered discourses that were espoused and which immersed the massacre in a type of weary confusion, not over the nature of its brutality, but confusion that arises as a result of the conflation of discourse of democracy and progress that also contains within it institutional allowances for inhumane violence towards certain subjects. I believe it speaks to the convoluted ethical reasoning behind this and other expressions of state and state sponsored violence that are reflected in the tensions that emerge between the new settler government, Anglo-American settlers who have come to understand themselves as “native” Americans, and Native Americans, who become “Others” in the process. Together these formations inform and compel inhumane violence towards Native Americans.

Employing the Sand Creek Massacre, Colorado, November 1864

In my examination of the Sand Creek massacre I advance new interpretations intended to make its gendered lessons clear. In conversation with scholarship dedicated to examining the massacre, I undertake this aspect of the project in part to show how the massacre is also representative of the institutional corruption of historical memory, the unnatural and manipulated contours of the Western imaginary, the corruption of western codes of morality, and of the false bottom of democracy. I intend, moreover, to explore these mid-19th century events in order to understand their continuing relevance to the contemporary misery index of Native Americans and question how Native American females are particularly impacted by it.

At its most clear articulation, the Sand Creek massacre is remembered as a four-day period when Cheyenne and Arapaho peoples were subjected to a violent onslaught by American military personnel at Sand Creek, Colorado in 1864, during the expansionist period in the Northern Plains of the United States. In the end, the massacre took its primary toll on female

Nazis, within which the logic of morality can include caveats wherein abject subjecthood of an ousted portion of an assumed community is allowed to emerge and operate. The concept of ethical suspension is examined further in chapter one within the establishment of the theory of the “death ethics of war”.

⁴ See Lewis Hanke’s work on the Valladolid Debate of 1550 taken up in chapter two.

victims whose bodies were subsequently subjected to post-mortem mutilation by American military personnel. Sand Creek resists inclusion into the annals of western historical nostalgia in part because of its brazen brutality, but also due to a variety of forms of criticism that revives its memory despite the operative power of the “death ethics” that subordinate indigenous histories to Western accounts.⁵ Moreover, it serves as a site for a long overdue critique of the formations of U.S. racism and racist sexism and their deployment during the projects of expansion, settlement, and the violence associated with both. It unfolded as follows.

In 1851, the United States entered into a treaty agreement with the Cheyenne and Arapaho peoples.⁶ Unsettling as the relationship may have been, tribal leaders and the peoples themselves worked to adapt to the new conditions of having a foreign government assume political power over them and their greater territory. In the years to come, the Colorado territory would become more deeply enmeshed in the West’s efforts to acquire and rule over the geographical space of the Northern Plains, not at that time as a means to acquire natural resources, but rather to utilize the vast and open spaces to develop routes for western expansion to the Pacific coast. However, driven by the prospects of political and economic interests in the area, the government continued to develop a more complex and structured governmental administration to oversee the projects of expansion and to manage what had become known as the “Indian problem”. In 1861, a new agreement, the Treaty of Fort Wise, established a smaller tract of land for the Cheyenne and Arapaho and reflected the imperatives of assimilation to which the tribes were bound.⁷ These included an infrastructure that modeled that of the American nation-state, such as individual property assignments and access to the tools and trade of agrarian industry. However, by the early 1860s Anglo settlement had increased exponentially as did the interest in state formation. While local officials did not always agree with the logic and ramifications of “Indian eradication,” they still pressed the federal government to reassign the territories of “Indians” to increasingly smaller parcels of land.

In September of 1864, Cheyenne and Arapaho leaders were forced to move near Fort Lyon, in Colorado territory, and take full responsibility for their own subsistence. This directly conflicted with the agreements made in the Fort Laramie Treaty that had sustained for the Cheyenne and Arapaho, among other Northern Plains peoples, the right to their “usual and accustomed” places of habitation and subsistence. Moreover, the moment is also representative of the practice of withholding commodities and other assistance which was promised to Native American tribes designated as “friendly Indians” during expansion. Many of the Cheyenne and Arapaho leaders came together to set up an encampment near Sand Creek despite the opposition of their peoples and the losses of those who resisted and refused to move to the new encampment. In October of 1864, Cheyenne and Arapaho elders were summoned to Washington, D.C., to receive a U.S. flag and medals of honor from the Office of the President as a gesture of the Western government’s acknowledgement of their status as a peaceful, or “friendly,” people.⁸ In the event of future military operations the elders and leaders were directed to raise the flag above their people, and this would signify a directive from the federal government to its troops to bypass the area. The stipulation, that the peoples must vie for their own subsistence even in the midst of western settlement and the ever increasing anti-“Indianism” that was rife in the territory, was an important one and was likely the death knell of the peoples. The new requirement made

⁵ See David Stannard 1992; Nelson Maldonado-Torres 2008; Steve Martinot 2010.

⁶ See the Treaty of Fort Laramie of 1851.

⁷ See the Treaty of Fort Wise (1861).

⁸ President Abraham Lincoln was in office.

Cheyenne and Arapaho peoples solely responsible for their own subsistence. This premise, and the promise of a military hiatus, was what military officers drew on when they visited the encampment at Sand Creek to urge the Cheyenne and Arapaho to go on a long-overdue hunt. What followed the departure of the majority of the tribes' males, was likely an event that its victims were never intended to survive and, most certainly, could not have anticipated.⁹

On November 29, 1864, over 600 armed troops arrived on the edge of the Sand Creek encampment. Some of the peoples ventured out to talk with the leaders, but were fired upon. The elders, some donning their medals, raised the U.S. flag and attempted to assuage the fears of their peoples, many of whom sought shelter from the chaos in the dry bed of Sand Creek. Others attempted to flee. What ensued afterwards was a four-day assault with weapons of a variety of sorts including everything from pistols to howitzers. It is said that when the hunting party finally returned, they found the bodies of their families, dead and mutilated, and a "war zone" that spread for acres. They found girls and women, boys and elderly men, teachers, medicine peoples, aunts, uncles, cousins, and scientists, their homes, tools, and clothes, everything and every body destroyed. The found young and old alike, were disembowled, missing fingers, breasts, and scrotums. They found women in various stages of pregnancy lying dead with their unborn children cut out of their mothers' wombs and laid next to their mothers. Missionary and government officials are documented as saying that the wailing sounds of the mourners were so unbearable that they could not continue to walk the grounds with the men.¹⁰

More than a century later, the Sand Creek massacre site had seemed to escape recognition outside of Native American histories and the scholars who produce them in the academy. President Bill Clinton was in office when Steve Brady, Sr., and a number of other tribal representatives met and witnessed his inauguration of the process for gaining authorization of memorial site with signage noting the massacre. The final stage of authorization came in 2005 when George W. Bush signed the official authorization for designating this an historical site. A headstone-style monument was put in place with the engraving, "Sand Creek Battle Ground, November 29 & 30, 1864".¹¹

In the 19th century American identity was saturated with a well-structured race ideology, inherent notions of divine right, and the concomitant assumptions of "Othered" differences. Together, these formed the basis of an alternative "native" American identity that was based on an ideology of Anglo exceptionalism and illustrates the ellipses in the democratic ideals because it fostered and fomented anti-"Indian" logic in its pursuit of American political autonomy.¹² Committed to Western exceptionalism, political figures that were stewarding the developments in the "Indian wars" taking place throughout the Northern Plains drew from a grand narrative of American exceptionalism. In doing so, I argue that these figures aided in the cultivation of a hostile social environment with a logic that simultaneously enveloped the dominant social body as exceptional, while it expelled Native Americans from the both the territories and the national

⁹ As it is detailed in chapters two and three, the basis for the Joint Committee's decision to deem the Sand Creek massacre a "war crime" was partly based on the "friendly" and "unarmed" status of the peoples. The egregious nature of the crime was deemed so because the court found that every effort had been made to convey to the peoples that their status and the directives of President Lincoln gave them the protection of the federal government. Because, as the statement issued by the Joint Committee claims, every effort had been made to compel the people to consider themselves safe in the midst of military, it made them unable to assume they would be subject to military attack.

¹⁰ Powell 1979; Churchill 1997; Weeks 2001.

¹¹ Image and commentary from the National Park Service website link to the "Sand Creek Massacre National Historic Site".

¹² Matthew Hannah 2006.

social body. In the historical discourse, Native Americans were deemed so different from the West that “Indians/squaws” embody a collective peculiarity that threatened to always undermine if not cause the deaths of settlers and settler societies and, the success of American nation-formation.¹³ Laced with political and economic arguments, I demonstrate that settlers, vigilantes and volunteer military located near where the massacre would take place were plied with offers of land, which constituted the primary tool for acquiring economic and social stability, for their assistance in supplanting “Indian” peoples. Beyond establishing entitlement to sites of settlement, the discourse of political figures, who believed in the exceptionalism of their own cultural normativities, became part of popular culture, thereby transferring the anti-“Indian” logic of the government to the broader population and swiftly persuaded many members of the dominant social body to perceive themselves as the rightful inheritors of the larger project of state and nation formation, and “Indians” as their enemies, or at least as enemies of progress. Cheyenne and Arapaho peoples were implicated in this expression of the “White Man’s Burden”.¹⁴ The social body reasoned, alongside their government, that they should inherit the land and its promise as given by God to western “Man” and argued that Cheyenne and Arapaho peoples should subsist on their own and far away from the local fort. The Sand Creek massacre of 1864 illustrates the interrelationship between the rhetoric of Western expansion, state formation, and the fomentation of violence against Native Americans.

The Dissertation and its Points of Departure

Utilizing an interdisciplinary approach, I attempt to illustrate how Western expansion in the Northern Plains of the United States was fostered by raced and gender ideologies that lead to the normalization of genocide and the death of “the Indian/squaw” “Other”. Moreover, I assert that death unfolded in a myriad of ways, constituting expansion as an operation geared toward achieving the “multiple deaths” of “the Indian/squaw” “Other”.¹⁵ Multiple deaths of the

¹³ Philip Deloria (2004), Robert Williams (2005), Kate Flint (2009) are among the scholars who identify and examine the phenomenon of Native American racial formation. Flint terms the “peculiarization” of Native Americans as an early interpretation that served in the West’s exoticization of Native Americans. It is a phenomenological approach where the West defines the Native American “Other” by looking inward at the European self and civilization. The imposition of “difference” is constituted through a Western interpretation of Native American phenotypes and cultural practices that, coalesced, form a particular articulation of unintelligibility of the Native American “Other”. In his work, *The Native Races* (1883), Hubert Howe Bancroft repeatedly returns to the term “peculiar” to describe Native American peoples cultures and physical appearance as he assessed them. A more complete analysis of Bancroft and this subject is taken up in chapter two.

¹⁴ See Rudyard Kipling’s 1899 poem, “The White Man’s Burden,” which seems to coalesce the race ideologies of 19th century and merge them with the notion of social responsibility. Couched as the formation of a benevolent Western empire, Kipling places the “burden” of stewarding the people of the world on the gifted and exceptional Anglo American male. Kipling’s poem served to utter a call to white American males, and by extension Anglo American females, to seize opportunities to adopt a sense of American entitlement and draw from it to expand the American empire to rule over other colonies in the world.

¹⁵ The term “multiple deaths” was coined by Nelson Maldonado-Torres in response to my clarification of my approach to the use of the term “death” throughout this project. My cultural-intellectual upbringing taught that a person can die in many ways in one life time. If she or he survives, the person should work to become whole and complete in whatsoever their culture deems complete. As I have contemplated the effects and legacies of colonialism and imperialism over the years, I came to understand the Foucauldian contemplation that governmental institutions and actors, structured thusly, can exact the systematic suppression of cultural and social norms that deviate from hegemonic norms. The systematic suppression of cultural beings, when one considers them embedded with race and gender ideologies, can when intended lead to the absolute destruction of not only people themselves, but the cultural means by which the self is recognizable as a cultural self. Native American scholars like Maria Yellow Horse Brave Heart takes note of the systematic suppression of Native American histories and grievances as

“Indian/squaw” “Other” occur through a tripartite system of “Indian” subject formation that utilized the discursive erasure and re-presentation of Native Americans as a figment of the Western imaginary, the transnational circulations of West’s “Indian” and “squaw” through popular media, and the legalization of the disenfranchisement and literal death of the “Indian” and “squaw” by the end of the 18th century. Theoretically, I engage Nelson Maldonado-Torres’s expansion of the “death ethics of war” to identify the political logics behind the normalization of genocide in western expansion. In his use of the “death ethic of war,” Maldonado-Torres identifies the logics behind human difference and negation that underpin western modernity. Extending from his analysis, I take into account how the “death ethic” is made visible during the Sand Creek massacre and its surrounding events. I consider how “the Native,” “the Indian” and “the squaw” emerge in the anti-“Indian” logics that flourished in 19th century racial formations in America. Finally, I explore critical and theoretical engagements with this history in the scholarship and activism of Native American women, employing Patricia Penn Hilden’s theory of the “Red Zone,” which demarcates a political and spatial consciousness evident in the revitalization efforts of Native American activism. My dissertation engages four concerns: 1) the contradictory nature of western expansionist arguments on civility and the use of genocide against indigenous peoples, 2) the role of “the Indian” and “the squaw” in popular and political narratives of “the West”, 3) the implications of this history on violence against indigenous females, and 4) the importance of Native American histories and epistemologies in political modes of resistance.

Chapter One, “America’s ‘death ethic’: Identifying the Logics of War and Extermination in the Sand Creek Massacre,” establishes an interdisciplinary and theoretical framework of the teleology of wars of expansion in the Americas, addresses contestations between hegemonic rhetoric and Indigenous responses to expansion, and identifies key elements of Anglo-exceptionalism that are evidenced in the political rhetoric of Thomas Jefferson, in whose Notes on the State of Virginia (1785) espouses commentary on the “nature” of “Indians”. The chapter highlights similar sentiments as they arose before the Sand Creek massacre. I offer a critical analysis of how the teleology of wars of expansion shaped white racial attitudes and American exceptionalism and normalized the links between race, gender, and dehumanization. I will revisit the precursors of the Sand Creek massacre to consider the political use of racial logics to justify first, Cheyenne and Arapaho physical isolation and disarmament, and second, the military’s use of abject violence. Scientific racism and its historical uses had profound impacts on the ways that Western institutions administered their relationship to “the Indian”. Through this point of departure, I will examine the means through which genocide was called for in order to secure western expansion. I seek to identify the inherent moral contradictions of western expansion through an examination of “the death ethic of war”. In part, I will focus on Cheyenne and Arapaho female victims at Sand Creek. I argue that the violence borne against Native American female bodies and their subsequent erasures enables new and important points of departure to emerge about the racial and gendered nature Native American and U.S. political relationships. I will use the post-massacre Congressional Hearing and related public commentaries, in military journals and local newspapers, to interrogate the political terrain of this violent annexation, and to highlight the brutal nature of the Sand Creek massacre. I pay particular attention to post-massacre military defenses where, for example, variations on “Indian” inferiority were expressed

sources of the continuing degradation of Native American peoples. In part, *Brave Heart* contends that the experience of such erasure directly contributes to the exceptionally high suicide rates among Native Americans, especially Native American youth. *Brave Heart*’s work is taken up in chapter four of the dissertation.

within the justifications and excuses made about the massacre's brutality and post-mortem mutilations of the victims' bodies. This point of departure enables the rhetoric of the "death ethic of war" to emerge through the moral justifications of "Indian" eradication. The Congressional Hearing also makes visible a form of American exceptionalism, expressed in the testimonies of U.S. government officials, the military, and settlers, who justified territorial annexation through inhumane violence against Native Americans, and reveals others who left this violence unquestioned. Inherent in this logic is the mutual constitution of Anglo-European civility and "Indian savagery," and notion of a natural racial and cultural dimorphism between the two ostensible groups, that comes to bear during and after western expansion.

My project is in conversation with Nelson Maldonado-Torres's analysis of "death ethic of war". This concept was first used by Steve Martinot as a way to link U.S. war practices, the contemporary prison industrial complex, and the death penalty. Maldonado-Torres uses the concept in dialogue with coloniality theory and Africana phenomenology to advance a critique of the broader era of modernity and the racial dimensions of wars of expansion. I expand this analysis with a gendered critique that focuses primarily on the Sand Creek massacre and the "ethical suspensions" of human recognition and humane treatment of Cheyenne and Arapaho peoples. I engage the concept of "scientific racism," as argued in Peter Wade's Race and Ethnicity (1997) as well as Christopher Fox Roy Porter and Robert Wokler's Inventing Human Science: Eighteenth-Century Domains (1995) to consider the history of scientific racism and its deployment by political elites who were and are served by the systematic subordination of indigenous peoples. Drawing to some extent on Michel Foucault's work, I explore the ways in which "Indian/squaw" subjecthood and agency are formed and challenged and I aim to bring scientific racism to the fore at the Sand Creek massacre to illustrate how institutional racism and social actors carry out or resist the oppressive measures of the state. I draw from Foucault's contentions, however noting that his analyses presents a non-raced body. Bridging Foucault's work with those on scientific racism, I locate the theoretical arguments of Anglo-American exceptionalism and "Othered" subjecthood within my analysis of the Sand Creek massacre. This triangulation of materials permits me, in part, to identify how American military agents correlate being American with their own senses of being exceptional that arise in many of their testimonies and voiced in a peculiarly limited form of patriotism and nativism. I seek to locate why American exceptionalism and Native American resistance, in its many formations, emerge. My attention remains particularly focused on the notion of imperial contradictions in the developments of Anglo-American exceptionalism and its inception within the racialized bodies of "Others," in this case Native Americans.

Mathew Hannah's Governmentality and the Mastery of Territory in Late 19th Century America (2000) extends and facilitates an analysis of Anglo-American exceptionalism by addressing its roots in the European context. Hannah employs Foucault's theory of governmentality and feminist critiques to examine the variant levels of subjecthood that exist in early America. Comparing Hannah's critiques to extant postcolonial feminist critiques, I touch on the origins of gendered erasures, a subject that will be taken up in subsequent chapters. I draw from Hannah's expertise to examine the creation of the Anglo-American male as the exceptional American and "his" inalienable rights over all others. This rhetoric readily emerges in the richly nationalistic race ideology that was invoked to justify "Indian removal" and eradication through genocide at Sand Creek in the testimonies of the Congressional Hearing and in Colonel Chivington's post-trial Op-Ed letter to the people of Colorado and the world. These arguments underscore the historical context of the Sand Creek massacre. This point of departure traces the

trajectories of the hegemonic devices of colonial logics that inform future western social and political imaginaries and hint at why, though the colonial period has ended, the power of racial logics continue to inform Native American phenomenology.

Chapter Two, “Death through Epistemological Rehistoricization: Creating and Vanishing ‘the Indian,’” traces the history of “Native” racialization from the 1550 Valladolid Debate to Immanuel Kant’s 19th century race discourse. It culminates in a comparative analysis of 20th century America’s popular conceptions of “the Indian” as a malleable figure of masculinity to illustrate the discursive apparatuses that constructed Native Americans as racially marked enemies in western social and political thought. The second chapter dovetails with the first, examining the historical emergence of “the Indian” and “the squaw” as natural, biologically determined, subordinates within the context of Anglo European, and later American, exceptionalism. In particular, gendered analyses of these abstract tropes illustrate the various racial formations of “the Indian/squaw” to demonstrate their differential yet conflated embodiments as obstacles to progress and enemies of the West. This chapter engages the second phase of “multiple deaths” buttressing the previous chapter by illustrating the abstraction of “the Indian” enemy that emboldened western expansion by violent means. In particular, I examine the epistemological re-presentation of “the Indian” to demonstrate how “Indians” were constructed as unintelligible tropes that served as devices for justifying the massacre at Sand Creek and violent methods of expansion.¹⁶ In doing so, I expose the erroneous nature of coupling the Sand Creek massacre with anomalous moments in colonial histories, a thesis sustained by a number of narratives about the event and that tends to dominate inquiries into the extreme violence of colonialism or western expansion. Rather, I argue that the abstraction of North American indigenous peoples as “Indians” set the stage for normalization of genocidal campaigns.

I utilize as a point of departure, the myth of the “vanishing Indian” to show that rather than the inevitable and widespread disappearance of indigenous peoples and epistemological systems, the “vanishing Indian” signifies the ways in which Native Americans were “vanished” through discursive practices that were initially aimed at contemplating the status of indigenous peoples in comparison with European “Man” for the purpose of designing the laws for “just war”. Popular culture mediums drew on the resulting rhetoric and rehistoricized “Indians” as either the victims of or threats to the West and its settler societies. Representations of the West’s “Indian” reoccur in European and American political doctrines, literature, scholarship, and popular culture media that widely circulated contentions of Native Americans as unintelligible savage “Others” through extensive transnational multi-media spheres. The histories of scholarly deployments as well as popular culture expressions, such as the Buffalo Bill shows, are used to form a larger tapestry of “Indianness” that informed public perceptions and were imported in the broader calls to an ostensibly benevolent, or just, West to eradicate “Indians” in service of growing American settlements through a variety of civilization projects.

I evoke Shari Huhndorf’s Going Native: Indians in the American Cultural Imagination (2003) as a critical interrogation of western media and the museum industry that embraces and re-deploys the racialized “Indian,” Huhndorf illustrates in fine detail how these

¹⁶ Gayatri Spivak’s work on the “re-presentation” of subaltern peoples (1999) advances the argument that under British imperial rule India’s societies were relegated to political subordination. Spivak argues that the cultivation of negative racialization was embedded in the racist sexism that came to bear on Indian women who gender expressions and agency challenged British perceptions of social and patriarchal normativities. This point of departure is engage to illustrate the typical nature of discursive deployments that were deployed to intentionally disavow the colonial subordinates of their human rights, rights over their own bodies, and in order to authorize British rule over their Indian subjects and territories.

information gathering and production systems perpetuated the racial paradigm of civilized Europeans against a backdrop of primitive “Indians”. Coupled with Kate Flint’s *Transnational Indians* (2009), which earmarks the early 19th century period when the racial “Indian” as a period of commodifying and marketing “Indianness” in a transnational sphere, which spellbound potential European emigrants with side-show performances of “Indian” men. Together these works offer a critical exposition of the extreme dehumanization and fetishization made possible by the racial imagery of “Indians”. This point of analysis supports the central assertion of the dissertation, that epistemological “death” occurs through the discursive practices of retextualization of the “Indian” as a being and the erasure of Indigenous complexity in favor of the more lucrative and impactful captive “Indian”. Huhndorf’s analysis of American museum institutions and their historical uses of “human exhibitions” exposes the human trafficking element that accompanied 18th and 19th century museums. Flint’s work exposes the sponsoring and circulation of “live” “Indian” shows that toured throughout Western Europe in the 19th century. The dehumanization of indigenous peoples in these public spheres, I argue, both focused the gaze on Native American peculiarity and fostered a sense of the “Other” that justified social distance and ultimately genocide.

Nicholas Thomas’s *Colonialism’s Culture* (1994) informs the chapter by highlighting the racism that exists within various interlocking Western institutions, beginning with the inception of colonialism. Together with the work of Native American legal scholar Robert Williams, Thomas’s work helps to expose the discourse of “savagery” that embedded colonial thought and contributed to the overarching race ideology within the European, and later American, imaginary as well as became part-and-parcel of the laws that governed Western expansion. According to these scholars, western institutions’ acceptance of their inherent authority and unexamined contradictions enabled political figures to continually promote ideas and prompt sustainable concerns about the questionable nature of “the savage Indian”. Once established, the “savage” was considered to necessitate and violent modes of annexation.

Poised in conversation with these scholars, Philip Deloria’s *Indians in Unexpected Places* (2004) clarifies how so-called good and bad “Indians” operated in institutional memory, and how they remained only marginally distinct as separate and diverse tribal entities. Deloria begins with a theoretical departure that is driven by race ideology and looks at the racial logics that inform historical and contemporary conceptions of “the Indian”. Deloria contends that systematic racism perpetuates the notion that Native Americans are either “anomalies,” a characterization that is associated with Native Americans who defy their racial characterizations, “expectations,” which suggests that Native Americans are in fact primitive people from tribal entities that hold a great propensity for violence and irrationality. Together, these works show that “the Indian,” “the squaw,” and “the Indian maiden” worked as simple variations on the theme of primitivism, an idea that took root in the Americas during the initial attempts at colonial expansion in the Caribbean, that easily ushered in state violence towards Native American societies. Bringing to light the political and cultural environment surrounding the Sand Creek massacre, I draw from these analyses to demonstrate how epistemological rehistoricizations of “the Indian” and “the squaw” worked as devices for the displacement and eventual massacre of Cheyenne and Arapaho women, children and elders, and little-to-no response over their post-massacre mutilations.

Chapter Three, “Gendering and Myth: The Hypermasculine “Indian,” “the Maiden” and “the Squaw,”” investigates the discursive developments behind Native American women’s extra-subordinate status within the Western imaginary and in the U.S. As negatively racialized women, I highlight the visibility of “the Indian woman” and “the squaw” at the Sand Creek massacre. I

posit that the negative racialization of Native American women left them vulnerable to particularly sadistic forms of state and social violence. To understand the transformation from indigenous social belonging to western notions of gender, I explore feminist critiques, fictional deployments of the “Indian maiden” and her counterpart “the squaw,” and the testimonies in the post-massacre hearing to address the way these perceptions became embedded in public imaginaries. The first part of the chapter draws from the previous to emphasize the power of popular culture racial imagery to cultivate popular culture’s “common sense” belief in the behavioral characteristics associated with the “Indian maiden” versus the “squaw”. These referents are noted for how they emerge in the military testimonies that followed the massacre. This point of departure offers a continuation of the epistemological aspects of “multiple deaths” enacted through rehistoricization. I offer a critical engagement with scholarship on gendered violence to examine of the realities and legacies of the Sand Creek massacre and what this type of violence and its erasure conjures in terms of contemporary roles that Native American women hold in the Western imaginary.

Native American women’s extra-subordinate status is visible in the ways that racism, sexism, and patriarchal domination not only come to bear at the Sand Creek massacre, but in the ways Native American women were treated in colonial and postcolonial contexts as negatively racialized females. The most glaring critique is made visible in the Congressional Hearings, newspaper commentaries, and tribal histories that inform on the brutality that was unleashed at the massacre site, in large part because it was waged primarily against Cheyenne and Arapaho females. Moreover, the dehumanization is more palpable because in the nearly all-male testimonies, the female victims are typically represented throughout the various records as abstractions of “Indian” women or “squaws”. Because Cheyenne and Arapaho victims were seen through racially sexist lenses, I argue that Cheyenne and Arapaho females were afforded none of the protections that were ostensibly given to “women” that the normativities within patriarchal systems professed. In fact, their racialization and gendering appears to have sanctioned particularly brutal forms of violence. Many feminist scholars take up the question of what constitutes a “woman” and the feminine. Moreover, numerous indigenous feminists critique the gender reformations that were a part of the patriarchal and Christian colonial project. In particular, I engage a comparative analysis of Alice B. Kehoe’s “Blackfoot Persons” (1990) with Judith Butler’s Gender Trouble (1990) and Oyeronke Oyewumi’s The Invention of Women: Making African Sense of Western Gender Discourses (1997) to consider the construct of the universal “woman” and its exclusion of indigenous women, both in colonial and modern western contexts where indigenous women and negatively racialized and sexed women are relegated to the margins of western heterosexual gendered norms. These scholar’s works enable the roots of such gendered transformations that saw Native American women turned into “Indian women” and “squaws,” to be considered.

I also draw further on the work of Judith Butler Gender Trouble: Feminism and the Subversion of Identity (1999) in combination with Lee Edelman’s No Future: Queer Theory and the Death Drive (2004) to examine the oppressive nature of patriarchal notions of gender, as well, to further emphasize how the death of the racialized female “Other” was engendered by heteronormative ideals of the feminine. Therein lies another contradiction or ethical suspension of the West; where otherwise women and children purportedly required the utmost protection, Native American women and children were deemed unworthy and, instead, were coupled with “Indian” males in the rhetoric of the “Indian Problem”. Together they were poised as both cultural and biological threats to Anglo settlers and their potential to thrive.

To this end, I also aim in large part to show the formation of the criminalization of “bad Indians” in which “the squaw” was implicated. I engage Donna Barbie’s work on Sacagawea as a figure who was negatively racialized during her life, but who was taken up discursively in varied attempts to appropriate her strengths and re-present her as a heroine of the West. I also draw on the classic piece, “The Pocahontas Perplex,” which details how Native American women’s status as dehumanized female subjects laid Native American females vulnerable, as said above, to particularly sadistic forms of white racial patriarchal violence, as well as to institutional subjection and neglect. Moreover, considering the violence on Cheyenne and Arapaho women at Sand Creek against the narratives of early Suffragists and western feminists, I will show how tropes of “Indian” women were multiply and seemingly differentially deployed and estimate their results.

At the same time as Native American females were subjected to all forms of depredations, they were being rendered through anachronizing imagery to inform articulations of Anglo-American women’s intelligibility and virtue and used to substantiate their potential for political agency. To examine the sort of mutually constitutional identities of Anglo versus “Indian” women, I engage Donna Barbie’s work again to examine the westernization and appropriation of Sacagawea by western Suffragist Eva Emory Dye. Dye’s is an example of bold appropriation and audacity in that she argued that she herself created a prototype, using scant records of Sacagawea in the diaries of Lewis and Clark, to inspire Suffragists to enlist in efforts that would acquire for white women the political agency she believed Sacagawea held. In contrast, rather, western feminist Sally Roesch-Wagner contends that the goal of political autonomy sought by early northeastern American white, upper class, women was richly informed by the political agency they had witnessed among Clan mothers of the Iroquois. I draw from Wagner’s work to identify the roots of feminist discourse to disaggregate where historical appropriation of Native American women’s political identities emerges. I link these analyses through a critique of the forced metamorphosis of key Native American women to the point where they become devices of Western hegemony. I aim to highlight the ways that Native American women were woven into the patriarchal fabric of the Western feminine mystique as the negative, troubled, and dangerous female embodiment of autonomy and as benign symbols that soften the realities of the violence associated with western expansion.

In Killing the Indian Maiden: Images of Native American Women in Film (2006), M. Elise Marubbio contends that the impacts of popular culture media tropes spur Native American stereotypes that perpetuate social indifference toward “Indian” female victims of state and social violence. I use Marubbio’s analysis to facilitate my effort to trace the extensive routes of colonial anti-“Indian” and sexist violence toward Native American women and consider how those who are politically active become targets of anti-“Indian” hostility and violence today. Together with Laura Woodworth-Ney’s Women in the American West (2008), I am able to read U.S. history through the way it articulates of Native American women were conceived. I engage the author’s analysis to draw conclusions about the racialization and re-gendering of Native American societies through colonial and western re-presentations to consider the legacies of colonial erasure in contemporary contexts. Linking the history of racist sexism to the delegitimization of Native American women’s political agency and violence at the Sand Creek massacre, I draw out examples of Native American women’s abstraction and erasure to demonstrate how, by the 1864 massacre, the Cheyenne and Arapaho females, and Native American women in general, had become nameless, ageless, and nation-less.

Chapter Four, “In the Face of Violence: Gendered Violations and The Enduring Legacies of Native American Women’s Resistance,” extends an analysis of the relationships between historical trauma, state violence, and the revivalist nature of Native women’s activism today. I return to the Sand Creek massacre, explicitly detailing the brutal violence and post-mortem mutilations of the victim’s bodies, to highlight the visceral nature of the “death ethic of war” and noting its legacies in today’s Native American communities. The Sand Creek massacre, like a few others of such grievous magnitude and prolific commentary, remains foundational in the historical canon that harbors retellings of the various waves of violence sustained by Native Americans during the formation of the United States. Offering a gendered reading of the violence at the Sand Creek massacre enables this chapter to explore how the “death ethic of war,” its legacies, and the various forms of death demonstrated in earlier chapters, continue to shape Native American experiences. As a consequent, this analysis also serves to make comprehensible Native American women’s counter-insurgencies that confront the material affects of the “death ethic of war” today. From multiple indigenous standpoints, I will present their life affirming responses to the “death ethic of war” that emerge in their confrontations against violence and disenfranchisement today.

I begin the fourth chapter with a reading of the brutalities at Sand Creek to examine the material outcomes of the “death ethic of war” and assess its enduring power to perpetuate intergenerational trauma, contemporary violence against Native American women, and dehumanizing forms of anti-“Indian” racism. I hypothesize this is the final stage of the “multiple deaths” approach to war, following the historical discursive re-presentation and transformation of Native Americans into tropes of “Indianness,” the ostensible legal disempowerment of systems of tribal sovereignty, and the deployment and acceptance of “Indian” racialization by the broader public. Together, these processes effectively relegated Native American peoples into perpetual and abject subjecthood, at least in the Western imaginary. Making subjecthood sustainable, I argue, is done through the perpetuation of the systematic interplay between historical racial tropes and the promotion of Anglo-American exceptionalism.

I bring together three theoretical points of departure to contextualize the contemporary effects of historical trauma and examine the nature of indigenous activism. I draw from Maria Yellow Horse Brave Heart’s extensive research on historical trauma and its contemporary affects. Brave Heart’s Historical Trauma and Unresolved Grief Intervention (1998) contends that Native American community, interpersonal, and inter-family struggles with addiction, family violence, and suicide are rooted in a psychological phenomenon of post-traumatic digressive behavior that results from losses of self-esteem and access to indigenous cultural-intellectual systems. I offer a broad reading, with site-specific analysis of the Sand Creek massacre, to explore the role of historical trauma and its related racial and gendered dimensions on Native American experiences. From there, I engage Patricia Penn Hilden’s theory of the “Red Zone,” which contends that Native American political activism emerges within a political spatial consciousness that is rooted in Native American identity as it relates both to indigeneity and the nation-state. The “Red Zone” facilitates my effort to show how Native American women’s scholarly and grassroots activism arise within a context of their racially gendered subjecthood and is informed by their Indigenous cultural-intellectual systems and the historical “canon” of Native American histories. Third, I put these works in conversation with Patricia Hill Collins theory of the “ethic of care” in Collins’s analytic of family and community engagement in Black women’s feminism (2000). Collins’s identification of the feminist, anti-racist, and anti-misogynistic teaching in African/Black American communities occurs in African/Black

American communities and is often taken to task by African/Black American women. Hilden and Collins's works enable my comparative effort to identify how Native American peoples live in perpetual conversation with the historical and locate the unique indigenous cultural-intellectual ethics that embed Native American women's activism. I return to the work of Nelson Maldonado-Torres whose analysis of the "death ethics of war" extends a decolonial critique in part through an analysis of the "subalter" communities who have, now, amassed generations of responses and resistance knowledge. I present the works of Native American women scholarship and grassroots interventions as forms of decolonial, life-affirming and counter-insurgent forms of activism that disrupt the effects of historical trauma, the negative impacts of anti-"Indian/squaw" racism, and state oppression through scholarship, education, community service and post-genocidal thinking and activity.

In addition to my examination of Native American women's scholarship, as an example of the myriad forms of scholarly activism engaged in by Native American scholars, and in particular those who identify as feminists, Red or otherwise, I offer a close read of Louise Erdrich's "The Shawl".¹⁷ The story serves as a work of fiction, to elucidate the individual, familial, social and cultural ramifications of the Dawes and Allotment Act of 1887 and its legacies. This particular short story also illustrates the revitalization potential of new generations of Native Americans who are able to identify the sources of social ills as part-and-parcel of the egregious and culturally insensitive institutional practices of compulsory conformity of Native American epistemologies into Western, patriarchal and individualistic policies. Erdrich's contribution also illustrates how knowledge, compassion and forgiveness can supersede and interrupt the legacies of the seemingly terminal subjecthood.

The political voices of Native American women are located in Native American Studies scholarly works as well as the more common news bulletins, tribal newspapers, and novels written by Native American women. These perspectives offer critical analyses of the social and political climate of U.S. – Native American relations. Works such as Susan Krouse and Heather A. Howard's 2009 collection Keeping the Campfires Going: Native Women's Activism in Urban Communities offer a diverse exploration of Native American women's urban activism. I engage these Native American women to explore how they are understood to provide strategies and spaces for cultural healing. Urban efforts toward Indigenous recovery engage families and communities, as well as individuals, in urban centers that offer services that preserve Indigenous cultural practices. They infuse urban Indian communities with positive understandings of self as indigenous peoples. These women are often silenced but offer critical witness to the effects of state and federal oppression.

I aim to show how certain life affirming and responsibility ethics emerge in Native American women's human and civil rights activism. Specifically, I draw from the work of Native American women activists, in their myriad forms, to identify the counter-ethics that emerge as concurrent political streams that confront the "death ethic of war". Contextualizing Native American women's activism as occurring in the "Red Zone," I will return to Patricia Penn Hilden, Patricia Hill Collins, and Nelson Maldonado-Torres to engage the idea of indigenous decolonial ethics to articulate a particularly Native American decolonial ethics that addresses the effects of historical genocide, state sanctioned violence today, and the struggles to ameliorate the

¹⁷ Red feminism emerged in the 1990s through the concerted efforts of a groups of North American Native American and First Nations scholars who sought to engage in works that serve to explicate the particular ways that Indigenous peoples of North America are subjected to their continuing disenfranchisement and death as the direct result of institutional and social racism.

otherwise deleterious affects of anti-Indian racism in all of its formations. I will demonstrate that Native American women's activism offers life-affirming counter-insurgencies against the sanctioned violence toward the "Othered" bodies of Native American women and communities.

In Chapter Five, "Contemporary Legacies of the 'Death Ethics' of Permanent War," I offer a final exploration of the contemporary evidence that anti-"Indian" still motivates a particular institutional logic in the U.S. that helps to instill over generations an "Indian" "Other" who is serially manifested as an enemy of the state who threatens the security in the U.S. and abroad. Drawing on contemporary scholarship of Stephen Silliman and Cherokee scholar Tom Holm, I define the spatial deployment of "the Indian" and "Indian country" as rhetorical devices used in U.S. military projections of the enemy and enemy territory and advance some thoughts on the contemporary impacts of such devices on both Native American peoples and the effects of the perpetuation of anti-"Indianism" for sustaining American exceptionalism. I also venture to consider how the paradigm of anti-"Indianism"/American exceptionalism result in a racialized anti-"Indian" misogyny towards Native American females. Most clearly illustrated in the recent, 2010, passing of the Tribal Law and Order Act and followed by the Violence Against Women Act (2013), the T.L.O.A. was developed by a number of Native American women who aimed to halt the rampant and institutionally neglected violence against that continues to come to bear on Native American females. However, the Act fails to address that majority of violent perpetrators because it came to be conditioned, as an Act to prevent intra-ethnic domestic violence, which means that it focused on Native American males as perpetrators despite the evidence that 86% of the violent crimes committed against Native American females is committed by non-Native, primarily white/Anglo, American males. I assert that the evidence demonstrates that historical anti-"Native" and anti-"Indian" discourses remain in the institutional and social logics of American society and perpetuate a "death ethics" logic toward Native American peoples.

I engage Barbara Perry's Policing Race and Place in Indian Country: Over- and Underenforcement (2009) and Silent Victims: Hate Crimes Against Native Americans (2008) to make explicit the colonial racial rhetoric that embeds moments of state violence where Native American peoples are victimized. I examine such works to illustrate the nature of contemporary state violence towards Native Americans and to consider the roots of sanctioned violence that Native American women activist's experiences. Utilizing these multiple disciplines and genres, I aim to demonstrate the scope of Native American women's political activity and draw links between the violence of western expansion and its relationship to Native American subjugation and disenfranchisement today.

Chapter One

“‘The Death Ethics of War’: ‘Ethical Suspensions’ in Wars of Western Expansion

By the turn of the 18th century, “the Indian” and “the squaw” had become indelibly imprinted in the Western imaginary.¹⁸ Certain logics of human difference, spatial relativism, moral predictability and Western exceptionalism marked the rhetoric and laws that justified territorial expansion with the effect of Anglo-European supremacy. As the discourse of Western exceptionalism strengthened, it also normalized juridical and socially lopsided relationships between the American government, Anglo Americans and Native Americans. Some scholars would reach further to say that the early discourse of American nation-formation, because of its inherent Anglo supremacy, lead the early republic to be conceived with a hierarchical schematic of human domination and subordination. Even further, others contend that because of the skewed application of democratic principles, with its systems of compulsory and stratified subjecthood, the state’s early formation was guaranteed to perpetually function in a permanent state of war with its most marginalized peoples. When scholars add tribal sovereignty to their concerns, extrapolating multi-threaded histories of territorial investigation and anti-“Indian” logic permeate the discourse of western expansion and its laws. Those of Native American, Mexican and African descent statistically bear the burden of the war over hegemonic dominance that informs both the institutional and social imaginaries.¹⁹ Native Americans on reservations remain those positioned in the most liminal of states. Pushed outside the margins of the marginalized, the threats that Native Americans ostensibly pose are multiple. Post-colonial and transnational scholars today offer critical analyses of how the teleology of colonial war shaped and was shaped by white racial attitudes, permeates western American exceptionalism, and normalized the links between law, race, gender, de/humanization.²⁰ Their interventions make possible the identification of the semiotics of white/raced/gendered exceptionalism that fomented the anti-“Indian” racism and lead to the abject violence experienced during the Sand Creek massacre and that made the name Sand Creek synonymous with death.²¹ The theoretical intervention, “the

¹⁸ In the chapters that follow, the history of “Indian” and “squaw” racialization will be examined. The purpose of focusing on the 19th century here is to situate the broader analysis of the “death ethics of war” as they emerge in relationship to the location and period of the Sand Creek massacre.

¹⁹ See Jordan Winthrop 1974; Tomás Almaguer 1994; Michael Omi and Howard Winant 1994; Thomas Gossett 1997; Peter Wade 1997; Immanuel Wallerstein 2004; David Roediger 2005; Robert Williams 2005; Audrey Smedley 2007; Stephen Silliman 2008; Steve Martinot 2010.

²⁰ See arguments related to Joe Feagin’s work on the “white racial frame” as they are articulated and reconfigured in the work of Celia Lacayo (2013). Feagin’s work concludes that a consciousness/unconscious belief in “white” normalcy has emerged in the U.S. and is shaped by the coalescence of a number of factors that work beyond the cognitive level and can include a multifaceted device that is supported by nostalgic rehistoricizations, nationalistic narratives, racial imagery, and one’s intimate sense of self as white or non-white. Also, set in the contemporary context of Orange County, California, in the United States, Celia Lacayo’s dissertation, “Mapping Latino Racialization: White Attitudes Toward Latinos and Policy Preferences in Orange County California,” draws on quantitative data and demonstrates that a complex set of frames collapse into a form of logic toward the contemporary “Other”. It is a logic that is expressed at levels of the individual and the broader community. These frames coalesce into white racial attitudes towards American Latinas/os and Blacks and Africans, with matters of legality and criminality strewn throughout the discourse.

²¹ My use of the term abject references the inhumane brutality shown by military personnel and leadership; my use here also reflects my understanding of the liminality of the “Other” being, whatever form it make take, that Julia Kristeva’s theory of abjection evokes. I also consider Michel Foucault’s account of subjectivitive positionalities, who are inherent in all of his works and who nearly always exist from a standpoint of their potential to exercise

death ethics of war,” enables the contemporary liminality of Native Americans to act as a complex illustration of the long-standing and complicated system of war. In its most extreme expression, the multifaceted and systematic subjugation of “the Indian/squaw” was death, in lighter forms it was the cultural death and the death of the “relation-to-place” that most evidences how and where “the death ethics of war” became an overarching ideology that governed the relationships of “Indians/squaws” to Europeans and it is a relationship that has deeply informed the American imaginary, as well as its judicial and ideological structures, and its own identity from its inception to today. How the normalization of the death ethic towards Native Americans operates within the American judicial and social systems can be illustrated through an examination of the epistemological re-presentation of Native Americans in the works of Thomas Jefferson and, later, Hubert Howe Bancroft. As negatively racialized peoples, Native Americans are presented by both Jefferson and Bancroft as existing as a peculiar expression of humanity. Their works are representative of those Western figures who comfortably straddled the unstable concept of a democracy that was built upon notions of Western exceptionalism and the dehumanization and inferiorization of Native Americans. Their social comfort with this paradigm these made the violence against Native Americans appear normal to the extent that absolute tyranny in the cultural eradication process and the employment of genocidal practices were able to work together to co-produce Native Americans subjecthood and an exceptionally entitled non-Native American body politic.

The “Death Ethics of War”

The concept of the “death ethics of war” was first articulated by Steve Martinot to capture the political ideology presiding over the U.S. prison system and the death penalty. It was a concept that was expanded in the work of Nelson Maldonado-Torres to identify the deeper logic, impacts and resistance modalities related to abject subjecthood. In his particular engagement, Maldonado-Torres offers extensive and complex articulations of the “death ethics of war” as the concept pertains to Nazism, colonialism, subalterity, decoloniality and feminism in his examination of the ways in which the ideological structures and institutional apparatuses grounded in the “death ethics of war” are amassed and are resisted. His analysis shows how the logic that served in colonial and imperial expansion was largely grounded in ideologies founded on notions of human (i.e. racial) difference, female subordination, the normalization of the death of the “Other,” and the institutionalization of differential justice. Together these various lapses in the logic of equality illustrate the ways in which “ethical suspensions,” according to Maldonado-Torres, are embedded in systems of domination and help to facilitate the deployment of “death ethics” within structures designed for the subjugation and death of one body of people, deemed inferior, by another and purportedly superior body of people. Applying the “death ethics of war” to the Native American context, I advance a gendered analyses of the ideological framework within which Native Americans were subjected to inhumane treatment, isolation, violence and even death ostensibly as a necessary measure to ensure the success of Western expansion and American nation-formation. Moreover, I trace the development of the “death ethics of war” within the history of “Indian/squaw” racialization to identify the institutional and popular culture apparatuses to consider how they encouraged the development of anti-“Indian/squaw” sentiments within the social imaginary. In other words, making the “death ethics of war” visible within various institutional apparatuses reveals the ways in which the logic that normalized human

agency. With respect to the always present red feminism throughout the dissertation, Foucault contends that agency remains despite the condition, with the exception of the Nazi gas chamber.

domination also sustained Western exceptionalism, was embedded with raced and gendered ideologies, and enabled “ethical suspensions” to predicate the modes of violence against anyone determined to be a necessary subordinate and/or enemy of the early American formation of its hegemonic system. In the context of Native America, the “death ethics of war” becomes visible as a paradigmatic feature of a larger schematic system that arises in the overarching ideology of Western identity formation.

The seeming strangeness of political democracy that uses racial/gendered logics to justify the forced physical, social and geographical isolation and disarmament of the Cheyenne and Arapaho, is only seconded by the level of brutality expressed in the military personnel’s use of abject violence against these peoples to the extent that some authors have qualified it as anomalous to the period. However, the scientific racism that was deployed prior to the period had profound impacts on the ways that Western institutions administered their relationship to “the Indian”.²² The apparatuses that authorized genocide as a means to eradicate the “Indian problem” in order to secure western territorial expansion and its acquisitions illustrates the moral contradictions and “ethical suspensions” that took hold and accompanied western expansion and echoed the cautions that scientific racists. Fear of inferior racial elements, and beliefs in Anglo supremacy, were used to substantiate western expansion as a justifiable mode of war. In order for imperial institutions to authorize the subjugation and eradication of whole peoples, which constitutes a genocidal act, the peoples were first made into incomprehensible and intolerable “Others”.²³ Scientific racism and its deployment involved discursive qualitative and quantitative practices that were engaged in by a variety of political figures, philosophers, religious leaders, legal scholars, medical scientists, and even fiction writers, who were employed to gauge the ostensible differences between colonial subjects and their masters. Thomas Jefferson was one such figure who dabbled in a mix of scientific racism and pseudo-anthropology and, yet, rose to power as America’s father of democracy.

The “Death Ethics of War,” Democracy and Early American Racial Formation

The “death ethics of war” contain particular rights and anti-rights logics that exist within the legal structures dedicated to remediating America’s ostensible racial “problems”. In the Native American context, I argue that the “death ethics of war” informed the antidotes for addressing the particularities of the “Indian problem”. Moreover, gender figures into this as the least articulated and, likely, the most normalized aspect of the America’s “death ethics”. As this analysis will show, Native American males and females are both consigned to the erroneous category of “the Indian,” Native American gender and other socio-cultural normativities were irreconcilable those of the impending Western culture. Therefore, as Western expansion unfolds, so do the laws that reconfigure the social structures within federally recognized tribal societies.²⁴ I contend that while “death ethics” moved the project of expansion and nation formation

²² I utilize Peter Wade’s analysis of “scientific racism,” which details the logics and applications of the logic of human racial difference during Spanish expansion in the Americas. Wade’s arguments can be found in his 1997 book *Race and Ethnicity*.

²³ The Valladolid Debate in Spain 1550 that earmarks the entrance of Spain’s intention of territorial dispossession of “Natives” of the Americas is taken up in chapter two.

²⁴ Because of the extensive history of Native American racialization and the fact that Native American racialization is primarily examined through the trope of “the Indian,” which conflates male and female phenomenology, I have taken to the task of examining “the Indian” and “the squaw” separately in order to disaggregate the two formations. The ways in which the roles of Native American females are reconfigured during colonialism is taken up in chapter three. In this chapter, the thrust of the argument is focused on the construction of “the Indian”.

forward, apparatuses of epistemic and physical eradication of “Indians” sustained white and American exceptionalism through the production of Native American invisibility, disenfranchisement, and death. Beyond an examination of structural inequality, this chapter endeavors to examine the overarching narrative of Anglo exceptionalism that justifies the disaggregation of the developing American social body, the differential approach to justice that fostered it, and the engagement of the “death ethics of war” as a means to isolate and eradicate an entire body of racialized peoples. I begin with an examination of Thomas Jefferson’s Notes on the State of Virginia (1785) to consider the ways in which the “death ethics of war” emerge in the rhetoric of the so-called founding “father” of democracy.

In an effort to establish an argument for territorial expansion, western settlement in the American southeast, and the segregation and perpetual surveillance of “Indians” and “Negros,” Thomas Jefferson articulated several postulations about America’s negative racialized peoples. In Jefferson’s Notes on the State of Virginia (1785), he catalogued the various opportunities and challenges facing the developing government. Addressing both the physical and social environments, Jefferson quantified all things material, identified those resources that promised potential value, and he advanced qualitative assessments of all of the various peoples of the region with the intention to speak to the unique necessities for governing these differentially raced bodies of people. In the process, Jefferson ventured to affix “Natives” to lives of compulsory subjectivity despite his belief that Native Americans held the same “vivacity” for life and land as “Homosapien Europeaus” (Adelman 2003). What often baffles contemporary readers of Jefferson are his deep-seated contradictions and his moral blindness to the awkward fit of a democratic union held together by racialization, American exceptionalism, and structural inequality.²⁵

What for Jefferson and his contemporaries appeared to be common sense, is today highly questioned as one of the cornerstones of institutional racism. A desire to ameliorate the ethical challenges of enslaving Africans and American-born “Negroes,” especially in a country founded on democratic principles and a deep desire to defend the self against compulsory subjugation, was of deep concern to Jefferson. It also wrestled with what exactly the “aboriginals” of America were and how they should be governed with respect to the overarching goal of nation formation. It is worth examining his stance on Black children born after the Emancipation Act, as a point of reference. The convoluted dichotomy of a democracy sponsored by human enslavement, of which Jefferson authorized and participated, sheds light on the stark contrast between the political rhetoric of equality Jefferson espoused and his own negation of negatively raced Native Americans and Africans. Among his attempts to rectify how governmental subjects should be treated, and one of the harbingers of Jefferson’s promise of a democratic union can be illustrated in his advice that “free black children” should be afforded the opportunity to manifest their own socio-economic stability. Yet, he sought to couple this necessity with another; black children should be aided in their ascension into civil society and then relocated and replaced by white immigrants. His proposition was thus:

(T)hey should continue with their parents to a certain age, then be brought up, at the public expence [sic], to tillage, arts or sciences, according to their geniusses, till the females should be eighteen, and the males twenty-one years of age, when they should be colonized to such place as the circumstances of the time should

²⁵ See Thomas Jefferson’s Notes on the State of Virginia (1785).

render most proper, sending them out with arms, implements of household and of the handicraft arts, feeds, pairs of the useful domestic animals, to declare them a free and independant [*sic*] people, and extend to them our alliance and protection, till they shall have acquired strength; and to send vessels at the same time to other parts of the world for an equal number of white inhabitants; to induce whom to migrate hither, proper encouragements were to be proposed. (Jefferson 1785: 264)

Jefferson follows his proposal with an anecdote that reveals a deeper desire for social distance between whites and blacks. As if responding to an actual rebuttal on race, place and difference, Jefferson goes on to provide answers to several questions he presumes will be launched in his direction. In this faux rebuttal, Jefferson calls for a sort of replacement rate to be put into effect, wherein the government would sponsor the efforts of free black children, to become so-called independent and productive members of society. Yet, the slippage of quasi-freedom emerges at the point when he authors that, once established, these young adults should be relocated and replaced by white immigrants who would also be “induced” to relocate at the government’s expense. To address why segregation was necessary, Jefferson launches into a racial argument and one that begins with his perceptions of the racial difference of the Black body, inside and out.

Jefferson stretches his concerns over everything from skin color, hair texture, degree of “tolerance for heat,” which is said to surpass that of whites’, and an ability to stay up late at night “imbued by the slightest amusements... though knowing he must be out with the first dawn of the morning.” To support his declarations of white superiority and black inferiority, Jefferson espouses what by this time had become racial common sense in the dominant social imaginary, that ignorance, infantilism, and phenotype made Africans and “Negroes” akin to each other, both physically and socially. More than that though, Jefferson drew on black sentimentality to contend that “their own judgment” was in synchronicity with and championed his own views. Blacks, according to Jefferson, were clearly “in favour of the whites, declared by their preference of them” (Jefferson 1785: 265). He takes little into consideration of the power differentials that might induce some to announce pro-white sentiments. His infantilization of blacks, and “Indians,” becomes so debilitating in his logic that it renders his intellectual common sense impotent and made so by Anglo exceptionalism and its relative white solipsism. Within such logic, the notion that “Indians” or “Negroes” contain legitimate and equal agency becomes unrecognizable.²⁶ Clearly, Jefferson had no sense that peoples subjected to slavery, who were disenfranchised and subjected to physical and mental anguish for generations, could have had a great understanding of the self and keen ways of exacting agency. The assumption of the absence of autonomy and agency were inherent in the logic of the racial “Other”. Democracy cast aside, the evidence the abject subjecthood is illustrated in the lack of humanity afforded to “Othered” bodies. Jefferson’s casual mention of the potential for cross-species relations, in *Notes*, illustrates his sociopathic lack of empathy towards “Negro” females. This point of departure begs for even deeper engagement.

In a cavalier moment in *Notes*, Jefferson extends a comment about the human desire for beauty. With a forgiving diction, he claims that even “the Oranootan (desires) the black women over his own species” (Jefferson 1785: 265). Though it falls within the context of his

²⁶ Foucault 1977.

broader ruminations over race and difference and the black body, it reads like a non sequitur. Yet, it is precisely the argument that Jefferson uses to substantiate his claims of a natural racial hierarchy, that heralds whites over blacks, and black women over Oranootan females, and hints at his sense that there may be no hard and fast line drawn between people of color and the animal world. The slippage between species, and the tone of dehumanization that hovers over black women in his statement, begins to clarify the deep divides he perceived between humans and the potential of African peoples, as compared to “Indians,” and whites for civil participation. To be clear, Jefferson uses the term “species” in a variety of contexts and not necessarily always in reference to living beings. Rather, he remarks on species of laws and other institutions throughout Notes. It is noteworthy then that when the term surfaces in his proposals for variations of civil laws, when articulating the variations of laws that were intended to address the unique races of America (a.k.a. differential justice), Jefferson draws on visible (i.e. Western) signs of civility and social normativity. His cross-species linkage of the “Oranootan” is so casual and brief that it reveals both his deep devaluation of all black women, a presumably common sense logic, and the entrenchment his abiding commitment to democracy in racist sexism and nihilism.

Ascertaining beauty, a standard for which is set within the white context for Jefferson, is his focal point. He contends that nature would have it that beauty has the power to entice one from the other, even across species where people of color are concerned. Physique is the only attribute that Jefferson assigns to blacks in terms of their ability to attract and retain a mate. But, among the measures of civility, or at least the marker of one’s potential to assimilate into civil society, are one’s “manners,” morals, and, Jefferson contends, the capacity for love and one’s contributions to liberal arts. These, beneath the “skin,” are the marks of civil beings. If the God-given phenotypical signs of race were not enough to support the development of differential modes of justice and social practice, Jefferson thought, then intellectual capacity, or proficiency in the arts and adaptation to Anglo-European culture, would offer telltale signs of both racial differences and the importance of developing structures for social distance and a hegemonic body to govern them. Though he declared that “great allowances” should be made for what he considered indigenous peoples’ lack of cultural sophistication, access to a proper education or proximity to the finer aspects of European civilizations would suffice to retrain these subjects. To this end “Indians,” he declared, offer proof that the civilized, and those with the potential to be civilized, are born with a capacity for civility that enables their assimilation. He states:

Indians, with no advantages of this kind, will often carve figures on their pipes not destitute of design and merit. They will crayon out an animal, a plant, or a country, so as to prove the existence of a germ in their minds which only wants cultivation. They astonish you with strokes of the most sublime oratory; such as prove their reason and sentiment strong, their imagination glowing and elevated. (Jefferson 1785: 266)

As forgiving as Jefferson sounds of the rudimentary yet impressive artistic and oratory skills he affords “Indians,” it is a slippery slope whenever two negatively racialized groups are used to entrench a white-supremacist hierarchy. While his denigration of Native Americans can seem nonexistent, it is revealed in his infantilization and primitivization of indigenous methods and materials, as well as in his interpretation that the creative expressions of “Indians” demonstrates

that they were want to “prove the existence of a germ in their minds which only wants cultivation”. Such is an expression of a predatory mind that sees their potential subjects as “wanting” their domination. Such is also the predatory mind that degrades, as normal, the virtue of an entire “race”. In terms of the faulty nature of his accounting, Jefferson takes a step back and offers a brief if not reverent revision. Given the question as to whether the different races are made so naturally and therefore qualify for differential rights, Jefferson extends a brief defense before clarifying again the unique necessity of racial distance in the American context. He states:

(L)et me add too, as a circumstance of great tenderness, where our conclusion would degrade a whole race of men from the rank in the scale of beings which their Creator may perhaps have given them. To our reproach it must be said, that though for a century and a half we have had under our eyes the races of black and of red men, they have never yet been viewed by us as subjects of natural history. ... It is not against experience to suppose, that different species of the same genus, or varieties of the same species, may possess different qualifications. ... This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people. Many of their advocates, while they wish to vindicate the liberty of human nature, are anxious also to preserve its dignity and beauty. ... Among the Romans emancipation required but one effort. The slave, when made free, might mix with, without staining the blood of his master. But with us a second is necessary, unknown to history. When freed, he is to be removed beyond the reach of mixture. (Jefferson 1785: 270)

Race ideology, as Jefferson clarifies, would perpetuate a great divide that, harbored in American institutions and its imaginary, and would continue to shape and bifurcate American institutional and social structures for centuries to come.

As for his seemingly contradictory attitude towards “Indians,” despite his proximity and great effort to meticulously categorize Native American in the region, Jefferson’s commentaries rely on and speak about the racial “Indian”. Jefferson debases, intentionally or not, the soundness of “Indian” governments, offering his presumed observation that “Indians” “never submitted themselves to any laws, any coercive power, any shadow of government” (Jefferson 1785: 221). He is, likewise, disenchanted with “Indian” cultural and material productions, claiming, “I know of no such thing existing as an Indian monument: for I would not honour with that name arrow points, stone hatchets, stone pipes, and half-shapen images. Of labour on the large scale, I think there is no remain as respectable as would be a common ditch for the draining of lands; unless indeed it would be the Barrows, of which many are to be found all over this country” (Jefferson 1785: 223). Jefferson’s preference for assimilation, then, reveals itself again. Given time and proximity to the West, not that proximity increased Jefferson’s knowledge-base about indigenous socio-political systems, he believed that “savage Americans” could and would transform themselves into what he deemed productive citizens, that is, given the opportunity to be shaped by the West. Where and how would also be decided by the terms of American civilization, and they were.

Such is the power of race ideology that it has the capacity to perpetuate the myth of racial difference and “the Native” “Other”. The commentaries produced, like Jefferson’s, enable readers to comprehend not only the relationship between Western logic within the broader schema of western expansion, but its contribution to the birth and development of race ideology as a common sense logic within the paradigm of American exceptionalism. Moreover, a close read reveals the presence and institutionalization of Native American primitivity as a priori point of entrance for thinking about Native American peoples and cultures. Like Jefferson, other political figures, medical scientists and scholars wrestled with the “peculiarity” of Native American cultural practices and biology and, yet, many believed in their own authority and responsibility to preserve knowledge about the original peoples of the U.S. at the same time, to create structural supports for their limited inclusion in the broader social system. Inherent in this point of view is the assumption of the death of “Indian” societies, or as it has become popularly termed, the “vanishing” of Native Americans. Attempts to exacerbate the “vanishing” were so applauded that the contradictions that could have threatened to collapse race ideology altogether, rather, were emboldened by the deeply rooted sense of Anglo, male, exceptionalism. The laws that governed Spanish expansion and the conjecture of Jefferson insisted on mandates that, at the very least, reveal the façade of democracy in their quasi-diplomacy. Yet, this assumption, as well as its inherent paternalism, could not soften the blow that a blossoming rights discourse structured around a taken-for-granted human hierarchy and an a priori relationship of superiors to inferiors, would echo for generations to come.

From expedition journals, scientific explorations, to Jefferson’s Notes on the State of Virginia, the conjecture surrounding the necessity of ameliorating “the Indian problem” and the discourses of expansion and nation-formation, have been underscored by assumptions of Western exceptionalism, which is an unforgiving form of exceptionalism that is rife with tones of the dehumanization of the “Other”. It appears to have been a comfortable refrain for these figures to suggest that Western ideologies and structures, as imperfect as they might be, are the best systems of governance the world had seen. It is a narcissistic logic that stills the mind, yet the power of the ideology of race, or at least the power of those who legislate from the prejudices of race ideology, continues to linger and corrode the potential for equality. Ironically, Jefferson understood the profound impacts that race ideology had on the nation. In his cautionary stance against racial mixing, Jefferson offered that, “Deep rooted prejudices entertained by the whites; ten thousand recollections, by the blacks, of the injuries they have sustained; new provocations; the real distinctions which nature has made; and many other circumstances, will divide us into parties, and produce convulsions which will probably never end but in the extermination of the one or the other race” (Jefferson 1785: 264). Suffice it to say that Jefferson intended for the West to never be on the receiving end of such an “extermination” project. However, he offered up painstaking “evidence” to support the extermination of “the Other” in myriad forms. Jefferson’s conjecture on “Indians” postulates and articulates the normalcy of a racial strata that imbued European and American civilizations with the inherent necessity of violence ironically because, he contended, that these civilizations harbored the unique potential for harnessing freedom and, thusly, should remain steadfast in their constant pursuits of life, liberty and justice.²⁷ This pursuit, because it was embedded with race and gender ideologies that informed legal, medical, academic and social ideologies around human agency, left indelible marks in the Western

²⁷ In addition to Jefferson’s work, these views are considered throughout the dissertation through the works of Jefferson 1785, Bancroft 1883, Fanon 1967, Kant 1978, Deloria 1988 and 1999 DuBois 1999, Eze 1995, Vest 2000, Hoxie 2001, Bernasconi 2002, Wynter 2003.

conscience, and in doing so, concretized them as racial and gender “common sense” that remain in contemporary social constructs. Hubert Howe Bancroft was one such figure who, a century later, followed suit and attempted arrive at a series of answers to the question of what constituted “man” and “the Indian”.

Hubert Howe Bancroft’s 20th Century Contemplations on “the Indian”

By the time that western expansion was in full force, and tribal sovereignty was envisioned as part-and-parcel of the “Indian problem,” the inferior status of “the Indian” and its relationship to European settler society had long been the source of differential and (mostly) negative comparisons to “European” civility and enlightenment. In early American society, socially and institutionally, thinkers of this time sought the utility of narratives on “the Indian” and “the white” to mobilize a dialectical about what the two political bodies offered to their visions of American democracy. “The Indian” provided an either-or dilemma. On the one hand, “bad Indians,” those who resisted colonial subjugation, served as archetypal enemies of the west just as those perceived as passive or “good Indians” placated the Christian call to martyrdom. The latter is spelled out, as is Anglo-exceptionalism, in Rudyard Kipling’s 1899 poem “The White Man’s Burden”²⁸ that emerged less than a century after “the Indian” had been institutionalized in political and social memory. It is an important work to note because its popularity, and his as an author, lends itself well to considering the concretization of the fictional “Indian” in the white/Anglo/American imaginary. The so-called “natural” political, economic and cultural subordinate of “civilized” Americans, “Indians” provided a new domestic dependent, and a collective being to which the graces of white America could and should tend to its salvation. Kipling’s poem earmarks a finality in the overarching project of “Indian” racialization and most clearly illustrates the impact of the European and American imaginaries and their abilities to re-present themselves and “Others” to the extent that Native Americans were “vanished” as notions of “the Indian/squaw” emerged and then, through discursive processes, came to shape political and academic discourses. European thinkers having set in motion a race discourse offered themselves readily to American thinkers who ushered in a uniquely American race discourse, replete with an ideological structure that would propel racial thinking and “the Indian” into the public domain for decades to come.²⁹

By the late nineteenth century, Hubert Howe Bancroft, the namesake of the illustrious Bancroft library at the University of California Berkeley, had become a leading ethnographer whose primary focus was on “Indians” in the West. For decades, he was intrigued by what he referred to as the “Pacific States,” which included the western third of the U.S. and a large tract of Mexico. Bancroft’s interests lie in capturing what he viewed as the last of the inevitably vanishing “Indian races,” on which he wrote prolifically. His articulations of “Indians” in the Northern Plains in particular illustrate the adoption of a “common sense” belief about the “nature” of “Indians” that prevailed among Europeans and Americans. Among his writings, the ethnographer compiled two volumes on “Indian Races” and sponsored the ethnographic recordings of countless, mainly male, interviews. In *The Native Races* (1882), Bancroft established “the Indian” as a uniquely peculiar human embodiment as was evidenced by “the Indian’s” cultural practices, many of which were irreconcilably different from anything Bancroft

²⁸ Kipling’s poem is highlighted here to emphasize how, over the trajectory of a century, the notion of a benevolent white body politic had been normalized. The analysis here suggests roots of the ideology and discourses that facilitated such nostalgia and paternalism.

²⁹ Omi and Winant 1994; Adelman 2003; Muthu 2003; Wynter 2003; Roediger 2005; Williams 2005.

viewed as normal. Continuing his crafting of “the Indian,” Bancroft expressed to his readers “the Indian’s” particular propensities for stubbornness, reticence, and violence. His tone of discomfort is palpable. At once, he valorizes the existence of “Indians” on which he spent more than a decade amassing volumes of “dictations”³⁰. On the other hand, more than an obsessive curiosity, Bancroft enters into conversation and allegiance with his recent contemporaries and engages in race theorizations of his own. In his collection, Bancroft offers his own critique on the race theories of his day with respect to “Indians” in particular. Like others in Europe who formed counter arguments to Enlightenment’s simplification of “logic” and reason, and Rousseau who thwarted abject racism with romanticism, Bancroft called for his intellectual contemporaries, such as Charles Darwin and Johann Friedrich Blumenbach, to reconfigure their imagined human hierarchies instead as a spectrum and exhorted them to assuage his sentiments regarding their assumptions of the Anglo-European’s uncontroversial superiority. He returns repeatedly to this critique:

It is common for those unaccustomed to look below the surface... to regard Indians as scarcely within the category of humanity. Especially... when we, maddened by... some diabolic act... hastily pronounce them... inhumanely malignant... vipers, the extermination of which is a righteous act. All of which may be true; but, judged by this standard, has not every nation on earth incurred the death sentence? ...The European is but a white-washed savage.” (Bancroft 1875: 25)

“The Indian’s” racialization and its assumed inherent biological determinism remain obvious. In a subtle acknowledgement of his own belief in a social spectrum, Bancroft attempts to “level” the playing field by peculiarizing “Indians,” not as isolated human abstractions, but as the counterpart to more evolved Europeans. He quantified “Indians” as a collective embodiment that, left to their own devices, posed a unique threat to (civil) humanity, yet reminds his peers that they too had the potential for a baser intellect and activity. Writing back to his perceived “community of masters” in his worst iteration, Bancroft personified “the Indian” as the in-the-flesh obstacle to “Man’s” divine global intervention, which was to manifest a particularly singular notion of modernity, with a clearly European hegemonic order at the helm.³¹ Where “Indians” fit into Bancroft schema was as a “vanishing” race. His primary motivation for creating the volumes on “Indian Races” was inspired by the imaginary disappearance of Native Americans from the face of the earth. As an ethnographer, Bancroft took personal responsibility for collecting data on these peculiar and “vanishing” peoples. Ultimately for Bancroft, the concern over the “vanishing” “Indian” left the matter of knowledge production and remembrance of Native Americans in his hands.³²

³⁰ Bancroft’s dictations consisted of interviews that were conducted and documented by a non-Native American person. Somewhat different from today’s ethnographic practices, dictations can include the written observances and commentaries of the interviewer embedded within the text of the interview, even if not it is not reflective of the actual interview. Dictations can also include statements intended to qualify the interviewee’s virtue and validity as a person, not expert, as assessed by the interviewer.

³¹ The concept of a “community of masters” is articulated by Nelson Maldonado-Torres (2008) and refers to those who view themselves to be among an elite and exceptional group of peoples naturally determined to organize and steward over colonized and oppressed peoples.

³² Bancroft 1875.

By drawing from this point of departure, Bancroft furthered beliefs in “Indian-ness” and fostered the belief in “the Indian’s” peculiarity and Anglo-European’s intellectual and cultural supremacy. Match-for-match, “Indians” reflected the grandiosity of Anglo-European civility and their propensity to govern. Moreover, Bancroft seemed to embrace the notion of Anglo-European fraternity, as his concerns over “the Indian” are voiced in conversation with and directly to those he considered his expansionist peers, not simply American but some global community of Anglo-Europeans. Contextualized as such by Bancroft, “the Indian problem” left Native Americans only to be eradicated or tended to as domestic dependents, a burden that accompanied Anglo superiority and western expansion. Such constructions of the dimorphic relationship between European civilization and “savage primitives” were “common sense” for Bancroft and his contemporaries. As well, “the white,” its exceptionalism, and the marriage of the two proved to foster an intimate collaboration between the state and its “P/people” (*sic*).³³

Though circuitous in its routing, “the Indian” has been propelled into a particularly complex relationship with the West. Spanning from the noble and ignoble “savage” to the partially human “savage as the ‘Wolf’” as “Indian fighter” and American president George Washington made reference, the “Indian” ostensibly embodied an “Indian-ness” that predicates violence.³⁴ The biological abstraction of “the Indian” as racial sub-species is always simplified and always dangerous. It is this embodiment that justified the abject and overwhelming violence that amounted to what David Stannard captures when he says:

The destruction of the Indians of the Americas was, far and away, the most massive act of genocide in the history of the world. ... (F)ar from the heroic and romantic heraldry that customarily is used to symbolized the European settlement of the Americas, the emblem most congruent with reality would be a pyramid of skulls. (Stannard 1992: x)

It is the embodiment of “Indian-ness,” I argue, for whom postcolonial formulations of federal-Indian laws were proscribed and anti-“Indian” violence was justified. But scholars and institutions alone could not have maintained anti-“Indian” projects without the assistance of a social workforce and allies.³⁵ In the following section, I explore the relevance between institutional contemplations on “Indians” and those that emerge in popular culture media to assess the ways in which the anti-“Indianism” informed the American social imaginary. I turn now to examine the anti-colonial discourse as it arose around the Sand Creek massacre.

The “Death Ethics of War” at Sand Creek

At the close range, the massacre at Sand Creek illustrates an expression of state violence so egregious that it also rises to the definition of sadism.³⁶ It bears repeating that military

³³ See Mark Rifkin’s “Indigenizing Agamben,” 2009.

³⁴ The phrase “savage as the Wolf” is used by Native American legal scholar Robert Williams in his book Like a Loaded Weapon (2005). It is drawn from a quotation by George Washington who had been known as an “Indian killer” before becoming president of the United States.

³⁵ Bancroft 1875; Stannard 1992; Deloria 2004; Williams 2005; Kauanui 2008; Rifkin 2009.

³⁶ Maria Yellow Horse Brave Heart’s work on the “generational transference of grief” contends burdens Native American communities and results high rates of “at-risk” behavior all the way to suicide due to the liminal status and personal sense of negation and un-belonging that afflicts many Native Americans, particularly youth. Her work is examined in chapter four. Also, the works of Native American legal and history scholars, taken up in chapters two

personnel, following the massacre itself, engaged in a frenzy of postmortem mutilation. And, that they adorned their hats and saddles with the remnants of flesh of their victims' bodies, primarily those portions of flesh most clearly associated with reproduction including vulva, testicles and embryos, and paraded through the local settlement with these made visible as war trophies. The blatant and "uncivilized" acts on the part of these American military personnel were targeted in their reasoning when the Joint Chiefs Committee deemed the massacre a war crime. Bearing witness to the egregious nature of the violence appears to have finally assaulted the sentimentalities of many of their local leaders and settlers. Yet, the vitriol that followed the massacre was little and too late, quite possibly because the ethics that had surmounted expansion and its settlers had already sufficed to assuage the consciousness of Anglo-American settlers who had already begun to occupy the territories of Native Americans. Saturated with the discourse of the "Indian/squaw" "Other" and the naturalness of Anglo entitlement may have also helped to presage military operations as justifiable engagements of war, especially where "Indian wars" were concerned. The "death ethics of war," in these cases, had long been coded in the discourse of expansion and settlement, which had forewarned that the necessity of "progress" would beget violence and discomfort; the discomfort of emigration and settlement, of homesteading, and of witnessing the death of the "Indian/squaw" was necessitated by the advancement of Anglo-Europeans.³⁷ How the logic of the "death ethics of war" governed western expansion in the Northern Plains and how this historical period reflects the broader ideology that served as the basis for Anglo-American identity formation, nationhood, and the exceptionalism of both is of utmost concern.

The violence that came to bear on Cheyenne and Arapaho females, and the subsequent erasures of these histories of violence, enables new and important points of departure to emerge about the racial and gendered nature Western expansion, American essentialism, and contemporary U.S. international policies and its political relationships. I use the post-massacre Congressional Hearing and related public commentaries, in military journals and local newspapers, to interrogate the political terrain of this violent annexation, and to highlight the brutal nature of the Sand Creek massacre. The post-massacre military defenses offered, for example, variations on "Indian" inferiority and insisted questions be put to rest about the massacre's brutality and post-mortem mutilations. Anchoring their arguments in moral justifications, the "Indians" eradication was typically argued to have been accidental, unavoidable and even necessary aspects of settling the new American nation, which required the protection of white Americans. American exceptionalism, inherent in this particular expression of the "death ethics of war" highlighted the mutual constitution of Anglo-European civility and "Indian savagery" and the racial and cultural inferiority of Native Americans.

and five claim that in no uncertain terms, the Sand Creek massacre continues to represent the overarching devaluation of Native American life, was inherent in the logic of expansionists, remains embedded in military logics, continues to come to bear in Native American communities today. These scholars include Cherokee scholar Tom Holm, Native American legal scholars Robert Williams and Bruce Duthu, and the work of Red feminists that are explored in chapters four and five of the dissertation.

³⁷ See Omi and Winant 1986; Vine Deloria 1988; Philip Deloria 2004; David Roediger 2005; Audrey Smedley 2007; The genre of "captivity narratives" also serve to illustrate the ways in which calls to render "the Indian" innocuous circulated before and after western expansion. Much of this work portrays Anglo settlers as pioneers, not only as the first Anglo Americans in the literal sense, but in ways that deem settler violence and vigilantism venerable. The painting, "The Hunter's Stratagem," illustrates the growing belief that early immigrants occupy the territory as a right of domain. Dressed in buckskin clothing, three "hunters" aim to fire on "Indians," one with a tomahawk raised over his head, as they sneak up behind the foils of blankets and western styled hats propped against a tree, as if they are settlers seated in front of a campfire.

Decoloniality: Anti-Colonial Criticism and the Realignment of Political Agency

Evidence of the “death ethics of war” and its lingering legacies can be found in the anti-colonial project that occupied activists and scholars in Europe, Africa, the Caribbean and the broader Americas that propelled a movement of activism intent on deconstructing and disempowering the politics of colonial subjecthood. The faceted role of “death” of colonial subjects, their cultural normativities and existing socio-political structures can be found not only in the telos of colonialism and imperialism, but in their legacies. In the Americas, constructs of human difference and negation were argued to show how these differences perpetuated modes of governmentality.³⁸ Among the classic anti-colonial theorists, Martinique political figure and poet Aimé Césaire condemned colonizers for being the embodiment of the perpetrator of violence they claim to be assuaging by eradicating “Indian savagery”.³⁹ Césaire criticizes colonialism as a series of willful contradictions and hypocrisies. His critique of the inherent contradictions between violent subjugation of colonial subjects and the rhetoric of colonial civility inculcate the colonizer, and their accomplices, as the “savage” they aspire to eradicate. Césaire reversal of the logic of “Indian savagery,” in which he targets the contradiction between the abject violence in annexation projects and European claims of civility, marks the colonial, and later American, systems with “ethical suspensions”.⁴⁰ His ability to highlight the contradictions in the colonial ethos, coupled with Nelson Maldonado-Torres’s analysis of a “death ethics of war” and Achille Mbembe’s theory of “necropolitics,” in particular, are useful for making intelligible not only the underlying inhumanity of colonial projects and the grievances of Native Americans, past and present, but the underlying logics, semiotics and motives of modern decolonialism.⁴¹ As it pertains to Anglo- and Western exceptionalism and the racial formation of “the Indian,” Maldonado-Torres explains:

While temporality provides the means to reassert the intrinsic link between Europe and the universal, spatiality takes the role of demarcating difference. ... European nations represent the privileged space for the unfolding of the telos of humanity. Once the fragility of European history... is made evident, spatiality is (re)introduced as a significant factor in the subalternation of non-European peoples. ... (R)eference to the Indians becomes a necessary step in a perverse logic that aims to establish European greatness through the differentiation and epistemic subordination of others. (Maldonado-Torres 2008: 46).

Maldonado-Torres identifies the ideological architectures of domination that at one time departed from a critical turn in 1492. He continues on, connecting the historical ideology to the contemporary, contending that “the emergence of a firm imperial Europe (conceived of) itself as the center of the whole world and as the telos of civilization. Modern anti-Semitism, modern anti-Black racism, and modern colonialism find a common historical referent” (Maldonado-

³⁸ Foucault 1977.

³⁹ See Aimé Césaire’s *Discourse on Colonialism*, New York: MR, 1972.

⁴⁰ I draw on Native American legal scholar Robert Williams’s book *Like a Loaded Weapon* and his use of the term “Indianophobia,” which is a fear of “Indian savagery” (2005).

⁴¹ The term “necropolitics” is that of Achille Mbembe’s (2003).

Torres 2008: 3). The deployment of a variety of death technologies during and after wars of expansion, make death of the supposed enemy normal, and the erasure of their epistemological systems unquestioned, are the same logics that find their way into contemporary laws and institutional structures of social organization in postcolonial sites marking later generations with the underpinnings of early domination technologies and perpetuated by the visibility of both white racial exceptionalism and the absolute inferiority of peoples of color in postcolonial sites. The inferiorization of “Indians” (and “Blacks”) can be characterized as a super-subordination out of which these subjects are not likely to emerge whole. Mbembe’s theory of “necropolitics,” is particularly useful for making intelligible the underlying inhumanity of colonial projects and the grievances of Native Americans, past and present. Moreover, coupling the analyses in Mbembe’s “Necropolitics” (2003) and On the Postcolony (2001), I draw on the author critiques to illustrate the ways in which Africa has been rendered as a collection of economically and culturally impotent nations that through colonial and contemporary practices of expansion, the popular culture deployments of anachronistic and racist imagery about African indigenous peoples, and the concretization of the ideology of modernity put African indigenous peoples out of alignment with productivity in the western sense, similarly to the effect of discursive racism in the Native American context. In “Necropolitics” Mbembe uses “death” as an operative of power. To have the power to “kill or to allow to live” Mbembe contends, is the ultimate power of absolute sovereignty and domination (Mbembe 2003: 11). Drawing connections between stark similarities of coloniality in its various sites, Native America then also emerges as if to say that, “Colonialism... in both its forms and its substance, posited the issue of contingent human violence” (Mbembe 2003: 13). Extending further, the role of sexism according to Mbembe is particularly compelling. The following quote captures the way that masculinity and dominance correlate and are locatable in their subjugation of women. He says:

In many ways, the form of domination imposed during both the slave trade and colonialism in Africa could be called phallic. During the colonial era and its aftermath, phallic domination has been all the more strategic in power relationships, not only because it is based on a mobilization of the subjective foundations of masculinity and femininity but also because it has direct, close connections with the general economy of sexuality. In fact, the phallus has been the focus of ways of constructing masculinity and power. Male domination derives in large measure from the power and the spectacle of the phallus – not so much from the threat to life during war as from the individual male’s ability to demonstrate his virility at the expense of a woman and to obtain its validation from the subjugated woman herself. (Mbembe 2001: 13)

The notion of “obtaining validation from the subjugate woman herself” may offer possibilities for thinking through the types and levels violence against Cheyenne and Arapahoe women, girls, boys and elders, human constructs that are all to certain degrees feminized in the western imaginary. Comparing, but not as equivalents, these experiences of indigeneity can be viewed through various colonial projects. Works such as Mbembe’s show how Africans, as “black” indigenous peoples, have been dis-membered from human civilization through colonial discourses and systems of knowledge production that have as well been perpetuated through the

various mediums of coloniality today. He clarifies, colonial domination is a “murky domain of power ... always makes animality and bestiality its essential components, plunging human beings into a never-ending process of brutalization” (Mbembe 2003: 14). Moreover, the legacies of hypervisibilities and erasures have left similarly effective notions of “the Indian” and “the Black” long after the formal colonial periods have ended.

Conclusion

Emerging from European imaginaries, Native Americans were subjected to reconstructions that designed and were deployed through a series of discursive transformations and became known to the world at-large as “Indians”. When this occurred, “Indians” are used in large part to influence the legal apparatuses that would come to dominate and govern Native American life still today. The discursive project that underwrote the complex system of Western European expansion and American and white exceptionalism, to use Michel Trouillot’s concept, has been advanced through the “renewal of power” of the West by the perpetual rearticulation of “Indian/squaw” formations in U.S. institutions and popular culture mediums.⁴² Informed by the “death ethics of war,” the overarching narrative of power illustrates a complex and complicated logic and practices that negate “Indian” civility by arguing that “Indianness” fosters intolerable human conditions that threaten to undermine the power and progress of a benevolent West. A diverse reading of this literature and “language of Indian savagery” demonstrates that “Indian” humanity was, rather than subjected to its wholesale denial, made peculiar to the point that what remains is the notion that “Indianness” exists as a perversion of “Man”.⁴³

These arguments underscored the developments that lead to and the violence inflicted at the Sand Creek massacre.⁴⁴ This point of departure traces the trajectories of the hegemonic devices of colonial logics that are propelled forward into western contemporary social and political imaginaries and hint at why, though the colonial period has ended, the power of racial logics continue to inform notions of Native American experiences. I now turn to how the story of “the Indian” as a racial construction began.

⁴² See Michel Trouillot 1995.

⁴³ See Mark Rifkin’s “Indigenizing Agamben” (2006).

⁴⁴ This matter will provide the analytical crux of chapter two.

Chapter Two

“Colonial Legacies, Epistemological Death and Re-presentations of “the Indian” as Enemy”

Western expansion in North America was largely facilitated by the discursive project of “Indian” racialization. It was a critical facet in the global colonial expansion project of the West that proposed and scientifically defended the incomparable superiority of Anglo-Europeans to that of the cultural and biological inferiority of racialized “Others”. This chapter deconstructs the discursive apparatuses that fostered Native American racialization and signified Native Americans as racially marked enemies in western political and social thought. From the laws that authorized European expansion to popular culture media expressions, “Indians” have been portrayed as either irredeemably unintelligible or so culturally different from western Europeans as to exist on an alternate human scale. I contend that the works of political figures, scholars, and popular culture producers who circulated their assessments of “Indians” portrayed as these figures in such a manner that Native Americans were indelibly written into the Western imaginary. This chapter departs from two conceptual frames. First, I trace the historical creation of “the Indian” through the discourse in and surrounding Spain’s 16th century Valladolid debate, to the volatile anti-“Indian” fervor in Immanuel Kant’s 18th century rhetoric on “the Native,” and situate “the Indian” in the West with an examination of Hubert Howe Bancroft’s “Indian” racialization in the 19th century American West. Second, I explore how political and academic constructs of “the Indian” arise in popular culture mediums and explore the correlations between these fictional caricatures to “the Indian” that emerges in the military testimonies that followed the Sand Creek massacre of 1864. Drawing on the works of historian and expert on Spanish colonialism, Lewis Hanke, U.S. historian Jeff Ostler and Native American legal scholar Robert Williams, I articulate the complex and muddled nature of territorial expansion in Colorado, highlight the logic of western exceptionalism and anti-“Indianism” that fueled expansion in the 19th century Northern Plains, and explore how it comes to bear at the Sand Creek massacre. The Sand Creek massacre can be interpreted as one of the undisputed highest points of “Indian” racialization. As such, its analysis reveals the convergence of racial and gendered frames that formed a complex ideology, expressed in political and social spheres, that was steeped with ethical suspensions that embedded the legal structures of “just war,” early federal-Indian law, American nation-formation and “Indian country”.⁴⁵

Critical History: “Indian” Racialization and “Just War”

How the immensely diverse and distinct populations of Indigenous peoples in the Americas came to be perceived as a monolithic group of “Indians” is a curio of western European thought. Christopher Columbus is at times blamed for initiating the term “Indian”. Some scholars argue that Columbus, a notoriously poor navigator, believed himself to have arrived in India, when in actuality he had shored up in Hispaniola, one of the largest and most populated islands in the Caribbean. Others contend that Columbus used the term “Indios” to suggest that America’s indigenous peoples were “of God” in the most positive of manners; a quick review of his treatment of Arawak and Taíno peoples serves to dispel the nostalgia.⁴⁶

⁴⁵ See Chapter one for analysis of “ethical suspensions” as part-and-parcel of the “death ethics of war” as articulated in Nelson Maldonado Torres’s *Against War: The Underside of Modernity* (2008).

⁴⁶ See David Stannards 1992 book *American Holocaust*, New York: Oxford University Press and James Wilson’s 1998 book *The Earth Shall Weep: A History of Native America*, New York: Grove Press.

Whether Columbus's specific concept of "the Indian" was adopted by western Europeans or not, the racial project within colonialism took on a life of its own. To an important extent, the advent of "the Indian" as a monolithic, biologically based, racial assignment over a vast land and millions of people, was the result of a community of scholars whose works helped to create and cement race ideology. Their justifications, which included the tenets for authorizing a variety of forms and levels of institutionalized violence against "Indians," were rooted in the practices of "defamiliarizing" the west with "Indian" peoples.⁴⁷ Their rhetoric and scientific racism saturated nearly three centuries of western expansionist discourse and the laws that reinforced the rights of Europeans to exploit "Indian" peoples and their territories.⁴⁸

Thought into being, "the Indian" offered an intriguing dilemma over which European thinkers wrestled when they argued for territorial expansions and legalized the annexation of indigenous lands "by purchase or conquest".⁴⁹ From Juan Ginés de Sepúlveda and Bartolomé de Las Casas, and carried further in the later work of Immanuel Kant, assemblages of Native Americans as "savages" thrust "Indians" into a reductive schema of human-ness that ranged from the elite, "white" male, whose upper echelon status purportedly reflected his racial and cultural superiority, to that of the irredeemable primitive "Indian". Catalyzed in Spain, between 1500 and 1880 a litany of qualitative and quantitative measures were engaged in to justify wars of expansion in the Americas and from it an intellectual genealogy on "the Indian" race emerged. Acknowledging the importance of Spain's initial leap into "Indian" racialization Lewis Hanke explains, "For the first time, and probably for the last, a colonizing nation organized a formal inquiry into the justice of the methods used to extend its empire. For the first time, too, in the modern world, we see an attempt to stigmatize an entire race as inferior, as born slaves according to the theory elaborated centuries before by Aristotle" (Hanke 1974: xi). Deploying a biblically infused race ideology and quasi-scientific studies, the Valladolid debate, where much of the past century's interrogation of "the Indian" occurred, vacillated between primitivizing Native Americans or, at the very least, relegating them to permanent subjecthood as potential Christian converts. During such debates, even before Valladolid, the Spanish empire was repeatedly taken to task over what constituted a "just war," especially where its treatment of "Indians" was concerned. More often than not, "the Indian" was a mere figment of European imaginaries, yet rising to the occasion, theologians, philosophers and political figures attempted to arrive at solutions to "the Indian problem" that incidentally coincided with their creation of "the Indian". His appearance on the metaphysical plain of the human sphere seems to have enabled a series of ethical suspensions to unfold and justify extreme tactics and the necessity of war during expansion. Though assimilationist ethics eventually prevailed in most of the written laws, the overlapping histories of discursive and physical violence that followed Spanish conquest are reflective of the contested practices that "Indian" racialization fostered, including efforts to assimilate "Indians" and monopolize their territories.⁵⁰

The Valladolid Debate and "Indian" Racialization

The Valladolid debate of 1550 most clearly represents the culmination of decades-long attempts to institutionalize the "Indian" in western European political thought. It constitutes a

⁴⁷ See Kate Flint 2009.

⁴⁸ See Hanke 1965; Wade 1997; Muthu 2003; Deloria 2004; Maldonado-Torres 2008; Flint 2009.

⁴⁹ California Historical Society, 1922.

⁵⁰ See Hanke 1965 and 1974; Wilson 2001; Muthu 2003; Deloria 2004; Williams 2005; Kauanui 2008; Maldonado-Torres 2008.

critical step in legislating the conquest of the Americas. Two key figures of the Spanish crown, Juan Ginés de Sepúlveda, philosopher and historian of the Spanish Monarch, and Bartolomé de Las Casas, a Dominican Priest and active missionary, ventured to articulate the legal grounds for the relationship between the Spanish empire, and its expansionists, and “Native” peoples.⁵¹ In the end, if “after all the explanation natives still opposed a Spanish settlement and the preaching of Christianity, the license was given to enslave the captives” (Hanke 1965: 131). Assessing the “nature” of “Indians” was a key concern that would be used to dictate the methods of Spain’s territorial expansion in the Americas. The notion of “Indianness” was painstakingly exacted as a point of reference for assessing the redeemability of “Indians”. As the century-long debates on “the Indian” ensued, it was to put into effect the extension of the political jurisdiction of Spain beyond its continental and oceanic divides and authorize Spain’s sovereign right to govern “Indians,” even if through abject violence, the compulsory subjugation of “Indians” as long as the violence was deemed justifiable.⁵²

Drawing from the debates of earlier centuries and especially the “New Laws” of 1542, Las Casas and Sepulveda argued that the rights of “Indian” peoples ultimately centered on whether they embodied souls or, in other words, whether they were peoples capable of redemption, both spiritually and in terms of what comes to be understood as a European form of civil participation. If “Indians” were not entitled to the same rights as Spaniards, then they were not entitled to the rights of “man”. This status was defined by a peoples’ capacity for property ownership, land management, Christian conformity and self-governance.⁵³ From there, the questions regarding the rights of “Indians” centered on the requisite subjugation “Indians” could and should bear. According to Lewis Hanke, at Valladolid, Las Casas and Sepúlveda uttered stark and contrasting opinions over the nature of “Indian” peoples. Las Casas promoted the argument that “Indians” were all children of the Christian God and therefore were bound and protected by the laws of Jesus Christ, which enabled their ability to occupy land and maintain a modicum of self-governance.⁵⁴ Speaking against the primitivistic language of his contemporaries, Las Casas claimed that “Indians” were “not beasts, not slaves by nature, not childlike creatures with a limited or static understanding, but men capable of becoming Christians, who had every right to enjoy their property, political liberty, and human dignity, who should be incorporated into the Spanish and Christian civilization rather than enslaved or destroyed.”⁵⁵ Las Casas stood firmly in his belief that “Indians,” with whom he had engaged with and lived among in Guatemala, were “prudent and rational beings, of as good ability and judgment as other men and more able, discreet, and of better understanding than the people of many other nations” (Hanke 1965: 121). Thus, he claimed, “All the peoples of the world are men” (Hanke 1965: 125). A generous articulation of “Indian” sovereignty, Las Casas’s vision of expansion was weighted with contradiction. He did not negate Spanish expansion, annexation, settlement or compulsory religious conversion of “Indians”. His commitment, or more his responsibility as a religious figure, to save “Indian” souls created substantial blind spots in his

⁵¹ My use of the term “Indian” and “Native” are intentional and reflect the vernacular of the period and the changing semiotics of colonial language. It is not a reference to separate or different peoples, but rather Spain’s “Indians,” Kant’s “Natives,” and early American “Indians” are terms used to racially and culturally identify indigenous peoples of the Americas.

⁵² See Hanke 1965 and 1974; Muthu 2003; Williams 2005.

⁵³ Wilson 2001; Muthu 2003; Williams 2005.

⁵⁴ Lewis quotes Las Casas whose notion of the “laws of Jesus Christ” formed the basis for his assessment of the rights of indigenous peoples in Guatemala with whom Las Casas lived and worked to convert.

⁵⁵ Hanke 1965; Wynter 2003.

formulations of “Indian” sovereignty.⁵⁶

During the debate, Sepúlveda, on the contrary, contended that “Indians” were ill suited for self-governance or any other of the functions required for organizing and operating an autonomously engineered “civil society”. In addition to their compulsory religious conversion, Sepúlveda instructed, the adoption of a “natural” human hierarchy should dictate Spain’s relationship to “Indians”. According to Hanke, Sepúlveda “chose to regard all these new peoples as an inferior type of humanity which should be submitted to the rule of the Spaniards. Without having seen them or observed their lands and civilization, he felt no hesitation in condemning them all as not quite men, above monkeys to be sure, but unworthy of being considered in the same class with the Spaniards” (Hanke 1965: 126–127). Moreover, Sepúlveda justified Spain’s violent approach to expansion, contending it “just” because he imagined “Indian” cultures included primitive and inhumane practices such as cannibalism. This, he assured his audiences, offered ample evidence of both “the Indian’s” reticence to succumbing to European modes of civility and, ultimately, their concretized “the Indian’s” biological and immutable determination to remain “Indian”. Sepúlveda proclaimed that, “...Indians are as inferior... as children are to adults, as women are to men. Indians are as different from Spaniards as cruel people are from mild people, as monkeys from men” (Hanke 1965: 122). The “Indian’s” “Indianness” would be impossible to ameliorate and, therefore, enslavement was not only pragmatic, but also necessary. In his four-point justification for war and the use of abject violence against “Indians,” Hanke contends that Sepúlveda drew from Aristotle, at least the philosopher’s contemplations in which he presented an argument favoring the recognition of a natural social hierarchy based on human difference. Sepúlveda supported the enslavement and permanent subjugation of “Indians” on Aristotle’s claim that, “some beings are inferior by nature (and) it is only just and natural that prudent and wise men have dominion over them for their own welfare as well as for the service of their superiors.” Hanke continues, “If the Indians failed to recognize this relationship and resisted the Spaniards, just war could be waged against them and their persons and property would pass to the conquerors” (Hanke 1965: 122). Having no experience with “Indians,” did not prevent Sepúlveda from exerting his influence over “Indian” peoples. Rather, he fomented distrust in “the Indian’s” capacity for civil participation, as well as heralded Spanish imperatives, and instead issued a statement calling for the continuation of the *encomienda* system as the basis of Spain’s imperial expansion. In fact, he contended that “Indians” should operate as slaves not only to the Spanish government, but as well to its expansionists and later colonists.⁵⁷

Las Casas’s vision won out insofar as he was able to ensure that “Indians,” whom he believed to be intellectually, culturally and theologically sound, were viewed as religiously redeemable. According to Hanke, he thwarted Sepúlveda’s determination in a number of ways, but Sepúlveda’s conjecture still came to bear its mark on the practices of the Spanish empire and to the extent that some Spanish expansionists celebrated his anti-“Indian” sentiments primarily because they were adopted as *a priori* justifications for the continuation of the *encomienda* system and other violent forms of “Indian” subordination or eradication.⁵⁸ Moreover, whether due to Las Casas vision of religious conversion, which the missionary contended was a

⁵⁶ Hanke 1965 and 1974; Wynter 2003.

⁵⁷ See Hanke 1965 and 1974.

⁵⁸ The *encomienda* system emerged as a part of the legal system during Spanish colonization and while it set the context for protection of “Indians,” it also allowed for the extraction of a variety of forms of payment for that protection that included gold and/or labor. In other words, it tended to set a context for Spanish exploitation and enslavement of “Indians”. See Hanke 1965 and 1974.

progenitor of a civil multi-racial society, or Sepúlveda's exploitation model, neither left room for the safe recourse of Native American peoples. Rather, the Valladolid debate exacerbated the fault line between the so-called civilized and primitive societies of the world. Native American peoples, as a result of centuries of discursive racialization and the multi-layered systems of subordination, came to be negatively marked by the paradigm of human difference. It was a paradigm that would come to dominate the practices of imperial expansion and bear down heavily on the worlds' colonized societies. It was also a period and topic of debate that would go beyond its temporal and political boundaries only to be taken up again in new and critical sites of "Indian" racialization.⁵⁹

Immanuel Kant's "Native" Racialization

Not unlike Sepúlveda, Immanuel Kant's 19th century criticism of "Natives" called for the utter disavowal of "the Native". Such a weighty proposition, of the ostensible irredeemability and unintelligibility of "Natives," facilitated the requisite "death" of Indigenous intelligibility, autonomy, and correlative sovereignty within Kant's spheres of influence, which were quite wide and far reaching.⁶⁰ Not alone in his anti-"Indian" critique, like those before and after him, Kant offered at-best his estimations of "the Indian" threat. But it was Kant's discursive re-historicizations of "Natives" that fundamentally ushered in and earmarked North American Native American peoples as archetypal enemies through the disciplinary safety of the field of Anthropology.⁶¹

In the works of Emmanuel Chukwudi Eze (1995) and Robert Bernasconi (2002), a surprising turn in the philosophical canon was exposed in their close examinations of Kant's ruminations on race and intelligibility and governmentality.⁶² These scholars trace Kant's deployment of anti-"Indianism" in his scholarship and in the curricular foundations of the "branch of study," Anthropology, that Kant introduced in 1772.⁶³ It is his point of departure on the human races, and specifically "Native" and "Negro" races, that drew their critiques. It is the importance of Anthropology, its position as a cornerstone of the contemporary academy, and its impact on the study of Native Americans that makes Immanuel Kant important in this analysis.

When Kant is read in conversation with critiques on the West, American exceptionalism,

⁵⁹ C.H.S. 1922; Hanke 1965; Hanke 1974; Muthu 2003; Wynter 2003; Williams 2005; Maldonado-Torres 2008.

⁶⁰ Though a number of philosophers and scholars contemplated the utility of "the Indian," including Georg Wilhem Friedrich Hegel and Karl Marx, I have chosen to focus on Immanuel Kant because of his importance to the field of Anthropology, which had great influence on the ways in which the scholarly world continued to characterize "Indians". Because my work looks at the relationships between institutional bigotry and violence and the social adoption of both the ideologies and practices of the state, the fields of law, history and anthropology are particularly useful as they have are made accessible to the public, either through the implementation of laws or publication of anthropological ventures in popular magazines, for example. As such, scholars of these fields have participated in the discursive production of "anti-Indiansim" over centuries in ways that directly facilitated in the formation of the Western social imaginary. For more on this argument, I take up the work of scholars Edward Said (1978), Richard Slotkin (1992), Angela McRobbie (1993), Nicholas Thomas (1994), Michel Trouillot (1995), George Lipsitz (1998), and Gayatri Spivak (1999) Sankar Muthu (2003), Patricia Penn Hilden (2006), Elise Marubbio (2006), Stephen W. Silliman (2008), and Elizabeth Hutchinson (2009) in other chapters to demonstrate the creation and deployment of colonial tropes and their perpetuation in the dominant cultural imaginary to, in the words of Michel Trouillot, as a method for the "renewal of power" (1995) of the dominant political hegemony.

⁶¹ See Eze 1995; Bernasconi 2002; Muthu 2003.

⁶² See Michel Foucault (1991). Also, though Kant did not have the latter term, as this analysis will reveal, Kant proposed that racialization should be measured and utilized to adjudicate the rights of citizens based on their racial intelligibility and distance from primitivism.

⁶³ See Eze 1995; Bernasconi 2002.

governmentality, and institutional racism, I contend, that the anthropologist and philosopher's fervent rejection of "Native" civility echoes the historical conjecture about the Americas as a "New World" and a "no man's land" where "Natives" were pitted against "civilized" peoples. Moreover, fixated on "Natives," and "Negroes," Kant's iterations grounded the academic discipline of Anthropology, the preeminent study of human socio-cultural organization, in a scientific racist paradigm. Though later decried as faulty science, Kant drew from colonialism's imaginary "Indian," his vices and perverted cultures, to advise western governments to avoid the effects of "race mixing" on a global scale. In his essays, where Kant highlighted the problematics of race mixing, Eze and Bernasconi note the imaginary threat of race-based pathologies, for example, against which Kant called for the development of a strict world hierarchy. In my reading of Kant's Anthropology from a Pragmatic Point of View (1978), I draw out the scholar's presentation of a set of physically violent practices for enforcing conformity by "Native" and "Negro" subjects.⁶⁴ Kant claimed that his overall implementations, of a hierarchy and violent subjugation, must become part-and-parcel of European expansion and settlement in the "New World". His was a revelatory gesture that made colonial and western expansion and domination of all global territories not only possible, but also necessary, as I will explain. Because of his position, Kant serves as an irreplaceable voice of anti-"Indian" logic and is likely one of the most important figures in race discourse because he impelled scholars to engage "the Native" as one of two of the lowest forms of humanity.⁶⁵

Kant posed an early question to the philosophers and scientists of his era when he questioned the constitution of "Man". Though his question was more a postulation, Kant exacerbated the "race problem" by reinvigorating the discourse on "Native" racialization. Over time, his speculations over the "stages of human evolution" contributed to the development of a human social hierarchy that was guided by both racial and cultural distinctions that continue to be visible in both micro and macro hegemonic systems today.⁶⁶ Scholars, religious and political leaders, at times one in the same, utilized the resulting racial logics of such "experts" to develop a peculiar and pilfering form of modernism that was dependent upon human exploitation and the utilization of "Natives" as disposable laboring mechanisms. Kant enabled this process when he substantiated the justifications for differential rights by taking up the fight of century's earlier colonial figures and contributing to the axiom that few men meet the requirements for qualifying as "Men". These qualifications included, but were not limited to, living within particular geographical environments and being endowed with specific intellectual properties and physical

⁶⁴ See Kant (1978) for his detailed explanations of the materials that could and should be used to beat "Natives" and "Negros" into submission.

⁶⁵ The African indigenous subject eventually takes the place in the lowest rung of the racial hierarchy, but it is important to note that the process of arriving at a static hierarchy involved a long process and contestations over who qualified for the various strata of the racial hierarchy. See Fanon 1967; Said 1978; Deloria 1988; Eze 1995; Wilson 1998; DuBois 1999; Vest 2000; Bernasconi 2002; Wynter 2003; Wallerstein 2004; Williams 2005 .

⁶⁶ Native American scholar Vine Deloria's work, in particular God Is Red (1973), and W.E.B. DuBois, The Souls of Black Folk (1997), both articulated the problematics that colonial and postcolonial figures promoted in the condemnations of "Indians" and "Negroes" when each scholar contributed their contestations to the notion that either lacked souls, and therefore the rights of "man". Emerging from different points of view, Deloria contends that Native American political acuity, formations and agency and Native American epistemologies locate Native Americans within the sphere of humanity; DuBois contended that the soul made visible in "Negro spirituals," in other words, the human-ness of African indigenous peoples who were enslaved in North America was evident in the folk cultural expressions of those enslaved populations and their generations.

characteristics that enable “Man” to flourish in civilizations.⁶⁷

It is for his position and audience that Kant figures so heavily into the history of racialization and human negation. Kant’s scholarship, in which he provides “a virulent and theoretically based racism,” is critical to the philosophical conversations and the political policies that followed and shaped the lives of both Anglo-Europeans, who Kant refers to as “white,” and “Indians” from then on. According to Bernasconi, the qualities that Kant affords “whites” are vast. Believing in the racial superiority of white men, Kant is generous in his application of positive traits including not only that whites have the sole capacity for intellectual progress but also have the greatest aptitude for self-government. In Bernasconi’s revealing examination of Kantian racism, he states that Kant conveyed with ease that, “Whites ‘contain all the impulses of nature in affects and passions, all talents, all dispositions to culture and civilization and can as readily obey as govern’” (Kant quoted by Bernasconi 2002:145 – 147). On the contrary, as Bernasconi and Eze contend, Kant’s own writings articulate the scholar’s belief that indigenous peoples were sorely lacking in nearly all traits of civilization except for Africans (“Negroes”). Bernasconi captures his sentiment clearly here where Kant states that “Negroes” “have a capacity for culture (though) it is only for slave culture.” In a rare and later hotly debated reversal, Kant believed for a time that “Negroes” were elevated above “Native Americans” whom he considered to be the “lowest of all remaining levels by which we designate the different races” on the human/subhuman hierarchy (Kant quoted by Bernasconi 2002: 148). Kant’s position, Bernasconi argued, was based on the notion that Native Americans not only lacked the capacity for complex cultural formation, but also the vivacity for inspiration and “drive”. Native American’s supposed lack of “maturity” was considered egregious and willful, according again to Bernasconi who contends that Kant believed that these indigenous peoples were stubbornly “unfit for any culture ... despite the proximity of example and ample encouragement” (Kant quoted by Bernasconi 2002: 148). According to scholar Jennifer Lisa Vest, Georg Wilhelm Friedrich Hegel, who is another cornerstone in the philosophical canon, shared Kant’s beliefs and helped to propagate the vision of “Native Americans as ‘like unenlightened children, living from one day to the next, and untouched by higher thoughts or aspirations’” (Hegel quoted by Vest 2000: 15).⁶⁸ I contend that Kant’s devaluation of Native Americans can be said to have iterated indigenous North Americans as an unintelligible people, a collapsible body of racialized peoples into the category of “the Native”. More importantly than simply erasing the political, cultural and social diversity of indigenous Americans (and Africans), Kant’s vehement criticism of “Natives” also signaled their potential threat not only as permanently infantilized peoples, but as pathologized peoples, whom he singularized through biological determinism. It was this notion that served as the basis for his support of much more than a human hierarchy, but also called for the divestment of “Native” agency, through a discursive process that supplanted agency with primitivism, which was used in turn to justify the use of abject violence against them.⁶⁹

In seeming contradiction to his vociferous hatred of the “Natives”, Kant seemed to argue against rabid forms of expansion and instead required that contracts be made with Native

⁶⁷ For scholarship that applies this argument to Native Americans, see the works of Eze 1995; Muthu 2003; Bernasconi 2002; Williams 2005.

⁶⁸ Both Kant’s and Hegel’s approach to racializing human societies fell within a broader discourse that was aimed at cultivating a human hierarchy, which associated race and cultural practices with more or less biological sophistication and therefore right to self-govern.

⁶⁹ See Kant 1978; Vest 2000; Bernasconi 2002.

Americans in order for the process of subjugating them to be valid. Kant's views appear to be diametrically opposed, however, I argue that his two concerns were not so separate. Facing what he saw as a potential flaw in the system of nature, Bernasconi illustrates that Kant imagined the world as a "sphere" and therefore conducive to racial mixing. To ameliorate this problem, he says that Kant proposed a method for manifesting the stratified world of his imagination and normalized the institutionalization of a racial hierarchy. Kant advised simply that, "to avoid race mixing was merely to act in conformity with nature" (Kant quoted by Bernasconi 2002: 157). I contend that Kant's discountenance of all out conquest, therefore, was not because it was immoral, and certainly not because he deemed Native Americans intellectually capable of or due any contractual negotiations, but because the threat of social intimacy would lead to the "degradation or pollution of Whites." The "pollution," Kant believed according to Bernasconi, would effectively weaken Whites and enable "Native Americans and Blacks ... to play an equal part in the cosmopolitan ideal." Rather, Bernasconi contends that Kant believed that proximity to so-called white society should provide ample examples of civility for "Natives" and other subjects on the lower rungs of the hierarchy who would "at best remain imitators, dependent on European discipline" (Kant quoted by Bernasconi 2002: 158 – 159). Moreover, though Kant did not explicitly call for the extermination of Native Americans and Africans, his theories on race mixing, combined with the racist thinking of other political figures including scientists and philosophers of the time, set the stage for protecting White entitlement at whatever the cost to racialized "Others". In fact, as Bernasconi points out:

Kant's note shows that as soon as the idea of race is juxtaposed with the new discipline of a philosophy of history, it invites 'solutions' that involve wholesale extermination. The fact that Kant did not solve the problems of how, within the framework of a universal history, cosmopolitanism can be reconciled with a view of White superiority meant that he left to posterity a dangerous legacy. Kant's note had no historical impact, but he was at very least an articulate spokesman for a framework that had disastrous consequences. One would expect both philosophical problems to arise from a view in which all human beings are divided into discrete groups, but where the members of one of the groups alone is in possession of all the qualities and talents necessary to flourish, so that the members of the other groups have no genuine contribution to make. (Bernasconi 2002: 160)

Bernasconi's disavowal of Kant's "historical impact" is curious. As the founder of anthropological study, he advanced a "language of Indian savagery" that was adopted wholesale in early American formations and remains effective in the United States institutions and social imaginary as well as federal-Indian law.⁷⁰ Moreover, Kant added significantly to the efforts of other well-established scientific racists and the "orientalism" that had predated the conquest of

⁷⁰ The "language of Indian Savagery" comes from Native American legal scholar Robert Williams (2005). See also Slotkin 1992; Wilson 2001; Williams 2005; Duthu 2011.

Native America.⁷¹ This is a critical piece in North American history because it reveals the emergence of biological reductionism and racism, which set a context for committing genocide against Native Americans. Simultaneously, Kant enabled justifications for “Indian” segregation and violent expulsion from the general population, not simply motivated by economic avarice, but as a moral to the civilized body politic. Kant’s notion that “Indians” were pathologically irredeemable because of their “nature” consequently also contended that “whites” were particularly gifted because of their purported “nature”. Employing Kantian principles and a bevy of scientific racism, as well as White supremacist notions about the White self, genocide, also known as “Indian” eradication, became a common sense approach for many. Moreover, in retrospect, such authoring of “the Indian” and “the Indian problem” anchored their arguments in the hero worship of the perpetrators of genocide. It is a historical re-presentation of conquest that emerged in the historical record, that Kant’s hermeneutic academy for the study of the world’s human cultures presumed true, and that perpetuated a paradigm of “Indian” racialization, repeated in political, academic and popular culture narratives that arguably perpetuates the “renewal of power” of the West through nostalgic re-tellings of its historical past.⁷² Ultimately, Kant generated a firestorm of anti-“Indian” hypotheses that correlated the biological inferiority of Native Americans with that of an irredeemable force of nature. Whether taken up purposefully or because his racial logic was embedded within the field of Anthropology, it is from this point of departure and the relative power of western disciplines that scholars and political figures engaged Kantian anti-“Indian” racism and its assumptions about the quality of the “Native” self. In Kant’s time, the occupation of non-Christian peoples and their lands and the exploitation of their faculties became the basis of Kant’s race-based philosophy, in which he offered a series of contemplations intended to make comprehensible the importance of the spread of colonial hegemonic systems. Though probing the history of anthropology is not the primary function of this chapter, clarification of its development and the race-based theories it perpetuated and concretized helps to further illustrate the contexts and importance of Kantian racism.⁷³ However, Kantian racism did not emerge in a vacuum or without contestation.

Overlapping Kant’s engagement of questions surrounding Native Americans, the latter portion of the Enlightenment period that occupied much of Europe’s intellectual strata would enter into debates over the rights and needs of “Man” as well. The question in pursuit was whether logic and reason or religion and the soul should drive the legislation and political conduct of human societies. I draw on the work of Sankar Muthu, primarily, to note here how the work of Jean Jacques Rousseau most notably popularized the romanticized “Native,” which was a construct that figured heavily in early American identity formations addressed later in this chapter.⁷⁴ Though Rousseau had many predecessors, his convictions on “the Native” became the

⁷¹ “Orientalism” is a term and concept articulated by Edward Said in his 1978 book *Orientalism*. The concept refers to the consignment of negatively racialized peoples to perpetual difference, peculiarity and “otherness” in relationship to Western normativities.

⁷² The term and concept of “re-presentation” was articulated by Gayatri Spivak (1999). For further consideration of Michel Trouillot’s “renewal of power” I draw on a number of works including Stephen W. Silliman’s theory of “heritage metaphors,” (2008), Nicholas Thomas (1994), Gayatri Spivak’s “re-presentation” (1999), and Shari Huhndorf’s *Going Native* (2003).

⁷³ Fanon 1967; Kant 1978; Deloria 1988 and 1999; DuBois 1999; Deloria and Wildcat 2001; Eze 1995; Vest 2000; Hoxie 2001; Bernasconi 2002; Wynter 2003.

⁷⁴ This notably brief explanation of Rousseau is intended to provide a brief counterpoint to demonstrate the broader contemplations on “the Indian” and “the savage” that preoccupied European thinkers during the Enlightenment period. It is intentionally brief because the focus of this project is to highlight and illustrate the negative racialization of “Indians” and “squaws” that emerged in the period and that continue to arise in contemporary examples of anti-

focal point of the many critiques and adoptions of the romantic primitive figure. Among his intentions, Rousseau argued against modernist notions of progress when they merged the rhetoric of race ideology and manifest destiny in the legal doctrines that justified European territorial expansions and annexation projects. According to Muthu, Rousseau admonished modernists for corrupting what the “Indian” promised in the abstract: happiness and contentment. Rousseau embraced “the savage” “Indian” as the primitive form of man to which all men should aspire to return if they were to avoid the corrupting effects of modern society.⁷⁵ However, I argue that similar to Las Casas and Sepulveda, when put into conversation, Kant and Rousseau’s “Natives” remained vexingly similar. Both contended that “Indian” cultural and social systems were vastly different than their modern societies and both affirmed Western Europe’s belief in “Native” primitivity. The most significant difference between the two schools of thought was whether “Natives” posed a problem for the West, or visa-versa. This discourse on “the Native” arose in political and scholarly debates and the dichotomy they proposed largely informed the political and academic pursuits on “Indian” quantification that followed.

Identify Formation and Popular Culture in the 20th Century American West: White Exceptionalism and the Legacies of “Indian” Racialization in the Western Social Imaginary

By the early 1800s, an ardent belief in “the Indian” engendered new formations of European and American identity. Convergences of political rhetoric, the production of race science, and popular culture media such as novels, societal journals and traveling theatres, brought the “New World,” “the west,” and the imaginary’s “Indians” back to European audiences long before many ever migrated to the Americas. It is this discursive history that scholars such as Vine Deloria, Phil Deloria, Shari Huhndorf, Elizabeth Hutchinson, Robert Williams and Kate Flint contend illustrate the momentum that “the Indian” gained through popular culture mediums. These popular culture deployments of “the Indian/squaw” in Europe and North America, they argue, drew from political and academic discourses to lend narratives of Anglo-American exceptionalism and “Indian/squaw” inferiority to the social imaginary through this wide array of media. Native American legal scholar Robert Williams contends, “In inaugurating this unique form of European racial consciousness, the idea of the Indian as incommensurable, savage other helped constitute a new, imperial structure, organized around the struggle between civilization and barbarism in the Western colonial imagination” (Williams 2005: 34). By the 19th century, the “vanquished, vanishing, doomed Indian savage (was) a stock character in... American literary classics, dime novels, and Wild West shows... helping to constitute not only the Indian’s immutable savage fate but white America’s justificatory discourses of manifest destiny and national identity as well” (Williams 2005: 35).

Elizabeth Hutchinson’s examination of the exoticization and fetishization of all things Native American illustrates the adoption of a muddled anti-“Indian” sentiment by some influential social actors. Hutchinson considers how the western fascination of coupling primitivism with indigeneity led to the practice of “Indian” exoticization, in part through the use of “Indian corners” in the homes of upper class whites throughout Europe and America. In part, the author explains that “Indian corners” were brought about by the wholesale appropriation of

“Indian/squaw” violence. It is in these moments that tropes of violent, hostile and unintelligible primitive “Indians/squaws” surface in the perpetrators language far more frequently than tropes of passive “Indians/squaws”. Yet, as the analysis unfolds in chapter five, “Indian/squaw” passivity, or more, dysfunctionality emerge and are put into question as to the impact of this trope on federal-Indian law.

⁷⁵ See Thomas 1994; Muthu 2003.

Native American material cultures. They consisted of a variety of materials that were organized in museum-like displays in the parlors of upper class white families and served as focal points of social gatherings in which the family patriarch would retell his collection adventures and explain the “artifacts”.

The practice of collecting and displaying Native American cultural materials in upper-class white homes, according to Hutchinson, fostered a new level of American (read as white) exceptionalism because the social actors who functioned as pseudo-experts in the trafficking and commodification of “Indian” things also took on a new native American identity. Rather than the earlier genealogical mixing suggested by Thomas Jefferson, miscegenation was unnecessary because occupying expertise on “Indian” cultures was a step toward “going Native” and one that contributed to the silencing of actual indigenous experts with the authority of white collectors. Moreover, like the anthropologists before them, their newfound worldliness elevated their class status in part because of their own rarity, but because of the potential accumulation of value of the cultural materials.

Much adored as armchair anthropologists in elite social circles, families with “Indian corners” were coveted members of upper class society in the 19th and 20th centuries U.S. Hutchinson contends that those families with “Indian corners” were perceived as transgressing the divide between themselves and the “wilderness”. Simultaneously, these “collectors” of Native American cultural materials and purported knowledge helped to concretize the racial differences between “Indians” and “Americans”. Like other early vigilantes and war heroes, these Americans are representative of the softer side of conquest. While they instilled in the white body politic with fears and cautions about “Indians,” in part through their curatorial performance, they represented themselves as cultural frontiersman, not unlike Bancroft in their efforts to amass cultural collections of the “vanishing” peoples. According to Hutchinson, the successful “curator” retained social distance from Native Americans with the exception of moments spent on material acquisitions. I contend that these native Americans who participated in the cultural appropriation of Native Americans soft-sold the practice, not as erasure, but as emblematic of the bravery of the West’s frontier’s men who entered into “Indian” spaces and emerged to tell about it. His stories became truth and his truth simultaneously exoticized and “vanished” “Indians” while it exalted the native American. His cultural appropriations fostered the titillating appeal that indigenous primitivism held for American identity formation, not as a European and not as “Indians,” but something in between and better.⁷⁶ This practice commoditized “the Indian” and “Indian” exoticization to the point where settlement, entitlement, and appropriation could go on unhindered by ethical dilemma. “The Indian” and “the squaw” were depicted in films, books, and high society journals for a century, but Buffalo Bill’s “Wild West Shows” rose to acclaim at the turn of the nineteenth century with live theater performances of “Indian wars” that were accessible to the general public. It was a story that had transnational appeal.

⁷⁶ In addition to Hutchinson’s analysis of “Indian corners,” this point of departure draws on and emphasizes the 2001 work of Shari Huhndorf on the phenomenon of “going Native,” especially her analysis of the character Dunbar in the movie “Dances With Wolves” whose epiphanies about his own culture and that of the “Lakota,” near whom he lives and socializes, spurs him to adopt a new identity where he is an exceptional form of both white and “Indian” societies. “Going Native,” thusly, rids the Anglo person of the more egregious aspects of his Western European socio-cultural roots, while retaining their best characteristics and blends them with a variety of cultural beliefs and practices that are ostensibly learned and/or appropriated from Native American societies. Dagmar Wernitznig’s work on “going Native” (2001) and the concept of “Europe’s Indians” (2007) informs my considerations of how “the Indian” was formulated in the Western European imaginary.

Just eight years after the Sand Creek massacre, the “Wild West” show emerged on the public stage highlighting the Northern Plains and the “last of the Indian wars”. Historian and expert on the Western imaginary and its “Indian,” Richard Slotkin illustrates how Buffalo Bill’s “Wild West” shows contained narratives that were both well steeped in and became important tools that fed well into the Western imaginary. Travelling throughout the U.S. and Europe, Slotkin claims, actors, including some Native Americans, were hired to “reenact” a number of the most notorious moments of the “Indian wars”. The shows depicted Sioux, Cheyenne, Blackfeet peoples as the “fiercest” and most “hostile” “Indians” that remained in North America. I draw on Slotkin’s analyses and those of Myra Jehlen and Rayna Green to demonstrate how the theatre atmosphere created a sense of social distance and the performance of “Indian savagery” facilitated a uniquely white American exceptionalism to concretize.

Buffalo Bill and his show’s appeals appear to have opened the door to further justifications of territorial acquisition and cultural appropriation of all things “Indian”. At the shows, audiences could acquire, among other things, coins with unnamed “Indian” figures that were inscribed with pretend “Indian” invitations to immigrants in which the “Indians” beckoned Europeans to relieve them of their “savage” ways and associative hardships.⁷⁷ Such fictional depictions as those on the coins fed into America’s fascination with “the Indian” and its desire to remain at arms length. Despite proximity, Phil Deloria contends, that anti-“Indianism” led to the development of a dichotomy where “Indians” fit either the expectations of Americans, or were viewed as “anomalies”.⁷⁸ The latter enables some Native Americans to take on positive characterizations, and even roles, in the broader society, but maintains that “Indianness” is biological and therefore always a threat that required surveillance and governing from an American, non-Native, authority.⁷⁹ “The Indian” became a “vehicle of meaning” (Jehlen 1993: 55) that gave rise to institutional and social anxiety over whether “Indians” would encroach on the rights to which native Americans believed themselves to be entitled. As Rayna Green clarifies:

(P)laying Indian ‘depends upon the physical and psychological removal, even the death, of real Indians,’ and the fact that its heyday coincided with a period of the most extreme pressure upon Indian community to abandon traditional lifeways is no coincidence. ‘Vanishing race’ ideology allowed European Americans to position themselves as the true heirs of Native culture and its appropriate perpetuators. (Rayna Green quoted by Hutchinson 2009: 104)

“Indian” racialization and projects geared toward the eradication of “Indians”, as Green points out, have their roots in both institutional and social facilities. The “death” of “Indian” autonomy was the residue from which white American exceptionalism was born. Without having to declare it, what was lost to “the Indian” was the concomitant gain of the broader society. The appropriation of “the Indian” and “Indian” authority concretized for Anglo-Americans their ability to “go Native” and engendered a deep sense of natural belonging, in other words, the

⁷⁷ Jehlen 1993; Slotkin 1993

⁷⁸ See Phil Deloria’s *Indians in Unexpected Places* (2004).

⁷⁹ *Ibid.*

entitlement of Anglo-Americans to North America.⁸⁰ Ironically, at the same time that Native American peoples were being subjected to immeasurable episodes of social and state violence, Americans were engaging in the “generic appropriation of ‘Indianness’ (which became) part of a larger European-American passion for ‘playing Indian’” (Hutchinson 2009: 103). Keeping in mind that the “Indian wars” were ongoing through the initial phase of the emergence of Buffalo Bill’s “Wild West” shows and buttressed the advent of “Indian corners,” I contend that the ability to “play Indian” and “go Native” indicates the power of an anti-“Indianism” that became so normalized as to also enable the normalization of ethical suspensions where “Indians” were concerned.⁸¹

Beyond institutional maintenance of the dimorphic federal-Indian relationships, the social actors who “played Indian” were also important interlocutors who performed the maintenance work of differential political and social justice at the social level and helped to engender the downward mobility of Native Americans. Equally important, “playing Indian” or “going Native” operated in such a way as to not only erase, but replace Native Americans with their North American “native” counterparts. This demonstrates, as scholars Elizabeth Hutchinson, Vine Deloria, Phil Deloria, Shari Huhndorf, and Mark Rifkin have articulated, how modern white American and “Indian” identity formations operate in a circular and mutually constitutional process. The “strange bedfellows” effect of the reliance on “Indians” in the cultivation of 19th and 20th century American identity also illustrates a parasitic process that characterizes this particular relationship.⁸² This lingering legacy of “Indian” racialization, moreover, is found in its ability to remove “the Indian’s” personhood and compel it into a metaphysical construction and one that could be appropriated. “The Indian” is a social construction with staying power in part because of its utility for solidifying notions of “the Indian’s” immutable difference and perpetual primitivism and, therefore, need for outside (non-Native) governance and tutelage. “The Indian’s” value is also found in its ability to assist in manifestation and maintenance of the social and genealogical distance between white “native” Americans and their European ancestors and histories of conquest. However, “Indian” biology and correlative propensity for creating more “Indians” had remained a question and a problem for the American nation-state.

Race and ‘Blood’: The Biology of “Indian” Racialization

Popular racial conceptions demonstrate that there are still critical bifurcations and contradictions that occur at the moment “the Indian” is imagined. In these moments, Native Americans are simultaneously disassociated from the actual histories and diversities of their peoples. Rather, “the Indian” becomes significant as a marker by which Anglo-American identity is formed and “Indian” racialization is reinscribed. The American “Indian” did not grow out of its own histories, but was further nurtured into “some-thing” that was not only remarkable as a monolithic “stock character” in the rhetoric and laws of western expansion, but can be seen in discourses about American identity formation as well as in contemporary political and social legacies.⁸³ “Blood racialization,” or biological determinism, correlates racial characteristics to

⁸⁰ Huhndorf 2001; Deloria 1988 and 2004.

⁸¹ Huhndorf 2001; Maldonado Torres 2008; Hutchinson 2009.

⁸² Thomas Jefferson noted the importance of merging “Indian” and white families as a natural phenomenon in the creation of the American population in his Notes on the State of Virginia (1785). Also, the “Pocahontas Exception” was a legal standard that supported miscegenation between white males and Native American females in the “Racial Integrity Act” (1924).

⁸³ The term “some-thing” is associated with Michel Trouillot’s work 1995. The notion of “Indians” as “stock characters” comes from Native American legal scholar Robert Williams (2005).

genetic formulations that transcend familial formations and extend into the kinships that make up Native American communities.⁸⁴ The correlation of “the Indian” with “Indian-ness” helped to signify and empower expansionists, settlers and later immigrants whose desire for justifications for their indigenous acquisitions were satiated with tropes of “the Indian”. These racial formations enabled the erasure of Native American epistemologies and political agency and ushered in a variety of forms of social violence spurred on by the institutions that authorized the violent subordination of American “Indians”. The ultimate and lingering factor of this period of anti-“Indian” racialization is the inextricable link between being and blood that emerges in “blood quantum” policies. Before turning to an analysis of the correlations between anti-“Indian” violence, I examine how “the Indian’s” racial formation leads to the unique formation of “Indian squaws”. This phenomenon, and the correlative violence exerted on the bodies of “Indian” females during expansion, and the near erasure and under-theorization of the gendered nature of the violence, is nowhere more evident than in the wars of expansion that swept through the Northern Plains including the Sand Creek massacre.

“The Indian” at Sand Creek, Colorado: Fostering Violence and Sanctioning Genocide

Along with this multitude of scholarly and media mechanisms to drive the notion of “Indian savagery” home for the settlers, images and stories encouraged settlers to view both the geographies of the western landscape and those of Native American bodies as “untamed”, in need of civilization and order, or simply as “enemies” and threats to the pioneers and “good Americans”. So established was the belief in “Indian savagery” and white entitlement by the early 19th century that, with the support of a civilian population at the ready, political figures and members of society felt emboldened and entitled to drive out Native American peoples by force. Institutionally, Williams notes, “There were those in Congress and elsewhere throughout the new nation who were arguing for an aggressive, violent, militarily enforced policy of outright seizure of the lands in the Western Country claimed by these hostile tribes” (Williams 2005: 40 – 41). Empowered with a religious and politically saturated vision of expansion, the military personnel and many of the settlers around the Sand Creek encampment collaborated in their efforts to expropriate Cheyenne and Arapaho peoples of their territories. Despite their federally mandated protection, the Cheyenne and Arapaho peoples were left victim to a wave of new nativism and what became a uniquely American mode of expansionism in the Northern Plains. As Historian Jeff Ostler points out, there existed a logic that justified that “only the ‘White race’ had obeyed God’s command ‘to subdue and replenish the earth.’” By the 1800s a fixed binary was clear in American expansion ideology that claimed that whites “possessed a destiny (and) the ‘Red race’ had only a fate” (Ostler 2004: 38 – 39). I turn now to examine the ways in which the discursive history of anti-“Indian” discourse encouraged the violence that ensued at the Sand Creek massacre.

Just prior to the Sand Creek massacre, editors of local newspapers, along with proclamations from Governor Evans, “urged all out ‘extermination against the red devils,’ making no distinction between those Indians who were friendly and those who were not”. Their justification? That “the evidence was now ‘conclusive’ ... that ‘most’ Indians on the Plains were indeed ‘hostile’; it was, therefore, the citizens’ and the military’s right and obligation – for which they would be duly paid – to ‘pursue, kill, and destroy’ them all” (Stannard 1992: 130). Colonel Chivington, a former minister, came to Colorado in order to help quash any potential expansion

⁸⁴ “Blood racialization” is a term articulated by Kahaulani Kauanui to refer to “blood quantum” policies in federal-Indian law.

of the civil war in the south. He immediately took up the call and ordered his troops to “kill Cheyennes wherever and whenever found”.

By design, the Sand Creek massacre was an event so vicious that none of its Cheyenne and Arapaho victims was expected to survive. It was a military coup that left primarily females along with elderly people unarmed and unprepared for what was about to occur⁸⁵. Just prior to achieving statehood, Governor Evans of the Colorado territory deployed a feverish declaration against Colorado’s Native American peoples. According to the Congressional Hearing, Evans demanded the re-settlement of Cheyenne and Arapaho peoples, ignoring their federal guaranteed protection, which was a status that afforded them military protection, food, and material supplies as long as they remain a “friendly” people. Instead, the record shows that Governor Evans saw to their forced relocation and mandated that they fend for themselves. The record also demonstrates that shortly after Cheyenne and Arapaho families settled at Sand Creek, several military agents approached the camp and met with elders to encourage them to organize a hunting party. They claimed that a military hiatus had begun and that the tribes should utilize the opportunity to hunt – which would take them from Colorado clear into Kansas.

After the Congressional Hearings that declared “Chivington’s war” a war crime, Chivington submitted a letter to the Rocky Mountain Newspaper titled “To the People of Colorado”. In it he defends himself, criticized non-violence, and justified violence against “Indians”. He states:

(T)his they call the road to peace, pacifying the noble red man... White men of the frontiers, do you desire to become the servile dogs of a brutal savage? Lo, the poor Indian, in thy untutored greatness, you have proved yourself, with the assistance of high officials... a good diplomat. You have long been a bone of contention and many a villainous swindle has been perpetrated upon the Government in thy name and humanity, which would put to blush the unparalleled commander of the sons of sin, His Satanic Majesty, the Devil. (Chivington June 1865)

Chivington, spurred on by anti-“Indian” rhetoric and the absolution of “Indian hostility,” arbitrated against the “poor Indians” who must not prevent the white man from his rightful place. This “place” is both figurative, at the top of the hierarchy, and literal, as in acquiring indigenous lands. Chivington’s racism towards “Indians” is so profound that it facilitates his moral departure from what he considers the confines of “just war”, so much so that he perjures himself by claiming to have fought “600 warriors”. In reality, more than 200 unarmed and ill-prepared women, children and elders were massacred and subjected to near and post-mortem mutilation. On the killing of “Indian women” Chivington reaches for a troop’s testimony to follow this line of logic. He says one Lieutenant Colonel:

...counted four hundred and fifty dead warriors and that no more women and children were killed than would have been killed in a white village under like circumstances; that the women and

⁸⁵ See the works of historians David Stannard 1992, James Wilson 1998, Phillip Weeks 2001 and Jeff Osler 2004. The Congressional Hearing on the Sand Creek massacre and judgements can be read in their entirety in Sol Lewis’s reprint of these materials in The Sand Creek Massacre: A Documentary History (1973).

children that were killed could not have been saved if the troops had tried... they were in the rifle pits with the warriors... after he returned to the village he saw things that made him desire to kill more Indians... (Chivington 1865)

The anti-“Indian” rhetoric that vocationed genocidal campaigns such as the Sand Creek massacre, was spawned in the midst of a sea of violence across the Americas. The misogyny that accompanied anti-“Indian” violence is evident throughout and most especially at Sand Creek. David Stannard quantifies this history of violence as “a list without end” (Stannard 1992: xiv). Commonplace, the lowly, inhuman or differential status of “Indians,” even when “squaws” or children, Chivington believed, crushed any necessity of remorse or moral resistance to the mass murdering of more “Indians”. More aptly considered, Chivington functioned both as a representative of the state and a vigilante. Where he considered governmental officials as having failed him, Chivington took matters into his own hands. He declared that his policy was to “kill and scalp all, little and big.” ‘Nits make lice’ he was fond of saying.⁸⁶

By the time of the Sand Creek massacre, belief in the abstract “Indian savage” had become so commonplace that even more heartened advocates of less violence seemed baffled by the “Indian problem”. One of Chivington’s contemporaries, Major General Samuel R. Curtis, called for conciliatory relationships with the Cheyenne, yet he cautioned “that the Colorado men, ‘did not know one tribe from another and... will kill anything in the shape of an Indian” (Greene, Scott, and Whiteacre 11). But, what is “the shape of an Indian”? For many early Americans, such anti-“Indian” declarations answered the final question of who and what the “Indians” were and what should be done with them. The broader reaches of this sentiment are visited in part by Stannard who eerily concludes his analysis of the Sand Creek massacre this way, “Clearly, Colonel Chivington was a man ahead of his time. It would be more than half a century, after all, before Heinrich Himmler would think to describe the extermination of another people as ‘the same thing as delousing” (Stannard 1992:131).

Transgressions: Race Discourse and the West

Putting “Indians” and their irredeemable “primitivity” into motion, anti-“Indian” discourse worked as a propellant for European and later American governmentalities to legislate “Indian” peoples into human, social, political and economic liminality. The stark inhumanity leveled at “Indians” was exacerbated by the scholars, state officials, and earlier monarchs who lent their authority to making genocidal violence a viable means of state formation in early America. As the idea took hold that Native American territories, thought of as a “New World,” were free and unproductively occupied, “Indian” racialization added to the sense that Native American peoples could be absorbed or eradicated. Either approach, neither of which allowed for indigenous autonomy, worked together in a synchronization of western values that could be deployed as expansion and settlement took hold. The Valladolid debate compelled Spain and most of Europe to consider the so-called nature of “the Indian” and greatly aided in the establishment of a social hierarchy among humans that relegated the world’s indigenous populations to the status of human abstraction.

Spreading throughout Europe during the Enlightenment period, Spain’s theological arguments on “the Indian” appear to have been malleable when taken at face value. However, the permanence of the binary “good” versus “bad” “Indians” and the inherently “good” colonial

⁸⁶ Lewis 1973; Stannard 1992.

figure remain. The effectiveness of “Indian” racialization is evident in the power of these early racial formations to retain their shapes and characteristics in institutional and social memory, laws, and popular politics. At the outset, these tropes were drawn upon to justify the acquisition of Native American territories, the employ of systems of Native American slavery, and their perpetual subjectivity. Yet, the deployment of racial logics and measures by which civil societies should function also fostered both scholarly and popular culture romanticization and fetishization of “the Indian,” and indigenous peoples globally. In the end, Native American racialization left Native American societies open for a variety of types of state and social violence, including everything from bodily and cultural commodification to genocide. This engendered colonial racial logics and the configuration of political, economic, and social structures that fostered their strict and administrative relationship between “the couple, Man and Earth!” (Fanon 1967: 127). The associative legal impacts and residual effects of such transformative hegemonic racism made abject violence in wars of expansion systematically and culturally normal, so much so as to become common sense. It is a dichotomy that left legacies of thought, logics, and institutional practices in its wake. With these “Indian” human abstractions in place, the laws and social practices that emerged promoted the existence of appropriate cultural parameters and spheres of mobility within which American “Indians” should and must operate outside of what was considered the normal parameters of American society. Thus, the proposed “Indian” was in reality the recipient of and character for which formulations of western notions of freedom undermined Native American sovereignty. Indigenous sovereignty, rather, operated as a formula for designing the spatial and political limitations of Native American life. Viewed in this light, “Indian” racialization is recognizable then as a mechanism for perpetuating Native American subjectivity, and ultimately made genocide defensible. Yet still, projects of “Indian” eradication were often underscored by protectionist rhetoric where the devices of women and children ostensibly called for eradication at any cost. How Native American females were exorcised from the category of “woman” and subjected to inhumane and sadistic violence at Sand Creek will be examined in the following chapter.

Chapter Three

“Colonial Palimpsests: Native American Women, Western Re-Presentation, Gendered Racialization and State Violence at Sand Creek”

If the adage is true that one can tell a lot about a society by the way it kills people then the violence committed against Cheyenne and Arapaho women during the Sand Creek massacre stands to tell the disheartening reality of Western imperialism and its inherent “death ethic”. Moreover, the silencing of such histories of violence against Native American women, a phenomenon of institutional erasure of the female “Other” that permeates Western historiographies, has its own story to tell. The Sand Creek massacre of 1864 provides important retrospectives on how the logic of Anglo racial supremacy and patriarchal misogyny were interlinked in the project of Western expansion and how it was governed by “the death ethics war”. The “death ethics of war” underscored the ideological rubric of the West and was guided by ideologies of Anglo racial superiority, patriarchal masculinity, nationalism and “the Indian’s” perverted “Otherness”. The race ideology that emerged had become well situated in the Western imaginary through the convergence of governmental and popular culture articulations, the results of which came to bear their marks on “Indian women”.⁸⁷ By focusing a critical lens on the sadistic nature of state violence at Sand Creek and its neglected gender critique, the massacre illustrates the extreme nature of state violence fostered by the “death ethics of war”. The logic that embeds the “death ethics of war” also underscores the logic Western nation formation, in the Global West, and its normalization of genocide. In this chapter, I trace the tenets, logics and apparatuses of “Indian women’s” racialization to highlight the state’s relationship to “Indian” females in the 19th century and consider the role of popular culture media in the production and substantiation of Western exceptionalism and “Indian” female super-subordination. Moreover, I examine the ways in which Western exceptionalism converges with anti-“Indian” sexism to examine how “Indian” females were implicated by the West. Lastly, I consider what the Sand Creek massacre says about the gendered dimensions of the “death ethics of war” in Western expansion and American nation formation.

Western Patriarchy, Gender and “Indian” Women: Disaggregating “Indian” Racialization

To understand the relationship between racially gendered tropes and deployments of abject violence against “Indian” women by the state, one must consider the imperatives of colonialism, its logic, voracity and methods for subordinating colonized women.⁸⁸ The inception of colonial expansion in the Americas marks a time that Native American oral and written histories began to be suppressed within colonial narratives, the aggregation of diverse

⁸⁷ See Green, Suzack, Marubbio for works on the relationship between popular culture imagery of Native American females and violence against Native American females.

⁸⁸ L. Ann Stoler’s and Ann McClintock’s works illustrates the logic behind colonial expansion and the exploitation of indigenous women for the purposes of stabilizing European settlement by encouraging the development of intimate relationships between expansionists and indigenous subjects. In part, settlers acquired knowledge, language skills and political relationships with indigenous women that, once settlement stabilized, were discarded when the travel and settlement of Anglo-European women in the colonies were sponsored. The scholarship of ... similarly notes the exploitation of Native American women for similar purposes. The “Pocahontas loophole,” associated with the # Amendment in the state of Virginia illustrates the extent to which colonial figures attempted to legalize relationships between colonists and Native American women; the same was not ventured into between Native American males and Anglo-European females.

populations of indigenous peoples in the Americas were squashed into the monolithic category of “Indians,” and the lucrative and bustling marketization of “the Indian” and “the squaw” dawned.⁸⁹ Within the rhetoric and documentation of geographical and social contestations over territorial expansion, Native American women emerged in colonial texts as “Indian” subjects and they themselves became palimpsests upon which colonial narratives were articulated. Interjected primarily as “Indian women,” “maidens” and “squaws,” they surreptitiously materialize in expedition journals, literary fiction and film, and the early discourses of Western suffrage. As Sand Creek demonstrates, “Indian women” and “squaws” surface more opaquely in military records.⁹⁰ The last chapter examined the role of Anglo-European masculinity in its relationship to the creation of the monolithic “Indian” as a racial formation.⁹¹ It is a relationship that marks the first concrete evidence of imperial efforts to reconcile and, more importantly, neutralize its moral contradictions about the violent eradication of Native American peoples. The subsequent steps involved the reconstruction, rehistoricization, and altering of Native American identity through the peculiarization of “Indian” socio-cultural norms. The role of gender was at the heart of this matter.

Gender and “The West”

Colonial ideology systematically divested females of agency and deployed simplified heteronormative iterations of females and their roles to the rest of the world through a variety of media and discourses. Therefore, the subordination and erasure of women’s agency, in the most general sense, is arguably a universal problem. By the end of the 18th century it was a social phenomenon and one that was widely accepted that contended that Anglo-European women should submit to lives of limited social, economic and political mobility. It was a notion based on the ostensible lack of proper intellectual capacity that had been assigned to Anglo-European women. At the very best, within the broader applications of gender construction Native American women, like all “Indians,” were portrayed primarily as culturally and biologically foreign abstractions when compared to Western European women. However, once the assimilationist imperatives of the West came into full force, for example with the introduction of Americanization schools in the case of American Indian Boarding Schools, the differences between Anglo and Native American females became apparent when Native American females were assigned to the strict confines of domestic servitude. They were often and commonly used to support the stability of the domestic spheres of Anglo-American women.⁹² This type of negation falls within the broader phenomenon of the systematic subordination of women of color globally and is reflected in the colonial critiques that have emerged in recent decades.⁹³ With the advent of the racialization of gendered and sexed subjectivities, each offers important insight into the types of violence that the convergence of hegemony, patriarchy and misogyny produce.

In this same paradigm, where Anglo women were said to lack intelligence, Native women were viewed as intolerably unintelligible. The low visibility of Cheyenne and Arapaho women and the lack of importance placed on their victimization at Sand Creek massacre is likely part-and-parcel of the discursive erasure and rehistoricization of women that was associated with

⁸⁹ See McClintock 1997; Huhdnorf 2003; Marubbio 2006; Flint 2008.

⁹⁰ See Congressional Hearing of the Sand Creek massacre, 1865.

⁹¹ See Omi and Winant 1994.

⁹² For works on the histories and implications of American Indian Boarding Schools, Native American scholars Brenda Child and Tsiannina Lomawaima serve as two of the leading scholars on the subject.

⁹³ See Oyeronke Oyewumi 1997; Ann McClintock; L. Ann Stoler; Patricia Mohammed 1998; Patricia Hill Collins; Linda Tuhiwai Smith.

the development of Western patriarchal hegemony. Under the Western patriarchal system, protection for racialized “Indians” and “Indian women” was tenable at best and earmarks an important difference between the rights of “women” and the rights of “Indian women”. This is evidenced by the ethical and legal breaches that the Sand Creek massacre illustrates. The Cheyenne and Arapaho, as tribal entities, were formally recognized as “friendly” by then President Abraham Lincoln. They were also simultaneously deemed enemy non-combatants and forced to dis-arm. Regardless of the federal protections they garnered, however, the necessity of their protection dissipated under the conditions of racism that undergirded the ecumenically driven project of expansion and settlement. How this sexed racialization takes place can be found in the relationship between institutional rhetoric and social practices that amount to the precursors of violence at Sand Creek.

In its efforts to legalize its territorial expansion, Spain’s Valladolid debate attempted to articulate and adjudicate the nature of “the Native”. In the debate, what constitutes European “Man” and his rights formed the basis of all of the other tangential arguments that had to be established in order for expansion to be authorized. A figment of the colonial imagination, “the Native” arose in a dichotomy: he was considered either irredeemably “savage,” or he was redeemable. Four components of a nascent racial hierarchy emerged in the Debate, including Anglo essentialism, Western patriarchal masculinity, nativism-as-nationalism, and a specifically “Native” “Otherness”. Together these formed the criteria for endowing Western Europe’s “Men” with the authority to perpetually subordinate “Native” “Others”. It was argued that European (read as “civilized”) “Man’s” propensity for engineering civil society and advancing the imperatives of Western progress could be assumed; the necessary death, physically and epistemologically, of “the Native” “Other” was part-and-parcel of this assumption.⁹⁴ Native Americans, having been transformed into “Natives,” served as an archetypal enemy for the burgeoning West. It was a category wherein Native American females had been subsumed. However, Western patriarchy was “at work,” as it were, producing “Othering” modes that specifically targeted Native American women. Consigned to their place within the tiers of the human/sub-human racially gendered hierarchy, “the squaw” received her own historical contextualization that fostered abundant justifications for her death.

Popular Culture and Productions of “the Squaw”

The racially gendered tropes that relegated Native American women to their super-subordinate status took on seemingly complex and differentiated modes of production. By the 1800s, “Indians” had long since been marked as “savages” in the Western imaginary and the gendered and raced imagery of “Indian” females reached a fever pitch that lasted well into the 21st century. Literary fiction and filmic productions mixed fictitious renderings of “Indians” with images of Western nostalgia surrounding nation formation and, thusly, served as primary sources of “Indian” racialization for the broader society. These forms were preceded by numerous silent films wherein an “Indian” female or “squaw” played a pivotal role. The reach of this imagery was facilitated by the dialectic formed between governmental rhetoric about and popular cultural characterizations of “the Indian”.

Four standard racial images emerged that captured the West’s “Indian women” including “the Indian maiden,” “the sexualized Maiden,” “the Queen,” and “the Princess”.⁹⁵ The two most prevalent and ever-present identities are “the Princess” and unmentioned “squaw,” both of which

⁹⁴ Hoig 1961; Hanke 1974; Wilson 1998; Muthu 2003; Williams 2005.

⁹⁵ See Marubbio 2006.

served colonial and later Western figures equally. Seemingly opposite, “the Princess” and “the squaw” are in actuality closely related and collude in relegating Native American women to super-subordinate statuses that leave them particularly vulnerable to state and social violence. In Western cultural productions, “good Indian” women are celebrated in Western narratives for having served “a white man or men.” “The squaw” is implied in each of the categories of the differentiated “Indian” females. In their worse iterations “squaws” were seen as counterparts to “ignoble savage males – servile, they also committed gruesome acts, wielding tomahawks and knives, torturing hapless captives”. The “squaw’s eradication, like that of the male savage, was necessary to create a safe haven for civilization” (Barbie 2003: 63). Her emergence as threat in filmic productions is typically revealed in the character’s choice to live as an “Indian,” which is considered selfish and “squaw-like,” as opposed to those who choose to die in order to save their Anglo husbands and mixed-race children, who are typically male. The “good” “Indian” female figure “defies her own people, exiles herself from them, becomes white and perhaps suffers death.” The greatest impact of her cooptation is that “good Indian women” are “receptive to and foster invasion by a superior ‘civilization,’ even though her tragic demise may result” (Barbie 2003: 64). It is the so-called “good Indian women” who garner the interest of “white males... (b)ecause her image is so tied up with abstract virtue (and) indeed, with America” (Green 1990: 185). On the contrary, but embodied in the same person, “bad Indian” women are “squaws”. Yet, a “good Indian woman” can easily morph into a “bad” one, however, the reverse conversion is not possible. A “bad Indian woman,” i.e. “the squaw,” remains as such, even when her ability to exact violence is neutralized.

Race ideology lent widely to the entrenchment of Native American women’s subordination. Biological racism, at its heart, suspected that all Native American females were negatively endowed with an inherent “squaw”. Much evidence attests to this characterization. Native American women were commonly referred to as “Indian” “squaws” in expansionist and early American commentaries. By the 20th century, the term “squaw” was seemingly defused of its inherent threat of violence as to become a commonplace term.⁹⁶ This is evidenced in census records where nameless “Indian” females were quantitatively categorized as “squaws,” place names such as popular geographical sites were named, thusly, “Squaw Mountain” and “Squaw Valley” in a variety of places across the U.S. It is not likely accidental, then, that Native American women who have been remembered in the Western imaginary most often as “squaws,” “Maidens,” and “Princesses” simultaneously. As the analysis shows, these racially gendered tropes are not without their relational simultaneity.

The “Indian maiden” and “the squaw” served important purposes historically and their racially gendered imagery has become indelibly locked into the Western imaginary through a variety of political and social mediums. As M. Elise Marubbio’s examination of western filmography shows, the role of Native American women’s racial imagery works as:

(A) recurring cultural stereotype... (that) plays an important role in the United States’ ongoing nationalist, colonialist, and imperialist history. It reiterates particular structures of power and racial hierarchies in the articulation of Americanness or national identity based on a white, heterosexual, male norm. ... No concrete

⁹⁶ I worked in the late 1990s for the U.S. forest service and was witness to the debates between government official and federally recognized tribes over changing placenames that perpetuated negative views of Native Americans. The use of the term “squaw” in many sites was a constant bone of contention.

relationship exists between the Celluloid Maiden and actual Native American women; rather, the figure works as a colonial rhetorical strategy to promote a national American identity defined against a raced and 'savage' Other. (Marubbio 2006: 5)

The rampant physical violence against Native American women during Western expansion was accompanied by the productions of scientific racism, its scholarship, silent films, and fiction that simultaneously helped Western audiences resolve any questions the might emerge about the inhumane treatment of "Indian" females. The deployment of discursive representations of Native American women as "'savage' Other" eclipsed the liturgies of violence to which they were subjected. Western narrations of Native American women typically conjured fictional women who emerged in abstract formations of "Indian" tropes, including their categorization as "beasts of burden" and "squaws".⁹⁷ From early suffrage critiques, to fictional deployments, to the testimonies of soldiers following the Sand Creek massacre, the tropes of "the Indian woman" and "the squaw" abound. What led to "Indian" women's super-subordination is evidenced in the complex political and social histories that intertwined and consigned Native American women to the category of "the squaw". The authors of such works, films or texts, arbitrate the identity politics of their contemporaries. Very tellingly only a select few historical Native American female figures have received entrance into Western accounts. Those who did were iterated through a series of historical, literary, political and scholarly devices that concretized, for the broader society, the racially gendered re-presentations of Native American women as everything from primitive criminals to fictionalized archetypes.⁹⁸ It was a binary that became prevalent in the western imaginary and found great audience with emerging politically powerful Anglo-American women by the beginning of the nineteenth century.

The importance of eradicating "Indians" was arguably an effort to eradicate "Indian-ness" from the territories, but not the genealogies, of the West.⁹⁹ The "squaw" was understood to be the overt expression of female "Indian-ness". But, "Indian-ness" arose out of European consciousness, imaginaries, and various race ideologies that constructed views of the world and world cultures from within Western "masculine" discourses.¹⁰⁰ These convergent discourses produced anew all global entities in relationship to the dominant cultural paradigms in Western Europe. As such, "the squaw" was understood to be an extreme expression of "Indian-ness" and one that was correlated with "Indian" masculinity. In other words, "the squaw" was imbued with a sort of "male-ness". This feature of her characterization when coupled with patriarchal sexism, and its assumed authority, made "the squaw," and eventually all "Indian women," vulnerable to state and social violence in ways that her "Indian-ness" alone could not. "The squaw's" seeming refusal to adhere to her gendered and raced consignment in the Western patriarchal order, and the idea that her biological race and gender were immutable, made her appear to fit into the West's "expectations" both of "Indians" and European beliefs in the femaleness as a form of natural

⁹⁷ Alice Kehoe's work on Blackfeet women and gender, in addition to the works of Theda Purdue and Donna Barbie, provide extensive analyses of the inaccuracies in Western portrayals of Native American women. In addition to the two collections, *Women and Power in Native North America: Genocide, Colonization and Resistance* (1995) and *Sifters: Native American Women's Lives* (2001), Sally Roesch Wagner's essay "Is Equality Indigenous" advances the critique that early suffragist goals and insights were largely informed by the roles some of the key figures of suffrage who had, by proximity, witnessed the political agency of Haudenasaunee women.

⁹⁸ Green 1975; Barbie 1990; Huhndorf 2009; Barman 2010; Racette 2010; Tsosie 2010.

⁹⁹ The "Pocahontas loophole" illustrates the goal of misegnation with "Indian" women.

¹⁰⁰ Luce Irigaray establishes the inherent "masculinity" in Western discourse in her essay 1998.

delinquency.¹⁰¹ Together, these characteristics were suspicioned to bear the threat of “savage” behavior. Her ostensible stubborn propensity for violence was calculated as part-and-parcel of her “Indian-ness”. This so-called biologically determined behavior, along with the masculine trait of autonomous agency, was the harbinger of her ability and potential to rupture the feminine overlay of Western patriarchal gender and equally bear the threat of violence against not only the conditions of patriarchal order but to the West and its citizens.

“The squaw” was an incommensurable “Other,” I argue, because she would not assimilate and her resistance had the appearance of steadfastness of agency. This level of personal agency, I also argue, was another matter that consigned her to a sort of masculine formation in the eyes of Western figures. Queer theory today argues, in part, that transgressions into trans-gender existence makes one vulnerable to punitive and corrective measures, at both institutional and social levels, as if gender non-conformity invites state and social violence.¹⁰² What is to be made, then, of those racially gendered constructs of the West, such as “the squaw,” that were inscribed onto the bodies of “Indian” females. How might these conflict with and be supported by the apparent radical expression of non-western gender formations that emerge out of Indigenous epistemologies? In the case of “the squaw,” her racially gendered formation appears to have authorized her abuse and even death. She could not and need not be treated as anything but a “squaw” whose eradication was not only necessary, but also desirable. In popular films “the squaw’s” death was celebrated in light of its promise to put an end to “the Indian problem” for generations to come. Her sacrifice in death was the element that made her redeemable. In real life, the Sand Creek massacre demonstrates the insignificance of the “squaw’s” life and in the broadest sense, for Western civilization, “the squaw’s” demise also appeared to promise the end of what *she* lent to Suffragists and feminists, and future generations of females, about women’s capacity for agency. Because of its prolific use as a site for authorial contemplation, “the squaw” at Sand Creek offers a rare view into one of the highest points of institutional misogyny, its raced logic, and the “ethical suspensions” that emerged U.S. nation formation.¹⁰³

Revisiting Chivington’s Perspective of the Sand Creek Massacre and “the Indian Problem”

Colonel John Chivington, who lead the troops at Sand Creek and was tried for his war crime transgressions, offered an “open letter” to the people of Colorado, the United States, and the world, in which he submitted to the Rocky Mountain News his justifications for the Sand Creek massacre and a plea for the public’s pardon.¹⁰⁴ In response to criticism over what he

¹⁰¹ See Philip Deloria’s *Indians In Unexpected Places* (2004) for his analysis of “expectations” and “anomalies”. Deloria asserts that during Western expansion the stereotype of “the Indian” served the West in a myriad of ways including that it fostered beliefs in simplified racial stereotypes wherein the behavior of “Indians” could be assumed and “expected.” Those “Indians” who successfully achieved acclaim and/or whose roles exceeded expectation were viewed as “anomalies”. Also, in my examination of “Indian squaws” I have drawn heavily on Queer theory because of its attention to deconstructing Western gender normativities. In terms of “natural delinquency” and the female, “squaw,” and queer peoples, Lee Edelman’s work on the concept of “no future,” and “the child” as a rhetorical device in family and family-oriented law, serve to work within the framework of the “death ethics” because the racial, female gendered, and/or queer child is not regarded, but rather disregarded while the focus remains on “the child” who emerges from within a heteronormative family construct.

¹⁰² Judith Butler 1999; Lata Mani 1999; Gayatri Spivak 1999; Lee Edelman 2004.

¹⁰³ Irigaray 1988; Butler 1990; Green 1990; Muñoz 1999; Barbie 2001; Piatote 2004; Halberstam 2005; Hilden 2006; Marubbio 2006; Huhndorf 2008

¹⁰⁴ John M. Chivington submitted the editorial, "The Sand Creek Massacre - John M. Chivington's Defense: To the People of Colorado" to the Rocky Mountain Newspaper in Colorado, which published the open letter in 1865.

termed “Chivington’s massacre,” Chivington claimed to only purposely kill “warriors” and extended notably scant acknowledgement of the female casualties. As evidence, Chivington drew from an account of one of his officers to inform an imaginative redirection of the motives behind the massacre, a reformulation of the events so as to justify it as a justifiable act of war, and he skewed the details of the violence and victims at Sand Creek, stating:

A white man demands the protection of our troops. ... Now, fellow citizens, what do you think of the Chivington massacre, whose horrors have filled so many columns of the papers in the States and called down upon Colorado so many disgraceful epithets, while at the same time our enterprising freighters, emigrants and settlers, with their wives and children, have been murdered, scalped and their bodies horribly mutilated by these much abused sons of the plains. No more women and children were killed than would have been killed in a white village under like circumstances... (T)he women and children that were killed could not have been saved if the troops had tried... (T)hey were in the rifle pits with the warriors. (Chivington 1865: 1 – 2)

Chivington’s attempt to eclipse the women’s victimization by re-historicizing the massacre’s details is not uncommon in postwar testimonies. Many scholars today spend their careers correcting such revisions of the historical record. But, it is the magnitude of the evidence of the violence and Chivington’s willful intent to re-do the figures, to re-gender the victims, to denounce the accuracy of the body count, and to assign blame to another officer as he does in the full-length letter that begs for review. Moreover, this and Chivington’s desire to correct the historical record for “the world,” say much about Chivington’s racism, his negation of “Indian women,” and his sense of entitlement.

Chivington’s voice emerges from and on the behalf of “a white man”. He obliges himself, as a representative of the government, to serve and protect “our enterprising freighters, emigrants and settlers, with their wives and children” from the very type of violence that the troops under his command committed against Cheyenne and Arapaho peoples. It is also clear that the Cheyenne and Arapaho women are subsumed within the construct of “the Indian” as “enemy”. This occurs at the moment when Chivington places them in “the rifle pits with the warriors”. In reality, Cheyenne oral history, the majority if not all of the texts on Sand Creek, and the military’s records indicate that there were no such pits, let alone “warriors,” at Sand Creek with the exception of the pits that were dug by women and children who used them to hide from the soldiers during the four-day onslaught.¹⁰⁵ Chivington’s blindness, it appears, is bounded by his belief in the unquestionable superiority of the West’s imperatives and practices. The irony of his skewed perspective is further understood in his claim that:

I had been governed by the most rigid rules of civilized warfare. (Chivington 1865: 1)

Beyond his effort to respond to the “body count” at Sand Creek, it is difficult to understand how Chivington, who was a Minister prior to enlisting in the military, justified the brutality that was

¹⁰⁵ See Hoig 1961; Lewis 1971; Ortiz 1981; Stannard 1992; Cutler 1995; Wilson 1998; Brady 1999; Michno 2004.

exacted on Cheyenne and Arapaho women and his own erasure of their victimization is confounding. Chivington was subjected to a Congressional Hearing where he and other officials were found guilty of pre-meditating the massacre. The evidence was abundant even in the testimonies of his own troops. Many talked openly about the post-massacre mutilations and the troops who paraded through the local settlement donning the cleaved breasts, vaginas and scrotums of their victims on their hats and saddles. In Chivington's letter, however, these details seem to have all but escaped his memory. But had they? Or was the value of "Indians" and "squaws" so low that even Chivington, with his religious indoctrination, felt no remorse because no moral or ethical betrayal to his own doctrine had occurred? Chivington's memory was likely saturated with notions of the gendered racialization of "squaws," which helped to produce his provocative and blatant disregard of "Indian" victimization. When Western figures were taken to task over the victimization of "Indians" and "Indian women" it was often defended as necessary and unavoidable or, at the very least, an unfortunate consequence of two morally unequal societies clashing. The elision of rights discourse with justifications for genocidal activities, including the violence unleashed on "Indian squaws," emerges readily in this line of thinking. Thus, the "squaws" at Sand Creek were inculcated long before the territory that is now synonymous with genocide was more anything than a dry creek bed.

The Politics of Hereditary Voice

The Sand Creek massacre remains a testament to numerous social and cultural phenomena, most especially the "culture of violence" that America has come to be known to house. The Sand Creek massacre stands as a vivid reminder of the early beliefs in an a priori eradication of "Indians," the negation of "the squaws" humanity, the culmination of the sort of spatial weigh-stations that exist wherever enemies of the West are identified, the obvious bodily and cultural formations that seemingly attract the West's desire to consume and appropriate them, and the enduring power of Western imperial logic. However, the post-mortem mutilations of "Indian" female bodies attests to something more. The following quotation extends a contemporary critique of the massacre and a glimpse into Indigenous epistemological survival. In Bruce Cutler's The Massacre at Sand Creek: Narrative Voices (1995), the creative writer and poet draws on the ceremonial work of Cheyenne figures Ekomina, granddaughter of Sand Creek victim Crow Woman, and Frank Little Wolf, who together pledged for a Massaum ceremony to bury some remains of victims of the massacre. Cutler draws on their words, in the following excerpt, to express multiple voices of resistance:

(T)his piece, this bit of pelt that never was the pouch it posed as, that never served a purpose other than to fit a message to your hand, terrible phylactery of faith that hold an Indian less than a living soul. Tit-bag, soldiers called it. It has come along with wizened fingers, scalplocks, scrotums stretched into humidors, the file of body parts that slipped away in pockets, kit-bags, trunks, leaving the plains for courthouse squares, banquet halls, museums. And then into the long dark night of dresser drawers, attic trunks. Waiting. Continuing to be. Biding the time until their time would come again. (Cutler 1995: 11 - 12)

Though it served Chivington to associate the necessity of the "squaw's eradication" with "that of

the male savage” and then again with the overarching imperatives of the state and federal governments “to create a safe haven for civilization” (Barbie 2003: 63), the quotation highlights the contradictory nature of expansion as a “civilization” project. The passage ventures to break the types of silences that are typically embedded in nostalgic Western historiographies of early American nation-formation. Rather, the narrator brings to light the sadism and sociopathy that enabled the massacre, the post-massacre frenzy of bodily mutilations, and the parade where soldiers donned breasts, labia, scrotums, and rings taken from severed fingers. The narrator implicitly reveals the “ethical suspensions” of those soldiers who sought to cleave off human genitalia for their own possession. The narrator returns repeatedly to a reprimand that extends beyond the historical moment. Criticizing the soldiers who have returned to the comfort of home with these ostensible spoils of war, these necklaces of victims’ finger bones, humidors of scrotum, and pouches made of breasts, the narrator harks to these men that the material remains have brought their histories and their agency with them. Here, the narrator exposes the practice of interring the ugly truths about wars of expansion and what their wars reveal about the West.

By the time of the Sand Creek massacre, in the 1864 American West, the conflation of Native American males and females as “Indians” speaks to how “Indian-ness,” criminality, and the criminal nature of “squaws” was a concept that became commonplace and was clearly and steadfastly assumed by figures such as Chivington. Moreover, referring to “Indian women” and “squaws” simultaneously throughout the Congressional Hearing, and in the majority of texts on the subject of Sand Creek, in reality reflects the West’s conflation of “Indianness” and criminality and the expulsion of Native American from the category of the universal woman. Chivington’s attempt to establish that the women’s deaths as the result of their own volition to battle against a superior military and his claim that he followed “the most rigid rules of civilized warfare” attests to the effort of Chivington, and the West, to hide behind the its malleable rules of engagement where the racial “Other” is concerned. His excuse, that “Indian women” “were in the rifle pits with the warriors” offered only a nod to the female victims while he simultaneously attempted to nullify his own guilt and that of the military (Chivington 1865: 1 – 2). Moreover, Chivington’s implication of the “Indian women” for their ostensible decision to fight alongside “warriors” in the “rifle pits” consigns Cheyenne and Arapaho women to their “squaw” status. “Indian women” are no different to Chivington than those “ignoble savage males...” whom he refers to as “warriors” as yet another invocation of a wartime paradigm that equates “warriors” as those who are ready-for-battle. A notion of equality is provoked here. Cheyenne and Arapaho women at Sand Creek were perceived as the embodiment of the dehumanized “squaw” in that the military records reflect an effort to “hunt” and kill them, their children and the elders at Sand Creek. As far as “Indian women” were concerned, and regardless of romanticized accounts, all Native American women were ultimately perceived as “squaws”. The “squaw,” as a particular biological “Indian” in its female form, was and remains the lowest common denominator of “the Indian” racial strata.

Because of the early saturation of Europe with commentaries and myths about “Indians” and “Indianness,” the biological determinism appointed to Cheyenne and Arapaho females meant that they were perceived to be poised as threats to the settlement and development of the nascent state of Colorado and ultimately, because statehood and nationhood go hand-in-hand, to the stability and progress of the nation as a whole. The “Indian woman’s” positionality consigned her to the status of a less-than-human female, but like other “natural” formations, she is one with the power to procreate and inevitably reproduce the “Indian problem”. Cheyenne and Arapaho women were multiply subjected by the skewed lens of Anglo essentialism worn by Chivington

and his contemporaries. Chivington found no logical reason to contemplate the ethics, with the exception of his need to vindicate himself. Thusly, Chivington himself offers ample evidence of the collusion between Western racial logics and misogyny that were mapped onto the bodies Cheyenne and Arapaho women at Sand Creek.

Chivington, however, was not the only culprit in dehumanizing Cheyenne and Arapaho women or who implied their less-than-equal status. In the Congressional Hearing one year after the massacre, the female victims, again who were the majority of victims, were recounted as nameless, tribe-less, ageless "Indian women" or "squaws," each term used indiscriminately. Moreover, motivated by governmental articulations of "the Indian problem," military and missionary efforts to eradicate "Indian-ness" became one in the same. Central to their ideology was the institutional anti-"Indian" logic.¹⁰⁶ Before and after the massacre at Sand Creek, anti-"Indian" commentaries were fluid in the fort grounds and a deep manifestation of harsh anti-"Indian" sentiment was disseminated in the local newspapers that intended to sway public sentiment in and around Sand Creek specifically. The discourse, coupled with the enduring legacies of scientific racism and popular culture media representations of "Indians" and "squaws," lent themselves collectively as a sort of preamble to the physical acts at the massacre, if not to American nation-formation itself. As a result, military figures who participated in this and other genocidal campaigns in the North America readily asserted their enemies were "Indians" and "squaws" against whom they felt authorized, by government and a larger religious authority, to use extreme modes of violence in their efforts to eradicate them. In the case of the Cheyenne and Arapaho peoples, their consigned "Indianness" was used to lead charges to seize possession of "Indian" territories and in those efforts to assert as overlords Western figures over "Indian" peoples.¹⁰⁷ The degradation of "civilized" warfare into perverted, sadistic, misogynistic, racist violence was easily discarded in the post-expansionist efforts to narrate and contour these histories with the common sense raced and sexed ideologies of the time.

Larger governmental rhetoric and policies lauded the imperatives of territorial expansion and the exclusion of "Indians," especially those deemed "bad Indians" (Hoig 1961: 112). These views saturated local newspapers with public calls to "Americans" and the military to dominate and eradicate "Indians". Though the designation of the massacre as a war crime was successful as a result of the Congressional Hearing, "Indian women's" racialization continued to be perceived as a biological fact. "The squaw" would remain so for some time. The discursive apparatuses that enable, and more aptly sanction, violence against "Indians" are also part and parcel of a system that repeatedly attempts to end Native American women's agency, at least in the Western imaginary. This effort aims to sever "Indian women" from the Indigenous self and from the conscience of the broader public. These efforts, while clearly effective, have their limitations, the least of which is found in the assumption of an "air-tight" alibi and the power of the hegemony to retain its hold, through cooptation, on Western knowledge production.

Touching back on Cutler's quotation, an expression of decolonial agency is found in the narrator's willfulness to occupy a contemporary space for the purpose of expressing political resistance. When viewed through an American nativist lens, the audacity of the colonized to presume political equality under the assumption that subalterned voices matter remains. Yet, this can be seen in the multiplicity of voices in the quotation that confront Chivington's effort, and

¹⁰⁶ Deloria 2004; Williams 2005.

¹⁰⁷ Put into conversation with Edward Said's concept of "orientalism," Michel Foucault's work on governmentality and the panopticon are useful for considering the logical and structural apparatuses of human and social subordination.

others for that matter, to resolve the moral question of the massacre by placing Cheyenne and Arapaho women in the “rifle pits with the warriors”. The quote is a testament to the effervescent nature of Indigenous political agency that continues to rise up, engage, and confront the creeping efforts of the West to negate Native American histories with military might and Western nostalgia. And, though the subject matter is taken up in the final chapter of the dissertation, it bears noting that this quotation also speaks to the transcendent and hereditary nature of Native American political voice.

The resilience of Cheyenne and Arapaho epistemologies are made visible by the quote’s expression of agency and, in the practical sense, its confrontation of the wrongful historicization of the massacre and the peoples. Confronting epistemological erasures, Native American oral and written traditions such as Cutler’s take to task the Western writers who cultivate less violent beginnings to American nation-formation. The quotation utilizes the reality of historical grief from the wars of expansion, which is carried and generationally transferred by Native American peoples, to disrupt the comfort of Anglo-American essentialism and to rupture the silences that historical obfuscations of the facts and sequestering of evidence affords to violent perpetrators. Speaking from the “dark night of dresser drawers (and) attic trunks,” the narrator utters a voice from inside the domestic spheres of the soldiers. The anthropomorphized severed flesh *is* and its *being* is embodied in the pieces of flesh, not as a racialized being, but as an epistemologically and politically centered one. It is an embodiment still awaiting acknowledgement, redress, and repatriation from those by whom they were victimized and sequestered. Quiet but persistent, the voices of the victims at Sand Creek emerge as voices of resistance.

Conclusion

Native American women’s racialization has multiple gendered dimensions and their transformative elements, in terms of Western perceptions of Native American females, made Native American women vulnerable to peculiarly violent responses by the West. One of the most compelling legacies of “Indian women’s” racialization includes its ability to transgress the historical period of its racial formation and mark the contemporary period with those historical tropes. The discursive ventures of scholars and popular culture productions appear to satisfy Western sensibilities for people who would otherwise find difficulty in reconciling their privileges with a historical past that is rooted in genocide. Faced with such a reality, the pathological nature of the violence of expansion and the inhumane treatment of “Indians” could provoke doubts about the illustriousness of the nation’s formation, the juridical system itself, and the contradictory relationship between Western expansion, as an ostensibly democratic project, and its imperial logic that authorized genocide. Nostalgic renditions of U.S. nation formation, on the other hand, tended to bolster American essentialism, even in feminist writings, and subvert the potential for a national cry over the genocide that enabled the West’s success.

What ramifications endure from the long history of Native American racialization and the violence against Native peoples, and in particular women, can be seen in the myriad of efforts of Native peoples whose work attempts to halt and ameliorate the negative effects of having succumbed to generations of violence against Native peoples must figure in on both Native and non-Native communities. To trace the histories of state and social violence against Native peoples also reveals something important about the U.S. social psychology and the normalization of violence. It may enlighten the discourse to consider how normalization of violence against Native women, especially abject and sadistic forms of violence, meets the expectations of exceptionalism. It may hint at the roots of the narcissism embedded in the idea that certain

peoples have futures that are vouchsafed, by birthright, to ascend politically, socially and economically in an environment where they are safe-guarded from violence, where their hardships are considered moments ripe for personal refinement, and where “bootstrap” success is assumed. The normalization of the disdain for “the Other,” then, affords the “ethical suspensions” the notion of “one nation under God” to be preserved.

Chapter Four

“In the Face of Violence: Gendered Violations, Enduring Legacies, and Native American Women’s Political Resistance”

This chapter explores the emergence of contemporary Native American women’s political modes of resistance in relationship to the legacies of western expansionism, state violence, and historical trauma. Drawing on the brutal assaults on the bodies of Cheyenne and Arapaho females during the Sand Creek massacre, I consider the nature of racist sexism as an expression of Anglo essentialism in order to demonstrate the American state’s capacity for dehumanization and violence in its modes of expansion. This point of departure is to make comprehensible the materialization of the lowest strata of the “death ethic,” that of sanctioned forms of pathological violence. Moreover, the history of sanctioned violence against Native American females illustrates a relationship between the state and Native American peoples. When viewed through the experiences of female victims new illuminations of the political power structure that fomented such violence and the “American” subject who operates within a framework of an essentialized Anglo fraternity, attuned to this power structure, emerges. This point of departure also serves to illustrate the extant threads of Native American women’s agency over a long historical trajectory, their roles as decolonial agents, and the capacity of their modes of resistance for coalition building. I engage a decolonial method by introducing postcolonial and queer theory to disaggregate Native American women’s identity politics from western narratives, including feminism. In a decolonial approach, I aim to illustrate how varied and diverse spheres of Native American resistance converge in strategically essentialized formations, a model in which relation-to-place is relative, yet where great capacities for coalition building can arise.¹⁰⁸ Moreover, a theme of generational transference surfaces, both in the inheritance of colonial legacies and in the sharing of knowledge between relatives, communities, and activists across time and space that fosters the exchange of histories and strategies of resistance and emboldens individuals and groups of differing politics. Ultimately, I seek to locate the inherent ethic of revolutionary love that is elemental in these decolonial and coalitional frameworks when activists work in conversation with the historic and each other in order to envision futures free of colonial and imperial subjugation.¹⁰⁹

I begin with an examination of the female victims of the Sand Creek massacre, a context that will enable consideration of the reasoning and motivations that underlie Native American women’s activism and that create congruencies among Native American women across borders who seemingly share political experiences.

Locating Genealogies of Resistance: Violence on Native American Women’s Bodies

The Sand Creek massacre is indelibly marked in the histories of Native American peoples as representative of a shared history of state violence, disenfranchisement, and abject impoverishment that grew out of the nation-formation of the U.S. The inheritance of this history and its legacies include unresolved grief that has been transferred over generations and has spurred on a fracturing of indigenous systems and, as a consequence, many forms of political activism. Historical trauma of this magnitude has lingering effects. Maria Yellow Horse Brave

¹⁰⁸ The term and concept of “relation-to-place” is established in *Power & Place: Indian Education in America* (2001) by Vine Deloria and Daniel Wildcat.

¹⁰⁹ Deloria and Wildcat 2001; Maldonado-Torres 2008.

Heart, who has conducted extensive research on historical trauma and its contemporary effects in Native American communities, contends that interpersonal, and inter-family struggles with addiction, family violence, and suicide are rooted in a psychological phenomenon of post-traumatic digressive behavior that results from losses of self-esteem and access to indigenous cultural-intellectual systems.¹¹⁰ As is the case with most psychological-social phenomenon, Brave Heart contends, the level of trauma exacted, for example at Sand Creek, left in its wake multiple levels of grief and rupture. Though it has typically been marked as an anomalous instance of rogue violence in many of the early non-Native histories of the massacre, examining its broad historical record combined with a gender critique offers a substantial reflection of Native American peoples' unique experiences with racial, gendered, cultural, and physical violence and the substantial losses that result from life altering disruptions of Indigenous relation-to-place.

Secondly, there is another level of trauma that has yet to be undertaken seriously for its contribution for thinking through historical trauma. For Cheyenne and Arapaho women, as for Native American women in general, the Sand Creek massacre represents the power of discursive erasure, wherein the invisibility of the racially motivated victimization of Native American women is made absent not only within the narratives of Sand Creek, but in the broader manifestation of western history. More masculinist and abstract critiques on racial formations, the substantial and differential deployment of weaponry, sweeping diseases, and social disruptions due to the ebb and flow of massive trade interests throughout Native America converge in most articulations of the "Plains wars". This approach appears to subsume and even mask gender and effectively disappear Native American women from western memory and most of its scholarship.¹¹¹ At the site of the massacre, however, the women's bodies serve, above all other things, as testaments to the systems of discursive and physical dehumanization that was and is sanctioned against Native American females. Where expansion and its legacies are concerned, a deadly combination of racism and misogyny sprung up and was mapped onto the bodies of these Native American women. Revisiting the post-massacre site at Sand Creek, the evidence speaks to this critique:

All manner of depredations were inflicted on their persons... the men (troops) used their knives, ripped open women, clubbed little children... beat their brains out, mutilated their bodies in every sense of the word... the women all cut to pieces...

Next morning after the battle [said Corporal Amos C. Miksch, also of Company C], I saw a little boy covered up among the Indians in a trench, still alive. I saw a major in the 3rd regiment take out his pistol and blow off the top of his head. ...

I saw a party with the same major take up bodies that had been buried in the night to scalp them and take off ornaments. I saw a squaw with her head smashed in before she was killed. Next morning, after they were dead and stiff, these men pulled out the bodies of the squaws and pulled them open in an indecent manner,

¹¹⁰ Brave Heart 1998.

¹¹¹ Green 1975; Barbie 2001; Weeks 2001; Smith 2005; Ostler 2005; Blackhawk 2006; Hilden 2006.

I heard men say they had cut out the privates...

I saw some Indians that had been scalped, and the ears were cut off of the body of White Antelope [said Captain L. Wilson of the First Colorado Cavalry].... I heard that the privates of White Antelope had been cut off to make a tobacco bag out of. I heard some of the men say that the privates of one of the squaws had been cut out and put on a stick.

In going over the battleground the next day...[reported First Lieutenant James D. Cannon of the New Mexico Volunteers]. I heard one man say that he had cut out a woman's private parts and had them for exhibition on a stick; ... I also heard of numerous instances in which men had cut out the private parts of females and stretched them over the saddlebows, and wore them over their hats while riding in the ranks. ... I heard one man say that he had cut a squaw's heart out, and he had it stuck up on a stick.

The squaws offered no resistance. Every one I saw was scalped. I saw one squaw cut open with an unborn child, as I thought, lying by her side. (All quoted in Stannard 1992: 132 - 133)

Mrs. Amy Prowers, daughter of Chief One Eye, was a prominent member of Cheyenne society. Her testimony, on the nature and events surrounding the Sand Creek massacre, was acquired as a result of the effort of Hubert Howe Bancroft who sought ambitiously to collect information on "Indians" of the West for his history of the American West entitled Native Races of the Pacific States (1883). Mrs. Prower's testimony was one of only two women interviewed for the collection and was conducted on July 19, 1886 in West Las Animas.¹¹² Mrs. Prowers's dictation corroborates Cheyenne oral history as well as the soldier's accounts of the massacre's notorious brutality that ended the lives of her mother and father among the hundreds of Cheyenne and Arapaho victims. She offers this unapologetic account:

... they made a dash down upon the Indians, entirely defenseless, shot little children in the mother's arms... took a little boy stood him in the creek and there fired a cannon at him, hitting him the 5th shot, several women jumped into a... cave and... were the only ones left to tell the story. The soldiers remained there... the entire day, cutting the hands of many, scalping others and chopping others to pieces. (Powers 1886)

In the Final Report of the Joint Committee on the Conduct of War, issued as a result of the Congressional Hearing of 1865, the Sand Creek massacre was condemned as a "war crime" primarily because it was deemed a premeditated act of violence, not war, that saw the "killing [of] women and children, who were incapable of offering any resistance" (Lewis 1972: x). Moreover, the hearings illustrate, through the testimonies of governmental agents and troops, that resistance would have been futile. A coup had taken place that led to the massive departure

¹¹² The other woman interviewed was Isadora Filomena Solano, the wife of Chief Solano of California.

of Cheyenne and Arapaho males and, as the record reflects, purposely set the stage for the military's violent frenzy. Sand Creek was not a singular, anomalous moment. Rather it remains representative of the contradiction inherent in the notion that western progress can be exacted through the systematic conquest of non-Western lands through the eradication of Indigenous peoples, their cultures and claims to sovereignty.¹¹³

David Stannard, Jeff Ostler, and Ned Blackhawk all engage rich explorations that map the material aspects of conquest and in doing so they capture the ordinariness of otherwise immoral acts during conquest. So normalized was the killing of Native peoples, so unapologetic were those who denigrated and destroyed the bodies of Native females, that the Sand Creek massacre seems to simply be one event in the legacy of what Stannard calls "a list without end" (Stannard 1992: xiv). However, Stannard's lending of numerous details about the violence on women's bodies in his historical reading of the massacre is atypical in that most are tilted toward masculinist renderings that subsume all of the victims under the trope of "the Indian". Blackhawk also references to women and to the abject nature of expansion when he notes that women of the Great Basin were used "for sexual and domestic labor and trading Indian children for horses and other goods" as was commonly practiced among expansionists, traders, and Native Americans who aligned themselves with the non-Native forces. He continues:

Such violent practices originated in the Spanish colonial era.... For most Native peoples, however, violence would soon begin taking larger and more pernicious forms. ... While trappers and rogue traders brought more immediate forms of violence to the everyday lives of...Indians, state-sponsored explorers laid the foundations of empire. Their maps, reports, and journals ultimately carried greater influence... By producing the knowledge from which conquest could flow, those who extended American claims in the region became agents for the most violent forms of imperialism. The settlement, law, policing, and governance – the mechanics of colonial rule – that followed within a generation overturned the worlds of Great Basin (and all) Indians forever. (Blackhawk 2006: 148 – 149)

In the case of the Sand Creek massacre, this was certainly true. Even more, examinations of colonial and western expansionist "mechanics" reveal that the utility of the racialized "Indian" was that it engendered the normalization of their killing because it lent fodder power for more expedient approaches to expansion and land acquisitions for European ruling powers. Native American scholar Phil Deloria also highlights the conditions borne of racialization that saw the emergence of a binary where the "savage Indian," formulated through hypermasculinist convergences of violence and irrationality, was the counterpoint expectation to his antithesis, the anomalous "friendly" "Indian." However, the Sand Creek massacre is only partially served by these critiques. It was a "gendered" massacre, and one that saw the decisive, premeditated, and purposeful targeting of female victims. Moreover, it is the female gendered aspect of the massacre that sheds new light on the multidimensional facets of colonial and western expansion and their egregiously violent forms of conquest. At Sand Creek, the expression of racist misogyny and the ethical departures that allow it appear to be the result of a marriage between

¹¹³ Lewis 1972; Stannard 1992; Weeks 2001; Blackhawk 2006; Ostler 2006.

institutional racism and sanctioned Anglo entitlement in this overdetermined “war” of expansion and progress. Cheyenne and Arapaho women’s bodies, in this case, become texts that speak posthumously about the nature of colonial and western expansion, Anglo essentialism and its inherent misogyny, as well as the power of silence as a weapon. They are the one body of evidence that leaves little chance of misunderstanding what occurred yet their victimization receives the least attention. As an extension of this argument, Cheyenne and Arapaho women’s bodies, also, serve as sites for multiple forms of conquest, not the least of which is the systematic silencing of their histories.¹¹⁴

While one form of conquest at Sand Creek was unquestionably the violent acquisition of land through physical eradication, starvation, and deprivation, and the erasure of all legal and juridical protections and subsequent agreements made in the early stages of settlement, a second and darker side of this history was the fatalistic desire to demonstrate domination over Native Americans through the abject dehumanization of Native women. At Sand Creek this was carried out to the extent that even their dead bodies were sites for perverted expressions of Anglo patriarchy, misogyny and racist sexism. This history of violence and its silencing at Sand Creek speaks to the co-constituted relationship between Anglo American male essentialism and the destruction of Native American females. Moreover, it illustrates the “death” of representation. Sherry Farrell Racette clarifies the colonial and expansionist projects’ abilities to disaggregate Native American women’s relationship to self in this way:

Our ability to understand (or even locate) the gender relationships that existed prior to colonization is complicated by an array of overlapping factors: the tumultuous history that separates us from our pasts, gender bias in early historic documents, and the manner in which anthropologists and other scholars have conducted research to advance or dispute ideas about gender relations as universal truths. (Racette 2010: 28)

Universal truths, such as those mentioned here, include the universal notion of indigenous primitivism. Unlike the critiques of early feminists wishes to coalesce around a certain set of “women’s issues,” Racette’s reflection of “universal truths” responds to a category of women in which Native American women were not formulated. Gender, as the author notes, was a pre-formed concept that did not accept the types of women Native American societies produced.¹¹⁵

Subduing the political potency of Native American women through patriarchal gendered normativity, Judith Butler argues, is a form conquest.¹¹⁶ It has been surmised that viewing Native American women through racist and patriarchal norms leads to their being perceived as threats to the success of colonization and progress. To the extent that this heteronormative depiction is useful, it is worth noting that colonial figures deemed Native American women progenitors of the family and, thereby, the race and nations. There is evidence that, “colonial strategies of church and state sought to erode the respect for and power of women and problematized female sexuality through shame and exploitation” (Racette 2010: 34). Certainly, the deployment of patriarchal re-presentations of Native American women justified the disregard of their political and social viability and well as their inherent right to exist.

¹¹⁴ Stannard 1992; Weeks 2001; Blackhawk 2006; Ostler 2006; Prowers testimony of 1886 reprinted in 2010.

¹¹⁵ Butler 1990; Oyewumi 1997; Kehoe 2001; Racette 2010.

¹¹⁶ Butler 1990.

However, within this framework, it is fair to note the differential racialization of Anglo and Native American women extended alternative “truths” about each to emerge. Whereas Anglo American women were continuing to see their political potency stifled under patriarchal exclusivity, and suffered as a result of juridical and social beliefs in their low capacity for intellectual acuity, Native American women were posed as intolerably unintelligible and differentially human. Their status arose within the construct of racist sexism and Anglo superiority.¹¹⁷

Examined on a racially gendered axis, alternative levels and forms of erasure and violence against Native American women emerged with respect to racial and gender normativities. Associating the physical bodies of Cheyenne and Arapaho women, for example, with anti-“Indian” sentiments was an effective mechanism for creating differential relationships between Anglo males and Native American females, based on their raced bodies, and for justifying state violence and its erasure.¹¹⁸ While Cheyenne and Arapaho women and girls were the primary targets, their erasure through abstraction saturates nearly all of the massacre’s historicizations. During the Congressional hearings, for example, they were typically remarked on as nameless, age-less and nation-less, “Indian women... females... girls,” “squaws” or “enemy non-combatants”. Clearly, it was commonplace that Native American women were racialized within specific classes of “Indian females” in the early colonial context. Some were problematized as “squaws”, others barely received notice in census records and were very typically disregarded as “Indian woman” or “Indian girl”.¹¹⁹ Cheyenne and Arapaho women were doubly subjected by the paradigms of racism and sexism at the massacre exactly because they represented the female embodiment of the “Indian problem,” which was considered the most significant and potent threat to the success of the burgeoning state and nation.¹²⁰

As theorists of historical trauma and its legacies have noted, conquest and its multiple forms of violence, including erasure, are demoralizing. Effectively silencing Cheyenne and Arapaho women represses the grievances of Native Americans in general. To be recalled, especially in the context of such abject violence and in a legal hearing where their representation was key to arbitrating post-massacre remediation, being reduced to “Indian women”, “squaws,” and “enemy non-combatants” was to be deemed politically, socially and physically obsolete. This legacy, many Native American women activists claim, is at the basis of today’s invisibility of Native American women and the grievances they endeavor to redress. Moreover, recognizing the patriarchal paradigm of the period, Andrea Smith and Maria Yellow Horse Brave Heart contend that to break a people’s resistance, it was clear that it must be realized through waves of inhumane violence so as to ensure enduring legacies of colonial dominance through internal colonialism. Following such immense social and cultural loss from waves of removal, cultural suppression, and epistemological eradication, and gender reformulations, Native American peoples’ social, political and cultural worlds were “changed forever” by genocide.¹²¹ Where the intention was the absolute subordination of Native American peoples, the commensurate super-subordination of Native American women resulted. However, remnants of political and cultural integrity remain. Steve Brady’s great-grandparents survived, as did other members of the Cheyenne and Arapaho peoples. With them, the histories of conquest and their critiques of its devices, mechanisms, contradictions and pathologies were shared over generations and across

¹¹⁷ Butler 1990; Spivak 1999; Hilden 2006; Racette 2010.

¹¹⁸ Green 1975; Perry 2009.

¹¹⁹ Lewis 1972; Stannard 1992.

¹²⁰ Green 1972; Stannard 1992; Barbie 2001; Smith 2005; Marrubio 2006.

¹²¹ Blackhawk 2006.

cultures through oral histories, new ceremonies, and new body politics that gave life to new modes of resistance. Historical voices, as it turns out, were impossible to repress. Instead, these histories reemerge in Native American communities and give rise to individual and collective responses to the colonial past and its contemporary legacies through decolonial movements found in grassroots actions, cultural preservation and community building projects, and scholarly activism.¹²²

Decoloniality: Theorizing of Native American Women's' Activism

The secrets and disguises of the past will be constantly rendered up for public scrutiny by each new generation... This historical past will be constantly interpreted by those who have adopted the region as their permanent or temporary home, untangled by those who physically live in the region, and debated by those who have migrated out of the region. Both consciously and unconsciously, the interrogation of the past with the present is the process of creating continuity and tradition. This continuity and tradition – of families, buildings, institutions, art, music, song, dance, cuisine, of political systems and political struggles, of language, and of cultural beliefs – all of these are the signature of the Caribbean on the world map – the way in which the circumstances of history, natural geography and resources of the region have evolved into something which is viewed by others and by ourselves as Caribbean, despite colonialism, and because of colonialism. (Mohammed 1998: 7)

Patricia Mohammed's explication of indigenous feminism in the Caribbean speaks to the formulations of Red feminism and other forms of Native American women's political activism as being multiply sited relationships, to indigenous spaces and to the colonial past. Native American women's activism continues despite assumptions of its non-existence, its erasures in the colonial past, and omissions of the present that relegate Native American women to the unseen margins of political formations. Patricia Penn Hilden has offered a theory that identifies a radical, political phenomenon known today as the "Red Zone". It is, Hilden contends, a spatial consciousness that emerges wherever postcolonial Native American political activism is formed. Applied to this analysis, it reflects the political identity informed by a relation-to-place where Native American women activists engage from an awareness that is situated in the politics of their racialized ("Red") identity. Activism that functions within the "Red Zone" illustrates an insurgent movement against colonial discursive erasures, environmental degradation, and human negation that work as a multifaceted race technology aimed at undermining the influence of Native American women and Native American self-determination. Endeavoring to frame Native American women's activism in this contexts puts it necessarily in conversation with Patricia Hill Collins' "ethic of caring". Collins claims this ethic is pervasive in African and Black American communities and is demonstrative of the myriad ways that African and Black American women conduct decolonial, anti-racist work in their homes, families and communities. Native women's activism is relational too to place, family, community and epistemology. This activism, in all of

¹²² Lewis 1972; Green 1975; Stannard 1992; Wilson 1998; Brady 1999; Barbie 2001; Purdue 2001; Deloria 2002; Smith 2005; Collins 1998; Hilden 2006; Huhndorf 2009.

its various formations, endeavors to undo the shackles of colonialism and its commensurate contemporary imperial forces. An “ethic of caring” works well as a tenet of the inherent decolonial vantage point within Native American women’s agency and activism, as it arises out of revolutionary love and its inherent sense of responsibility towards oppressed peoples.¹²³

As a decolonial modality, these ethics and politics of identity extend across genres, spheres and locations, making the sharing nature of indigenous activism, its accessibility, open for comparative thinking across cultures, nations, genders and more. Native American decolonial movements reassert a relation-to-place, and their reflexive properties guide particular sets of values and notions of self-esteem that, like Collins suggests, create life affirming modalities within Native American women’s modes of resistance that relate to the specificities of their needs. Within this framework, circumstances arise that afford a certain level of essentialism. For Native American peoples, we are only a few generations away from colonial and “American” expansions across the Americas. The reverberations of these histories continue to galvanize postcolonial political consciousness and uprisings. In these efforts, though much of the rhetoric resonates across national, tribal, and international borders, essentialism is widely accepted within Native American circles. It is considered common sense. Like other women of color in the U.S., Native American women’s political and even feminist platforms have been derided as essentialist. However, a glimpse into the concerns Native American women confront when they call for “redress” suffice to clarify the usefulness of strategic essentialism, and the reality of its coalitional properties. Upholding treaty rights, for land rights and sacred practices, or concerns over reproductive rights that are framed within a history of forced sterilization and state sanctioned child abduction are unique to Native American women with respect to the particulars of this history and the source of redress, yet these are also shared. I argue, therefore, that essentialism and coalition are relational endeavors, rather than separatist, when viewed through Native American women’s activism. These constructs work much like overlapping concentric circles within decolonial ventures. In the Native context, what affects Native American peoples in their localities reverberates for all others in their locality. Room for coalition building, through a decolonial expression, extends its reach beyond the bounds of the essential and opens the veins of communication for exchanges of shared strategizing and solidarity. Unique crises shape the experiences, for example, of the Mohawk, the Zapatistas, the Blackfeet, and the Western Shoshone. Yet, all of these peoples face similar constructs of domination and exhibit ethics of caring and revolutionary love in their endeavors to halt the deleterious effects of imperial domination. Similarly, it is the elders and others who keep urban centers running on shoestring budgets and those on the reservations and all who cross our borders with an understanding of alternative systems and mappings and who still live in accordance with them who venture in the world as decolonial activists. Decolonial acts engage the present with the historical, ask what in the present is formulated by structures of the colonial past, and put forth visions for a future that is not bound by subjugation. Theoretically, what is lost through the colonial encounter is gained, and reclaimed, through decolonial projects.

As praxis, decolonial methodologies lead people through a process of recognition and rearticulation, whether enacted by individuals, collectives, or communities, and enables new forms of consciousness and practice to develop. Drawing on Chela Sandoval’s Methodology of the Oppressed (2000) as foundational to this analysis of decolonization, the scholar/activist promotes a powerful new tenet for embarking on decolonial projects. The practice of “differential consciousness”, addresses both vertical and horizontal modes of power that social

¹²³ Collins 1998; Hilden 2006.

movements, such as liberal, Marxist, radical/cultural, and socialist feminisms, both scholarly and grass roots activists, made salient. However, Sandoval recognizes the limitations of these as they departed in manners that entrenched social movements and rendered them negatively essentialized. She argues that women of color feminism contributed to and enabled the development of “tactical essentialism”. Foundational in her theory of differential consciousness, tactical essentialism facilitates a movement’s positionality to be vetted so as to develop their intellectual and political voice, yet compels members “to understand and utilize the previous four, not as overriding strategies, but as tactics for intervening and transforming social relations” (Sandoval 2000: 61). Critical in differential consciousness, are movement’s abilities to “re-cognize” and build upon “other modes of consciousness in opposition” to the complex post-colonial apparatus (Sandoval 2000: 62). Ultimately, “The methodology of the oppressed is a set of processes, procedures, and technologies for decolonizing the imagination” and embracing differential consciousness leads peoples to then envision and manifest a new consciousness without bearing positions or sentiments of dominance (Sandoval 2000: 68). Though the extensive and diverse expressions of Native women’s decolonial activism cannot be comprehensively undertaken in this brief exploration, I will offer an overview of differential consciousness and several critical theorists whose work directly contribute to the use of such modes of decolonialism.

In Sandoval’s theory of oppositional consciousness, she suggests subjects need to first identify the colonial apparatus so that its limitations and injustices are made obvious; rupturing the colonial apparatus requires that its cognitive structure be identified and dismantled. Secondly, one must articulate a new and differential consciousness that sheds the structure of colonial ideologies, including any type of centrism that might lead to the rise of a dominating group, and articulate new knowledge that enables social transformation. Bringing the theoretical to its practical applications, attempts to achieve self-determination through various modes of resistance is a paradigm that is indicative of the extraordinary, inherently decolonial, activism of Native American women. This “de-colonial turn,” as noted by Nelson Maldonado-Torres, includes the recognition of “(hegemonic) modernity as a paradigm of war.” His critique is conversant of the 1960s formulation of “the politics of identity,” which define in particular ways the relationship between self (identity) and the overarching politics of the state that shape one’s personal and collective experiences. For this analysis, his critique is a bases for arguing for strategic essentialism as an expression of decolonial activism wherein “liberation and identity are central to philosophical discourses articulated from the position of sub-alter peoples” (Maldonado-Torres 2008: 187 -189). Employing Patricia Penn Hilden’s “Red Zone,” Nelson Maldonado-Torres’s decoloniality, Chela Sandoval’s theory of oppositional consciousness, frameworks for a comparative and integrative approach emerges and enables a reading across disciplines and modes of activism that extend broad considerations of Native American women’s political activism.¹²⁴

Native American Women’s Grassroots and Material Forms of Activism

At the basis of decolonial activism is the understanding that colonial legacies of violence are locatable in contemporary systems of imperial dominance and that these paradigms overburden and overdetermine, in this case Native American, communities today. Grassroots activism continues a long historical practice of fighting for relation-to-place. From the common usage of reservation lands for the disposing of industrial and military toxic waste, the

¹²⁴ Sandoval 2000; Hilden 2006; Maldonado-Torres 2008.

ghettoization of “urban Indians”, the continuous federal surveillance under which all Native Americans live, to the everyday violence Native Americans are subjected to through face-to-face encounters with state agents, with nativists, and within our own communities, to the contemporary political discourse that reduces Native Americans to stereotypical portrayals, Native Americans’ political struggles are rich with problematics that they share more with other colonized indigenous peoples than they do with their own neighbors. This latter and important tendency to view colonial superiority and race ideology as phenomenon of the past is, in reality, simply a convenient fiction grown from placing Native American histories and contemporary realities in the periphery of the dominant narrative. A number of activist scholars address the legacies of the colonial era that continue, unadulterated, to impact Native American self-determination at the grassroots level and illustrate the political movements that confront the institutional undermining of Native American self-determination. Engaging in nation-to-nation interrogations, the relationships between colonial/western/U.S. federal exploitation of tribal lands, breeches of treaty rights, and the formation of collective Native-oriented activism are viewed as common sense in Native American resistance movements. Native American women’s postcolonial politicization has its foundations in protectionist measures oriented toward the reclamation of Native American social, human, and material rights that have become the collective losses of the illegitimate gains of colonialism and modernity.¹²⁵

Scholarship as Activism: Counter-narrating “Universal ‘Truths’”

Decolonialism has been the undertaking of a many Native American Studies scholars in history, literature, and law. In kind with Patricia Hill Collins’s contention that decolonial anti-racist work occurs in the intimate settings of home and community, I suggest that Native American literary scholars speak from the intimacy of body, home, community and relation-to-place to retrace and recollect for themselves and the broader public, alternative and positive representations of Native American peoples. By speaking back to the public, Cari Carpenter contends, Native American women authors reclaim the overdetermined racialized and sexed images produced in the colonial era that linger today. Literature, as one of the earliest sites for reaching non-Native audiences was utilized by Native American women authors who used “anger and rage” discursively and ideologically to extend their political critiques beyond the limitations of the genres (Carpenter 2008: 7). Whether within colonialism or today Native American women’s scholarship deploys arguments against the racial “common sense” of the times that rendered and contemporaneously re-present Native Americans (and other peoples of color) as infantile and villainous, irrational and unintelligent, when they expressed anger. Voicing anger in literary form, however, according to Carpenter, enables the writer to contextualize and reframe the expressions within anti-colonial counter-narratives, therein reanimating Native American political agency, among other themes, through the rationalization of anger and rage. This, Carpenter contends, is an example of the use of literary voice as a political deployment and as a form of activism. The task taken up by Native American literary scholars, then, is to reinterpret the works saturated in colonial ideology in order to unearth the “angry” critiques through characters and events in such a manner that agency is locatable, rationale is revealed, and Indigenous logic is comprehensible. Examinations of these characters and their authors is critical for undermining the power of the stereotypical raced and gendered iterations that continue to enable white solipsism and elitism to grow in relationship to the deterioration of the images of Native American peoples. The merging of scholarly and political

¹²⁵ LaDuke 1999; Smith 2005; Hilden 2006; Huhndorf 2009; Perry 2009.

interests here appears to embody the ethic of care that is inherent in revolutionary love. To stand and testify to the mis-articulations and the depredations of colonial designs are at the heart of these discursive decolonial expressions.¹²⁶

Shari Huhndorf's *Mapping the Americas* (2009) offers numerous critiques, many of which are engaged in other areas of this dissertation. As for her continuing contributions for rethinking Native American agency through literature, Huhndorf dives into the spatial territory of Leslie Marmon Silko's *Almanac of the Dead* (1991). Here, through Huhndorf's re-reading, a collaboration is formed in her articulation of Silko's "500 year map". Read in conversation, Silko and Huhndorf co-produce a critical reading of indigenous mapping as a reclamation of not only space, but relation-to-place. Huhndorf contends that Silko's contribution is a decolonial act and one that invites "transnational alliances". Silko's decolonial project, Huhndorf explains, exemplifies "the most powerful (but nevertheless contradictory) form of anti-colonial resistance and draws out the implications of Native revolution for contemporary nation-states, especially the United States." In brief, Silko's re-mapping and reclamation of indigenous geographies confronts colonial and western expansionist narratives of rightful territorial occupation by illustrating the "importance of place and recounts the repetitive histories of conquest and resistance that shape their meanings, thus overturning colonial paradigms of 'wilderness' and 'empty space' that justify European possession." In other and less obvious ways, *Almanac's* map reclaims power over historical knowledge production. At one point, Silko resituates the history of colonialism's "Indian," by claiming "Haiti as the home of the first black Indians" and then brings together a hemispheric genealogy that links multiple body politics of Indigenous peoples and "Indians" who "share a history of genocide, slavery, and dispossession" (Huhndorf 2009: 141 – 146). In doing so, the authors observe together colonialism's lingering modalities of permanent war alongside indigenous forms of resistance. Here, they demonstrate where liminality and decoloniality of being, or living according to (in this case) indigenous maps, converge as reclamations of place, time and, ultimately, self and Indigeneity.¹²⁷ Averting the tendency of the west to erase Native American epistemologies, anachronize and romanticize Native American peoples and their relation-to-place, this reading of Silko's *Almanac* adds racial and gendered dimensions to Foucault's contention that agency exists at nearly every level of subjectivity.¹²⁸ This agency, expressed at individual and collective levels, has the capacity to disengage with the colonial and shift the centrality of its power to a marginal status. Ultimately, the remapping, because it engages social histories above and beyond territory, makes the imperialist nature of European and American essentialism, which affords it carte blanche permission to expand, occupy and eradicate whole peoples, appear in harsh relief when laid atop indigenous epistemological systems and their accorded "maps". Indigenous resistance is not untroubled by colonial frameworks of nation, and concomitant nationalisms, a paradigm that Huhndorf contemplates in an early section of her critique and Maldonado-Torres advances when he says, "Criticism must be, in short, interspatial. It involves a transgression of the perspectives provided by one's tradition and by one's limited geopolitical location" (Maldonado-Torres 2008: 251). Huhndorf's reading animates the multiple spheres of politics, subjecthoods, and agency otherwise unacknowledged or delegitimized by dominant society and its juridical systems, and puts forth the experiential paradigm of necessary essentialization with coalitional tendencies that appear to be inherent in decolonial movements. Therein, Huhndorf invites essentialism and

¹²⁶ Sandoval 2000; Hilden 2006; Carpenter 2008; Maldonado-Torres 2008; Huhndorf 2009.

¹²⁷ Maldonado-Torres 2008.

¹²⁸ Foucault 2008.

transnational and transcultural coalitions to coexist. An analysis of grassroots activism emphasizes the tensions that emerge when indigenous “maps” and requisite laws are mobilized.¹²⁹

Conclusion

In Native American women’s activism, the acts themselves speak volumes about colonialism and its various antecedents. The collective exasperation of Native American women activists testifies to the subsequent obliqueness and lethal potency of Anglo essentialism and the race ideology and misogyny, its concomitant progeny, they spawned. In the most practical sense, Native American women’s activism articulates and confronts historical legacies and in doing so re-ignites both the historical and contemporary Indigenous self to work in collusion against the multifaceted demands of the imperialist state and its “death ethics”. Maldonado-Torres explains the importance and complexity of this work:

For colonized and racialized peoples identity is always contested since it is tied to a power structure and an imaginary that militates against their very existence. For this reason, questions of liberation and identity are central to philosophical discourses articulated from the position of sub-alter peoples. ... In a racist world... (enveloped by) the death ethics of war... (b)eing thus turns impersonal, if not homicidal, as it hides the faces and mutes the voices of people. But this task can never be accomplished in its totality. A denunciation, a protest, a “cry” of ethical revolt emerges... It is from here that thinking from the limits appears in this work as a radical insurgent act. (Maldonado-Torres 2008: 189, 240)

Native American women’s activism utter, hear and respond to “the cry,” mostly undeterred by a rational fear of further oppression (Maldonado-Torres 2008). These forms of activism exude an audacity in their intentions to assert the Indigenous self in order to disrupt the multifold systems of oppression, the comfort zones of settler nativists, and the imaginary naturalness of the hegemonic order, its imperatives, and its policing forces. By and large, Native women activists draw from extant Indigenous epistemologies to engage in a way of being that negates the power of colonial, imperial and colonial-settler hegemonic systems of oppression. Maldonado-Torres concurs:

The destabilization of the imperial order of things occurs in thought as well as in praxis. ... It can become then both a way of thinking and a way of life. In both of these ways, the de-colonial reduction gives expression to a peculiar utopian idea; the end of empire and of imperial man. (Maldonado-Torres 2008: 244 – 245)

In order to achieve success, these confrontations require the acknowledgement of the strengths and limitations of essentialism. In its greatest effort, as Maldonado-Torres advances, decolonial “... criticism must transgress the boundaries of geopolitical space and class formation, and, in the spirit of altericity, it must reach the one who is below to hear him or her as well as fight with

¹²⁹ Butler 1990; Hilden 2006; Huhndorf 2009.

him or her in the process of liberation” (Maldonado-Torres 2008: 251). Expressions of decolonial, revolutionary or, in Racette’s analysis, “fierce love” are found in Native American women’s activism, in the spatial articulations that are centered in a people’s relation-to-place, yet at the same time they are expressions of Indigeneity and the epistemologies that embrace collective being, wherever that being resides. Therein, the “Red zone” emerges, whether on reservations, in rural communities, or in urban “Indian” settings.¹³⁰ Equally important in this work are the efforts towards the recollection of Indigenous reason and the logic of relation-to-place that is at once specific in its geographical specificity and, at the same time, can be untethered from nationalistic rhetoric and stances. The prime imperative remains that those capable of relieving Native Americans from the overburdening multifaceted technologies of oppression must rise to the occasion. Success depends on creative strategizing, unending determination, and the ability to transform one’s community by effecting change that is engineered to revitalize both individuals and collective peoples. Maldonado-Torres’s offers a vision of decoloniality as a mode of resistance that serves to explicate the ultimate expression of Native American women’s activism:

The consistent evasion of the paradigm of violence and war requires a constant learning from the stories, mythical narratives, and intellectual views that emerge in locations whose subjects have experienced the evils of empire. ... Appeals to love in the face of colonialism and slavery appear more as consistent responses to systems of dehumanization than as natural expressions of gender difference. Love, once again, appears as a response to war. ... but love is interpreted here as a de-colonizing activity and war as a paradigm. (Maldonado-Torres 2008: 251 – 252)

This “constant evasion” is made possible by the enduring love for what it means to be, to exist as, Indigenous peoples. It is an expression of Native American politics of identity that is seen in Native American urban communities, on reservations, and within scholarship that attempts to bring life to Indigenous cultural-intellectual systems and mar the power of imperialism and its own form of utopian essentialism so as to engender a love of self as understood through a relation-to-place.¹³¹

¹³⁰ Hilden 2006.

¹³¹ Jaimes et al 1992; Brave Heart 1998; LaDuke 1999; Deloria and Wildcat 2001; Wilson 2001; Williams 2005; Hilden 2006; Carpenter 2008; Maldonado-Torres 2008; Huhndorf 2009; Racette 2010.

Chapter Five: Conclusion

“Meditations on Contemporary Anti-“Indianism”: “Indian” and “Squaw” Formations and the Admissibility of State Contempt”

Since the election of Barak Obama as the 46th president of the United State numerous scholars, popular culture theorists and many in the public began to argue that racism no longer significantly shaped quality of life indexes in America; they argued that having a black president was evidence that America had entered a “post-racial” phase.¹³² Yet, in 2011, when President Obama declared “Code name Geronimo” a success and heralded military special forces for completing the mission of capturing and killing Osama Bin Laden, a man the government and military call a terrorist and the “most dangerous man in the world,” the device of the “hostile Indian” was evoked. Without fanfare or recognition, in that moment, the revered Geronimo was transformed, from shaman, to “warrior,” to “hostile Indian,” to terrorist; his historical memory washed over with the lexicon of Western war. Much criticism circulated through Native American communities many of which used Internet listserves to castigate the President and military for their perpetuation of anti-“Indian” institutional racism that this moment illustrated. An unequivocal statement issued by the Oklahoma Fort Sill band of Apache, Geronimo’s peoples, chastised the government for the misstep, stating, “What this action has done is forever link the name and memory of Geronimo to one of the most despicable enemies this Country has ever had.” James Houser, who authored the letter, also reminded the administration that its House of Representatives had, only two years earlier, passed a “Resolution that honored Geronimo for ‘his extraordinary bravery, and his commitment to the defense of his homeland, his people, and Apache ways of life’” (Houser 2011: 2). Houser, on behalf of Apache peoples, called on the President for a formal apology. On the evening news, an apology was offered by a spokesman for the President and then a news anchor read the military’s additional response, that, “No disrespect was meant to Native Americans... code names are typically chosen at random.”¹³³ Many across Native America wondered how a President, who was adopted by the Crow tribe when he was still a Senator on the campaign trail, could be insensitive to what the criminalization of this Apache leader meant not only to the Apache, but also to his Native American constituents?¹³⁴ Moreover, it is important to ask what institutional anti-“Indianism” conveys to the broader public and how such messages translate into attitudes towards and treatment of Native Americans today?

It takes little insight on the quality of life indexes of Native Americans to understand the critical urgency of the impacts of such transmutations. When figures like Geronimo are represented through the Western imaginary, the value of their lives and contributions are erased

¹³² Dr. Jody Mallamed presented on decoloniality and “mercantilism” at the 2011 Ethnic Studies Conference at UC Riverside. The thrust of the paper was aimed at disproving the “post-racial United States” argument, through an economic analysis, to pose that contemporary racism remains. However, Mallamed contends that the contemporary economic mode of capitalism enables exploitation where racial subjects may participate in an exploitative system at the same time that their racialized presence is used to argue that systematic racism no longer exists. Secondly, President Barak Obama was subjected to what *Time* magazine reporter Michael Scherer remarked as “uncommon vitriol”. Though the reporter does not elaborate, his reference regards the questions of authenticity, about his “Black” identity and his American citizenship, to which Obama was and continues to be subjected.

¹³³ ABC Bay Area News, May 4, 2011.

¹³⁴ Jeff Zeleny “Obama Adopted by Native Americans,” from “The Caucus: The Politics and Government Blog of the Times,” *New York Times*, May 19, 2008.

as the figures metamorphose from revered person to “public enemy”.¹³⁵ The near epidemic level Native American youth suicide offers a case in point. Commentaries usually surround the losses of Native American youth that enable us to understand the psychological erosion that takes place in many Native American communities due to the sense of hopelessness and invisibility that arise when one is implicated within the context national racism, whether it be in sports culture, “rich Indian racism,” white territorial nativism, or gross cultural appropriation.¹³⁶ Yet, though this level of institutional racism leaves an imprint on the communities implicated, the tepid-to-nil responses of the President, military, and the general public leaves room for interrogation.

The Challenge for America as a Decolonial Space

A narrative that demonstrates the long life of anti-“Indian” and “squaw” discourses does not ignore the question of how anti-“Indianism” operates today and to what extent. As I have argued throughout the dissertation, tropes of “Indians/squaws,” “Indian country,” and American exceptionalism worked together in discourses that bolster the protectionist rhetoric around American nation-formation and democracy itself, yet retain particular spaces of liminality within which “Indians” and “squaws” and other negatively racialized constructs fall. I offer, as a final point of departure, three examples in which historical anti-“Indian/squaw” rhetoric arises in institutional and social discourses, wherein tropes of “Indianness” and “blackness” are collapsed, where the safety of tribal judicial systems are questioned, and where despite the promise of equality, the safety of Native American females is subject to legally sanctioned limitation. I draw on these final examples to consider how each contributes simultaneously to the normalization of Western power and the foreignness of Native American “Others” in the 21st century. I begin with a poem that highlights the anti-“Indian” hate speech still being deployed in South Dakota to consider, first, the matter of what I call social comfort with the use of “ethical suspensions,” where “Indians” are concerned, that enable and promote the dehumanization of Native Americans today.

A Flyer Distributed in South Dakota by Sara Littlecrow-Russell

Dear South Dakota Hunters:

As the Indians need to be
thinned out every 2 – 3 years,
this year, we will have open season
on the Sioux Reservation

¹³⁵ Here, my use of “public enemy” intentionally invokes Giorgio Agamben’s theory that hegemony instill and maintain hierarchically stratified, and differentially governed, peoples.

¹³⁶ Katherine Spilde (2000) examined the emergence of racist vitriol around “Indian” rights after the initial phase of “Indian” casinos began and drew attention for their potential to enrich and provide financial stability to federally recognized tribes. Spilde contends that while anti-“Indian” racism appeared to be a matter of the past, that historical racism re-emerged in response to the success of tribal casinos. Concerns stated within the context of anti-“Indian” sentiments included questions about whether “Indians” would know how to manage money, casinos would lead to or increase tribal corruption, or lead to (otherwise taint) the corruption of other parts of the society, which evokes Immanuel Kant’s caution that without a rigorously structured system of racial segregation, “Natives” could “pollute” and degrade the white body politic. In some cases, states administrators attempted to tax casino revenues, ignoring the legal distinctions that prevent such taxation.

for the species *Americanus Worthless Slounis Pyutus*
commonly known as “Prairie Nigger.”

Regulations

In the 1999-2000 season, it will be unlawful to:
Hunt in a party of more than 150 persons
Use more than 35 rabid hunting dogs
Shoot in a public tavern
(bullet may ricochet and hit white people)
Shoot an Indian sleeping on a sidewalk
Shoot length-wise in a welfare line.

Traps may not be set
within 15 feet of a liquor store.
Traps may not be baited
with Muscatel, Lysol, or rubbing alcohol.

It will be unlawful to possess a road-kill Indian.
However, special permits shall be issued to people
with semi-tractor trailers and one-ton pickup trucks and
with a road-kill permit in place
You may bait the highway with foodstamps.

Good hunting!¹³⁷

The poem, a call to hunters of “Indians,” has a thin temporality. Without a time stamp, or reference to contemporary technology or phenomenon, the ideologies that permeate the poem render it timeless in its racism and white supremacy. Two streams of genealogical inheritance emerge. One is found in the generational transference of Anglo, specifically anti-“Indian,” exceptionalism and entitlement. The other stream can be understood as the generational transference of grief, identity anomalism, a sense of ones immutable difference, and the natural loss of entitlement conveyed through anti-“Indianism”. As the poem indicates, notions of entitlement and inheritance arise in such narratives of power and “natural” disempowerment. National figures emerge in these narratives, such as pioneers, settlers, cowboys, sports fish and game communities, all collapsed as relational, and “Indians/squaws” who are aligned in two separate groups of people ostensibly on either side of a line of opposition; uneasy relationships are formed out of their competing interests and differential nativism.¹³⁸ The bravado of the poem

¹³⁷ Littlecrow-Russell, Sara. “A Flyer Distributed in South Dakota,” *Red Ink*, Vol. 10.2, Spring 2002, p. 55.

Littlecrow-Russell includes the following statement at the close of the poem: “This poem is taken from a piece of hate literature that appears with some regularity in various parts of the country. By publishing this poem under my name, I will be able to gain copyright [sic] to the text. I will then be able to transfer this copyright to various native legal organizations or else personally litigate subsequent usage by anti-Indian groups. This is part of my commitment to develop strategies for using Intellectual Property protections in unique ways.

¹³⁸ Boaventura de Sousa Santos’s recent essay, “Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges,” *Eurozine*, pp. 1 – 19, advances the theory of the “abyssal line,” which connotes a fixed boundary between the hegemon and its natural citizens and “Othered” peoples who are relegated, surveilled and maintained on

speaks to assumptions of an Anglo exceptionalism that has in it allowances for “ethical suspensions” where the inferiority of the Native American “Other” is presented as self-evident through the usual markers of the culture of poverty verbiage and racism.¹³⁹ Highlighting welfare stipends, foodstamps, alcoholism, and “blackness” or “nigger-ness,” culled from anti-“Black” racism, qualifies Native Americans as fair “game”. The invoking of “Regulations” alludes to a vetted and systematic development of rules that govern hunting practices, and yet, the poem nearly celebrates the ways in which “ethical suspensions” are reserved for “Indians” as a negatively racialized group; hunters are not allowed to shoot into taverns ostensibly because they may accidentally “hit white people”. The differentiation between the entitlement, noted here in the diction of protectionism afforded to “white people,” is remarkable in part because of its clarification of the assumption of superiority of “white people” and the inferiority of “Indians” and “blacks” whose vulnerability to violence is normalized through their association with “over-population,” a term that Fish and Wildlife utilize in real-life appeals to hunters called on to help cull wildlife. The literal practice of “thinning” is called upon in the poem, inviting hunters to kill a quota of “Indians” that are perceived to be in overabundance, ostensibly out of balance with nature, and therefore posing a threat to the normal operations of the natural system.¹⁴⁰ Posing “Indians” as pests in their own homelands has deleterious effects on the social imaginaries, whether white or Native American, that are evidenced in both the exceptionally high suicide rates among Native American youth, noted above, and the high rates of violence against Native Americans by non-Native American, primarily white, perpetrators. Though the poem is localized to the state of South Dakota, its regional and national relevance are palpable. The anti-“Indian” and anti-“black” rhetoric works as an example of historical racism that remains fixed in the Western imaginary. From the semiotics of colonialism, the original author speaks to the exceptional white body politic, its entitlement to protection, preservation and resource access and the necessary death of the “Indian”. I now turn to consider the emergence and implications of anti-“Indianism” within the context of federal law and its promise of equal protection under the law.

The Tribal Law and Order Act (2010)

In 2010, the Tribal Law and Order Act (T.L.O.A.) was introduced by President Barack Obama and passed by Congress. The T.L.O.A. was dedicated to halting the epidemic levels of violence against Native American females, in particular on reservations. The Act funnels financial support to drug and alcohol programs, expands existing wellness and rehabilitation services to people who suffer from alcoholism and drug addiction, and increases, at least rhetorically, support to Native American female victims of sexual and domestic violence. This T.L.O.A. arose within the broader context of Native America and in the midst of an immensely controversial and renewed effort by the Canadian government to re-quantify the identity and

the “other side of the line”. I note, with this theory, that the line should reflect a space of liminality for those persons and communities that are discarded, erased and oppressed to the degree of erasure from institutional and public consciences. I argue, further, that the state and space of liminality are maintained in large part by the allowability of “ethical suspensions” towards negatively racialized and sexed peoples.

¹³⁹ Anthropologist Oscar Lewis posed the notion that poor families transfer beliefs, characteristics and practices that culminate in a “cultural” lifeway that maintains poverty in these communities.

¹⁴⁰ Though no one is quoting Immanuel Kant here, his vitriol about the threat of “Natives” and “Negros” in the spaces of white civilization is easily evoked. See chapter two.

associative rights of First Nations peoples.¹⁴¹ Focused on the legal recognition of First Nations women in particular, the Canadian government increased its efforts and tactics for quantifying First Nations women, not through their “blood racialization,” but for their choice of marriage partner. In other words, First Nations women who marry and create families with non-indigenous men see their treaty-based rights to federal recognition and legal protection as indigenous people disappear.¹⁴² First Nations men who marry “outside” do not experience the same legal disenfranchisement and termination of rights. Similarly to the T.L.O.A., the legal discourses and acts surrounding these seemingly separate geopolitical phenomenon demonstrate how Indigenous women in North America are being subjected to differential justice that is resulting in the disaggregation from their tribes and, in many ways, from their indigenous selves by law. In the case of the T.L.O.A., the Act identifies Native American females as suffering the highest rates of sexual and domestic violence of any females in the United States. Yet, legislators refused to provide law enforcement, or extend jurisdiction to existing tribal law enforcement, to ameliorate Native American female victimization. At the time of the Act’s signing into law, non-Native American perpetrators were known to make up 86% of the perpetrators and the authority to address sexual and domestic violence against Native American females rested in the hands of federal agents, who are typically far removed from reservation life and spaces. Distance is, however, not the only obstacle to achieving protection equity for Native American females; the threat of “Indianness” appears to remain a fixture in the ideology of the law.

The T.L.O.A. was touted as “a step forward” in protecting Native American females from epidemic levels of sexual and domestic violence. However, after it passed, the Act quickly succumbed to criticism for neglecting to address the substantially high rate of violence towards Native American females. Limitations placed on tribal law enforcement persisted from legal precedents that had limited the jurisdiction of tribal authorities in decades and centuries past. In the end, it would come to be obvious that legislators who promised protections in the T.L.O.A.,

¹⁴¹ This particular issue is momentous, not because it is the first time that the Canadian government has attempted to deracinate First Nations women and children, but because it is representative of the government’s continual return to a concerted effort to change the social body of First Nations communities by denying the cultural/tribal identity of First Nations women. Much of Cheryl Suzack’s work over the past decade has examined what through a “Red feminist” lens purports that the Canadian government is issuing legislation that differentially subjects First Nations women to laws that results in their disenfranchisement and that of children who’s mothers marry non-Native American men. See Suzack’s “Emotion Before the Law,” *Indigenous Women and Feminism: Politics, Activism, Culture*, 2010. Also, this subject matter is addressed in Tracy Deer’s film *Club Native* (2008) which considers the impacts of Bill C31, which sanctions identity-based inclusion and exclusion practices. Deer also questions the adoption of the legislation and practice by the council of Mohawk elders on their reserve. Filmmaker Tracy Deer is a member of the Mohawk tribe who also offers a first-person account.

¹⁴² As noted above, the Canadian government is currently engaging in the development of “identity” laws that particularly target First Nations peoples, in which the legislative measures are aimed at quantifying and dis/qualifying First Nations peoples from being legally recognized. It falls within a twenty-year period of concerted efforts to measure and assign indigenous identity of First Nations peoples, women and children specifically. While First Nations tribes may remain intact because the legislation is pointed at individuals rather than collective tribal termination, the latest measures are negatively and disproportionately directed at First Nations women. This critique relies on the legislations focus on First Nations women who marry non-indigenous men and their children, while it does not target First Nations men who marry non-indigenous women. In the former cases, the government, and in some cases the tribal governments that take up the legislative framing within their own laws, terminate First Nations women and their children rights federal recognition under Canada’s federal-Indian laws. The TLOA and Canada’s most recent effort to target and limit the rights of indigenous women speaks to a broader western and post-colonial governmental effort to limit the membership of Indigenous tribes by way of delegitimizing and disaggregating indigenous women, and their mixed-race children, from their tribal communities. Native American legal scholar Sarah Deer assisted with authoring the TLOA.

and that were restated by the President when he signed the Act, had yielded to historical anti-“Indian/squaw” race and gender ideologies despite the calls by legal advocates to the government to exercise its legal authority and vested responsibility to do otherwise. The nature of the vulnerable state of Native American females is characterized in two quotations from the American Bar Association, whose submitted a resolution in support of extending every protection allowable, including extending tribal jurisdiction, to Native American females be adopted into the Violence Against Women Act after the T.L.O.A fell short of its ability to protect Native American females on reservations. In the resolution, the authors highlight the vulnerability of Native American females to sexual and intimate relationship violence. The resolution states:

Native Americans are victims of violent crime at rates more than double those of any other demographic group in the United States. In particular, violence against Native women has reached epidemic proportions. Native women are battered, raped, and stalked at far greater rates than any other population of women in the United States: 34% of Native women will be raped in their lifetimes and 39% will be the victim of domestic violence. On some reservations, Native women are murdered at more than ten times the national average. This statistical reality leaves young Native women wondering not *if* they will be beaten or raped, but *when*.

Non-Indians commit 88% of all violent crimes against Native women. In cases of domestic or dating violence, or sexual assault or trafficking in such relationships, arrest and prosecution of a non-Native perpetrator either never occurs, or is lost within the “jurisdictional maze.” (American Bar Association resolution in support of VAWA and Tribal Jurisdiction)

These quotations may seem to speak in clear and obvious ways about the vulnerability of Native American females, but they also offer an implicit critique of the institutional negligence the law upholds. Historical anti-“Indianism” within the federal-Indian law is reanimated through the observance of legal precedence. Legal precedence, in the case of the T.L.O.A., leaves gaping where the protection of Native American females in “Indian country” is concerned.¹⁴³ Moreover, while the rhetoric surrounding the T.L.O.A. acknowledges and attempts to address the epidemic levels of violence against Native American females on reservations, the Act offers more protection for non-Native American perpetrators than to their Native American victims. Because of the legal restraints on tribal authorities, the T.L.O.A. offers conditional protection to Native American females, rather than equal protection. Moreover, because it is conditioned by historical anti-“Indian” institutional racism, the T.L.O.A. substantiates historical racism, and female

¹⁴³ “Indian country” is a term that has many homes, including its popular culture use within Native American communities. “Indian Country Today” is a highly circulated newspaper. Yet, it is important to note that the use of the term here is taken from the use of the term “Indian country” by U.S. government officials and military to designate the spaces where Native American peoples – or “Indians” – live. Cherokee scholar Tom Holm and Anthropologist Stephen Silliman, whose works are discussed later in this chapter, critique the use of the term by non-Native Americans as atavistic and deleterious for Native Americans.

negation, thereby perpetuating rather than alleviating violent crimes against Native American females.

The main purpose of the T.L.O.A., like other federal-Indian laws, is to provide “clear and principled guideposts to help courts and advocates steer through the ‘jurisdictional maze’ on today’s reservations” (Duthu 1994: 355). However, Duthu contends that while a positive view sees the Act as proactive, it is a vision that is quickly muddled by the complex web of legal apparatuses in “Indian Country”. In reality, the strength of the T.L.O.A. is primarily found in its ability to support the abilities of workers to gain accurate accounts of crimes in “Indian Country” by funding the agencies that do so. The other multifaceted, but arguably relational, priority is to fund those organizations, tribal and non-tribal, that offer services to ameliorate drug and alcohol abuse, address the manufacturing and abuse of methamphetamine, and tackle the issues of sex trafficking, domestic violence and other violent crimes against Native American females. As Duthu concurs, however, to understand the abounding criticism regarding the T.L.O.A., its most significant aspect being the limitation placed on jurisdiction, an examination of the laws that provide precedence must be conducted.¹⁴⁴ This matter bears the mark of two particular cases that were used, though not in their entirety, as precedence in the T.L.O.A.

The Matter of Precedents, Race, and Authority: The Major Crimes Act (1885), the United States vs. Kagama (1886), and Oliphant vs. Suquamish (1978)

Thinking back to the urgent message of the American Bar Association, the courts have not been remiss to acknowledge the vulnerability of Native American peoples, or females, or to identify the ways in which white racial attitudes threaten the safety of Native Americans. Dating as far back as 1885 when the U.S. Congress passed the Major Crimes Act, it was determined that tribes were not deemed competent to hold sovereign authority even within the boundaries of reservations. Specifically, the Major Crimes Act authorized that jurisdiction over seven major crimes would rest with the federal government.¹⁴⁵ In the 1886, with the United States vs. Kagama, the U.S. Supreme Court wrestled with its responsibility to address the victimization of all subjects to whom it claims responsibility, including those on reservations, in response to the murder of “an Indian” and “another” (sic) from the Hoopa Valley reservation.¹⁴⁶ The case itself illustrates the power of legal precedents, in that Congress had just enforced the relinquishment of tribal authority the year before. However, it also committed to institutional memory the federal government’s knowledge of anti-“Indian” sentiment and what it promotes, and acknowledges the U.S. government’s ability and responsibility to address the safety and security of federally recognized Native American tribes. The court acknowledged that, “Indian tribes are wards of the nation.” Moreover, the Court contends that “(b)ecause of the local ill feeling, the people of the states where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealings of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it with it the power. This has been recognized by this court, whenever the question has arisen” (Duthu 1994: 373-74). The latter part of the statement serves as the basis for legal scholars to call upon

¹⁴⁴These comments reflect both my analysis of the T.L.O.A., Duthu’s article “Implicit divestiture of Tribal Powers: Locating Legitimate Sources of Authority in Indian Country,” *American Indian Law Review*, Vol. 19, No. 2 (1994), pp. 353-402, and email conversations between myself and Dr. Duthu who advises me on my analysis of the T.L.O.A. in Oct. 2012.

¹⁴⁵ The 1885 Major Crimes Act held jurisdiction over seven major crimes including that the crimes including murder and rape, which are the two crimes that figure most heavily into the T.L.O.A.

¹⁴⁶ U.S. 375 U.S. vs. Kagama (1886); Duthu 1994.

today's courts to utilize their power of protection to effect expand tribal jurisdiction. It is also this position of the Court that legal advocates use in their support for Native American female victims as they continue to urge the expansion of tribal jurisdiction.

Secondarily, a critical problem was exposed by the Court's partial use of *U.S. vs. Kagama* as a precedent for the T.L.O.A., because it neglected to include Congress's affirmation of the U.S.'s authority and responsibility to federally recognized Native American tribes.¹⁴⁷ In the *Kagama* case, the high court acknowledged that "Indian tribes are wards of the nation," clarifying that tribes "owe no allegiance to the States, and receive from them no protection." The court further acknowledged that "(b)ecause of the local ill feeling, the people of the states where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealings of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power. This has been recognized by this court, whenever the question has arisen" (Duthu 1994: 373-74). The court's acknowledgement that "the people" serve as likely the "deadliest enemies" of Native Americans also demonstrates the Court's understanding of the roles of racism, nativism, western exceptionalism and the unique operative power that these, when coupled with anti-"Indian" sentiments, play in society. By reinstating historically sanctioned differential values, assigned to "whites" and other non-Native Americans over that of Native Americans, the Court also illustrates how its own white solipsism enables and perpetuates legal breaches, or ethical suspensions, against certain subjects. The federal government's long institutional memory over the dangers of anti-"Indian" sentiment and what it promotes suggests criminal negligence is at work.

The subtle narrative of white exceptionalism and the normative nature of its power that emerges in the legal statement is also an expression of white solipsism. By denoting the danger to Native Americans comes in the form of a social element loosely defined as "the people," reaffirms the normalcy of the white racial body politic and its hostility towards "Indians". The statement also makes the federal system and administrators culpable in creating hostility towards and vulnerability of Native Americans, while it serves to acknowledge, but leave virtually unaddressed, the "local ill feeling" of the "enemies" of Native Americans. Rather, it seems to normalize and even offer a tone of tolerance for "the people" while it presents "the Indian," as a problematic (even if simply dependent) element of society, but one that the government has the responsibility to protect and manage. The tolerance for white violence and the paternalism towards Native Americans is a theme that continually resurfaces. Before examining the T.L.O.A. directly, I consider the second influential case that serves as precedence over matters of reservation jurisdiction to clarify further the ways in which differential justice has been preserved.¹⁴⁸

In 1978, *Oliphant vs. Suquamish* reasserted federal authority over non-Native peoples on reservations, even when they have engaged in criminal activity, and even if during that activity Native American persons were victimized.¹⁴⁹ In *Oliphant vs. Suquamish*, after being arrested for assaulting a tribal officer, non-Native reservation resident Mark David Oliphant claimed that

¹⁴⁷ See Smith, Jane M. and Richard M. Thompson, "Tribal Criminal Jurisdiction Over Non-Indians in the Violence Against Women Act Reauthorization and the SAVE Native Women Act," April 18, 2012; Leahy, Patrick, Lamar Smith, Charles Grassley, John Conyers, Jr. "Constitutionality of Tribal Government Provisions in VAWA Reauthorization," April 21, 2012.

¹⁴⁸ Duthu 1994; A.B.A Report, Feb. 2010; Smith and Thompson 2012.

¹⁴⁹ Duthu 1994; Churchill and Morris 1992.

tribal authorities had no jurisdiction over him. In fact, Oliphant's attorney successfully argued that the 1968 Civil Rights Act protected him from tribal authorities. Oliphant's case was drawn on as a precedent for neglecting to extend the jurisdiction of tribal authority in the T.L.O.A. According to Duthu, the matter reeked of "frontier justice [and constituted] an atavistic conceptualization of tribal authority, particularly over non-Indians." In other words, Duthu suggests, that inherent in this decision was the threat of the "Indian 'savage,'" who is "still awaiting the tempering and benevolent influences of an understanding yet firm paternal white figure" (Duthu 1994: 376). This perspective grew, not directly from the racial demographics of those involved, but because the question surfaced as to whether tribal courts were "dangerous" for non-Native Americans and whether Mr. Oliphant could be assured that his civil rights would be protected within the boundaries of a tribal court system. Duthu suggests that such inquiries leave room for "manipulation and interjection of stereotype, hyperbole, bias, or even blissful ignorance" (Duthu 1994: 397). In the TLOA as well, tribal court systems are cited as needing assessment as to whether they hold sufficient protection for non-Native American perpetrators of crimes in "Indian country". Similarly to the 1886 U.S. vs. Kagama, in "Sec. 202, Findings; Purposes" of the T.L.O.A. acknowledges that, "(2)(A) tribal law enforcement officers are often the first responders to crimes on Indian reservations; and (B) tribal justice systems are often the most appropriate institutions for maintaining law and order in Indian country; ... and (4) the complicated jurisdictional scheme that exists in Indian country – (A) has a significant negative impact on the ability to provide public safety to Indian communities; (B) has been increasingly exploited by criminals" (H.R. 725 – 5). The Act also states unequivocally that "Nothing in the Act confers on an Indian tribe criminal jurisdiction over non-Indians" (Sec. 206. Effect, H.R. 725 – 7). As Duthu proposes, the notion that contemporary "Indians" continue to bear the shadow of the early historical relationship between "Indians" and white settlers promotes the sense that turmoil over territorial contestations lives on and reanimate historical imaginaries that produced as common sense that "Indians" and "squaws" "still [await] the tempering and benevolent influences of an understanding yet firm paternal white figure" (Duthu 1994: 376).

As it stands, the Court and Congressional interpretations of jurisdiction appear to be blind to their own ethnocentricities and the historical juridical imbalances they evoke through the use of precedents. The fact remains that, even with the passing of the T.L.O.A., Native American females remained as vulnerable to non-Native American violent perpetrators as before the Act was passed. More disconcerting, is the claim that the current structure of reservation law enforcement invites violence against Native American peoples, and particularly females, in part because state and federal law enforcement agencies are perceived as remiss to act on behalf of Native Americans on reservations, though they hold sole authority to do so in the cases involving non-Native perpetrators. In the A.B.A. report the authors cite a 2010 study that enumerated the neglect, stating, "U.S. Attorneys declined to prosecute nearly 52% of violent crimes that occur in Indian country; and 67% of the cases declined were sexual abuse-related matters."¹⁵⁰ Drawing on the words of the International Association of Police Chief clarifies the dangers of this level of neglect, stating, "[g]iven the jurisdictional morass that currently describes Indian country, it is not uncommon for non-Indian offenders to commit crimes in Indian country knowing that there will be little, if any, retribution for their crimes. ... The result is cultivated scorn for tribal authority and continued abuse of victims."¹⁵¹ The Chief, whether intentionally or not, speaks to

¹⁵⁰ The American Bar Association Report cites a report issued by the U.S. Government Accountability Office, U.S. Department of Justice Declinations of Indian Country Criminal Matters, Report No. GAO-11-167R, 3 (2010).

¹⁵¹ Ibid 2010.

the roles that historical racism, nativism, western exceptionalism and anti-“Indian” logic continue to play in violence against Native American peoples and the real threat-to-life of institutional negligence. The historical ideologies that informed structures of tribal sovereignty are critical to understand especially because, as Duthu points out, if precedence were going to be utilized as a tool for assessing legal status, then the Kagama case would have put the confusion over the “jurisdictional maze” to rest. Since this is not the case, the fact that jurisdictional confusion is cited as a reason for the ongoing neglect of federal law enforcement to address the epidemic rate of violence to which Native American females are subjected, quite possibly speaks to something else altogether. The work of Barbara Perry posits that deeply embedded institutional racism is likely at work in such cases of anti-“Indian” institutional negligence.

Barbara Perry’s Policing Race and Place in Indian Country: Over- and Underenforcement (2009) makes explicit the colonial racial rhetoric that embeds legal apparatuses geared toward protecting Native Americans. Perry’s work illustrates the nature of contemporary state violence towards Native Americans and considers the roots of sanctioned violence that Native American women experience. The scholar’s work on institutional racism and anti-“Indian” police violence demonstrates how, institutionally speaking, “the Indian” remains a fixture in institutional memory and, thusly, Native American racialization, criminalization, and invisibility with regard to being “seen” and recognized as part of the institution’s responsibility is easily illustrated in the contemporary racial attitudes of law enforcement racial tropes and physical violence that police inflict on Native Americans. Perry cites numerous racial epithets that her research exposed being uttered by police when they engage with Native Americans. Perry claims that the verbiage provides evidence of the traces of colonial race ideology that permeates law enforcement and policing agencies. Perry says, “(It) is an extension of the colonial effort to regulate and marginalize indigenous people. . . . At one extreme (it) is the ‘petit apartheid’” (Perry 2009: 47). The author notes how state practices re-establish racial consciousness and authorize white American exceptionalism when police use the terms “savage,” “squaw,” and “Chief” in contemporary contexts. In Perry’s 2008 book, Silent Victims: hate Crimes Against Native Americans, contends that Native Americans suffer very high numbers of hate crimes, especially near reservations and urban Indian communities, but with little remediation by the state. She states, “Native American communities may be disproportionately surveilled by police, this does not necessarily result in heightened protection” (Perry 2008: 61). The author says “under-policing” occurs because federal-Indian law confounds an already racialized problem when conflicts over tribal-versus-state-versus-federal jurisdiction allows for a hands-off attitude by state and federal agencies. This loophole, of sorts, facilitates institutional racism and racist misogyny, creating a dangerous triangulation of violence that lends itself to an already egregiously indifferent policing agency and a hostile white body politic whose anti-“Indian” sentiments appear to be upheld and even sanctioned by its own government.¹⁵² It is this last aspect, the ways in which white solipsism, American exceptionalism and anti-“Indianism” converge and promote a virulent anti-“Indian” ethic that at once threatens to promote the devaluation of Native Americans while its atavistic nature appears to serve as an atavistic device that enables the Court’s and legal institutions to work within a circular logic, where they draw on skewed, yet effective, perspectives of “past” “Indians” to simultaneously divide Native American peoples from the protections associated with tribal sovereignty and the Western legal institutions from their responsibility to protect contemporary “Indians”. Institutional comfort

¹⁵² See statement by the International Association of Police Chief (2010); Perry 2008 and 2009.

with logic anti-“Indianism” is not simply an archival element of federal-Indian law, the utterances of a few “bad” cops, nor is it simply an accidental, “chosen at random,” moment of accidental racism as purported in the case of the operation “Code Name Geronimo”. Rather, institutional anti-“Indianism” is a phenomenon that embeds the fabric of the Western imaginary. Stephen W. Silliman opines that anti-“Indianism” has and continues to serve in the lexicon of Western wars of expansion today.

The State of Native America: Anti-“Indian” Justifications for Permanent War

Stephen W. Silliman’s 2008 article “The ‘Old West’ in the Middle East: U.S. Military Metaphors in Real and Imagined Indian Country,” examines the phenomenon and deployment of anti-“Indian” rhetoric in contemporary U.S. military projects within the global scope of Western democratic expansion.¹⁵³ Silliman coined the term “heritage metaphors” to illustrate how “the discourse and practice of war ... mobilize(s) the past into the present for present purposes” (Silliman 2008: 237). The author examines how tropes of “the Indian” and “Indian country” are used by military today to identify both the geographical sites and the peoples over whom the U.S. exercises military occupation and engages in war. Silliman contends that within contemporary military rhetoric today, the use of racial terminology facilitates troops’ imagination of their enemies as “Indian” militants, evoking in contemporary wars the designations that earmarked Native Americans as less than human and their sovereign territories as the rightful sites of western occupation and expansion. He states, the “currency of the metaphor rests not only in its place in some aspects of official military language but also in the embedded ‘common sense’ understanding that soldiers have of their own national heritage and current military activities in the Middle East” (Silliman 2008: 238 – 9). When linked together, Silliman’s analysis and Cherokee scholar and Vietnam veteran Tom Holm’s narratives of Native American war veterans and their struggles with anti-“Indianism” in the military, demonstrates that the institutionalization of anti-“Indian” racism negatively affects Native American soldiers who are serving under a paradigm that confronts them with racist implications of their own peoples, histories, and selves.¹⁵⁴

Silliman and Holm contend that, whether looking at the U.S. in Vietnam decades ago and Iraq and Afghanistan today, the terms “Indian” and “Indian country” are freely deployed. In some cases, these tropes are used to justify massacre today as yesterday. Silliman captures the remarks of military officers following the massacre at My Lai. He quotes General Maxwell Taylor who contended that Vietnam was “Indian country ... and the people who lived in Indian country ‘infested it’” (Silliman 2008: 239.). Colin Powell, who was also at My Lai, “described the massacre as a tragic but understandable act of troops stuck in ‘Indian country’” (Silliman 2008: 241). Powell excused himself further, stating that he didn’t intend to be “ethnically or politically unconscious,” but said the “Viet Cong were everywhere,” in which Silliman claims he gestured toward a “lawless frontier” held hostage by “savages”. Drawing from these institutional expressions of anti-“Indianism,” Silliman shows that, “The power lies in the fact that no one needs to explain ‘Indian Country’ to U.S. soldiers who use or hear it, even if such individuals

¹⁵³ Silliman, Stephen W. 2008. “The ‘Old West’ in the Middle East: U.S. Military Metaphors in Real and Imagined Indian Country,” *American Anthropologist*, 110, 2: 237-247.

¹⁵⁴ Native American literary scholar Leslie Marmon Silko explores the post-war experiences of Native American war veterans in her highly acclaimed novel *Ceremony* (1977). Sandra Sunrising Osawa’s documentary *In the Heart of Big Mountain* (1988) includes the contemplations of a Navajo war veteran who likens his lack of belonging in the U.S. as a type of homelessness and as being without a country.

might well fail an 'objective' history test about that history. The metaphor is emotive and presumably transparent” (Silliman 2008: 241). Moreover, it bears a particular imperialist practice of correcting past wrongs with nostalgic self-portraits, reframing the U.S. military as one that is set upon the world to create order out of chaos, and civilization out of savagery or, more pointedly, tribalism.¹⁵⁵ Silliman contends that the anti-“Indian” heritage metaphor has “a far deeper symbolic connection (to) the national heritage rooted in colonialism and aggression, and it feeds on a belief in the continued rightness, historical legitimacy, and expected military success of the United States. ... It serves to install a widely accepted and unambiguous past.” The transparency that Silliman points to illustrates important elisions between the past and present. Through “time/space compression,” this “worldview” enables the “Indian wars” to be fought again and again.¹⁵⁶ Examining anti-“Indian” heritage metaphors, not only enables the peeling back of the curtain on historical and contemporary anti-“Indian” rhetoric within the boundaries of the U.S., but it also illustrates the broad usage, rhetorical value, and malleable nature of anti-“Indianism” in U.S. expansion projects today. Middle Eastern peoples, for example, are subjected to the same illustrations of themselves as the unworthy, “unorganized,” and primitive tribal peoples who occupy territories guaranteed to the West, better occupied by the West, and better served by Western forms of democracy. Here, the transparency of “Indian Country” again promises predictable outcomes. For one, the West should and will win. Two, notions of western right-ness and anachronistic “Indian” wrong-ness are recommitted to institutional memory. These postulations play out in a variety of ways producing, promoting, and grounding a relationship between Western paternalism, its dominance, and its necessary violence.¹⁵⁷ Where otherwise many of this rhetoric and the practices associated with it would be determined inappropriate, anti-“Indian” presuppositions help to erase what Nelson Maldonado-Torres refers to as the “non-ethics of war” that enabled abject state violence in western wars of expansion. Such an approach also helps to ameliorate concerns over whether contemporary anti-“Indian” racism is a relic of the past that only some racist still harbor or whether, as a concept, the maintenance of vigilant surveillance for threats of “Indianism,” at home and abroad, has found a resting place in the democratic project.

Speculations on Power, Violence, Sexism in the United States

As I edit this final draft of the dissertation, I have one last speculation to pose. On “Anderson Cooper 360” this evening the focus is on the hearing of two teenage boys who raped a female schoolmate and posted photographs of her unconscious and limp body online.¹⁵⁸ After the hearing, in which the teens were ordered to serve one and two years, respectively, in boys detention centers, two girls used public media outlets to send threatening messages, including a death threat, to the victim. They too will be prosecuted. Anderson Cooper and the parents of the assault victim condemned the lack of compassion exhibited by the teenage males. It is eerily similar, from my analytical perspective, to the condemnations heard around the world when the Catholic Church was outed for having committed and neglected to halt the sexual abuse of minors under its care and mentorship. Somehow, these grievances, as horrendous they are, are

¹⁵⁵ Here I draw on M. Annette Jaimes Guerrero’s article “‘Patriarchal Colonialism’ and Indigenism: Implications for Native Feminist Spirituality and Native Womanism,” (2003) where the author defines and articulates this particular notion of “tribalism” as an anachronism that presents Native Americans “primitive” in comparison to European and European American forms of social organization.

¹⁵⁶ Trouillot 1993; Silliman 2008.

¹⁵⁷ Silliman 2008.

¹⁵⁸ “Anderson Cooper 360,” CNN, 5:00 – 6:00 p.m., March 18, 2013.

situated separately from and with a deaf ear to the grievances of Native American constituents who had hoped that the condemnation of the Church might also include its crimes against Native American children in American Indian Boarding Schools. The disheartening reality of youth violence against peer females might also, it has been hoped, instigate conversations about the epidemic rates of violence against Native American females and peoples in general. As demonstrated earlier in this chapter, the latter threat is one that the Supreme Court has understood at least since 1886. Today, the Courts and legal scholars acknowledge Native American females will grow up understanding “not if but when” they too will be subjected to violence. Instead, the stories remain fixed and seemingly disaggregated from the very same types of crimes committed against Native Americans. Possibly, this was quieted by the successful incorporation of the promises of the T.L.O.A into the Violence Against Women Act (V.A.W.A.), which passed in February 2013, made it appear that the matter of violence against females in the United States would no longer be tolerated. However, the fact is that V.A.W.A. expired and took another nine years of revision and debate before it would be signed in to law. Tensions emerged among legislators, many of who did not support the extension of tribal jurisdiction or support services to be extended to non-heterosexual or undocumented victims. The liminal status of persons from these communities, while they are now not fully but to some degree incorporated into V.A.W.A., still remain important for what their exclusion reveals about the suspension of protections.

When I consider all of the matters discussed in this dissertation, I am not entirely sure why anyone would embark on such a project. I wonder if it is because the environment within which I have found myself, and the lessons of vulnerability that have accompanied them, make me sure that in our society, attention should be paid to violent crime and the silences that surround them. The dissertation is most surely not solely about Native Americans. The lessons that unfold in this research speak far more broadly to continuing problems of racial, gendered, and sexualized crimes. But, the histories of Native Americans tell of the magnitude and legacies of colonialism. Moreover, the levels and types of violence examined in this project also say as much about the various victims as the perpetrators. In the current logic of American exceptionalism, the power to define and the power to erase comes full circle when we consider the treatment of American soldiers, their postwar vulnerabilities made invisible when they return home. Native American erasure comes at the hands of a military that would come to erase its own. That said, the matter of Native American negation that permeates this project, should be understood not as a defining feature of Native American life; it is, rather, a consequence of Native American life. The discursive erasure and re-presentation of peoples, I have argued are phenomena rooted in colonialism that came to roost in the West’s relationship with “Indians”. Nevertheless, these phenomena are self-perpetuating and self-expanding. They are, then, national problems.

Closing Remarks

In this overall project, I have attempted to deconstruct features of American exceptionalism as they emerged in the 19th century as a means for understanding the histories and implications of one of its primary and most defining relationships, that of Anglo-Americans to “Indians” and “squaws”. I have worked to show how the “Indian/squaw” was created through a series of discursive apparatuses, that they operate within the Western imaginary, and are

renewed over the course of centuries through narratives about American nation-formation.¹⁵⁹ “The Indian” and “squaw” are represented as emerging out of a set of racial frames that were collapsed in institutional and social imaginaries into monolithic figures that, in their most virulent expressions, as the “savage” “Indian” or “squaw,” were represented as immanent threats to Western peoples, lifeways, and progress.¹⁶⁰ Expectations of “Indian” “savagery” grew out of what was, in reality, harrowing tales of survival in the midst of the newly emerging conceptual space known as “Indian country”. Moreover, I attempted to demonstrate that the collapsing of the historical record into popular culture fiction enabled both to read as fact, which helped to institute “Indians” and “squaws” as social figures with whom the West was expected to engage in a state of war to pacify or remove them as threats. As concepts, the exceptional American, “Indians,” and “squaws,” in “Indian country” would continue to be positioned in relationship to one another for centuries to come. Historically, and today, nostalgic narratives characterize the West as a benevolent project whose importance as an empire is both critical and self-evident, not only for the West itself, but ostensibly for global and identifiably “civilized” societies. It was a project that necessitated ever-vigilant attention be paid to projects dedicated to identifying and pacifying threats to the pursuit and spread modern [read as Western] civilization. These goals, I attempted to demonstrate, were greatly served by the myriad ways that anti-“Indian/squaw” logic enabled “ethical suspensions” to dictate modes of expansion, settlement and development.

On the nature of violence associated with American exceptionalism, the lethal nature of anti-“Indian” logic is most clearly illustrated in the complex ways that Native American females become vulnerable to a combination of colonial paternalism, even at the hands of white women, violence and institutional negligence. The common practice of colonial re-presentation in the Native American context, which involved discursive erasure and rehistoricizations of the processes of colonial subjugation, is shown to have one particularly problematic effect. Re-presentation tends to affect the social value placed on colonial subjects and, when this value is denigrated, concern over the victimization of colonial subjects wanes. The lack of empathy for “enemies” of progress filtered through narratives, both political and popular culture mediums, to the institutional and social spheres where exceptional Americans and “Indian/squaws” intersected. From this point of departure, I illustrated that, though gender was conflated within the discourse of anti-“Indianism,” the racially gendered tropes that relegated Native American females to super-subordinate statuses were present and took on complex and differentiated modes of production that also remain fixed in the Western imaginary.

The implications of erasure in the historical record are multiple. As I have shown, erasures yield to the flow of colonial representations that then lend themselves to perpetuating false, or at the least incomplete, narratives of Western nation-formation. The impressions left are not simple inaccuracies that could otherwise be corrected through scholarly endeavors. Rather, they are narratives that embed the political logics behind nation and state formations and become part-and-parcel of American identity formation.

Built on the notion of a natural dichotomy, that positions Americans (assumed to be “good”) against a “savage” wilderness and people, the exceptional American was a persona built

¹⁵⁹ This comment invokes Michel Rolph Trouillot’s concept of “renewal of power” that claims that discursive apparatuses of the state or any hegemonic system are engaged in as part-and-parcel of the narratives of nation-formation. Such narratives initiate and continually pose historical and colonial semiotics and tropes in contemporary venues and regenerate imbalances of power and political agency, reinstating the superiority/inferiority complexes that shape the ideological and legal structures of nation-states, through effecting the institutional and social memory. Trouillot’s concept is used throughout the dissertation.

¹⁶⁰ The concept of racial frames is addressed in chapter two.

on the notion that a rare commodity of people exist and are intended by the Christian God to inherit the gift of peace and prosperity. Ulysses S. Grant captured the notion well in his 1872 State of the Union address when he thanks the “Giver of All Good” for the “peace... and prosperity vouchsafed to but few peoples.”¹⁶¹ Grant’s contention, I argue, was the ideological thinking that informed American exceptionalism of its normativity at the same time that it normalized the notion of permanent war. It was this same logic that informed American patriotism with racial and cultural boundaries.¹⁶² Those on the racial and cultural peripheries of the exceptional population were posed in narratives as caricatures of their actual selves, built anew to serve a new social narrative and one that had less empathy and placed less value on those who did not fit within the exceptional racial and cultural schema. Three key elements of exceptionalism occurred. The first was the normalization of violence against Native Americans, the second was the growth of apathy toward Native American victims, and, third, I argue that such ethical suspensions borne from anti-“Indianism” facilitated the systematic adoption of contradictions in the ideological and structural aspects of democracy. I have drawn on Nelson Maldonado-Torres’s articulation of the “death ethics of war” and its inherent “ethical suspensions” to illustrate how the normalization of the collusion of American exceptionalism and Native American subjectivities are used to produce a legal logic that justifies a variety of forms of differential justice, anti-“Indian/squaw” violence, and institutional negligence.

I have also endeavored in this project to gauge whether historical anti-“Indianism” bears investigation in contemporary contexts where Native American females are concerned. I questioned whether historical ideologies that energized American exceptionalism and anti-“Indian/squaw” violence indeed spurred their own legacies and whether the legal and institutional efforts to destabilize the racial/gender dichotomy, that had hierarchized global populations into a world system of power and non-power, neglected to successfully eradicate anti-“Indianism”.¹⁶³ I hypothesized that the legal parameters that either justified or tolerated such violence historically simultaneously remain situated in federal-Indian law today, foster social and institutional ignorance about Native Americans, encourage apathy and negligence towards their victimization, and continue to reinforce American nativism through the discourse of Anglo-exceptionalism today.

Lastly, I have aimed to demonstrate the importance of focusing analyses on the least represented “subjects” in postcolonial sites, in this case Native American females, not only to reorient the historical records that leaves Native American histories awash with incongruent and false illustrations, but to unearth the roots of exoticization, dehumanization, negligence and physical violence that continue come to bear on Native American females and that share common phenomenological features with others communities that have been deeply shaped by colonial subjecthood and racist/sexist violence. The theory that most characterizes the decolonial aspect of this project, and that most justifiably remarks on the resilient efforts of Native Americans to confronting modern-day colonial legacies, is Patricia Penn Hilden’s articulation of the “Red zone”.¹⁶⁴ The concept itself is a reclamation of space. It claims a political spatial consciousness that emerges with respect to Native American “relation-to-place” and the intellectualization of the politics of uniquely Native American identities. In this project, I

¹⁶¹ Ulysses S. Grant, *State of the Union Address*, December 2, 1872.

¹⁶² Omi and Winant 1994; Roediger 2005; Smedley 2007.

¹⁶³ From Immanuel Wallerstein’s *Modern World-System* (1974).

¹⁶⁴ Patricia Penn Hilden’s use and articulation of the “Red zone” is found in her book *From a Red zone: Critical Perspectives on Race, Politics, and Culture*, NJ: Red Sea Press (2006).

contend that Native American women engage in decolonial, life affirming counter-insurgencies and I utilize the “Red zone” to articulate the phenomenon of Native American women’s myriad forms and sites of activism that constitute their ongoing efforts to confront and arrest the power of West to erode Native American epistemological and cultural realities. From this point of departure, I questioned and found that through comparative analyses of indigenous women’s anti-colonial criticisms, the concerns over the trends in the misery indexes of indigenous peoples echo one another across postcolonial sites extend well beyond the boundaries of “Indian country”. I looked to the decolonial works of Native American and other indigenous women to demonstrate that despite the power of the discursive erasure, their myriad efforts to revitalize and sustain Native American and indigenous communities demonstrates an extant Indigenous decolonial ethics. This is not to suggest an unfounded essentialism, but rather to recognize the strategies used to ameliorate the negative phenomenon that shape the lived realities of Native American peoples as they relate to the colonial project as it came to bear in Indigenous spaces. Moreover, I contend that the work of these women reflects how the descendants of previously colonized peoples inherit lives that are shaped by states of permanent war and the racially gendered consignments that positioned them as subjects, rather than agents, that date back to the colonial period. The intersections of experience are found in the ways that the politics of their identities remain in constant discord with the goals, imperatives and normativities of the West. The reality of this discord even today is illustrated in the works of Native American activists who suggest that contemporary anti-“Indianism” reflects the legacies of coloniality at-work, where the collapse of biological racism and cultural primitivism converge and produce everything from broad and vague as well as site-specific forms of “Indianophobia”.¹⁶⁵ These works, when read across disciplines, and phenomena, also reveal the ways in which “the Indian/squaw” figure is transmutable and made to stay within and transgresses its “Indian country” boundaries. It is this phenomenon, where “Indians,” “squaws,” and “Indian country” are still locatable, in contemporary contexts, in the phenomenological experience of law enforcement, and even worldwide that is examined in this analytical project.

¹⁶⁵ The term comes from Robert Williams’ *Like a Loaded Weapon* (2005). Also, the 2000 work of Katherine Spilde, “Rich Indian Racism: The Uses of Indian Imagery in the Political Process,” examines the emergence of anti-“Indian” racism that surfaced locally and then nationally as a non-Native response to the success of Casinos in Native American communities. Spilde contends that while anti-“Indian” racism had appeared to be non-existent to some audiences after 1950, rather, it would be better understood to have been dormant in urban sectors and out of the purview of the public when it occurred on or near reservations. The author contends that post-casino racism emerged as “concerns” over “Indian” peoples lack of ability to manage money and avoid drugs, alcohol and organized crime wherever tribal casinos were erected.

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