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Un-Settling Questions:

The Construction of Indigeneity and Violence Against Native Women

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy
in Women's Studies

by

Kimberly Dawn Robertson

2012

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ABSTRACT OF THE DISSERTATION

Un-Settling Questions:

The Construction of Indigeneity and Violence Against Native Women

by

Kimberly Dawn Robertson

Doctor of Philosophy in Women's Studies

University of California, Los Angeles, 2012

Professor Mishuana R. Goeman, Co-chair

Professor Andrea Lee Smith, Co-chair

There is growing recognition that violent crime victimization is pervasive in the lives of Native women, impacts the sovereignty of Native nations, and destroys Native communities. Numerous scholars, activists, and politicians have considered Congress' findings that violent crimes committed against Native women are more prevalent than for all other populations in the United States. Unfortunately, however, relatively all of the attention given to this topic focuses on reservation or near-reservation communities despite the fact that at least 60% of Native peoples now reside in urban areas. In *Un-Settling Questions: The Construction of Indigeneity and Violence Against Native Women*, I posit that this oversight is intimately connected to the

ways in which urban indigeneity has been and continues to be constructed, marginalized, and excluded by the settler state and Native peoples.

Thus, heavily informed by Native feminisms, critical ethnic studies, and indigenous epistemologies, *Un-Settling Questions* addresses settler colonial framings of violence against Native women by decentering hegemonic narratives that position “reservation Indians” as the primary victims and perpetrators of said violence while centering an exploration of urban indigeneity in relation to this topic. I do so not to “fill a gap in the literature” but rather to analyze the ways in which particular Native peoples become figured as the objects of state attention while other Native peoples become eliminated, both figuratively and literally, through the processes of colonialism.

To accomplish this task and formulate a theoretical praxis that articulates the intersections between marginalization, colonial spatialization, identity formation, biopolitics, and gendered violence, I arrange my dissertation to address three primary concerns: the multifaceted ways in which the United States has utilized a politics of location to facilitate the biopolitical management of Native peoples, the biopolitical nature of identity construction and regulation as it manifests in liberal legislative efforts directed at Native peoples, and indigenous employment of settler colonialist frameworks. Lastly, I apply a Native feminist analytic to the prevalence and conceptualization of violence against Native women in order to present the potential for such theorizations to alter our understanding of and fight against said violence.

The dissertation of Kimberly Dawn Robertson is approved.

DeAnna M. Rivera

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2012

This dissertation is dedicated to
all of the “madwomen” who have come before me,
who walk alongside me, and who are yet to be born,
but especially to my daughters Estella Faye and Farrah Marie.

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Above all, I'd like to thank my family, friends, and community for their endless love and patience throughout this process. In one way or another, each of them felt the intensity of my life as a graduate student and supported me along that path. In particular, my mother, Janet Eberhard, and *mi hermana*, Jenell Navarro, were steadfast in their conviction that I could finish this dissertation and their strength helped me through more moments than I can count. My partner in crime and love, Charles Ramos, refused to let me lose sight of my goals and dreams for even a moment and our children, Rio Ramos, Estella Burque, and Farrah Ramos served as my daily inspiration. To all of you and the many others I don't have room to name here – Mvto.

BIOGRAPHICAL SKETCH

Kimberly Robertson was born in Bakersfield, California in 1978. She initiated her post-secondary education at the University of Northern Colorado where she completed her B.A. in English Language & Literature in 1999. She then obtained a M.A. in American Culture from the University of Michigan, Ann Arbor in 2001. In 2006, she began graduate work at the University of California, Los Angeles where she earned both a M.A. in American Indian Studies and a M.A. in Women's Studies in 2008.

Throughout the pursuit of her graduate degrees, Kimberly has also lectured at a number of different universities, including the University of California, Los Angeles; the University of California, Riverside; and California State University, Long Beach. Likewise, Kimberly has held a variety of other academic positions. For instance, she has served as the book review editor for the *American Indian Culture and Research Journal*, the assistant to UCLA's Tribal Learning Community Educational Exchange program, and the graduate student researcher on UCLA's InSight: Indigenous Youth, Digital Images, and Violence Prevention program.

Kimberly has presented her research endeavors at a number of conferences and meetings throughout the United States. These include, but are not limited to, the American Studies Association conference, the Native American and Indigenous Studies Association conference, UCLA's Race and Sovereignty Symposium, the Critical Ethnic Studies and the Future of Genocide conference, the National Women's Studies Association conference, and the Indigenous Women's symposium. In 2007, *off our backs* published her article "Globalization and the Politics of Breastfeeding" and in the fall of 2012 *Wicazo Sa Review* will be publishing her piece

“Rerighting the Historical Record: Violence Against Native Women and the South Dakota Coalition Against Domestic Violence and Sexual Assault.”

Kimberly’s research has been funded by a variety of entities. The most substantial benefactors have been UCLA’s American Indian Studies Center, UCLA’s Department of Women’s Studies, UCLA’s Institute of American Culture, the UC Center for New Racial Studies, the Muscogee Creek Nation, the National Congress of American Indians, and UCLA’s Center for the Study of Women.

INTRODUCTION

“Our voices rock the boat and perhaps the world.
They are dangerous.” – Dian Million

Violence against Native women is a problem of epidemic proportions that not only endangers the lives of individual Native women but also erodes the sovereignty of Native nations and impacts Native communities both on and off the reservation.¹ Despite the fact that the roots of such violence can be traced back to the earliest moments of the colonization of Native peoples,² only recently has the federal government acknowledged the severity of this issue. In 2005, after decades of Native anti-violence mobilization, Congress addressed the specificity of violence against Native women for the first time with Title IX, the Safety for Indian Women Title, of the reauthorization of the Violence Against Women Act (VAWA). Title IX presented findings that: violent crime victimization for Native women is higher than for all other populations in the United States; one out of every three Indian women will be raped in their lifetimes; three out of every four Indian women will be physically assaulted; Indian women are stalked at a rate more than double that of any other population; and during the period 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15 to 34.³ Additionally, Title IX professed to clarify and honor the unique legal relationship, otherwise known as a trust responsibility, the United States has with Native nations in regards to addressing violence against Native women.⁴

Relatively little change resulted from Title IX, however, and in 2007 Amnesty International released the scathing report *Maze of Injustice: The Failure to Protect Indigenous Women from Violence*. *Maze of Injustice* immediately garnered global attention with its indictment of the United States for its failure to address violence against Native women. Like

Congress's findings before it, the Amnesty report merely reaffirmed "what Native American and Alaska Native violence advocates have long known: that sexual violence against women from Indian nations is at epidemic proportions and that survivors are frequently denied justice."⁵ Amnesty's coverage of the issue had forceful reverberations, however, and discussions of violence in the lives of Native women began to dominate the North American landscape as media exposés, newspaper and journal articles, public service announcements, documentaries, and even human billboards proliferated to address the issue. That violent crime victimization is higher for Native women than for all other populations in the United States became almost common knowledge, if not dinner table conversation, overnight. By the time Barack Obama began vying for the 2008 presidential election, violence against Native women had become an issue he simply couldn't afford to ignore and one that he incorporated into his platform on Native peoples through his campaign "Fighting for First Americans." In 2010 President Obama demonstrated his continued attention to this issue by signing the Tribal Law and Order Act which specifically addresses violence against Native women in its attempts to reduce the incidence of crime in Native communities.

While violence against Native women has *seemingly* catapulted to national importance and captured a global audience, *indigenous mobilization* against said violence (primarily galvanized by Native women who are themselves survivors) continues to be marginalized and/or altogether ignored. While Congress, President Obama, and Amnesty International are regularly applauded for their attention to violence against Native women, relatively little has been said about the centuries of indigenous anti-violence advocacy that has established domestic/sexual violence programs, tribal codes, protection order processes, shelters *and* spurred the national legislation and international media frenzy that has recently manifested.

My own experiences and the histories I emerge from as an urban, mixed-blood, Muscogee woman have not been immune to the violence I speak of but rather have been intimately shaped by it. Thus, when I began my graduate studies at the University of California, Los Angeles in the fall of 2006, I embarked on a journey to more *officially* explore that which had, at times consciously and at other times unconsciously, (pre)occupied my experiences as far back as I can remember. This exploration was both personal and political, academic and activist, and centered on understanding violence against Native women as intellectually as I did intimately. From very early on in this research, I noticed that the discourse surrounding violence against Native women was framed in very particular and harmful ways. Most apparent, as I briefly mentioned above, was an emphasis on any nation-state attention to the problem and a suppression of any indigenous response to the issue. Native voices and actions were glaring in their absence and so I became particularly concerned with unearthing and investigating indigenous mobilization against gendered violence.

The seeds of the dissertation at hand, *Un-Settling Questions: The Construction of Indigeneity and Violence Against Native Women*, began to germinate in 2007 when I attended my first “Advocacy for Native Women Who Have Been Raped” training in Albuquerque, New Mexico. The workshop was facilitated by anti-violence activist Elena Giacci and produced by Sacred Circle: National Resource Center to End Violence Against Native Women. After the training, I began conversations with Elena about how I might be able to craft a research project that both explored questions regarding the marginalization of Native anti-violence organizing and also served as a tool Native advocates might utilize in the struggle to eradicate violence. Throughout my next several advocacy trainings and a series of discussions with Elena, Karen Artichoker (then director of Sacred Circle), and Brenda Hill (then educational coordinator of

Sacred Circle), the collaborative project that would eventually become the first chapter of this dissertation was conceived. Shortly thereafter, I set forth on a journey to document the birth and development of the South Dakota Coalition Against Domestic Violence and Sexual Assault (SDCADVSA) from the perspective of the Native women instrumental in its existence. I did so in order to *center* the concerns and voices of Native women and *decenter* the mainstream, colonialist narrative that typically frames and tells the history of such events and historical moments.

Meanwhile, as part of my graduate work at UCLA, I was also afforded the opportunity to take a class with playwright, director, and scholar Hanay Geiogamah. Within the first two weeks of the course “Cultural World Views of Native America,” Geiogamah asked us to personally locate ourselves in relation to tradition and our respective creation stories. The panic, discomfort, and fear that rose to my throat when I stared down at my blank notepad in an attempt to complete these exercises were all too familiar. Pre-programmed and stereotypical images of “traditional” Natives and their corresponding experiences, behaviors, and beliefs fancy-danced through my mind and I was immediately overcome with the self-doubt, inner turmoil and inadequacy that often saturated me in moments like these.

How could I, I worried, an urban, mixed-blood Indian whose personal creation story begins not with a hollow log, a mound of clay, a turtleback, or the clearing of the fog to reveal my animal clan, but rather with the pain, terror, and violence that accompanies alcoholism, drug addiction, sexual assault, and domestic abuse articulate any sort of understanding or relationship to Native tradition? How could I, a rather textbook illustration of the consequences of colonization (such as assimilation, relocation, abandonment, internalized racism, violence, and historical trauma) express a worldview that could be called “Native” as opposed to anything

else? Granted, when I found my Muscogee grandfather living on the streets of Stockton, CA only a summer before enrolling in Geiogamah's course, I was looking for tradition and an indigenous story of origin. What I encountered, however, were stories of incarceration, homicide, sexual violence, addiction, and poverty.

It wasn't another week into Geiogamah's course, however, before I realized that his presentation and exploration of Native worldviews were not ones in which I was going to, once again, feel assaulted and humiliated by static and romanticized images of Native peoples stuck in a glorified past or a severely-policed present to which I have relatively little access. The Native artists and cultural producers we explored in the class refused to narrate stale worldviews only accessible to isolated groups of Indians.⁶ Instead, their expressions of Native identities, realities, and possibilities carved a space in which I could begin imagining a more flexible and fluid understanding of Native identity, sovereignty, worldview, and "tradition." A space in which there was room for me to articulate that my experiences as a mixed-blood, urban Indian woman, born to a poor white mother and a Muscogee father who was incarcerated, intoxicated, and violently abusive for most of my childhood and was then "disappeared" when I was in high school is no more or less "traditional" than the restrictive or encompassing ways in which we conceptualize Native identity. A space in which I could finally claim, without shame or embarrassment, that my elders, teachers, and bearers of tradition are sometimes Muscogee relatives but are also textbooks, children's books, powwows, Native storytellers, Yuroks, Navajos, Pawnees, Apaches, photo albums, birth certificates, enrollment cards, documentaries, performances, and other miscellaneous fragments of information. A space in which I could boldly assert that these are the various markers of my Native identity and serve as the foundations of my Native understandings.

It was the fusion of the above two experiences (working with Native anti-violence activists to illuminate Native anti-violence mobilization and interrogating that which I had previously understood as Native identity) that I originally envisioned as the scope of my dissertation work. Before long, however, my subject position as an urban Indian in Los Angeles, the metropolitan center with the largest population of Native peoples in the United States, coupled with the reality that the majority of Natives currently reside in urban areas⁷ also began to influence the direction of my research. The further I delved into my topic, the more certain I became that even more absent than discussions of indigenous anti-violence organizing was *any* discussion of urban Indian women in relation to violence. Most of the research on the prevalence of violence or anti-violence activism that has been conducted, documented, and/or recognized focuses on reservation or near-reservation communities and fails to address urban Indian women at all. I became increasingly concerned, then, with factoring an exploration of urban Indian existence and identity into my exploration of violence, indigeneity, and marginalization.

The challenges of this task were made exceedingly clear while I was conducting my interviews with Native activists in South Dakota. While the knowledge imparted to me by the women I interviewed and trained with there was invaluable to both my research interests and the development of my personal/political understanding of the issues surrounding violence against Native women, it was also limited in certain respects. Granted, by centering the voices and concerns of the Native women instrumental in the birth and growth of the SDCADVSA I was able to glean insights from perspectives generally marginalized and trivialized. I learned a significant amount about the organizational strategies Native women have employed to combat violence in reservation-based communities, the multiplicity of challenges they have faced, the

various ways in which their stories have been stricken from the historical record, as well as their theorizations regarding each of these occurrences, which is detailed in the first chapter of this dissertation.

However, I also found myself hearing again and again that it's a *tragedy* that urban Indian women also face staggering rates of violence, but, ultimately, those women should return to their respective Native nations (read: reservations) if they really want help from their communities. Otherwise, I was instructed, they shouldn't truly expect to seek justice "as Native women" because the US does not have an obligation to individual Native peoples, but rather to sovereign Native nations. If urban Indian women have "chosen" to leave their reservations or their Nations, I was told, then they must organize against violence as "women of color," not as Native women per se.⁸

The policing of Native women's identity implicit in these arguments astounded me. That they were espoused by women who respected my work, trusted me with their stories, and asked me to help document some of the most difficult work they'd done in their lives broke my heart. For what I heard them arguing was that my "choice" to leave (or not return) to the Muscogee Nation in Oklahoma that two generations of violent men in my family had alienated me from made me less-deserving of protection from violence than Indian women living on the reservation. Furthermore, such rigid and limited conceptualizations of the bodies that constitute Native nations and their geographic locations in the U.S. immediately reminded me of the all-consuming panic, self-doubt, and inner turmoil I had associated with articulating my own location within the Muscogee Nation and Native communities before I had experienced Geiogamah's class and begun to take seriously the possibilities of rearticulating Native experiences beyond static, ahistoricized romanticizations of an original and traditional Indian

somehow positioned outside of the colonial experience.

Informed by critical moments such as these, I began to ask myself more nuanced and challenging questions regarding the relationship between violence, indigeneity, gender, identity, *and geopolitics*. As a result, my project shifted from simply illuminating previously marginalized indigenized accounts of and responses to violence against Native women to interrogating the politics of marginalization and elimination. That is, I began to ask how and to what consequence the marginalization/erasure of certain voices and the privileging of others occurs. Who/what benefits from such narrations and who/what feels the pain of them? To what degree does space/place impact marginalization and erasure? And perhaps most significantly, how is the marginalization and erasure of certain voices an act of violence in itself?

Thus, *Un-Settling Questions* is concerned with the very ways in which particular Native subjects/voices/identities/populations have been eliminated from discussions of violence against Native women while other subjects/voices/identities/populations have been positioned as the focal point of these conversations. To facilitate this exploration, I position *urban* Indian women at the center of my analysis. I make this move for a variety of reasons which, among others, include: (1) my own subject position as a Muscogee woman living in Los Angeles; (2) the significant number of Native peoples who now reside in urban areas, particularly Los Angeles; (3) the overwhelming lack of academic/activist scholarship concerning urban Indian women; and (4) the insights regarding the ever-shifting technologies of settler colonialism and heteropatriarchy that I believe can be gleaned from a project of this sort. However, I do not believe that the arguments I make in the following chapters are limited to urban Indian women alone. They can be applied to a wide range of *otherly-marked* Native subjects such as those who are not recognized by the federal government, those who identify as or have been identified as

queer, and those who have been disenrolled or denied enrollment by their respective Native nations. Thus, I position urban Indian women at the center of my analysis in order to interrogate and emphasize the ways in which seemingly “undesirable” and “unrecognizable” Native populations have become simultaneously marked as enemies of the state and marginalized as subjects existing beyond state acknowledgement. I also examine the degree to which anti-violence mobilization (indigenous and otherwise) has come to rely on definitions of Nativeness that are steeped in colonialist discourse and how such definitions affect and shape both the experience of and the response to violence perpetrated against Native peoples. Likewise, I analyze how colonial dichotomies designed to fracture Native peoples (i.e. reservation/urban, authentic/fraudulent, full-blood/half-breed, recognized/non-recognized, etc.) have been utilized by both the settler state and, at times, Native peoples to silence/erase certain peoples and privilege others. Such political maneuvering, I argue, is intimately related to the ways in which settler colonialism facilitates the discursive production of populations in order to execute control over them. And lastly, I explore Native feminist articulations of sovereignty, tradition, Native nationhood, and decolonization that challenge the policing and regulation of urban Indian women in particular and Native peoples in general. I consider the ways in which Native feminists have begun dismantling the colonial mappings and white supremacist, heteropatriarchal logics that insist on fracturing Native communities in efforts to eliminate indigeneity and I suggest we take seriously Native feminist interventions that consider the potential that alternative conceptualizations or, perhaps more precisely, deconstructions of indigeneity have to explode the very foundations of colonialism, power, and domination.

Setting the Stage

Before I proceed to describe the methodology and organization of *Un-Settling Questions*, I would like to take a moment to outline the conversations with which this project intends to engage. This includes, but is not limited to, discussions surrounding violence against Native women, urban indigeneity, and the biopolitical management of Native peoples.

Violence Against Native Women

The primary field of literature from which my project both evolves and diverges is that which theorizes the relationship between violence and Native women. Upon careful examination, we see that such literature sometimes parallels and sometimes differs from anti-violence intervention initiated by women of color.⁹ This point is well-illustrated in the pioneering textbook *Sharing Our Stories of Survival: Native Women Surviving Violence* wherein which Native advocates compile years of critical interventions into the discourse and practice of anti-violence mobilization from Native communities across the United States.¹⁰ In the preface to the book, Jerry Gardner situates *Sharing Our Stories of Survival* alongside contributions to anti-violence literature made by other marginalized women but also posits that indigenous experiences of and approaches to violence, as well as the very existence of the book itself, arises from the unique political, legal, and social reality that mark Native women as distinct from other communities of color within the U.S. As a matter of fact, *Sharing Our Stories of Survival* was produced with the support of Title IX funding which, as I mentioned previously, was purportedly established to honor the aforementioned “trust responsibility” the U.S. has to American Indians.

This framing of the relationship between indigenous women and violence is carried throughout *Sharing Our Stories of Survival* and the women whose experiences fill the pages of the text emphasis two key points: (1) violence against Native women is not solely a

contemporary problem, (2) nor is it one that can be adequately addressed by categorizing Native women as a marginalized ethnic group within the United States. Rather, the contributors posit, violence against Native women originates with the European/American colonization of indigenous peoples *and* necessitates an understanding of the nation-to-nation relationship between Native peoples and the US nation-state. A brief glimpse at the literature *Sharing Our Stories of Survival* builds upon demonstrates these claims and teases out the central tenants of indigenous theorizations of violence against Native women.

Academic and literary explorations of violence against Native women can be traced back to the early 1980s when Native scholars and activists worked alongside other women of color to articulate the intersectional nature of the violence that arises from sexism, classism, heterosexism, and racism. For example, in the seminal text *This Bridge Called My Back: Writings by Radical Women of Color*, Native women such as Chrystos, Naomi Littlebear, Jo Carrillo, and Barbara Cameron join other marginalized women in order to document the violence they witnessed in their personal lives, their communities, and the mainstream women's movement. With each poem or essay, these women speak to the interlocking oppressions that saturate their lives "as women of color." Significantly, however, they also speak to the specificity and embodiment of being a Native woman under colonial rule and even ask other women of color to interrogate the ways in which they might be implicated in carrying out the aims of colonialism.¹¹ They began to articulate an indigenous feminist analytic that departs from a women of color methodology in the way that it simultaneously addressed racism, classism, sexism, heterosexism, *and* colonialism.

Native women were also authoring texts directed specifically at Native communities and concerned specifically with the relationship between Native women and feminism in the early

1980s. For example, in 1984 Mohawk scholar Beth Brant edited a collection of writings dedicated to “All Indian women who have survived these wars and live to tell the tales.”¹² Among the 90 or so pieces included in the collection is Kate Shanley’s “Thoughts on Indian Feminism,” one of the earliest writings articulating Native women’s struggle with the discourse of feminism. In her essay, Shanley speaks of the resistance to “feminism” mounted by many Native women but also attempts to complicate the nature of such resistance. She describes the multiple ways in which “the majority women’s movement” marginalizes Native women’s concerns,¹³ however, she also argues that “the word ‘feminism’ has special meanings to Indian women, including the idea of promoting the continuity of tradition, and consequently, pursuing the recognition of tribal sovereignty.”¹⁴ Ultimately, Shanley calls for a reconceptualization of feminism that incorporates diversity and the recognition of Native women’s experiences.

Over the next couple of decades, Native women continued to critique and attempt to reshape the terrain of feminist inquiry, methodology, and practice. Mainstream *and* women of color feminisms were slow to acknowledge the significance and pervasiveness of colonialism, however, and often continued to marginalize indigenous contributions to feminist discourse. Thus, Native women continued to pen essays and books such as “Who Is Your Mother? Red Roots of White Feminism,” “Angry Women are Building: Issues and Struggles Facing American Indian Women Today,” *I Am Woman: A Native Perspective on Sociology and Feminism*, and *Reinventing the Enemy’s Language: Contemporary Native Women’s Writings on North America* which both addressed this marginalization and began to form a body of literature that moved beyond critiquing mainstream feminism and anti-violence organizing to establishing a Native feminist analytic that interrogates white supremacy, heteropatriarchy, and settler colonialism.¹⁵

By 2004, such intellectual work had led to the production of a special issue of *Social*

Justice: A Journal of Crime, Conflict, & World Order titled “Native Women and State Violence.”¹⁶ Guest editors Andrea Smith and Luana Ross explain the impetus behind the issue by positing that “Native women are constantly marginalized in male-dominated discourses about racism and colonialism and white-dominated discourses about sexism” which results in the “inability of both discourses to address the inextricable relationship between gender violence and colonialism.”¹⁷ Again, this collection brought a number of Native women’s voices together to interrogate both violence and feminist discourse.

In 2005, Andrea Smith published her own groundbreaking text *Conquest: Sexual Violence and American Indian Genocide*. In this work, Smith affirms the theoretical premise that “colonial relationships are themselves gendered and sexualized”¹⁸ and argues that locating Native women and Native communities at the center of exploration compels us to examine the role the state plays in inflicting both gender and race-based violence. She also posits that if we perceive of sexual violence not simply as a tool of patriarchy but also as a tool of colonialism and racism we must shift our understanding of sexual violence to encompass the ways in which “entire communities of color are the victims of sexual violence.”¹⁹ Likewise, Smith pushes the limits of what is generally defined as sexual violence to include occurrences such as the symbolic transformation of Native peoples into “dirty” and “rapable” bodies that pollute the body politic of the United States, the literal rape and dismemberment of Native peoples, the implementation of boarding school policies, forced sterilization practices, medical experimentation, spiritual appropriation, environmental oppression, etc.

Shortly thereafter, two additional special journal issues were edited by Native women. “Native Feminisms Without Apology” appeared in a 2008 issue of *American Quarterly*²⁰ and “Native Feminisms: Legacies, Interventions, and Indigenous Sovereignties” was published by

Wicazo Sa Review in 2009.²¹ The articles in these issues built upon the scholarly work Native women had been doing for decades prior but also signaled the emergence of a slightly different direction in Native women's theorization, for the contributors here asserted loudly and boldly that Native women could both be feminist *and* produce feminist analytics if they so chose. Thus, "without apology," a powerful contingent of Native feminists ushered in a new era of scholarly endeavors wherein which the urgency of interrogating the intersections between white supremacy, heteropatriarchy, and settler colonialism was emphasized. It is in this vein of intellectual production that I, also without apology, situate *Un-Settling Questions*.

Urban Indigeneity

Also central to my project is the body of literature that critically engages urban indigeneity, especially as it is shaped by colonial spatialization. Since the early 1960s, there have been increased efforts to "think urban" in American Indian Studies and communities. Much of the early literature on this topic characterized urban Indians as exiles living lives marked by cultural degeneracy, loss, and breakdown, stuck in a liminal space between the traditional/authentic and the modern/assimilated. Events such as the demographic reporting from the 1990 U.S. Census and the establishment of off-reservation tribal offices in urban areas where Native nations have substantial memberships have more recently spurred a proliferation of texts that critically engage the urban Indian experience.²²

This literature establishes a host of understandings about the relationship between Native peoples and urban spaces. For example, it accounts for the more than two-thirds of the total Native population currently living in urban areas and holds the US nation-state accountable for the colonialist practices that have contributed to this reality.²³ Additionally, a number of scholars

wrestle with and attempt to rectify the fact that colonialism and white supremacy has necessitated an “othering” of Native peoples that has resulted in excluding them from accounts of the urban (which came to symbolize Western civilization, industry, and progress as opposed to indigenous savagery, barbarity, and the pre-modern) therefore creating the perception that, for Natives, urban spaces serve only as places of risk, separation, disillusion, and dissolution. Such critiques challenge the representation of urban Native spaces as red ghettos – places of absolute poverty, alcoholism, loss of culture, and abuse.

In addition to responding to colonial accounts (or exclusions) of urban indigeneity, the urban Indian scholarship that emerged toward the end of the twentieth century also emphasized the indigenous survival, adaptation, and community organization that crossed tribal, state, and national boundaries and called the very utility of such boundaries into question. It presented conceptualizations of identity/community that were fluid and flexible. For example, in a piece titled, “Is Urban a Person or a Place? Characteristics of Urban Indian Country,” cultural anthropologist Susan Lobo argues that urban Indian communities are not densely populated geographical locations within cities, unlike other communities of color or ethnic enclaves in urban areas. They are, rather, “widely scattered and frequently shifting network[s] of relationships with locational nodes found in organizations and activity sites of special significance.”²⁴ Significantly, she argues this type of community is more akin to that of Native peoples prior to the imposition of reservation borders where formalized, federally-prescribed notions of a tribe as “a bounded entity within a geographically rigid, demarcated territory or reservation, governed by a body of elected officials, and with stringently designated criteria for membership”²⁵ did not define Native identity. Full of potential, then, for reimagining more expansive definitions of Native identity and community, Lobo’s theorizations, among others,

open up discussions of urban Indian experiences and spaces.

Despite such impassioned and critical dialogues there continues, however, to be a glaring lack of attention to the consideration of gender in relation to urban indigeneity. The few explorations of this kind that are available emerge from Native feminist analyses. Renya Ramirez's 2007 *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond* is, perhaps, one of the most noteworthy contributions to this small but growing field of literature. In the introduction to her book, Ramirez alerts her readers that although Native women are essential to sustaining urban Indian community life, they are often overlooked and rarely credited or mentioned for their work.²⁶ To counteract this erasure, *Native Hubs* describes a "Native woman's notion of urban and reservation mobility"²⁷ that engages transnationalism, diasporic studies, citizenship studies, and discourses of urban Indian identity in order to promote social change and illustrate the numerous ways in which engagement in urban Indian life can be regenerative and culturally reinvigorative rather than culturally degenerative. Additionally, Ramirez argues that the city, like a hub on a wheel, "acts as a collecting center, a hub of Indian peoples' new ideas, information, culture, community, and imagination."²⁸ In other words, native hubs, particularly as they are created and maintained by Native women, not only defy colonially imposed borders and boundaries but also re-member and reunite Native peoples situated in different political, legal, geographic, and cultural contexts throughout the Americas. For example, native hubs have the potential to bring together Natives from reservations, landless Natives, federally recognized Natives, non-federally recognized ones, as well as Mixtec Indian women residing illegally in the United States because of current relocation policies, etc. They have the potential to rearticulate Indianness in a way that opens up rather than restricts our understandings of Indianness, increase the number of those who might be invested in projects of

Native nation-building, and ultimately resist the colonial project of Indigenous extermination and its counterpart – the ever-lasting trope of the “vanishing Indian.”

Although Ramirez’s work is relatively unique in exploring the role of gender in urban Indian communities in the United States, a brief glance at the Canadian context reveals a handful of related intellectual pursuits.²⁹ One of the most relevant texts in terms of the project at hand is Bonita Lawrence’s *“Real” Indians and Others: Mixed-Blood Urban Native Peoples and Indigenous Nationhood*. In this book Lawrence utilizes a Foucauldian understanding of discourse – “as a way of seeing life that is produced and reproduced by various rules, systems, and procedures, creating an entire conceptual territory on which knowledge is formed and produced”³⁰ – to posit that the Indian Act,³¹ as well as other settler colonial modes of defining Indianness, operates as “a discourse of classification and regulation, which has *produced* the subjects it purports to control, and which has therefore indelibly ordered how Native people think of things ‘Indian.’”³² That is, even as settler colonial regimes purport to simply describe who/what counts as Indian via blood quantum, culture, etc. it is actually through these genocidal actions that the creation of who/what counts as Indian is enacted. Unfortunately, however, the designation of some Native bodies as authentic Indians, Inuit, full-blooded, federally recognized, or status and others as Métis, mixed-blood, half-breed, urban, unrecognized, or non-status has been naturalized to the degree that we no longer consider “how these different kinds of Indigenous subjects have been *created* by legislation”³³ in the first place.

Furthermore, Lawrence explores the way in which Indian identity was gendered in the Canadian colonial encounter as well as the effects this has had on the forced urbanization of Canadian aboriginal women. She argues that by disenfranchising Indian women and regulating their access to aboriginal identity through marriage patterns or blood quantum, and by “declaring

the Nativeness of urban mixed-bloods to be terminated,”³⁴ the Canadian government (and cooperating First Nations) continues to rely on and perpetuate gendered processes of colonialism.

Equally significant to my research endeavor is Canadian scholar Sherene Razack’s essay “Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George.” In this piece, Razack reads and historicizes the rape and murder of Saulteaux woman Pamela George in order to theorize the relationship between race, space, the law, violence, and identity construction. Specifically, she posits that spatialized justice is the logic that deems certain bodies and subjects in certain spaces as undeserving of full personhood and, thus, legal protection. In this instance, because Pamela George was an Aboriginal woman who occupied the Stroll – Regina’s inner-city district described as a world of drugs, prostitution, poverty, and racial otherness – she became constructed as a criminal and degenerate Native woman lacking personhood, that is a “rightful target of the gendered violence inflicted”³⁵ by her perpetrators who ultimately were not held accountable for her death.

Razack historicizes this process of gendered Indian identity construction by reminding her readers of the settler colonial inflicted displacements of Aboriginal peoples that creates spaces such as the Stroll and then relegates urban Native women within. White settlers first displaced George’s Saulteaux ancestors by relocating and confining them to reserves. Lack of adequate housing, employment, healthcare, education, etc., as well as the Indian Act that Lawrence speaks of, then forces Native peoples to migrate off-reserve and to urban centers. Once in the city, “slum administration replaces colonial administration” because in settler colonial logic, all non-designated Indian spaces are settler spaces “and the sully of civilized society through the presence of the racial Other in white space gives rise to a careful

management of boundaries within urban space.”³⁶ Thus, inner city spaces such as the Stroll become racialized and severely juxtaposed to spaces of seemingly white racial purity such as the suburbs. These boundaries are then enforced through the disciplining of Native bodies.

Arguably, then, there has been an extreme shift in the focus of the discourse surrounding urban indigeneity. What was once a body of literature concerned with articulating “the urban Indian experience” is now a critical examination of the very ways in which “the urban Indian” has been violently constructed by settler colonialism. *Un-Settling Questions* aims to contribute to this still-developing area of examination by interrogating the construction of urban Indian identity as it is utilized to enact violence against Native women and shape our understanding of said violence.

The Biopolitical Management of Native Peoples

Lawrence and Razack’s intellectual contributions lead us directly to the final major body of literature with which this project engages: biopolitics. Introduced by Foucault yet expounded upon by numerous other scholars, the concept of biopolitics is defined as an apparatus of state power that concerns itself not with “man-as-body” but rather with “man-as-species.” This is a critical distinction for the scholar whose theoretizations of the disciplinary regulation of the body has significantly, if not altogether, shaped the way we conceptualize a great number of the institutions that have dominated Western societies from the eighteenth century to the present: the family, schools, the military, prisons, the insane asylum, social services, etc. Foucault argues that the emergence of biopolitical state power does not put an end to the prominence of the disciplinary institutional power he dedicated much of his life’s work to theorizing, as a matter of fact he argues that the two work hand in hand and are often articulated through each other, but

rather marks a shift in the way in which Western nation-states conceptualize and govern their respective, burgeoning *populations* at the end of the eighteenth and the beginning of the nineteenth centuries.

These ideas are fleshed out in greatest detail and specificity in his “Society Must Be Defended” lecture given at the Collège de France in 1976. Here, he argues that with the industrialization and demographic explosion of Western states it become politically and economically necessary to begin exercising state power upon entire populations in addition to submitting individual bodies to institutional power.³⁷ Thus, biopolitics emerge to control large-scale phenomena such as birth rates, fertility, longevity, and morbidity and, ultimately, situate populations as political, scientific, *biological* problems. What also occurs at this moment is a different way of conceptualizing political power. Whereas, previously, it was understood that the sovereign had absolute power to “make die or let live,” biopolitics emerge alongside an understanding that the modern nation-state has been contracted by its subjects to “make live and let die.” Although the difference may appear subtle at first, it emphasizes the modern nation-state’s role in protecting the social body through the perpetuation of life rather than the classical sovereign’s role in ordering death.

Significantly, however, this new preoccupation with life does not eliminate the practice of death. Instead, the practice of death becomes more subtle, almost passive, certainly biological, and *racist*. This is not to say that the regulation of death wasn’t racist before this moment, or that racism did not exist in disciplinary institutions, but with the emergence of biopower, according to Foucault, racism becomes inscribed in the mechanisms of the state that regulate populations as cohesive social bodies rather than as individuals.³⁸ In this way, racism becomes that which determines who must live and who must die for the sake of promoting the

social body. The logic that one must die in order for another to live is intimately linked to the theorization of war, and actually, brings war-like relationships *within* the functioning of the nation-state. That is, enemies to the nation are now conceived as being *internal* as well as *external* and the death of enemies is certainly justifiable.³⁹

The killing of particular communities of people within a nation-state, thus, becomes perfectly acceptable if it is done in the *name of life* and results “in the elimination of the biological threat to and the improvement of the species or race.”⁴⁰ Hence, like particular individuals became marked as degenerate/abnormal in order to strengthen the production of the normal bourgeois body, entire populations now become marked as biological threats/pollutants in order to strengthen the production of a seemingly pure and healthy social body. The murder, oppression, colonization, etc. of these peoples is then justified in the name of *protecting life* – notably the life of the social body that supports and is supported by white supremacy, capitalism, and heteropatriarchy.

The implications of these arguments are immense and have influenced a number of theoretical debates and conversations. Scholars such as Rey Chow have expounded upon them to analyze the representation of ethnicity in the era of multi-cultural liberalism while scholars such as Jasbir Puar have utilized them to construct a critique of homonationalism in the era of “terrorism.”⁴¹ Most relevant to the project at hand, however, is the way in which Native scholars have employed the concept of biopolitics as a way of thinking about the establishment/processes of colonialism as well as the construction of indigeneity as a threat to the colonial order. Andrea Smith’s aforementioned text *Conquest: Sexual Violence and American Indian Genocide* is a compelling example of this scholarship. Smith employs Ann Stoler’s explanation of biopolitics to demonstrate that racism against Native peoples is a permanent and pervasive element of the

modern state. In fact, “it is the constant purification and elimination of racialized enemies within the state that ensures the growth of the national body.”⁴² Thus, Native peoples have been (and continue to be) metaphorically transformed “into a pollution of which the colonial body must constantly purify itself.”⁴³ This “purification,” Smith argues, results in the “rapability” of Native women, Native communities, and Native lands and then justifies the biopolitical practices of which rape, dismemberment, boarding schools, reproductive injustice, spiritual appropriation, etc. are included. My desire to explore the ways in which particular Native peoples have been eliminated from discussions and understandings of violence is intimately informed by such theorizations. For example, to what degree, I ask, have urban Indian women been constructed as a polity exceptionally capable of poisoning or threatening the colonial order? And, in what ways is this “threat” mitigated by the settler state?

In his essay “Settler Homonationalism: Theorizing Settler Colonialism within Queer Modernities,” Scott Lauria Morgensen employs the concept of biopolitics to explore the way in which queer subjectivity, as it is articulated through settler homonationalism, too works to “purify” the social body and mark certain populations for life and certain populations for death. Building upon the work of Jasbir Puar, among others, Morgensen argues that colonial “settlement and its naturalization then conditioned the emergence of modern queer formations, including their inheritance and sustaining of colonial biopolitics in the form of settler homonationalism.”⁴⁴ In other words, the convergence of settler colonialism, modern biopolitics, and modern sexuality (which all marked Natives as sexually deviant and settlers as sexually proper) “produced Native peoples as queered populations marked for death, and settlers as subjects of life—including, at times, as homonationalists.”⁴⁵ Morgensen argues that the biopolitical production of queer and normative populations he identifies was/is, in part, enacted

through the imposition of colonial heteropatriarchy. I expound upon this position to argue that colonial heteropatriarchy (particularly, for example, as it demands the segregation of peoples based upon race, gender, and nation and then fastens Native peoples to particular geopolitical spaces) has facilitated the biopolitical management of indigeneity in the way it *queers* urban Indians in general and urban Indian women in particular.

Thus, *Un-Settling Questions* intends to contribute to and be in dialogue with the conversation concerning biopolitics, colonialism, and indigeneity by focusing on the intersections between biopolitics and the discourse surrounding violence against Native women. I aim to explore the ways in which both the marginalization of Native women's voices/activism within this discussion and the construction of "authentic" indigeneity in federal legislation to address this problem serve to perpetuate and fulfill a settler colonial, biopolitical agenda to mark Native peoples for death, violence, and elimination. Furthermore, by positioning urban Indian women as the focal point of this exploration, I intend to demonstrate the degree to which Native nations and citizens themselves have become implicated in this processes.

Methodology/Methods

In designing and undertaking this project, I take seriously Linda Tuhiwai Smith's assertion that, "The methodologies and methods of research, the theories that inform them, the questions which they generate and the writing styles they employ, all become significant acts which need to be considered carefully and critically before being applied. In other words, they need to be 'decolonized'.⁴⁶ Therefore, I situate this dissertation as a decidedly *indigenous* research project that privileges indigenous concerns and practices and positions indigenous peoples as *both* researchers and the researched. I do so to disrupt mainstream and historical

research tendencies to view Native peoples as *objects of study* rather than producers of knowledge, culture, and worldviews. My aim in conducting this project is not to paint a purportedly objective picture of urban Indian women's experiences with violence. Nor is it to create a study that primarily pathologizes urban Indian women.⁴⁷ Rather, I attempt to initiate dialogue and provide a venue through which Native activists (myself included and self-consciously located within the project) can speak to violence against Native women as it intersects with settler colonialism, white supremacy, heteropatriarchy, and the construction of urban indigeneity.

With this understanding in hand, I have partly crafted *Un-Settling Questions* as an intellectual ethnography that employs Native feminisms and indigenous anti-violence advocates' voices as an analytic with which to interrogate the construction of urban indigeneity as it relates to violence against Native women. I follow in the footsteps of scholars such as Andrea Smith in my conviction that "rather than studying Native people so we can learn more about them, I wish to illustrate what it is that Native theorists have to tell us about the world we live in and how to change it."⁴⁸ I refuse to simply observe and record the theory and practice of Native anti-violence activists in order for the non-Native world to understand their struggles, challenges, successes, etc. Instead, I collaborate with indigenous advocates in utilizing their experiences and knowledges to theorize the complexities of eradicating the violence that permeates our lives.

To accomplish this task, I have spent a considerable amount of time interviewing and working alongside Native anti-violence advocates from the Los Angeles, South Dakota, and Minneapolis/St. Paul areas. I have chosen to focus my ethnographic work in these three locations for distinct yet related reasons. Los Angeles was an obvious choice because of my own position as an urban LA Indian. I spend a great deal of my time, inside and outside of

intellectual pursuits, within this community and am an active participant in a number of organizations concerned with strengthening the Native community in Los Angeles. I chose the Minneapolis/St. Paul region because it is the urban area with the longest and most developed history of Native anti-violence organizing in the United States. The women I interviewed there are affiliated with a variety of organizations such as the Minnesota Indian Women's Resource Center, Women of Nations, Eagle's Nest, Tribal Law and Policy Institute, and Mending the Sacred Hoop. I chose South Dakota because it is a hub from which a great deal of the national Native women's activism against violence originates: South Dakota is home of the first shelter for Native women, White Buffalo Calf Woman Society, which is located on the Rosebud Reservation; activist Tillie Black Bear helped found the National Coalition Against Domestic Violence from her home at Rosebud; and it was their work in South Dakota that some of the women critical to the development of Title IX credit.

I would also like to note that it was extremely important to me to speak to women who were located both on and off reservation and who advocated for Native women in both urban and reservation contexts. I do not, however, intend for *Un-Settling Questions* to be a dichotomized, comparative analysis of on-reservation/off-reservation Native experiences of and responses to violence nor do I intend to position on and off reservation activists in opposition to one another. Instead, I chose to include indigenous voices from a variety of geopolitical locations in order to illuminate the ways in which settler colonialism has constructed indigeneity differently across time and space in ways that have severe and deadly consequences. I have made intentional efforts to resist naturalizing the reservation/urban binary that continues to influence our understanding of Nativeness even as I interrogate the ways in which reservation and urban spaces have been constructed in juxtaposition to one another.

Again, as I have already mentioned, the interviews and informal conversations I conducted with the indigenous advocates in these various locations are not the focal point of this project *per se*. I am not interested in producing a traditional ethnographic study that operates as a “form of culture collecting” in its gathering, categorizing, and archiving of “othered” experiences and voices.⁴⁹ Rather, I have attempted to employ the voices and experiences shared with me in an attempt to theorize and interrogate the marginalization of indigenous mobilization, the construction of indigeneity, and violence against Native women from the perspective of Native women. Thus, the interviews have been woven throughout the text and some chapters include more interview material than others depending on their respective foci and the degree to which the interviewees spoke about the topic explored therein.

Additionally, some of the chapters (two and three in particular) analyze specific pieces of federal legislation as a way to demonstrate the arguments I posit within this dissertation. However, even as these laws are a primary focus of my project, this dissertation is not a legislative history or case study of the laws I write about. Instead, I follow in the footsteps of scholars such as Joanne Barker who perceive of “the law as a discourse” that “work[s] in the ongoing processes of social formation” as they pertain to Native peoples⁵⁰ and, thus, utilize the law as a site through which we are able to witness the intricacies of settler colonialism.

Lastly, and perhaps most importantly, I urge my readers to think of *Un-Settling Questions* as a *prolineal genealogy* of the relationship between violence against Native women, marginalization, the construction of indigeneity, and geopolitics. That is, I have attempted to craft a project that moves beyond exploring what this relationship currently looks like and toward what this relationship *could become*. In the words of Andrea Smith, “I seek to answer the question of not “what is?” but ‘what could be?’”⁵¹ For if I return again to my particular identity

as an urban, mixed-blood Muscogee woman whose own Native roots have been fertilized more often with the colonial *and* internalized poisons of hatred, violence, alcohol, etc. than with life sustaining nutrients, I certainly recognize my own need for the restorative, recovering, and healing potential that a contemporary, critical, decolonial, Native feminist analytic has to offer both myself and future generations of Native peoples.

The Chapters

Chapter one of this project most heavily incorporates the ethnographic interviews I have conducted and attempts to illuminate and explore the marginalization and elimination of indigeneity, especially as it has manifested in settler colonial accounts of anti-violence organizing. In “Visible Violence: Marginalization and The South Dakota Coalition Against Domestic Violence and Sexual Assault,” I employ the voices and experiences of the Native women instrumental in the birth and development of the SDCADVSA in the late seventies in order to make such work visible and to explore the violence of marginalization. This indigenized history is extremely significant as it serves as the foundation from which more contemporary federal legislative efforts build upon, as will be explored in the later chapters.

Additionally, and as I suggested in the opening of this introduction, this chapter serves as a springboard for interrogating the *construction* of indigeneity as it intersects with violence against Native women. I argue that although early indigenous anti-violence mobilization accomplished a variety of critical goals, made considerable headway in beginning to address violence against Native women, and saved the lives and spirits of a significant number of Native women, it also shaped the way in which violence against Native women and indigeneity was conceptualized and would later become utilized by the settler state. I make these claims not to

dishonor the advocates or their work, but rather to situate their mobilization as *one strategy* particularly suited to a certain time and place and not *the full extent* of efforts needed to combat the ever-shifting settler colonial apparatus. In other words, I argue that while it is critical and immensely insightful to explore what some refer to as the modern “origins” of the Native women’s movement to end violence, such tactics and strategies should not be canonized in a way that limits our understandings and future imaginings of anti-violence advocacy.

Chapter two of my dissertation, titled “(Re)Locating Violence: Title IX of the Violence Against Women Act,” builds upon chapter one by examining the degree to which Native women were instrumental in the passing of Title IX, the Safety for Indian Women Title, of the 2005 reauthorization of the Violence Against Women Act but also examines the multifaceted ways in which the colonial spatialization found within this legislation facilitates the biopolitical management of Native peoples. Informed by feminist and postcolonial geography, this chapter articulates the relationship between space, race, gender, and colonialism as it relates to violence against Native women. In particular, I examine the way in which colonial mapping constructs, naturalizes, and reproduces spatial injustice. To accomplish this, I unpack the ideological (and literal) violence enacted by Title IX and argue that not only does Title IX situate indigenous women in particular locales as more indigenous, and thus more deserving of protection from violence, than other women, but it also regulates our understanding of the spatiality of violence (i.e. our conceptualization of the spaces within which violence occurs).

In the third chapter of my dissertation, “Unidentified Bodies: The Tribal Law and Order Act,” I continue to explore the ways in which Native anti-violence advocates have contributed to federal legislation (seemingly) aimed at eradicating violence against Native women. Additionally, though, I continue to investigate the ways in which colonial apparatuses utilize

biopolitical logics to regulate and eliminate Native peoples, yet here I focus on the construction of identity. Through a critical analysis of the recently signed Tribal Law and Order Act, which has been hailed by many as an unprecedented effort to combat violence in the lives of Native women, I explore the extent to which liberal legislative measures work to further solidify the white supremacist, heteropatriarchal ideologies and constructions of Nativeness that cause violence against Native women in the first place. I suggest that rather than redress violence against Native women, the TLOA actually perpetuates violence in the way it shapes perceptions of Indian peoples, regulates the boundaries of Indian identity, and limits our understanding of violence.

In the concluding chapter of *Un-Settling Questions*, titled “Unchartered Territory: Native Feminist Reconceptualizations,” I briefly consider the degree to which Native communities have themselves reproduced the biopolitical logics that work to limit and eliminate indigeneity. I broach this subject not to embark on an entirely different, yet related, dissertation (for this topic certainly deserves an equally comprehensive investigation) but to signal the dangers of continuing to allow indigenous anti-violence organizing/theorizing to be dictated by the needs and desires of settler colonialism. I also utilize a prolineal genealogical method to depart from my previous descriptions of what the relationship between violence against Native women and the construction and marginalization of indigeneity is and toward an imagining of what the relationship could be. That is, I apply a native feminist analytic to the prevalence and conceptualization of violence against Native women in order to present the potential for such theorizations/methodologies to alter our understanding of and fight against said violence.

In the end, *Un-Settling Questions* is an attempt to do exactly that which its title suggests. It is an attempt to pose questions that un-settle our current understandings of the relationship

between indigeneity, violence against Native women, biopolitics, and geopolitics. It is an attempt to illuminate complexity – the complexity of violence, of settler colonialism, and of indigenous survivance in the face of colonialism. It is an attempt to theorize “off the reservation” and beyond the boundaries of federal recognition. And it is an attempt to speak in conversation with indigenous “mavericks, renegades, [and] queers”⁵² because it emerges from a conviction that “to speak, at whatever the cost, is to become empowered rather than victimized by destruction.”⁵³

¹ I use the term “Native” as inclusive of American Indian, Alaskan Native, Native Hawaiian, First Nation, south/central/Mexican American, and Native Pacific peoples, however since my analysis primarily focuses on the continental United States, I signal the reader when I refer to Native peoples living outside of this terrain. I also use the terms “Native,” “Indian,” and “indigenous” interchangeably throughout the text.

² Sarah Deer, Bonnie Clairmont, Carrie Martell, and Maureen White Eagle, eds. *Sharing Our Stories of Survival: Native Women Surviving Violence* (New York: Altamira Press, 2008).

³ Lawrence A. Greenfield and Steven K. Smith, *American Indians and Crime* (Washington, DC: Bureau of Justice Statistics, USDOJ, February 1999); Steven W. Perry, *American Indians and Crime* (Washington, DC: Bureau of Justice Statistics, USDOJ, December 2004); Ronet Bachman, *National Crime Victimization Survey Compilation* (Washington, DC: Bureau of Justice Statistics, USDOJ, 2004); Patricia Tjaden and Nancy Thoennes, *Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey* (Washington DC: National Institute of Justice and Centers for Disease Control and Prevention, USDOJ, November 2000).

⁴ The “trust responsibility” that the U.S. government purportedly has to Native nations emerges from a number of Federal Indian law and policies. In *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011), Joanne Barker describes it accordingly: Through its commerce, taxation, and supremacy clauses, the U.S. Constitution initially defined Native nations as possessing a government-to-government relationship with the United States. However, when Congress defined this relationship it also extended its law over tribes. The three Supreme Court decisions that came to be known as the Marshall Trilogy further solidified this authority by conceptualizing Indian tribes as uncivilized and inferior peoples in need of “the plenary power, care, and protection of the United States.” (31).

Significant to the project at hand is that the “trust responsibility” the U.S. government has defined as its relationship with Native peoples is frequently invoked to call for better “protection” and treatment of Native peoples by the settler state. Rarely discussed, however, are

the colonial ideologies at play in a relationship that defines the United States as the “guardian” of the Native “ward” or that situates indigenous communities as inferior to and under the eye of the settler state in their position as “domestic dependent Nations.” When considered in this context, the “trust responsibility” of the United States is not misrecognized as a responsibility to ensure that Native peoples are treated equally under the law but rather understood as a responsibility to maintain the unequal and inferior position of Native peoples in relation to the settler state.

⁵ Amnesty International, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA: One Year Update* (New York: Amnesty International USA, 2008), 1.

⁶ Among others, these included N. Scott Momaday, Bruce King, Paula Gunn Allen, Hanay Geiogamah, Linda Hogan, Joy Harjo, Elizabeth Woody, James Welch, Sherman Alexie, Simon Ortiz, and Lucy Tapahanso.

⁷ U.S. Census Bureau, Census 2000.

⁸ The foundation of this argument (i.e. the distinction between Native women and so-called women of color) can, again, be traced back to the unique legal relationship the United States has with Native nations. As contemporary indigenous studies scholars and Native communities emphasize that Native identity is not an ethnic identity but rather a political one, many indigenous women argue that Native women are not women of color but rather women belonging to various Native nations. This distinction has not entirely prevented collaboration and coalitional work between Native women and women of color, but it has been a contentious issue.

⁹ For examples of women of color contributions to the field of anti-violence theorization, see texts such as: Kimberlé Crenshaw, "Mapping at the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color" in *The Public Nature of Private Violence: The Discovery of Domestic Abuse*, eds. M.A. Fineman and R. Mykitiuk (New York: Routledge, 1994), 93-118; Natalie Sokoloff and Christina Pratt, eds., *Domestic Violence at the Margins: Readings on Race, Class, Gender, and Culture* (New Brunswick: Rutgers University Press, 2005); Incite! Women of Color Against Violence, eds., *Color of Violence: The Incite! Anthology* (Cambridge: South End Press, 2006); and Maria Ochoa and Barbara Ige, eds., *Shout Out: Women of Color Respond to Violence* (Emeryville: Seal Press, 2007).

¹⁰ Sarah Deer, Bonnie Clairmont, Carrie Martell, and Maureen White Eagle, eds. *Sharing Our Stories of Survival: Native Women Surviving Violence* (New York: Altamira Press, 2008).

¹¹ Naomi Littlebear, “Dreams of Violence” in *This Bridge Called My Back: Writings by Radical Women of Color*, eds. Cherríe Moraga and Gloria Anzaldúa (New York: Kitchen Table Press, 1981), 16-17; Chrystos, “He Saw” in *This Bridge Called My Back: Writings by Radical Women of Color*, eds. Cherríe Moraga and Gloria Anzaldúa (New York: Kitchen Table Press, 1981), 18-19; Barbara Cameron, “Gee, You Don’t Seem Like an Indian From the Reservation” in *This Bridge Called My Back: Writings by Radical Women of Color*, eds. Cherríe Moraga and Gloria

Anzaldúa (New York: Kitchen Table Press, 1981), 46-52; Chrystos, "I Walk in the History of My People" in *This Bridge Called My Back: Writings by Radical Women of Color*, eds. Cherríe Moraga and Gloria Anzaldúa (New York: Kitchen Table Press, 1981), 57; Jo Carrillo, "Beyond the Cliffs of Abiquiu" in *This Bridge Called My Back: Writings by Radical Women of Color*, eds. Cherríe Moraga and Gloria Anzaldúa (New York: Kitchen Table Press, 1981), 65-67.

¹² Beth Brant, ed. *A Gathering of Spirit: Writing and Art by North American Indian Women* (Rockland: Sinister Wisdom, 1984), dedication page.

¹³ Examples of this include lack of discussions regarding settler state colonialism, lack of recognition and promotion of Native sovereignty, the difference in familial structures between white middle-class women and Native women, and a general ignorance of Native peoples beyond tokenization.

¹⁴ Kate Shanley, "Thoughts on Indian Feminism" *A Gathering of Spirit: Writing and Art by North American Indian Women*, ed. Beth Brant (Rockland: Sinister Wisdom, 1984), 215.

¹⁵ Paula Gunn Allen, "Who Is Your Mother? Red Roots of White Feminism" in *The Sacred Hoop: Recovering the Feminine in American Indian Traditions* (Boston: Beacon Press, 1986), 54-75; Paula Gunn Allen, "Angry Women are Building: Issues and Struggles Facing American Indian Women Today" in *The Sacred Hoop: Recovering the Feminine in American Indian Traditions* (Boston: Beacon Press, 1986), 189-193; Lee Maracle, *I Am Woman: A Native Perspective on Sociology and Feminism* (Vancouver: Press Gang Publishers, 1996); Joy Harjo and Gloria Bird, eds., *Reinventing the Enemy's Language: Contemporary Native Women's Writings on North America* (New York: W.W. Norton and Company, 1997).

¹⁶ Andrea Smith and Luana Ross, eds. "Native Women and State Violence." Special Issue, *Social Justice: A Journal of Crime, Conflict, & World Order* 31, no. 4 (2004).

¹⁷ *Ibid.*, 1.

¹⁸ Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Cambridge: South End Press, 2005), 1.

¹⁹ *Ibid.*, 8.

²⁰ Andrea Smith and J. Kehaulani Kauanui, eds. "Forum: Native Feminisms Without Apology." Special Issue, *American Quarterly* 60, no.2 (2008).

²¹ Mishuana Goeman and Jennifer Denetdale, eds. "Native Feminisms: Legacies, Interventions, and Indigenous Sovereignities." Special Issue, *Wicazo Sa Review* 24, no.2 (2009).

²² For examples of this work, see texts such as Donald Fixico, *The Urban Indian Experience in America* (Albuquerque: University of New Mexico Press, 2000); Joan Weibel-Orlando, *Indian Country L.A.: Maintaining Ethnic Community in Complex Society* (Urbana: University of Illinois

Press, 1991); James LaGrand, *Indian Metropolis: Native Americans in Chicago, 1945-75* (Urbana: University of Illinois Press, 2002); Troy Johnson, *The Occupation of Alcatraz Island: Indian Self-determination and the Rise of Indian Activism* (Urbana: University of Illinois Press, 1996).

²³ Examples of such practices include the forced removal of Native peoples from their lands, displacement through boarding schools and adoption, the introduction of the federal relocation program after World War II, and the termination of Native tribes in the seventies.

²⁴ Susan Lobo, “Is Urban a Person or a Place? Characteristics of Urban Indian Country” in *American Indians and the Urban Experience*, eds. Susan Lobo and Kurt Peters (Lanham: Altamira Press, 2001), 75.

²⁵ *Ibid.*, 77.

²⁶ Renya Ramirez, *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond* (Durham: Duke University Press, 2007), 4.

²⁷ *Ibid.*, 1.

²⁸ *Ibid.*, 2.

²⁹ Although there are a number of similarities, the legal apparatus regulating the political/legal relationship the United States government has to Native nations within its borders differs from the techniques of colonialism employed by the settler states that occupy other parts of the Americas. Thus, although my theoretical framework will certainly be informed by Native activists/scholars writing about other nation-states, they will not be the focus of my analysis.

³⁰ Bonita Lawrence, *“Real” Indians and Others: Mixed-Blood Urban Native Peoples and Indigenous Nationhood* (Lincoln: University of Nebraska Press, 2004), 25.

³¹ Much like what we call “Federal-Indian law” in the United States, the Indian Act of Canada is the body of laws that regulates Canada’s relationship to the indigenous peoples living within the Canadian borders. Located within the Indian Act are legislative attempts to define Indian identity in ways that disempower Native peoples and force them to comply to settler colonial definitions of Indianness that rely on racist and patriarchal ideologies. One of the most controversial aspects of the Indian Act is the way in which the 1869 Gradual Enfranchisement Act differentiated between “status” and “non-status” Indians in order to restrict the number of individuals who had a “nation-to-nation” relationship with the Canadian government. Based on (the highly flawed) blood quantum concept, this legislation mandated that Indian status was determined by one’s relation to a male who already had Indian status and stipulated that any Indian woman who married a non-status Indian lost her status while non-status women who married status Indian men gained status.

³² Lawrence, 25.

³³ Ibid., 26.

³⁴ Ibid., 81.

³⁵ Sherene Razack, “Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George,” in *Race, Space, and the Law: Unmapping a White Settler Society*, ed. Sherene Razack (Toronto: Between The Lines, 2002), 144.

³⁶ Ibid., 129.

³⁷ Michel Foucault, “*Society Must Be Defended*”: *Lectures at the Collège de France, 1975-1976*, eds. Mauro Bertani and Alessandro Fontana, trans. David Macey (New York: Picador, 2003).

³⁸ Ibid., 254.

³⁹ Ibid., 255.

⁴⁰ Ibid., 256.

⁴¹ Please see Rey Chow, *The Protestant Ethic and The Spirit of Capitalism* (New York: Columbia University Press, 2002) and Jasbir Puar, *Terrorist Assemblages: Homonationalism in Queer Times* (Durham: Duke University Press, 2007) respectively.

⁴² Smith, *Conquest*, 9.

⁴³ Ibid.

⁴⁴ Scott Morgensen, “Settler Homonationalism: Theorizing Settler Colonialism within Queer Modernities,” *GLQ: A Journal of Lesbian and Gay Studies* 16, no.1-2 (2010): 110.

⁴⁵ Ibid., 111.

⁴⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Books Ltd, 1999), 39.

⁴⁷ I provide a greater discussion of the prevalence and danger of “damage-centered” research, as it is articulated by Eve Tuck, in chapter three of this project.

⁴⁸ Andrea Smith, *Native Americans and the Christian Right: The Gendered Politics of Unlikely Alliances* (Durham: Duke University Press, 2008), xxiv.

⁴⁹ Linda Smith, 61.

⁵⁰ Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2012), 7-8.

⁵¹ Smith, *Native Americans and the Christian Right*, xxii.

⁵² Paula Gunn Allen, *Off the Reservation: Reflections on Boundary-Busting, Border-Crossing, Loose Canons* (Boston: Beacon Press, 1998), 6.

⁵³ Joy Harjo and Gloria Bird, eds., *Reinventing the Enemy's Language: Contemporary Native Women's Writings of North America* (New York: W.W. Norton & Company, 1997), 21.

CHAPTER ONE
**Visible Violence: Marginalization and the South Dakota Coalition Against Domestic
Violence and Sexual Assault**

One early afternoon in February of 2012, I sat down at my computer to browse my Facebook account when I came across a Chris Rock comedy clip that was being bounced around my circle of family, friends, and colleagues. A long-time Rock fan, I clicked on the clip and was taken to the YouTube website where, within seconds, Rock's loud and boisterous voice trumpeted from my computer speakers: "Racism everywhere. Everybody pissed off. Black people yelling racism. White people yelling reverse racism. Chinese people yelling sideways racism. And the Indians ain't yelling shit 'cause they dead. So everybody bitch about how bad they people got it. Nobody got it worse than the American Indian. Everybody need to calm the fuck down. Indians got it bad. Indians got it the worst. You know how bad the Indians got it? When's the last time you met two Indians? You ain't never met two Indians. Shit, I have seen a polar bear ride a fucking tricycle in my lifetime. I have never seen a Indian family just chillin' out at Red Lobster. Never seen it. Everybody want to save the environment. Shit I see trees every fucking day. I don't never see no Indians."¹

As soon as the segment began to play, I recognized it. I had heard it a trillion times since it first aired in Rock's "Bigger & Blacker" HBO special in 1999. But I still laughed. Hard. There is something about Rock's impassioned delivery, his absolute assuredness of Indian invisibility, and the reference to Red Lobster (a restaurant that this Indian, for one, has a not so-secret obsession for) that makes this bit so effective for me and, according to Facebook, a good deal of my Native friends and family. After I stopped laughing and clicked through a few more excerpts from "Bigger and Blacker," I began to wonder about the power of Rock's diatribe on

racism and the American Indian. What is it about this joke that makes it as poignant in 2012 as it was in 1999?

The most obvious answer lies in Rock's delivery and his juxtaposition of American Indians with tricycle-riding polar bears, Red Lobster customers, and save-the-environment campaigns. He positions the "sighting" of an American Indian as less common and more absurd than the witnessing of circus feats. Likewise, he evokes the "absurd" image of plains-feathered and war-bonneted Indians dining at a mainstream chain restaurant in order to profess his opinion that American Indians no longer exist. Of course, this entire joke is based upon stereotypes of Native peoples that have been constructed by the settler colonial imagination. If we were to consider the fact that very few Native peoples resemble the Indian of settler colonial fantasies, then Rock's joke would fall short for we would have to acknowledge that, in fact, a good number of Native peoples likely *do* dine at Red Lobster and Rock, as well as the rest of the non-Indian U.S. citizenry, actually *do* encounter Native peoples "every fucking day."

Arguably, the evocation of stereotypical images of Native peoples is both predictable and trite at the beginning of the twenty-first century though. After centuries of Disney films, Halloween costumes, product branding, sports-team mascots and the like, such images have lost a certain degree of their impact. Why, then, is Rock's joke still so funny? And what point might he, well-known for the social commentary embedded in his humor, be trying to make through this joke? I'd like to suggest that perhaps the significance of Rock's diatribe lies not in his evocation of stereotypical Indians but rather in his suppression of "everyday" Indians. The marginalization and erasure of Native peoples as contemporary subjects and agents of social action that Rock inadvertently draws attention to might be the place from which his humor delivers the most powerful punch. For myself at least, like most politically-conscious comedy,

this bit is humorous because it seems absurd but also because it hints at a reality I am all too familiar with. In other words, in its fantastical imagery also lies a depressing reality that laughter and humor help to mitigate, for, in all actuality, the marginalization and erasure of Native peoples is far from funny. It is both a violent tactic and outcome of settler colonialism.

Although significantly departing from Rock's comedic delivery, this chapter intends to engage that which Rock's Indian joke calls forth – the marginalization and erasure of indigeneity, particularly as it has manifested in settler colonial narratives of anti-domestic/sexual violence organizing. For centuries now, Native peoples have been actively engaged in struggles against settler colonialism and heteropatriarchy, yet much of this mobilization has been suppressed and ignored by settler state accounts of historical moments and social movements. This has especially been the case in regards to the narration of anti-violence organizing. From the so-called “beginning” of the movement to organize against domestic/sexual violence in the 1970s to the present day, Native women have been situated as *victims* of violence but never as *social agents* capable of or invested in combating that violence. Rather, white supremacy and settler colonialism have ensured that whiteness and the state itself have been credited with the efforts to halt violence against Native women and in indigenous communities.²

This chapter attempts to address and counteract the violence of marginalization through the documentation of the emergence, development, and eventual splintering of the South Dakota Coalition Against Domestic Violence and Sexual Assault (SDCADVSA) from the perspective of the Native women instrumental in its existence. My primary objective here is to rewrite/reright³ the position of Native women in anti-violence discussions by centering the voices and concerns of Native women and, accordingly, by decentering the mainstream, colonialist narrative that typically frames such narrations. For as the following indigenized history demonstrates,

although the issue of violence against Native women has only recently garnered mainstream attention, Native women have been addressing this problem at local, national, and international levels for centuries. It is this mobilization that the federal government builds upon when finally considering the extent and significance of violence in the lives of Native women who have faced the unique challenge of combating racism in the anti-violence movement, sexism in their own communities, and marginalization in society as a whole when attempting to render this violence visible.

In addition, I aim to recount this early attempt on behalf of the state, Native communities, and white citizenry to work together in eradicating violence against Native women in order to glean further insights about the insidious nature of settler colonialism. For an indigenized history of the SDCADVSA is not critical solely because it renders visible Native women's engagement with anti-violence mobilization, but also because it speaks to the complicated and myriad ways in which the "logic of elimination," that Patrick Wolfe so deftly delineates in his comparative study of the relationship between genocide and settler colonialism, manifest.⁴ In other words, rather than read the history of the SDCADVSA as an isolated historical moment in which there were a few racist apples in a relatively well-meaning bunch of anti-violence activists, I urge us to seriously consider the development of the SDCADVSA as illustrative of "settler colonization [as] a structure rather than an event" that is complex in social formation, continuous throughout time, at moments presents as genocide, and at moments presents as other equally destructive forms of the logic of elimination.⁵ Such an understanding of settler colonialism enables us to read the events surrounding the SDCADVSA in tandem with previous and/or simultaneously occurring manifestations such as the racial classification of Natives, frontier homicide, blood quantum policies, child abduction, boarding schools, etc. which

ultimately aids us in more fully understanding the consequences of working within a settler colonial framework in attempts to eradicate violence against Native women.

In The Beginning

In 1977, a non-profit organization was founded by women on the Rosebud reservation in South Dakota to work with women, men, and children in an effort to restore the sacredness of women. This organization, the White Buffalo Calf Woman Society, is based on the traditional Lakota teaching that "even in thought – women are to be respected."⁶ Accordingly, the Society combats violence against Native women with traditional Lakota life ways and teachings. Only one year after the creation of the Society (which would later establish the first shelter for Native women on an Indian reservation), president Faith Spotted Eagle was invited to testify at the United States Commission on Civil Rights hearings on battered women in Washington DC. Because she was unable to attend the event, Spotted Eagle asked Tillie Black Bear, who was a student in graduate school at the University of South Dakota Vermillion and a member of the Society, to take her place. With approximately 300 other women from across the United States, Black Bear attended the hearings in DC and testified about the needs of women on the Rosebud reservation.

The women present at the hearings began to see that they had similar concerns about violence against women. During breaks in meetings, a group began to gather in the men's restroom to discuss the importance of creating a national movement against domestic violence.⁷ By the end of the hearings, Black Bear (the only Native woman in attendance) and the others had decided to form the National Coalition Against Domestic Violence (NCADV). All of the women

present were asked to organize state coalitions when they returned to their respective homes and approximately 20 women agreed to be on the steering committee for the NCADV.

Despite her doubts that a Native woman would be able to play such a leading role in South Dakota during the late '70s, Black Bear returned home and spoke with the South Dakota Commission on the Status of Women. They discussed potential organizing efforts and after attending a quarterly meeting of the commission, Black Bear was able to convince them to help her arrange a statewide coalition-organizing meeting.

Black Bear then returned to the White Buffalo Calf Woman Society and began looking for a space to host the meeting. Because there was not a location on the Rosebud reservation that could accommodate the potential attendees, she asked the Bureau of Indian Affairs for the use of their dorms. The BIA agreed and in June 1978 about 77 women responded to the invitation and attended the first organizing meeting of what would become the South Dakota Coalition Against Domestic Violence.⁸

Prior to 1978 there were only three programs in the state providing shelter to battered women and advocacy for rape victims: Brookings Women's Center located in Brookings, Children's Inn located in Sioux Falls, and White Buffalo Calf Woman Society. Although all three of the programs served Native women, the staff and board members of Brookings Women's Center and Children's Inn were almost entirely made up of white women. This division between clients and program managers proved to become a spot of tension in later Coalition organizing. However, because only three programs existed throughout the state, most of the women who attended the initial meeting were individuals interested in the issue of violence against women and did not yet represent programs. Of the 77 women who attended, only a few were Native and most of them were from Rosebud.⁹

The first meeting of the Coalition focused on holding workshops to discuss the needs of women in South Dakota and to suggest strategies for addressing these needs. A sampling of the topics explored includes: funding sources, medical services, networking, education, counseling and advocate services, and the creation of shelters.¹⁰ At the end of the gathering a decision was made to meet again during the next month in order to begin drafting the articles of incorporation that would permit the organization to have a formal presence within South Dakota. During this time Black Bear was still facilitating/organizing the Coalition. She had yet to face any real resistance to the fact that she was a Native woman leading a statewide and primarily Anglo-American organization in South Dakota. The second meeting was held a month later at St. Joseph's Indian School in Chamberlain and the steering committee began drafting the articles of incorporation. Of the seven members on the steering committee only Spotted Eagle and Black Bear were Native.¹¹

In 1978 six more programs dealing with violence against women were established in South Dakota: (1) Citizens Against Rape and Domestic Violence in Sioux Falls, (2) Women in Crisis Coalition in Spearfish, (3) Women Against Violence in Rapid City, (4) Women's Resource Center in Watertown, (5) Women's Center/Shelter in Yankton, and (6) Sacred Shawl Women's Society on the Pine Ridge reservation. Again, although Native women utilized the programs throughout the state, the boards and staff of these organizations were fairly unintegrated with only Sacred Shawl Women's Society being run by Native women.

In order to address the minimal representation of Native women, the steering committee proposed that a board of 15 members with direct representation of programs direct the Coalition as follows:

- 5 East Missouri River Board Members
- 5 West Missouri River Board Members

- 5 Indian Board Members
 - 1 Urban
 - 2 East Missouri River Reservation
 - 2 West Missouri River Reservation¹²

Despite this attempt at parallel development and participation from both Native and non-Native communities within the Coalition and because Native women were only at the forefront of the two *reservation* programs that existed in the state at the time, the goals of the steering committee were simply that – goals. In the early years of the Coalition, domestic violence programs statewide were so heavily dominated by non-Native women that the spots reserved for Native women often remained unfilled. Activist Karen Artichoker reflects on this issue: "Being outnumbered and not having other Native women participate really did influence other Indian women not getting involved in those early years." She describes a conversation she had with another Native woman Bernice Stone and recalls, "It's always stayed with me and made me feel bad at the moment and still makes me feel bad. The statement she made was that she felt inferior being in a room full of white people. She said, 'I don't know if I just haven't gotten over some boarding school stuff or my life or whatever....but I always just think that white people are going to look at me and think I'm not smart or whatever.'"¹³ Thus, despite Black Bear's foundational role within the birth of the Coalition, it didn't take long for Native women to realize that the makeup of the Coalition primarily represented Anglo women and their interests.

Meanwhile, a decision was made to incorporate under the name of the South Dakota Coalition Against Domestic Violence, Inc. By-laws and articles of incorporation were drawn up, reviewed first by the steering committee, and then mailed to all Coalition members for comments and voting. The steering committee met again on July 30, 1978 at Sioux Falls College and at that time they finalized all proposals for organizational structure, by-laws and articles of

incorporation. In September 1978, Black Bear, Joyce Abraham and Charlotte Schwab incorporated the South Dakota Coalition.¹⁴

Simultaneously, the NCADV was emerging and although Native women were extremely underrepresented in the make-up of that Coalition as well, they were crucial in its development. In August 1978, sleeping in borrowed National Guard tents, 28 women from all over the country camped out on the Rosebud reservation at Black Bear's invitation for another organizing meeting. Black Bear comments on her motivation for this work: "In the mid '70s, I owned my own home, had 2 young daughters, a master's degree in counseling and a good job at a local university. I had it all, but I still got involved in a battering relationship."¹⁵

Over the next few years, members of the South Dakota Coalition worked feverishly to network and make changes on the local, national, and international level. In March 1979, the interim Board of Directors of the Coalition met in Pierre at a meeting of the Commission on the Status of Women where Black Bear was invited to testify.¹⁶ During that same year, Jane Thompson (a founder of Women Against Violence in Rapid City) brought Erin Pizzey, considered the founder of the modern women's shelter movement in England and author of *Scream Quietly or the Neighbors Will Hear*, to Rapid City as a speaker for the South Dakota community. At the time of her presentation in Rapid City, her book was the only resource available on the topic of battered women and her visit was widely attended by members of the Coalition.¹⁷

In December 1979, the Coalition met again and discussed the need to change their by-laws so that they utilized non-sexist language. They also decided to lobby the legislature for the first time. The two issues they focused on were funding for the local programs and a reporting bill to gather concrete data to determine the incidence of battering in the state. The total

Coalition budget for lobbying costs was only \$100 though so they were only able to reimburse lobbyists at the rate of ten cents per mile.¹⁸ Despite the lack of resources and the severe South Dakota weather that occurs during the January-March legislative session, many women took their turns as lobbyists.

The difficulties of working through the South Dakota legislature extended far beyond weather conditions and economic strain, however, and this became poignantly clear in March of 1980 when the legislative session ended. The Coalition's reporting bill passed both the House and the Senate but was vetoed by Governor Janklow who stated that he could not support the bill because the language protected the rights of unmarried people and homosexuals. According to Janklow, the legislature did not intend to protect the rights of these groups. Additionally, the Coalition's funding bill, totaling \$25,000, passed in the House but was killed in the Senate Judiciary Committee where even one of the few female legislators in South Dakota at the time cast a dissenting vote.¹⁹

Thus when the coalition reconvened in April and June 1980, the main topic of discussion was the need to build a broader base of economic and societal support. They recognized they had to have more political clout and that increased awareness might help them achieve this. In addition to identifying potential new funding sources, the coalition conducted a panel of legislators who presented lobbying techniques and then decided to introduce two more bills to the January 1981 session. One initiative requested restraining orders for batterers and the other would increase the marriage license fee as a resource for Coalition member programs despite the fact that many Native women were dissatisfied with the marriage license legislation. As marriage license fees in rural counties and on reservations never resulted in a significant amount of money, Artichoker comments, "I remember raising that issue, how is that going to benefit

development in Indian communities?"²⁰ She adds that because of such irrelevancy, the few Native women involved in the Coalition at the time "didn't feel invested or engaged."²¹ The Coalition decided to move forward with both bills regardless of these concerns. The restraining order bill passed both the Senate and House but was vetoed by Governor Janklow and the Marriage License bill failed.²² After this second unsuccessful attempt at passing legislation, the Coalition experienced what many remember as a "down period."

The tide began to turn in 1983, however, when the Coalition again lobbied for protection orders and the marriage license fee increase. In February 1983 the marriage license fee increase to fund local battered women programs finally passed the legislature and was signed by the Governor. The Domestic Violence Protection Order bill failed that year but became law in March 1984.²³ Over the next few years advancements continued to be made as funding became more accessible when both Family Violence Prevention and Services Act and Victims of Crime Act monies became available in South Dakota and Governor Janklow was replaced with Governor Mickelson.²⁴

During these early years of the Coalition, however, other than a few key players, Native women continued to hold marginalized positions and were severely underrepresented. Artichoker recollects: "Tillie gets things started, they laid some foundation, but there aren't any number of Indian women involved to really begin building something."²⁵ In September of 1984, Charlene Lapointe, director at White Buffalo Calf Woman Society at the time, presented a workshop to the Coalition on the special needs of Native women but this effort did little to alter the dynamics within the Coalition. Artichoker remembers begging Native women to attend the meetings with her but receiving negative responses: "Every Indian woman I talked to would say

almost the same thing. 'I don't wanna go to that! I know what it's gonna be. I'll have to sit there with those white women.'"²⁶

In 1985, advocate and indigenous ally Carol Maicki moved to South Dakota from Wyoming where she had been the state program manager for family violence and sexual assault within the Wyoming Department of Health and Social Services. She was also a founder of the first rape crisis center in Wyoming. In 1987, she joined the Board of Directors of Women Against Violence in Rapid City where Artichoker had just finished her term. She became Interim Director of the program and, thus, attended her first Coalition meeting in Sioux Falls. As early as her first meeting, she experienced a taste of the divisions that existed between Native and non-Native women involved in the work when she observed even the spatial divisions of women within the room: "I remember [my first Coalition meeting] was at the YWCA and around the table sat about 30 white women. In the corner, apart from the table sat 6 Native women, one of whom was Tillie Black Bear. It looked strange to me so I asked why they sat apart. The answer I was given by one of the white women was that was the way the Native women 'liked it.' She said they liked to be by themselves. This picture stayed in my mind because it was upsetting and I didn't understand it."²⁷

At the Coalition meeting in February of 1987, when the South Dakota Coalition Against Domestic Violence added "Sexual Assault" to their name, a major overhaul of the by-laws was proposed to change the structure of the organization and the NCADV's principles of unity and mission statement were adopted.²⁸ This process took several months, though, because there was not complete agreement on whether or not these changes should be made. In her recollection of adopting the principles of unity and mission statement, Pearl Gulbranson, Outreach Specialist for the coalition, tells us, "The root cause of violence was identified as oppression, including racism,

sexism, classism, all of the 'isms and there were people that, members of the coalition that, really did think that it was still about alcoholism and some kind of innate individual characteristic about ourselves that causes violence."²⁹ Black Bear inserts that some of the Anglo members "were like, we just want to provide services to battered women. We don't want to deal with racism or any of these other issues."³⁰ Gulbranson adds, "It was getting scary because they [the non-Native women] were losing their power."³¹

In January of 1988 the Coalition contracted with Maicki to become their first statewide coordinator,³² and in June the Coalition celebrated their tenth anniversary. Twenty-six programs were represented as were state and national legislators, judges, prosecutors, men against violence and community people. Maicki immediately set to work writing grant applications for the Coalition. Many were approved and the U.S. Justice Department even granted \$95,000 to the Coalition to conduct a national conference titled "Indian Nations: Justice for Victims of Crime." Artichoker was contracted to assist Maicki in planning and implementing this huge project. The conference was a success and became an annual event for the Department of Justice.³³ Shortly thereafter, in 1989, the Coalition hired Artichoker to co-coordinate with Maicki.³⁴

Tension Builds

In 1988, Black Bear was the first woman of color to be elected Chair of the NCADV. It was during this time that she brought elements of the NCADV's way of conducting meetings to South Dakota. For example, in order to become more inclusive and to give all women skills, it was decided that new or inexperienced members would share the facilitator's job with "older" members. Additionally, a modified consensus model, which the NCADV had been using since its inception, was adopted by the SDCADVSA.³⁵ Prior to this moment, the South Dakota Coalition had been using Robert's Rules of Order where the majority vote conducts business.

Black Bear recalls: "You have to keep in mind where we were at...the state of South Dakota, it was isolated and the women doing the work were pretty isolated and this is what we knew...I served on boards at home and it was all Robert's. I wasn't always comfortable with it, but that was the way decisions were made, until we saw a different way to do it."³⁶

The modified consensus model drastically changed the meeting procedures. Any member could offer a proposal to the group. A discussion then followed with clarifying questions. Lastly, the group would be asked to make a decision. Members could: (1) sit in "silence" which meant agreement with the proposal, (2) "stand aside" which meant the member was not in total agreement but would actively support the group's decision, or (3) "block" which meant that the member could not agree with the proposal in its present form. Any block could stop the process. If a member blocked, the only course of action was to offer a new proposal.³⁷

This new decision-making system allowed for all members to have a say but, more importantly, it guaranteed that a small majority could not impose their will on the rest of the group. There were problems in making this transition, though, because, for the first time, women had to be accountable for their votes as individuals. Additionally, modified consensus gave power to the Native women in the Coalition that they had not previously held. Artichoker explains: "There were, at that time, 22 members. I said, 'Even if every reservation sent an Indian woman [as a representative member], that means 9.' I said, 'We cannot outvote you. Your voter bloc could stop any Indian woman from getting into any position of leadership if you so choose. If Indian women get into positions of leadership, it's because you're allowing it. You're being benefactors...you're being, whatever! But if we go to consensus we all have to agree.'³⁸ Artichoker also recalls a conversation she had with a non-Native member of the Coalition soon after the move to modified consensus was made: "I'm on the phone saying, 'Just think Sherry,

the whole executive committee could be Indian women.'...She was sort of okay with me and then she called Carol and said, 'Oh my god! The Indians are taking over!'"³⁹ Thus, even though the white women in the Coalition reluctantly agreed to the modified consensus model, it didn't take long for them to figure out that a shift in power could occur when the model was actually put into practice.

Native women remember the resistance they were met with during one of the first meetings where consensus was used and a Native woman was elected to a significant position in the Coalition. Again, the Native women sat separate from the white women, visibly illustrating the tension in Coalition dynamics. Artichoker recounts the comments from one of the white women during the election process: "Well, I just don't understand how somebody new to the coalition could really do that job because when I think of the executive committee, I always think of the smartest people in the organization and they are the people who I am going to call if I need to know something and if you are just starting, I don't see how you could know anything."⁴⁰ As the participation of many Native women was relatively new to the Coalition, this comment was perceived by many of the Native women involved as a racist attack. No one addressed this issue to the whole group though and the meeting continued. Moments later, however, Native woman April Fallis leaned over to Artichoker and quietly articulated her anger, "We should just leave and start our own [coalition]!" This exclamation prompted Artichoker to interrupt the proceedings and attempt to explain the need for tolerance and racial equality to the non-Natives in the room.

As soon as Artichoker sat down, Maicki rose and exclaimed: "Shame on me, shame on me, shame on me....here's my beautiful little friend Karen and she's standing up there lips quivering....It should have been me standing up there and saying something and not her. I'm so

sorry Karen."⁴¹ At that point, she turned to the white women in the room and began talking about racism and feminism. She asserted that racism was a white peoples problem and that whites should actually be the ones catching each other on their use of it. Artichoker remembers all of the Native women in the room saying, "Wow, wow, wow,"⁴² because their needs were finally being addressed by a non-Native in the Coalition.

Unfortunately, Maicki and Artichoker's attempts to dislodge the racism that was operating within the Coalition didn't make a significant impact on group dynamics. When Black Bear brought another innovation from her experience with the NCADV, the women of color task force,⁴³ the white women again expressed resistance and hostility. The women of color task force could bring proposals to the SDCADVSA as a group and they were charged with making the decision for hiring one of the two co-coordinators. This was to assure that at least one co-coordinator would either be a Native woman or have to be approved by the women of color task force. Additionally, the women of color task force had the authority to stop the proceedings of a meeting at any time to caucus.⁴⁴

Again, everyone seemed to be in agreement in patterning the SDCADVSA after the NCADV when Black Bear first proposed the task force, but the first time the women of color task force exercised their right to stop the proceedings and caucus, there was discomfort and resentment. Maicki recalls that when the Native women left the room to caucus, "there was silence and finally one non-Native woman remarked, "Well, they have their group, but where is mine?" As she looked around the room and found they were all white women, the humor of what she said was obvious to all."⁴⁵ Resistance to the concept of inclusivity and to the new reality of having Native women "at the table" became a smoldering undercurrent that would eventually split the Coalition into two separate entities.

Another task the Coalition undertook around this time was to assess “underserved” women in South Dakota. They determined there were two areas in the state where women were at high risk because of lack of services and shelters: the Pine Ridge reservation (primarily rural Native women) and northern Meade County (primarily rural white women.) Co-coordinators, Artichoker and Maicki began searching for foundations that would be willing to grant money for start-up activities in these areas. Under its health initiative, the Robert Wood Johnson foundation carved out monies for projects that involved Native Americans and health issues. Artichoker wrote a proposal and was successful in being approved for a three-year grant to start up a project on Pine Ridge. It was named Project Medicine Wheel and the Coalition was the fiscal agent for the grant.⁴⁶

Because Artichoker was an enrolled member of the Oglala Sioux Nation, the executive committee of the Coalition decided that she would oversee the project because it would not be appropriate or realistic for a non-Native to impose a program on a Native Nation. This duty was also in keeping with her job description that included providing technical assistance for all of the emerging programs on Indian reservations in the state. Artichoker designed Project Medicine Wheel so that the focus was a total community response to violence against women. She hired staff and monitored them. The Robert Wood Johnson foundation monitored the project's progress and Maria Russell, the non-Native coalition treasurer, administered and monitored the funds. Perhaps unsurprisingly, the development of this project too increased racial tensions within the Coalition. Ally Ro Ann Redlin remembers a non-Indian Coalition member commenting, "I don't know if we should let those Indian women handle all that money."⁴⁷ Gulbranson elaborates on this memory and talks about all of "the squirming and the ugliness" that occurred when the vote

to administer the grant took place: "We couldn't say that vote out loud. We had to do it ballot. That's how uncomfortable people were."⁴⁸

The conflicted relations between Natives and non-Natives that were building inside the Coalition mirrored events that were occurring on the larger South Dakota landscape. In 1990, advocate and social justice activist Charon Asetoyer and others began looking for a location in Lake Andes where The Native American Women's Health Education Resource Center⁴⁹ could open a shelter. In their attempts to find an appropriate place, a situation developed that would only add to the smoldering resistance of white members within the Coalition who were not comfortable with the emerging leadership of Native women.

The mayor of Lake Andes had previously asked Asetoyer to contact him if the Resource Center ever decided to expand its organization. When the women found a location for the shelter, Asetoyer informed him that they had purchased the house next door to the Resource Center. Shortly after this exchange, Asetoyer was contacted by the City Council and told that she needed a zoning variance for the location that was chosen. A little concerned, she asked other members from the Coalition and her staff to attend the zoning hearing with her.⁵⁰ Coincidentally, a year prior to these events Asetoyer had been featured in *Mother Jones* magazine.⁵¹ After this press, Joni, a woman from the east coast, had contacted Asetoyer and asked to collect video footage for a possible film. The night of the City Council meeting, this woman and her video camera too were in attendance.

When the women entered the meeting, the room was crowded with people and one of the zoning commissioners asked Joni not to videotape the proceedings. Joni turned her camera to the floor but left it on so that the audio could still be recorded.⁵² During that meeting, racial tensions reached their peak when states attorney Mike Whalen stood and announced: "Indian

culture as I view it, is presently so mongrelized as to be a mix of dependency on the federal government and a primitive society wholly on the outside of the mainstream of Western civilization and thought. The Native American culture as we know it now, not as it formerly existed, is a culture of hopelessness, godlessness, of joblessness and lawlessness.”⁵³ Needless to say, the Resource Center was denied the zoning permit.⁵⁴ Asetoyer reflects on this moment: “We were in a state of shock. We couldn’t believe the blatant racism – the states attorney was really supposed to be working with groups that are trying to protect victims of crime, and as we know [women] fleeing from domestic violence and sexual assault are victims of crime. Instead he was doing everything he could to prevent a facility from opening up in Lake Andes.”⁵⁵

After this event, Asetoyer contacted the Center for Constitutional Rights and the Yankton Sioux Tribe organized a march down Main Street in protest of the racist atmosphere in the city. To respond to a member program’s distress and to show support, the executive committee of the Coalition, at the request of Black Bear, decided to hold the quarterly meeting in Lake Andes. They also decided to include a discussion of the remarks made by Mike Whalen on the agenda. Asetoyer recalls that there was obvious resentment from some of the non-Native women in the Coalition and comments that concerns over racism seemed to trump the commitment to ending violence against women.⁵⁶

As the Yankton Sioux march in Lake Andes approached, a letter was written to Coalition Chairperson, Shari Aaker-Gilchrist, by Bradley Olson (Chairperson of a local shelter program in Yankton). In his letter he objected to the proposed agenda because, “Although we empathize with the stand of Native Americans against the statement made by States Attorney, Mike Whalen, we feel the focus of the current agenda would be centered around this issue and not be beneficial or productive toward the common goal of addressing domestic violence. Therefore, it

is the decision of our Board that the Yankton Women's Center/Shelter not be officially represented at the September meeting."⁵⁷ This letter foreshadowed the rhetoric that would be used by white women who objected to the Coalition's growing involvement with what they termed "Indian Issues." They viewed this focus as separate from their work of providing shelter and advocacy to victims of violence despite the fact that the women in Lake Andes were denied shelter accommodations *precisely* because they were Native women.

The meeting was held in Lake Andes as scheduled and the Yankton program's letter became an agenda topic. The executive committee tasked Artichoker with responding to Olson's letter, which she did on October 5, 1990. She wrote:

Mr. Whalen publicly stated that the Native American Women's Health Education Resource Center, a member organization of the South Dakota Coalition, 'promotes evil.' While this remark referenced Indian culture, it would be irresponsible of us to allow a public official to make such disparaging and racist comments about a member organization of the Coalition. It would also be disrespectful to ignore blatant racism especially when battered women and children of color are the vehicle being used to promote racism."⁵⁸

She went on to say, "Domestic violence is an issue of oppression in our society" and the mission of the Coalition is to confront it as such despite the fact that "many shelters/programs in our state have difficulty making the connection between providing direct services to battered women and the need for social change on a more global scale."⁵⁹ Artichoker ended the letter by saying, "In turn, the coalition is available to support the Yankton Women's Shelter/Center should you find yourselves facing a Mike Whalen who has power over you."⁶⁰

The letter from the Yankton program is only one example of the many complaints non-Native boards and directors around the state launched when the direction of the Coalition began to shift. Even though the SDCADVSA's goals and mission were in sync with those of the NCADV, the new approach was upsetting for many white South Dakotans. Maicki explains,

"Some of the resistance by the white women came about because of the changes they were experiencing. For some, being on the 'side' of Native people was a new and frightening experience because it felt unsafe."⁶¹

One of the non-Native women who participated in the Lake Andes march was so traumatized she needed many hours of discussion to come to terms with how she felt. She said:

All my life, I've lived here in South Dakota and never did I have any contact with Native people until I came to the shelter escaping my batterer husband. Now that I'm free of that relationship and am actually working in a shelter, I was feeling proud of myself and what I had accomplished until that day in Lake Andes. I couldn't understand the pure hatred on the faces of white people like me as we walked past them. I couldn't believe that people like me could look at me like that. They saw me as one of them – as one of the Indians! It threw me into a crisis that lasted for weeks. That night, I desperately phoned people from my motel room to talk about it. I spent the night sleepless and crying.⁶²

Advocate Brenda Hill recalls the reactions of the white women who participated in the march similarly:

I remember how surprised I was at how fearful many of the white women were. Some of them were talking about leaving and it occurred to me that as Native women, as women in general, we're used to having to listen for footsteps and all of that, but for Native women, we're used to the idea that we can be hurt because of our....being Indian anytime just as well.⁶³

Asetoyer adds, "I do remember that there were women who were talking about leaving and I was kind of like in a state of shock because this was all over a group of women trying to open up a shelter....I just couldn't understand what their concern was....their fear."⁶⁴ To help address these issues, allies Penny Hauffe and Gulbranson initiated a white women working against racism committee at the Lake Andes meeting but this too was met with dread and resistance.⁶⁵ Gulbranson remembers white women in the Coalition asking, "What do you mean white women working against racism? All of us?"⁶⁶

Similar reactions surfaced at a board meeting of the member organization Women Against Violence in Rapid City. When Director Frances Hitzel reported on her attendance at the

quarterly meeting held in Lake Andes, she explained the development of the women of color task force and the white women working against racism working group. The board members were not only upset with her recap of the meeting, but most were furious. They simply could not understand why racism needed to be addressed when all programs were doing the same thing – providing safety to battered women. It should be noted here that the Board of WAVI consisted of nine members, all of whom were non-Native. Their shelter was almost always filled to capacity and the majority of women sheltered were Native battered women.⁶⁷

Maicki remembers that the difference between individual acts of racism and institutionalized racism was very difficult for some of the white women to understand. She asserts, "A typical comment from a white person was that they, themselves, were good-hearted people without any evil intentions to do harm to minorities so why should they be accused of colluding with oppressors from the past?"⁶⁸ Nevertheless, training programs were developed and, albeit hesitantly, some members began to read and educate themselves about racism.⁶⁹ For example, Maicki recalls that one shelter director went to a workshop and the main thing she came away with was that even though she, herself, did not operate in a racist way, the very fact that she was born and raised in a community that had institutionalized racism meant she couldn't help but have racist thoughts and opinions. She embraced this concept because it explained a lot to her about the way she thought about herself in comparison to Native people. She remembered that when she was a resident in a shelter that had Native women as staff, she had thought to herself, "what can that Indian woman possibly help me with?"⁷⁰

The Walkout

Despite the diversity trainings and efforts of some member organizations to directly address and remedy the racism operating within the Coalition, unrest still permeated the air. For example, Native women had begun making complaints regarding the services and attitudes at some of the non-Native shelters they had utilized. Hill recalls a story a Native woman had told her regarding her experiences:

She said that one of the white women residents had said something to her like 'her dirty Indian kids' and she should just go back to the reservation....the Native woman told one of the advocates and the advocates said they needed to sit down and work it out, you know. And they weren't allowed to use sage and it just got worse and worse and worse 'til one woman told me, 'Well I had been there once and I'd rather sleep under a bush than stay in the Aberdeen shelter!'⁷¹

It was right around this time that some of the non-Native programs began to hold secret meetings apart from the quarterly meetings of the Coalition. On March 7, 1991, seven women, all Directors of non-Native programs met in Sioux Falls to “discuss concerns in the direction of the Coalition.”⁷² This meeting resulted in a list of concerns that was “anonymously” sent to Coalition Chair Aaker-Gilchrist on March 8, 1991. The participating member organizations listed eight major concerns along with “resolution ideas” to be considered by the executive committee and the membership. Prominent among these concerns were utilizing consensus format in place of Robert’s Rules of Order, the implementation of co-chairs rather than one chairperson, and the management of Project Medicine Wheel. Notably, these concerns challenged Native leadership and Native management of funds. For example, in regards to Project Medicine Wheel, it was suggested that the executive committee of the Coalition review the policy manual, financial records, and overall management of the project to ensure that it was being conducted according to the grant that funded it.

On March 15, the executive committee met in Redfield to respond to this list of concerns. They reminded the Coalition that all by-laws, including consensus format and the

implementation of co-chairs, had been agreed upon by the membership as a whole. They also reminded members of the processes that needed to be followed in order to change these by-laws. Additionally, they responded that both Chairperson Aaker-Gilchrist and Treasurer Russell oversaw the execution of Project Medicine Wheel.⁷³

Hill took exception to the executive committee's acknowledgment of the list of concerns from anonymous "members of the coalition"⁷⁴ and sent a response letter to all Coalition programs. In this document she argues, "That the executive committee acknowledged and thereby condoned the clandestine meeting in Sioux Falls is an affront to all Native American programs and others who understand that racism is as lethal as sexism."⁷⁵ She went on to make the connections between batterers' tactics and the "nameless, faceless people" at the Sioux Falls meeting who refused to utilize the names of the Native members whose programs they suggested be placed under review:

Batterers rarely use their victim's name. Our coordinator's name is Karen Artichoker. The policy manual was written by Marlin Mousseau [not Marlin Russow]. As Native people we do have names and identities. We do have voices and will not be discounted. But of course, it is easier to do violence, once the "enemy" has been dehumanized.⁷⁶

Additionally, she asserts, "The gross misinterpretation of sharing leadership is a great example of racism. Native women shouldn't/can't be leaders; we're supposed to shut-up and sit in back of the bus; quit being so uppity and stay on the reservation. White women only as 'leaders,' is that what they want?"⁷⁷ Hill ends the letter by exclaiming that the Native women of the Coalition will not be submissive: "We are standing up, voicing our rights in a direct, open and ethical way. We will not submit to racism. You can be sure that as Native women continue to assume our rightful role in Coalition leadership, we will treat everyone with the respect and dignity they have earned and deserve."⁷⁸

The Coalition then received word that the Division of Human Rights within the Department of Commerce had contacted the Community Block Grant Program, a federal funding program, because the Director had received an “anonymous” phone call complaining that committees within the Coalition were excluding people upon the basis of race and sex. It was specifically in response to this complaint that the women of color task force requested a special meeting to consider a statement they would distribute to the group. In April 1991, 24 member programs of the Coalition convened a special meeting at the Asbury United Methodist Church in Sioux Falls to consider and respond to the women of color task force statement of concern. The Coalition had requested that Senator Maicki return to facilitate the meeting and it had been decided that the women of color task force would present their statement of concern and then leave the meeting so the white women could discuss the statement. After this, the Native women would return so decisions could be made.⁷⁹

The night before the meeting, Maicki was in her motel room when she had a visit from a non-Native member who expressed that she felt the situation within the Coalition was hopeless and that some of the white programs were determined to leave the Coalition and form another group. Maicki asked the visitor to come to the next day's meeting with an open mind and to put the needs of the entire group above individual interests. The visitor said she would try but that she was not optimistic.⁸⁰

The next morning member programs assembled for the meeting. The women of color task force handed out their statement. To start the meeting, task force Chair Black Bear offered a prayer in her Lakota language and then the Native women left the building and said they would return in two hours. Maicki suggested that everyone take the time to read the statement drawn up by the task force before she led them through the issues one by one. Before this could happen,

a woman voiced her objection to the prayer offered by Black Bear. She said, “That’s rude. Why couldn’t she translate the prayer into English?” while another woman inquired as to why a Christian prayer was not offered in addition to the one in Lakota.⁸¹

The prayer served as a catalyst for the non-Native women to bring up every complaint they had about the Native women. There were some objections to these complaints and the discussion became heated because not all of the white women were in agreement. One member asked why the prayer had been so disturbing. Another offered that perhaps English wasn’t God’s first language. The discussion and complaints continued for the entire two hours. When the Native women returned, they were told the statement had not yet been considered so they left for two more hours during which Maicki moved the discussion toward considering the women of color task force’s 5 page statement of concern.⁸²

In its introduction, the statement named the recent activities within the Coalition as acts of racism. It presented an analysis of racism, linking the dynamics of racism to the dynamics of sexism, so there might be common ground to begin rebuilding the Coalition into a strong, multi-cultural organization that represents diversity and provides a voice for *all* battered women and their children.⁸³

The letter also called for an examination of power and privilege within the Coalition and acknowledged the gestures that had been made to address these imbalances:

The privileged group must be willing to give up the privilege that comes with belonging to a certain group. You outnumber us. That is the reality of the Coalition. With parliamentary procedure, the voices of women of color were moot – lost. A majority vote decision-making process renders women of color powerless within this organization. It would be your privilege and with your benevolence that the voices of women of color would be heard. Your willingness to move to a consensus model of decision making – thus giving up some of your privilege was heartening to us. It indicated that you truly did want us to feel that the Coalition was an organization that we could feel invested in and a part of. In a racially mixed organization, this is indeed a rare experience for us.⁸⁴

However, the statement continued, "You have now come face to face with your loss of privilege" and "We see individuals defending the status quo of their shelters/programs. It is obvious that the Coalition does not yet have a 'collective consciousness.'"⁸⁵

The statement then enumerated the problems within the Coalition as the women of color task force perceived them. First and foremost, they believed that problems were surfacing because of lack of leadership and they request that Chairperson Aaker-Gilchrist resign her position. Five additional concerns were then set forth:⁸⁶

1. In regards to the anonymous person that contacted the Division of Human Rights, it was demanded that the person who made this call "must be identified and held accountable for this subversive activity. They must either be censured or removed from this organization."
2. They ask for clarification on relationships between the executive committee, staff/contract consultants, and committee members so that misuse of committee power does not occur. They suggest this can be addressed through by-laws and in-house policy.
3. It is suggested that an orientation packet be developed for all new members so that the philosophy that guides the Coalition is clear.
4. They recommend a retreat designed to provide information and time for extensive dialogue on the connections between racism, classism, homophobia, etc. and domestic violence in order to develop a common understanding and language.
5. They ask for a policy on ethical communication, asserting that it is not acceptable for white women to use the excuse of safety or female socialization as a reason for holding selective and exclusive meetings.

The statement ends with the desire that white women be strong and courageous and take risks – exactly as battered women are asked to have the courage to plunge into the unknown when they leave violent relationships. The task force also firmly states they will not withdraw from the organization and they anticipate a new and stronger future – as sisters.⁸⁷

Under the facilitation of Maicki, the white women moved through the issues contained in the statement. Aaker-Gilchrist refused to resign. No one in the room would identify herself as the person making the anonymous complaint to the Division of Human Rights. The body agreed

to all other issues, although not unanimously. Some women chose to “stand aside” indicating they were not in total agreement but that they did agree not to block the adoption of the other task force suggestions. The women of color task force returned and were told about the decisions made.⁸⁸ Unfortunately, though, little was truly resolved because what followed was a dismemberment of the Coalition as it existed at the time.

On July 3, 1991 (less than three months after the Coalition meeting addressing the women of color task force's statement) a letter on behalf of the same seven non-Native programs who had held secret meetings was sent to the Department of Commerce that disbursed state funds to the Coalition. In this letter, the seven organizations first thanked state officials for having met with them and then asserted that they chose to no longer participate in the SDCADVSA. Among the reasons given for this decision were the following:

- The Coalition no longer addresses domestic violence and sexual assault.
- There is no cohesiveness between programs. Meetings address issues such as Wounded Knee and White Buffalo Calf Woman Society, which are individual and community issues that have no bearing on the mission of the Coalition.
- The Coalition has reported training that never happened and was reimbursed from state funds.
- An audit is overdue and Coalition meeting minutes are not available.

Lastly, the letter ends with the seven organizations asserting they are "committed to providing safety and shelter from **any** form of battering" yet find themselves "in a unique position of being victims" in Coalition meetings and proceedings.⁸⁹ They add, "Learned behavior is applicable throughout society. It is no respecter of race, religion, color, ethnic background, age or social standing. We choose to not continue in a disruptive, embroiled environment."⁹⁰

A letter of response was sent from the Coalition to the resigning programs. The letter expresses regret at the resignation but also notes concern "that no grievances or formal discussion was brought forth beforehand."⁹¹ "Nevertheless," the letter continues, "the door of the Coalition remains open should you decide to 'carefront' these issues or rejoin in the future."⁹²

After their resignation from the Coalition, the seven programs created the South Dakota Network Against Family Violence and Sexual Assault. The Network was immediately supported by the State of South Dakota and the Coalition's state funding was essentially cut in half to accommodate the Network. The situation today remains the same. The Coalition still has a diverse membership that includes programs located in Indian Country in addition to "white" programs located off-reservation. The Network is exclusive with no members located in Indian Country. The Network continues to challenge state and federal funding sources to fund their organization instead of the original Coalition. Despite the fact that the federal government recognizes the original Coalition as the designated Coalition in South Dakota, the state government continues to support and advocate for the Network in the interest of "fairness."⁹³ Asetoyer articulates the sentiments of many Native women who witnessed the walkout when she says:

You know, what has always puzzled me to this day is that the split between the Coalition and the formation of the Network was based on race....Rather than the state saying, 'You all have to work this out and move forward together,' they went and rewarded the racists by funding them and subsidizing them! That is something we can't overlook!....I mean it was a contributing factor to the racism and it made them safe to be racist.⁹⁴

Conclusion

As I suggested in the introduction to this chapter, the indigenized account of the SDCADVSA that I have provided above directly refutes mainstream efforts to marginalize and disappear Native women from genealogies of anti-violence organizing. Native women, Native

lands, and Native concerns *have been and continue to be* central to anti-violence mobilization. An acknowledgement of this reality is critical in ongoing efforts to halt violence against Native women because it balances the pathologization of Native women as victims of violence with a record of the mobilization and survivance Native women have surmounted against said violence. Likewise, this indigenized retelling decenters mainstream colonial narrations of a monolithic anti-violence movement that, at best, marginalizes Native women and, at worst, attempts to “include” women of color in a superficial and subordinating manner that further strengthens white supremacy and violence.⁹⁵

In addition to righing our understanding of the anti-violence movement, this counter-narrative also expands our knowledge of the intricacies and intersections of settler colonialism and heteropatriarchy which do not have to manifest as genocide proper in order to be recognized as genocidal practice. For example, it becomes increasingly clear throughout the development of the Coalition that although the non-Native membership professed commitment to both Native and non-Native concerns, white supremacist practices and ideologies were ultimately privileged. Non-Native members within the Coalition might have made a show of renouncing their power with actions such as the move to modified consensus and the adoption of the NCADV’s mission statement and principles of unity, but when the power balance within the Coalition actually began to shift, these same members demonstrated an inability or refusal to work with an anti-colonialist framework. They were willing to “include” Native women in the Coalition but only if the Natives sat quietly in the back of the room and white supremacy dictated the terms of their conversations and mobilizations. Furthermore, they sincerely expected Native women to remain silent about the Coalition decisions and viewpoints that actually contribute to violence against Native women. When Native women refused this role, the non-Native members responded by

abandoning the Coalition and creating an exclusively non-Native organization that eliminates Native concerns, Native members, and ultimately, attention to violence against Native women. This is poignantly demonstrative of Linda Tuhiwai Smith's assertion that the forms, manifestations, and executors of settler colonialism can range from "rapacious bandit kings' intent on exploitation to well-meaning middle class liberals intent on salvation."⁹⁶ Furthermore, it illustrates the significance of "charting the continuities, discontinuities, adjustments, and departures whereby a logic that initially informed frontier killing transmutes into different modalities, discourses and institutional formations as it undergirds the historical development and complexification of settler society."⁹⁷ In other words, the racism and hatred sanctioned within the SDCADVSA and then reaffirmed through the creation of the Network might *look* different than the frontier homicide of Native peoples but is informed by the same logic and ultimately accomplishes the same goal of eradicating indigeneity.

However, it is also critical to emphasize that Native women never left the SDCADVSA or gave up in their fight to end violence against Native women. Hill reminds us, "We need to recognize and celebrate the fact that we not only survived a time that could have destroyed us, we came through it with not only our dignity intact, but wiser and stronger. We clarified, by test of fire, what our mission is about."⁹⁸ This perseverance is both a testament to the resistance Native women have demonstrated throughout colonization and a building block for the federal legislative efforts I will explore in the following two chapters. For, I would argue, it was the continued and unwavering commitment Native women have demonstrated and the resounding cry against violence they have emitted that eventually prompted the federal government to "address" the incidence of violence against them.

Yet, as I argue in the next two chapters, we must carefully consider the exact form that such attention has taken. For, while we can, and should, acknowledge the foundational importance that Native women have in anti-violence organizing, we must also appreciate the degree to which the work of Native women has been appropriated and transformed *by* the state *in the interests of* the state. For example, in her recollection of the creation of the Network, Asetoyer asserts, "The Network is rewarded. The state funds the Network and rewards them for their racism. It's such a hard pill to swallow. It's so big I'm not gonna swallow it."⁹⁹ But perhaps we should contemplate this pill for a moment, let it roll around on our tongue until we taste its bitterness. For the ways in which the state *strategically* sponsored the white supremacy and heteropatriarchy enacted by the Network yet simultaneously pantomimed efforts to work with indigenous women and against these logics through the Coalition play a key role in maintaining violence against Native women and set the stage for the smoke-and-mirror tactics that became employed in subsequent settler state-initiated "efforts" to halt violence against Native women.

¹ Chris Rock, *Bigger and Backer*, HBO Special, 1999.

² For examples of white-supremacist framings that dominate descriptions of the anti-violence movement, as well as responses to such depictions, see texts such as Natalie Sokoloff and Christina Pratt, eds., *Domestic Violence at the Margins: Readings on Race, Class, Gender, and Culture* (New Brunswick: Rutgers University Press, 2005); Maria Ochoa and Barbara Ige, eds., *Shout Out: Women of Color Respond to Violence* (Emeryville: Seal Press, 2007); and Incite! Women of Color Against Violence, eds., *Color of Violence: The Incite! Anthology* (Cambridge: South End Press, 2006).

³ I utilize these terms as they are conceptualized by Linda Tuhiwai Smith as tools in a decolonizing project that takes seriously the intersections between imperialism, history, and the exclusion or misrepresentation of indigenous voices; see *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Book Ltd, 1999).

⁴ Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8:4 (December 2006): 387-409.

⁵ Ibid., 388.

⁶ White Buffalo Calf Woman Society, *Information Pamphlet* (South Dakota).

⁷ Black Bear recalls that the women had to use the men's restroom because there was not a women's restroom in the entire building.

⁸ SDCADVSA, interview by author, Rapid City, South Dakota, March 2008.

⁹ Commission on the Status of Women, South Dakota Department of Social Services: Division of Human Development Memo, 26 July 1978, Private Collection.

¹⁰ SDCADVSA, Workshop Summaries, July 1978, Private Collection.

¹¹ SDCADVSA, interview.

¹² Steering Committee to SDCADVSA, July 21, 1978, Private Collection.

¹³ SDCADVSA, interview.

¹⁴ Ibid.

¹⁵ Carol Maicki, *From the Beginning*, Private Collection.

¹⁶ Carol Maicki, *Herstory*, Private Collection.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ SDCADVSA, interview.

²¹ Ibid.

²² Maicki, *Herstory*.

²³ Notably, though, the order did not initially protect unmarried people. In order to apply for a protection order, a victim of abuse had to be legally married to the perpetrator. In February of 1988, however, changes were made to the legislation that extended protection to unmarried persons.

²⁴ Maicki, *Herstory*.

²⁵ SDCADVSA, interview.

²⁶ Ibid.

²⁷ Maicki, From the Beginning.

²⁸ Bylaws Revision Committee, Proposed Bylaws Changes of the SDCADVSA, March 24, 1987, Private Collection.

²⁹ SDCADVSA, interview.

³⁰ Ibid.

³¹ Ibid.

³² SDCADVSA, Coordinator for SDCADVSA Contract, February 18, 1988, Private Collection.

³³ Carol Maicki, Annual Report of Co-Coordinator Carol Maicki, June 1, 1989, Private Collection.

³⁴ This legislative response to violence against women motivated Maicki to run for office. Maicki was elected in November of 1990 to the South Dakota Senate and began her term in January of 1991.

³⁵ SDCADVSA, Parallel Development, Private Collection.

³⁶ SDCADVSA, interview.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ As the adoption of task forces (which had more recourses than committees) was intended to bring political equity to disenfranchised groups, the Coalition later went on to approve additional task forces such as the formerly battered women task force, rural women task force, sexual assault task force, and lesbian task force. Also notable is that the Coalition eventually changed

the name of the women of color task force to the Native women of sovereign nations task force in order to highlight issues of colonialism as well as the unique government-to-government relationship Native nations have with the United States. This change too reflects the feeling that Native women in South Dakota had regarding the irrelevancy the term “women of color” has for Native women. SDCADVSA, interview.

⁴⁴ SDCADVSA, Parallel Development.

⁴⁵ Maicki, From the Beginning.

⁴⁶ Karen Artichoker, Report to the Coalition Annual Meeting, June 1, 1989, Private Collection.

⁴⁷ SDCADVSA, interview.

⁴⁸ Ibid.

⁴⁹ Founded in 1985 by Charon Asetoyer, Clarence Rockboy, and Jackie Rouse.

⁵⁰ Charon Asetoyer, interview by author, Lake Andes, South Dakota, March 2008.

⁵¹ Sara Miles, "Asetoyer-Rockboy: One Life at a Time, She Saves a Nation," *Mother Jones*, January 1990.

⁵² Asetoyer, interview.

⁵³ From the original transcript of the zoning hearings from the audio recording Joni was able to capture. For media coverage of Whalen’s comments please see: Patsy Jeltz, “Yankton Sioux Call for Boycott: Racial Slurs Raise Tempest,” *The Lakota Times*, September 11, 1990; Steve Young, “Lake Andes Case Proves Change Due,” *Argus Leader*, September 17, 1990; Bradley Hauff and Creighton Robertson, “Whalen’s Comments Called ‘Grotesque,’” *The Lakota Times*, September 18, 1990; Mike Whalen, “Whalen: Progress is Needed,” *The Daily Republic*, September 20, 1990; Staff, “Protesters Demand Whalen’s Resignation,” *The Lakota Times*, September 25, 1990; David Lias, “Mickelson: Whalen Can’t Be Forced to Resign,” *The Daily Republic*, September 28, 1990; Bob Mercer, “S. Dakota Pioneers a Holiday for Native America,” *The Washington Post*, October 9, 1990.

⁵⁴ Sue Ivey, “Andes Abuse Shelter Plans on Hold for Now,” *Yankton Daily Press & Dakotan*, September 18, 1990.

⁵⁵ Asetoyer, interview.

⁵⁶ Ibid.

⁵⁷ Bradley Olson to Shari Aaker-Gilchrist, 1990, Private Collection.

⁵⁸ Karen Artichoker to Bradley Olsen, October 5, 1990, Private Collection.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Maicki, From the Beginning.

⁶² Ibid.

⁶³ SDCADVSA, interview.

⁶⁴ Asetoyer, interview.

⁶⁵ SDCADVSA, Parallel Development.

⁶⁶ Ibid.

⁶⁷ Maicki, From the Beginning.

⁶⁸ Ibid.

⁶⁹ National Coalition Against Domestic Violence, Follow-Up Report: South Dakota Technical Assistance Visit, February 10, 1990, Private Collection.

⁷⁰ Ibid.

⁷¹ SDCADVSA, interview.

⁷² Maicki, From the Beginning.

⁷³ SDCADVSA Executive Committee to Shelter Programs, March 18, 1991, Private Collection.

⁷⁴ The individual member programs that lodged the list of concerns were not known at the time.

⁷⁵ Brenda Hill to All Coalition Programs, March 25, 1991, Private Collection.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Carol Maicki, Why There Are Two Coalitions in South Dakota, Private Collection.

⁸⁰ Maicki, *From the Beginning*.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ Women of Color Task Force to All Member Organizations of the Coalition, 1991, Private Collection.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ Maicki, *From the Beginning*.

⁸⁹ Resigning Member Programs to Jeff Holden, July 3, 1991, Private Collection.

⁹⁰ *Ibid.*

⁹¹ Deidra Shaw to Resigning Member Programs, July 10, 1991, Private Collection.

⁹² *Ibid.*

⁹³ Maicki, *Why There Are Two Coalitions in South Dakota*.

⁹⁴ Asetoyer, interview.

⁹⁵ Andrea Smith develops the notion that “including” women of color within anti-violence mobilization without actually “centering” them unwittingly contributes to white supremacy because it simply adds a “multicultural” component to anti-violence models that were developed primarily with a white, middle-class experience in mind in “Beyond the Politics of Inclusion: Violence Against Women of Color and Human Rights” *Meridians: Feminism, Race, Transnationalism* 4, no.2 (2004): 120-124.

⁹⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Book Ltd, 1999), 44.

⁹⁷ Wolfe, “Settler Colonialism and the Elimination of the Native.”

⁹⁸ Brenda Hill to author, May 22, 2008, Private Collection.

⁹⁹ Asetoyer, interview.

CHAPTER TWO

(Re) Locating Violence: Title IX of the Violence Against Women Act

In the summer of 2009, my boyfriend Charles took a group of inner-city youth on a road trip from Los Angeles to the Grand Canyon. They were a motley crew of “at-risk” students, primarily Black and Latino, ranging in age from 18-25, enrolled in a charter school and working toward the attainment of their high school diplomas after having been r/ejected from the public school system. Most of them had never been outside of their respective Los Angeles communities, other than serving time in various criminal justice facilities, and none of them had ever seen the Grand Canyon before. The oldest son of a first generation, Mexican-American, single mother, Charles too had grown up in the more impoverished and dangerous streets of Los Angeles and his experiences there eventually motivated him to become the principal of the charter school his students attended. The trip was one of many he had designed to broaden their experiences, possibilities, and minds.

Upon returning from this momentous trip, Charles was excited to recount his travels to me. The Sunday afternoon he arrived home, we relaxed in the living room of his Echo Park apartment when, in all earnesty, he told me he had seen “real Indians” in Arizona. I pressed him to describe what he meant by the phrasing “real Indians” and after a couple of feeble attempts to better articulate himself, he finally answered that they’d been “Indians from the reservation” — the dark-haired, dark-skinned Southwestern-looking Indians of non-Indian fantasies. Although his comment was more familiar than I care to admit, I was sincerely shocked and confused by it. Charles had already been dating me, a Muscogee Creek woman, for a couple of years at the time. He had brought me a stunning white buffalo turquoise pendant from his trip. He had attended powwows and ceremonies with me. He had previously dated another Native woman. And, he

had spent his entire life in Los Angeles, the urban center with the largest population of Native peoples. So why was he so eagerly telling me he had finally encountered “real Indians” in Arizona? What was it about my Muscogee self, visibly steeped in the Native community of Los Angeles despite not wearing regalia to the grocery store, that didn’t seem “real” to him?

It was during this conversation that I realized exactly the pervasiveness of the colonial regime. Don’t get me wrong; I had encountered stereotypical understandings of Nativeness before. I had been asked if I was “sure” I was Indian by a number of people in various contexts. I had also been asked exactly “how much” Indian I was by dozens of friends, strangers, and acquaintances. But never had I imagined that a person I was so intimately connected with, whose politics and experiences so closely resembled mine, who listened intently when I mounted my soapbox of Native indignation, and who supported my political and academic work in Native communities might not actually consider me to be a “real Indian.” Social constructions of Nativeness do run deep.

Furthermore, in this moment I became keenly aware of the extent to which understandings of Nativeness are connected to the politics of place. Yes, my somewhat racially ambiguous physical features probably have something to do with the way in which my boyfriend non-Indianed me that afternoon, but it was my residence in Los Angeles, as opposed to the Navajo or Hualapai reservations he had just passed through, that marked me as less Indian than the Indians he had seen near the Grand Canyon. It was the widespread and overwhelming belief that Native peoples both should and do reside in recognizably designated Native spaces that marked the individuals he had seen in Arizona as more Native than me.

In this chapter, I intend to address the multifaceted ways in which the United States has utilized colonial spatialization to facilitate the biopolitical management of Native peoples.

Informed by feminist, indigenous, and postcolonial geography, this chapter articulates the relationship between space, race, gender, and colonialism as it relates to violence against Native women. In particular, I examine the way in which colonial mapping constructs, naturalizes, and reproduces spatial injustice while simultaneously professing to work against such injustice. To accomplish this, I unpack the ideological and literal violence enacted by Title IX, the Safety for Indian Women Title, of the Violence Against Women Act. I argue that not only does Title IX situate indigenous women in particular locales as more indigenous, and thus more deserving of protection from violence, than others, thus enacting violence against the very population it professes to “save,” but it does so at the very same time that it condemns violence against Native women. That is, like the state of South Dakota “supported” the SDCADVSA (which could in many ways be described as a Native coalition) while it simultaneously sanctioned and rewarded the ethnically-exclusive Network, the federal government purports to address violence against Native women while it simultaneously enacts violence against them. Furthermore, Title IX regulates our understanding of the spatiality (or the geography) of violence. In other words, recalling Edward Soja’s theorization of spatial justice, I urge us to consider *both* the way in which settler colonialism violently shapes our geographies *and* the way in which geographical formations perpetuate and reinscribe the violence of settler colonialism.¹

Reservation Blues

A staple of the North American imagination is that of the Indian reservation. Frequently portrayed as a remote and foreign, yet familiar and knowable, locale, shrouded in mystery and bounded by poverty and alcoholism, the reservation of colonial fashioning has come to represent all things Indian. John Moore argues that the reservation has actually become synonymous with

Nativeness and, as such, Indianness has come to be understood as “something bestowed by the federal government, in some mysterious way, when a reservation is created, and thus something withdrawn when a reservation is dissolved.”² Before we proceed with analyzing the problems of such conceptualizations of the reservation, however, I’d like to spend a few moments describing the institution and its origins.

David Wilkins writes that as of 2005, there were 314 reservations and other restricted and trust lands in the United States.³ The combined acreage of these lands is approximately 100 million, 4% of the total United States land base, and is the land most commonly referred to as “Indian Country.” Historically, the term Indian Country denoted all lands populated by Native peoples, all lands “beyond the frontier,” but contemporarily, Indian Country is defined more specifically as “all the land under the supervision and protection of the federal government that has been set aside primarily for the use of Indians. Federal law defines it, first, as all land within the boundaries of an Indian reservation, whether owned by Indians or non-Indians. Second, it includes all ‘dependent Indian communities’ in the United States. These are lands —pueblos of New Mexico, Oklahoma tribal lands, and California rancherias—previously recognized by other European nations and now by the successor government, the United States, as belonging to the tribes or as a set aside by the federal government for the use and benefit of the Indians.”⁴

Although there were arrangements that resembled what would eventually be called “reservations,” as far back as the early 1700s, it wasn’t until the middle of the nineteenth century that the modern reservation emerged with the Indian Appropriations Act of 1851⁵ which allocated funds for western tribes to be relocated onto reservations. The exact moment at which individual tribes “relinquished” title to certain lands and “reserved” the title of other lands through treaty negotiations and other measures varies from Native nation to Native nation, but by

the end of the nineteenth century, what can be called “the reservation era” was well underway and most Native peoples “were confined, imprisoned on reservations.”⁶ According to Moore, the legal definition of “reservation” most frequently cited is that set forth in the 1901 decision *United States v. Martin* which states “An Indian reservation is a part of the public domain set apart by proper authority for the use and occupation of a tribe of Indians. It may be set apart by treaty, act of Congress, or executive order.”⁷ Significantly, this definition highlights two critical components of the reservation institution: (1) that reservations are created from federal action, as opposed to merely emerging from indigenous homelands and (2) that they are intended for the “use and occupation” of Native peoples but that they are generally owned, or held in trust, by the federal government. Clarifying such distinctions are critical to understanding reservations as settler colonial constructs rather than *indigenous* geopolitical structures. This is not to say that indigenous peoples have not adapted to, altered, or even embraced the institution of the reservation in various contexts, but that contemporary views of reservations as *the* places where Indians reside and where Indianness flourishes must account for the settler colonial logics embedded in this institution.

Arguably, the simplest explanation for the creation and implementation of the reservation system was land clearance and economic exploitation of indigenous land and labor. As settlers demanded increasingly larger tracts of land and pushed further west, the policy of removal became more difficult to actualize and reservations emerged as an alternative to assigning indigenous peoples to remote areas beyond the presence of Euro-Americans. Because settler colonists began to infiltrate and desire *all* indigenous lands, it became necessary to systematically colonize Native peoples on small parcels of land in the midst of non-Indians.⁸ Such geographical arrangements spurred increased efforts at assimilation and the eradication of

the Native. In “An Elusive Institution: The Birth of Indian Reservations in Gold Rush California,” John Findlay makes the compelling argument that, in their design and function, reservations were intended to resemble 19th century “rehabilitative” institutions such as the penitentiary, the insane asylum, and the almshouse.⁹ Described as “solutions to the apparent ills caused by social instability and as models of how people might begin to restore order....reformers touted asylums as special environments in which those regarded as deviant might be isolated, concentrated, and resocialized through discipline and routine, and then integrated anew into the larger world,”¹⁰ and might I add, economic structure. Likewise, reservations were generally trumpeted as places wherein which Native peoples would transition from savagery to civility in preparation for complete assimilation into Euro-American society and workforce. Findlay also argues, however, that it wasn’t long before all asylum-like institutions, reservations included, lost their reformist missions and “became storage bins for society’s outcasts.”¹¹ As this shift began to occur, reservations became increasingly militarized and the goal of managing and retaining Indians replaced that of “protecting” and “rehabilitating” them.

Luana Ross speaks at great length about the technology of confinement advanced by reservations. In *Inventing the Savage: The Social Construction of Native American Criminality*, she positions reservations alongside military forts, boarding schools, orphanages, and jails in order to reveal that “from the time of European contact to the present day, [America’s indigenous people] have been imprisoned in a variety of ways.”¹² For example, in her narration of the racialization and “settlement” of Montana, Ross describes the pass system that was put in place as an instrument to control Native peoples and mobility. This system was implemented once Natives were segregated on reservations and required Natives to obtain legal permission, or

passes, in order to leave the boundaries of the reservation. If Natives were found off of their respective reservations without a pass, they were subjected to vagrancy laws.¹³

The settler colonial logic that justified the restriction and imprisonment of Native peoples grew so powerful that, as Paula Gunn Allen tells us, “off the reservation” eventually became a military and political expression to designate “someone who doesn’t conform to the limits and boundaries of officialdom, who is unpredictable and thus uncontrollable.”¹⁴ Originally, however, the term designated a particular outlaw — an indigenous person who defied the colonially imposed border of the reservation. The consequences of such border crossing were immense and could even result in death: “Those who crossed the set borders were deemed renegades. They were usually hunted down, and most often, summarily shot.”¹⁵ Thus, an institution that had supposedly emerged as a temporary enclave to facilitate the assimilation of Native peoples quickly morphed into a permanent institution stringently committed to the management, regulation, and imprisonment of indigeneity.

It is perhaps not surprising, then, that Native peoples initially welcomed reservations with anger, disdain, and resistance. For example, it has been documented that although the Crow reservation was established in an 1851 treaty, the Crow people traveled beyond those boundaries regularly depending on the season and their needs. In fact, as late as 1882, government officials complained that they were “maintaining an outpost without Indians” because large portions of the Crow people rarely went near the reservation agency.¹⁶ Likewise, Findlay reports that in California “most inmates simply left [the reservation], not just to secure food to supplement their meager diets but also to find a different environment in which they might survive”¹⁷ because the majority of them “looked upon the reservations, rather as a hell than a home.”¹⁸

Putting Indians in Their Place

Keeping both the emergence of and early indigenous responses to the reservation in mind, I'd like to turn toward examining the process through which reservations have become naturalized as the proper and authentic containers of Indianness. In other words, how is it, I ask, that the reservation, a colonial construct, has come to symbolize, represent, and regulate Indian identity and existence? How has the reservation come to be privileged as *the* site of "Indian Country" by both settler colonists and contemporary Native nations? And, what are the implications of such colonially constructed understandings of Native place and identity?

Since the 1990s, there has been a proliferation of texts that explore the material and symbolic construction of place. These books vary widely in their respective foci on the way in which geography and spatiality are intertwined with gender, masculinity, empire, dominance, resistance, etc. but they all share the impulse to explore the degree to which, despite hegemonic beliefs, space, place, and location are social and political constructs. That is, critical contemporary geography posits that space is both produced and productive.¹⁹

For example, in her 1993 monograph, *Feminism and Geography: The Limits of Geographical Knowledge*, Gillian Rose argues that like the practices of mapping and place-making, the practice of geographical inquiry has historically been understood as a neutral, ordered, hierarchal, and *masculine* discourse wherein which "detached explorers" make sense of (and determine) the spatial ordering of the world. Thus, she describes the feminist geographical project as one that critiques the masculinist concepts, assumptions, and subjects of traditional geography and insists that there is social context and consequence of geography as a field of study. She posits, "Its epistemic exclusions are enacted by and impact specific people."²⁰ Geography, or the spatialization of our world, then, is not a neutral practice but rather an

exceedingly political process that orders our understanding of and location within things large (nations, continents, and peoples) and small (individual bodies, homes, parlor rooms).

Likewise, indigenous and anti-colonial scholars have made critical interventions into the study and practice of geography. In the compelling and impassioned collection *Race, Space, and the Law: Unmapping a White Settler Society*, scholar Sherene Razack describes the aim of the anthology as an effort to both “tell the national story as a racial and spatial story, that is as a series of efforts to segregate, contain, and thereby limit, the rights and opportunities of Aboriginal and people of colour”²¹ and to unmap or “denaturalize geography by asking how spaces come to be.”²² More specifically, the contributors to *Race, Space, and the Law* track the dominance and production of spatiality but, in particular, as this dominance manifests in white settler societies. In a series of pointed questions they ask: “What is being imagined or projected on to specific spaces and bodies, and what is being enacted there? Who do white citizens know themselves to be and how much does an identity of dominance rely upon keeping racial others firmly in *place*? How are people kept in their place? And, finally, how does place become race?”²³ These questions and the musings they inspire are critical to the discussion of the naturalization of the reservation as the authentic space of Indianness. They highlight the extent to which settler colonialism, white supremacy, and heteropatriarchy rely upon the segregation and containment of particular bodies and particular communities as a practice of domination and nation building. It is critical, then, that we read and interrogate the *place* of the colonially constructed reservation in practices of spatialized domination and imperialist geography.

Razack explains the concepts of “mapping,” spatialized dominance, and the Cartesian subject with the help of Foucault’s notion of the production of subjects in space.²⁴ In her account of Foucault’s theorizations, eighteenth century disciplinary technologies contributed to and

solidified the production of two distinct bodies: the normal, respectable, self-disciplined, bourgeois body and the abnormal, degenerate, Other body. The production of a self-regulating and disciplined bourgeois body necessitated the production of the undisciplined and degenerate body that it could be contrasted to and, eventually, spatially separated from. Thus exists the Enlightenment individual, or the Cartesian subject, “who maps his space and thereby knows it and controls it,” (as opposed to the uncivilized Other whose “maps” or ways of relating to space have been rendered meaningless by the colonial authority) and proceeds without apology to “claim territories of others for his own.”²⁵

In the “New World,” settler colonists have utilized such ideologies from the earliest moments of contact with indigenous peoples whom they portrayed in stark contrast to themselves. Indians were described (and treated) as the savage, irrational, undisciplined opposite of the civilized and enlightened individual. Likewise, indigenous lands were characterized as wild, untamed, and unchartered, ripe for the mapping, containment, and conquest of European, and later Euro-American, explorers. The gendered element of such conceptualizations cannot be taken for granted. Exploration, imperial excursion, the “penetration of virginal lands,” the displacement of Natives and the settlement of whites were portrayed as masculine tasks while Native peoples and Native lands were frequently feminized.²⁶ The emergence of the reservation must be read from this context, wherein which the production of the raced and gendered Cartesian subject necessitated the counter production of the also raced and gendered, degenerate indigenous subject who, eventually, justified relegation to the reservation. In fact, the very production of the pure and superior US nation-state necessitates and is built upon the act of “fixing” Native bodies (and other bodies of color) in geographical locations and time frames situated in opposition to so-called civilization and US exceptionalism.

Thus, the construction of the reservation can (and must) be read alongside a number of other segregationist and biopolitical policies developed to “protect” the pure and civilized white man from the contamination of the racialized and gendered Other. Like immigration laws, separate drinking fountains, and separate spheres between men and women, the reservation exists as yet another attempt to differentiate between the pure, bourgeois, white, male subject and those who threaten his tenuous claim as rightful owner of land and nation. Hence, as I mentioned in the previous section, when it became impossible for colonists to continue relocating Native peoples beyond the “frontier of civilization,” they restricted Natives to reservations in an alternate attempt to segregate them from (and further situate them in opposition to) white settler society. In this way, the reservation was both a product of and aided in producing the ideological and literal separation between Euro-American and indigenous. Although Native peoples had previously occupied and been in relationship with *all of the lands* that would eventually become the United States, they were quickly relegated to specific locations demarcated by the federal government and reinforced through jurisdiction laws and ideology. Reservations were thus produced in response to and perpetuated the production of Native Otherness.

Interrogating the ways in which the structuring of the reservation resembles the structuring of other settler-spaces also aids us in understanding the significance of normalizing the reservation regime. For example, in *Putting Women in Place: Feminist Geographers Make Sense of the World*, Mona Domosh and Joni Seager examine the myriad ways in which the home, the workplace, the city, the nation, etc. have been gendered. Of particular use to our discussion is their exploration of the “separate spheres” of feminine and masculine space. Domosh and Seager argue that although frequently unsubstantiated in practice and lived reality, there exists a powerful Western ideology that separates a male world of work, politics, and the public from a

female world of the home, the family, and the private.²⁷ These dichotomous spheres mirror other colonial binaries such as civilized/savage, and thus were not entirely new concepts, but were more urgently propagated during the growth of industrialization in the eighteenth and nineteenth centuries. Hence, in efforts to more efficiently solidify the nuclear family, which aided in firmly planting heteropatriarchy in even the most intimate spaces of the nation and developing a gendered division of labor that would strengthen the economy of the nation-state, upper and middle class women became increasingly relegated to the private (and devalued) space of the home while men claimed the public space of work and politics for themselves. The domestication of the bourgeois woman within the home also served to distinguish her from her “degenerate” counterparts (working class women and women of color.) Before long, it became incredibly dangerous and taboo for “respectable” women to inhabit any space perceived as outside the realm of the home and the home became naturalized as *the* place where women belonged. When these women did venture beyond the hearth they risked the wrath of heteropatriarchy: “Violence is one of the most common and powerful tools to sustain particular sexual, family, and household structures and to keep women spatially restricted to them.”²⁸ Again, in what could seem like an ironic twist of fate but rather should be read as the pervasiveness of dominance, we must remember “that it is within the home that most violence against women is committed.”²⁹

The similarities between the structure and operation of the bourgeois home and the structure and operation of the reservation are striking and extremely useful in examining both the naturalization of the reservation and its operation of a separate sphere maintained through the use of violence. As I’ve already mentioned, with the advent of industrialization and the spread of colonialism in the eighteenth and nineteenth centuries, like bourgeois white women, Native

peoples were relegated to an interior (and so-called degenerate) space portrayed as separate from and in opposition to the exterior (and so-called civilized) place of the settler colonist. Within this sphere of Indianness, that of the reservation “home,” Native peoples were tasked with becoming assimilated and civilized, or in other words, domesticated. A significant aspect of this process was the replacement of indigenous kinship networks with the model of the nuclear family.³⁰ Again, these efforts were undertaken in service of strengthening the economy of the nation-state and planting heteropatriarchy (as well as white supremacy) as firmly into the private realm of the reservation home as the public realm of settler colonialism. Likewise, the ways in which both the bourgeois home and the reservation became naturalized and privileged as sites of “safety” rather than as sites of segregation through the threat and imposition of violence also have strong similarities.

As I mentioned previously, the evolution of the reservation as a “safe space,” not unlike the bourgeois home, was accomplished by penalizing Native peoples who resisted confinement within. This provided a powerful incentive for internalizing (or at least not resisting) the naturalization of the reservation since being discovered “off the rez” could result in incarceration or even death. The same risks exist today and Native peoples find themselves subjected to the whims, laws, violence, and hegemonic ideologies of the U.S. nation-state if they reside or travel beyond the jurisdiction of their respective Native nations. Additionally, as my opening vignette illustrates, daring to be off the rez today carries the risk of another death — the stripping away and denial of Native identity. That is, to venture beyond the designated locales of authentic Indianness marks the transgressor as inauthentically, or unrecognizably, Indian.

In the current historical moment consumed by neo-liberal policies of “recognizing” the Native, the complexity and significance of this situation must not be downplayed. In “Subjects

of Empire: Indigenous Peoples and the ‘Politics of Recognition’ in Canada,” Glen Coulthard theorizes the risks inherent in an indigenous utilization of the politics of recognition. First, Coulthard defines the politics of recognition “to refer to the now expansive range of recognition-based models of liberal pluralism that seek to reconcile Indigenous claims to nationhood with Crown sovereignty.”³¹ Examples of this include using recognition as a means to affirming a nation-to-nation relationship between Native communities and their respective settler states, as a means to justifying the right of self-determination, as a means to enforce settler state treaty obligations, as a means to justify the right of self-government, etc. After establishing “that recognition has emerged as the hegemonic expression of self-determination within the indigenous rights movement in Canada,”³² Coulthard, recalling Fanon, then demonstrates the ways in which “the reproduction of a colonial structure of dominance like Canada’s rests on its ability to entice Indigenous peoples to come to *identify*, either implicitly or explicitly, with the profoundly *asymmetrical* and *non-reciprocal* forms of recognition either imposed on or granted to them by the colonial-state and society.”³³ In other words, Coulthard teases out the complex ways in which the Canadian government persuades the indigenous peoples living within its boundaries to internalize the definitions and prescriptions of indigeneity the settler state has created in order to be recognized as indigenous, and thus, able to maneuver as such. Perhaps predictably, though, such a move, wherein which recognition is “granted” to an indigenous group by the settler state, “prefigures its failure to significantly modify, let alone transcend, the breadth of power at play in colonial relationships”³⁴ for it forces indigenous peoples to accept and rely upon the unequal power structures and colonial violence through which indigeneity was constructed by settler colonialism.

Irene Watson speaks of a similar dilemma in Australia and asks, most poetically, “When

thinking of Aboriginal community, who are we? Or, in the suggestion of Indigenous to Australia, what thought predominates? Am I Aboriginal to myself; are we Aboriginal to ourselves? Or do we become part of the ‘collective spirit’ of the nation state to become ‘our’ Australian Aborigine, then free to roam within the colonial spaces and identities as ‘Australia’s Aborigines’?³⁵ Watson illuminates the inherent tension that exists between “being indigenous” on indigenous terms and “being indigenous” on the nation-state’s terms. If, she suggests, we choose to identify with the indigeneity the settler state allows us, then we are rewarded with the “right” to roam the limited spaces of indigeneity that have been carved out for us. If, however, we choose to resist settler colonial ideologies, we are deprived of even that opportunity and find ourselves unrecognized by the state.

In “From Place to Territories and Back Again: Centering Storied Land in the Discussion of Indigenous Nation-Building,” Mishuana Goeman brings this issue home to the United States and asks “How do we make Indigenous spaces that are not based on abstracting land and indigenous bodies into state spaces, while maintaining political vitality? How are the lived realities of indigenous peoples impacted by concepts of borders and territories that support the power of the nation-state?”³⁶ Although these questions and Goeman’s theorizations will be discussed more fully in the concluding chapter of this project, I mention them here as well to highlight the extent to which land/territory/place are particularly intertwined with and shaped by the politics of recognition. For as Goeman suggests, “the need for Indigenous Nations to legitimate land claims in a Western court system creates a focus on ‘accumula[tions]’ of past rather than a focus on a living land that is imagined and held in Indigenous philosophies. In other words, land claims argue from a place of precedence and must ‘prove’ or legitimate the length of our occupation *on* the land, rather than the importance of land *to* is.”³⁷ I argue, then, that this politics of recognition

has played an immense role in naturalizing the reservation and codifying the colonial spatialization of Native peoples. It has meant that, even as we recognize the reservation as a colonially constructed place of confinement, surveillance, and segregation, where biopolitical agendas are frequently unleashed, we are encouraged/persuaded/coerced (through threats of violence, death, incarceration, nonrecognition, etc.) to look toward the reservation as a place of safety and a place from which to make our indigenous claims, or at the very least, as a respite from colonial assault.

Thus, although the settler state stands firmly in the foreground of my discussion regarding the naturalization of the reservation as the space of authentic and proper Indianness, it is not alone in perpetuating such ideology. For a variety of different reasons, Native peoples too have been instrumental, if not in establishing the reservation as the privileged site of Native identity, then in preserving this hegemonic belief. Another poignant example of this is the evolution of the relationship between the Crow people and the reservation that I mentioned previously. Frederick Hoxie argues that by 1930 (and after roughly half a decade of reservationization) the Crow people who had originally resisted the reservation had developed a form of politics that mitigated the constraints of colonial spatialization. Their newly constructed political structure operated within the fixed boundaries of the reservation and did not challenge the authority of the United States in order to secure their existence and to ease the weight of colonial oppression. Yet, this structure also served the Crow well on a number of occasions and was eventually embraced by a majority of the Crow people. Tellingly, in 1935, when the Crow were presented with the opportunity to abandon this form of politics by adopting the Indian Reorganization Act, the Crow people chose to reject the IRA and honor their existing political structure instead. Thus, over time and out of political necessity the Crow people began to embrace the structure of

the reservation as part and parcel of their political formation.³⁸ Rather than continue to view the reservation as a hell from which they needed to escape, they chose to embrace the institution as a symbol of Crow nationhood and perseverance in the onslaught of colonialism. Such strategies and practices of indigenous nationhood are not unique to the Crow. They can be found across “Indian Country” and signal the degree to which the naturalization of the reservation continues and is, oftentimes, perpetuated by Native peoples.

The necessity of developing such strategies in efforts to dismantle and upset the settler colonial desire to eliminate the Native is clear. At times, and in certain contexts, this strategy is crucial to the survival of Native peoples and has, again, at times and in certain contexts, been successful in making indigenous land rights claims, obtaining federal and/or state recognition for Native peoples, lessening the reigns of settler colonialism, etc. However, as I intend to illustrate in my analysis of Title IX of the Violence Against Women Act, the risks that accompany utilizing such strategies are high and can even be deadly for Native peoples and Native nations.

The Violence Against Women Act

The Violence Against Women Act (VAWA) is a federal law “aimed at ending violence against women and remedying the laws and social practices that have fostered and justified the history of violence against women.”³⁹ The Act was first authorized in 1994 as part of the Violent Crime Control and Law Enforcement Act (VCCLEA), which was hailed by former President Clinton as “the toughest, largest, smartest Federal attack on crime in the history of our country.”⁴⁰ Some of the more substantial (and notorious) provisions of the VCCLEA included: providing for 100,000 new police officers, banning the manufacture of certain assault weapons, authorizing \$9.7 billion to fund new prisons, expanding the Federal death penalty to cover

approximately 60 new offenses, instituting the infamous “three-strikes” rule, eliminating financial support for inmates pursuing higher education, and providing \$1.2 billion for more strident policing of undocumented peoples.⁴¹ The VAWA appeared as Title IV of the VCCLEA and allocated \$1.6 billion dollars to “comprehensively address violence uniquely targeted at women and their children.”⁴²

Introduced by Senator Joseph Biden in 1991 and finally passed in August of 1994, the initial VAWA received nearly unanimous bi-partisan support and combined new federal criminal penalties with grant programs aimed at supporting state and local responses to violence against women.⁴³ Touted as the first federal acknowledgement of domestic violence and sexual assault as crimes, the Act particularly emphasized community-coordinated responses to combating violence. The reauthorization of the VAWA in 2000 and 2005 built upon the foundation established in 1994 but also expanded the definition of violence against women to include dating violence and stalking, created legal assistance programs for victim/survivors of violence, and established programs aimed at addressing particular communities, such as immigrant and indigenous women. In its current manifestation, which actually expired in 2011 and thus is currently, again, up for reauthorization, the VAWA focuses on the following areas: “enhancing judicial and law enforcement tools to combat violence against women (Title I); improving services for victims (Title II); services, protection, and justice for young victims of violence (Title III); strengthening America’s families by preventing violence (Title IV); strengthening the healthcare system’s response (Title V); housing opportunities and safety for battered women and children (Title VI); providing economic security for victims (Title VII); protection of battered and trafficked immigrants (Title VIII); and safety for Indian women (Title IX).”⁴⁴

Many argue that the VAWA has had a positive impact on the problem of violence against

women. For example, the National Network to End Domestic Violence argues that the Act has made remarkable gains in the effort to deter domestic violence, dating violence, sexual assault, and stalking and even credits the 1994 and 2000 versions of the VAWA with reducing non-fatal, violent, intimate-partner victimizations of women by 49%.⁴⁵ There has also, however, been a strong critique of the VAWA, its implementation, and its effects. One of the most prominent concerns has been the legislation's ability to adequately address and serve women from varying ethnic, racial, national, sexual, and socioeconomic locations. For example, in her landmark essay, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," Kimberley Crenshaw accuses the VAWA and its proponents of marginalizing and further perpetuating violence against women of color in the way in which gendered violence was made universal in order to gain support for addressing the issue at the legislative level. Crenshaw argues that early supporters such as then-Senator David Boren (D-OK) were able to "empathize with female victims of domestic violence only by looking past the plight of 'other' women and by recognizing the familiar faces of their own."⁴⁶ In other words, that violence against women was not acknowledged as a problem until it was argued that *even white women* experience violence further marginalizes any attention that might be directed toward the severity of violence against "other" women and, thus, effectively excludes these women from the benefits such legislation might incur. Furthermore, Crenshaw argues that "any authentic and sensitive attention to the experiences of Black and other minority women probably will continue to be regarded as jeopardizing the movement"⁴⁷ because it darkens the face of the seemingly authentic victim of violence – white womanhood.

Likewise, a number of scholars and activists have examined the ways in which the VAWA works to disenfranchise women of color through its institutionalization of the

antiviolence movement, its reliance on criminal justice measures, and its disavowal of state violence. These critics argue that because the mainstream antiviolence movement increasingly relies on state and federal sources for funding (for example, those funds authorized under the VAWA), the shape and agenda of the movement itself has transitioned from working in the interest of women who have been victimized to working in the interest of the state. In the introduction to *Color of Violence: The Incite! Anthology*, the contributors to the text argue that mainstream antiviolence “approaches toward eradicating violence focus on working *with* the state rather than working *against* state violence. For example, mainstream antiviolence advocates often demand longer prison sentences for batterers and sex offenders as a frontline approach to stopping violence against women.”⁴⁸ Since the criminal justice system has historically been, and continues to be, oppressive toward communities of color in general and women of color in particular, the Incite! anthologists argue, “this strategy employed to stop violence has had the effect of increasing violence against women of color perpetuated by the state.”⁴⁹

In a statement jointly-produced by the Critical Resistance⁵⁰ and Incite! Women of Color Against Violence⁵¹ organizations, the impact of such strategies is fleshed out in five succinct points: (1) Law enforcement approaches to violence do not deter violence in the long term. For example, mandatory arrest laws have affected the rates at which women kill their abusers in self-defense but they have not decreased the number of perpetrators who kill their victims; (2) Increased criminalization actually penalizes a significant number of women because it places them in closer contact with law enforcement agencies than ever before. For example, when undocumented women report occurrences of sexual and domestic violence, they often find themselves deported; (3) Despite the fact that prisons have been found ineffective in deterring

rates of sexual assault and domestic violence, the antiviolence movement has contributed to the growth of the prison industrial complex which, over the last fifteen years, has incarcerated women of color at alarming rates; (4) Reliance on state funding has professionalized the antiviolence movement and divorced it from a community-driven, social justice agenda; and (5) Reliance on a criminal justice response has limited women's and communities' abilities to conceive of alternative antiviolence strategies. It has individualized violence and presented the state as the only solution for redress against violence.⁵²

Arguably, the 2005 reauthorization of the VAWA can be read as a partial response to the anti-racist, feminist critiques of the antiviolence movement that proliferated at the end of the twentieth century. In particular, it can be argued that Title IX – the Safety for Indian Women Title – was a direct attempt to address the relationship between violence and intersectionality as it pertains to Native women. As the following section will illustrate, Title IX received considerable support from a variety of organizations and activists. As a matter of fact, many of the Native activists that helped to build and shape the national and the indigenous anti-violence movement, as I explored in the previous chapter, were prominent in the development of Title IX. However, a critical analysis of Title IX also reveals that “as the antiviolence movement has attempted to become more inclusive, attempts at multicultural interventions against domestic violence have *unwittingly* strengthened white supremacy within the movement”⁵³ and perhaps, I would add, *wittingly* perpetuated the colonial spatialization practices that facilitate the biopolitical management and elimination of Native peoples.

Title IX – Safety for Indian Women

In 2003, the National Congress of American Indians (NCAI)⁵⁴ created the NCAI Task

Force on Violence Against Women to coordinate a nation-wide indigenous effort to end violence against Native women and to respond to Federal efforts to address this problem. On June 16 of 2003, the NCAI passed Resolution # PHX-03-034 – Support for the 2005 Reauthorization of the Violence Against Women Act Including Enhancements for American Indian and Alaska Native Women – wherein which the NCAI’s support for VAWA reauthorization, the NCAI Task Force, and other efforts to halt violence against indigenous women is memorialized.⁵⁵ More than simply support earlier manifestations of the VAWA, which mostly provide set-aside funding for tribal governments, however, the resolution also calls for amendments that have the potential to shift the balance of power between the Federal government and Native nations. Specifically, Resolution # PHX-03-034 voices support for “increasing the sentencing authority of Indian tribes in cases of domestic violence and sexual assault cases beyond one year and \$5,000” and “increasing criminal authority to Indian tribes to prosecute non-Indian rapists and batterers.”⁵⁶

The need to articulate such demands arise from the “jurisdictional nightmare” that describes the intersection of Federal, state, and tribal jurisdiction over Indian peoples and lands. Although the almost overwhelming attention paid to this “maze of (in)justice” over the last decade or so suggests that the complexity and importance of this issue has already been established, it is significant that I briefly outline jurisdictional issues as they are intertwined with violence against Native women and colonial spatialization. Simply put, and as legal scholar and anti-violence activist Sarah Deer so aptly argues, “Due to a series of federal laws, tribal governments have lost jurisdiction over the vast majority of sexual violence that happens to Native American women.”⁵⁷ Although the body of such laws is immense, four stand out in their significance and long-term impact: the Major Crimes Act of 1885, Public Law 280 (1953), the Indian Civil Rights Act of 1968, and *Oliphant v. Suquamish Indian Tribe* (1978).

In 1885, and the height of the reservation era, Congress drastically compromised Native sovereignty when it passed the Major Crimes Act (MCA). The MCA marked the first significant federal intrusion on tribal justice systems because it extended U.S. jurisdiction over Natives who committed certain “major” crimes against other Natives in Indian territory.⁵⁸ The reasoning behind this law is that Native peoples are incapable of dealing with such matters themselves. Notably, the MCA did not *theoretically* strip tribes of jurisdiction over these same crimes. Tribal and Federal jurisdiction remains concurrent. However, *in practicality*, Native peoples rarely pursue the prosecution of crimes such as murder and rape as the penalties they can assign to these transgressions, which will be examined in the discussion of the Indian Civil Rights Act momentarily, have also been drastically limited by the Federal government. The consequences of the MCA are numerous but of particular interest to the project at hand is that: (1) victim/survivors of serious violence in Indian country are forced to turn to federal law enforcement when reporting their assaults; (2) the Federal government rarely pursues the prosecution of such matters; and yet (3) this process more firmly establishes colonial control over indigenous peoples and Native lands. In other words, the MCA contributes to segregating and “othering” Native peoples, essentially marking them as “outside” the parameters of justice allowable to non-Indian U.S. citizens, while simultaneously placing that which occurs on the reservation under increased federal scrutiny and surveillance.

In 1953 Public Law 280 (PL 280) was passed to transfer criminal jurisdiction from the Federal government to state governments in California, Wisconsin, Minnesota, Nebraska, Oregon, and Alaska (which, as might be obvious, are states heavily populated with Native peoples). Other states were given the opportunity to assume such jurisdiction but Native nations were not consulted in the matter. PL 280 severely affected the resource distribution for law

enforcement in PL 280 states. Even though tribes were divested of federal funding because it was assumed that the respective states would assume responsibility for law enforcement, “state[s] were not provided with any additional resources with which to enforce crimes in Indian country.”⁵⁹ In 1968, an amendment to PL 280 allowed states to retrocede from this arrangement but, again, did not give tribes the same opportunity. Since the retrocession provision, state governments have returned over 30 tribes to Federal jurisdiction, yet “about 23 percent of the reservation-based tribal population in the contiguous 48 States and all Alaska Natives fall under PL 280.”⁶⁰ Obviously, the transference of jurisdiction from Federal to state back to Federal in some areas, the singular transference from Federal to state in others, and no transference at all in some locations has resulted in significant jurisdictional confusion and uncertainty. Likewise, PL 280 tribes often argue that, like the Federal government, state governments control criminal proceedings but rarely respond to criminal occurrences committed against Indians and on Indian lands.⁶¹

Complicating matters even more was the passage of the Indian Civil Rights Act (ICRA) in 1968. “Yet another imperial effort to assimilate tribal governments, by imposing the United States Bill of Rights onto tribal governments,”⁶² the ICRA required tribal governments to protect U.S. Constitutional rights. Yet, and again as I have argued above, this legislation also served to further “other” Native peoples. When the ICRA was first passed it legislated that tribal courts could only impose jail sentences of six months or less and fines up to five hundred dollars. In 1968, as part of a federal onslaught on drug trafficking, these limitations were expanded to one year of jail time and a five thousand dollar fine for criminal defendants. However, the message sent to tribes remains exceedingly clear – tribes have little, if any, jurisdiction over criminal offenses on Indian lands. So while tribal jurisdiction is not *technically* prohibited by the

ICRA, it is drastically inhibited. For example, despite the fact that tribal governments did not traditionally utilize incarceration to eradicate violence, in the current context of continued colonization where tribes are not free to govern traditionally, they also find themselves limited in their utilization of Anglo approaches to felony-level crimes.

Perhaps the most significant intrusion on tribal justice systems was enacted in 1978. In the supreme court case *Oliphant v. Suquamish Indian Tribe* it was ruled that Native nations do not have the authority to prosecute crimes (civil or criminal) that are committed by non-Indians living on or passing through their respective reservations. Thus, concurrent tribal and federal/state jurisdiction only applies to cases in which the defendant is Native; crimes committed by non-Indians can essentially run rampant on Native lands, as there are very little legal consequences. Deer posits, "This decision has created a crisis situation in some tribal communities, because non-Indian sexual predators, drug manufacturers, pimps, and other violent persons have become attracted to Indian country as a location where crimes can be committed without recourse."⁶³ The significance of this occurrence is monumental because it has been repeatedly demonstrated that the majority of the violence perpetrated against Native women is committed by non-Indians.⁶⁴ Thus, not only does the U.S. nation-state inadequately respond to the extremely high rates of violence that are directed at Native women, but, as Deer conceptualizes and these legislative measures demonstrate, federal laws actually *create* a space in which sexualized and gendered violence can flourish.

Furthermore, and as I suggested in the previous section, the reservation "home," naturalized as *the* authentic and proper place of Indianness, has also come to be legislated as the *most dangerous* place for Native women to be. Perhaps this isn't entirely surprising to anti-violence activists who have long recognized that the "home" isn't the safe haven that

heteropatriarchy would have us believe it is; as I mentioned earlier, “home is, in fact, the place of greatest danger for women.”⁶⁵ However, as Andy Smith argues “the strategies the domestic violence movement employs to address violence are actually premised on the danger coming from ‘out there’ rather than at home.”⁶⁶ That is, efforts such as the push for increased criminalization of perpetrators assumes that there are only a handful of violent men whom we can lock up as the solution to violence against women. Such measures deny that, in all actuality, we live in a culture where an overwhelming number of men perpetrate violence upon their partners in the so-called safety of their private homes *and* the pervasiveness of state violence is such that it targets women of color at nearly every turn and perhaps most severely in the most intimate domains of their lives.

Perhaps not surprisingly, however, Title IX of the 2005 VAWA reauthorization did not address the NCAI’s jurisdictional concerns. Instead, Title IX directs the National Institute of Justice and the Office on Violence Against Women to establish a task force to conduct a national study examining violence against Native women, amends federal code to permit tribal law enforcement to access federal criminal information databases, provides Native nations with the opportunity to develop and maintain a tribal sex offender and protection order registry, allocates increased funds to address violence against Native women, establishes a Deputy Director for Tribal Affairs in the Office on Violence Against Women, and amends federal criminal code to impose greater penalties on repeat offenders. It is virtually inarguable that these provisions have and will continue to have some impact on the violence perpetrated against Native women. Again, a number of these provisions even result from indigenous grassroots anti-violence mobilization and are strongly supported in indigenous communities. For example, in an NCAI Task Force magazine titled “Restoration of Native Sovereignty,” Native anti-violence activists

and NCAI task force members Karen Artichoker and Juana Majel credit the development of Title IX to the work accomplished by the task force, the elected leadership of American Indian tribes, and grassroots advocates.⁶⁷ And in the forward to *Sharing Our Stories of Survival: Native Women Surviving Violence*, which I must again emphasize is a result of VAWA funding, Tillie Black Bear asserts that it is through the grassroots work of Native women that anti-violence advocacy developed a voice in tribal communities and beyond: “[Female] Tribal advocates throughout Turtle Island brought these plights to tribal leadership and have worked with our male counterparts in the reauthorization of the Violence Against Women Act of 2005, in particular to advocate for an increase in resources for tribal governments.”⁶⁸

Keeping such indigenous activism in mind, then, perhaps we should read the participation of Native anti-violence advocates in the development and passing of Title IX (without essential jurisdictional changes) like I suggested we read the indigenous mobilization efforts in the SDCADVSA, as one *strategy* for eradicating violence against Native women rather than as *the solution* to the problem. In other words, perhaps we should liken the indigenous influence in the development of Title IX to the Crow development of the specifically reservationized political structuring that I described earlier, for example. The Crow developed such a politics to *mitigate* the constraints of colonial spatialization rather than completely resist the nation-state. Arguably, this strategy greatly benefited the Crow and even aided them in avoiding the further assimilating effects of the Indian Reorganization Act. It also allowed the Crow people to claim and embrace a colony-acknowledged “space” from which their culture, lifeways, and political formations could persevere and flourish. Likewise, the development of Title IX works with and within the Federal legal system to mitigate the constraints and violence of settler colonialism. It secures much-needed funding and attention for addressing violence against Native women, but it does so

on the terms of the nation-state. It is critical that we ask at what cost and at whose expense do the compromises of dealing with the devil of colonialism come? Or, in the words of David Kazanjian, to what degree can legislation such as Title IX be understood as “the colonizing trick?” That is, how might we acknowledge and mitigate the possibility that the universal equality and protection of women’s rights espoused by the VAWA and Title IX *also* enable “the systematic production and maintenance of hierarchally codified, racial and national forms?”⁶⁹

I am not the first to suggest that a critical interrogation of Title IX is warranted. For example, long-time Native activist Brenda Hill posits that the enactment of the VAWA “is indeed historic, or ‘herstoric,’ if you will.”⁷⁰ But she also argues that “There is a sense of futility and exasperation among Native women because we continue to suffer the highest rates of domestic violence, sexual assault, and murder in America, even given the resources of VAWA.”⁷¹ Furthermore, she calls for “social change, not social services!”⁷² in a discussion of the difference between the two models of advocacy for Native women. She argues that while the social change model “requires a proactive stance that brings change to system structures and cultural beliefs” and is accountable to victim/survivors of violence, the social service model maintains the status quo and “is an institutional reaction by people in power and requires accountability to funding institutions.”⁷³

I too argue that despite its imperfections and compromises, the VAWA in general and Title IX in particular has brought some relief to *some* Native women. It has aided in establishing shelters, protection orders, resource centers, etc. in the service of addressing violence against *some* Native women. Yet, I would also like to suggest that the resources extended to *some* Native women have been done at the expense, and exclusion, of “other” Native women. To be specific, I posit that the VAWA perpetuates the colonial spatialization that naturalizes violence

against Native women in the first place *and* defines only those Native women living on the reservation and recognized by the settler state as legitimately entitled to the fruits of VAWA and Title IX. Not only does this exclude a significant amount of Native women from benefiting from the VAWA, but it also enacts violence against Native women who exist “off the rez” or beyond the spaces of recognized indigeneity. This is the sort of logic that underpins the conversations I have had with indigenous anti-violence activists that I spoke of in the introductory chapter of this dissertation. Although I don’t believe that any of those advocates, women I consider to be my aunts and mentors, would ever purposefully argue that Native women such as myself, living off the rez, are less-deserving of protection from violence than those women living on the rez, their reliance on, unwavering dedication to, and influence in federal legislative efforts such as the VAWA and Title IX, which ultimately *are* part of the settler colonial apparatus, certainly *implies* this argument.

The Reservationization (and De-Urbanization) of Violence Against Native Women

As outlined above, the VAWA has largely been characterized as federal legislation that attempts to address violence against women through the allocation of federal resources and enhanced law enforcement measures. The amount of federal dollars directed toward such efforts was 1.6 billion in 1994, 3.33 billion in 2000, and 3.935 billion in 2005. The \$1.6 billion that were authorized in 1994 and the \$3.33 billion that were authorized in 2000 were made available to states, tribal governments, and local governments; for example, Section 200 – Purpose of the Grants to Combat Violence Against Women – of the 1994 legislation states that “the purpose of this part is to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes

against women, and to develop and strengthen victim services in cases involving violent crimes against women.”⁷⁴ The definition of an Indian tribe is given in Section 2003: “the term ‘Indian tribe’ means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”⁷⁵ Thus, recognized as “sovereign” governments, the 1994 and 2000 VAWA designated federally recognized indigenous populations as eligible entities to apply for the federal funds.

Title IX of the 2005 VAWA continued the history of providing a tribal government set-aside and also authorized new grant programs in response to the severity of violence against Native women: “VAWA 1994 contained a 4% set-aside and VAWA 2000 increased the amount to 5%. VAWA ’05 further increased the set-aside to not less than 10% in most grant programs and 15% of certain grant programs of the Housing Title. The increase recognizes the level of danger facing American Indian and Alaska Native women.”⁷⁶ With Title IX, funds from seven of the grant programs reauthorized by the 2005 VAWA are combined into the largest program available to tribal governments – the Grants to Indian Tribal Governments Program. The purpose of the newly created program was to streamline access to federal funds, allow tribal governments to design tribally based responses to domestic violence, and lift the programmatic restrictions not applicable to Indian tribes.⁷⁷ Again, however, only “Indian tribal governments” *as defined by the settler state* are eligible for these monies. Non-recognized Native peoples are excluded from this opportunity. Thus, in an almost indiscernible move, federal dollars that were seemingly intended to broaden the efforts to deter violence against Native women actually

become utilized to limit the number of women who are even considered Native and eligible for the resources.

I argue that this situation is intimately intertwined with colonial spatialization and the naturalization of the reservation for as John Moore argues, there is a direct link between the existence of a reservation and the recognition of Native peoples. Where reservations exist, Native peoples are seen to exist. Accordingly, where reservations do not exist or where they have been taken away, Native peoples are not seen to exist either.⁷⁸ Indians off the rez are not *really* Indians in the eyes of the settler state. The benefits of such ideological smoke and mirrors for the settler state are immense. Such understandings of Indianness both limit the recognized number of Indians the settler state must contend with and also designate the spaces in which Indianness is allowed to exist so that it can better regulate and eliminate these populations.

This is vividly illustrated through the allocation of funding from the VAWA. Although the nation-state seems to demonstrate concern for Native women, it does so only on its own terms and to its own benefit. It severely limits those who are considered Native enough to receive settler state attention and, perhaps even worse, it does so through mapping and relegating Native women to the colonially constructed places of Indianness. In other words, it only defines those Native women enrolled in a federally recognized tribe as authentic Indian women *and* it demands those women stay in or return to the reservations or Indian lands that have been reserved for their respective Native nations. This situation is not to be taken lightly, for as I argued above, colonial spatialization has created the reservation, like the home, as one of the most dangerous places for Native women to be. Likewise, daring to exist “off the rez” and resist settler colonialism also has considerably high stakes for Native women for it is “off the rez” that violence against these women, *as Native women*, is not even seen to exist and certainly will not be addressed. This

leaves Native women between a rock and a hard place where they are forced to choose between living on the reservation where they face increased levels of state scrutiny, control, and violence or living off of the reservation where their identities as Native women are completely invalidated and the violence perpetrated against them as Native women is altogether made invisible.

Sarah Deer comments on the role the VAWA plays in this process from her experience working in the Department of Justice: “It’s a structural barrier. The funding that’s earmarked for tribes cannot go to non-tribes. And so an urban setting is not an eligible entity for those dollars that are earmarked for tribes. So it absolutely is a structural, legal barrier. It’s not just politics. I mean you cannot apply for the funding if you’re not a tribe....VAWA was written for tribes – federally recognized tribes.”⁷⁹

In all fairness, the VAWA of 2005 did create a small number of new grant programs available to Indian tribes, tribal organizations, and tribal non-profits. In theory, the funding in these programs could go to organizations and coalitions that serve Native women but are not formally connected to a federally recognized tribe. In reality, however, this rarely happens. Deer states, “The addition in Title IX of the tribal coalition grant dollars has made a dent [in serving off reservation communities] but I still think VAWA is primarily focused on reservation tribal government programs. There are a few programs that I would classify as urban who have been able to get some of that funding but it’s very unusual and they’re usually getting funding that’s not earmarked for tribes or they’re contracting with tribes to provide services so it’s definitely still a barrier.”⁸⁰ Deer further explains, “When I worked for the federal government there was a list [of federally recognized tribes] and anybody who was not on the list was not a tribe for our purposes....What I found in the justice department was, ‘Well, we only work with federally recognized tribes so anybody else is not a part of what we do. They’re a nonentity.’

These aren't things I heard word for word but this was the message."⁸¹

Let us not forget, however, that it is the very same federal government that formally ended the reservation era it had created and attempted to *unrecognize* Natives to the greatest extent possible through policies such as allotment, relocation, and termination. By the end of the nineteenth century, and only a few decades after the modern reservation period emerged, "almost everyone recognized that the reservation system was a failure"⁸² and had been ineffective in assimilating Native peoples. Thus, the federal government decided to pursue an alternate path of assimilation/termination and began the process known as allotment. Passed by Congress in 1887, the General Allotment Act "aimed to undermine tribal authority, eradicate tribal culture, and destroy the reservation system as a whole by breaking up the Indian tribal estate and redistributing the land in small-farm allotments to individual Indian families."⁸³ By 1934, Indian land "dwindled to half of its 1887 level of some 138 million acres"⁸⁴ through the parceling out of reservation lands to individual Indian families and the selling off of so called "surplus" lands. When even this measure didn't quite solve the Indian problem as settlers had hoped it would, relocation from reservation to urban areas surged forward as the next effort to eradicate Indianness.

Although presented as a benevolent opportunity, the relocation programs of the 1950s "provided a way for the federal government to withdraw 'legally' from its federal trust responsibility and impose a policy of assimilation on indigenous peoples."⁸⁵ In 1940, only 7.2% of indigenous peoples resided in urban areas.⁸⁶ By 1952, the Bureau of Indian Affairs was offering job training, moving expenses, housing assistance and a thirty-day subsistence allowance (which often failed to surface or be enough assistance to successfully transition Native peoples to their new homes) to Indians willing to leave the reservation and relocate to cities such

as Denver, Phoenix, Chicago, Los Angeles, and Albuquerque. By 1960, over 30,000 Native peoples had been relocated and by the time the 1990 Census was taken, nearly 60% of all Indian peoples indicated that they lived in urban areas.⁸⁷ Myla Vicenti Carpio argues that “the federal government’s formula was to get Indians off the reservation and the federal dole—if no one lived on the reservations then there would not be a need for public funds to support social, educational, and land management expenditures on those lands.”⁸⁸

The process of termination, originally and aptly named “liquidation,” worked hand in hand with relocation. Proposed during the 1940s but not put into widespread practice until House Concurrent Resolution 108 was passed in 1953, termination aimed to abolish tribal governments, tribal lands, and federal relationships with tribes. Again, often couched in benevolent rhetoric that spoke of granting Native peoples equality through assimilation, this policy affected “over one hundred tribes, bands, and California Rancherias—totaling a little more than eleven thousand Indians—who were ‘terminated’ and lost their status as ‘recognized’ and sovereign Indian communities.”⁸⁹ Although Congress officially repealed termination in 1988, the Repeal of Termination Act was largely a symbolic gesture as few tribes have been restored since.

Clearly, many of the consequences of allotment, relocation, and termination were felt immediately as Native peoples lost their homes, their lands, and their recognition as Indians when these policies were enacted. However, the legacies of these policies also continue to haunt us today, especially in terms of the way in which they shape the settler state’s understandings of indigeneity, violence against Native women, and the spaces in which these flourish. In other words, the creation of the reservation as the site of indigeneity has worked hand in hand with the discursive production of the urban as a site of non-indigeneity. This issue will be further explored in the following chapter yet it is critical to also mention here, in my discussion of the

naturalization of the reservation, for the dichotomous construction of these spaces work together to enact and obscure violence against Native women. Just as the naturalization of the reservation securely fastened Native identity to particular locations in which it could be more easily regulated, policies to divorce Native peoples from the reservation have worked to suggest that Indians outside the boundaries of the reservation are not really Indians at all which is yet another way to control and define the population. Carpio argues, “The reservation is believed to generate ‘authentic Indians,’ ones who know their culture, practice their religion, and speak their language while always challenging the colonial policies of the federal government. Conversely, the dichotomy posits urban identity as being separate from the reservation; creating a home in the city represents a changed identity, removed from the reservation, giving rise to either the assimilated or the generic pan-Indian.”⁹⁰ The existence of this line of reasoning is not accidental. As a matter of fact, it has been carefully crafted so as to both control and oppress reservation Indians while simultaneously disappearing Indians who dare to live anywhere else. Goeman summarizes the irony of this situation: “Native identity, social relations, and politics are often conceived, represented, and determined as geographically and historically situated and bound to a particular community and era, even while the historical onslaught of legislation continues to rip that grounding out from under Native people.”⁹¹

As Deer’s reflections on the VAWA suggest, the consequence of the division between reservation and urban has material effects. Regardless of specific legislative provisions such as those in Title IX that *might* expand the scope of who may reap the benefits of federal efforts such as increased funding to address violence against Native women, the power of colonial spatialization is so pervasive that there still exists a belief that only certain Indians, located in certain places are recognized as authentically Native. All other Natives – those who live off the

reservation, whose tribes have been terminated, who are state-recognized rather than federally recognized, etc. – are considered non-entities in the eyes of the settler state. And the number of these “non-entities” is startling for over 60% of Native peoples currently reside in urban areas, there are over fifty state-recognized but not federally recognized tribes, and since 1978, the Bureau of Indian Affairs has received over 250 letters of intent and petitions for federal recognition.⁹² Thus, it could be argued that there are more Native peoples who are not recognized by the US nation-state than there are Natives who are recognized. The VAWA, then, in its applicability only to *recognized* indigenous women is not only limited in terms of the impact it can actually have in the lives of Native women but also perpetuates the very violence it purports to address for it actually makes invisible the violence that is perpetrated against urban and other non-recognized Native women.

Furthermore, the VAWA limits our understanding of the spatiality of violence. That is, it fixes violence to certain spaces and geographies thus minimizing our ability to recognize violence in other spaces. In only addressing the violence committed against “authentic” Indian women living in recognized spaces of indigeneity, the VAWA suggests that it is on the reservation, and within the boundaries of Indianness, where violence against Native women occurs. It obscures the violence that is perpetrated against Native women in seemingly non-Indian spaces and, accordingly, disappears the violence perpetrated by the settler state and settler colonists. It fashions violence against Native women as yet another “Indian problem” that the settler state can attempt to mitigate through legislation and benevolence but which it is not itself responsible for.

¹ Edward Soja, *Seeking Spatial Justice* (Minneapolis: University of Minnesota Press, 2010).

² John Moore, “The Enduring Reservations of Oklahoma” in *State and Reservation: New Perspectives on Federal Indian Policy*, eds. George Pierre Castile and Robert Bee (Tucson: The University of Arizona Press, 1992), 94.

³ David Wilkins, *American Indian Politics and the American Political System* (Lanham: Rowman & Littlefield Publishers, 2007), 35.

⁴ *Ibid.*, 36.

⁵ David Treuer, *Rez Life: An Indian’s Journey Through Reservation Life* (New York: Atlantic Monthly Press, 2012), 41.

⁶ Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998), 21.

⁷ Moore, 96.

⁸ John Findlay, “An Elusive Institution: The Birth of Indian Reservations in Gold Rush California” in *State and Reservation: New Perspectives on Federal Indian Policy*, eds. George Pierre Castile and Robert Bee (Tucson: The University of Arizona Press, 1992), 16.

⁹ Findlay, 18.

¹⁰ *Ibid.*, 19.

¹¹ *Ibid.*

¹² Ross, 3.

¹³ *Ibid.*, 38.

¹⁴ Paula Gunn Allen, *Off the Reservation: Reflections on Boundary-Busting, Border-Crossing, Loose Canons* (Boston: Beacon Press, 1998), 6.

¹⁵ *Ibid.*

¹⁶ Frederick Hoxie, “Crow Leadership Amidst Reservation Oppression” in *State and Reservation: New Perspectives on Federal Indian Policy*, eds. George Pierre Castile and Robert Bee (Tucson: The University of Arizona Press, 1992), 47.

¹⁷ *Ibid.*, 28.

¹⁸ *Ibid.*, 32.

¹⁹ For a sampling of this literature see texts such as Richard Phillips, *Mapping Men and Empire: A Geography of Adventure* (New York: Routledge, 1997); Jan Pettman, *Worlding Women: A Feminist International Politics* (New York: Routledge, 1996); Michael Keith and Steve Pile, eds., *Place and the Politics of Identity* (New York: Routledge, 1993); Michael Keith and Steve Pile, eds., *Geographies of Resistance* (New York: Routledge, 1997) Edward Soja, *Postmodern Geographies: The Reassertion of Space in Critical Social Theory* (New York: Verso, 1989).

²⁰ Gillian Rose, *Feminism & Geography: The Limits of Geographical Knowledge* (Cambridge: Polity Press, 1993), 5.

²¹ *Ibid.*, 17.

²² *Ibid.*, 5.

²³ *Ibid.*

²⁴ Sherene Razack, ed., *Race, Space, and the Law: Unmapping a White Settler Society* (Toronto: Between the Lines, 2002), 10.

²⁵ *Ibid.*, 12.

²⁶ For a compelling argument regarding the feminization and rape of indigenous lands see Andrea Smith, "Rape of the Land" in *Conquest: Sexual Violence and American Indian Genocide* (Cambridge: South End Press, 2005). Conversely, for critical examinations of the role women have played in colonization projects see texts such as Sara Mills, *Gender and Colonial Space* (Manchester: Manchester University Press, 2005).

²⁷ Mona Domosh and Joni Seager, *Putting Women In Place: Feminist Geographers Make Sense of the World* (New York: The Guilford Press, 2001), 3.

²⁸ *Ibid.*, 117.

²⁹ *Ibid.*, 34.

³⁰ This process, as it is outlined and theorized by Mark Rifkin, will be taken up more fully in the concluding chapter of this dissertation.

³¹ Glen Coulthard, "Subjects of Empire: Indigenous Peoples and the 'Politics of Recognition' in Canada," *Contemporary Political Theory* 6 (2007): 438.

³² *Ibid.*

³³ *Ibid.*, 439.

³⁴ *Ibid.*, 443.

³⁵ Irene Watson, "Settled and Unsettled Spaces: Are We Free to Roam?" in *Sovereign Subjects: Indigenous Sovereignty Matters*, ed. Aileen Moreton-Robinson (Australia: Allen & Unwin, 2007), 16.

³⁶ Mishuana Goeman, "From Place to Territories and Back Again: Centering Storied Land in the Discussion of Indigenous Nation-Building," *International Journal of Critical Indigenous Studies* 1, no. 1 (2008): 23.

³⁷ *Ibid.*, 24.

³⁸ Hoxie, 54-55.

³⁹ American Bar Association, "Violence Against Women Act," *American Bar Association*, http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/access_to_legal_services/vawa_home.html (accessed October 12, 2011).

⁴⁰ Katherine Seelye, "Accord Reached on Sweeping Bill to Battle Crime," *The New York Times*, July 29, 1994, <http://www.nytimes.com/1994/07/29/us/accord-reached-on-sweeping-bill-to-battle-crime.html?pagewanted=all&src=pm> (accessed October 12, 2011).

⁴¹ National Institute of Justice, *Violent Crime Control and Law Enforcement Act of 1994: U.S. Department of Justice Fact Sheet* (Washington, DC: 1994).

⁴² Kristen Roe, "The Violence Against Women Act and Its Impact on Sexual Violence Public Policy: Looking Back and Looking Forward," *National Online Resource Center on Violence Against Women*, September 2004, http://www.vawnet.org/sexualviolence/summary.php?doc_id=251&find_type=web_desc_GC (accessed October 12, 2011).

⁴³ *Ibid.*

⁴⁴ American Bar Association, "Violence Against Women Act," *American Bar Association*, http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/access_to_legal_services/vawa_home.html (accessed October 12, 2011).

⁴⁵ National Network to End Domestic Violence, "The Violence Against Women Act of 2005: Summary of Provisions," *National Network to End Domestic Violence*, <http://nnedv.org/policy/issues/vawa.html> (accessed October 12, 2011).

⁴⁶ Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," *Stanford Law Review* 43, no. 6 (1991): 1260.

⁴⁷ *Ibid.*, 1261.

⁴⁸ Incite! Women of Color Against Violence, *Color of Violence: The Incite! Anthology* (Cambridge: South End Press, 2006), 1.

⁴⁹ Ibid.

⁵⁰ Critical Resistance is a grassroots abolitionist organization engaged in waging efforts to dismantle the prison industrial complex.

⁵¹ Incite! is a national activist organization of women of color engaged in the grassroots effort to end violence against women of color and their communities.

⁵² Incite! Women of Color Against Violence, 223-224.

⁵³ Ibid., 3.

⁵⁴ Established in 1944, the National Congress of American Indians is the oldest and largest national organization of American Indian and Alaska Native tribal governments.

⁵⁵ National Congress of American Indians, “Resolution # PHX 03-034: Support for the 2005 Reauthorization of the Violence Against Women Act Including Enhancements for American Indian and Alaska Native Women,” June 18, 2003.

⁵⁶ Ibid.

⁵⁷ Sarah Deer, “Sovereignty of the Soul: Exploring the Intersection of Rape Law Reform and Federal Indian Law,” *Suffolk University Law Review* 38 (2005): 460.

⁵⁸ A sampling of the 16 crimes that currently fall under this legislation are manslaughter, kidnapping, assault with a dangerous weapon, and incest.

⁵⁹ Deer, 460.

⁶⁰ National Injustice of Justice, *Public Law 280 and Law Enforcement in Indian Country—Research Priorities* (Washington, DC: 2005).

⁶¹ Ibid.

⁶² Deer, 461.

⁶³ Sarah Deer, “Federal Indian Law and Violent Crime: Native Women and Children at the Mercy of the State,” *Social Justice: A Journal of Crime, Conflict & World Order* 31, no.4 (2004): 22.

⁶⁴ For example, Amnesty International’s report *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA* (New York: Amnesty International USA,

2007) estimates that at least 86% of the violence perpetrated against Native women is done by non-Indians.

⁶⁵ Andrea Smith, “Unmasking the State: Racial/Gender Terror and Hate Crimes,” *The Australian Feminist Law Journal* 26 (2007): 49.

⁶⁶ Ibid.

⁶⁷ Sacred Circle: National Resource Center to End Violence Against Native Women, National Congress of American Indians, and National Task Force to End Sexual and Domestic Violence Against Women, *Restoration of Native Sovereignty V* (Rapid City: Sacred Circle, 2006).

⁶⁸ Sarah Deer, Bonnie Clairmont, Carrie Martell, and Maureen White Eagle, eds., *Sharing Our Stories of Survival: Native Women Surviving Violence* (Lanham: Altamira Press, 2008), xii.

⁶⁹ David Kazanjian, *The Colonizing Trick: National Culture and Imperial Citizenship in Early America* (Minneapolis: University of Minnesota Press, 2003), 5.

⁷⁰ Ibid., 193.

⁷¹ Ibid.

⁷² Ibid., 198.

⁷³ Ibid.

⁷⁴ The Violence Against Women Act of 1994, H.R. 3355 (1994).

⁷⁵ Ibid.

⁷⁶ Sacred Circle, 14.

⁷⁷ Sacred Circle, 16.

⁷⁸ Moore, 94.

⁷⁹ Sarah Deer, interview by author, Minneapolis, Minnesota, July, 27, 2010.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Treuer, 41.

⁸³ James Olson, ed., *Encyclopedia of American Indian Civil Rights* (Connecticut: Greenwood Press, 1997), 98.

⁸⁴ *Ibid.*, 99.

⁸⁵ Myla Vicenti Carpio, “Countering Colonization: Albuquerque Laguna Colony,” *Wicazo Sa Review* 19, no. 2 (Fall 2004): 61.

⁸⁶ Sarah Deer, “Relocation Revisited: Sex Trafficking of Native Women in the United States,” *William Mitchell Law Review* 36 (2010): 669.

⁸⁷ *Ibid.*

⁸⁸ Carpio, 61.

⁸⁹ Wilkins, 25.

⁹⁰ Carpio, 62.

⁹¹ Mishuana Goeman, “(Re)Mapping Indigenous Presence on the Land in Native Women’s Literature,” *American Quarterly* 60, no.1 (2008): 295.

⁹² Wilkins, 24-38.

CHAPTER THREE

Unidentified Bodies: The Tribal Law And Order Act

On a late Wednesday night in January of 2011, my seven-year-old daughter and I were driving home from an evening of sewing and beading regalia with elders and friends at one of the urban Indian centers in Los Angeles. My usually rambunctious and chatty child was sitting quietly in the passenger seat of our car. I glanced over at her a couple of times, noticed her pensive stare but waited to see if she'd tell me what was bothering her on her own. After several minutes of silence, I finally asked, "Estella, is something wrong? What are you thinking about?" She sighed heavily and dramatically, which is her nature, before answering, "Mama, sometimes I don't *feel* like an Indian." I waited for her to elaborate as she's not one to be stingy with her words or opinions. After a moment she added, "I mean, I feel like an Indian when we're at the center, but I don't *always* feel like one, like at school and with my friends and stuff."

Like many mixed-blood urban Indian children, Estella has come home from school or from playing with her non-Indian friends on a number of occasions to complain that her skin is too light or her hair not dark enough to be a "real Indian." I can usually soothe these concerns by showing her photos or otherwise reminding her of lighter-skinned relatives and friends whose Native identities she's never questioned. But this quiet, dark winter night, as I maneuvered us from downtown Los Angeles to our apartment in northeast Los Angeles, I really considered the poignancy of her feelings and words. They were expressed with such sorrow, such longing, and such distress that I couldn't simply brush them aside as the benign utterances of an urban Indian child.

Rather, Estella's concerns caused me to pause and take more seriously the relationship between urban Indian identity and forms of violence against Native women. In particular, her

comments prompted me to ask myself how the construction of urban Indian identity might both contribute to the acts of violence directed at Native women and also work as an act of violence in itself. How is it that my daughter who does “Indian things” (i.e. powwow dancing, beading, and attending ceremonies) and spends a good deal of her time in the company of Indian relatives *feels* non-Indian? Is it simply because she considers her “non-Native” features to mark her as less Indian than the Indians her friends dress up as at Halloween? Or might there be something more to it? Few of the Natives I know, after all, even come close to resembling the USA stamped-with-approval Indian of the colonial imagination so why is it that so many of us struggle with issues of identity? Have we internalized an archaic system of classification that equates skin tone and hair color with ethnic/racial affiliation? Yes, I argued in the previous chapter that our bodies, regardless of physical characteristics, located in urban settings seemingly beyond the borders of colonially constructed spaces of indigeneity have been eliminated from understandings of Nativeness, but how does the *construction of identity* also contribute to the violence of colonialism? And to what degree can we understand the denial of indigenous identity as an act of violence?

In this chapter, I will explore such questions through a critical analysis of the recently signed Tribal Law and Order Act (TLOA) which has been hailed by many as an unprecedented effort to combat violence in the lives of Native women. I posit that a careful interrogation of the legislation’s provisions and the legacy of settler colonialism it carries not only allows us to more fully comprehend the scope and implications of the Act but also illuminates the ways in which the TLOA might further solidify the white-supremacist, heteropatriarchal ideologies and constructions of Nativeness that cause violence against Native women in the first place. I suggest that rather than redress violence against Native women, the TLOA actually perpetuates

violence in the way it shapes perceptions of Indian peoples, regulates the boundaries of Indian identity, and limits our understanding of violence. I argue that the “law and order” of the Act is not an anti-colonial attempt to reverse past wrongs and rescue Native women from the depths of colonialism but instead is a continuation of the “law and order” that has sanctioned violence against Native women over the last 500 years.

The Tribal Law and Order Act Comes Into Being

At a White House Tribal Nations Conference on November 5, 2009, President Barack Obama addressed violence against Native women by declaring it “an assault on our national conscience that we can no longer ignore.”¹ He further responded to the issue on July 29, 2010 by signing into law the Tribal Law and Order Act. Described by many as a landmark piece of legislation that both acknowledges and attempts to reduce the severity of crime in Indian Country,² the bill’s provisions are particularly applauded for their potential to address violence against Native women: “The Act includes a strong emphasis on decreasing violence against women in Native communities, and is one of the many steps this Administration strongly supports to address the challenges faced by Native women.”³

The major goals of the TLOA, a multifaceted piece of legislation that seeks to address numerous issues related to what has been described as an epidemic of crime in Indian Country, include: strengthening tribal law enforcement by providing tools and resources designated for this purpose; improving coordination between federal, state, and tribal law enforcement agencies; and increasing federal accountability for the deterrence of crime in Indian Country. Title XI of the Act deals specifically with domestic violence and sexual assault prevention and enforcement. Among other things, this portion of the bill requires tribal law enforcement

officials in Indian Country to receive specialized training in interviewing victims of domestic and sexual violence, collecting and preserving evidence, and presenting evidence to tribal and federal prosecutors. It calls for the implementation of standardized sexual assault protocol for tribal law officials as well as Indian Health Service facilities. It also requires that federal employees answer subpoenas or requests to testify in cases of sexual or domestic violence. Likewise, many provisions in other sections of the bill, such as those that bolster the prosecution and sentencing of perpetrators, are aimed at reducing the incidence of violence in the lives of Native women, for, Obama declares, “all of our people – whether they live in our biggest cities or our most remote reservations – have the right to feel safe in their own communities, and to raise their children in peace, and enjoy the fullest protection of our laws.”⁴

The TLOA was not conceived by President Obama or by the legislators who introduced the bill alone. The construction and implementation of the TLOA actually result from the decades of Native feminist/activist/anti-violence work that I have documented in the earlier chapters of this dissertation and should be credited to the dedication and perseverance of Native women across the country. In particular, the TLOA follows on the heels of and is indebted to Amnesty International’s 2007 *Maze of Injustice: The Failure to Protect Indigenous Women from Violence* report. Serving on the advisory committee to this project were prominent anti-violence activists such as Sarah Deer, Charon Asetoyer, Vicki Ybanez, and Denise Morris. Countless other survivors of assault, their families, advocates, support workers, and service providers were consulted and interviewed for the report. The intent of *Maze* was to document both the incidence of violence against Native American and Alaska Native women as well as the factors creating, perpetuating, and/or seeking to redress this violence. To execute this project, Amnesty International investigated issues of jurisdiction, policing, forensic examinations, barriers to

prosecution, and victim support services in three different locations: the Standing Rock Sioux Reservation in North and South Dakota, the state of Oklahoma, and the state of Alaska.⁵ In addition to Native women, Amnesty International interviewed governmental and judicial officials at the tribal, state, and federal level. They also reviewed pre-existing governmental and nongovernmental data such as studies conducted by the US Department of Justice, media reports, law review articles, and court cases and legislation.⁶ After confirming “what Native American and Alaska Native advocates have long known: that sexual violence against women from Indian nations is at epidemic proportions and that survivors are frequently denied justice,”⁷ Amnesty fervently characterized the violence as a violation of human rights and admonished the United States for failing in its obligations under international law to curtail the violence. In their recommendations, Amnesty called attention to the trust responsibility the US government has to ensure the rights and wellbeing of Native peoples⁸ and demanded the US honor this responsibility through measures such as developing comprehensive plans of action to stop violence against Native women, ensuring accountability, increasing federal funding, and implementing effective policing and access to sexual assault forensic examinations.⁹

Again, as I have demonstrated through my earlier chapters, the horrific realities that Amnesty International’s report documented, analyzed, and sought to redress were not new to Native women or the federal government. For decades preceding the report, Native women’s advocates did substantial work at a variety of community, state, national, and international levels in regards to this issue. Despite little to no resources, they documented and analyzed the incidence of violence against Native women as well as initiated advocacy programs, tribal codes, protection order processes, and the establishment of Native shelters and coalitions. It was precisely this labor coupled with Congress’s findings regarding the prevalence of violence

against Native women that led to the passing of Title IX of the VAWA and eventually led to the creation of the TLOA.

Shortly after the passing of the TLOA, founder and executive director of the Native Youth Sexual Health Network Jessica Yee interviewed Sarah Deer regarding the origins and development of the legislation. In the interview, Deer outlines the connection between *Maze* and the TLOA: “People have been working to get a bill in Congress on violence against Native women for years and years but it didn’t have a fire to catch. So many people in Congress are blind to Indian issues – they don’t even cross their radar. But as I was on my way home from the report launch in DC in 2007, the Amnesty Media Relations folks got calls from staffers on Indian Affairs who were excited and wanted legislation. They thought that the report might be just the thing to make people pay attention, since it’s a real embarrassment to the U.S. about the realities of Native women’s lives. So they asked us to turn around and come back. I was very sick and going through chemotherapy at the time, but I went back. First thing they planned was a Senate Committee on Indian Affairs hearing, the first in front of any congressional body solely focused on any Native women’s issues. It’s been advocating and activism ever since.”¹⁰ She adds, “It took 60 or 70 years for my favorite feminist from history, Susan B. Anthony, and all these women I looked up to as a little girl, to get the vote – and this took three years. It’s really been 500 years, but three years of putting it on paper.”¹¹

Including the one Deer mentions, approximately 15 separate hearings were held before the Committee on Indian Affairs, the Committee on Natural Resources, and the Subcommittee on Crime, Terrorism, and Homeland Security in the 110th and 111th Congresses. The content of these hearings regarded issues related to law enforcement, crime, and criminal justice in Indian Country. Then Chairman of the Committee on Indian Affairs, Senator Byron Dorgan reported

that “the hearings confirmed that a longstanding and life threatening public safety crisis exists in many Indian communities.”¹² Based on the testimonies given early on, Senator Dorgan and 12 co-sponsors initially introduced the TLOA of 2008 on the 23rd of July. Additional hearings were held, but the bill was not reported out during the 110th Congress, thus, in April of 2009, the bill was reintroduced in the House and the Senate as the TLOA of 2009. Eventually, the Act was voted on, passed, appended to the Indian Arts and Crafts Amendments Act of 2010, and signed into law by President Obama on July 29, 2010.

Again, Native women were instrumental in this process from the earliest hearings held before the Committee on Indian Affairs to the actual signing of the Act at the White House. For example, in June of 2007 shelter and program directors Georgia Little Shield and Karen Artichoker joined others in testifying at the “Needs and Challenges of Tribal Law Enforcement on Indian Reservations” hearing based on their extensive experiences advocating for Native women. In September of 2007, directors, advocates, and survivors such as Jami Rozell, Tammy Young, and Karen Artichoker again provided testimonies at the “Examining the Prevalence of and Solutions to Stopping Violence Against Indian Women” hearing. Their testimonies recounted incidents and contexts of violence as well as the “discriminatory and jurisdictional barriers to effective law enforcement response.”¹³ They also spoke to the discrepancies between what had been enacted under the VAWA and what had actually been implemented and they offered recommendations for future action.

When President Obama signed the Act at the White House, Native activists such as Sarah Deer, Terri Henry, Suzanne Koeplinger, and Jacque Agtuca were invited to attend the event. Survivor Lisa Marie Iyotte introduced the President before his signing and addressed the nation as she courageously and tearfully shared her story of sexual violence and the failure of federal

authorities to prosecute her rapist. In addition, she commented, “If the Tribal Law and Order Act had existed 16 years ago, my story would be very different.”¹⁴

It is critical that we recognize and honor the commitment, dedication, and intentions of the Native women whose fingerprints can be found all over the TLOA even as I proceed to interrogate the possible negative implications of it. To characterize the Act as merely another nation-statist attempt to solve “the Indian problem” without taking seriously how the workings of the nation-state demand that Indians have problems in the first place would perpetuate the marginalization and devaluing of Native women’s anti-violence mobilization. This is not my intent. I propose, however, that in a fashion similar to my reading of Title IX of the VAWA, we resist the urge to read the TLOA as a completely positive or a completely negative piece of legislation penned in entirety either by the settler state or by Native women and rather we interrogate the complicated and varied outcomes of such legislation. That is, I believe it is wholly possible, and essential, to both acknowledge the provisions in the Act that do have potential for addressing violence against Native women and also to examine the ways in which such provisions might be co-opted and utilized in the interests of colonialism, white supremacy, and heteropatriarchy.

The Tribal Law and Order Act and Perceptions of Indigeneity

Responses to the Tribal Law and Order Act have been numerous. A good number of these have been celebratory in nature and characterize the TLOA as a “historic” piece of legislation that “will allow us to write a new and much better chapter in the history books regarding law enforcement in Indian communities.”¹⁵ Notably, however, other reactions to the Act laud the effort it represents but also describe it as merely an initial step to eradicating

violence in Indian Country. Many of these responses come from Native women entrenched in the anti-violence movement and speak to the limitations of the TLOA, which range from failing to allocate adequate funding to failing to sufficiently address the 1978 *Oliphant* decision that, as discussed in Chapter Two, allows non-Indian perpetrators to commit acts of violence with impunity.

These sentiments are echoed by a handful of others who too argue that “the TLOA places a federal band-aid over the current crime crisis, but it certainly does not do enough to foster long-term solutions to the problems.”¹⁶ For example, Gideon Hart, law clerk to the United States District Court for the Northern District of Ohio, posits that “*future* legislation would ensure that tribal law enforcement agencies and courts are adequately funded, further increase the sentencing authority of tribal courts beyond the proposed three-year limit, and legislatively overturn *Oliphant* to provide for tribal jurisdiction over non-Indians who commit crimes in Indian Country.”¹⁷ (Emphasis Mine.) And Suzianne Painter-Thorne, Associate Professor of Law at Mercer University School of Law, calls the Act “a half-measure that would do little to address the underlying impediment to effective tribal law enforcement by leaving prevailing jurisdictional confusion in place.”¹⁸

As critical as these responses are to addressing the most glaring limitations of the Act, it must also be acknowledged that these critiques, like the Act itself, tend to overlook the settler colonial context within which the Act operates. For instance, the most critical responses to the TLOA consistently assert the need to repeal *Oliphant* so that tribal jurisdiction can be extended over non-Indians. It’s proponents, of course, argue this should be done in the name of sovereignty and self-determination. In other words, Native nations should have the sovereign right to exert control over those residing on or visiting reservation lands. Noteworthy, however, is that the

conceptualization of a post-*Oliphant* world doesn't necessarily translate into a world where Native nations have jurisdictional rights as *sovereign peoples*, but rather, as former U.S. Attorney for the District of Colorado Troy Eid articulates it, "ending *Oliphant* means extending tribal court jurisdiction to all citizens in a way that fully protects their rights *under the U.S. Constitution*."¹⁹ (Emphasis mine.) Furthermore, the proposals for extending, or returning, tribal jurisdiction over non-Indians sound more akin to the rhetoric of assimilation than that of sovereignty. Eid asserts, "A better approach would be to ensure that the tribal courts themselves — based on their own assessment of their sovereign interests — meet the federal Constitutional requirements"²⁰ and, he continues, "those tribal courts wishing to exercise criminal jurisdiction over non-Indian defendants could be supported in doing so starting on a certain date, provided they agree *voluntarily* to integrate federal constitutional substantive and procedural protections into their justice systems."²¹ (Emphasis mine.) In other words, undoing the jurisdictional restrictions placed upon tribes by *Oliphant*, and thus recognizing tribal sovereignty, is a priority, or even a possibility, only if tribes volunteer to adopt federal mandates, procedures, and understandings of "law and order" itself.

If Native nations choose not to voluntarily integrate such settler colonial understandings of justice, then their sovereignty will continue to be unrecognized and undermined by the United States. Similar logic, wherein which Native nations have had to "volunteer" to behave in decidedly less than Native ways (in terms of political, economic, social, and legal structure, etc.) in order to be recognized as sovereign Native peoples plagues the history of Federal Indian legislation. The Indian Reorganization Act, the federal recognition process for tribes, and the enrollment of Native citizens are only a few examples of other legislative measures that require a similar sort of shape-shifting in order for Native peoples to affirm their sovereignty. Such

colonial molding of Native polities reeks of assimilationist tactics to eventually do away with Native identity altogether so that Native peoples can be incorporated into a more homogenous and, thus, more manageable US citizenry.

Equally as problematic as overlooking the context of colonialism the Act exists in is the (intimately related) acceptance of the manner in which the Act portrays indigeneity. From the earliest Senate hearings to the signing of the TLOA to media coverage of the legislation, Native communities are described in negative and disparaging ways. Proponents of the legislation argue “it is difficult to overstate the severity of the problem” since “violent crime in American Indian and Alaska Native communities is at unacceptable levels.”²² The “lawlessness” of Native communities is regularly asserted while Amnesty’s statistics of violence against Native women are placed alongside stories of gang activity and methamphetamine use to substantiate such claims.²³ Furthermore, the root causes of criminal activity in Native communities are identified as “substance abuse, poverty, and lack of educational and employment opportunities.”²⁴ Thus, the Native world described by the TLOA is a very particular one indeed. It is a “broken” world where “lawlessness,” “incompetency,” and “hopelessness” prevail. It is a world where alcoholism, poverty, and unemployment have been credited with the demise of “law and order” and a where Native inferiority, negligence, and deviancy is implied. Rarely, if at all, however, is it described as a world that also finds itself plagued by settler colonialism, institutional racism, and the logic of elimination.

In an open letter to tribal and other marginalized communities, scholar Eve Tuck addresses the consequences of describing communities in this manner, even in seemingly benevolent attempts to “fix” the harm or injury. She terms this practice “damage-centered research” and invites researchers, educators, and targeted communities themselves to take

seriously the outcome of these sorts of characterizations. Tuck argues that even when damage-based research (i.e. research that continually, and exclusively, documents pain, suffering, and/or loss) is socially and historically situated, “the significance of these contexts is regularly submerged” so that the context of racism and colonization becomes secondary and “all we’re left with is the damage.”²⁵ Arguably, the Tribal Law and Order Act documents precisely that — damage. What the TLOA does not document is colonialism — the context for said damage. Thus, the TLOA does not attempt to “fix” colonialism because it does not see colonialism as the problem. It attempts to fix broken Indian peoples, broken Indian justice systems, and, as far as suggestions to overturn Oliphant go, the broken jurisdictional maze that makes the federal government unaccountable to its “nation-to-nation” relationship with Indian peoples.

The TLOA is not alone in its myopic and damaging characterization of Native peoples, however. The way in which the legislation portrays Native peoples and Indian Country builds on a body of damage-centered media coverage that proliferated after Amnesty International’s report. Long-time activist Bonnie Clairmont, from the Tribal Law and Policy Institute speaks to the heightened “concern” for Native women that erupted only after Amnesty “illuminated” the issue of violence and shamed the US government. She recalls suddenly receiving numerous telephone calls inquiring about the rates of violence: “They were all wondering — ‘where did this come from?’ I have to say as a Native woman we all know. We’ve been saying it and shouting it from the rooftop. But who wants to listen to Native women?”²⁶ Article after article, academic as well as popular, and press release after press release began reporting the staggering rates of violence against Native women. The issue became a national “concern” that, although not new at all, had suddenly catapulted to importance and prompted additional investigative endeavors committed to both unveiling and offering solutions to the problem of violence among Native peoples. As

discussed above, however, these accounts generally failed to describe the colonial context of violence and instead focused on Native women as victims of individual perpetrators.

For example, in November of 2007, Michael Riley of *The Denver Post* wrote and published a three-part series of articles titled “Lawless Lands.” These pieces cover the information unearthed in a sixth-month investigation led by *The Denver Post*. The three separate articles cover a range of issues relating to justice in Indian Country and are titled, from first to third, “Promises, Justice Broken,” “Justice: Inaction’s Fatal Price,” and “Principles, Politics Collide.” A fourth, follow-up piece was printed the day after the series and was titled “Path to Justice Unclear.” The picture Riley paints of Indian Country is particularly bleak and disturbing, but not altogether surprising. Directly responding to Amnesty’s cries, the first article in the series sets the tone of his exposé by invoking “the tales of monsters” that plague “some of the most violent and impoverished places in America.”²⁷ Over the next two pieces, Riley continues to portray Indian Country as infested with crime, sadness, violence, despair, and hopelessness. For example, he describes the Navajo community To’hajiilee as “in many ways typical” of the sensational deterioration he wishes to document: “the peaceful veneer is deceptive. Alcoholism and drug use are chronic, and from that stems crime that is at once brutal and intimate — often committed by family members, but certainly among people who know each other: Rape. Bloody beatings. The physical and sexual assault of children.”²⁸ Such portrayals do not alter the way Native communities are perceived by the general public but rather resemble centuries-old descriptions of Native communities as inferior, uncivilized, and in need of the so-called federal “protection” articulated in concepts such as “domestic dependent nation” and the guardian-ward relationship established between the federal government and Native peoples.

The picture Riley paints of Indian Country inhabitants too is horrific. In approximately 21 separate vignettes, he documents specific incidents of crime. Ranging from stories of fathers sexually assaulting their own children to stories of youth murdering friends and relatives, these accounts certainly portray those residing in Indian Country as the “monsters” Riley has previously invoked. Interestingly enough, though, in only 2 examples does Riley ever mention the existence of non-Indian perpetrators. In the 3rd of the series, he speaks briefly to the issue of non-Indian employees embezzling from tribal casinos and in the following paragraph mentions that Mexican cartels take advantage of jurisdictional confusion to sell meth and other drugs on reservations. Neither of these mentions contains specific accounts or the names of individual perpetrators as his other vignettes do. Nor in any other vignette is a non-Indian perpetrator identified. All assailants are either designated as Native or their ethnicity is left undesignated.²⁹ This is extremely problematic since it has been well-documented that in at least 86% of the reported cases of sexual assault against Native women, the perpetrators have been identified as non-Native men.³⁰ We also know that “currently, the average Indian reservation has more non-Indian residents than Indian residents.”³¹ By omitting such critical and contextual information, portrayals like the Denver Post’s simply exacerbate widespread and stereotypical perceptions of Indian people as inherently violent, criminal, and damaged.

That the TLOA leaves unchallenged, and actually relies upon, negative and disparaging perceptions of indigeneity speaks volumes to its potential to further solidify white supremacy and colonialism. Violence against Native women does exist. Substance abuse and poverty in Native communities also exist. And these realities must be spoken if they are ever to be redressed. But, they must be spoken of more complexly, in ways that account for and interrogate the colonialism, racism, and heteropatriarchy they are entwined with. If this is not done, like

damage-centered research that ultimately pathologizes that which it investigates, damage-centered legislation such as the TLOA will further pathologize the Native communities it purports to “protect.” Such pathologization is not trivial. It aids in reproducing hegemony and justifying the biopolitical regulation of marginalized communities.

The Tribal Law and Order Act and Native Criminality

One provision of the TLOA that has garnered considerable attention from Natives and non-Natives alike is the increase in sentencing authority of tribal courts. Under the Indian Civil Rights Act and its amendments prior to the TLOA, tribal justice systems had been limited to imposing a maximum one-year sentence and \$5,000 fine upon any Indian offender who commits a crime within their respective jurisdictions (regardless of the severity of the crime committed).³² The TLOA increases the maximum sentence a tribal court may impose from one to three years and it increases the maximum fine from \$5,000 to \$15,000. It also stipulates, however, that if a tribal court chooses to sentence an Indian individual to more than one year imprisonment, that court must honor due process rights (as they are defined by the United States) by providing legal counsel to the Indian defendant and requiring that the judge presiding over the matter be licensed to practice law.³³

While this provision of the Act has been hailed for taking criminal activity in Indian communities more seriously, it has also provoked controversy for three primary reasons. First, some argue that the mandatory costs associated with increased sentencing authority might further drain already limited, and in some places non-existing, tribal resources.³⁴ Secondly, the sentencing maximums are “shockingly low”³⁵ in relation to the severity of the crimes they attempt to address, especially when considered in light of national sentencing averages which are

136 months for rape and 92 months for other sexual assaults.³⁶ Thirdly, the provision does nothing to alter tribal sentencing authority over non-Natives which, as I mentioned earlier, commit at least 86% of the reported cases of sexual assault against Native women. Thus, federal efforts to solely increase the consequences of Native-inflicted instances of crime seem extremely limited in scope. In this way, the TLOA *appears* to respond to recommendations made by Amnesty and Native advocates to end impunity for abusers without actually acknowledging that the majority of violent crimes committed against Native women continue to be perpetrated by individuals outside the scope of the TLOA.

Even more critical than its superficial attempt to hold abusers accountable, though is the way in which this provision and its focus on Native-perpetrated crime contributes to and constructs the perception that Native communities themselves are (internally and inherently) infested with deviancy, crime, and violence. Rather than halt violence against Native women, such representations of Native life further aggravate the issue. Luana Ross speaks to the extent that Native communities in Montana are stereotyped as inherently violent and criminal in her book *Inventing the Savage: The Social Construction of Native American Criminality*. Building on a Foucauldian understanding of criminality as socially constructed and discursively produced, Ross argues that the invention of “Native deviance” is part and parcel of the processes of colonization. Designating itself and its citizens as “normal” and “healthy” while designating the Native “other” as that which deviates from the norm and poisons the colonial body, the settler colonial regime justifies its biopolitical management of marginalized populations by equating “otherness,” or that which resists assimilation, with criminality.

Ross describes the process by which the criminalization of Natives peoples occurred as such: “Precontact Native criminal justice was primarily a system of restitution—a system of

mediation between families, of compensation, of recuperation. But this system of justice was changed into a shadow of itself. Attempts were made to make Natives like white people, first by means of war and, when the gunsmoke cleared, by means of laws—Native people instead became ‘criminals.’ *Criminal* meant to be other than Euro-American.”³⁷ Thus, when the “threat” of Native populations could not be disabled through assimilation, laws were enacted to criminalize Natives and subject them to other forms of social control – in this case – incarceration. She continues, “the stereotype of the ‘savage, inferior’ Native was carefully developed, and Natives were seen and treated as deviant.”³⁸ It is this deviancy that continues to mark us as Native peoples today for “the product is a system that imposes on indigenous populations cradle-to-grave control designed to obliterate worldview, political independence, and economic control. To resist is to be criminal, risking the wrath of multiple state law enforcement agencies. In the Americas, this exploitation has been the backbone of a colonial relationship now hundreds of years old yet still vigorous.”³⁹

Ross’s argument⁴⁰ illuminates the violence the TLOA itself commits against Native peoples. The legislation works hand in hand with pre-existing constructions of Native criminality in order to either further assimilate Native identity and existence “by means of law” or, alternatively, to further criminalize and incarcerate Native people. This results in the provisions that mandate Natives behave “like White people” in terms of creating technologies of justice that are carbon copies of the Euro-American model and that increase the criminal sentencing of Native perpetrators. The intent and effects of the assimilationist effort must not be downplayed. For as Patrick Wolfe so deftly argues in “Settler Colonialism and the Elimination of the Native,” as a continuous structure rather than an isolated historical event, settler colonialism employs a wide-range of “strategies of elimination that become favoured in

particular historical circumstances.”⁴¹ Thus, assimilation, like incarceration, must be understood as yet another tactic in the arsenal of efforts to *eliminate* or eradicate that which is Native. In fact, “depending on the historical juncture, assimilation can be a more effective mode of elimination than conventional forms of killing, since it does not involve such a disruptive affront to the rule of law that is ideologically central to the cohesion of settler society.”⁴² Read in this light, the TLOA is not confused for an isolated attempt to reverse the gendered violence of colonization but instead is appreciated as merely one of the most recent tactics in the ongoing process of colonialism.

Furthermore, we must interrogate the implications of an assimilationist approach that demands Native peoples “voluntarily” adopt the very same colonialist apparatus of justice that discursively produces the identity of the Native criminal. In other words, if we recognize the settler state’s investment in “punishment” as a productive rather than reductive act,⁴³ we begin to see how legislation such as the TLOA does more to perpetuate the production of criminal populations than it does to reduce so-called criminality. Thus, when Native peoples are coerced and/or forced to accept and employ such notions of justice, they find themselves working with a system that ever more frequently categorizes and criminalizes their populations in order to better regulate and manage them. That is, Native peoples become differentiated and individuated *by* the settler state and *from* the settler state in a process that marks them as delinquents necessitating surveillance while it normalizes the settler state, its actions, and its citizens. If Native peoples choose not to comply, choose not to think of themselves as inherently criminal, or even choose not to adopt the mandated provisions of the TLOA, they find themselves further criminalized (and, ironically, the recognition of their sovereignty is further limited) for being too Native. Either way, to be Native in the eyes of the settler state is to be “other than Euro-

American” and comes with violent consequences.

The impact that the invention of the deviant, damaged, and criminal Native has on communities becomes particularly poignant when we pair it with the argument that Native peoples have also been marked by the settler state as innately violable. As I outlined in my introductory chapter, in *Conquest: Sexual Violence and American Indian Genocide*, Andrea Smith argues that sexual violence is utilized as a tool of patriarchy *and* colonialism in Native communities, and, in turn, is a “tool by which certain peoples become marked as inherently ‘rapable.’ These peoples then are violated, not only through direct or sexual assault, but through a wide variety of state policies, ranging from environmental racism to sterilization abuse.”⁴⁴ When we redefine sexual violence in this way (as a tool of patriarchy *and* colonialism) we begin to see the ways in which individual acts of rape are but one manifestation of a “wide range of strategies designed not only to destroy peoples, but to destroy their sense of being a people.”⁴⁵ Thus, it becomes possible to ascertain the ways in which entire Native communities (and not solely Native women) have been constructed in the colonial imagination in ways that perpetuate their violability. Representation after representation of Native peoples portrays us as unkept, unwashed, swarming with filth, gluttonous, idolatrous, lascivious, shameful, etc. Smith forcefully extricates the impact of such conceptualizations of Nativeness: “Because Indian bodies are ‘dirty,’ they are considered sexually violable and ‘rapable,’ and the rape of bodies that are considered inherently impure or dirty simply does not count.”⁴⁶ This is evidenced by the horrific amount of sexual assault and mutilation that was and continues to be inflicted on Native *peoples*, all genders included. And it is also evidenced by the relative ease with which the settler state continues to violate Native communities, through regulation, management, surveillance, and the imposition of measures such as the TLOA.

The ideology that Native peoples are inherently rapable not only facilitates settler state violence but also leads to internalized hatred and self-destruction within Indian communities. As Native peoples come to loath their own bodies, which appear to lack integrity and worth when they are continuously violated, “we internalize Western meanings of difference and abject Otherness, viewing ourselves within and through the constructs that defined us as racially and culturally subhuman, deficient, and vile.”⁴⁷ Anti-violence activist Eileen Hudon speaks to this internalization when she recounts a conversation she once had with three Native men during which they all revealed that they had been sexually assaulted in boarding school. Although long-time friends, the men (who were in their fifties at the time of the conversation) were unaware of each other’s experiences until the moment they spoke of them over coffee in Eileen’s home. Eileen was aware that at least one of the men himself had also committed acts of violence against his partner and, thus, she initiated a dialogue around the roots of violent behavior: “I said violence is a learned behavior. I talked about boarding school and where it [the violence] came from. And he said, ‘You mean that, all the men in my family, my grandfather, my father, my uncles, and me, we’re all violent.’ He said, ‘You mean I wasn’t born that way?’ And I said, ‘Yes, it is a learned behavior’ but you know, he, as a Native man, believed he was doomed to violence, had believed some portion of those stereotypes about Native peoples being savage and all that other crap. And he had believed he was born that way, that there was nothing he could do to change how he was violent or who he was.”⁴⁸ Eileen added, “To me, it’s not only the racism and colonization that impact our communities institutionally, but also our own perceptions about ourselves.”⁴⁹

As Lisa Poupart reminds us, however, Native peoples “live in a sort of cultural double consciousness” where even as we have internalized racist and colonialist understandings of

ourselves, we are also keenly aware of the myriad ways in which we have been and continue to be oppressed historically and in the contemporary moment. The conflict between these two ways of conceiving of ourselves often results in anguish, rage, grief, and pain which we sometimes express “internally toward ourselves and externally within our families and communities⁵⁰,” and, additionally, which intensifies the degree to which the dominant culture portrays us as “inherently violent, self-destructive, and dysfunctional.”⁵¹ The presence of such portrayals are not absent from the TLOA which emphasizes, among other things, that “domestic and sexual violence against American Indian and Alaska Native women has reached epidemic proportions” and “Indian tribes have faced significant increases in instances of domestic violence, burglary, assault, and child abuse as a direct result of increased methamphetamine use on Indian reservations.”⁵² And, as I mentioned earlier, similar portrayals saturate the legislative hearings and media reports that led up to the TLOA and describe Native communities as lawless, crime-ridden, and horrific. It is through this construction of violently criminal Indian spaces and Indian perpetrators that the Federal government justifies its move to implement more strident policing, sentencing, and control over Natives despite the already-established evidence that suggests a great number of said crimes are not committed by Indian peoples and do not originate in indigenous communities.

Thus, it is critical that we recognize the extent to which legislative measures like the TLOA transform collective social distress into individual pathologies in order to warrant the increased surveillance and regulation that eventually leads to more effective elimination of the Native. An acknowledgement of this sort allows us to more fully think through the potential consequences of a provision like the increased sentencing of Native perpetrators which further scapegoats and criminalizes Indian men for the crimes of the great white Father, immobilizes

Indian communities by increasing the already over-representation of incarcerated Natives,⁵³ and permits Native women to continue to be preyed upon by the non-Indian offenders who have not been criminalized in similar ways and, thus, are not the primary focus of such law enforcement efforts.

The Tribal Law and Order Act and Identity Construction

The way in which the TLOA works to more securely fasten understandings of Native identity to white supremacist and settler colonial articulations is not limited to an analysis of the Act's specific provisions alone. The way in which the existence of the Act itself engages in larger discussions regarding Native identity is also significant here. Perhaps non-coincidentally and most-tellingly, the TLOA is not a stand-alone piece of legislation but is instead appended to the Indian Arts and Crafts Amendments Act of 2010 (IACAA). Co-authored by Senators Jon Kyl and John McCain, the IACAA was signed into law with very little attention, amendment, or debate. This Act amends the Indian Arts and Crafts Act of 1990 (IACA) to expand and clarify the authority of federal law enforcement to bring criminal and civil actions against offenders involved in the sale of misrepresented Indian-produced goods or products. Described as a “truth-in-advertising law,”⁵⁴ the 1990 Act was passed to both respond to “growing sales in the billion dollar U.S. Indian arts and crafts market of products misrepresented or erroneously represented as produced by Indians,” and better carry out the aims of a 1935 Act of the same name whose stated purpose was to create an arts and crafts board to assist in the promotion of the “economic welfare of Indian tribes and the Indian wards of Government through the development of Indian arts and crafts and the expansion of the market for the products of Indian art and craftsmanship.”⁵⁵

The initial 1935 legislation succeeded in instituting the Indian Arts and Crafts Board, but because it limited penalties to a \$500 fine and/or six months of imprisonment, it was considered inadequate as a meaningful deterrent to the fraudulent sale and marketing of imitation Indian arts and crafts. The Act of 1990 increased maximum penalties to \$250,000 in fines and/or 5 years of imprisonment for individual violations and \$1,000,000 in fines for business violations.⁵⁶ The severity of the consequences the federal government can administer to those who attempt to “play Indian” for the purposes of selling fraudulent Indian arts and crafts in comparison to the consequences tribal governments can administer to those who sexually violate Native women is baffling at best.

More likely, however, the prioritized concern with “protecting” Native artists, tribes, and their patrons from the fraudulent and sinister intent of those who would market “products as ‘Indian made’ when the products are not, in fact, made by Indians as defined in the Act,”⁵⁷ speaks to the vested interest the United States has in defining and controlling Indian identity.⁵⁸ For example, in an essay titled “Indian U.S.A.,” Joanna Barker reads the 1990 IACA not as a measure to halt the appropriation and commodification of Native expression but as legislation “embedded within histories of U.S. federal and tribal identification or membership policies”⁵⁹ that make indigenous people “‘governable’ by roll or certificate or blood” and allows the United States “to reinvent its power to govern indigenous people as citizens ‘of a particular kind’—as those who can be enrolled, recognized, qualified, and eliminated.”⁶⁰

Such readings of the IACA legislation and its consequences lend a hand in analyzing the work of the TLOA.⁶¹ Perhaps the attachment of the TLOA to an IACA Amendment Act is not accidental? As numerous Native peoples have noted, *the* question that plagues Natives throughout their lifetimes and across their experiences is, put simply, who is an Indian? Various

parties are interested in the outcome of this question and for varying reasons. The United States government, for one, is so highly invested in this matter that it has attempted to solidify the definition of Indianness in legal discourse, academic discourse, media representation, and beyond. As a matter of fact, the 1997 *Final Report of the American Indian Policy Review Commission* noted that over three hundred different definitions of Indian identity could be found within BIA documents alone.⁶² That so many attempts to secure Indian identity have been made by the United States might not be as telling, though, as a discussion of the Indian identity “controversies” that emerge as a result of such attempts.

In *X-Marks: Native Signatures of Assent*, Scott Lyons addresses this issue extensively and posits a critical question when he asks his readers to consider whose interests exclusive and regulatory definitions of Native identity, and their resulting crises, serve. For regardless of whether one utilizes blood quantum, tribal enrollment, language, cultural affiliation, or the ever-elusive “tradition” as the measuring stick of Indian identity, crises emerge and manifest in obsession with ethnic fraud, enrollment requirements, disenrollment, banishment, etc. And, yes, the “winners, losers, silent partners, and those who get to make the final call”⁶³ vary from Indian identity controversy to controversy, but the player that never waivers is colonialism – a colonialism that, “left Indian identity in tatters: fragmented, uncertain, endlessly questioned, and something people squabble about.”⁶⁴ To forget the extent to which Indian identity crises are a product of colonialism is, again, to obscure the ultimate effect of such controversies – the securement and enforcement of white supremacist and anti-Indian ideologies – in the process of focusing on the particular players of each event. These effects are not to be taken lightly, however, because even though they are “constructed, intersubjective, language-mediated things—these linguistic definitions of humanity that give meaning to an individual body or

community of people—can lead to material results, among them rights, responsibilities, privileges, discriminations, stereotypes, citizenships, and the ways you might be treated by the police, the state, or teenage boys.”⁶⁵ In other words, Indian identities may be socially and historically constructed, and they may shift across time and space, but they still have social consequence – they help determine if, when, and/or to what degree one is considered Indian in the eyes of the state. Such consideration not only affects material realities such as economic livelihood by determining who is able to produce and sell Indian arts and crafts without criminal penalty but also plays a key role in determining to what degree an individual will be marked for incarceration, sexual assault, and all other methods of elimination.

To counter the extent to which Indian identity serves to mark particular individuals for policies and processes varying from assimilation to elimination, Lyons suggests that we move from thinking of Indians as “things” we can identify, quantify, and manage to conceiving of Indians as human beings who “do things.” He characterizes this shift “as a move from being to doing” that could be “a counterattack to the genocidal implications that are always inherent in the notion of Indian identity as timeless, stable, eternal, but probably in the minds of most people still ‘vanishing.’ Being vanishes. Doing keeps on doing.”⁶⁶ I argue that the TLOA, like the IACAA it is attached to, conceptualizes Indians as “things” that are inherently criminal, violent, and/or, in the case of Native women, victims. This conceptualization perpetuates the disappearing of Indian peoples be it through incarceration, sexual violence, or death itself. Simultaneously, even as it imagines Native women as victims of violent Native men in Native spaces, it allows the actual violence against Native women to go unchecked as it refuses to acknowledge the complexities and diversities of Indian identity on the ground and in communities. In the identity-regulated, imaginary world where the measures of the TLOA might

be useful, there is no discrepancy between who is and is not Indian, and what is and is not Indian country. Law enforcement does not hinge on blood quantum, tribal enrollment, or other markers of “Indianness.” Rather, the TLOA imagines a red and white landscape where Indians are the residents of reservations and either the perpetrators or victims of crimes committed by or against other Indian peoples while non-Indians live in off-rez spaces and simply step in to bring “law and order” to the relationships/locales of Indian peoples.

The Tribal Law and Order Act, Biopolitics, and Urban Indian Women

The discussion of the relationship between Indian identity and gendered violence becomes further problematized if we factor “the urban Indian experience” into the equation, particularly in relation to the TLOA. Again, despite the fact that at least 60% of American Indian and Alaska Native peoples live in urban areas,⁶⁷ there exists relatively little discussion of violence against Native women within urban communities in the United States. The perhaps over-rehearsed statistics regarding violence and Native women, as well as the varied responses to this violence, primarily focus on reservation or rural tribal communities.

The information that has been generated on this topic confirms that urban Indian women experience violence at rates similar to those in reservation and rural Indian communities and attempts to account for some of the specificities of violence in this context. For example, a study conducted from 2000 to 2003 among urban Indians living in the New York metropolitan area found that “the majority of women in the sample (65.5%) had experienced at least 1 form of interpersonal violence” and “41.0% of the women reported experiencing multiple victimization, defined as experiencing at least 2 types of the interpersonal violence explored in the study.”⁶⁸ Likewise, in the first-ever study to consider the reproductive health of urban Indians nationally,

the Urban Indian Health Institute reports that their findings “confirm data gathered by multiple sources that have consistently shown higher rates of sexual violence among AI/AN women compared to their general population.”⁶⁹ This includes, but is not limited to, the institute’s finding that urban Indian women experience non-voluntary first sexual intercourse at a rate more than twice that of whites.

In *Sharing Our Stories of Survival: Native Women Surviving Violence*, an entire chapter is devoted to issues facing urban Native women who have survived violence. Written by Rose Clark and Carrie Johnson, this chapter posits that urban Indian women, particularly those struggling with poverty and those who have interracial marriages or relationships, which is the case for many, “are among the highest at risk for violent criminal victimization.”⁷⁰ Yet, Clark and Johnson also reiterate that although the majority of Native peoples live in urban areas and are at a high-risk for violence, there is a significant absence of resources/services in urban areas for women who have experienced violence as well as a lack of data regarding the extent and prevalence of such violence.⁷¹ Unfortunately, however, this chapter of *Sharing Our Stories of Survival*, like the other scant resources that exist on this topic, generally presuppose that urban Native women are newcomers to urban areas, and, thus, extra vulnerable to violence as a result of being away from reservation communities and “increasingly isolated from their extended family or cultural group, which might otherwise serve as a protective factor.”⁷² Similarly, these women are described as isolated, lonely, invisible, and alienated individuals struggling with the challenges of navigating a “foreign” system of care as well as social problems such as poverty, unemployment, homelessness, and substance abuse.⁷³

Certainly, this might be the case for some urban Indian women some of the time. But we know that urban Indians have a wide range of experiences – there are those who have been urban

Indians for generations as well as those who have recently arrived to urban areas, those who have a reservation to call “home” and those who are landless, as well as those whose land has metamorphosed to urban space right before their eyes. Why, then, such little and/or generalizing discussion of violence against urban Indian women? I suggest that the absence of substantial discussions, both inside and outside of the academy, is not simply an oversight but has to do directly with the ways in which gendered urban Native identity is constructed.

In *Indians in Unexpected Places*, Philip Deloria explores the relationship between non-Indian expectations of Indianness (or the “ideological frames that have explained and contained Indian actions”⁷⁴) and the lived experiences of Native peoples. In a chapter titled “Violence,” he specifically addresses expectations and ideological framings of Indian identity as they pertain to violence and “outbreak.” According to Deloria, “post Civil-War western reservations, with their incomplete containment of often-mobile Indian peoples, spurred Americans to name a new, rebellious brand of Indian warfare—the *outbreak*.”⁷⁵ This concept, as well as its siblings “rebellion” and “uprising,” became so prevalent in early reservation management years because Indians suddenly found themselves forced into reservation spaces that from which they could break out. Furthermore, such descriptions of Native warfare “revealed a fear of Indian people escaping the spatial, economic, political, social, and military restrictions placed on them by the reservation regime⁷⁶” that attempted to end the nation-to-nation wars that characterized eighteenth and nineteenth century Indian and white relations. That is, rather than think of Native warfare as a sovereign act aimed to defend and retaliate against encroachment by another nation, concepts of outbreak and uprising portrayed Native warfare as rebellious acts of violence committed by colonial subjects resisting the settler state’s desire to integrate them into the American polity.

The effects of ideological constructions such as the outbreak are critical to the discussion at hand. Obviously, the development of reservations attempted to minimize and delegitimize acts that signaled the continuing survival of Native nations as sovereign entities. Reservations represented, among other things, a “colonial dream of fixity, control, visibility, productivity, and, most important, docility⁷⁷” that would, ideally, hasten the goal of assimilation and the elimination of the Native. To some degree, this dream was realized and Native peoples became more knowable than they ever had been before. Records, files, rolls, and a number of other disciplining technologies began to proliferate as Native peoples were surrounded by the surveillance mechanism of the reservation. These included tribal rolls, church records, allotment records, ration records, and agency reports that observed and documented every aspect of Native peoples lives from when they were born to what they ate, whom they married, where they resided, if and when they were baptized, whether or not they committed “infractions,” the degree to which they were educated, if and how much property they owned, when they died, etc. The results of such records better enabled the settler state to seek out and locate individuals in order to more effectively discipline and construct them as colonial subjects.

At the same time, however, the reservation regime more firmly restricted Native peoples from becoming a part of the American body politic. As Deloria reminds us, “The space within and around a reservation was contained and controlled in order to manage Indian people⁷⁸” and, thus, fences were erected and passes were required of Natives wishing to leave the reservation in order to regulate the boundary between Native and white. The assimilationist thrust of the reservation system, then, Deloria argues, was more about similarity than sameness: “That is, the varied efforts to reshape Indian people so as to assimilate them had nothing to do with the sameness that might have characterized social or political equality. Rather they had everything

to do with the practice of perfecting conquered people into similarity—ghost forms of the white conqueror, coexistent but not equal.”⁷⁹ It is this continuous assertion of separation between Native and non-Native that makes the concept of the outbreak so powerful. Native peoples who were distinct enough to be singled out, herded up, and forced onto reservations but also similar enough to be subjected to the disciplining institutions and technologies of the settler state were safe, non-threatening, docile Natives. Natives who resisted such ideological framings were perceived as rebellious and dangerous, a threat to the American body politic. Not only did they represent the incomplete subordination and pacification of Native peoples, but they also highlighted the vulnerability of the colonial regime.

I would argue that the use of the term outbreak to describe that which provokes colonial anxiety over the mobility of Indians (and, by extension, Indian identity) has powerful meaning even in the contemporary moment where, as I argued above, Native peoples in general continue to be constructed as degenerate, abnormal, and/or “sick,” while urban Indians, Native women, and “Other” Natives are even more so constructed as such.

Ann Stoler’s examination of race, sexuality, and biopower in the Dutch East Indies is useful in thinking through the way in which the United States negotiates its production of urban Indians as deviants that threaten the wellbeing of the US state. For example, Stoler argues that colonial authority in the seventeenth and eighteenth centuries was, in part, secured through the so-called “illicit” sexual practices that Dutch men engaged in with colonial subjects. These unions frequently resulted in children and fostered familial and political connections between colonizer and colonized, but the very same mixed-blood children of these unions also spurred increased concern and policing over the boundaries between colonizer and colonized.⁸⁰ Culturally hybrid, mixed-blood subjects were viewed as potentially more threatening to the

colonial order than “pure” Natives as they were figured as the “enemy within” — those who, in Deloria’s phrasing, were *similar* enough to the colonizer to make claims and demands of the colonizing state but who were still “other” than so-called pure European or pure Native. Mixed-bloods were considered cultural hybridities in a schema wherein which “cultural hybridities were seen as subversive and subversion was contagious.”⁸¹

I want to make clear that I am not attempting to conflate urban Indian identity with mixed-bloodedness here, however, I do think it useful to consider Stoler’s argument in regards to the *expectations* of urban Indians in the United States. The overwhelming tendency of the discourse surrounding urban Indian identity and/or experience has been to pathologize urban Indians and to represent them as “exiles without culture, stuck in liminal space between the traditional and the modern, problematically separated from an authentic ideal of Indian culture and identity”⁸² while simultaneously separated from the seemingly Euro-American culture of the city. As a result, cultural degeneracy and loss have come to symbolize those individuals neither Indian enough nor Euro-American enough. Stoler argues that while the discourse of blood did contribute to the rise in policing colonial boundaries in the Dutch East Indies, so too did a “national discourse in which a folk theory of contamination based on cultural contagions, not biological taintings, distinguished true members of the body politic from those who were not.”⁸³ The same can be argued in the urban Indian context where fear of biological mixing fuels an obsession with “blood” in a variety of contexts⁸⁴ while fear of cultural mixing results in endless debates about “ethnic frauds,” “paper Indians,” “new Indians,” and the like.⁸⁵

Such *expectations* about urban Indians are constructed in Native and non-Native communities alike; however, in focusing for the moment on settler colonial constructions of urban Indian identity, I urge us to explore fear of the “enemy within.” Such state-produced fear

is precisely that which undergirds Foucault's articulation of biopolitical power which excludes and/or eliminates certain populations in order to ensure the protection of others. While Foucault rarely mentioned the colonial state in his works, we may certainly utilize his analysis in thinking of urban Indian identity. I would argue that urban Natives are portrayed as a threat to the U.S. body politic because their cultural hybridity, understood as subversion, challenges the settler colonial regime that relies on the elimination of the Native. Breaking free from that which has been constructed as "Indian Country" (in most cases, the reservation) urban Natives challenge the distinction between Native and non-Native that is central to the ongoing colonization of (clearly definable) Native populations.

Urban Indians are not alone in being imagined as extra-ordinary in their potential to pollute the otherwise healthy American body politic. Native women similarly challenge the "colonial order of things" because of their abilities to reproduce Native peoples, Native communities, and by extension, Native claims to land. Inez Hernandez-Avila argues that "it is because of a Native American woman's sex that she is hunted down and slaughtered, in fact, singled out, because she has the potential through childbirth to assure the continuation of the people."⁸⁶ In the chapter "Better Dead Than Pregnant: The Colonization of Native Women's Reproductive Health" of *Conquest*, Smith echoes this sentiment and describes the biopolitical technologies that have been utilized in the regulation of Native women. These include, but are not limited to, sexualized violence, sterilization abuse, the criminalization of pregnancy, contraceptive abuse, and abortion policies. She concludes, "As the ability of Native women to reproduce the next generations of Native people continues to stand in the way of government and corporate takeovers of Indian land, Native women become seen as little more than pollutants which may threaten the well-being of the colonial body."⁸⁷

I'd like to propose that urban Indian women, living in the intersections of urbanity and gender, incite an enhanced sort of settler state panic because they both signal the reproduction of Nativeness despite efforts at elimination *and* upset the colonial dream of the reservation that attempts to contain and manage Indian peoples in spaces that are able to be carefully surveilled and controlled. Likewise, the anxiety these women invoke reveals, yet again, fear of outbreak. That is, outbreak understood as unfettered Native fecundity spilling into the so-imagined pure and non-Native landscape of urban America. Native women reproducing unabashedly across "Indian country" are threatening enough, but urban Native women infesting and contaminating such seemingly untainted Euro-American spaces as the city are an extra-ordinary threat indeed.

Hence, the urban Indian woman has been figured as a particularly dangerous enemy within, as one who poses a biopolitical problem for the state, but more significantly, exposes the imperfections (perhaps impotence) of colonialism and, thus, necessitates elimination. With the TLOA, we witness multiple processes of elimination. First of all, there is a symbolic erasure of urban Indian women in the legislation's refusal to include the urban Indian population in its discussion of violence against Native women. The TLOA's sole focus on tribal communities (without inclusion of culturally hybrid/ambiguous urban communities) eases its own anxiety over the precarious distinction between Native and non-Native but eclipses the realities of Native existence. It would be difficult, however, for the settler state to continue to criminalize and demonize Native peoples, as the TLOA does, without also potentially criminalizing and demonizing itself if it admits to the existence of (perhaps culturally and biologically mixed) urban Indian populations.

Secondly, there is a literal elimination of urban Indian women that results from the TLOA's symbolic erasure of them. Since this population is not included in the legislation's

scope, these women will not benefit from the (albeit problematic) provisions of the Act aimed at addressing violence against Native women. Just as with Title IX of the VAWA, urban Indian women will not be recipients of increased awareness, funding, policing efforts, etc. provided by the Act. Thus, the violence committed against them (intimately intertwined with the goals of genocide) will be allowed to continue with impunity, to flourish even, as it remains hidden deep in the recesses of settler colonialism. In this way, urban Indian women's lives will continue to be lost.

Notably, however, even though the TLOA refuses to acknowledge urban Indian women, it does not completely ignore the tangled web of Native identity, cultural hybridity, mobility, and violence. It excludes urban Indian women from its agenda even as it also moves to maintain control over determining who is and is not considered to be Indian. As illustrated above, this is done primarily through its attachment to the IACAA, which blatantly reaffirms the state's control over the boundaries of Indian identity, but it is also done through its production of a carefully delineated portrait of the "authentic Native victim" it purports to save. In other words, the TLOA also enacts an ideological obliteration of urban Indian women in the ways in which it suggests that only particular Native women, in particular geo-political locations, legitimately deserve services and efforts to end violence against them. Like Title IX of the VAWA that precedes it, the TLOA's primary focus on tribal lands, tribal governments, and tribal courts securely fastens Indian identity, once again, to restrictive, white-supremacist notions of Indianness so that it can continue to contain, regulate, and surveille Native women, the reproduction of Native communities, and *our understandings* of Native identity.

The latter is itself an act of violence that cannot be underestimated in its potential to further the project of settler colonialism. For it is of this violence my daughter spoke of when she

voiced her concerns over her own relationship to Nativeness. In only a few brief words and after living under settler colonialism for only seven years, Estella articulated what could be considered the most significant manifestation of violence against urban Indian women — the settler state’s alienation of us from our communities and denial of our identities as Native. Such ideological violence serves to further fragment and thus more easily disappear Native communities. It also severely limits the extent to which we will be able to understand and heal from the physical violence perpetrated against us as well as our ability to envision a decolonizing project that truly embraces Nativeness as it exists in its myriad forms.

Conclusion

My purpose in interrogating the TLOA is not to suggest that we abandon the legislation as it is currently written or that we indict those who contributed to the implementation of it and/or continue to support it. Rather, with this reading, I urge us to refrain from thinking of the TLOA, like the SDCADVSA or Title IX, as “the answer” to violence against Native women and to consider it as one of the many strategies (despite its imperfections) we might need to take up in the project of decolonizing our Native nations and restoring bodily integrity to our communities. Moreover, with my examination of the work the TLOA does to extinguish even the idea of urban Indian women when addressing violence against Native women, I advocate that we seriously consider the settler state’s fear of urban Indian women. That is, I recommend that we explore the potential for understanding even the existence of urban Indian women as a possibility for rearticulating Indianness in a way that opens up rather than restricts our communities and increases the number of us who may be invested in projects of decolonization and resistance to the colonial project of Indigenous elimination.

¹ Lynn Rosenthal, “The Tribal Law and Order Act of 2010: A Step Forward for Native Women,” The White House Blog, posted July 29, 2010, <http://www.whitehouse.gov/blog/2010/07/29/tribal-law-and-order-act-2010-a-step-forward-native-women> (accessed September 13, 2011).

² The definition of Indian Country is set forth by federal law (18 U.S.C. § 1151) as follows: “(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.” As discussed in Chapter Two, such an understanding of Indian Country is highly problematic and limits the scope of any legislation that relies upon it.

³ Rosenthal.

⁴ Gale Toensing, “Obama Signs ‘Historic’ Tribal Law and Order Act,” *Indian Country Today*, July 30, 2010, <http://indiancountrytodaymedianetwork.com/2010/07/obama-signs-%e2%80%98historic%e2%80%99-tribal-law-and-order-act/> (accessed September, 13, 2011).

⁵ As discussed in Chapter Two, the three locations chosen as sites of research for the report are significant. In various ways, these locations coincide with, rather than challenge, hegemonic understandings of “Indian Country” and contribute to the belief that violence against Native women is something that occurs in remote, Indian locations beyond the reach of civilized “law and order.”

⁶ Amnesty International, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA* (New York: Amnesty International USA, 2007).

⁷ Amnesty International, *Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA: One Year Update* (New York: Amnesty International USA, 2008), 1.

⁸ As discussed in Chapter Two, the “trust responsibility” the U.S. government has to Native nations, like “law and order,” is frequently invoked to call for better “protection” and treatment of Native peoples by the settler state. Rarely discussed, however, are the colonial ideologies underplay in such a relationship that defines the United States as the “guardian” of the Native “ward” or that situates indigenous communities as inferior to and under the eye of the settler state in their position as “domestic dependent Nations.” When considered in this context, the “trust responsibility” of the United States is not confused as a responsibility to ensure that Native peoples are treated equally under the law but rather understood as a responsibility to maintain the unequal and inferior position of Native peoples in relation to the settler state.

⁹ Amnesty International, *Maze of Injustice*.

¹⁰ Jessica Yee, “How Native Women Built the Tribal Law and Order Act.” Ms. Magazine Blog, posted February 7, 2011, <http://msmagazine.com/blog/blog/2010/08/03/the-woman-behind-the-tribal-law-and-order-act/> (accessed September 13, 2011).

¹¹ Ibid.

¹² Byron Dorgan from the Committee on Indian Affairs, *The Tribal Law and Order Act of 2009*, S. Rep. No. 111-93, at 4 (2009).

¹³ *Examining the Prevalence of and Solutions to Stopping Violence Against Indian Women, Hearing Before the Committee on Indian Affairs*, 110th Cong. (September 27, 2007) (statement of Jami Rozell, Educator-Survivor Citizen).

¹⁴ “Signing the Tribal Law and Order Act,” *White House* video, 14:38, July 29, 2010, <http://www.whitehouse.gov/photos-and-video/video/signing-tribal-law-and-order-act>.

¹⁵ Toensing.

¹⁶ Gideon Hart, “A Crisis in Indian Country: An Analysis of the Tribal Law and Order Act of 2010,” *Regent University Law Review* 23 (2010): 141.

¹⁷ Ibid.

¹⁸ Suzianne Painter-Thorne, “Tangled Up in Knots: How Continued Federal Jurisdiction over Sexual Predators on Indian Reservations Hobbles Effective Law Enforcement to the Detriment of Indian Women,” *New Mexico Law Review* 41 (2011): 5.

¹⁹ *Examining S. 797, the Tribal Law and Order Act of 2009, Hearing Before the Committee on Indian Affairs*, 111th Cong. (June 25, 2009) (testimony of Troy Eid, Attorney) 25.

²⁰ Ibid.

²¹ Ibid., 26.

²² *H.R. 1924, The Tribal Law and Order Act of 2009, Hearing Before the Committee on Crime, Terrorism, and Homeland Security*, 111th Cong. (December 10, 2009) (statement of Thomas Perelli, Associate Attorney General).

²³ For numerous examples of such descriptions, please see, among others, the *H.R. 1924, The Tribal Law and Order Act of 2009* testimonies before the Committee on Crime, Terrorism, and Homeland Security, 11th Cong. (December 10, 2009).

²⁴ *H.R. 1924, The Tribal Law and Order Act of 2009, Hearing Before the Committee on Crime, Terrorism, and Homeland Security*, 111th Cong. (December 10, 2009) (statement of Thomas Perelli, Associate Attorney General).

²⁵ Eve Tuck, “Suspending Damage: A Letter to Communities,” *Harvard Educational Review* 79, no. 3 (2009): 415.

²⁶ Sheila Regan, “Tribal Law and Order Act’s XI addresses Indian Women Sexual Assault,” *Twin Cities Daily Planet*, October 27, 2010, <http://www.tcdailyplanet.net/news/2010/10/27/tribal-law-and-order-act%E2%80%99s-xi-addresses-indian-women-sexual-assault-issues> (accessed September 16, 2011).

²⁷ Michael Riley, “Promises, Justice Broken: A Dysfunctional System Let’s Serious Reservation Crimes go Unpunished and Puts Indians at Risk,” *The Denver Post*, November 11, 2007, http://www.denverpost.com/news/ci_7429560 (accessed September 16, 2011).

²⁸ *Ibid.*

²⁹ Even in cases where the perpetrators’ ethnicity is unmentioned, however, they are often referred to in terms of their “relation” to their victims which implies they are Native.

³⁰ Amnesty International, *Maze of Injustice*, 4.

³¹ Painter-Thorne, 53.

³² When it was originally enacted in 1968, the Indian Civil Rights Act was passed to “protect” the civil rights of Native peoples from being infringed upon by tribal governments. Many argue, however, that this Act is yet another erosion of tribal sovereignty because it requires Native nations to conceptualize individual civil rights on terms set by the federal government and it restricts the manner in which Native nations can govern their peoples. For example, the initial provisions limited tribes to sentencing offenders for no more than 6 months of imprisonment and/or a \$500 fine. In 1986, as part of the “War on Drugs,” the United States increased these limits to the 1 yr and/or \$5,000 limits. It could be argued that each time these sentencing capacities are increased, it is done so in the interest of the settler state.

³³ Notably, the underlying logic here is similar to the logic of overturning *Oliphant*. Again, it suggests that if Native peoples assent to the settler state, they will be rewarded with increased “recognition” and the granting of so-called sovereign rights – that is, the right to act in accordance with US laws and worldviews.

³⁴ Toensing.

³⁵ Paul Schmelzer, “Bachmann Votes Against Act to Help Native American Police Combat Rape ‘Epidemic’,” *The Minnesota Independent*, July 28, 2010,

<http://minnesotaindependent.com/61865/bachmann-votes-against-bill-to-help-native-american-police-combat-rape-epidemic> (accessed September 16, 2011).

³⁶ Painter-Thorne, 44.

³⁷ Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998), 14.

³⁸ *Ibid.*, 16.

³⁹ *Ibid.*, 29.

⁴⁰ For related discussions of the criminalization of marginalized peoples see Jeffrey Ross and Larry Gould, eds., *Native Americans and the Criminal Justice System* (Boulder: Paradigm Publishers, 2006); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007); Joey Mogul, Andrea Ritchie, and Kay Whitlock, eds., *Queer (In)Justice: The Criminalization of LGBT People in the United States* (Boston: Beacon Press, 2011).

⁴¹ Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006): 401.

⁴² *Ibid.*, 402.

⁴³ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1977), 31.

⁴⁴ Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Cambridge: South End Press, 2005), 3.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*, 10.

⁴⁷ Lisa Poupart, "The Familiar Face of Genocide: Internalized Oppression Among American Indians," *Hypatia* 18, no. 2 (2003): 87.

⁴⁸ Eileen Hudon, interview by author, St. Paul, Minnesota, July, 28, 2010.

⁴⁹ *Ibid.*

⁵⁰ Poupart, 89.

⁵¹ Smith, *Conquest*, 13.

⁵² The Tribal Law and Order Act of 2010, H.R. 725 (2010).

⁵³ For detailed discussions of this issue, see Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998); Stormy Ogden, "Pomo Woman, Ex-Prisoner, Speaks Out," in *Color of Violence: The Incite! Anthology* eds. Incite! Women of Color Against Violence (Cambridge: South End Press, 2006); and Jeffrey Ross and Larry Gould, eds., *Native Americans and the Criminal Justice System* (Boulder: Paradigm Publishers, 2006).

⁵⁴ Indian Arts and Crafts Board, "The Indian Arts and Crafts Act of 1990," *U.S. Department of the Interior* online, <http://www.doi.gov/iacb/act.html>.

⁵⁵ Indian Arts and Crafts Board, "The Indian Arts and Crafts Act of 1935," *U.S. Department of the Interior* online, <http://www.doi.gov/iacb/iaca35.html>.

⁵⁶ Indian Arts and Crafts Board, "Arts and Crafts Act of 1990."

⁵⁷ *Ibid.*

⁵⁸ Certainly, the passing of the IACAA also speaks to the United States economic interest in controlling the production and circulation of "Indian" goods as is illustrated in the legislative testimony of Larry Parkinson, the Deputy Assistant Secretary of Law Enforcement Security and Emergency Management. In his statement before the House Natural Resources Committee on December 2, 2009, Parkinson asserted that the IACAA "would make a significant impact on the federal government's ability to combat the flood of counterfeit Indian arts and crafts being misrepresented as Indian and dramatically eroding a critical component of Indian economies and a genuine American treasure-- Indian art." (emphasis mine)

⁵⁹ Joanna Barker, "Indian™ U.S.A.," *Wicazo Sa Review* 18, no.1, (2003): 27.

⁶⁰ *Ibid.*, 32.

⁶¹ For further discussion of this topic, see Jon Parsley, "Regulation of Counterfeit Indian Arts and Crafts: An Analysis of the Indian Arts and Crafts Act of 1990," *American Indian Law Review* 18, no. 2 (1993): 487-514; Joshua Haynes, "Constructing Authenticity: The Indian Arts and Crafts Board and the Eastern Band of Cherokees, 1935-1985," *Native South* 3 (2010): 1-38; and the visual art of Hulleah Tsinnahjinnie, <http://www.hulleah.com/>.

⁶² Barker, "Indian™ U.S.A.," 32.

⁶³ Scott Lyons, *X-Marks: Native Signatures of Assent* (Minneapolis: University of Minnesota Press, 2010), 49.

⁶⁴ *Ibid.*

⁶⁵ Ibid., 38.

⁶⁶ Ibid., 60.

⁶⁷ U.S. Census Bureau, Census 2000.

⁶⁸ Teresa Evans-Campbell, Taryn Lindhorst, Bu Huang, and Karina Walters, “Interpersonal Violence in the Lives of Urban American Indian and Alaska Native Women: Implications for Health, Mental Health, and Help-Seeking,” *American Journal of Public Health* 96, no. 8 (2006): 8.

⁶⁹ Urban Indian Health Institute, *Reproductive Health of Urban American Indian and Alaska Native Women: Examining Unintended Pregnancy, Contraception, Sexual History and Behavior, and Non-Voluntary Sexual Intercourse*, (Seattle: Urban Indian Health Board, 2010), 34.

⁷⁰ Rose Clark and Carrie Johnson, “Overview of Issues Facing Native Women Who Are Survivors of Violence in Urban Communities” in *Sharing Our Stories of Survival: Native Women Surviving Violence*, eds. Sarah Deer, Bonnie Clairmont, Carrie Martell, and Maureen White Eagle (Lanham: Altamira Press, 2008), 89.

⁷¹ Ibid., 87-88.

⁷² Ibid., 90.

⁷³ Ibid., 94-96.

⁷⁴ Phil Deloria, *Indians in Unexpected Places* (Lawrence: University Press of Kansas, 2004), 7.

⁷⁵ Ibid., 21.

⁷⁶ Ibid.

⁷⁷ Ibid., 27.

⁷⁸ Ibid., 26.

⁷⁹ Ibid., 28.

⁸⁰ Ann Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995), 46.

⁸¹ Ibid., 52.

⁸² Renya Ramirez, *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond* (Durham: Duke University Press, 2007), 21.

⁸³ Ibid., 52.

⁸⁴ Recent examples of this can be seen in the National Museum of the American Indian's September 16, 2011 symposium "Quantum Leap: Does 'Indian Blood' Still matter?" as well as Native America Calling's January 3, 2011 broadcast "Native Matchmaking."

⁸⁵ Angela Gonzales, "Urban (Trans)Formations: Changes in the Meaning and Use of American Indian Identity" in *American Indians and the Urban Experience*, eds. Susan Lobo and Kurt Peters (Lanham: Altamira Press, 2001), 169.

⁸⁶ Inez Hernandez-Avila, "In Praise of Insubordination, or What Makes a Good Woman Go Bad?" in *Transforming a Rape Culture*, ed. Emilie Buchwald, Pamela Fletcher, and Martha Roth (Minneapolis: Milkweed, 1993), 386.

⁸⁷ Smith, *Conquest*, 107.

CONCLUSION

Unchartered Territory: Native Feminist Reconceptualizations

In the early Saturday morning hours of June 25, 2011, my daughter and I waited in the quiet and rather desolate Dallas/Ft. Worth airport for a connecting flight to Tulsa, Oklahoma from which we would head out to our nation's annual festival in Okmulgee. We were spread out across the floor, Estella snacking on McDonald's and myself flipping through the *Muscogee Nation News* trying desperately to stay awake until we boarded the plane as we'd already been travelling since nine o'clock the night before. As I was searching for the festival's schedule of events, I came across a letter to the editor titled "Citizen Remarks on April 15 Photograph" wherein which a concerned and rather irritated citizen of the Muscogee Creek Nation inquired about a photo that had appeared in the April 15th issue of the newspaper.¹ The photo under attack accompanied the article, "Into the Clear Blue: April Marks Child Abuse Prevention Month" and was captioned, "Pictured above are the children from the local Muscogee (Creek) Nation Office of Child Care and Head Start programs who participated in a balloon release in recognition of national Child Abuse Awareness Month in April." Accordingly, it pictured a group of children and two adults releasing light blue balloons into the sky.²

The "concerned" Muscogee letter writer was writing to demand an explanation of the photo for in his opinion, the picture "did not show an Indian face."³ He angrily and sarcastically asked, "Where are the Muscogee (Creek) Children? Were they sick that day?"⁴ He goes on to report the demographics of the children who participate in said programs (six mixed-bloods, four whites, one black, and 70 Native) before closing his letter by woefully asserting, "We Native Americans, are forgotten, even in our own paper, within our own tribal boundaries."⁵

Before I could really even begin to process my thoughts and feelings about this so-called concerned citizen's remarks, I found myself further overwhelmed by the newspaper's response to his letter. The entire opening paragraph of the letter of response, titled "Staff Responds to April 15 Photograph," warrants recounting: "The cover photo from the April 15, 2011 edition of the *Muscogee Nation News* shows three Indian boys among the group of children releasing balloons. Although there are no full facial shots, there are three brown-skinned Indian boys included in the photo. One is shown looking at the camera, one has his arms outstretched upward and another is looking to the sky as the balloons ascend. The children, parents and staff were standing in mixed groups, so picking out a purely Indian group was not possible."⁶ The response then continues to justify the photo by explaining that the balloon release itself happened very quickly and pictures had to be taken in matters of seconds to capture the action of the event. Unfortunately, "the digital camera did not recharge quickly enough to capture as many brown-skinned Creek faces releasing their balloons."⁷ Furthermore, it is added, the printing process used for the newspaper alters color and makes it difficult to correctly ascertain skin tone.⁸ After presenting this lengthy and varied defense, the piece ends with the following assertion: "The Muscogee heritage has a history of inter-racial families. It would not be right to discriminate against a child because of skin color. Child abuse observes no skin color boundaries, so maybe we shouldn't either."⁹

As I finished reading the two letters, I glanced over at my daughter and then back at myself. We would definitely be included among the faces that are not quite brown enough to be printed in the *Muscogee Nation News*. I then thought about some of the personal experiences I recounted in earlier chapters of this dissertation. No wonder my own boyfriend doesn't quite recognize me as Indian and my daughter too questions her identity, for it would seem that even

the Muscogee Nation has adopted settler colonial ideologies that might challenge our claims to indigeneity. This is a humble but poignant example of the issue I would like to engage in the concluding chapter of *Un-Settling Questions* – the indigenous reproduction of biopolitical logics.

Throughout this dissertation I have attempted to demonstrate a variety of ways in which the *settler state* utilizes biopolitical logics to perpetuate the violence of colonialism and the elimination of the Native through the erasure and marginalization of particular indigenous populations – namely, urban Indian women. I have done so to combat and problematize current narratives and discourses that would argue the exact opposite – that the settler state, with its seemingly current embrace of equality and liberal multiculturalism, has turned away from the persecution of indigenous peoples and now works to re-right past wrongs and renew efforts to “save the Indian” from the depths of his/her despair. My purpose in undertaking such a task arises from my conviction that such an argument, or the uncritical praise of settler colonial initiatives such as the SDCADVSA, Title IX of the VAWA, and the TLOA it encourages, drastically impedes projects of decolonization and Native nation-building. Yes, as I’ve demonstrated, each of these initiatives has improved the lives of some Native peoples to some degree yet they have also operated as colonizing tricks intended to placate the Native in order to more effectively eliminate indigeneity.

I cannot in good conscience, however, end my analysis here. For perhaps a far greater threat to decolonization efforts is the degree to which Native nations have come to adopt the biopolitical logics of settler colonialism. Let me be clear though. I do not broach this difficult topic to air dirty Indian laundry and I do not presume that the brief remarks I will make do justice to interrogating the complexities of this issue. Rather, I *initiate* a conversation of this sort both to emphasize the significance of the project at hand and to signal its limitations. That is to

say, I have intended *Un-Settling Questions* to do precisely that which the title suggests – to ask questions that un-settle our current understandings of the relationship between the settler state and violence against Native women. I have attempted to do so, primarily, through an engagement with and a broadening of the current discourse surrounding the relationship between biopolitics, indigeneity, and the settler state. In some ways, however, this dissertation might be considered “predictable” in that it likens the settler state to John Wayne in its never-ending attempt to colonize the Indian. Nevertheless, I chose to pursue such a project because I remain convinced that a thorough understanding of settler colonialism (in its myriad forms) is vital to any project of decolonization (such as the eradication of violence against Native women). This, I believe, is the strength of *Un-Settling Questions*. It suggests that we more carefully interrogate the price of working with the settler state. Furthermore, it attempts to reconceptualize the discourse surrounding violence against Native women by refusing to characterize this issue as an “Indian problem” and by instead positioning *colonialism as the problem*.

Arguably, however, that which is the strength of *Un-Settling Questions* is also its limitation. For, again, this focus on the workings of colonialism frames colonialism as the bad guy and the Indian as the good guy. While I believe this is entirely accurate to a degree, I also believe that the story is a bit more complicated. For as my vignette illustrates, indigenous peoples are not entirely immune to the persuasion of biopolitical logics. In some instances, such logics have invaded our ways of thinking and our ways of asserting nationhood. The Muscogee Creek citizen who admonishes the *Muscogee Nation News* for failing to “accurately” and exclusively represent *brown-skinned* Muscogee children is a striking example of this. Clearly, he has internalized settler colonial ideologies that equate skin tone (and, it can be inferred, blood quantum) rather than political affiliation, cultural practice, etc. with Indianness. That is, as I

argue in chapter two, he has succumbed to the logic that explains indigeneity as a thing one is rather than something one does. His woeful final comment that Native peoples are forgotten even “within our own tribal boundaries”¹⁰ further illustrates his employment of settler colonial logics. The Muscogee Creek people do not live on original tribal lands. Those of us living within the current jurisdiction of the Creek Nation live on lands that are no longer even considered reservation lands but to which the United States relocated us.¹¹ To privilege such geopolitically constructed space as *the* location of Creekness, like I argue in chapter two, is extremely violent.

The *Muscogee Nation News*’ response to this citizen is just as demonstrative of the degree to which Native peoples have internalized settler colonial understandings of Indianness. Nine-tenths of the response is not a refutation of the citizen’s assumptions but rather a defense of why brown-skinned Indians are missing from the picture. This serves not to negate the equation of skin tone with authentic Indian identity but to further reinforce it. The way in which the so-called Indian children they do identify are described is likewise violent in its objectification of their bodies, describing the exact positions in which they appear (arms outstretched, etc.) and their phenotypes as if they are lifeless beings of an anthropological study. Hence, the final three sentences of the response, which suggest that perhaps readers should be more concerned with the issue of child abuse than with the color of a child’s skin, read like an afterthought that was hastily attached to the letter in case any of the children pictured “really are” Creeks.

Sadly, the Muscogee Creek Nation is not alone in its employment of colonialist ideologies. As a matter of fact, the story I have narrated above is a rather humble example of such matters. Scholars such as Jennifer Denetdale, Mark Rifkin, and Joanne Barker have written extensively about indigenous internalization and utilization of the settler colonial logics of exclusion, marginalization, and elimination.¹² For example, in “Carving Navajo National

Boundaries: Patriotism, Tradition, and the Diné Marriage Act of 2005,” Jennifer Denetdale interrogates the Diné legislation that restricts marriage to heterosexual couples. She argues that rather than codify a specifically Diné understanding of sexuality and gender, the Act actually denies Diné “tradition” (evidenced in creation stories and stories of the thirdly-gendered *nádleehí*) and embraces American gender ideologies. The significance of such legislation is immense as “the conflation of Navajo traditional values with mainstream American values gives credence to the multicultural narrative that America has created about itself and renders invisible the links between the past and the present, wherein Native peoples still live with the consequences of dispossession and disenfranchisement.”¹³ Thus, Denetdale argues that the Diné Marriage Act works in the same way that I have argued legislation such as the VAWA and the TLOA work to manufacture a multicultural American narrative that erases the violence of colonialism. The critical difference here is that the Diné Marriage Act emerges not from the settler state but from a Native nation.

Similarly, in “Native Nationality and the Contemporary Queer: Tradition, Sexuality, and History in *Drowning in Fire*,” Mark Rifkin explores same-sex marriage legislation passed by the Navajo and Cherokee Nations. Through a critical reading of Craig Womack’s Creek novel *Drowning in Fire*, Rifkin demonstrates the degree to which “current articulations of Creek nationality remain burdened by the imperial imperative to institutionalize a certain version of normality as a condition of being recognized as a polity by the United States,”¹⁴ particularly as that so-called normality manifests as the compulsive heteronuclearity. Rifkin’s positioning of the Indian civilization, allotment, and education programs of the nineteenth and twentieth centuries as sites through which “the U.S. government has sought to enforce Christian heteronuclearity as the structuring principle of social order, constructing and regulating zones of

privacy in order to produce a social landscape denuded of forms of collectivity that could contest expansionism and capitalist development”¹⁵ undergirds the analysis of the reservation era that I posit in chapter two. I argue that the reservation can also be read as a colonially constructed and highly regulated zone tasked with the domestication of the Native. The imposition of the heteronuclear family and the dissolution of kinship networks were essential to this process as was the privatization and pathologization of the reservation “home.” Sadly, it is this colonially imposed logic of heteronormativity that nations such as the Cherokee, Creek, and Navajo build upon in developing same-sex marriage legislation. Like the reservation and settler state definitions of indigenous identity, heteronormativity has come to be naturalized, embraced, and fiercely protected by Native nations. And, like the urban Indian women who defy the borders of the reservation and settler state definitions of indigenous identity, those Native peoples who defy the heteronormative imperative become excluded from the Native nation.

I have mentioned the complexity of understanding the indigenous employment of biopolitical logics a couple of times already, but it warrants mentioning again. This process is intimately connected to the politics of recognition best understood as the catch-22 situation in which indigenous peoples must appeal to the settler state, on its terms and through its logics of colonial spatialization, the regulation of Indian identity, white supremacy and heteropatriarchy, for recognition as Native peoples. Clearly, such a situation dictates the parameters by which Native peoples can articulate their identities, cultures, and nationhoods. That is, in order to be recognized as authentic Indian tribes, Native peoples must present themselves as *recognizable* (in other words, reservation-bound, countable and identifiable *things* who have succumbed to settler colonial logics) to the colonial apparatus. Unfortunately, as Joanne Barker posits, “these conditions are about the effectiveness of U.S. national narrations at maintaining Native

dominance on the grounds of U.S. superiority and a Native inferiority that simultaneously codifies Native authenticity as a particular kind of cultural continuity, cohesiveness, and distinction.”¹⁶

Understanding the violently difficult and restricted position the game of federal recognition puts Native peoples in can be maddening. It has provoked me to such anger and despair that, at times, I have denounced processes of recognition, indigenous identification, and the project of decolonization altogether. I have felt paralyzed by these emotions, convinced that our Native hands are tied, that we are stuck between a rock and a hard place, damned if we do and damned if we don't. Yet, I have also come to believe that these feelings and experiences, or to use the words of Dian Million, this “felt theory” can be employed to mount “significant political interventions or counterhegemonic moves.”¹⁷ Our voices, our lives, and the stories we choose to tell, as Native women, have the potential to contribute to the project of decolonization: “Our voices rock the boat and perhaps the world. They are dangerous.”¹⁸ And they are the foundation from which a Native feminist analytic that has the “ability to speak to ourselves, to inform ourselves and our generations, to counter and intervene in a constantly morphing colonial system,”¹⁹ emerges.

It is toward this Native feminist analytic, which I outlined in the introductory chapter of this project, that I would now like to turn for it is within a Native feminist discourse that I locate the potential to dismantle the colonial mappings and white supremacist, heteropatriarchal logics that insist on fracturing Native communities in efforts to eliminate indigeneity. Inspired by methodologies employed by Audra Simpson and Andrea Smith, I make this move in order to suggest a prolineal genealogy of the relationship between violence against Native women and our understandings of indigeneity.²⁰ That is, I posit that a Native feminist analytic aids us not

only in interrogating the current state of the relationship between violence against Native women and the construction of indigeneity but also in conceptualizing a counterhegemonic and decolonized *future* relationship between the two.

In particular, I would like to consider Mishuana Goeman's development and articulation of a Native feminist spatial practice for its potential to reshape the discourse surrounding violence against Native women. Goeman argues that a Native feminist spatial practice can and should "address colonial mappings of bodies and land and remap our social and political lives according to cultural values and contemporary needs,"²¹ "(re)invent new stories and branch into the past, present, and future,"²² and "call into question and disorient colonial narrations of "authentic" Native places, bodies, and sets of relationships that sever ties between Native communities, families, and individuals."²³ It is my conviction that a Native feminist spatial practice of this sort can have a significant impact on the discussion of violence against Native women at hand.

As I have attempted to demonstrate throughout this text, violence against Native women is intimately connected with the colonial mapping of bodies, lands, and identities. Through the construction and naturalization of the reservation, the regulation of Indian identity, the pathologization and victimization of Native women, the criminalization of Native men, and the exclusion of certain Native populations, indigenous bodies, lands, and identities have been "mapped" in exceedingly violent ways that fracture Native peoples. An acknowledgement of these occurrences, and the settler colonial logics they emerge from, is critical to positioning violence against Native women as a problem of colonialism rather than an Indian problem. This, however, is only one step in addressing the issue. As Goeman argues, we also need to *remap* our lives based on indigenous cultural values and contemporary needs. For example, in the

contemporary moment, I would argue that we need to “open up prescribed spaces such as the reservation, itself a colonial structure,”²⁴ in order to recognize Native peoples off the rez as an integral part of our communities. This would both allow us to tackle the problem of violence against Native women on a larger scale (one that includes urban Indian women, non-recognized Indian women, and entire Native communities regardless of gender) and strengthen projects of decolonization by expanding the number of indigenous people who are able to contribute to it. Furthermore, a denouncement of the limited and disciplined way in which the space of the reservation is currently conceived could initiate an interrogation of continuing to assert an indigenous sovereignty that echoes the settler state in its reliance on borders, territory, and citizenship policies of exclusivity.

Likewise, I would argue that the contemporary moment necessitates a more expansive and inclusionary understanding of indigenous identity. As I have already argued, the current reliance on settler colonial definitions of indigeneity (such as blood quantum, racial markers, membership policies, and the process of federal recognition) alienates an immense number of Native peoples from their respective communities. A remapping of Nativeness that undoes colonial constraints could “heal the rifts and borders that maps of difference...continue to construct in the wake of colonialism.”²⁵ For example, in an essay titled “Race, Tribal Nation, and Gender: A Native Feminist Approach to Belonging,” Renya Ramirez suggests that the “Lakota philosophy encompassed in the phrase ‘all my relations’ offers an alternative approach to tribal sovereignty that considers how people are related and embedded within social relationships with one another. Using this approach, all people are interconnected and valued and at the same time they are expected to listen and respect those around them.”²⁶ As I already signaled in my introduction, Ramirez expounds upon this idea in her book *Native Hubs: Culture,*

Community, and Belonging in Silicon Valley and Beyond where she argues that Native hubs demonstrate “a Native women’s notion of urban and reservation mobility” and suggest “a political vision for social change.”²⁷ This philosophy of relationality and interconnectivity could be extremely useful for beginning to conceptualize Nativeness in ways that defy colonial restrictions and contribute to indigenous anti-violence organizing. For example, it might lessen the degree to which Native nations exclude community members on the basis of geographical location, enrollment, sexuality, etc. It might also increase Native nations’ willingness to advocate for currently excluded populations of Native peoples. For example, the logic of interconnectivity might lead to the utilization of tribal funding through the VAWA or the TLOA for Native women living in urban areas. Or, it might lead to the development of future legislation that refuses to divide Native communities and privilege some over others in the first place.

In the end, however, *Un-Settling Questions* is less about assuming to have the solution to the problem of violence against Native women than it is about posing questions around the way the problem is currently framed. I do not presume that my seven or so years of interrogating this issue even comes close to the decades of anti-violence organizing other Native women have accomplished nor the centuries of resistance against colonialism Native communities have mounted. What I do hope, however, is that my narrative, my experience with the biopolitical and geopolitical politics of indigeneity, will help tell a fuller and more complex story of violence against Native women so that, in the future, we may continue to address this problem as part of our decolonization efforts.

¹ Brent Harjo-Moffer, “Citizen Remarks on April 15 Photograph,” *Muscogee Nation News*, June 1, 2011.

² Gary Fife, "Into the Clear Blue: April Marks Child Abuse Prevention Month," *Muscogee Nation News*, April 15, 2011.

³ Harjo-Moffer.

⁴ Ibid.

⁵ Ibid.

⁶ Gary Fife, "Staff Responds to April 15 Photograph," *Muscogee Nation News*, June 1, 2011.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Harjo-Moffer.

¹¹ For a nuanced discussion of how reservation lands in Oklahoma have come to lose their status as reservations, please see John Moore, "The Enduring Reservations of Oklahoma" in *State and Reservation: New Perspectives on Federal Indian Policy*, eds. George Pierre Castile and Robert Bee (Tucson: The University of Arizona Press, 1992), 92-109.

¹² Jennifer Denetdale, "Carving Navajo National Boundaries: Patriotism, Tradition, and the Diné Marriage Act of 2005," *American Quarterly* 60, no. 2 (2008): 289-294; Mark Rifkin, "Native Nationality and the Contemporary Queer: Tradition, Sexuality, and History in *Drowning in Fire*," *American Indian Quarterly* 32, no. 4 (2008): 443-470; Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011).

¹³ Denetdale, 289.

¹⁴ Rifkin, 446.

¹⁵ Ibid.

¹⁶ Barker, 28.

¹⁷ Dian Million, "Felt Theory," *American Quarterly* 60, no. 2 (2008): 268.

¹⁸ Dian Million, "Felt Theory: An Indigenous Feminist Approach to Affect and History," *Wicazo Sa Review* 24, no. 2 (2009): 55.

¹⁹ Ibid.

²⁰ As I explain in the methodology section of my introductory chapter, I utilize the concept of a prolineal genealogy as Andrea Smith describes it and identifies it in Audra Simpson's work in *Native Americans and the Christian Right: The Gendered Politics of Unlikely Alliances* (Durham: Duke University Press, 2008), xxii.

²¹ Mishuana Goeman, "(Re)Mapping Indigenous Presence on the Land in Native Women's Literature," *American Quarterly* 60, no. 2 (2008): 295.

²² *Ibid.*, 296.

²³ *Ibid.*

²⁴ *Ibid.*, 299.

²⁵ Mishuana Goeman, "Notes Toward a Native Feminism's Spatial Practice," *Wicazo Sa Review* 24, no. 2 (2009): 184.

²⁶ Renya Ramirez, "Race, Tribal Nation, and Gender: A Native Feminist Approach to Belonging," *Meridians: Feminism, Race, Transnationalism* 7, no. 2 (2007): 30.

²⁷ Renya Ramirez, *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond* (Durham: Duke University Press, 2007), 1.

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