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Policing, Incarceration, and Dispossession: California Indians and Carceral Statecraft

A dissertation submitted in partial satisfaction of the requirements
for the degree Doctor of Philosophy in Gender Studies

by

Stephanie Anne Lumsden

2023

ABSTRACT OF THE DISSERTATION

Policing, Incarceration, and Dispossession: California Indians and Carceral Statecraft

by

Stephanie Anne Lumsden

Doctor of Philosophy in Gender Studies

University of California, Los Angeles, 2023

Professor Mishuana R. Goeman, Chair

Policing, Incarceration, and Dispossession: California Indians and Carceral Statecraft

examines the interconnected relationship between conquest and the formation of the carceral settler state in northwestern California, centering the experiences of my people, the Hupa.

Policing, Incarceration, and Dispossession is an interdisciplinary critical Indigenous studies project which traces the carceral logics of genocide, surveillance, containment, and removal across different sites of conquest, demonstrating their endemicity to settler state formation. In northwestern California, military forts, settler domestic space, and the bordertown are sites of conquest through which the occupying settler state enacts carceral violence against Indigenous peoples as a strategy of ongoing dispossession and statecraft. Centering northwestern California in my analysis reveals that Indigenous dispossession requires a sustained carceral structure that enables the expansion of the state's capacity to discipline Native resistance. This research contributes to the existing scholarship on the prison-industrial complex and addresses the understudied intersection of carceral violence and colonial conquest in California. Centering this region in my analysis of the carceral settler state also makes visible abolitionist genealogies of California Indian resistance. My analysis of conquest and carceral statecraft enriches the history

of the prison-industrial complex with the stories of California Indian peoples who continue to resist state practices of genocide, surveillance, containment and removal. Stories of California Indian resistance challenge their erasure and shed light on the carceral experiences of Native peoples living under settler state occupation. Ultimately, I argue that ongoing California Indian dispossession is intimately linked to the development and expansion of the carceral settler state in northwestern California.

The dissertation of Stephanie Anne Lumsden is approved.

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2023

Table of Contents

Introduction	1
Chapter One: The Carceral Geography of Invasion in Northwestern California	39
Chapter Two: “ <i>Suitable Instructions Shall Be Given</i> ”: The Domestic Carceral Sphere in Northwestern California	73
Chapter Three: “Wipe Out the Plague Spots”: Carceral Settler Statecraft and Chinese Expulsion in Humboldt Count	104
Chapter Four: Inventing the Indian Cop: Colonial Political Formation and Carceral Sovereignty	132
Epilogue: Hupa Feminist Abolition	161
Bibliography	165

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Introduction

Policing, Incarceration, and Dispossession: California Indians and Carceral Statecraft examines the interconnected relationship between conquest and the formation of the carceral settler state in northwestern California, centering the experiences of my people, the Hupa. This dissertation engages with a varied archive of historical regional newspapers, state and federal laws, and public art. I read these materials together using textual and spatial analysis to demonstrate the layered histories of Indigenous dispossession, carceral settler statecraft and sustained Indigenous resistance to occupation in northwestern California. *Policing, Incarceration, and Dispossession* is an interdisciplinary critical Indigenous studies project which traces the carceral logics of genocide, surveillance, containment, and removal across different sites of conquest, demonstrating their endemicity to settler state formation. The racial and gender violence of the settler state manifests across a multiplicity of unique but connected geographical scales from land to the body. In northwestern California, military forts, settler domestic space, and the bordertown are sites of conquest through which the occupying settler state enacts carceral violence against Indigenous peoples as a strategy of ongoing dispossession and statecraft.

Centering northwestern California in my analysis reveals that Indigenous dispossession requires a sustained carceral structure that enables the expansion of the state's capacity to discipline Native resistance. Indigenous dispossession in northwestern California cannot be adequately understood nor resisted when separated from analyses of the carceral state. California Indian dispossession is the basis of the state's legal infrastructure and a significant part of the development of the prison regime in California. This research contributes to the existing

scholarship on the prison-industrial complex and addresses the understudied intersection of carceral violence and colonial conquest in California. Centering this region in my analysis of the carceral settler state also makes visible abolitionist genealogies of California Indian resistance. My analysis of conquest and carceral statecraft enriches the history of the prison-industrial complex with the stories of California Indian peoples who continue to resist state practices of genocide, surveillance, containment and removal. Claiming these ancestors' stories of resistance to the carceral state disrupts the settler narrative of conquest being complete and "refute[s] colonial organizing of land, bodies, and social and political landscapes."¹ Stories of California Indian resistance challenge their erasure and shed light on the carceral experiences of Native peoples living under settler state occupation. Ultimately, I argue that California Indian dispossession and ongoing conquest are intimately linked to the development and expansion of the carceral settler state in northwestern California.

As Deborah Miranda states, "California is a story. California is many stories. As Leslie Silko tells us, don't be fooled by stories! Stories are 'all we have,' she says. And it is true. Human beings have no other way of knowing that we exist, or what we have survived, except through the vehicle of story."² I join Miranda and other California Indian scholars who seek to retrieve our ancestors' stories of resistance from the colonial archive and argue that the stories of California Indian women embodies California Indian resistance to settler colonial carceral violence and challenges patriarchal readings of history that erase Hupa women's role in defending their own lives, the lives of their people and more-than-human kin. As such, I begin

¹ Mishuana Goeman, *Mark My Words: Native Women Mapping Our Nations* (Minneapolis: University of Minnesota Press, 2013), 3.

² Deborah A. Miranda, *Bad Indians: A Tribal Memoir* (Berkeley: Heyday, 2013), xi.

my dissertation with a story about a Hupa woman from the village of Tsewenaldin which highlights the significance and ongoingness of Hupa women's resistance to the carceral settler state. As this dissertation demonstrates, Hupa resistance to the U.S. carceral settler state was frequently instigated by the defense of Hupa women's bodily integrity and the recognition of their centrality to Hupa life and the future of all life in Natiniwx.³ The Tsewenaldin woman's act of resistance and the story that the colonial archive nearly obfuscates, are a lasting legacy of California Indian survival.

In the fall of 1859 tensions were high in the Hoopa Valley. The Hupa, who refused to be removed from the valley but did not wish to engage in open warfare that would put their people at risk, debated amongst themselves about the best strategy to minimize further harm from the invading U.S. Army. In the midst of these debates, a group of U.S. soldiers from Fort Gaston came upon a Hupa woman from the village of Tsewenaldin and attacked her. She resisted her attackers and fatally wounded one of them with the only weapon within her reach, an elk horn tool used for cleaning eels.⁴ The Sacramento Daily Union reported on the attack, "A party of four soldiers recently abused a squaw at Hoopa, and the squaw resisted, stabbing one of the party fatally. An investigation was to take place."⁵ The newspaper's use of the common gender and racial slur to dehumanize the Tsewenaldin woman adds another layer of violence to the attack on

³ The name for the Hoopa Valley in the Hupa language. *Hupa Online Dictionary and Texts* (University of California, Davis: August, 2020) "Hoopa Valley," http://nalc.ucdavis.edu/hupa/hupa-lexicon.php?lx=&ge=Hoopa+Valley&db=dictionary&match=default&get_id=.

⁴ Byron Nelson, *Our Home Forever: The Hupa Indians of Northern California* (Hoopa: Hupa Tribe, 1978), 74.

⁵ *Sacramento Daily Union* Volume 18 Number 2695 November 16, 1859. California Digital Newspaper Collection, UCR. [https://cdnc.ucr.edu/?a=d&d=SDU18591116.2.13&srpos=9&e=-----185-en--20-SDU-1--txt-txIN-"squaw"----1859---](https://cdnc.ucr.edu/?a=d&d=SDU18591116.2.13&srpos=9&e=-----185-en--20-SDU-1--txt-txIN-).

her and disavows her political identity as a Hupa woman in the middle of a genocidal invasion. The woman from Tsewenaldin bravely fought back against her attackers to defend herself, but her act of resistance extended far beyond the immediate threat to her life. Her act of self-defense was also an act of defense on behalf of the land, water, and more-than-human beings whose lives and dignity have been molested by settler invasion. When she grasped for the elk horn tool that she had been using to clean eels to stab one of her assailants, she also fought back against the carceral logics of genocide, surveillance, containment and removal which form and organize the settler state and threaten Hupa life.

The archival record of the Tsewenaldin woman and her act of resistance ends with this one mere mention in the Sacramento Daily Union, but it is not the end of her story. After she stabbed and killed one of the soldiers who attacked her, the Tsewenaldin woman fled and evaded capture with the help of a friend, another Hupa woman from Takimiłdin.⁶ With the help of her friend, the Tsewenaldin woman stayed hidden among her people and avoided retribution for defending her life and killing the soldier. The friendship between these two Hupa women made resistance, fugitivity and survival possible.

The discovery of gold in California during the 1840s introduced unprecedented violence and chaos into the lives of Indigenous peoples throughout the state. By the late 1850s the United State's invasion of Indian homelands in northwestern California disturbed every facet of California Indian life. In the Humboldt military district, efforts at removing or “exterminating” Native peoples in order to guarantee white settlers access to land were consistently met with

⁶ Brittani Orona (her descendant) in discussion with the author, April 25, 2022.

resistance from the Wiyot, Yurok, Karuk, and Hupa Indians, among others.⁷ California Indian resistance in the northwestern corner of the state confounded the U.S. military effort to entrench the territorial sovereignty of the United States after the Treaty of Guadalupe Hidalgo and annexation of California in 1848. California Indian peoples' collective refusal to leave their homelands or passively endure genocidal atrocities compelled the United States to increase its military occupation, so military forts were established strategically in the region to quell Indian uprisings.

Fort Gaston was established in the Hoopa Valley in 1858 by the United States to diffuse the political power of the Hupa who held considerable influence over other tribes in the region. The U.S. army suspected the Hupa of supplying "hostile" tribes in the region with provisions and fighters while denying their participation in militant resistance.⁸ Fort Gaston, built on the valley floor near Hupa villages, was a base of operations from which the U.S. Army and civilian volunteer militia launched genocidal attacks against California Indian resisters. Like most military forts in the region, Fort Gaston was a prison where Indian resisters were held captive until they could be removed to reservations elsewhere in the state. Predictably, the presence of U.S. soldiers and volunteer militia in such close proximity to Hupa villages intensified animosities and led to an increase in acts of violence against Hupa people, particularly women, children, and elders.

⁷ The Humboldt military district was the region between present day Crescent City and Mendocino county.

⁸ Cathleen D. Cahill, *Federal Fathers and Mothers: A Social History of the United States Indian Service, 1869-1933* (Chapel Hill: University of North Carolina Press, 2013), 173.

In a history of the Hupa people, Hoopa tribal member Byron Nelson elaborates on the story of the Tsewenaldin woman. Nelson explains that the attack against her angered the village leader, Tsewenaldin John, and bolstered his resolve to resist the United States.⁹ However, another village leader, Captain John of Takimildin, feared that her act of self-defense would be the cause of more settler and soldier aggression against the Hupa. Captain John urged the village of Tsewenaldin to take responsibility for her actions to protect others from consequences. The debates about whether or not to lay down their weapons after this assault were spirited and the disagreement between the two leaders eventually led to a political feud between their villages which lasted for several years.¹⁰ Some of the Hupa, like Captain John, thought that the United States was too powerful an enemy to keep fighting and wanted to negotiate terms for a ceasefire. Tsewenaldin John refused to negotiate with the government whose soldiers had attacked the woman from his village. Tsewenaldin John, who likely considered the Tsewenaldin woman a close relative,¹¹ treated the attack against her as an unforgivable offense. Tsewenaldin John and other Hupa fighters joined the Indian resistance in the mountains outside of the Hoopa Valley and continued to fight against the U.S. Army and settler militia even after 1864 when the Hupa and some of their allies agreed to end hostilities, provided that they would not be removed from their homelands.¹²

⁹ Nelson, 85.

¹⁰ Damon B. Akins & William J. Bauer *We Are the Land: A History of Native California* (Berkeley: University of California Press, 2021), 151.

¹¹ Villages in the Hoopa Valley were traditionally organized by kinship.

¹² Nelson, 88.

In 1864 the Superintendent of Indian Affairs for the state of California, Austin Wiley, signed the Treaty of Peace and Friendship Between the United States Government, and the Hoopa, South Fork, Redwood, and Grouse Creek Indians. In the treaty the Hupa were promised, among other things, rations and supplies from the Indian agent that would remain stationed on the reservation, protection from settler encroachment provided by the soldiers at Fort Gaston, a physician, and domestic training for Hupa women.¹³ While the Indian agents and the U.S. government reneged on their side of the treaty agreement often and continued to push for the removal of Indians from the Hoopa Valley, the Hupa were successful at keeping their home. The Hupa have fought to remain in the valley since then; it is our home forever.

Positionality

I found my way to this project through memories of the police coming to my house to answer domestic disturbance calls, my dad's nights in the drunk tank, hilarious family stories about evading the cops, picturing my mom as a teenager wrestling with policemen in the front yard, unanswered collect calls from Multnomah county jail, visits to compulsory rehab to see my sister, and incomplete narratives about children being taken away from our family. Close proximity to police and the threat of arrest were constant for my family, and I did not realize until I was older that it was a common experience for California Indians and all Native peoples. The criminalization of Native peoples and its accompanying state surveillance had long been normalized on my reservation and the settler bordertowns that surround it by the time I met other Indians who had stories about the police or being thrown in jail. Only after getting to know other California Indian people in my early adulthood did I understand that arrest and incarceration

¹³ Nelson, 187-188.

were as typical as the many other forms of violence that have destroyed the lives and threatened the futures of Native peoples since the onset of settler invasion. With the help of many teachers and friends, I learned that the police as a settler institution were an integral part of the quotidian colonial violence enacted against my family and community whether it came from the police themselves, social workers, medical professionals, teachers, or individual men who commit domestic and sexual violence. The correlation between the theft of our land and the carceral logics of genocide, containment, surveillance and removal at work in settler institutions became hyper visible to me through my relationships with other Native people; my love for my home and my people led me to abolition. It is my belief that for decolonization to be successful for Hupa people we must challenge the existence of the carceral settler state and its capacity to police the boundaries of our lives.

I began conceptualizing this project in December of 2014 after a 17 year old Hupa teenager, Richard Fredrick Tis'mil Estrada, was killed by a California Highway Patrol officer in Willow Creek, the settler bordertown outside of the Hoopa Valley Indian reservation. It was a shocking tragedy for the community and one that brought many generations of colonial carceral violence into startling clarity. The circumstances of Estrada's death were devastating but sadly, all too common. He was an Indian teen having a mental health crisis whose family had called the police for help, and the police killed him. The officer's deadly use of force was judged to be appropriate because he acted "in fear of his life" and no charges were filed against him.¹⁴ Predictably, the state found that no one was culpable for the Hupa teen's death. Estrada's death

¹⁴ Thadeus Greenon, "'System Failure' The Life and Death of Richard Frederick Tis'mil Estrada," *North Coast Journal of Politics, People and Art*, October 15, 2015, <https://www.northcoastjournal.com/humboldt/system-failure/Content?oid=3343996>.

occurred just months after the murder of Michael Brown by the police in Ferguson, Missouri and the eruption of protests that it inspired across the country. Activist response to Michael Brown's murder and the popular organizing done by Black Lives Matter shaped my thinking about police violence and inspired my dissertation.

I knew that there was a relationship between policing, incarceration and colonialism so in graduate school I pursued a project that could help me understand how ongoing Hupa dispossession was linked to police violence. I wondered, how does an engagement with the history of genocide in northwestern California contribute to theorizations about the prison-industrial complex? Why are the white bordertowns that border reservations so dangerous for California Indians? Why are we criminalized? Why are there such high rates of missing and murdered Indigenous people in Humboldt County? Why do we have tribal police? These questions evolved into the outline for my dissertation.

Methodological Meditations

Policing, Incarceration, and Dispossession, is situated within the historical context of U.S. invasion and settler colonial occupation in northwestern California. This dissertation is anchored by a theoretical and methodological commitment to what Lenape scholar Joanne Barker has termed a "polity of the Indigenous." Barker defines a polity of the Indigenous as, "the unique governance, territory, and culture of Indigenous peoples in unique and related systems of (non)-human relationships and responsibilities to one another";¹⁵ it is Hupa systems of relationships and responsibilities that I am accountable to in this work. I understand that a

¹⁵ Joanne Barker, "Introduction: Critically Sovereign." *In Critically Sovereign: Indigenous Gender, Sexuality, and Feminist Studies*, edited by Joanne Barker, (Durham: Duke University Press, 2017), 1-44, 7.

commitment to a polity of the Indigenous means that it is my responsibility as a scholar to analyze the legal, historical, and cultural contexts of California Indian peoples in ways that critique and challenge ongoing settler colonial occupation.

While writing this dissertation I was living on my homelands in Humboldt County and regularly visited the Hoopa Valley Indian reservation to care for my gram and rest by the beautiful Trinity River. Just a short drive from my house in Eureka sits Fort Humboldt, one of the many sites of carceral violence that I trace in this project in order to examine the development of the carceral settler state in the region. Shortly after I moved to Humboldt County in October 2019, the city of Eureka made history by returning Tuluwat island, the site of an infamous 1860 massacre, to the Wiyot tribe. During long days of writing when I struggled to articulate my positionality and expertise as a Hupa person and scholar, I would leave my home office and walk to the waterfront where I could gaze across the bay at Tuluwat. As Margaret Kovach argues, for Indigenous scholars, doing research on our homelands intimately shapes how we think and write.¹⁶ Being near Tuluwat while I wrote this dissertation about ongoing Indigenous resistance to the carceral settler state influenced my thinking about the meaning of our relationships to land and how our homelands endure in spite of persistent of state violence. The unprecedented land return of Tuluwat has re-made it into a significant place not just for the Wiyot, but for all California Indians who yearn for a return of our land and relations.

In this dissertation I engage with a historical archive of California state newspapers in order to trace settler narratives of invasion and occupation in the northwestern region of the state.

¹⁶ Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations, and Contexts* (Toronto: University of Toronto Press, 2009), 52.

I read into the silence of Native voices in the newspaper archive and resuscitate California Indian stories of anti-colonial resistance and ongoing presence on our homelands in northwestern California. As I elaborate on in the literature review that follows, I follow the example of California Indian scholars such as Deborah A. Miranda and Cutcha Risling Baldy who privilege the voices and experiences of California Indian women who endured gendered colonial violence in order to analyze Indigenous land dispossession and resistance to settler state occupation. Reading stories about the survival and resistance of Hupa women, for example, reveals how the settler state disseminates carceral violence through its sustained colonial legal structure to enact dispossession. Centering the experiences and motivations of California Indian women, such as the story of the Hupa woman that I shared above, reveals the genocidal violence that is endemic to the carceral settler state. However, Hupa women's stories of survival also demonstrate their ongoing resistance and presence on their homelands.

Conquest in California

The subject of California Indian dispossession and violence enacted by white settlers during the gold rush has been broached by white historians who overemphasize the importance of “proving” that genocide did indeed occur by counting our dead.¹⁷ These texts emphasize the brutality of conquest without a sustained critique of the settler state and in so doing flatten the humanity of California Indian peoples and erase their resistance to U.S. invasion. By ignoring the significance of California Indian resistance histories of genocide in northwestern California, perhaps unwittingly, reproduce the disavowal of the liberal state. This dissertation turns away

¹⁷ Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe, 1846-1873* (New Haven: Yale University Press, 2016).

from these histories and instead engages the work of California Indian scholars who theorize about ongoing dispossession and resistance in much more generative and relevant ways.

This dissertation is indebted to Hupa scholar Jack Norton and his foundational study of the genocide during the gold rush in northwestern California. In his book he narrates history from a Hupa perspective and emphasizes the ways that invasion and occupation weakened Hupa systems of governance. Importantly, Norton weaves origin stories into his narrative, exemplifying the significance of storytelling to California Indians as a method for theorizing about balance and peace as well as dysfunction and injustice. Norton tells the Hupa story about Hawk, a hunter who misused his abilities and greedily killed more rabbits than he could eat, leaving a path of death and destruction in his wake. When Hawk showed no remorse for killing rabbits, the K'ixinay balanced the scales by compelling Hawk to shriek every time he dove on his prey so that they would be warned and have the chance to escape.¹⁸ Norton's inclusion of origin stories in his history helps him to articulate a critique of U.S. invasion and offer an example of Hupa ethics or what Hupa scholar Cutcha Risling Baldy has called "Hupa feminist epistemologies;" embodied practices and relationships that are grounded in balance, empowerment, and internationalism.¹⁹

Hupa internationalism is a network of ethical relations with human and more-than-human beings based on a mutual responsibility to keep the world in balance.²⁰ Hupa internationalism is

¹⁸ Jack Norton, *Genocide in Northwestern California: When Our Worlds Cried* (San Francisco: Indian Historian Press, 1979), 28.

¹⁹ Cutcha Risling Baldy, *We Are Dancing for You: Native Feminisms and the Revitalization of Women's Coming-of-Age Ceremonies* (Seattle: University of Washington Press, 2018), 36.

²⁰ *Ibid.*, 40.

articulated in origin stories, embodied in ceremony and in political struggles to protect the wellbeing of the land and waters in the Hoopa Valley and beyond. Importantly, Hupa feminist epistemologies stem from cultural values of balance and justice that make everyone, not just women, responsible for reproducing Hupa life in a good way. As Norton and Baldy both emphasize, Hupa women are not conceptualized as matriarchs or culture bearers due to their capacity to give birth, but rather are accorded respect because of their importance to maintaining balance so that everyone may live well. I contribute to the discourse of Hupa feminist epistemologies by reading stories of Indian resistance in northwestern California as a claim to a future where the destruction of invasion is brought into balance through our relationships, part of this balance demands addressing ongoing forms of carcerality in tribal lands and beyond.

Historical monographs about the genocide enacted on California Indians by U.S. settlers during the gold rush often depict it as a dark chapter in the history of an otherwise democratic nation. In monographs such as Benjamin Madley's, *American Genocide*, California Indians are voiceless victims and their perspectives are silenced. If only following the colonial archives the stories of upmost importance to ongoing Hupa life are lost. Thus I diverge from the archive as constituted by Madley as a political and responsible choice. Wailacki and Concow historian William J. Bauer bemoans the depiction of California Indians as "a vanishing and culturally degraded people" in histories and anthropological studies and emphasizes the importance of writing about "Indian power, adaption, and survival."²¹ Norton documents genocidal violence against the Hupa and other California Indians in order to argue that while the United States is

²¹ William J. Bauer, *We Were All Like Migrant Workers Here: Work, Community, and Memory on California's Round Valley Reservation, 1850-1941* (Chapel Hill: University of North Carolina Press, 2009), 9.

presented as a modern liberal democracy, in actuality it is founded on the genocide and ongoing dispossession of Native peoples.²² When Norton describes acts of violence, he does so to reveal the truth about the United States and to demand reparations in the form of giving land back. Similarly, tribal member Byron Nelson's history of the Hupa, *Our Home Forever*, describes the genocidal invasion of northwestern California in order to demonstrate California Indian survival and the steadfast refusal of the Hupa to be permanently removed from the Hoopa valley. Nelson's text is significant because of his use of local historical archives, family photo collections and oral histories from tribal members who have since passed on. Much like in Norton's work, Nelson privileges Hupa perspectives and leaders in the monograph with particular attention to resistance fighters like Curly-headed Tom, some of whose stories of resistance I also share in the pages that follow. I follow fellow Hupa scholars Norton, Nelson, and Baldy and extend their analyses of invasion and occupation by asserting that ongoing settler colonial dispossession in northwestern California requires a carceral structure which disciplines Hupa life in gendered ways; since the settler state cannot be untangled from this carceral structure I refer to it as a carceral settler state.

Centering the experiences of California Indians living under occupation reveals that the depiction of the United States as a democracy is a ruse intended to erase the violence of occupation. Bauer narrates a history of California Indian survival in the 20th century by tracing the experiences and laboring practices of Indians on the Round Valley Indian reservation. Like Norton, Bauer emphasizes how the territorial expansion of the United States was accomplished through genocidal violence which was undergirded by laws that upheld white settler rights to

²² Norton, 122.

property and undermined California Indians' relationships with land and more-than-human beings. Centering Round Valley Indians' labor in the hop fields of Mendocino county illuminates how the United States relied on the law, Indian agents, boarding schools, individual land allotment and the vigilante violence of white settlers in order to contain California Indians and the threat they posed to the settler state.²³ In their recent book *We are the Land*, Damon Akins and William Bauer narrate another history of California Indian resistance and survival from the perspectives of Native peoples. Akins and Bauer argue that, "California is both a place and an idea. As a place, California has always been and remains Indigenous land, and Indigenous People are central to the history and future of the place."²⁴ Not only is telling history from the perspectives of California Indians important for understanding what has happened here, our stories of survival are essential to building a future on this land.

In *Bad Indians: A Tribal Memoir*, Ohlone and Chumash scholar Deborah A. Miranda provides an incisive analysis of the conquest in California perpetrated by the Spanish and later the Mexican and American occupying governments. Miranda utilizes archival methods, literary analysis, visual analysis and speculative narrative in order to reclaim the stories of California Indian ancestors who were colonized by the mission system. Her mixed methods approach to reading the archival materials she uses is instructive for me as I endeavor to make the stories and experiences of Hupa and other California Indian ancestors the focus of each of my chapters. Miranda emphasizes the importance of California Indian stories and reclaims their narratives through creative readings of archival documents such as newspapers and anthropological field

²³ Bauer, 128-129.

²⁴ Akins & Bauer, 3.

notes which bring California Indian women's experiences under settler occupation into sharp relief. When recovering a story of sexual violence from the notes of the linguist J.P. Harrington Miranda states that, "Through the vehicle of this field note we are engaged in a very Indigenous practice: that of storytelling as education, as thought-experiment, as community action to right a wrong, as resistance to representation as victim."²⁵ The stories of California Indian women's experiences of violence, survival, and resistance are significant because they reveal that gender violence is inherent to the state and foretell of the generations of Indigenous resisters yet to be born. Miranda poetically states, "But through this mark you will know I was here, and I know you are coming after me. We have stories to exchange about this difficult gift, life, and those stories will never disappear."²⁶ California Indians tell stories to remember those of our ancestors who did not survive conquest and to teach us to continue their legacies of resistance to the carceral settler state.

Native feminist epistemologies enacted through ceremony resist colonial gender violence by asserting a desire for a future beyond the carceral settler state. In her book, *We Are Dancing For You*, Baldy documents the revitalization of the Ch'ihwa:l, the Hupa women's coming of age ceremony. Baldy analyzes the importance of the Ch'ihwa:l through a Native feminist lens and discusses the significance of Hupa cultural resurgence in the wake of California Indian genocide. Her engagement with Native feminisms enables a critique of how heteropatriarchy has been deployed through settler colonial structures to interrupt "the spiritual and epistemological

²⁵ Miranda, 29.

²⁶ Ibid., 122.

foundations of Native cultures and societies.”²⁷ Baldy argues that the Ch’iłwa:l ceremony enacts decolonization because it foregrounds the significance of Native women to Indigenous futures. The Ch’iłwa:l reconstructs Hupa tradition and memory by “making power” within the community and confronting gender violence and the erasure of Native feminisms.²⁸ The power made through the Ch’iłwa:l is a collective power that emanates from the dancers through their relationships with each other in contradistinction to the dominating relationship of power over another. The Hupa Ch’iłwa:l evidences the will of Hupa people to remain who they are while building toward a decolonized future.

Decolonizing Indigenous expressions of gender, sexuality and relationships to land through embodied practices such as ceremony enables a future not governed by settler colonialism’s carceral logics. The Hupa women’s coming of age ceremony is an example of how California Indian people continue to embody resistance to ongoing U.S. occupation. Taking inspiration from Baldy, I also read Hupa women’s resistance as more than individual actions, they are acts of collective refusal to be absorbed into the carceral settler state. *Policing, Incarceration, and Dispossession*, contributes to the existing body of California Indian scholarship and critical Indigenous studies more broadly by reading the interrelated histories of California Indian dispossession in northwestern California as carceral settler statecraft and collective resistance to the systemic violence.

Property, Race, and the Spatial Practices of Colonial Occupation

²⁷ Baldy, 9.

²⁸ *Ibid.*, 10.

This dissertation argues that the settler colonial state is organized by and expands through a carceral structure which takes shape through spatial practices of colonial occupation. Indigenous land dispossession is a spatial process which enables the formation of settler relations of property. In her foundational article, “Whiteness as Property,” Cheryl Harris argues that whiteness and property share “a conceptual nucleus - of a right to exclude” which manifests in the legal creation of whiteness as property.²⁹ Harris performs a close reading of several laws and landmark Supreme Court rulings which she argues entrenched whiteness as property and made the law a guarantor of white privileges.³⁰ Harris begins her exploration of property and whiteness with an analysis of the conquest of Native territories and the enslavement of Black people and offers an important insight about how land dispossession and slavery were both “racialized conceptions of property implemented by force and ratified by law.”³¹ White subjectivity is predicated on the expectation of property privileges meaning that the right of exclusion is a necessity for the expression of white personhood.³² In this sense, race is co-constitutive with property which encloses space around the social formation of whiteness.

Analyzing the relationship between race and property reveals the ideological underpinnings of Indigenous dispossession and how it is accomplished materially through the law. Aileen Moreton-Robinson interrogates the relationship between whiteness and the creation of property in the settler state of Australia, arguing that property ownership, and the right of

²⁹ Cheryl Harris, “Whiteness As Property,” *Harvard Law Review* Vol. 106, no. 8 (1993): 1710-1791, 1714.

³⁰ *Ibid.*, 1715.

³¹ *Ibid.*, 1715.

³² *Ibid.*, 1730.

exclusion that property guarantees, enables the formation of the white citizen subject and a capitalist economy that remakes land into a commodity or potential investment.³³ Property is thus inseparable from the formation of a racialized white settler citizen subject who *becomes* through the creation of property.³⁴ The relationship between whiteness and property ownership, belonging, and state sovereignty is upheld by settler law.³⁵ Moreton-Robinson's analysis of white settler subject formation articulates Brenna Bhandar's argument that "racial subjects and modern property laws are produced through one another in the colonial context."³⁶ Settler property laws perpetuate Indigenous dispossession and enable a white supremacist social order wherein racialized subjects that do not belong may be marked for exclusion and exploitation. I contribute to the discourse of racial exclusion, property and citizenship by analyzing Chinese exclusion and expulsion from Humboldt County during the latter part of the 19th century as an imperative spatial process of the carceral settler state.

Policing, Incarceration, and Dispossession interrogates the formation of property, the "civilized" space of the settler, and the "savage" space of the reservation by tracing Native encounters with violent state actors and vigilante settlers across temporalities, drawing from Sherene Razack's spatial analysis of settler colonialism in Canada.³⁷ The spatial processes of

³³ Aileen Moreton-Robinson, *The White Possessive Property, Power, and Indigenous Sovereignty* (Minneapolis: University of Minnesota Press, 2015), xxi.

³⁴ *Ibid.*, 4.

³⁵ *Ibid.*, 16.

³⁶ Brenna Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (Durham: Duke University Press, 2018), 8.

³⁷ Sherene Razack, *Dying from Improvement: Inquests and Inquiries Into Indigenous Deaths in Custody* (Toronto: University of Toronto Press, 2015).

colonial occupation and Indigenous dispossession occur across multiple related geographical scales such as land and the body. Razack argues that for the police and the settler more broadly, the Indigenous body becomes a frontier or “the site on which a savage war is fought.”³⁸ By invoking the geographical scale of the Indigenous body and analyzing it as the frontier, Razack demonstrates the close relationship between police violence and the civilizing mission of the settler state that seeks to domesticate savage landscapes and savage bodies. In the settler imaginary, the Native subject is incompatible with modern life. Razack argues that “when the Indigenous body is marked as one pathologically unable to enter modernity, it must be repeatedly evicted from the civilized spaces of the settler.”³⁹ The maintenance of settler legitimacy and ownership of dispossessed Indigenous lands demands that the Native body be repeatedly expelled from civilized settler space through acts of police violence, or the violence of police-acting settler citizens. “The policeman, as agent of the state and as settler, encounters Indigenous bodies as bodies through which his own legitimacy is secured.”⁴⁰ Through the eviction of the Native from settler public space or private property, the white settler subject proves his ownership of dispossessed Indigenous lands and affirms his subjectivity.⁴¹ I utilize Razack’s analysis of the Native body as frontier to trace the carceral geography of settler invasion through Indian removal and containment after the gold rush, the expulsion of Chinese migrants from

³⁸ Ibid., 84.

³⁹ Ibid., 33.

⁴⁰ Ibid., 87.

⁴¹ Ibid., 55.

Humboldt county, and in the contemporary relationship between California Indians and the police.

Manu Karuka engages with Frederick Jackson Turner's conception of the frontier as "the meeting point between savagery and civilization" alongside Du Bois's and Lenin's respective theories of imperialism in order to theorize what he calls the continental imperialism of the United States.⁴² Continental imperialism is the process through which the United States claims and maintains its "domestic" territory "at the nexus of war and finance."⁴³ Territorialization for Karuka proceeds through the development of colonial infrastructures such as policing and military occupation, which "have been central to the experimental statecraft and social engineering of colonial power."⁴⁴ Theorizing the settler state as a racial/colonial state that expands and develops alongside the modern corporation allows Karuka to chart the mobilities and Indigenous modes of relation which threaten to unsettle the colonial state and offer other possibilities for alternative futures.⁴⁵ Karuka's analysis of Chinese railroad labor in California and subsequent legal exclusion of Chinese people provides a useful framework for engaging with the racialization of Chinese migrants as an essential part of ongoing Indigenous dispossession. Iyko Day states that, "While a logic of elimination functions to increase white property through the decimation of Indigenous populations who stand in the way of territorial expansion, a logic of exclusion serves industrial capitalism by furnishing a vulnerable labor force whose existence

⁴² Manu Karuka, *Empire's Tracks: Indigenous Nations, Chinese Workers, and the Transcontinental Railroad* (Oakland: University of California Press, 2019), 168.

⁴³ *Ibid.*, xii.

⁴⁴ *Ibid.*, 33.

⁴⁵ *Ibid.*, xiii-xiv.

could be managed at the border.”⁴⁶ I draw from both Karuka and Day and argue that the exploitation, exclusion and eventual expulsion of Chinese migrants in Humboldt county naturalized settler colonial relations of spatial domination through the formation of white property and U.S. national borders.

The social and legal formation of property requires spatial practices of racialization which are reproduced by gendered relations of domination. Tera W. Hunter examines the experiences of Black women workers in post-emancipation Atlanta and how they navigated the geographies of the Jim Crow era in her book, *To 'Joy My Freedom: Southern Black Women's Lives and Labors After the Civil War*. Hunter's analysis of the Jim Crow era articulates Harris' insight about the co-constitutive relationship between whiteness and property since Jim Crow geographies developed in order to curtail the freedom of formerly enslaved Black people and maintain white rights of exclusion. As Hunter states, Jim Crow was a form of racial apartheid which mandated where Black people could live, where they could travel to, and how they could get there.⁴⁷ Not only was the space of the city segregated along racial lines in post-emancipation Atlanta, it was also organized around the exclusion of certain rights of property ownership and privileges such as paved roads and other public infrastructures.⁴⁸ However, the Jim Crow era in Atlanta also demonstrated the contradictions inherent to the racialization of space. While all the public policies during the Jim Crow era mandated racial segregation and distance between white

⁴⁶ Iyko Day, *Alien Capital: Asian Racialization and the Logic of Settler Colonial Capitalism* (Durham: Duke University Press, 2016), 33.

⁴⁷ Tera W. Hunter, *To 'Joy My Freedom: Southern Black Women's Lives and Labors after the Civil War* (Cambridge: Harvard University Press, 1997), 99-100.

⁴⁸ *Ibid.*, 103.

and Black people, in the white domestic sphere where Black women's labor was a necessity, close proximity in the most intimate spaces was expected.⁴⁹ Gendered and racialized labor exploitation was one way in which Black women were excluded from social space and confined to the carceral space of the white home.

In her analysis of gendered racial terror and the development of "Jim Crow modernity" in post-emancipation Atlanta, Sarah Haley builds on Hunter's analysis of Jim Crow geographies and the exploitation of Black women. Haley describes the private homes of white people where incarcerated Black women in Atlanta were paroled as domestic workers as the "carceral domestic sphere."⁵⁰ In the carceral domestic sphere Black women were isolated from their communities, surveilled by white women, subjected to the violence of white mistresses and masters, and under constant threat of being sent back to the chain gain.⁵¹ Haley's use of the term "carceral domestic sphere" is significant because it illuminates how the prison is not just a unique structure, but a regime that enacts gendered racial terror through both public and private institutions.⁵² I utilize Haley's analysis of the carceral domestic sphere to examine the enslavement of California Indian women and children as domestic laborers during the gold rush and latter part of the 19th century. I argue that in northwestern California white settler homes functioned as carceral sites much like military forts and reservations. California Indian women's labor, similar to Black women's labor in Atlanta, was also essential to the formation of normative white womanhood. As Haley and

⁴⁹ Ibid., 105.

⁵⁰ Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (Chapel Hill: University of North Carolina Press, 2016), 16.

⁵¹ Ibid., 160-161.

⁵² Ibid., 9.

Hunter establish, Black women's stolen labor enabled the development of Atlanta *and* normative white womanhood. I utilize Hunter's and Haley's analyses of Black women's labor in white households in the second chapter of my dissertation in order to make connections between the imprisonment of Native women and children in white settler households and the formation of white womanhood.

Native feminist epistemologies enacted through ceremony are practices of embodied sovereignty which contest settler colonial grammars of place. In her article, "Disrupting a Settler-Colonial Grammar of Place: The Visual Memoir of Hulleah Tsinhnahjinnie," Seneca scholar Mishuana Goeman argues that to be legible to the state as "Indian" Native peoples must acquiesce to a settler grammar of place that relegates Indian Nations to the spaces left to them by the settler imaginary.⁵³ Predictably, the spaces left to Native peoples in the settler imaginary only exist in the past as relics of a vanishing culture with no contemporary political or affective relationship to settler occupied land. Settler colonial grammars, as Goeman points out, are made by "a constant retelling and reformulating of colonial narratives" which give place "structure and meaning."⁵⁴ However, settler colonial grammars can be refused and contested by Native presence because of the "interruptive capacity" of Native peoples living under carceral settler state occupation.⁵⁵ As Baldy demonstrates in her analysis of the Hupa Ch'itwa:l, ceremony resists settler grammars of place and re-maps a prior existing sovereign relationship to land that names the importance of Native women and girls to undermining settler displacement. Importantly,

⁵³ Goeman, 236.

⁵⁴ *Ibid.*, 237.

⁵⁵ Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham: Duke University Press, 2014), 33.

since settlement is not complete and settler grammars have to be remade, there is space for contestation and alternative futures. In the following chapters, I utilize Goeman's analysis of re-mapping Indigenous lands through Native women's stories in order to make the relations of power that constitute the carceral settler state across the multiple sites of the fort, the domestic sphere, the bordertown and the patrol car, visible.⁵⁶

Native feminist epistemologies enacted through ceremony disrupt gendered and racialized depictions of Native peoples by asserting an Indigenous ontological belonging to land that is anchored by a felt responsibility to place and ethical relations, both of which are fundamentally at odds with the carceral settler state. California Indians' refusal to recognize the carceral geography of invasion imposed on the land by the settler state articulates what Mohawk scholar Audra Simpson calls a "cartography of refusal."⁵⁷ Simpson theorizes refusal as a constructive element of Mohawk sovereignty that moves beyond the state narratives of successful conquest and asserts ongoing Indigenous resistance to the state. Simpson rejects the settler depictions of Native peoples as racial minorities with a unique culture and instead emphasizes their political authority over their land. Mohawk resistance to ongoing dispossession and state violence through their assertion of belonging and nationhood draws a cartography of refusal that challenges the permanence of the state by revealing that settlement is a failed project.⁵⁸ Here I layout the promise of a carceral refusal that is a generative Native feminist

⁵⁶ Mishuana R. Goeman, "Disrupting a Settler-Colonial Grammar of Place: The Visual Memoir of Hulleah Tsinhnahjinnie" in *Theorizing Native Studies*, ed. Audra Simpson & Andrea Smith (Durham: Duke University Press, 2014), 235-265.

⁵⁷ Simpson, *Mohawk Interruptus*, 33.

⁵⁸ *Ibid.*, 33.

framework undermining the sovereignty of the state by asserting a relationship to land that resists carceral logics of property. Native feminist epistemologies necessarily disrupt the gendered violence endemic to settler colonialism and generate new possibilities for the future beyond the carceral settler state.

Native and Black Feminist Theorizations of the Carceral State

Native feminist theorizations of the carceral state uncover the relationship between Indigenous dispossession, the formation of property, and the expansion of carceral statecraft. As Luana Ross argues in her foundational study of Native women and the prison industrial complex, *Inventing the Savage: The Social Construction of Native American Criminality*, the invention of Indigenous criminality is intimately tied to the state's efforts to diminish Native sovereignty over their territories and people.⁵⁹ Depicting Native peoples as culturally inferior savages who are unable to adhere to the civilized order of settler life justifies the expansion of the carceral settler state through laws intended to manage and discipline them. Criminalizing Native peoples facilitates Indigenous land dispossession by extending settler state sovereignty over Indigenous territories in the form of legal jurisdiction.⁶⁰ The expansion of U.S. legal jurisdiction over Indian territories and bodies not only develops the colonial infrastructure of the settler state, it also expands its territorial reach by claiming Indian lands as its domestic territory.⁶¹

In Dian Million's article, "Policing the Rez: Keeping No Peace in Indian Country," she provides an analysis of federal Indian law and argues that U.S. legal jurisdiction over Indian

⁵⁹ Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin: University of Texas Press, 1998), 5.

⁶⁰ *Ibid.*, 15.

⁶¹ *Ibid.*, 16-17.

peoples and territories diminishes tribal sovereignty by legitimizing state sovereignty over occupied Native land.⁶² The settler state, in order to protect its sovereign status, “required a systemic extension of racialized property ownership for whites” that facilitates ongoing Indigenous dispossession.⁶³ Property law also necessitated a nascent form of “law and order” politics from the settler state in order to safeguard white settlers’ right to evict Native people from their homelands. Settler anxieties about lawless Indians, first deployed by Spanish colonizers and later Mexican rancheros in California, were also deployed by the U.S. and resulted in the passage of laws such as the 1885 Major Crimes Act which extended the criminal jurisdiction of the state and further eroded the capacity of tribes to exert their sovereignty.⁶⁴

Indigenous resistance to colonial invasion, as Heidi K. Stark argues, is also criminalized in order to affirm settler state control of Native territories and diminish tribal sovereignty.⁶⁵ U.S. territorialization expands through the law and domesticates land by bringing it under the state’s jurisdiction. Significantly, Native women are also domesticated through their relegation to the private sphere.⁶⁶ Domesticating Native women and Native land are twin projects of the carceral settler state which develops its carceral capacities in order to reproduce relations of domination and maintain settler occupation. Criminalizing Indigenous resistance to settler invasion reduces the political authority of Native peoples and erases the violence of settler invasion and

⁶² Dian Million, “Policing the Rez: Keeping No Peace in Indian Country,” *Social Justice* Vol. 27, No. 3 (2000): 101-119, 102.

⁶³ *Ibid.*, 104.

⁶⁴ *Ibid.*, 106.

⁶⁵ Heidi Kiiwetinepinesiik Stark, “Criminal Empire: The Making of the Savage in a Lawless Land,” *Theory and Event* 19, (2016): 1-14.

⁶⁶ *Ibid.*, 6.

occupation. As Ross, Million and Stark argue, settler relations of property are intimately tied to racial formation wherein whiteness is made synonymous with property ownership through heteronormative reproduction and inheritance. Chapter four of my dissertation draws from these analyses in order to interrogate how California Indian land dispossession was/is facilitated by the criminalization of Native people in northwestern California.

The criminalization of Native women is directly related to the threat that they post to settler state sovereignty. In Audra Simpson's article, "The State is a Man," she argues that the governance of Canada is murderous and requires the death of Indigenous women in order to maintain its sovereignty.⁶⁷ Simpson utilizes Jodi Byrd's methodology of cacophony and analysis of transit in order to make the bodies of Native women legible as political orders that challenge the state, simultaneously being subjects of dispossession and articulations of alternative sovereignties.⁶⁸ Native women in settler regimes, Simpson argues, are embodiments of Indigenous polity and governance.⁶⁹ Native women are also powerful symbols of Indigenous life and the possibility of expressions of sovereignty that exist outside of the relations of domination established by the settler state.⁷⁰ Because of Native women's political importance and the challenge they pose to the illegitimate sovereignty of the settler state, Native women's bodies become the site of the violent transit of empire, where the state is formed through the murder of

⁶⁷ Audra Simpson, "The State is a Man: Theresa Spence, Loretta Saunders and the Gender of Settler Sovereignty," *Theory & Event* 19, no 4 (2016): 1-30, 1.

⁶⁸ *Ibid.*, 3.

⁶⁹ *Ibid.*, 9.

⁷⁰ *Ibid.*, 15.

Native women.⁷¹ As Simpson points out, the state need not always enact the violence itself because white settler citizens are also imbued with the power to commit violence against Native peoples.⁷² Both the carceral settler state and the white settler citizen subject are reproduced through the violation and murder of Native women. In chapter four of this dissertation, I employ Simpson's analysis to interrogate how the high rates of violence against Native women and missing and murdered Indigenous women (MMIW) is utilized by state and tribal governments to justify the expansion of tribes' capacities to police and incarcerate their own people in the name of sovereignty and protecting "our women." I refer to the development of Native nations' capacities to police the reservation as carceral sovereignty.

Mvoskoke legal scholar Sarah Deer argues that sexual violence is endemic to colonization and asserts that the settler state is a perpetrator of gender based violence. In her book, *The Beginning and End of Rape: Confronting Sexual Violence in Native America*, Deer emphasizes the importance of tribal governments gaining jurisdiction over sex crimes and argues that they are better suited to doling out justice than the state.⁷³ Deer warns that tribes will have to avoid replicating the state's punitive justice system but fails to consider the ways in which tribal governments have often deployed the same carceral logics of the state.⁷⁴ While Deer's analysis of the law is unerring, her failure to identify the relationship between carceral violence and ongoing Indigenous dispossession invites the intervention that this dissertation seeks to make. If

⁷¹ Ibid., 22.

⁷² Ibid., 5.

⁷³ Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis: University of Minnesota Press, 2015), 110.

⁷⁴ Ibid., 113.

gender and sexual violence are foundational to the colonial project, then expanding the colonial infrastructure of the settler state via Indian police will not abate it.

Black feminist scholar Beth Richie theorizes the United States as a “prison nation” that is constituted by carceral logics which operate in social institutions beyond the walls of the prison. For Richie, the prison nation “refers to those dimensions of civil society that use the power of law, public policy, and institutional practices in strategic ways to advance hegemonic values and to overpower efforts by individuals and groups that challenge the status quo.”⁷⁵ Richie asserts that the prison is not so much a facet or consequence of the state’s violence but is rather a constitutive technology of the state. The prison nation’s subjugation of non-normative subjects also manifests through the formation of carceral geographies predicated on dispossession and exclusion. I draw inspiration from Richie’s analysis of the prison nation in my examination of colonial carceral statecraft by emphasizing how carceral logics emanate from institutions and geographies such as the law, the settler household, and the settler bordertown.

In Ruth Wilson Gilmore’s crucial book, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*, she analyzes the development of the prison system in California and argues that prisons function as “a partial geographical solution to political economic crises, organized by the state, which is itself in crisis.”⁷⁶ Gilmore emphasizes the crisis of capitalism caused by surpluses and how they created the conditions necessary for the buildup of the prison regime in the state; the four surpluses Gilmore identifies are finance capital, land,

⁷⁵ Beth E. Richie, *Arrested Justice: Black Women, Violence, and America’s Prison Nation* (New York: New York University Press, 2012), 3.

⁷⁶ Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Oakland: University of California Press, 2007), 26.

population, and state capacity.⁷⁷ Each of these surpluses created a different crisis which instigated the state's need for what Gilmore calls "the prison fix."⁷⁸ Gilmore argues that politicians took political actions to dismantle the Keynesian state which led to a surplus of finance capital due to "long-term public disinvestment and reduced opportunities for private investment" and thereby necessitating the development of public infrastructure to invest private capital in.⁷⁹ Surplus land was the result of devalued farmland which had suffered from severe drought and a lack of investment from developers, leaving it vacant and available for the development of prisons.⁸⁰ The surplus population is comprised of the expendable laboring population who are, due to the structure of racial capitalism, largely poor people of color.⁸¹ And finally, the surplus of state capacity is a crisis of legitimacy that necessitates the state prove itself through "ideological and material means" such as using state power to discipline the surplus population.⁸² The political economy of the state produced the conditions that enabled the prison buildup and a form of carceral statecraft bound to the ongoing capture and warehousing of subjects marked as surplus by racial capitalism. Following Gilmore, I attend to the relationship between statecraft and ongoing Indigenous dispossession in California and argue that the settler state developed through carceral geographies of settler occupation.

⁷⁷ Ibid., 58.

⁷⁸ Ibid., 87.

⁷⁹ Ibid., 63.

⁸⁰ Ibid., 69.

⁸¹ Ibid., 72.

⁸² Ibid., 78.

In her foundational text *Are Prisons Obsolete* Angela Y. Davis poses the important research question, “why do we take prisons for granted?”⁸³ Davis analyzes the proliferation of the prison-industrial in California and argues that prisons fulfill an ideological function in U.S. society which “relieves us of the responsibility of seriously engaging with the problems of our society, especially those produced by racism and increasingly, global capitalism.”⁸⁴ By revealing the ideological work that the prison does to maintain hegemonic power, Davis demonstrates the fallacy of law and order as a method of achieving social justice and insists instead on the need for abolition. Davis also argues that prisons are gendering institutions which have historically been reformed to expand and incarcerate increasing numbers of racialized women in the name of providing them with rehabilitation.⁸⁵ Rehabilitation for criminalized women, as Davis asserts, emphasizes that their criminalization is intimately related to their failure to perform normative white womanhood.⁸⁶ I utilize Davis’ interrogation of reform as a process of prison expansion in my analysis of Native nations’ efforts to extend their capacities to incarcerate their people and police their homelands in the name of protecting Native women and ending violence against Native peoples.

Black feminist organizer and scholar Mariame Kaba has made significant contributions to the popularization of abolition as a political practice.⁸⁷ In her work, Kaba makes important

⁸³ Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003), 15.

⁸⁴ *Ibid.*, 16.

⁸⁵ *Ibid.*, 67.

⁸⁶ *Ibid.*, 70.

⁸⁷ Mariame Kaba, *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice* (Chicago: Haymarket Books, 2021).

distinctions between retribution and justice and argues that the carceral state, which requires the violence of policing to function, can never provide justice nor eradicate violence from our communities.⁸⁸ Kaba emphasizes that in order to transform the conditions that have led to the over reliance on policing in criminalized communities of color we must “transform our relationships to each other enough so that we can see that we can keep each other safe.”⁸⁹

Positing abolitionist politics and the ethical networks of relations that abolition requires as the solution to the problem of violence removes the centrality of the U.S. settler state from visions for the future. I take inspiration from Kaba’s analysis of abolition in order to enrich my reading of California Indians’ anti-colonial resistance to the carceral state and identify Indigenous abolition genealogies. The settler colonial state is reproduced and developed through expanding its capacities to enact carceral violence as the mechanism of ongoing land dispossession. Using Native and Black feminist theories of the carceral settler state allows me to make connections between California Indian dispossession and other displaced and/or Indigenous peoples as they encounter the carceral settler state.

Chapter Overview

Chapter 1: The Carceral Geography of Settler Invasion in Northwestern California

This chapter provides the historical context of U.S. invasion during the gold rush and the early formation of the carceral settler state in northwestern California. In this chapter I engage with secondary sources as well as original historical newspapers in order to examine how the United States expanded its territorial sovereignty in northwestern California. I contend that the

⁸⁸ Ibid., 60.

⁸⁹ Ibid., 98.

United States enacted conquest through developing a colonial infrastructure of policing and military occupation.⁹⁰ The spatial practices of invasion, which were enforced by policing and military occupation, attempted to “domesticate” Native peoples and their lands through gendered regimes of property and labor exploitation. Constant California Indian resistance to genocide and removal from their homelands led the United States to expand its military occupation and establish a carceral geography to contain them and make their land available for appropriation. California Indian sovereignty is derived from ethical relationships with land, more-than-human beings, and other peoples, so the United States sought to break their political relationships and replace them with settler relations of domination. Genocide, surveillance, containment and removal are carceral logics of the settler state which were enacted by the U.S. army, volunteer militia and everyday white settlers.

I trace the carceral geography of the nascent settler state by examining two of the largest military forts in the region, Fort Humboldt and Fort Gaston, reservations, and settler towns and ranches. I also illuminate California Indian counter-geographies of resistance through their violent insurrections, subterfuge, sabotage by refusing to stay removed from their homelands and leaving the reservation. I engage with collections from the Humboldt Historical Society, the California Digital Newspaper Archive, and Cal Poly Humboldt and analyze historical newspaper articles in northwestern California during this era of genocidal violence. California Indian dispossession took shape through a carceral geography in northwestern California. However, California Indians contested the carceral geography of invasion with embodied counter-geographies of refusal.

⁹⁰ Karuka, 33.

Chapter 2: “Suitable Instructions Shall be Given”: The Domestic Carceral Sphere in Northwestern California

This chapter argues that “domesticating” California Indians was a gendered counterinsurgency tactic to undermine Indian resistance to U.S. occupation and examines the development of the colonial “domestic carceral sphere.”⁹¹ I begin by discussing the widespread physical and sexual violence which Native women were targeted with by settlers during the gold rush. Next I discuss white settlers’ practice of abducting and purchasing Native women they kept as “Indian wives.” I argue that the white men who invaded northwestern California enacted racial and gender subject formation through sexual violence and the extraction of California Indian women’s and children’s domestic labor. Next I pivot to a textual analysis of the 1850 Act for the Government and Protection of Indians which legitimized the enslavement of Native people by white settlers and legally entitled settlers to their reproductive labor. White domestic space functioned as a domestic carceral sphere characterized by surveillance, genocide, removal, and captivity. I also examine white women’s role in the expansion of the carceral settler state by examining the formation of normative womanhood through the degradation of Native peoples. Domesticating California Indians was a form of counterinsurgency deployed to quash resistance efforts and develop the carceral settler state. However, California Indian women and children resisted their subjugation and contested their captivity by killing their captors, stealing, and running away. These fugitive practices were acts of sabotage which mapped California Indian counter-geographies of resistance to the carceral settler state.

⁹¹ Haley, *No Mercy Here*, 2016.

Chapter 3: “Wipe Out the Plague Spots”: Carceral Statecraft and Chinese Expulsion in Humboldt County

In this chapter, I build on my analysis of carceral settler statecraft and ongoing Indigenous dispossession by tracing historical processes of racial formation through the dehumanization, exploitation, and expulsion of Chinese migrants in Humboldt county recorded by local newspapers. California Indian dispossession is the context of Chinese expulsion and their expulsion enabled ongoing conquest and the further development of the carceral settler state. Violence enacted by settlers against Chinese people was justified, much as it was with California Indians, through the production of racialized common sense about the savagery, deviance, and criminality of an imagined “foreign threat” to white settler life and the future of the United States as a settler colonial state. The reproduction of the normative white settler subject through racial violence and Chinese expulsion facilitated the propagation of settler relations of property and naturalized California Indian dispossession. I argue that settler anxieties about the threat to white racial purity and settler access to property posed by the proximity of Chinese people makes labor, Chinatown, and expulsion useful sites of analysis for unpacking the carceral logics of the settler state. Settler anxieties about Chinese migrants and their effect on the moral character of white settler lives and the future of the settler nation-state culminated in the carceral geography of Chinatown and the eventual expulsion of its residents. White settler anxieties about the “foreign threat” embodied by Chinese migrants were initially assuaged by everyday acts of racist harassment and police violence in Humboldt County as well as by federal laws such as the Page Act of 1875 and the subsequent Chinese Exclusion Act of 1882. The carceral settler state in northwestern California is constituted by material and ideological borders

that were manifested in part by the racializing and gendered processes evidenced by the exploitation and expulsion of Chinese migrants from Humboldt county. However, I argue that Charlie Moon and his marriage to a Redwood Creek Indian woman named Minnie Tom demonstrate alternative futures constituted with intimacies and kinship in opposition to carceral settler state violence.

Chapter 4: Inventing the Indian Cop: Colonial Political Formation and Carceral Sovereignty

In this chapter I trace the development of the carceral settler state by analyzing its criminal legal jurisdiction over Native peoples on Indian reservations. I engage in a textual analysis of assimilationist policies such as the establishment of the Court of Indian offenses, the Major Crimes Act, and the legal formation of the Indian police. I analyze *United States v. Kagama*, the supreme court ruling that tested and upheld the Major Crimes Act. I unpack the significance of the U.S. Supreme Court case *United States v. Kagama* and argue that by affirming its criminal jurisdiction over the Hoopa Valley, and all Indian reservations, the settler state ensured that ongoing occupation and dispossession of Indigenous homelands would be managed with carceral violence. I also discuss the development of the Indian police force during the assimilation era as carceral violence and argue that it was established to disrupt Native nations' capacities to self-govern and impose the sovereignty of the United States by upholding settler regimes of property. Next, I focus on another period of assimilation in federal Indian policy that impacted policing in northwestern California, the termination era. I analyze Public Law 280 in particular in order to demonstrate how ongoing California Indian dispossession required the expansion of the state's carceral capacities and bringing Native peoples into more frequent contact with state police. I discuss police violence against Native people in northwestern

California in order to illustrate that for Native people, as with other racialized groups in the United States, interactions with police are lethal and further exacerbate the high rates of MMIP. Since tribal police were established by the occupying settler government in order to facilitate Indigenous dispossession, I argue that expanding Native nations' criminal jurisdiction cannot offer a solution to the crisis of colonial gender violence and MMIP.

Chapter One: The Carceral Geography of Invasion in Northwestern California

“There has never been a real difference between the military and the police when it comes to the experiences of Indigenous peoples and communities of color vis-a-vis state violence.”⁹²

In November of 1865 the Indian agent on the Hoopa Valley Indian reservation, R.L. Stockton, broke the amnesty agreement guaranteed by the Treaty of Peace and Friendship by arresting the Redwood Creek Indian resistance leader, Curly-Headed Tom, for murders he committed during the Indian wars.⁹³ The Daily Alta California reported,

Curly-Headed Tom, a noted Indian, who has figured in most if not all the raids upon the settlers in the county for years past, has been brought to Fort Humboldt by direction of Indian Agent Stockton, and we believe is now in the custody of the military authorities. The object in sending him to the Fort was to turn him over to the civil authorities.⁹⁴

After 10 years of fighting against the invasion and occupation of the United States during the gold rush, Curly-Headed Tom was taken prisoner. On the day he was captured he reportedly stated that, “he knew his time had come to die, and that he should never have a chance again to kill a white man.”⁹⁵ He was taken to Fort Humboldt where he was held until he was turned over to the constable of Arcata and imprisoned in the town jail. Curly-Headed Tom’s years of experience with the treachery of U.S. soldiers, Indian agents and white settlers had taught him to

⁹² Joanne Barker, *Red Scare: The State’s Indigenous Terrorist* (Oakland: University of California Press, 2021), 43.

⁹³ Nelson, 97-98.

⁹⁴ *Daily Alta California* Volume 17, Number 5743, November 26, 1865. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DAC18651126.2.16&srpos=1&e=-----186-en--20--1--txt-txIN-“curly+headed+tom”----->.

⁹⁵ *Humboldt Times* Volume I, Number 28, February 1, 1874. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18740201.2.9&srpos=1&e=-----187-en--20--1--txt-txIN-“curly+headed+tom”----->.

expect no mercy from his captors. He knew that undermining the United States by attacking settlers and refusing to live as a prisoner on his peoples' homelands were actions that would condemn him to death were he apprehended. That night he was shot and killed by a guard while he lay facedown in a jail cell.⁹⁶

The incarceration and execution of Curly-Headed Tom is significant not only because of his importance as a leader among his people but also because of what it reveals about the relationship between Indigenous dispossession and carceral statecraft in northwestern California. Ongoing Indigenous dispossession and the entrenchment of U.S. territorial sovereignty in the region required the development of a carceral infrastructure which could facilitate the expansion of the state's capacity to discipline Native peoples' resistance to occupation. Curly-Headed Tom, along with Hupa and Redwood Creek rebels Tsewenaldin John and Handsome Billy, had consistently rejected the imposed authority of the United States and refused to agree to terms for peace which would require that they abandon much of their homelands and live within the borders of the Hoopa Valley Indian reservation. Curly-Headed Tom's band of 50 Redwood Creek Indian resisters lived in the mountains just outside of the Hoopa Valley. They were infamous among settlers, U.S. soldiers, *and* the Hupa for their deadly attacks and ability to evade capture despite being greatly outnumbered. Curly-Headed Tom, along with other Indian resisters, sabotaged U.S. occupation with coordinated attacks on pack trains, disrupting mail service, and killing settlers who crossed their path. As one settler expressed in a letter to *The Humboldt Times* nearly ten years after his death, "Curly-Headed Tom was the worst and most bloodthirsty of all

⁹⁶ Nelson, 98.

the foes we had to contend with. His murders of white men were known to be numerous.”⁹⁷ Curly-Headed Tom and other Indian resisters were described by settlers as “bloodthirsty savages” and “bad Indians” who threatened their peace and property. Redwood Creek Indian resisters were also depicted as an impediment to the civilization of “good Indians” whom settlers presumed were being domesticated on reservations and in white households.

Settlers’ depiction of Indian resisters as savages was directly related to their refusal to recognize the settler colonial demarcation of land into reservations and private property. Redwood Creek Indians had sabotaged the efforts of the United States to contain them within the boundaries of the Hoopa Valley, Smith River and Round Valley Indian reservations during the height of the “Indian wars” in the region by escaping to return to their home in the mountains outside of the Hoopa Valley from wherever they had been removed to. In fact, Curly-Headed Tom had declared that “he would never come in [to the reservation] or cease fighting the whites or their Indian allies.”⁹⁸ When Curly-Headed Tom refused to be “domesticated” by the carceral geographies impressed onto the land by the reservation, the military forts, and white settler property, he was criminalized and his status as a leader in the Indian resistance to U.S. settler colonial occupation was diminished. Curly-Headed Tom fulfilled an important role for the state, he was a “murderable Indian” whose fight to defend his land justified his killing *and* the formation of a state that is authorized to kill Indian resisters.⁹⁹

⁹⁷ *Humboldt Times* Volume I, Number 28, February 1, 1874. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18740201.2.9&srpos=2&e=-----en--20--1--txt-txIN-“curly+headed+tom”-----1>.

⁹⁸ *The War of the Rebellion: Formal reports, both Union and Confederate, of the First Seizures of United States Property in the Southern States* (53 v. in 111) (Historical Times), 1985, 824.

⁹⁹ Joanne Barker, *Red Scare*, 27.

This context-setting chapter examines the early formation of the carceral settler state in northwestern California in the 1850s. I argue that ongoing California Indian dispossession was organized spatially through a carceral geography constituted by military forts, property, and reservations which was enforced by settler violence and authorized by the law. First, I briefly discuss the discovery of gold on the Trinity River and make connections between the plunder of the land and miners' violence against Native peoples. I argue that the first invaders in the region precipitated the state of California's exhaustive efforts to dispossess and domesticate Indians with the law. Next, I examine the 1850 Act for the Government and Protection of Indians, and argue that the state of California developed through growing its capacity to manage Indians with carceral violence. I assert that the United States sought to entrench its sovereignty in northwestern California by deploying counterinsurgency tactics of "domesticating" Native peoples and their lands through regimes of property and labor exploitation. I briefly discuss the 18 unratified treaties of California and demonstrate how the Hupa used a mixture of diplomacy, warfare and subterfuge to defend themselves and their homelands in the valley. Next I analyze the genocidal violence deployed against California Indians by U.S. soldiers, volunteer militia, and civilian settlers who acted as vigilantes. California Indian resistance to violence and displacement led the United States to develop its military occupation and establish military forts which acted as prisons to hold Indians captive and make their land available for appropriation. I trace the carceral geography of invasion in northwestern California by examining two of the largest military forts in the region, Fort Humboldt and Fort Gaston, reservations, and settler private property. Genocide, surveillance, captivity and removal are carceral logics of the settler state which were enacted by the U.S. army, volunteer militia and civilian white settlers against

California Indians. U.S. invasion and California Indian dispossession took shape through a carceral geography in northwestern California. However, California Indians contested the carceral geography of invasion with embodied counter-geographies of resistance.

Invasion

The relative remoteness of northwestern California staved off the most disastrous impacts of U.S. invasion until the discovery of gold in the region. Gold was found on the Trinity River in 1848 by Major P.B. Reading, who led a prospecting expedition to the area with a team of enslaved Indian workers he brought with him from Sacramento.¹⁰⁰ Word spread quickly that gold had been discovered in the region and within months hundreds more invaders were mining along the upper Trinity River.¹⁰¹ During the height of gold rush pandemonium in 1849 a massive migration of settlers and miners radically changed the population demographics of California.¹⁰² In 1849, there were three thousand miners panning for gold along the Trinity River in Karuk, Yurok, and Hupa homelands.¹⁰³ Hundreds of thousands of invading settlers had arrived in California by 1860.¹⁰⁴

Invasion in northwestern California was catastrophic for Native peoples, the land, and the more-than-human beings. The environmental impacts of mining were immediate and disastrous; high pressured hoses blasted holes through mountains, settlers clearcut old growth forest, and the

¹⁰⁰ Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1988), 118.

¹⁰¹ Norton, 38.

¹⁰² Sherburne Cook, *Conflict Between the Californian Indian and White Civilization* (Berkeley: University of California Press, 1943), 111.

¹⁰³ Atkins & Bauer, 151.

¹⁰⁴ *Ibid.*, 156.

silt runoff choked the creeks where salmon and other fishes spawn. Placer and hydraulic mining were particularly damaging to the ecosystems that supported California Indian life.¹⁰⁵ The Trinity River, which provided the connection with other peoples that made the Hupa so politically strong, suffered immensely from mining and other extractive industries. The damage done during this era continues to plague the health of the river and the political strength of the Hupa today.¹⁰⁶ The invading miners disrupted the balance of life in the Hoopa Valley and the entire surrounding region by destroying centuries old fisheries, chasing away big game animals, and cutting down hundreds of Tan Oak trees which provided acorns, a staple food for all California Indians. The violence that invaders enacted against the land, water, and more-than-human beings through mining matched the violence that they enacted against California Indian peoples who stood in the way of their claims on natural resources and property.

Miners quickly earned a reputation among the Hupa for being unreasonable and violent. In his important history of conquest during the gold rush, *Genocide in Northwestern California*, Hupa scholar Jack Norton recounts the experience of invasion by describing dozens of incidents where settlers attacked, killed and kidnapped California Indians. Many miners who came to the Humboldt region were prepared to enslave Indians in the mines or kill any they came upon just as they had elsewhere in California. Before long, the Hupa had witnessed the invaders act violently firsthand and had heard accounts from neighboring Indian nations that these invaders would not think twice about razing Indian villages, kidnapping Indian children and women, or killing indiscriminately. In one example, Norton describes a horrific incident where miners set

¹⁰⁵ Bauer, *We Were All Like Migrant Workers Here*, 30.

¹⁰⁶ Kari Norgaard, *Salmon and Acorns Feed Our People: Colonialism, Nature, and Social Action* (New Brunswick: Rutgers University Press, 2019).

fire to Yurok villages in order to preempt any resistance to environmentally destructive mining in the area.¹⁰⁷ When California Indians who experienced these depredations retaliated by killing settlers or their livestock, their resistance was used as evidence of the severity of the “Indian problem,” the only solution to which was extermination.

Miners targeted Native women and children for sexual violence, kidnapped and sold them as enslaved domestics, or kept them as “Indian wives.” On the Salmon River just north of the Hoopa Valley, miners attacked Karuk villages, raped women and girls and kidnapped them.¹⁰⁸ Hoopa tribal member Byron Nelson describes another example of violence where a Redwood Creek Indian woman was kidnapped by a miner and sold into servitude,¹⁰⁹ a fate that awaited generations of more California Indian women who would find themselves imprisoned in white households as domestics. The maltreatment of California Indian women inspired the most fervent resistance from all Native peoples in the region. These acts of violence against Karuk and Redwood Creek women were the instigation for the wars of resistance fought by both Native nations. Miners, having heard accounts of retaliation from the Indians of the region, were usually too timid to attack the Hupa in the valley since, for the time being, the Hupa had the numerical and tactical advantage.¹¹⁰ However, attacks on California Indians in the region were mounting and while the Hupa were initially presumed by settlers to be passive and easy to manage,¹¹¹ many were readying themselves to join the resistance efforts in the mountains beyond the valley.

¹⁰⁷ Norton, 68.

¹⁰⁸ Ibid., 67-68.

¹⁰⁹ Ibid., 65-66.

¹¹⁰ Nelson, *Our Home Forever*, 66.

¹¹¹ Cahill, *Federal Fathers and Mothers*, 173.

Settlers who looked for ways to justify the theft of Indian land and protect their entitlement to Indian labor in the gold mines, cattle ranches, and white households developed a racialized common sense about California Indians which was circulated in regional newspapers such as *The Daily Alta California*, *The Trinity Journal* and *The Humboldt Times*. This local ideology mirrored the larger U.S. nationalist ideology of manifest destiny, which held that the United States was destined by god to expand westward across the entire continent. As historian John Rawls has argued, California Indians were depicted by settlers as both bloodthirsty savages hellbent on attacking innocent settlers *and* as passive, mild-mannered children who could achieve a degree of civilization so long as they were subordinated under the law, disciplined by labor, and “domesticated.”¹¹² These competing images stoked settler anxieties about savagery but also offered them the chance to engage California Indians in a civilizing project through the law.¹¹³ For settlers who found genocidal massacres distasteful, domesticating Indians offered them the opportunity to feel charitable and benevolent toward the people whose land and lives they stole and helped to form the white settler subject.

An Act For the Government and Protection of Indians

On April 22, 1850 the governor of California, Peter Burnett, signed An Act for the Government and Protection of Indians into law thereby growing the nascent state’s legal infrastructure and capacity to enact carceral violence against Native peoples. An Act for the Government and Protection of Indians bolstered the territorial sovereignty of the occupying United States by asserting the state of California’s legal jurisdiction over Native peoples,

¹¹² Rawls, 86.

¹¹³ Cahill, 181.

upholding white entitlement to property, criminalizing Native land management practices, and legitimizing a system of Indian slavery. Section one of the law granted justices of the peace “jurisdiction in all cases of complaints by, for, or against Indians, in their respective Townships in this State.”¹¹⁴ By granting agents of the state legal jurisdiction over Indian peoples the law intensified the genocidal violence of conquest by legitimizing it. Section 9 of the law extended the legal jurisdiction over Indian people even further by permitting a justice of the peace to punish Indian leaders when their people failed to adhere to the law.

It shall be the duty of Justices of the Peace, in their respective townships, as well as other peace officers in the State, to instruct the Indians in their neighborhood in the laws which relate to them, giving them such advice as they may deem necessary and proper; and if any tribe or village of Indians refuse or neglect to obey the laws, the Justice of the Peace may punish the guilty chiefs or principal men by reprimand or fine, or otherwise reasonably chastise them.¹¹⁵

This is a significant facet of the law because of how it individualized coordinated resistance to occupation among Native peoples to the “criminal” acts of a few rogues. When Native peoples refused to be subordinated by settler law, their leaders were criminalized, arrested and, as in the case of Curly-Headed Tom, executed as individuals despite acting in a much larger group of resisters. As Luana Ross has argued, criminalizing Native peoples is an attack on the sovereignty of Native nations.¹¹⁶ Criminalizing California Indian leaders enabled the state to diminish the threat posed by the sovereignty of Indian nations and solidify the sovereignty of the United States.

¹¹⁴ “Laws of the State of California an Act for the Government and Protection of Indians.,” The Library of Congress, accessed April 20, 2023, <https://www.loc.gov/item/2001696098/>.

¹¹⁵ Ibid.

¹¹⁶ Ross, *Inventing the Savage*, 5.

Under the law Native people who were convicted of an offense that carried a punishment of a fine could also have their bail purchased by “any white person” and be compelled by a justice of the peace to work for that white person until their debt was paid.¹¹⁷ This piece of the law was compounded by the inability of Indians to give testimony, so unless another white person was present to speak on their behalf, Indians were at the mercy of justices of the peace who upheld the law and white settlers who enforced it by acting as police and wardens. The law also rendered California Indian people vulnerable to punishment by criminalizing them for being out of place. Under the law all Indians “who shall be found loitering and strolling about, or frequenting public places where liquors are sold, begging, or leading an immoral or profligate course of life” could be taken before the justice of the peace and sentenced to have their labor auctioned to settlers for up to four months.¹¹⁸ Managing California Indians’ labor through the law was essential to settlers extracting value out of the land. Section three of the law had the most detrimental effects on California Indians. Section three of the law legitimized the practice of kidnapping and enslaving Indian children by creating a legal a system of Indian indenture or apprenticeship. I expand on the devastating consequences of this law in chapter two.

Several sections of the Act for the Government and Protection of Indians guaranteed protections for Native peoples against maltreatment from white settlers and technically made it illegal to abuse, kill, kidnap, and enslave Indians however, those protections were undermined by other sections of the law. The impunity of white settlers is reflected in section six of the law which explicitly protects white settlers from being convicted of offenses on the basis of Indian

¹¹⁷ “Laws of the State of California an Act for the Government and Protection of Indians.,” The Library of Congress, accessed April 20, 2023, <https://www.loc.gov/item/2001696098/>.

¹¹⁸ Ibid.

testimony.¹¹⁹ Making Native testimony about white settler abuses illegible was a simple way for the law to uphold the relationship of conquest whereby California Indians could be punished under the law but their protests against settlers' abuses and theft would not be permitted to threaten white settler entitlement to property or their labor. The law also states that only state actors such as judges, soldiers and police were legally permitted to enact punishments against California Indians, but the rights of white men to defend their property and commit violence made them immune to being the subject of punishment when they violated this rule. Even though they were legally prohibited from inflicting punishments on California Indians for breaking the law, it was common practice for white settlers to punish those accused with a large degree of impunity, as in the case of Curly-Headed Tom. In northwestern California, white men were empowered by the law to defend their rights to property and Indian labor and therefore acted as agents and benefactors of the carceral settler state.

Unratified Treaties

As it had with so many other Indigenous peoples, the U.S. engaged California Indian nations in treaty negotiations to abate the violent conflicts between Native people and settlers by containing Indians on reservations and opening the rest of their lands up for settlement. In 1851 the U.S. Congress appointed commissioner Redick McKee to travel across northwestern California and make treaties with Native nations. McKee engaged in diplomacy by offering California Indians goods as payment for damages inflicted by white settlers and promised future protections from settlers who trespassed onto their lands, so long as they agreed to stay within

¹¹⁹ Ibid.

the imposed borders of the reservations that McKee and others had drawn up.¹²⁰ The Native nations in northwestern California had little reason to trust any promises that McKee made, since their people were under constant threat of attack from vigilante settlers who proven that they had little regard for Indian life. Kidnapping Indian women and children and selling them into servitude was already a major industry in the region, and the 1850 Act for the Protection and Government of Indians had legitimized those genocidal practices by enshrining them in the law.

Regardless of their doubts, a party of five Hupa leaders, along with leaders from the Yurok and Karuk tribes, met with McKee and eventually agreed to the terms of the treaty. The Hupa were swayed by the conditions of the treaty since it would pay them restitution for damages, prohibit settler encroachment, and most importantly it named the Hoopa Valley as the home of the Hupa people.¹²¹ However, the U.S. federal government and the political leadership in California, including Governor John Bigler who was a vocal opponent of the treaties, were uninterested in ratifying any treaties with California Indians that would guarantee them desirable land. For those opposed to the treaties in the Humboldt region the “Indian problem” had just one solution, extermination. “They would remove the ‘problem’ simply and permanently - by killing *all* of the state’s Indians.”¹²² While not technically legal, hunting and killing Indians was a common practice of the white men in the Humboldt region, and they did so with impunity.

The 18 treaties that were negotiated with Native nations throughout California were never ratified. The treaties were rejected and placed under and injunction of secrecy by the U.S. Senate

¹²⁰ Nelson 53-54.

¹²¹ Ibid., 54.

¹²² Ibid., 59.

until 1905.¹²³ While the U.S. Senate was failing to ratify the treaties, settlers and soldiers alike continued to commit genocidal atrocities against Native peoples in California. The rejection of the treaties in 1851 brought an end to large scale diplomacy efforts between the U.S. and Indian nations in California. The message was clear to California Indians, they would have to defend their people and their lands on their own. Along the Klamath and Trinity rivers the avarice of the invaders made them increasingly bold in their attacks and their desire for the fertile land in the Hoopa Valley enticed them to encroach on Hupa territory, something settlers had not yet dared to do on a large scale since the Hupa were too numerous, well resourced, and intimidating to engage in warfare. The Hupa, who until this point had refrained from engaging in war with the invading settlers for fear of escalating the violence, saw that their negotiation efforts had been in vain, and that neither the U.S. federal government nor the California legislature were going to honor their promises to keep settlers from further invasion and attacks in the Hoopa Valley. Once it became clear that California Indian peoples could not depend on the United States to keep the promises that McKee had made during treaty negotiations, they had no incentive to keep the peace. While the Hupa had been reluctant to go to war, their refusal to passively endure attacks on their villages and leave their homelands compelled them to fight.

The failure of the U.S. Senate to ratify the treaties which had promised protections from genocidal atrocities only escalated settler hostilities. On the Klamath River vigilante settlers attacked and raided Karuk and Yurok villages.

¹²³ Kimberly Johnston-Dodds, "Early California Policies Related to California Indians," California State Library, California Research Bureau (2002), 24.

Since Captain Judah returned, and while the volunteers were out after the hostiles, the seven or eight men alluded to went to the rancheria of friendly Indians and burnt up all the houses, for the, purpose, it is said, of provoking the Indians to join the Red Caps in the mountains, or through a cowardly disposition to make mischief—causing the Indians to believe that there was no intention on the part of the whites to keep their pledges with them. Such conduct should be severely punished.¹²⁴

The Yurok and Karuk retaliated by launching counter-attacks on white settlers that they discovered in their territory; their war of resistance is known as the Red Cap War. In the areas surrounding the Hoopa Valley, miners attacked Karuk and Yurok Indians along the Klamath and Salmon rivers and demanded that resistors be disarmed or killed. Hostilities came to a head in January of 1855 when many Karuk and Yurok Indians joined forces and openly attacked settlers and soldiers who burnt their homes and tormented their people. For months they fought against a state sponsored genocide to defend their homelands and kin until finally in March of 1855 the boundaries of the Yurok reservation were established by executive order and resistance fighters were contained within them. Frustrated by their repeated failures to remove California Indians in the region from their homes and keep them on reservations, soldiers and settlers grew increasingly restless and violent. They quit the pretense of peaceful removal and began organizing volunteer Indian hunts once again. However, this time they would not surprise the Hupa and their allies with their brutality, Indian fighters were ready to defend their homes and families and they fought hard.

Genocide and Military Occupation

¹²⁴ *Daily Alta California*, Volume 6, Number 275, March 4, 1855. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DAC18550304.2.10&srpos=1&e=-----185-en--20--1--txt-txIN-“red+caps”----1855---1>.

Native nations that resisted invasion and conquest in northwestern California embodied an “Indian problem” which needed to be managed by the state in order to defend the legitimacy and permanence of U.S. sovereignty. In a message to the California State Legislature on January 7th, 1851 Governor Peter Burnett infamously stated, “That a war of extermination will continue to be waged between the races until, the Indian race becomes extinct, must be expected. While we cannot anticipate this result but with painful regret, the inevitable destiny of the race is beyond the power or wisdom of man to avert.”¹²⁵ In this statement governor Burnett both affirmed the necessity of genocidal massacres and disavowed genocidal violence as the inevitable outcome of the progression of civilization. California Indians were cast as antithetical to the white settler future imagined by Burnett. The settlers who invaded northwestern California demanded action from the state and federal governments to protect them from Indian attacks and forcibly remove Indians to make their land available for further settlement.

California Indians across the entire Humboldt region and beyond were engaging in open warfare against settlers and U.S. soldiers alike. In Mendocino county, Andrew and Benjamin Kelsey and their associate Charles Stone were infamous for their brutality and enslavement of California Indians. Since their arrival in the Mendocino area in 1846 they had made a name for themselves by enslaving Pomo and Wappo Indians in Clear Lake to work in the gold mines and on their ranches.¹²⁶ The Kelseys were known for their violence against Indians, whom they frequently punished with whippings and killed for sport. Sexually abusing Native women and

¹²⁵ “Governor’s Message,” *Daily Pacific News*, Volume II, Number 140, January 8, 1851, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DPN18510108.2.2&srpos=1&e=-----185-en--20--1-byDA-txt-txIN-“extinct”----1851--->

¹²⁶ Bauer and Akins, 136.

girls was also a tactic deployed by the Kelseys to discipline and domesticate the California Indian people they enslaved. The Kelseys and Stone frequently forced California Indians to bring them their daughters to abuse and whipped or killed them if they did not comply.¹²⁷ In a particularly vicious display of brutality, a Pomo boy was sentenced to 100 lashes by a justice of the peace for “offering an indignity” to Andrew Kelsey’s wife. The boy was beaten nearly to death and then shot and killed by Andrew Kelsey.¹²⁸ Kelsey freely tortured and killed the Pomo boy he enslaved without consequence so the Pomo were left with no choice but to kill the men who held them captive. A Pomo woman at Kelsey’s ranch, who had been enslaved by Andrew Kelsey and forced into a position of domestic and sexual slavery, poured water down the barrels of their guns during the night that the Pomo planned to attack, rendering them useless. On a December night in 1849, the Pomo attacked their tormentors Andrew Kelsey and Charles Stone and managed to kill them and escape to their villages. However, after settler complaints about the depredations of the Indians of Clear Lake, a garrison of 75 soldiers were given orders to exterminate the tribe if possible.

Upon discovering his brother had been killed, Benjamin Kelsey sought revenge against the Pomo, and called for the help of the U.S. army cavalry to aid him. On May 15, 1850, the 1st U.S. Dragoons of the U.S. army cavalry led by Captain Nathaniel Lyons pursued the Pomo, indiscriminately killing any Indians they accused of taking part in killing Kelsey and Stone.¹²⁹

The troops arrived in the vicinity of the Lake, and came unexpectedly upon a body of Indians numbering between two and three hundred. — They immediately surrounded

¹²⁷ Ibid., 136.

¹²⁸ Ibid., 136.

¹²⁹ Ibid., 137.

them and as the Indians raised a shout of defiance and attempted escape, poured in a destructive fire indiscriminately upon men, women and children. "They fell," says our informant, "as grass before the sweep of the scythe." Little or no resistance was encountered, and the work of butchery was of short duration. The shrieks of the slaughtered victims died away, the roar of muskets that ceased, and stretched lifeless upon the sod of their native valley were the bleeding bodies of these Indians — or sex, nor age was spared; it was the order of extermination fearfully obeyed. The troops returned to the stations, and quiet is for the present restored.¹³⁰

The state response to California Indians defending their lives and homelands was genocide. The army cavalry came upon hundreds of unarmed Pomo people on Bonopotí, an island in Clear Lake, and massacred them. Neither elders nor infants were spared in the violence that left as many as 800 Pomo Indians dead.¹³¹ Bonopotí was renamed Bloody Island by settlers in reference to this massacre. California Indians in northwestern California suffered many abuses at the hands of the Kelseys and Stone and the U.S. military acted to protect white property interests by killing Indians who resisted.

On January 6th, 1853 governor Bigler expressed outrage over Indian attacks on white settlers whom he argued needed further protections in the form of an expanded military presence.

The General Government owed us protection which was not adequately afforded. Our frontier citizens were exposed to Indian depredations, and hostile Indian incursions were not only threatened but actually commenced. No sufficient United States forces could be mustered for the protection of our people, their lives and property, and we were compelled, therefore, to protect ourselves. To do this, it became necessary, in the opinion of the Executive, to extend that protection which the General Government should have secured. The amount expended on these expeditions, for a part of which the bonds and warrants of the State are now outstanding, I have reason to believe will be promptly assumed by the General Government. Our situation in this respect is not at all peculiar,

¹³⁰ "Horrible slaughter of Indians," *Daily Alta California*, Volume 1, Number 128, May 28, 1850. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DAC18500528.2.3&srpos=1&e=-----185-en--20-DAC-1-byDA-txt-txIN-+horrible+slaughter+of+indians>-----.

¹³¹ Bauer and Atkins, 137.

for there are abundant precedents to be found in the proceedings of Congress, of appropriations having been made in similar cases.¹³²

Governor Bigler reflected the ideology of many settlers who pointed to Indian resistance as proof of the necessity for a war of extermination. Settlers' fear of Indian attacks justified the development of the state's capacity to enact genocide. Genocidal military campaigns against California Indians such as the Bloody Island massacre plagued the entire northwestern region of the state. On January 4th, 1860 the *National Daily Democrat* reported on the volunteer militia campaigns against California Indians on the Eel river in the Humboldt region and celebrated their efforts at diffusing Indian resistance through genocidal warfare.

The Eel River Rangers, under command of Capt. Jarboe, have been doing the most valuable and effective service in quelling the Indians. A portion of his command (thirteen men) were here several days lately, and were active in assisting us in pursuing and chastising the guilty parties. The correspondent adds that the command had a fight with ninety Indians on South Eel river, killing thirty and wounding as many more. Three of the whites were wounded. On the 13th, the company had a severe fight near Round Valley, and killed some thirty bucks, and took twenty-eight prisoners.¹³³

By identifying settlers in northwestern California as victims of Indian attacks the local newspapers defended white entitlement to property and encouraged the further development of the carceral geography of invasion situated by military forts, Indian reservations, and settler property.

¹³² "Governor's Message," *Daily Alta California*, Volume 4, Number 25, January 6, 1853, California Digital Newspaper Collection, UCR. [https://cdnc.ucr.edu/?a=d&d=DAC18530106.2.2&srpos=2&e=-----185-en--20-DAC-1-byDA-txt-txIN-governor's+message"----1853---](https://cdnc.ucr.edu/?a=d&d=DAC18530106.2.2&srpos=2&e=-----185-en--20-DAC-1-byDA-txt-txIN-governor's+message)

¹³³ *Daily National Democrat*, Volume 3, Number 121, January 4, 1860, California Digital Newspaper Collection, UCR. [https://cdnc.ucr.edu/?a=d&d=DND18600104.2.10&srpos=1&e=-----186-en--20--1-byDA-txt-txIN-Eel+river+rangers"-----](https://cdnc.ucr.edu/?a=d&d=DND18600104.2.10&srpos=1&e=-----186-en--20--1-byDA-txt-txIN-Eel+river+rangers)

In 1859 dozens of Redwood Creek Indian resistance fighters were captured by the U.S. army. White settlers in the Humboldt region were quick to declare their victory over the Redwood Creek Indians who had raided and razed their ranches and were relieved when they were caught and marched to Mendocino. However, the successful removal of Redwood Creek Indians was short lived. Since the Round Valley Indian reservation did not have soldiers to guard them and ensure their containment the Redwood Creek Indians returned to their homelands outside of the Hoopa valley within a year of being removed. Their refusal to stay removed from their homelands challenged the carceral geography of invasion imposed on the land. When Redwood Creek Indian prisoners made the dangerous journey back to their homelands they embodied counter-geographies of California Indian resistance.

In retaliation for the massacres and kidnapping of their children some tribes in the Humboldt region, such as the Wailaki and Mattole, engaged in open warfare against the invading United States. However, the Hupa engaged in tactics of subterfuge to keep war out of the valley by professing to be peaceful while coordinating attacks on supply trains and militia in secret. California Indian resistance proliferated in the Humboldt region through armed resistance, political subterfuge, and ceremony. California Indians' refusal to leave their homelands undermined the legitimacy of the United States and mapped counter-geographies of resistance on the land. The Wiyot resisted their removal from their homelands by returning home and performing ceremony on Tuluwat despite having been forcibly removed from their land. In 1860 during a world renewal ceremony on Tuluwat Island in the Humboldt bay, the Wiyot were massacred by a group of vigilante settlers. Among the murderous group was no other than Benjamin Kelsey who had moved north to Humboldt County after his brother Andrew Kelsey

and their associate Charles Stone were killed by the Pomo they had enslaved in 1850. The Humboldt Times reported on the atrocities committed against the Wiyot and emphasized how genocide was deployed against all those who had defied their removal to the Round Valley reservation. “The killing appears to have been principally with knives and hatchets or axes. The whole number killed at the different places on Sunday night, cannot fall far below 150, including bucks, squaws and children.”¹³⁴ Initially the massacre was blamed on a few “riffraff and malcontents” but later it was revealed that prominent land owning settlers had led the genocidal attack against the Wiyot.¹³⁵ Hank Larabee, a rancher known for his violence against Indians, was a ringleader of the massacre on Tuluwat. In a report sent from Fort Humboldt, Hank Larabee’s genocidal campaign against the Wiyot and the Mattole Indians are laid bare.

An accomplice and actor in the massacre at the Indian (Gunther) Island and South Beach; the murderer of Yo-keel-la-bah; recently engaged in killing un-offending Indians. His party, according to their own story, having killed at one time (eight bucks and ten squaws and children), and now at work inuring his hands in the blood of slaughtered innocence.¹³⁶

At the end of the settlers’ violent siege of Tuluwat, 300 Wiyot had been slaughtered. Despite the massacre being carried out by prominent men, a grand jury failed to name anyone responsible.¹³⁷ By failing to name the white men responsible for the genocidal attack on the Wiyot, the courts upheld white property interests and reaffirmed white impunity. In fact, the

¹³⁴ “Indian Massacre.” *Humboldt Times*, February 25, 1860, Susie Baker Fountain Papers, 371. Special Collections, Cal Poly Humboldt, Arcata, CA.

¹³⁵ Norton, 65.

¹³⁶ “Report of Lieut. Daniel D. Lynn, Sight U.S. Infantry Fort Humboldt, Cal,” March 28, 1861, Susie Baker Fountain Papers, 193, Cal Poly Humboldt, Arcata, CA.

¹³⁷ A.J. Bledsoe, *Indian Wars of the Northwest 1847-1865* (United States: Bacon, 1885), 174.

Humboldt Times absolved the men who carried out the massacre of any crimes since they were acting to protect settlers where the soldiers at Fort Humboldt had failed.¹³⁸ Settlers' fear of Indian attacks regardless of what Native peoples did, was justification enough to kill them. Larabee, like Kelsey and Stone, would not face any consequences from U.S. military who policed the encounters between settlers and California Indians, but he was on the receiving end of retribution from Indians themselves. In 1861 a group of Indians from the Eel river, most likely Wiyot, attacked Larabee's house and burnt it down, killing the white woman whom he employed as a cook.¹³⁹ Regrettably, Larabee was not home at the time of the attack so he escaped their vengeance, nonetheless the assault on his property was a bold act of sabotage that mapped California Indian counter-geographies of resistance onto the land. Acts of sabotage committed by California Indians, such as the burning of Larabee's house, contested settler claims to property ownership.

Genocidal Indian hunting campaigns were celebrated and encouraged by many settlers in northwestern California, but domesticating Indians on reservations was a more palatable approach to dispossession for white settlers looking to legitimize themselves by engaging Native peoples in a project of civilization.¹⁴⁰ "The government, they said, had two choices. It could 'exterminate' all of the Native peoples, or it could place them on reservations and 'domesticate' them. The second, they argued, was far more practical, since it would be 'cheaper to feed the

¹³⁸ Norton, 66.

¹³⁹ "Report of Capt. Charles S. Lovell, Sixth Infantry Fort Humboldt Cal," March 23, 1861, Susie Baker Fountain Papers, 199, Cal Poly Humboldt, Arcata, CA.

¹⁴⁰ Jacobs, 11.

whole flock for a year than to fight them for a week.”¹⁴¹ The United States could not sustain waging war against the all of the Native nations in northwestern California, so instead the state attempted to subdue Native nations by containing them on reservations with borders which were enforced by soldiers and vigilante settlers. Preempting Indian uprisings by restricting the mobility of California Indians required a network of military forts from which soldiers could launch attacks against insurgent Indian uprisings and detain prisoners who would not be domesticated.

There were approximately one dozen military forts in the Humboldt Military District, but Fort Humboldt and Fort Gaston were the largest, longest established, and most significant. All military forts and camps in the region were formed due to settlers demanding that the state offer them and their property further protection from Indian attacks. Governor John Bigler, being an outspoken supporter of the war against California Indians, consented to send more troops to the region and establish forts. The establishment of military forts and eventually in the region created sites of state power which constituted a carceral geography of invasion in northwestern California.

Fort Humboldt

Fort Humboldt was established in 1853 by the U.S. army on Wiyot homelands in present day Eureka, California. Fort Humboldt was built as a headquarters and supply depot for the forts that housed U.S. soldiers throughout the Humboldt Military District, which stretched from Del Norte county to Mendocino county. The entire region was a hotbed of militant California Indian resistance to the state’s efforts to remove them from their homelands either by genocide or

¹⁴¹ Nelson, 49.

removal to reservations where they could be contained. Indigenous resistance led the U.S army to deploy counterinsurgency tactics that would “domesticate” California Indians on reservations while also expanding the domestic territory of the settler colonial state.¹⁴² In spite of the U.S. army’s claims about the forts ensuring peaceful interactions between Native peoples and white settlers, Fort Humboldt was a carceral site characterized by the containment, surveillance, removal and genocide of Wiyot, Yurok, Tolowa, Karuk and Hupa peoples until it was abandoned in 1870.¹⁴³

Fort Humboldt functioned as a satellite that enabled the state to surveil Indians for the purposes of curtailing their mobility but it was also a prison that at times caged hundreds of California Indian people, children included, until they were removed to one of the reservations in the state or until individual settlers could take them in their homes as domestic laborers. The conditions at Fort Humboldt were unlivable; it was crowded, exposed to the elements, unsanitary, and like many prisons, rife with sexual violence.¹⁴⁴ The Wiyot name for Fort Humboldt, *Jouwuchguri*, translates to “curled up on the floor” revealing the treatment they experienced while imprisoned there.¹⁴⁵ In the center of the fort there was a corral where Indian prisoners were held; it was ten feet high, eighty feet in diameter and fenced in on all sides. It was referred to as the corral because it was indistinguishable from the pens that ranchers kept

¹⁴² Heidi Stark, “Criminal Empire,” 6.

¹⁴³ Placard. “The Corral,” Fort Humboldt, California State Parks, Eureka, CA.

¹⁴⁴ Wheeler, Peggy. “Sarah’s Story: Humboldt’s First Woman Lighthouse Keeper” *Humboldt Historian* (Eureka: Spring 2022), 19.

¹⁴⁵ *Ibid.*, 19.

livestock in. Many Indian people died in the corral as a result of exposure, malnutrition and communicable diseases which spread quickly through the cramped and unhygienic space.

The genocidal military campaigns of the U.S. army and volunteer militia ensured that Fort Humboldt constantly housed Indian prisoners. “Capt. Ketchum and 1st Lieut. Staples have been out with detachments as much of the time as circumstances would permit. They have killed forty Indian warriors, and taken 272 prisoners- about one-sixth of the number bucks, the balance squaws and children.”¹⁴⁶ As this quote from the Humboldt Times illustrates, military forts imprisoned California Indian women and children in much higher numbers than Indian men which indicates that the incarceration of Native women in particular is foundational to the governance and future of the carceral settler state. In August of 1862, during the height of the Indian wars, there were over 700 Indian prisoners held captive at Fort Humboldt. California Indians taken prisoner were the survivors of genocidal military campaigns waged against them for refusing to abandon their home.

Fort Humboldt was also an important strategic position for the U.S. army as a site of surveillance and coordination with other forts. In 1861, Lieutenant D.D. Lynn issued a report from Fort Humboldt which demonstrates how the U.S. army monitored the population and fighting strength of California Indians and mapped their territory between forts.

The Indians in this quarter number 230 warriors and are much degraded. On the Mad River and Eel River they are armed with bows and arrows. Fifty miles from this post is the junction of the Trinity river with the Klamath; and this post undoubtedly exercises an

¹⁴⁶ “Movement of Troops,” *Humboldt Times*, June 21, 1862, Humboldt Historical Society, Eureka, CA.

important influence over the Indians on these rivers, in conjunction with Fort Lane in Scott's Valley which is ten miles distant, over bad and dangerous trails.¹⁴⁷

The U.S. soldiers garrisoned at Fort Humboldt not only attacked, imprisoned and surveilled California Indians, they also forcibly removed them from their homelands and marched them to either the Smith River or Round Valley Indian reservations. The commander of the Humboldt Military District, Colonel Francis Lippitt, was appointed by G. Wright, the Brigadier-General of the United States, to forcibly remove Indians from their homelands and contain them on reservations. However, as the following passage exemplifies, Colonel Lippitt's efforts at permanently removing all California Indians from their homelands in northwestern California were confounded by their refusal to stay removed.

Lippitt had sent 834 Indian prisoners to the Smith River Reservation near the Oregon border in September 1862. But the fighting had not stopped, and, only 2 weeks after the Indians reached Smith River, half of them had avoided pursuing troops and returned to their homes. By November, as settlers had predicted, almost all of the 834 captives had left the reservation.¹⁴⁸

Native peoples consistently resisted their imprisonment and forced removal from their homelands by fleeing the reservations and returning home. By defying the carceral geography imposed on their homelands by the military forts, reservations, and settler property California Indians embodied counter-geographies of resistance on their journeys home.

Fort Gaston

Persistent Indian resistance in the mountains outside of the Hoopa Valley coupled with the suspicion that the Hupa were plotting an attack on white settlers led the U.S. military to

¹⁴⁷ "Excerpt from Report filed by Lieutenant D. D. Lynn, 6th infantry," dispatched July 10, 1861, Humboldt Historical Society, Eureka, CA.

¹⁴⁸ Nelson, 81.

establish Fort Gaston in the heart of the Hoopa Valley in 1858. Fort Gaston was another carceral site built to dissipate California Indian resistance efforts through military force, incarceration and removal. The political influence and military strength of the Hupa people could not go unchallenged by the U.S. military if they hoped to put a stop to California Indian resistance and assert U.S. sovereignty over the region. Domesticating the “wild Indians” whose resistance threatened U.S. dominion in northwestern California was the mandate of the infantry stationed at Fort Gaston. The soldiers at Fort Humboldt and Fort Gaston who sought to quell armed Native resistance did so with the help of local volunteer militia and vigilante settlers who were more than willing to enact what Audra Simpson has called the “sovereign death drive” that constitutes the governance of settler states.¹⁴⁹ Securing control over northwestern California and declaring the United States the only rightful sovereign of the region was of paramount importance to the United States because it would signify that manifest destiny had been realized and the projects of conquest and settlement were complete.

The strategy of the U.S. was to domesticate California Indians into an exploitable labor force while containing them on reservations which were under siege by settlers desperate to appropriate the land for resource extraction and private property. White settlers’ entitlement to property carved from dispossessed Indigenous land was frequently expressed in newspapers throughout the state accompanied by warnings of further Indian attacks on innocent settlers. “Let the people of California imagine the horrors of an Indian war, the brutal massacre of whole families by a race which certainly cannot, and eventually will not be allowed to hold the rich and

¹⁴⁹ Simpson, 3.

useful lands of this State.”¹⁵⁰ As this quote from *The Daily Alta California* exemplifies, white settlers’ expectation of exclusive rights to property, which were affirmed by the law, are a formative element of white settler subjectivity which must be defended.¹⁵¹ In northwestern California white settlers claimed to be victims of both Indian attacks *and* the failure of the federal government to protect their property interests. Fort Humboldt and Fort Gaston were prisons where California Indians who fought against the U.S. to protect their homes and people were held captive.

The establishment of Fort Gaston imposed the legal authority of the United States on the Hupa and their lands to contain them and the threat they posed to U.S. sovereignty. Fort Gaston enforced the imposed borders of the reservation on Hupa homelands and ensured that the reservation functioned as a militarized space of confinement.¹⁵² However, sustained Indian resistance and close proximity to Native nations made white settlers wary of the Hupa and, as the following passage from *The Daily Alta California* reveals, they encouraged more strict policing of the Hupa.

The Hoopa Indians, strong as they were in number, had heretofore been kept in check by the military at Fort Gaston; but by a more than friendly treatment on the part of the last commander at that post, they were so emboldened that the settlers began to fear an outbreak, which seems now to have taken place, since the strict rule of the mountaineers,

¹⁵⁰ “Indian Troubles in the Northern Counties,” *Daily Alta California*, Volume 15, Number 4954, September 20, 1863, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DAC18630920.2.7&srpos=1&e=-----186-en--20--1-byDA-txt-txIN-brutal+massacre>----1863---

¹⁵¹ Alyosha Goldstein, “By Force of Expectation: Colonization, Public Lands, and the Property Relation.” *UCLA Law Review*. Discourse. March 1, 2018. <https://www.uclalawreview.org/by-force-of-expectation/>.

¹⁵² Nick Estes et al., *Red Nation Rising: From Bordertown Violence to Native Liberation*, (Binghamton: PM Press, 2021), 21.

who now garrison the post, has shown them the determination of the commanding officer to govern the country, and redress any wrongs perpetrated on the whites, which certainly makes the Indian's position a different and most unpleasant one.¹⁵³

Settlers' fears of a potential Indian attack was, as Jack Norton describes it, their best ally in the occupation and further development of the settler state.¹⁵⁴ Settlers' fears of the Hupa leading attacks on settlers justified increasing military violence against them. On Christmas Day in 1863, a large camp of Redwood Creek Indian resisters were discovered by U.S. soldiers who reported their findings back to Fort Gaston. Lieutenant Middleton who was stationed at Fort Gaston, assembled 35 men to attack them and brought along a Howitzer cannon. The soldiers fired upon the temporary log dwellings, that housed the resisters, destroying them all and killing several of the Redwood Creek Indians hiding inside. The Redwood Creeks returned fire and the two groups shot at each other until the evening, when the thick Humboldt fog rolled in from the coast. The Redwood Creek Indians used the cover of the fog and escaped with all but two of their dead and 4 rifles.¹⁵⁵

Fort Gaston was a site of carceral power from which the occupying carceral settler state surveilled Indian resisters and launched genocidal attacks. It was a prison. The soldiers that were garrisoned at Fort Gaston were undisciplined, belligerent, often drunk, and quick to violence with the Hupa people in the valley and other California Indians they captured and held prisoner.

¹⁵³ "Indian Troubles in the Northern Counties," *Daily Alta California*, Volume 15, Number 4954, September 20, 1863, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DAC18630920.2.7&srpos=1&e=-----186-en--20--1-byDA-txt-txIN-“brutal+massacre”----1863--->

¹⁵⁴ Norton, 68.

¹⁵⁵ Andrew Genzoli, "The Battle of Christmas Prairie." *The Times-Standard*, Susie Baker Fountain Papers, 234, Cal Poly Humboldt, Arcata, CA.

Indian men who were taken prisoner in battle, if not slated for removal to Smith River or Round Valley, were hung from gallows in the fort. “From our Fort Gaston correspondent we learn that Col. Black has issued a special order that all Indian men taken in battle shall be hung at once; the women and children to be humanely treated.”¹⁵⁶ The expressed wishes that Indian women and children be humanely treated betray the truth, which is that Fort Gaston was a site of physical and sexual violence for Hupa people, particularly children and women. Even Indian agents and officers complained that “the ‘presence of troops in the immediate vicinity of the reservation’ was ‘a great evil.’”¹⁵⁷ due to the amount of sexual violence they perpetrated against Hupa women. Soldiers at Fort Gaston were often accused of “grossly immoral conduct with Indian girls and women,” including coercing them into informal economies of sex work were organized around the carceral space of the fort.¹⁵⁸ Fort Gaston extended the reach of the carceral settler state into Hupa homelands and was crucial for the constitution of a carceral geography of invasion and occupation comprised of military forts, reservations, and settler property.

Counter-Geographies of Resistance

California Indian sovereignty is derived from ethical relationships with land, more-than-human beings, and other peoples so the United States attacked their social and political institutions and replaced them with settler relations of domination and exclusion through property and the formation of the white settler subject. In spite of the carceral geography constituted by the forts, reservations, settler property and the genocidal violence that enforced it,

¹⁵⁶ *Humboldt Times*, March 26, 1864, Susie Baker Fountain Papers, 178, Cal Poly Humboldt, Arcata, CA.

¹⁵⁷ Nelson, 103.

¹⁵⁸ *Ibid.*, 125.

California Indians fought back against the invading carceral settler state and embodied counter-geographies of resistance. As A.J. Bledsoe describes in his 1885 history of the region,

Another characteristic of the Indians was their inability to forget and forgive. If one of their warriors was killed, if one of their squaws was abused, if a Rancheria was plundered, they never forgot or forgave. The decree of vengeance once made by them was fixed and inexorable, and when bad white men imposed on them the good citizen was made to suffer equally with the bad.¹⁵⁹

California Indians' acts of resistance affirmed their belonging to the land by undermining the occupation of the carceral settler state by stoking settlers' fears and uncertainty about their future on dispossessed Native lands. The refusal of California Indian peoples to "forgive and forget" is a demonstration of their commitment to the relationships that imbue them and their homelands with meaning. Joanne Barker significantly posits that "The future is not something we are waiting for, but rather is already embodied in our relationships with one another. These relationships anticipate the abolition of state imperialism and the real alternative of Indigenous governance."¹⁶⁰ The Hupa fought back against the invading carceral settler state because they did not forget that the salmon would be returning to the rivers and they needed to be there to greet them with prayer and fishing weirs, as they had always done. Ethical relationships with the land and more-than-human beings ground Hupa sovereignty and contest the carceral geography of invasion.

Native peoples throughout northwestern California fought hard to keep their homelands and while genocide devastated their nations, they still honored their relations and resisted the carceral demarcation of the reservation boundary. Soldiers at Fort Gaston policed the boundaries

¹⁵⁹ A.J. Bledsoe, 157-158.

¹⁶⁰ Barker, *Red Scare*, 25.

of the reservation, but when some Hupa people wanted to use their knowledge of the landscape to leave the valley in secret, there was little that the soldiers could do to stop them. The Indian agent and the soldiers garrisoned at Fort Gaston policed the boundaries of the Hoopa Valley to ensure that no Indians were violating settler property. Hupa relationships with land and more-than-human beings, particularly salmon, were disrupted by the enforcement of the reservation borders. For example, the Hupa were forbidden from erecting their fishing weirs along the Trinity River by the Indian agent R.L. Stockton, who wanted to police their relationship to the river which made them so formidable. California Indians resisted their containment in order to maintain and renew their relationships with the land and more-than-human beings by building fishing weirs on the river, tending to the health of the woods by performing controlled burns outside of the reservation, and gathering. As Hoopa tribal member Lori Biondini argues, the Hupa have a spiritual kinship with salmon that comes with responsibilities to manage the health of the fish runs.¹⁶¹ The Hupa defied the imposed borders of the reservation and tended to these relationships as they had been taught by the K'ixinay, the first people. The Hupa relationship with salmon is a governing relationship and a spiritual one.¹⁶² Salmon are integral relatives and the Hupa refusal to leave their valley was also a refusal to abandon the salmon. The preservation of relationships with the land and more-than-human beings required that California Indians escape from carceral spaces of confinement to return home and care for them. Maintaining their

¹⁶¹ Lori D. Biondini, "Salmon Pluralities: The Politics of Commercial Fishing on the Hoopa Valley Reservation," (Cal Poly Humboldt, 2017).

¹⁶² Brittani Orona, "This is Our Home, This is Our Land: Visualizing Decolonization on the Klamath River Basin," PhD diss., (UC Davis, 2022).

relationships with the land was one way that Native peoples disrupted occupation and conquest however, they also engaged in acts of theft and sabotage by raiding settler ranches.

Indian resistance to settler occupation sabotaged the efforts by the state and settlers to control their mobilities and keep them contained on reservations or in settler households as “domesticated” Indians. In 1867 the *Humboldt Times* reported that a small group of unidentified Indians robbed several settlers who had left their properties unattended. “In this raid they obtained a rifle and a Colt’s revolver; one hundred pounds of flour; five pairs of blankets, a quantity of sugar and numerous small articles. They also cut open the bed sacks and strewed the contents about the floor. The villains could be traced only a short distance and therefore escaped.”¹⁶³ This act of theft and vandalism sabotaged settler conceptions of private property by violating the boundaries imposed by settlers around their homes. Destroying settlers beds and leaving their soft contents strewn on the floor was not only funny, it was symbolic of the lack of rest and peace settlers can expect while they live on stolen land. The theft of guns, flour, blankets, sugar and other goods also might better be understood as a re-appropriation of what was stolen from Native peoples.

Many California Indians who had been leaders in the resistance in northwestern California were persecuted by the police, especially and ironically on charges of theft. In 1867 a Hupa named “Indian Frank” shot and killed R.L. Stockton, the same Indian agent who had

¹⁶³ “Indian Robbery,” *Humboldt Times* 1867, Indian Wars Folder #1, Special Collections, Cal Poly Humboldt, Arcata, CA.

arrested Curly-Headed Tom, for trying to arrest him.¹⁶⁴ Stockton and a few of his men were in pursuit of Indian Frank because he was accused of robberies.

Early on Sunday morning, March 31st, Indian Frank, one of the most desperate of Hoopa Valley's braves, shot and killed R.L. Stockton, Agent of the Hoopa Reservation and James Latham, packer; Wm. Griffin, and a man named Slofer, miners on the Trinity above Fort Gaston." [...] "Frank had left the Reservation without leave, contrary to well-known rules, and had refused to return when sent for. About the 23rd of March, Mr. Stockton went out to bring him in." [...] "When the agent and his party came near the cabin, they caught two deserters from the Reservation, when Frank, who was inside, began firing upon them with his revolver, shooting first, Mr. Slofer through the forehead, next, Mr. Stockton, through the left breast, Mr. Latham near the eye and Mr. Griffin just above the hip." [...] "Frank seized Stockton's rifle and made his escape and has not been seen since."¹⁶⁵

Indian Frank was one of the Hupa resistance fighters who had joined Tsewenaldin John, Big Jim, Handsome Billy, and Curly-Headed Tom in the mountains to fight the United States.¹⁶⁶ However, his reputation as a Hupa warrior shifted after the formal end of the Indian wars and the 1864 Treaty of Peace and Friendship to one of an individual criminal. Indian Frank, like Curly-Headed Tom and Tsewenaldin John, represented a threat to the future of the United States, so he was criminalized, persecuted, and eventually sentenced to death by the carceral settler state. On the orders of the Indian agent who replaced Stockton, William H. Pratt, A group of white soldiers and Hupa men pursued and killed Indian Frank the following fall, which revived old political feuds between Hupa villages and caused strife among the people in the Hoopa Valley.¹⁶⁷

¹⁶⁴ *Humboldt Times*, 1867, Susie Baker Fountain Papers, 205, Special Collections, Cal Poly Humboldt, Arcata, CA.

¹⁶⁵ *Humboldt Times*, 1867, Susie Baker Fountain Papers, Special Collections, Cal Poly Humboldt, Arcata, CA.

¹⁶⁶ Nelson, 87.

¹⁶⁷ Nelson 98.

After the Treaty of Peace and Friendship was signed settlers in the region complained that the Hupa remained in the Hoopa Valley when white settlers had more use for the fertile lands. The U.S. commissioner of Indian affairs even sent special inspector Robert Stevens to the region in 1866 to see yet again about removing the Hupa to another reservation, but the Hupa would not go.¹⁶⁸ There were not enough U.S. soldiers to forcibly remove the Hupa from their home and both they and the soldiers garrisoned at Fort Gaston knew it. Hupa leader Captain John reminded inspector Stevens that the Hupa had “whipped the U.S. in almost every fight” and would not leave the valley without bloodshed.¹⁶⁹ Confronted with the reality that the Hupa could not be made to leave, the carceral settler colonial state abandoned large-scale removal efforts until the assimilation era of federal Indian policy during the 1880s, which I discuss in chapter four. In the Hoopa Valley today there is nothing left of the old Fort Gaston except for a dilapidated adobe building behind the campus of Hoopa Valley High School. The remnants of that site of carceral power are in decay and the Hupa are still in the valley; it is our home forever.

¹⁶⁸ Ibid., 98.

¹⁶⁹ Ibid., 98.

Chapter Two: “*Suitable Instructions Shall Be Given*”: The Domestic Carceral Sphere in Northwestern California

In northwestern California settler invasion and ongoing dispossession of Indigenous homelands was made possible by the capture and containment of Native peoples in various carceral sites. The carceral sites of U.S. occupation in northwestern California were primarily military forts, Indian reservations, and white settlers’ homes. Prior to statehood, miners demonstrated their dependence on California Indian labor which they obtained through genocidal violence and by targeting Native women and children for abduction. California Indians were abducted and enslaved so that their labor could be exploited to mine for gold, work on ranches, and provide domestic labor for settler households. Between 1846-1873 there was an extensive trade in enslaved California Indians which was initially instigated extralegally by invading settlers but was soon authorized by state law. In 1850 the California state legislature signed An Act for the Government and Protection of Indians into law and legitimized the abhorrent practice of kidnapping California Indian children, particularly girls, and imprisoning them in white settler homes where they labored under a system of gendered racial terror as domestic servants for much of their lives.¹⁷⁰ Demographers have estimated that approximately 20,000 California Indian people were enslaved by white settlers throughout the state during this period.¹⁷¹ Many California Indians spent their lives enslaved by white settlers, even after the sections of the law that permitted Indian indenture were repealed in 1863.

¹⁷⁰ “Laws of the State of California an Act for the Government and Protection of Indians.,” The Library of Congress, accessed April 20, 2023, <https://www.loc.gov/item/2001696098/>.

¹⁷¹ Michael Magliari, “Free Soil, Unfree Labor: Bound Indian Labor and Slave Trafficking in California’s Sacramento Valley, 1860-1864,” *Pacific Historical Review* Vol. 73 (2004): 353.

This chapter examines the experiences of California Indian women and children who were enslaved as domestic laborers by white settlers and asserts that Indigenous dispossession in northwestern California was enabled by a gendered carceral infrastructure which extended through the white household. “Domesticating” California Indians, either by containing them within the borders of a reservation or the confines of the white household and forcing them to perform agricultural and domestic labor, was a counterinsurgency tactic deployed by the United States to dissipate Indian resistance. As Heidi K. Stark has argued, domesticating Native peoples was a gendered project which reimagined Native women’s bodies as symbols of uncivilized wilderness that could be exploited and tamed through conquest.¹⁷² Domesticating California Indians enabled the further development of the carceral settler state through the expansion of the law, the violent extraction of Indian labor, and the racial and gender formation of the white settler subject. Centering Native women’s and children’s experiences of U.S. invasion and occupation reveals how the settler state developed by containing them in white homes and compelling them to work in a version of what historian Sarah Haley has termed the “domestic carceral sphere.”¹⁷³ California Indians were compelled by law to labor as domestic servants in white households where they were surveilled and disciplined by settlers, particularly white women, who embodied the violence of the carceral settler state. In this chapter I argue that violence enacted against California Indian women and children by settlers and state law reproduced colonial relations of

¹⁷² Stark, “Criminal Empire,” 6.

¹⁷³ Writing about the exploitation of incarcerated Black women in early 20th century Atlanta, Haley describes the state practice of paroling Black women as domestic laborers in white households where they were surveilled by white employers as an extension of the prison system; she calls this the domestic carceral sphere. Haley, 2016.

domination, normative womanhood, and the carceral settler state through Native women's containment in the domestic carceral sphere.

I begin this chapter by analyzing the colonial gender violence perpetrated by miners whom abducted, trafficked, and purchased California Indian women and children as "Indian wives" or "concubines" during the gold rush in northwestern California. Miners, who were primarily white men, invaded the region and targeted California Indian women and children for sexual violence and forcibly extracted their labor in the domestic sphere in order to sustain their occupation of Native homelands. I argue that these acts of gendered racial terror preceded the formal administration of the domestic carceral sphere through state law which authorized a system of Indian indenture to ensure that California Indian women and the threat to the settler state that they embodied, would be contained. Next I engage in an analysis of section three of the 1850 Act for the Government and Protection of Indians, which legalized the de facto enslavement of California Indians, particularly children, by white settlers. I read white settlers' entitlement to enslaved California Indian labor as evidence of their dependence on Indians' stolen reproductive capacities to sustain their ongoing dispossession of Native homelands. The law was key in protecting white settlers' entitlement to California Indian lands and labor and it did so in part by extending the carceral capacities of the occupying United States through the settler household.

The experiences of enslaved California Indians reveal that the white settler household functioned as a colonial domestic carceral sphere which was maintained and developed through their surveillance, genocide, removal, and containment. I examine the role of white women in maintaining the domestic carceral sphere, the formation of normative white womanhood and its

relationship to the development of the carceral settler state. I argue that domesticating California Indians was a form of counterinsurgency deployed to quash Indian resistance and develop the carceral settler state. In spite of settlers' relentless efforts to domesticate Native peoples, California Indian women and children resisted their subjugation and contested their captivity by killing their captors, stealing goods, and running away. These fugitive practices were acts of sabotage which illustrate their embodied counter-geographies of California Indian resistance to the carceral settler state.

Invasion and Colonial Gender Violence

California Indian women and girls were targeted for sexual violence by invading settlers in northwestern California who used rape to enact genocidal conquest and implement gendered colonial relations of domination. The destruction of Native women's sexual self-determination and bodily autonomy is endemic to the gendered processes of dispossession. Theorizing about colonial invasion in California, historian Albert Hurtado argues that white men used rape to maintain the racial hierarchies formed through invasion and conquest by degrading Native women and girls.¹⁷⁴ As Hupa scholar Cutcha Risling Baldy argues, "Attempts to subvert the roles and place of Native women were built into settler colonial policies because Native women, who at one time exercised autonomy in Native societies, represented a threat to the settler colonial state and settler colonial societal organization."¹⁷⁵ I extend Baldy's analysis of gendered violence to include the carceral infrastructures of colonial occupation. Gendered racial terror against Native women and children is foundational to the carceral settler state because it subverts their

¹⁷⁴ Hurtado, *Indian Survival*, 108.

¹⁷⁵ Baldy, 54.

political status and undermines Indigenous sovereignty. Importantly, as Mohawk scholar Audra Simpson argues, in settler regimes Native women are embodiments of Indigenous polities and governance which reveal the illegitimacy of the settler state.¹⁷⁶

Attacking California Indian women and girls' bodily autonomy with sexual violence, abduction, and trafficking undermined Native nations' capacities to effectively resist settler invasion. In her foundational essay Angela Y. Davis argues that sexual violence committed by white men against enslaved Black women was an act of counterinsurgency to suppress slave uprisings.¹⁷⁷ While sexual violence enacted against California Indians in northwestern California has a different historical context than chattel slavery, thinking through Davis' analysis of the productive nature of sexualized violence grants insight into why Native women and children were targeted for sexual violence and exploitation. The sexual exploitation of California Indian women and children was an essential part of maintaining the white supremacist social order in an unstable settler regime of power. By challenging Native women's control over their own bodies through sexualized violence white men reaffirmed their entitlement to ownership of property and reproduced their subjectivity as self-owning white settler citizens.

Abducting and trafficking California Indian children and women was such an established practice among white settlers prior to statehood that it "had grown to the dimensions of a major industry by 1848."¹⁷⁸ Kidnapping and trafficking Native women and children to sell to white settlers was an extractive industry facilitated by genocidal military campaigns against Native

¹⁷⁶ Simpson, "The State is a Man," 9.

¹⁷⁷ Angela Y. Davis, "Reflections on the Black Woman's Role in the Community of Slaves," *The Massachusetts Review*, Vol. 13, No. 1/2 (1972): 81-100, 98.

¹⁷⁸ Sherburne Cook, 28.

nations throughout California. The gender violence inherent in this system of California Indian slavery was evidenced by the differing values placed on Native peoples who were captured and sold. White men who purchased Indian children paid significantly more money for trafficked Indian girls than for boys, presumably because California Indian girls could be more readily sexually exploited and made to perform reproductive labor.¹⁷⁹ The prices for Native girls and women varied depending on their sexual desirability which was sometimes graded by slave traders on a scale of “fair, middling, inferior, [or] refuse.”¹⁸⁰ The practice of purchasing and enslaving Indian girls for sexual exploitation, euphemistically referred to as “concubinage” in newspapers, was an attack on Native nations’ capacities for biological and social reproduction as well as their abilities to resist U.S. invasion and occupation. The informal but firmly established trade in enslaved California Indians laid the foundation for the legal colonial infrastructure of gendered racial terror which subjected California Indian children to physical and sexual abuse and isolated them from the safety of their communities.

During the gold rush and early U.S. invasion in northwestern California white men abducted Indian women and children, targeted them for sexual violence and frequently took them as “Indian wives.” The informal social system of “Indian wives” was differentiated from marriages between white men and white women because they were socially taboo and not legally recognized. Trafficking, rape, coercion into prostitution and their description as “Indian wives” marked California Indian women as racially different and inferior to white women. White men who invaded California Indian homelands established a gender and racial hierarchy by targeting

¹⁷⁹ Rawls, 98-99.

¹⁸⁰ *Ibid.*, 99.

Native women for sexual violence, coercion and extralegal marriages. The “marriages” between California Indian women and white men reinforced the boundaries of white normative settler subjects and the accompanying rights of property while simultaneously undermining Native women’s bodily autonomy and the sovereignty of California Indian peoples with sexual violence. These marriages, which were enabled through the genocidal violence of conquest, legitimated white men's ownership of Native women and enabled them to keep California Indian women captive in the white domestic sphere.¹⁸¹

Throughout California, settlers’ need for Native women’s reproductive labor created the context for a domestic carceral infrastructure which in turn facilitated settler occupation of Native homelands. Native women who were taken as Indian wives by white men were held captive under the threat of more violence and compelled to provide reproductive labor for them, such as cooking and laundry. In stark contrast to the popular depiction of Native peoples as uncivilized, backward, and ugly, California Indian women were also widely reputed among white settlers to make dutiful wives. These competing images of California Indian girls and women justified violence against all Native peoples and encouraged the biopolitical management of Native women in the domestic carceral sphere. As the Hydraulic Press reported, “Indian women have been married to white men, in numerous instances, in Fresno county. They are said to make excellent wives; neat and tidy and industrious; and soon learn to discharge domestic duties, properly and creditably.”¹⁸² As this passage reveals, California Indian women were

¹⁸¹ Robert F. Heizer, *The Destruction of California Indians* (Lincoln: University), 279.

¹⁸² “Indian Wives in Fresno County,” *Hydraulic Press* Volume 1, Number 31, March 19, 1859. California Digital Newspaper Archive, UCR. <https://cdnc.ucr.edu/?a=d&d=HPNSJ18590319.2.19&srpos=1&e=-----en--20-HPNSJ-1--txt-txIN-“indian+wives”----->.

presumed to be well disposed to domestic work provided that they were trained and disciplined by the civilizing influence of white men. The marriages between white men and California Indian women reproduced racial hierarchies formed through conquest by marking Native women as racially inferior, disposable and subordinate to both white men and white women. These relationships between white men and Native women, while common and legally permissible, were still taboo among respectable white settlers. White men who kept Indian wives were often referred to by the derogatory term “squaw men” which expelled them from the boundaries of the normative white male settler subject due to their relationships with Indian women.

White men who kidnapped and trafficked California Indian women or lived with Indian wives were derogatorily referred to as “buckskin gentry,” “squaw men,” and “moccasin men” by newspapers that reported on the whereabouts and activities of California Indians and the settlers who menaced them. Although these terms were used in reference to white men who raped and abducted Native women, they effectively dehumanized California Indian women by naming them as a contaminant of normative white masculinity. The negative depiction of “squaw men” in California newspapers grew more prevalent as Native nations resisted invasion and retaliated against settlers for abducting Native women and children. In one example, an article in *The Trinity Journal* blamed these men for Indian attacks.

Those miserable, abandoned wretches who cohabit with filthy squaws should be driven from among men. If their turpitude involved nothing but their own disgraces it would be enough to leave them in the squalor of Digger concubinage, but when their unnatural passions bring assassination and death upon decent citizens they should be driven out to wallow and gender in the dirt piles inhabited by their insect-eating paramours.¹⁸³

¹⁸³ “Squaw Men.” *Trinity Journal*, Volume 3, Number 30. August 14, 1858. California Digital Newspaper Archive, UCR. <https://cdnc.ucr.edu/?a=d&d=TJ18580814.2.5&srpos=4&e=-----en--20-TJ-1--txt-txIN-concubinage-----1>.

This passage reveals how white men who lived with Indian women were portrayed as having a deviant sexuality by making reference to their “turpitude,” “disgraces,” and “unnatural passions.” The language of unnatural desire as well as the reference to California Indian women eating insects and wallowing in the dirt dehumanizes them and redraws the gender and racial boundaries of the respectable white settler citizen subject. It is noteworthy that prominent white men in northwestern California such as Andrew Kelsey and Hank Larrabee, who were known to sexually abuse enslaved Indian women and girls, were not given the title of “squaw men.” Their positions as decent white male settler citizens were retained due to their ownership of property and their respectable legal marriages to white women.

White men who trafficked and enslaved California Indian women or took them as wives were also racialized because of settler anxieties about their allegiances. Newspapers throughout northwestern California published stories about white men who, after taking Indian wives, joined hostile Indians and fought against U.S. invasion and occupation. The *Daily National Democrat*, a newspaper published in Marysville reported, “The Red Bluff Beacon says it is understood that there are some forty or fifty white brutes living on the head waters of Butte Creek with squaws, in a state of concubinage, and that they uphold and protect the Indians in all their depredations.”¹⁸⁴ By throwing white men’s allegiances into doubt, newspapers demonstrated that California Indian women were perceived by settlers as a threat to the development of the settler state. White men’s relationships with California Indian women brought evolving racial

¹⁸⁴ *Daily National Democrat*, Volume 2, Number 151, August 5, 1859. California Digital Newspaper Archive, UCR. <https://cdnc.ucr.edu/?a=d&d=DND18590805.2.8&srpos=4&e=-----185-en--20-DND-1--txt-txIN-red+bluff+beacon>----1859---

ideologies into clarity and more narrowly defined the racial and gender limits of the white settler citizen subject. California Indian women's biological and political reproductive capacities were a threat to ongoing U.S. occupation so they were attacked with sexual violence, trafficking, and enslavement of California Indian children. As Mvskoke legal scholar Sarah Deer argues, rape and other forms of sexual violence were attacks on the sovereignty of entire Native nations and were foundational to the development of the United States.¹⁸⁵ The kidnapping and enslavement of California Indian women and children by invading settlers in northwestern California prior to statehood precipitated the expansion of the nascent carceral settler state through the 1850 Act for the Government and Protection of Indians.

Act For the Government and Protection of Indians

The practice of kidnapping, trafficking, and sexual exploitation of California Indian children and women prior to statehood was legitimized by the 1850 Act for the Government and Protection of Indians.¹⁸⁶ The Act for the Government and Protection of Indians developed the infrastructure of the carceral settler state by extending U.S. legal jurisdiction over California Indians' bodies and homelands and affirming white settlers' entitlement to their lands and labor. The law devastated the ability of California Indians to maintain self-determination over their own bodies and placed a generation of them under a system of de facto slavery that was authorized by the state. Settlers' demand for California Indian domestic laborers in white households, a practice which began with the sexual exploitation of California Indian women by miners, remained consistent between 1850-1860 and ensured that, even as the demand for Indian

¹⁸⁵ Sarah Deer, *The Beginning and End of Rape*, xiv.

¹⁸⁶ "Laws of the State of California an Act for the Government and Protection of Indians.," The Library of Congress, accessed April 20, 2023, <https://www.loc.gov/item/2001696098/>.

labor in agriculture and mining waned due to the availability of Chinese migrant labor, there would continue to be an active trade in enslaved Native peoples in the region through the mid 1860s. California Indian children, especially ones too young to do agricultural work, were often purchased in order to provide reproductive domestic labor to white bachelors.¹⁸⁷ Demographer Sherburne Cooke estimated that during the 1850s and 1860s between 3,000-4,000 Indian children were abducted and sold into slavery in California.¹⁸⁸ As I discussed in chapter one, under the tutelage of this law several aspects of California Indian life were placed under the purview of the invading settler state including Native peoples' relationships to land, mobilities, labor, and their children. Section three of the Act for the Government and Protection of Indians had the most devastating impacts on California Indian nations because it legitimated the kidnapping and enslavement of Indian children and obscured it with the language of custodianship and legal jurisdiction. Section three reads,

Any person having or hereafter obtaining a minor Indian, male or female, from the parents or relations of such Indian minor, and wishing to keep it, shall go before a Justice of the Peace in his Township, with the parents or friends of the child, and if the Justice of the Peace becomes satisfied that no compulsory means have been used to obtain the child from its parents or friends, shall enter on record, in a book kept for that purpose, the sex and probable age of the child, and shall give to such person a certificate, authorizing him or her to have the care, custody, control, and earning of such minor, until he or she obtain the age of majority. Every male Indian shall be deemed to have attained his majority at eighteen, and the female at fifteen years.¹⁸⁹

In order to justify the de facto enslavement of Native children under this system of indenture, section three of the law stated that any Indian child obtained had to be taken with the

¹⁸⁷ Rawls, 99.

¹⁸⁸ Magliari, "Free Soil, Unfree Labor," 96.

¹⁸⁹ "Laws of the State of California an Act for the Government and Protection of Indians.," The Library of Congress, accessed April 20, 2023, <https://www.loc.gov/item/2001696098/>.

permission of their parents with no use of coercion. However, genocidal militia expeditions against California Indians orphaned many Indian children, and those who survived to defend their children were often killed to prevent objection.¹⁹⁰ In a letter to Captain Lovell at Fort Humboldt, Lt. Edward Dillon wrote, “It is pretended I believe that the children are purchased from their parents; but all who know these Indians can fully appreciate the value of this assertion.”¹⁹¹ California Indians aggressively defended their children so slave traders would kill adult Indian people with the sole purpose of abducting and selling their children. The rapid growth of the settler population in California ensured that there was a demand for Native labor, and many white men who were eager to make a fortune did so by engaging in the Indian slave trade. In his history of the Round Valley Indian Reservation, Wailacki and Concow scholar William J. Bauer recounts a horrific story from the archive about a group of settlers, Pierce and Frank Asbill and their adopted brother Jim Naphus, capturing 35 Yuki women in Round Valley and selling them to a fate of exploitation and sexual abuse for the fee of 105 horses.¹⁹² In California, Native children and women were made into a commodity by white settlers who sexually exploited them and made them domestic servants in their homes or laborers on their ranches. However settlers’ entitlement to California Indian labor offered no protections for Indigenous children and scores of them were also killed by militia and vigilantes during the massacres of Indian villages.

¹⁹⁰ Rawls, *The Indians of California*, 101.

¹⁹¹ Heizer, *The Destruction of California Indians*, 229.

¹⁹² Bauer, *We Were All Like Migrant Workers Here*, 35-36.

Settlers' large-scale abduction of Native children attacked the future of California Indian peoples whose populations fell dramatically as a result of the brutal conditions of their enslavement.¹⁹³ California Indian nations suffered from the violent diversion of reproductive labor from their own communities which was reflected by low birth rates and struggles to maintain political cohesion.¹⁹⁴ The abduction and exploitation of Indian children was a systematic way for the carceral settler state to use the law to interrupt the continuity of California Indian life and create a class of laborers who were compelled to do the reproductive work for settlers in the domestic carceral sphere. The ability to exploit California Indians' reproductive labor in the white settler domestic sphere was a necessity for normative settler subject formation and the further development of the carceral settler state.

California Indian children and women were severely mistreated by settlers under the Act for the Government and Protection of Indians, which provided them with no protections from abuses. An ethnologist named George Gibbs who accompanied Reddick Mckee on his diplomatic mission to make treaties with Native nations throughout northwestern California in 1851, kept a journal of ethnographic notes about the Native peoples that they encountered. In his journal Gibbs describes some the violence that Native women endured after the Act for the Government and Protection of Indians was signed into law. While in the Humboldt military district Gibbs noted that, "One of the whites here, in 'breaking in' his squaw to her housework

¹⁹³ Hurtado, *Indian Survival on the California Frontier*, 198.

¹⁹⁴ *Ibid.*, 214-215.

duties, had occasion to beat her several times.”¹⁹⁵ Domesticating California Indian women was another opportunity for white men to enact physical and sexual violence against them and affirm their own dominion over Native peoples and the land, the infrastructures of racial hierarchies, the law, and dominant attitudes about violence against women ensured a thriving carceral state.

Native women are powerful symbols of Indigenous life and the prior existing and legitimate sovereignties that exist beyond the settler state.¹⁹⁶ As Jodi Byrd has argued, because of Native women’s political importance and the challenge they pose to the sovereignty of the state, Native women’s bodies become the site of the “transit of empire,”¹⁹⁷ and state sovereignty is produced through their murder.¹⁹⁸ As Simpson suggests, violence against Native women does not have to be perpetrated by state actors, civilian settler citizens are also empowered to kill Native women and enact settler state sovereignty.¹⁹⁹ Both settler state sovereignty and the settler citizen subject are reproduced through the violent subjugation of Native women. Settlers not only abducted and trafficked California Indian women and children with impunity under the law, Indian agents and soldiers stationed on reservations used their positions of legal authority to commit brutal acts of violence as well. On September 13, 1856 the San Francisco Bulletin reported,

¹⁹⁵ George Gibbs, “Journal of the Expedition of Colonel Redick M’kee, United States Indian Agent, Through North-Western California, Performed in the Summer and Fall of 1851,” Fort Humboldt Collection, The Humboldt Historical Society, Eureka, California.

¹⁹⁶ Simpson, 2016, 3.

¹⁹⁷ Jodi Byrd, *Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis: University of Minnesota Press, 2011).

¹⁹⁸ Simpson, 2016, 22.

¹⁹⁹ *Ibid.*, 5.

Some of the agents, and nearly all of the employees, we are informed, of one of these reservations at least, are daily and nightly engaged in kidnapping the younger portion of the females, of the vilest of purposes. The wives and daughters of the defenseless Diggers are prostituted before the very eyes of their husbands and fathers, by these civilized monsters, and they dare not resent the insult, or even complain of the hideous outrage.²⁰⁰

Sexual violence against Native women and girls reinforced the imposed borders of the Indian reservation and demonstrated the gendered racial terror endemic to ongoing Indigenous dispossession and the formation of the carceral settler state.

Enslaving California Indian women and children for domestic labor was an established practice that settlers relied on in order to provide useful labor and maintain a future for themselves.²⁰¹ By 1858 abducting Indian children from northwestern California and trafficking them to cities such as San Francisco had been a regular practice for several years.²⁰² Many children kidnapped from northwestern California were also trafficked to Los Angeles, where twenty percent of the Indian population lived in white households as enslaved domestic laborers.²⁰³ In effect the 1850 Act for the Government and Protection of Indians facilitated the first formal child removal program in the state.²⁰⁴ In response to great public demand, in 1860 the law was amended to extend the amount of time that Native peoples could be indentured, further expanding the legal authority the carceral settler state exercised over California

²⁰⁰ Heizer, *The Destruction of California Indians*, 278.

²⁰¹ Rawls, 90.

²⁰² Cook, 58.

²⁰³ Hurtado, 199.

²⁰⁴ Margaret Jacobs, *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (Lincoln: University of Nebraska Press, 2011), 55.

Indians.²⁰⁵ The law was amended so that Native children under the age of twelve could be compelled to labor for a white household until they were twenty-five years old, if they were between twelve and eighteen years old they could legally be kept until they were thirty years old, and if they were older than eighteen they could be indentured for ten years.²⁰⁶ Importantly, the amendment to the law also made it permissible to hold prisoners of war in bondage as well as Indians who were deemed to be vagrant.²⁰⁷ Citing Indians with vagrancy was another way that the carceral settler state affirmed their placelessness outside of the reservation and settlers' ownership of Native homelands.

An Act for the Government and Protection of Indians sought to “domesticate” California Indian people by holding them captive and disciplining them with the violence in the colonial carceral domestic sphere. The white settler domestic sphere and the colonial, racial, gender, and economic relationships of power that sustained it also further developed the formation of the carceral settler state. Section three of the Act for the Government and Protection of Indians was repealed in 1863, thirteen years after it was signed into law, due to the Emancipation Proclamation and California's effort to comply with federal policies. However, white settler entitlement to California Indian women's labor persisted and many households kept their Indian domestics in spite of the repeal. In 1865 The California Police Gazette reported that white settlers' enslavement of California Indians persisted despite the law being repealed claiming that,

²⁰⁵ Rawls, 101.

²⁰⁶ Johnston-Dodds, 33.

²⁰⁷ Ibid., 33.

“[...] here *in almost every county* Indians are unlawfully held as chattles.”²⁰⁸ Native women and children were disciplined with the carceral logics of genocide, containment, surveillance and removal in white homes where they were imprisoned.

The Domestic Carceral Sphere and White Womanhood

Domesticating California Indians through racialized gender exploitation in the colonial domestic carceral sphere was imperative for the symbolic closure of the frontier and the entrenchment of U.S. territorial sovereignty. Settlers attacked the political power of Native nations by targeting California Indian women and children for sexual violence and biopolitical intervention with state law by sentencing them to work in white homes where they could be domesticated. The white settler household is a cornerstone of the carceral settler state because racialized and gendered subjects and their relationships to property are reproduced within it.²⁰⁹ As historian Margaret Jacobs argues, the reproduction of normative gendered subjects and the white household is an essential component of conquest and statecraft.²¹⁰ In northwestern California the white settler household was a carceral site where the United States reproduced its sovereignty by disciplining California Indian women and children with domestic labor.

In northwestern California the completion of conquest was ideologically and materially linked to white women’s embodiment of the settler state’s carceral power and their ability to manage the labor, lives, and futures of Native women and children through their containment in the domestic carceral sphere. As Navajo scholar Jennifer Denetdale argues, “the spaces of the

²⁰⁸ Rawls, 104.

²⁰⁹ Jacobs, 10.

²¹⁰ *Ibid.*, 22.

domestic and intimate are also sites of colonial surveillance and control, thereby gendering settler colonialism.”²¹¹ The relatively elevated status of white women imbued them with the power to impose the sovereignty of the U.S. carceral settler state by exploiting Native women’s degraded status as enslaved domestic laborers. White men’s assaults on Native women and children upheld and reproduced a gender and racial hierarchy that elevated white womanhood but maintained white women’s patriarchal subordination to white men. Settlers’ violence and sexual exploitation of Native women was taken as further evidence of California Indians women’s inherently beastly and degraded nature in stark contrast to white women’s presumed civility and feminine need for protection.²¹² Throughout California the colonial domestic carceral sphere was a site of surveillance, genocide, captivity and removal which was, much like Fort Gaston and Fort Humboldt, intended to curtail the resistance of Native peoples who fought back against the invading United States. Domesticating Indians in northwestern California through their subjugation in the domestic carceral sphere was essential to the formation and sustained occupation of the carceral settler state.

The arrival of white women in northwestern California after the beginning of the gold rush did nothing to alleviate settler demands for enslaved Indians’ domestic labor. To the contrary, Indian women and children were purchased by married white couples in order to alleviate the burden of domestic chores for white women. Normative white womanhood was

²¹¹ Jennifer Nez Denetdale, “Return to ‘The Uprising at Beautiful Mountain in 1913’: Marriage and Sexuality in the Making of the Modern Navajo Nation,” in *Critically Sovereign: Indigenous Gender, Sexuality, and Feminist Studies* ed. Joanne Barker (Durham: Duke University Press, 2017), 64-98, 72.

²¹² Maria Mies, *Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour* (New York: Zed Books, 1986), 179.

formed in part by their presumed need for protection both from California Indian attacks and from the drudgery of domestic labor. By obtaining enslaved Indian domestic laborers white women purchased “release from their gender subordination in the home, effectively transferring their domestic responsibilities to other women who are distinct and subordinate by race and class, and now also made subordinate through language, nationality, and citizenship status.”²¹³ Protecting white women’s feminine virtue required that California Indian women and children perform all menial labor in the white settler home. “One pioneer resident recalled that white married men also bought Indians to lighten the work load for their wives. The young Indian servants were assigned such household chores as carrying water, washing dishes and clothes, and tending the younger white children.”²¹⁴ California Indian children were typically made to perform domestic chores such as laundry, cooking, hauling water, and even providing care for white children not much younger than themselves.²¹⁵ White women exploited the subordination of Native peoples in the settler domestic carceral sphere in order to safeguard their own relative position of power and in so doing they established the boundaries of the normative white woman subject, reproduced the domestic carceral sphere and further developed the carceral settler state.

Domesticating California Indian women and children was a civilizing project which settlers claimed would improve the lives of Native peoples. While California Indian women were widely depicted as “excellent wives” in newspapers throughout the state, they were also dichotomously portrayed as uncivilized due to their lack of domestic training, non-monogamy,

²¹³ Jacobs, *White Mother to a Dark Race*, 338.

²¹⁴ Rawls, 99-100.

²¹⁵ *Ibid.*

and non-normative kinships structures. However, these contrasting images of California Indian women worked together to dehumanize them and justify their de facto enslavement in the domestic carceral sphere. Native women's failure to embody the values of normative white womanhood was taken as evidence of their incompatibility with modern life and justified their ongoing biopolitical management in the domestic carceral sphere. The depiction of California Indians as uncivilized was also productive for settlers who formed normative racial and gender subjectivities in contrast to the backwardness of California Indians. The backwardness of California Indian peoples was blamed in part on Native women's inability to perform domesticity correctly, but settlers argued that with training and discipline, domesticity could modernize Native women and liberate them from their "natural and unreasonable state of savagery."²¹⁶

California Indian women were consistently dehumanized and racialized as inherently different from white women through their depiction as ugly and physiologically primitive. Sarah Haley explains that in post-emancipation Atlanta the dehumanization of Black women with the rhetoric of ugliness, stupidity, and deformity, was a way in which normative white femininity was constructed.²¹⁷ While Black women in the white imagination were pictured as ugly and ignorant white women were dichotomously depicted as beautiful and virtuous.²¹⁸ California Indian women were similarly dehumanized through settlers' emphasis on their ugliness and exaggeration of their physical differences. California Indian women were depicted as slouched

²¹⁶ Stark, "Criminal Empire," 7-6.

²¹⁷ Haley, *No Mercy Here*, 20.

²¹⁸ *Ibid.*, 24.

and stern faced due to being overburdened by the workload foisted onto them by Indian men.²¹⁹ Ironically, being enslaved and toiling under the supervision of white women in the domestic carceral sphere was offered as a remedy for their exploitation and a path to freedom and civilization.

White women were motivated to keep enslaved Native women and children as domestic laborers because it “enabled them to uphold middle-class standards of purity and cleanliness while escaping the drudgery that such standards required.”²²⁰ Dirt and the language of cleanliness was often used to denigrate Native women and uphold the virtues of white womanhood. The feminine value of cleanliness was an important component of the civilized status of white women settlers. Cleanliness was understood in bodily terms of sexuality and hygiene as well as in the appearance of an orderly home.²²¹ Through the administration of the Act for the Government and Protection of Indians, Native women and children were available to be exploited and perform the drudgery that white women sought to avoid. As Evelyn Nakano Glenn argues, values of white femininity and the denial of the body were in contradiction to the manual labor of scrubbing the home clean therefore white womanhood required a subordinate racialized other to do the dirty work.²²² Cleanliness in relation to sexuality was deployed as an ideological negation of sex with Native men which justified the enslavement of Native women

²¹⁹ Jacobs, 113.

²²⁰ *Ibid.*, 337-338.

²²¹ *Ibid.*, 115.

²²² Evelyn Nakano Glenn, “From Servitude to Service Work: Historical Continuities in the Racial Division of Paid Reproductive Labor.” *Signs* 18, no. 1 (1992): 1–43, 8.

and girls who were removed from contact with them.²²³ Sexual cleanliness also reinforced and upheld white supremacist anxieties about intermarriage, particularly between white women and Native men. The language of hygiene also worked to maintain racist ideologies which depicted Native people as inherently dirty and disease ridden, a racializing trope which justified more surveillance, discipline, and stricter containment.

The Marysville Herald documented the public demand that Indian children be bound to white employers so that they could be inducted to the habits of cleanliness and industry.²²⁴ However, the supposed value of cleanliness went beyond upholding the white supremacist racial ideology endemic to settler colonialism. As Jacobs argues, “cleanliness of the body and home was not simply about an absence of dirt or even just a trope for morality; it was also tied to middle-class consumption, to promoting an aesthetics that required the adornment of the home and the body in a way that signified one’s class status.”²²⁵ So not only was the supposed standard for cleanliness used to denigrate Native peoples, justify the abduction and trafficking of California Indian women and children, and uphold eugenicist logics of white supremacy, it also produced the aesthetics of white middle class womanhood. There is a contradiction in the racist settler ideologies which simultaneously denigrated Native people as inherently dirty and yet demanded access to California Indian women and children’s labor to clean their homes.²²⁶

²²³ Ibid., 8.

²²⁴ Rawls, *Indians of California*, 90.

²²⁵ Jacobs, *White Mother to a Dark Race*, 127-128.

²²⁶ Jacobs points out this contradiction when she states, “given the maternalist discourses in both the United States and Australia that pathologized Indigenous women as ‘dirty,’ it might seem unthinkable that any white woman would employ them as servants.” Ibid., 331.

However this paradox was abated by the social ideology that it was inappropriate for respectable white women to engage in labor.²²⁷ In fact, an editorial in *The Humboldt Times* states that,

The new law works beautifully. A few days ago V.E. Geiger, formerly Indian Agent, had some eighty Indians apprenticed to him and proposes to emigrate to Washoe with them as soon as he can cross the mountains [...] It would be so convenient, you know, to carry on a farm or mine, when all the hard and dirty work is performed by apprentices!²²⁸

The contrasting language of beauty and dirty work in this newspaper excerpt are telling of the relationship between the formation of the white settler subject and the equivocation of Native people with dirt.

The enslavement, exploitation, and sexual violence committed against Native women and children was a result of their social and political denigration under settler colonialism. As Maria Mies argues, the colonial process reduces colonized women's status to a "bestly and degraded nature."²²⁹ In northwestern California this reduced status extended to children. Portraying California Indians as primitive "diggers" reduced them to subhuman in the settler imaginary and enabled the exploitation of their labor and bodies.²³⁰ The racial ideology that Native women and children were inferior to white settlers was essential in order to naturalize the exploitation of their labor.²³¹ The naturalization of colonized women and children as subhuman became the counterpart to the process of civilizing European women.²³² The racial dualism of Native and

²²⁷ *Ibid.*, 332.

²²⁸ Baldy, 64.

²²⁹ Mies, 179.

²³⁰ Rawls, *Indians of California*, 96.

²³¹ Nakano Glenn, "Servitude to Service Work," 32.

²³² Mies, 179.

white created a condition where white women gained status by subordinating the labor of enslaved women and children.²³³ “In areas where racial dualism prevailed, being served by members of the subordinate group was a perquisite of membership in the dominant group.”²³⁴

The strenuous and menial labor of reproducing a household done by enslaved Native women and children allowed white middle class women to maintain the requirements of their femininity, namely fragility and cleanliness.²³⁵

An 1877 article in Harper’s magazine describes the “ladies of California” and states that,

They had very much the life of our Southern people; their household, their children, their domestic surroundings, filled their days busily and contentedly. Their houses were charmingly neat and orderly, and when I made a visit I generally found the lady of the house sitting in the inner court, shaded by the projecting roof, and surrounded by domesticated Indian girls at their sewing.²³⁶

The allusion to southern white life and the lady of the house being surrounded by Indian girls is an example of the close relationship between settler colonialism and anti-black racism. In the colonial domestic carceral sphere in California white women re-created the relationship of domination they had with enslaved Black women and children in the context of chattel slavery.

Native women and children were presumed to be well suited to domestic labor because of white ideologies about race.²³⁷ Settlers depicted “California Indians as well suited for domestic

²³³ Nakano Glenn, 9.

²³⁴ *Ibid.*, 9.

²³⁵ Rhacel Salazar Parrenas, “Migrant Filipina Domestic Workers and the International Division of Reproductive Labor.” *Gender and Society* 14, no. 4 (2000): 560–80, 562.

²³⁶ *Morning Press*, Volume VI, Number 152, November 21, 1877. California Digital Newspaper Archive, UCR. <https://cdnc.ucr.edu/?a=d&d=MP18771121.2.17&srpos=3&e=-----187-en--20--1--txt-txIN-“domesticated+indian”-----1>.

²³⁷ Nakano Glenn, “From Servitude to Service Work,” 14.

servitude” by frequently arguing that they had the mental capacity to become civilized.²³⁸ “While settled domesticity may appear natural or benign, it is constituted through violence and should be understood as a mechanism of conquest.”²³⁹ In another demonstration of settler opinions of Native children’s acumen for domestic service, “A resident of Humboldt County commented in 1862 that Indian children sold as servants were ‘frequently the brightest and cunningest little chaps you ever saw.’”²⁴⁰ These insights into justifications for Indian slavery demonstrate how settler ideologies of race complemented their reliance on racialized exploitable labor.

The de facto enslavement of Native women and children in the colonial domestic carceral sphere appropriated their reproductive labor for white settlers, reproduced normative white womanhood, and developed the carceral settler state. The development of the settler state through the colonial domestic carceral sphere in northwestern California was due to settler’s utter dependence on Native women’s and children’s stolen labor. “In California homes it was not unusual to find the lady of the house ‘surrounded by domesticated Indian girls at their sewing.’”²⁴¹ Indeed white women in California engaged in a kind of mission work by dressing Indian women and teaching them to be domestic servants to white women and their households.²⁴² White women enjoyed an expectation and entitlement to Native women and children’s labor as a result of the intertwined relationship between their own subjectivity and

²³⁸ Rawls, *Indians of California*, 115.

²³⁹ Priya Kandaswamy, *Domestic Contradictions: Race and Gendered Citizenship from Reconstruction to Welfare Reform* (Durham: Duke University Press, 2021), 40.

²⁴⁰ Rawls, *Indians of California*, 99-100.

²⁴¹ *Ibid.*, 115.

²⁴² *Ibid.*, 115.

Native exploitation.²⁴³ Whiteness and womanhood are categories that are imbued with meaning from the violence of settler colonialism.

Capt. Gibbes and his lady have our thanks for the attentions shown us on the trip. No part of our visit was more amusing than to see the Indian children flocking around Mrs. Gibbes, who always goes prepared to distribute candy, nuts, etc. among them.²⁴⁴

The image of the benevolent white lady surrounded by Indian girls sewing, or Indian children begging for treats made the civilizing mission of domestication appear benevolent and compassionate.²⁴⁵

The carceral settler state and the normative white woman subject both developed through containing and disciplining enslaved California Indians because the two projects are mutually constitutive. In the context of post-emancipation Atlanta and the development of “Jim Crow modernity” Haley describes how violence against Black women legitimized white supremacy and normative gender while also limiting the spaces where their bodies were acceptable; either laboring in white homes or in the prison.²⁴⁶ The terrible violence that was perpetrated by the state against Black women in the domestic carceral sphere and on the chain gang, she argues, produced a white supremacist ideology of humanity and citizenship.²⁴⁷ In a related but unique way, gendered racial violence against California Indian women and children in white households upheld white supremacist racial ideologies and relations of conquest. The carceral technologies

²⁴³ Nakano Glenn, “From Servitude to Service Work,” 16.

²⁴⁴ Owen C. Coy, *The Humboldt Bay Region: 1850-1875*, (Eureka: Humboldt County Historical Society, 1982), 174.

²⁴⁵ Jacobs, 26.

²⁴⁶ Haley, 35.

²⁴⁷ *Ibid.*, 57.

that Haley describes in the domestic carceral sphere in Atlanta were also employed by white settlers in northwestern California. In both examples, captivity in the white domestic sphere was legitimized by a racist colonial legal infrastructure, demonstrating the close relationship between anti-Blackness and settler colonial dispossession.

The formation of the colonial domestic carceral sphere is a significant part of the conquest of California. As Jacobs argues, “far from being intimate matters that were insulated from the public world of nation and empire building, the home and the body, and women’s association with them, functioned as indispensable building blocks for the settler colonial project.”²⁴⁸ Therefore domestic space is not just a private sphere isolated from the colonial, gender, race, and economic conditions in the public. “The home and its keeper, invested with material and political significance, act as the stimulus to nation building.”²⁴⁹ The private homes of white settlers were an extension of the carceral settler state and white women made a significant role for themselves as wardens of it.²⁵⁰ White women, as wardens of the domestic carceral sphere, would continue to play a key role in policing Native women’s lives. The settler domestic carceral sphere remained a site of imprisonment and punishment for Native women in California under assimilationist programs such as the Bay Area outing program which compelled many Native women to work as domestics in white households into the 20th century.²⁵¹

²⁴⁸ Jacobs, *White Mother to a Dark Race*, 129.

²⁴⁹ Ibid.

²⁵⁰ Haley, *No Mercy Here*, 4.

²⁵¹ Caitlin Keliiaa, “Unsettling Domesticity: Native Women and 20th-Century U.S. Indian Policy in the San Francisco Bay Area 1911-1931” (Berkeley: Institute for the Study of Societal Issues, 2017).

California Indian Resistance and Sabotage

Attacking Native nations by separating women and children from their communities and holding them prisoner in the colonial domestic carceral sphere had devastating consequences for Native peoples. However, California Indians frequently resisted their imprisonment in the domestic carceral sphere by running away, stealing, committing arson, and killing their captors. In one example of an enslaved California Indian attacking her captor after he massacred her family The Daily National Democrat reported that,

A fellow by the name of John Mann, known as ‘Buckskin Jack,’ says the Humboldt Times, had his throat cut at Mattole Valley in this county, one night last week by a squaw with whom he had been living. It appears that Jack had been out on an Indian hunt, and had killed the brother of his squaw, bringing in the Indian’s bow and quiver. The property was recognized by the squaw and she determined upon avenging the death of her brother.²⁵²

This California Indian woman was presumably abducted and held against her will by Buckskin Jack and kept as his Indian wife or concubine while he embarked on genocidal Indian hunts against her people. She was likely already waiting for the right moment to flee or attack him when the sight of her brother’s belongings inspired her to grab for a knife and make an attempt on her captors’ life. Not only was the Indian woman who cut Buckskin Jack’s throat refusing his ownership of her and undermining white entitlement to property, she was also taking revenge for her brother’s murder. She had not forgotten the kinship relations that settlers attacked and replaced with domination and gendered racial violence. California Indians who were supposedly tamed by laboring for white settlers in the domestic carceral sphere refused the narrative of their

²⁵² *Daily National Democrat*, Volume 1, Number 10, August 22, 1858. California Digital Newspaper Archive, UCR. <https://cdnc.ucr.edu/?a=d&d=DND18580822.2.7&srpos=3&e=-----185-en--20--1--txt-txIN-“squaw”-----1.>

progress and improvement by killing settlers who enslaved them. Although her attempt on her captor's life was not successful and she was later killed by him, her resistance sent a clear message to other settlers in the Mattole Valley, who subsequently demanded that other "squaw men" in the area leave or get rid of the Native women they kept because they were dangerous.²⁵³

"Domesticated" California Indians resisted so often that in 1862 an editorial in the Humboldt Times warned settlers *against* keeping indentured Indians as apprentices and alluded to the dangers of "harboring even 'tame' Indians."²⁵⁴ The warning was well warranted as enslaved California Indians repeatedly stole money and goods from settlers and fled the white homes where they were imprisoned.

Indian Servants Thought Unreliable. —The Humboldt Times says: Several instances have occurred lately of Indian apprentices absconding from the parties to whom they had been indentured. One young squaw that had been at service for some months in the family of Captain Tomlinson, in this town, ran away a few days since taking wearing apparel, some forty dollars in money, and other valuables which she had stolen from members of the family. Experience teaches that the natives do not, as a general rule, become reliable servants. Each individual, however, who has one, will of course insist that theirs is trustworthy, until the contrary is proven.²⁵⁵

In this instance, a young Indian woman saw her chance at freedom from the oppressive conditions of her enslavement in Captain Tomlinson's home so she robbed his family and escaped. Her robbery and escape, which was just one of several such incidents, revealed the relationships of domination in the white household that reproduced the carceral settler state and

²⁵³ Hurtado, 176.

²⁵⁴ *The Humboldt Times* Feb. 22, 1862, Fort Humboldt folder #2, Humboldt Historical Society, Eureka, CA.

²⁵⁵ *Marysville Daily Appeal*, Volume IV, Number 118, November 17, 1861. California Digital Newspaper Archive UCR. <https://cdnc.ucr.edu/?a=d&d=MDA18611117.2.9&srpos=1&e=-----en--20--1--txt-txIN-Indian+Servants+Thought+Unreliable?----->.

mocked them. Since the white settler home was so foundational to the development and expansion of the United States, her act of sabotage undermined ongoing conquest. She refused her own captivity, but she also refused the occupation of the carceral settler state.

Raiding settlers was an act of sabotage which enabled enslaved California Indians to disrupt property rights in whiteness.²⁵⁶ “We have heard it stated that two domesticated Indians, a few days since left their employers and took to the woods with the avowed purpose of raiding upon the lives and property of citizens.”²⁵⁷ These two Indians mocked their description as “domesticated,” refused the carceral state, and revealed the fallibility of U.S. territorial sovereignty. These acts of resistance showed that the narrative of domesticated or tamed Indians was nothing more than a settler fantasy. California Indian resistance refuses the settler fantasy of the future, unsettles it, and promises a future beyond the state. California Indian sabotage of white settler property in northwestern California rejected the carceral geographies of invasion and occupation represented by the colonial domestic carceral sphere and mapped a counter-geography of refusal.

²⁵⁶ Haley, *No Mercy Here*, 199.

²⁵⁷ “Want Hanging,” *The Humboldt Times* Nov. 17, 1866, Susie Baker Fountain Papers, Special Collections, Cal Poly Humboldt, Arcata, CA.

Chapter 3: “Wipe Out the Plague Spots”: Carceral Settler Statecraft and Chinese Expulsion in Humboldt County

On the damp winter evening of February 6th 1885, city councilman David Kendall walked passed Chinatown in Eureka, California on his way home. Just as he passed the corner of 4th and E street, there was an outbreak of commotion and gunfire in Chinatown and Kendall was struck down by a stray bullet. Another bystander, a 12 year old white boy, was also caught in the maelstrom and shot. Instantly the streets were filled with white settlers and Chinese migrants reacting to the sound of gunfire. The gunshot resulted in councilman Kendall’s death almost immediately after the shooting. The white settlers of Humboldt County, having long held anti-Chinese views, were poised to blame the presumed “lawlessness, vice, and deviance” of Chinatown for Kendall’s death. One Chinese man who was singled out and accused of firing the shot that killed Kendall was apprehended by the growing mob of white settlers and beaten in the street.²⁵⁸ The sheriff struggled to keep order and arrested the Chinese man being terrorized by the crowd in an attempt to placate them and regain authority. “Then the cry was raised by the now thoroughly frenzied crowd to hang him.”²⁵⁹ Thankfully, the mob was dissuaded from lynching the Chinese man the police had taken into custody but still they weren’t satisfied. Within an hour of Kendall being shot 600 settlers gathered in Centennial Hall to demand that the Chinese population of Humboldt County be dealt with once and for all.

²⁵⁸ “Horrible Tragedy,” *The Weekly Times-Telephone*, February 14 1885, Chinese Expulsion Folder 1, Humboldt Historical Society, Eureka, CA.

²⁵⁹ “Horrible Tragedy. David Kendall Killed. Shot Dead by a Chinese Highbinder. Boy Wounded. Bloody Chinese Riot--Citizen's Meeting at Centennial Hall,” *The Humboldt Times*, Volume XXIII, Number 32, February 7, 1885 California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18850207.2.8&srpos=1&e=-----en--20-HTS-1--txt-txIN-“kendall”----->.

There were some settlers in the crowd at Centennial Hall who advocated for violence, claiming that there was no other way to protect the white settlers of Eureka from the “corrupting influence” of the residents of Chinatown. Those who demanded violent retribution for Kendall’s death wanted to massacre all of the inhabitants of Chinatown and burn out any trace of the Chinese people who had lived in the city of Eureka since the early 1860s.²⁶⁰ Some settlers, such as the minister Charles Huntington, objected to violence and gave impassioned pleas in defense of the Chinese neighbors, servants, and tenants whom provided labor for the white residents of Humboldt County and always “paid their rent.”²⁶¹ However, the demand that all of the Chinese people be evicted from Eureka was put forth by a committee comprised of fifteen prominent white men and echoed by the majority of the settlers present in Centennial Hall; within a matter of hours all 309 residents of Chinatown were being rounded up and “driven out.”²⁶²

Small gangs of white settlers went out into the night to round up all of the Chinese people in the area in preparation for their eviction from the city. A few white men, determined to terrorize them even further, built gallows at the corner of Chinatown and hung an effigy of a Chinese man.²⁶³ The white residents of Eureka looked on, some even throwing stones, shouting obscenities, and looting while their Chinese neighbors hastily packed their belongings. In the bay nearby, two ships waited to take the expelled Chinese people of Humboldt County to San

²⁶⁰ Jean Pfaelzer, *Driven Out: The Forgotten War against Chinese Americans* (Oakland: University of California Press, 2008), 127.

²⁶¹ *Ibid.*, 123.

²⁶² *Ibid.*, 124.

²⁶³ Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America*. (Cambridge: Harvard University Press, 2018), 113.

Francisco. The Chinese residents of Eureka were corralled in a warehouse on Tuluwat, the site of the 1860 Indian Island massacre, where they waited to board the ships.²⁶⁴ Employers in Eureka and the surrounding areas were informed by the roving gangs of white men that their Chinese workers were being expelled from the county. Most employers readily complied with the wishes of the mob and told their Chinese employees to leave at once. However, when a group of excitable settlers arrived at his ranch on Redwood Creek, Tom Bair refused to turn over the Chinese man who worked for him and even brandished his rifle to intimidate the white men who threatened to abduct his employee. Bair was successful and the men left his ranch without the man they sought. The Chinese man who worked for Bair was named Charlie Moon. Because he was able to resist expulsion, Charlie Moon is often referred to as the last Chinese person in Humboldt.²⁶⁵

Charlie Moon remained in Humboldt County after the expulsion during a period of virulent anti-Chinese racism in California. Moon was able to successfully resist being expelled because of his relationship to Bair, for whom he had worked as a “houseboy” and ranch hand since he was a child. Charlie Moon was also able to avoid being expelled from Humboldt County because of his marriage to a Redwood Creek Indian woman named Minnie Tom. Moon and Tom lived together on her family’s land allotment on the Hoopa Valley Indian reservation, a place his employer jokingly referred to as “Hong Kong.”²⁶⁶ A land allotment in the Hoopa Valley was

²⁶⁴ Pfaelzer, 124.

²⁶⁵ While it is commonly proclaimed that Charlie Moon was the last Chinese person in Humboldt County, it is not true. A small number of Chinese people lived in the remote areas in northeastern Humboldt County and on Indian reservations.

²⁶⁶ Jean Neilson, “Ranching and Writing Blend Harmoniously for Tom Bair” *The Humboldt Times*, September 2, 1960, Chinatown folder 1, The Humboldt Historical Society, Eureka, CA.

already racialized by the relations of conquest which formed and maintained the borders of the reservation, but by referring to it as Hong Kong, Bair inadvertently named the threat that the relationship between Minnie Tom and Charlie Moon posed to the settler social order. Their familial bond offered an alternative system of placemaking which upheld Redwood Creek and Hupa modes of kinship and contested the borders of the carceral settler state.

On May 7th, 2022, a small crowd of Humboldt County residents gathered at the same corner of 4th and E street where gallows were built to terrorize the Chinese residents of Eureka on the night of their expulsion in 1885. Spectators gathered to witness the formal dedication of Charlie Moon Way, a small alley that runs through the middle of historic Chinatown. There was a ribbon cutting ceremony for the dedication which paid tribute to Charlie Moon and his resistance to Chinese expulsion. There was an atmosphere of celebration and remembrance at the event, which was attended by some of Minnie Tom and Charlie Moon's descendants as well as the family of Ben Chin, the first Chinese man to move to Humboldt after the expulsion.²⁶⁷ Charlie Moon's success at resisting the wide-scale expulsion of Chinese people from Humboldt County was due at least in part to his marriage to Minnie Tom whose land and kinship with the Hupa kept him safe from further abuses from the settlers who had cried "burn Chinatown!" on the night of February 6th in 1885. The surveillance, containment, and removal of Chinese people from Humboldt County constituted an integral piece of the carceral geography which also enabled ongoing California Indian dispossession. However, Charlie Moon and Minnie Tom's

²⁶⁷ Ben Chin moved to Eureka in 1954 to open his Chinese restaurant, Canton Cafe (later changed to Chin's Cafe). He was believed to be the first Chinese person to live in Eureka since the expulsion in 1885. He and his wife Mary reestablished the Chinese community in Eureka by sponsoring twenty family members' immigration. Chin passed away in 2019.

familial bond illustrates how the unanticipated intimacies and kinships between California Indians and displaced Chinese people formed solidarities and embodied counter-geographies of resistance to the carceral settler state.



This chapter demonstrates that Chinese expulsion was essential to the formation of the carceral settler state in northwestern California by tracing the experiences of Chinese migrants in Humboldt County through an archive of historical local newspapers. I argue that after the supposed end of the “Indian wars” in northwestern California, the occupying settler state defended its territorial sovereignty by expanding its carceral capacities through statewide and local laws which focused on the containment and removal of Chinese migrants who were portrayed as a “foreign threat” to the fledgling white settler nation-state. Racial violence committed against Chinese people by civilian settlers and state actors like the police underwrote anti-Chinese laws that legitimized U.S. sovereignty and enabled the further development of the carceral settler state. First, I briefly discuss the arrival of Chinese migrants in northwestern

California and the exploitation of their labor in the gold mines. I emphasize how Chinese migrants were depicted as a foreign threat to white settlers' futures and the future of the settler state. I discuss how Chinese migrant laborers were subjected to racial exclusion and pushed out of the gold mines by vigilante violence and laws such as the Foreign Miner's Tax Act of 1850. Next, I analyze Chinatown in Eureka, where most of the Chinese people in Humboldt County lived. I examine historical newspapers that describe the conditions in Eureka's Chinatown to illustrate how Chinese migrants in the region were racialized and policed by both civilian settlers and state actors. I trace the characterization of Chinatown as a site of "lawlessness, moral corruption, and disease" in local newspapers and argue that the constant surveillance and harassment of its residents by both civilian settlers and the police made it into a carceral site. Next I pivot to an analysis of how the carceral geography of the settler state was reproduced through policing Chinatown and excluding Chinese migrants from the rights of citizenship. Excluding Chinese migrants from the rights of citizenship and property also made it possible for settlers to extract their labor in factories and in their homes where some Chinese men worked as cooks or domestics. I discuss the growing anti-Chinese ideology proliferated by white labor organizers and politicians in California and nationally in my examination of the Page Act of 1875 and the Chinese Exclusion Act of 1882, and how they were reflected in northwestern California by the expulsion of the Chinese community from Humboldt County. Finally, I return to the story of Charlie Moon and Minnie Tom to illustrate how the carceral geography of the settler state is undermined by Indigenous kinship. I conclude with an analysis of two recent murals which adorn the streets of Eureka and pay homage to the survival of Native and Chinese people in

Humboldt County and assert that the murals are evidence of their counter-geographies of resistance.

A Foreign Threat

The gold rush in northwestern California attracted thousands of American and European settlers to the region as well as Chinese migrants from the Guangdong province of China. Western imperialist intervention by Britain and the United States dramatically altered the economy in China making life in Guangdong difficult for agricultural workers. The Opium Wars (1839-1842), the surrender of Hong Kong to the British, and years of uneven trade deals with the United States culminated in strife and unrest in Guangdong.²⁶⁸ The presence of American traders in Guangdong established a connection between the United States and the Chinese workers most impacted by imperialist violence. When news about the California gold rush reached Guangdong via American traders in their region, thousands of Chinese workers journeyed across the ocean to northwestern California to work in the gold mines.²⁶⁹ In 1850 the Chinese population of California was 450, in 1852 it was 20,026.²⁷⁰ Throughout Humboldt and Trinity counties there are many places named China Flat, China Creek, and China Camp; these places bore witness to the arrival, exploitation, and eventual expulsion of the Chinese people who lived in northwestern California. Chinese mining camps, like Indian reservations, were segregated from the white settler population and policed with vigilante settler violence.

²⁶⁸ Lew-Williams, 25.

²⁶⁹ Ibid., 26.

²⁷⁰ Nayan Shah, *Contagious Divides: Epidemics and Race in San Francisco's Chinatown* (Berkeley: University of California Press, 2001), 20.

Indigenous peoples in northwestern California first encountered Chinese migrants in the gold fields and some regarded Chinese miners as another group of invaders there to plunder the land. For example, the Karuk who lived on the Salmon River initially attacked Chinese miners to defend their homelands and ward off aggression.²⁷¹ However, through observation and experience with Chinese migrants, the Karuk no longer regarded them as aggressors and even offered those who ran away from the exploitation in the mines refuge among their people.²⁷² While Chinese expulsion in Humboldt County did not take place until 1885, white settler violence kept Chinese migrants in a state of precarity immediately after they first began arriving in northwestern California during the gold rush.

Settlers' acts of violence against Chinese migrants established a racial hierarchy which reaffirmed white entitlement to property on dispossessed Indigenous homelands. White settlers were anxious about the competition presented by Chinese miners and defended their gold claims by attacking Chinese mining camps and robbing them, especially when they felt that their earnings were too great. The Humboldt Times frequently reported on the whereabouts and earnings of Chinese miners.

“We are informed by a gentleman who resides in Hoopa Valley, that there are about one hundred Chinamen mining the Trinity at that point. They average two or three dollars per day, and seem to be very satisfied with such diggings, as their expenses are light, and living tolerably good. If other Chinamen are satisfied with such pay, thousands of them can find a field of labor on the lower Trinity and Klamath, without any great risk of being soon disturbed by other miners not content with such wages.”²⁷³

²⁷¹ Nelson, 43.

²⁷² Pfaelzer, 20.

²⁷³ “Chinese Miners.” *The Humboldt Times*, December 20, 1856, Chinese Expulsion folder 2, Humboldt Historical Society, Eureka, CA.

Despite the insinuation that white miners did not harass Chinese miners as long as they did not intrude upon more lucrative digs, white settlers' animus toward Chinese migrants was not staved off by their low wages. Poor white miners resented the competition of Chinese miners and they were jealous of their earnings in the gold mines, no matter how meager. White men who blamed Chinese migrants for their economic hardships and located the source of all of their issues in the low-wage labor that Chinese workers provided had their sentiments echoed by the growing anti-Chinese movement throughout California. Anti-Chinese racism and violence was also reflected by laws such as the Foreign Miner's Tax Act of 1850, which imposed a monthly twenty dollar tax on miners from foreign countries, but in practice only Chinese and Latino miners were taxed.²⁷⁴ The taxes collected from Chinese miners further developed the settler state by filling the coffers of the California state treasury which were depleted by the cost of the Indian wars, among other things. The Foreign Miner's Tax Act and subsequent laws just like it upheld white citizens' entitlement to property and eventually pushed Chinese migrant workers out of the gold mines in northwestern California. The anti-Chinese sentiments held by white laborers in Humboldt County did not dissipate after Chinese workers largely abandoned the gold mines and established a community in town where they were nearer to canneries, mills, and white settlers who would hire them to do laundry or cook.

Chinatown & the Carceral Geography of the Settler State

Chinese migrants were depicted as foreign invaders by white settlers who sought to maintain the exclusive relationship between whiteness and property by policing the boundaries

²⁷⁴ Mark Kanazawa, "Immigration, Exclusion and Taxation: Anti-Chinese Legislation in Gold Rush California," *Journal of Economic History* 65, no. 3 (2005): 779-805, 784.

that segregated Chinatown from the rest of the white settler town of Eureka. The portrayal of Chinese migrants as a foreign threat in local newspapers emphasized their cultural differences which were upheld as evidence of their inherent racial inferiority and criminality. Segregating Chinatown and partitioning the entire community of Chinese migrants away from white settlers organized the city and reproduced the normative white settler subject through spatial exclusion. Chinese people, like California Indians, loomed large in the white settler imagination as a persistent foreign threat to the settler colonial social order. The racialization of Chinese people in Humboldt County also reflected the spatial processes by which Native peoples were contained on reservations and removed from their land to make way for “civilized” settler society. As Laurel Mei-Singh argues, “Carceral geographies encompass the territorial processes that spatially hold together the colonial racial state.”²⁷⁵ The carceral geography of the white settler bordertown reproduced racialized subjects and reconsolidated settler state control of dispossessed Indigenous homelands by excluding Chinese migrants from the social entitlements of U.S. citizenship.²⁷⁶ Enforcing the material and ideological borders of Chinatown took the form of harassment from both civilian settlers and the police who surveilled its perimeter and punished transgressors. Policing Chinatown affirmed the white settler social order of the bordertown and upheld relations of domination and property which constituted a significant aspect of the carceral geography of ongoing U.S. occupation of Native homelands.

Local newspapers such as *The Humboldt Times* demonstrate how closely Chinatown was policed by frequently reporting on the daily activities of its residents. As historian Nayan Shah

²⁷⁵ Laurel Mei-Singh, “Accompaniment Through Carceral Geographies: Abolitionist Research Partnerships with Indigenous Communities,” *Antipode* Vol. 53 No. 1 (2021): 74–94, 83.

²⁷⁶ *Ibid.*, 85.

argues, “The cartography of Chinatown that was developed in government investigations, newspaper reports, and travelogues both established ‘knowledge’ of the Chinese race and aided in the making and remaking of Chinatown.”²⁷⁷ Occasionally the stories the newspaper ran were sympathetic and decried the poor treatment of the Chinese residents of Humboldt County, but more often the “knowledge” they produced about Chinese migrants fanned the flames of anti-Chinese racism in the region. Regardless of their tone, the frequency of the reports betrays the anxiety of the white settler subject and the fragility of the settler colonial state. Reports of wrongdoings that were attributed to Chinatown justified even stricter surveillance, police intervention, and violence against Chinese migrants. For example, in 1876 *The Humboldt Times* reported on a shooting in Chinatown and described the desire of some of Eureka’s white residents to use the incident as an excuse to incite a mob to attack.

All are well aware that the shooting took place in front of one of the china houses on Fourth street. The news spread over the city, reaching First street in its course. A lot of men, always ready to take advantage of such an opportunity, set their ingenuity at work for the purpose of raising a mob, and doing harm to the Chinese inhabitants of the city. Crowds gathered on First street, and the cry could be heard, ‘Tomahawk every heathen in the place;’ ‘Cut the throat of every Chinaman.’ And sundry other similar exclamations, each intended to infuriate the men and boys and to create a mob.²⁷⁸

Settler violence enacted against Chinese people was justified through the production of racialized common sense about their supposed deviance and criminality. Violence against Chinese migrants was so common that white boys in Eureka frequently amused themselves by harassing Chinese men, pulling their queues and intimidating them as they brought their produce or laundry to their places of business. White boys also participated in policing the borders of Chinatown by

²⁷⁷ Shah, 18.

²⁷⁸ *The Humboldt Times*, Jan. 26, 1876, Chinatown folder 1, The Humboldt Historical Society, Eureka, CA.

throwing rocks through the windows and vandalizing the yards where Chinese residents grew vegetables and kept fowl. These quotidian acts of harassment and violence were emblematic of the larger ideology about Chinese migrants whom settlers judged to be a culturally alien and unassimilable group that threatened the future of the white settler state.²⁷⁹

Chinatown was comprised of approximately one square city block of shabbily constructed houses and small businesses in an undesirable part of Eureka called “the gulch.” The part of town where Chinatown was established was called the gulch due to the presence of runoff rainwater and sewage that collected in small ponds. Since Chinese people were legally excluded from owning property, their only option was to become tenants of land-owning white settlers who would rent them lodgings. In historian Tera Hunter’s analysis of Black women’s domestic labor in post-emancipation Atlanta, she argues that space in the city was segregated along racial lines and organized by the exclusion of certain rights of property ownership and privileges such as paved roads and other public infrastructure.²⁸⁰ Chinatown was similarly segregated and organized by the exclusion from basic infrastructure and public resources. David E. Gordon, a newspaper editor in Humboldt County during the 1870s-1880s, described Chinatown as an overcrowded slum.

The Chinese property belonged to C.S. Ricks, and the Chinese paid him land rent. Their shacks were built of rough, cheap lumber, the houses originally having cost from \$20.00-50.00 each. The structure at 4th and E streets was known as the corner House and

²⁷⁹ Shah, 57.

²⁸⁰ Tera Hunter, *To ‘Joy My Freedom*, 103.

about two hundred Chinese men and women were crowded into it. At one time, officials found 24 Chinese sleeping in one 10' by 10' room in the corner House.²⁸¹

As this passage illustrates, the living conditions in Chinatown were poor and under constant surveillance by “officials” who monitored its residents. The people who lived in Chinatown were described in local newspapers as living in crowded one-room shacks. In Eureka, just like in San Francisco’s Chinatown, the substandard living conditions that Chinese migrants were relegated to were upheld by settlers as evidence of their inherent racial degradation and poor hygiene.²⁸² Unsurprisingly, the cramped and unhygienic conditions of the living quarters in Chinatown were not blamed on the white landlords who owned the buildings and collected rent from their tenants. The lumber baron John Vance, who made his fortune extracting Redwood trees from California Indian homelands and exploiting white and Chinese workers, was also a landlord in Chinatown.²⁸³ Vance’s investments in property were made possible by ongoing Indigenous dispossession and the racialization of Chinese migrant laborers.

The supposedly “foreign” sounds and smells of Chinatown were also the subject of ridicule from white settlers in Eureka who surveilled the day to day activities of the Chinese residents. White settlers’ disgust at the smells and sounds emitted from Chinatown were the subject of letters to the editor in *The Humboldt Times*, particularly during Chinese New Year. “Noise,” “racket” and “jabber” were frequently used to describe the ambiance of Chinatown as

²⁸¹ David E. Gordon, “One California County Without a Chinaman: Story of the Eviction of the Chinese from Humboldt County in February, 1885,” Chinatown folder 1, The Humboldt Historical Society, Eureka, CA.

²⁸² Shah, 19.

²⁸³ Katie Buesch, “‘The Eureka Plan’: Humboldt County’s Chinese Expulsions.” *The Humboldt Historian*, (Spring 2020): 11.

well as descriptions of odors of strange foods and refuse. The Humboldt Times and other popular newspapers produced knowledge about Chinese people and reproduced the material and ideological borders of Chinatown. The residents of Chinatown in Eureka, like those in larger cities such as San Francisco, were likened to animals associated with waste, crowding, and disease which dehumanized them.²⁸⁴ In San Francisco the correlation between the poor living conditions in Chinatown and public health concerns led to Chinese migrants being deemed a dangerous nuisance to settler social life. Rather than blaming the poor conditions of Chinatown on the failing infrastructure of the settler city, white settlers scapegoated Chinese migrants and portrayed them as public health threats.²⁸⁵

Moral Panic and Criminalization

In Humboldt County and throughout the state of California, white settlers' racial anxieties about the threat to public safety posed by Chinese migrants created a widespread moral panic which lent itself readily to their criminalization. As Shah demonstrates in his study, the living conditions in San Francisco's Chinatown were scrutinized as a public health threat and Chinese people were racialized by their close association with disease.²⁸⁶ The close association between Chinese migrants and disease was also a process of racialization in Eureka where the living quarters and habits of Chinese migrants were identified as vectors of illness. The moral panic about disease not only dehumanized Chinese migrants but also cemented the relationship

²⁸⁴ Ibid., 27.

²⁸⁵ Shah, 53.

²⁸⁶ Ibid., 27.

between race and space by bolstering “spatial and racial practices of exclusion.”²⁸⁷ Since the Chinese residents of Humboldt County were portrayed as “walking, seemingly unaffected, disease carriers, Chinatown constituted a constant and continual ‘source of danger.’”²⁸⁸

Chinatown was within the boundaries of Eureka, but it was depicted as a foreign place rife with threats to settler life that needed to be managed by the carceral force of the settler state.

White settlers’ moral panic about disease attached itself to fears of “Chinese leprosy” which was circulated by the local newspapers in Humboldt County. As Reinsa Mawani explains, leprosy was a disease that was particularly “raced” as a Chinese disease on the west coast where large numbers of Chinese people had immigrated.²⁸⁹ Although unfounded, their anxieties about leprosy provided an additional opportunity for settlers to manage the “foreign threat” presented by Chinese migrants.²⁹⁰ Fear of leprosy spreading to the white settler population intensified the segregation of Chinese people in Eureka and fortified the carceral geography of Chinatown. For example, just one month before the expulsion of the Chinese community from Humboldt County, The Humboldt Times printed an article which reveals how rumors of leprosy in the town of Trinidad, a settler town approximately twenty miles north of Eureka, led to further harassment of the residents of Chinatown.

News was telephoned last night to this office from Trinidad, that a genuine case of Chinese leprosy had developed itself in that town. The Chinaman formerly lived here, and was engaged in the laundry business. As he was engaged in the same business there

²⁸⁷ Reinsa Mawani, “‘The ‘Island of the Unclean’: Race, Colonialism and ‘Chinese Leprosy’ in British Columbia, 1891 - 1924,” *Law, Social Justice & Global Development Journal* (2003): 2.

²⁸⁸ Shah, 42.

²⁸⁹ Mawani, 1.

²⁹⁰ *Ibid.*, 1.

his patrons will feel a little shaky about their ‘washee.’ His boss in Eureka has been sent for to look after him. Wonder if we have any such cases in Eureka.²⁹¹

The close proximity between white settlers and the Chinese residents of Eureka and the anxiety it produced about contracting illness through their laundry illustrates a contradiction endemic to white racial hierarchy and segregation. White settlers required the appropriated labor of racialized populations but, just as it had with California Indians, settlers’ proximity to Chinese people also magnified their anxieties about the future and their own subjectivity. “When anti-Chinese advocates depicted the Chinese as segregated aliens, they were attempting to erase interracial encounters necessitated by daily life. No doubt it was the frightening familiarity of the Chinese and not just their heathen reputation, that drove racial anxieties.”²⁹² Like the nearby Indian reservations throughout Humboldt County, Chinatown was a racialized space that white settlers could define themselves against. The depiction of Chinese migrants as carriers of disease cast them outside of the boundaries of the white settler subject and reproduced the carceral geography of the settler city.²⁹³

Moral panic about Chinatown in Eureka was also centered around the trade and use of opium. Chinese men were regularly described as “opium fiends” in the local newspapers to emphasize their criminality regardless of the fact that white men and women smoked opium and were also arrested during police raids in Chinatown. However, white settlers’ use of opium, especially white women’s use of opium, intensified the policing of Chinatown in order to protect

²⁹¹ *The Humboldt Times*, Volume XXIII, Number 8, 10, January 1885, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18850110.2.9&srpos=3&e=-----188-en--20--1--txt-txIN-“washee”----1885--->

²⁹² Beth Lew-Williams, 38.

²⁹³ Shah, 37.

white settler citizens from the “corrupting influence” of Chinese migrants. Police raids of Chinatown were common as the following report from *The Humboldt Times* illustrates.

Marshal Lindsay, on Sunday night raided an opium den on 4th street, and bagged Ah Loy, Ah Hong and Jim Lee on a charge of smoking opium. This time the Marshal captured the opium pipes as well as the smokers. They were tried in the Police court on Monday afternoon and Judge Howard will render his decision when court convenes this morning.²⁹⁴

The police force in Eureka frequently received tips that opium was being smoked by the Chinese in the quarters and businesses in Chinatown. The marshal regularly sent police into the dwellings of Chinatown to harass them with raids and arrest all persons they found. While white men and women were arrested, it was the Chinese residents of Humboldt who bore the burden of criminalization. The development of the carceral settler state was predicated on the uneven distribution of punishment along racial lines. Not only were Chinese migrants more stigmatized, they also were habitually extorted by the police with higher fines and jail time.

Walter Simmons was charged with being in a home where opium was sold and smoked, and pleading guilty was fined \$10, which amount was paid to the court. Sing Too, a Celestial,²⁹⁵ was charged with the same offense and fined \$20, and not having the requisite amount was sent to jail for twenty days.²⁹⁶

As this example of the double fine applied to Sing Too demonstrates, the policing and incarceration of Chinese migrants generated revenue for the settler city and justified the ideological need to surveil Chinatown.

²⁹⁴ *The Humboldt Times*, Feb 6, 1883, Chinatown folder 2, Humboldt Historical Society, Eureka, CA.

²⁹⁵ “Celestial” was a derogatory term for a Chinese person in the nineteenth century, it refers to the “Celestial Empire” of China.

²⁹⁶ *The Humboldt Times*, March 12, 1884, Chinatown folder 2, The Humboldt Historical Society, Eureka, CA.

Both the China cases in Police Court the other day resulted in an acquittal on the grounds of want of sufficient evidence to convict. This fact should not discourage our officers in their efforts to break up the opium dens that exist here. With a little detective strategy there will be no trouble in bringing to light all the evidence that is necessary to warrant a conviction of the opium fiends. 'For ways that are dark,' our heathen Chinese is very peculiar, but our police force can and ought to outwit them at their own game.²⁹⁷

White settlers in Eureka kept vigilant watch over Chinatown and were prepared to invoke the carceral racialized power of the state when Chinese people behaved unpredictably. In one example, a Chinese man wandered through the streets of Eureka and picked flowers from front yards in the middle of the night.

There is a Chinaman in this city that has a strange and peculiar liking for flowers. On Sunday morning about 3 o'clock, he was followed by officer Vansant, until he had gone into two or three door yards where he gathered flowers. The officer finally took him in charge and locked him up. The Celestial begged piteously to be allowed to go, and offered the pricey price of one 'tollar' to let him off. Have not heard what Judge Howard did with him.²⁹⁸

White settler anxieties about disease and the threat to the good, clean, moral future of the nation-state made surveilling Chinatown the everyday work of the carceral settler state in Humboldt County. Growing concerns over the dangers posed by Chinatown led settlers in Eureka to consider whether or not the Chinese could be assimilated or if they should be expelled for the sake of the settler nation-state.

Exploited Chinese labor enabled ongoing occupation of California Indian homelands possible because it further developed the settler state and reproduced the racial dynamics of dispossession. White relationships with property are upheld by racial hierarchy, exploitation,

²⁹⁷ *The Humboldt Times*, Feb. 2, 1883, Chinatown folder 1, The Humboldt Historical Society, Eureka, CA.

²⁹⁸ *The Humboldt Times*, May 16, 1883, Chinatown folder 1, The Humboldt Historical Society, Eureka, CA.

violence and eventually for the Chinese migrants of Humboldt County, expulsion. The racial violence which constituted the carceral geography of the city of Eureka also made Chinese migrants vulnerable to different forms of labor exploitation. Just as racist violence against Chinese miners fortified the borders between segregated Chinese mining camps and white mining camps and ensured that Chinese miners would be left with the least profitable gold digs. Chinese labor was exploited by settlers in order to facilitate white access to Native land to appropriate and remake into property and reproduce racial subjects through their relationship to property. “Fear of competition with laboring lives that were racially defined as servile, the spur for Chinese exclusion, was fundamentally about the ability to shape, control, and claim subjecthood, to empty the land of Indigenous modes of relationship and make space for the profit motive.”²⁹⁹ In Humboldt local white settlers blamed Chinese workers for the shortage of jobs, declining work conditions, and living wages.³⁰⁰ Anti-Chinese racism and violence were the cornerstone of white labor party action and political mobilization in northwestern California and throughout the state. Chinese migrant workers in Humboldt County, and throughout California, were portrayed as “coolies,” a racist term which emphasized the “inherently slave-like” characteristics of Chinese workers. By depicting Chinese migrants as enslaved laborers white settlers claimed they were a threat to their freedom and the future of democracy in the United States.³⁰¹ “It was against the backdrop of Indigenous dispossession and the ‘problem’ of Asian migration that settler colonial expansion could be justified through ideologies of liberal

²⁹⁹ Manu Karuka, *Empire's Tracks*, 100.

³⁰⁰ Katie Buesch, 12.

³⁰¹ Lew-Williams, 32.

democracy.”³⁰² Chinese migrants in northwestern California were depicted as incompatible with the vision for white liberal democracy so the carceral settler state further developed its capacity to defend its borders through legal exclusion of Chinese immigration.

Exclusion & Expulsion

White settler anxieties about threats posed by proximity to Chinese migrants were assuaged through quotidian acts of harassment and police violence in Humboldt County against the Chinese community. White settlers’ anti-Chinese racism across California and the entire west coast culminated in federal laws such as the 1875 Page Act and the 1882 Chinese Exclusion Act, which were passed to exclude first all Chinese women from immigrating to the United States and then to exclude Chinese men. These laws severely restricted the immigration of Chinese people to the United States. The desire to exclude Chinese immigrants from California was not separate from the dispossession of Native peoples. As Iyko Day argues, “the *logic of exclusion* operates as a barrier within national culture to protect and reinforce settlers’ social and political control.”³⁰³ Exclusion and the settler colonial logic of elimination compliment each other and impact Native peoples and other racialized populations differently, but always with the end result of consolidating the borders of a white settler nation state. White settlers “used violence to reaffirm their rights as American citizens and demand the exclusion of Chinese aliens.”³⁰⁴ The exclusion

³⁰² Iyko Day, *Alien Capital*, 17.

³⁰³ Day, 25.

³⁰⁴ *Ibid.*, 116.

and expulsion of Chinese migrants from Humboldt County was a culmination of the settler colonial project.³⁰⁵

State tactics of surveillance, removal, and captivity that were deployed against California Indians were also used against Chinese people to uphold settler occupation and further develop the state's capacity to discipline racialized groups with carceral violence. Anti-Chinese violence, exploitation, criminalization and eventual expulsion is connected to ongoing Indigenous dispossession. The expulsion of Chinese migrants from Humboldt County reaffirmed the legitimacy of settler state sovereignty and extended the reach of the carceral settler state through the actions of civilian settlers. Settlers' claims that the "Eureka method" of Chinese expulsion was more humane than a massacre or lynching gave them further legitimacy. "In their eyes, these American citizens were not committing an illegal act in defiance of the state; they were committing an extralegal act in extension of the state's interests."³⁰⁶ By denying the violence of expulsion settlers justified anti-Chinese violence and removal from Humboldt County and all throughout California. The expulsion of Chinese migrants in northwestern California was part of ongoing conquest and the development of the carceral settler state.

Even though Chinese expulsion from Eureka was not lawful, it was celebrated by white settlers as an example of local enforcement of U.S. sovereignty in northwestern California.

"While the Chinese in this city were committing overt acts, our people were acting the part of

³⁰⁵ Lew-Williams, 20.

³⁰⁶ *Ibid.*, 124.

law-abiding citizens, and endeavoring to maintain the supremacy of the law.”³⁰⁷ As historian Beth Lew-Williams argues, “the power of the nineteenth-century American state did not rest in centralization or despotic authority; it derived from the state’s ability to mobilize forces outside of formal state institutions and to permeate all levels of society.”³⁰⁸ Anti-Chinese racism throughout California was also reflected back to the white settlers of Eureka and it emboldened them to use their position as white settler citizens to embody the power of the state and remove Chinese migrant workers and their communities from the white space of the city. White Eureka also situated themselves firmly on the moral high ground for having successfully expelled the Chinese migrants without a single death. The expulsion was depicted as non-violent by settlers even though the Chinese people who had made their homes in Eureka arrived in San Francisco wounded, shaken, and fearful of an unknown future. Two of the refugees from the expulsion were badly injured after being shot during the chaos in Eureka days before.³⁰⁹ They were escorted by the City Marshall of Eureka, who sought the help of San Francisco police in identifying any potential “highbinders” affiliated with gangs who menaced good law abiding citizens with their immoral and criminal activities.³¹⁰ Many of the Chinese people who had been expelled from Eureka were taken to the north harbor police station for questioning and

³⁰⁷ *The Humboldt Times*, Volume XXV, Number 22, January 27, 1886, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18860127.2.17&srpos=8&e=-----188-en--20-HTS-1--txt-txIN-“law%2Dabiding+citizens”----1886--->

³⁰⁸ Lew-Williams, 55.

³⁰⁹ “The Expelled Chinese,” *Sacramento Record Union*, Feb. 17, 1885, Chinatown folder 2, Humboldt Historical Society, Eureka, CA.

³¹⁰ *Ibid.*

identification but were later released without being charged.³¹¹ They were left to make their own way to Chinatown in San Francisco.

Some of the Chinese people who were expelled from Humboldt County and forced to leave their homes behind retaliated against the city of Eureka by seeking reparations for lost property. The Chinese consulate in San Francisco helped 55 of the Chinese men who were expelled from Eureka to file a lawsuit against the City of Eureka suing for \$132,800 in losses and damages in *Wing Hing vs. The City of Eureka*. However, the lawsuit failed because the case was dismissed by the 9th circuit court due to unclear circumstances.³¹² The failure of the court to hold the citizens of Eureka financially responsible for property lost during their forced expulsion is another example of how Chinese people were excluded from the rights of property ownership. Since Chinese migrants were non-citizens depicted as a foreign threat to white settlers and the future of the white nation-state their demands for reparation were ignored by the court. While the case was dismissed it was still a remarkable example of Chinese people's resistance to expulsion.

Despite their claim that "the Eureka method" was nonviolent, the white settlers of Humboldt County had given Eureka a reputation among Chinese migrants on the west coast as a place to avoid. In 1891 a Chinese man named On Lung caused a stir when he had the great misfortune of arriving in Eureka by mistake. On Lung had apparently meant to book passage to San Francisco on a ship named *Eureka* but mistakenly got on a ship that was headed to Eureka instead.³¹³ He arrived in Eureka alone and must have been very alarmed as he disembarked the

³¹¹ Ibid.

³¹² Buesch, 15.

³¹³ *The Humboldt Times*, September 20, 1891, Chinatown folder 2, Humboldt Historical Society, Eureka, CA.

ship and it became obvious that he had come to the wrong place. While he walked up the streets of Eureka searching for the then non-existent Chinatown, On Lung was followed by a group of white men and boys who impressed upon him that Chinese people were not welcome in Eureka. The group followed On Lung excitedly while he looked for any sign of a safe haven. Mercifully, he was taken in by an unnamed minister and his wife and given some shelter from the terror he must have felt, but that shelter did not protect him from prying eyes.³¹⁴

For several days The Humboldt Times kept close track of On Lung while he was in Eureka, making him into a spectacle for white settlers who surveilled his every move. When On Lung was finally able to depart from Eureka safely on a ship to San Francisco days later, The Humboldt Times reported that his health would not permit him to stay in the damp climate of Eureka but that he was grateful for the warm reception that he received in town; the newspaper even reported that On Lung wept as he departed.³¹⁵ What the paper fails to report is how he must have been gripped with fear as he walked the streets of an unfamiliar and inhospitable place while being followed by men who needed little provocation to do him harm. On Lung's story reveals how the racial violence of Chinese expulsion affirmed white settler ownership of California Indian homelands. By policing On Lung's movement with surveillance and the threat of violence, the white settlers of Eureka reconstituted a significant part of the carceral geography of occupation. However, as Charlie Moon and Minnie Tom's story demonstrates, relationships between Chinese migrants and Native peoples offered alternative methods of place-making that privilege Indigenous modes of kinship.

³¹⁴ Ibid.

³¹⁵ Ibid.

Counter-geographies of Resistance in Jaroujiji

On August 16th, 2021 a small crowd of 50 locals and tourists, masked and standing apart from each other due to the ongoing global Covid-19 pandemic, gathered near the corner of 4th and E streets in Eureka, California. They gathered to witness the unveiling of Oakland based Korean-American artist Dave Young Kim's mural, "Fowl," which he designed to commemorate historic Chinatown. The mural was commissioned as part of the annual Eureka Street Art Festival and the Eureka Chinatown Project (ECP). The ECP is organized by a group of thirty local volunteers who are committed to public education about the marginalized history of Chinese migration, expulsion, and resistance in Humboldt County. The ECP is most concerned with making historic Chinatown in Eureka a living part of the city's present and Kim's mural is an important step toward realizing that goal.



The most prominent figure on the mural is a Mandarin duck, a waterfowl that symbolizes young love, children, happiness and family, experiences that were denied to Chinese migrants in Eureka and throughout California due to anti-Chinese immigration laws such as the Page Act and

the Chinese Exclusion Act in the years prior to forced expulsion in Humboldt County. The Mandarin duck also pays homage to the ducks that frequented the ponds in Chinatown and were noted in newspapers as evidence of the cultural difference and racial inferiority of Chinese migrants. The title *Fowl* is also a beautiful play on words that Kim uses to challenge the derogatory racist accusations of white settlers in Eureka who claimed that the Chinese were foul smelling and unclean.³¹⁶ The Chinese calligraphy in the background of the mural translates to hometown, claiming Eureka as a home for the Chinese migrants who lived there and for the Chinese community that will live there in the future. The red circle in the mural is a symbol of the sun and with the white circle is the moon which symbolizes the passage of time and prayers for the future. At the center of the moon is a portrait likeness of Ben Chin who was the first Chinese man to move to Eureka in 70 years when he arrived in 1955. Chin's Cafe, a Chinese restaurant and adjacent motel, which he sold to some relatives in the 90s when he retired, is still a favorite local institution in Eureka.

On August 12th 2021, only days prior to the unveiling of *Fowl* on a nearby street, beloved Karuk elder and artist e:wok Brian Tripp along with his family dedicated his newly restored mural, *The Sun Set Twice on the People that Day*, and recited his poem by the same title. The mural memorializes the genocidal massacre perpetrated against Wiyot on Tuluwat by prominent white settlers in the Humboldt region such as Hank Larrabee and Andrew Kelsey. White settlers, frustrated by the persistent presence of the Wiyot and their refusal to abandon their homelands, massacred them in 1860. The Wiyot were massacred because their relationship to land and solemn responsibility for bringing life into balance stood in the way of the settler

³¹⁶ Dave Kim, "Artist's Statement," August 2021, (Eureka, CA).

colonial imperative to acquire land and extract natural resources for the further development of the state. The Wiyot, like all Indigenous peoples in northwestern California, resisted the occupation of their homelands and the violence of settler vigilantes and militia but were unable to prevent large scale land loss. Many Wiyot currently live on their reservation, a 88 acre piece of land sixteen miles south of Eureka on Table Bluff. Tuluwat is also a place with significance for Chinese people in Humboldt County since it was the site where settlers corralled Chinese migrants and held them captive while they waited to be ushered onto ships that were bound for San Francisco during the expulsion of 1885. The history of Chinese expulsion in Humboldt County is not separate from the history of California Indian dispossession. The two stories are parallel and intertwined.



In the historical records of Charlie Moon's life very little is said about his wife Minnie Tom. Minnie Tom was a Redwood Creek Indian woman who was born during the height of the Indian wars. Her father was a U.S. soldier named Captain Louis Tom and her mother, Mary, was one of the Redwood Creek Indian resistors who lived in the mountains outside of the Hoopa Valley. Mary, along with the other Redwood Creek Indians, was captured by the U.S. army and

imprisoned at Fort Humboldt in the infamous corral. Minnie Tom's descendant, Hupa medicine woman Melodie George-Moore, shares that her grandparents told stories about Mary, who bore scars on her arms from being shackled.³¹⁷ Mary, who may have already been pregnant with Minnie while incarcerated at Fort Humboldt, managed to keep her pregnancy despite being shackled and forcibly transferred by boat and by foot to the Round Valley Indian reservation over 100 miles away.³¹⁸ While Mary's journey was arduous, it did not prevent her from escaping captivity with other Redwood Creek Indians and returning home to Redwood Creek just south of the Hoopa Valley. It is unclear precisely when Minnie Tom was born, but her mother's efforts to get them both back to their homelands not only refused the carceral geography of settler invasion, it made Charlie Moon's refusal to be expelled possible.

Charlie Moon died in February of 1943, some years after his wife, Minnie Tom. The local paper made note of his passing and named his children, most of whom still lived in the Hoopa Valley.³¹⁹

As far as I know, Tom and Mary had only one child, the girl Charlie married. She was called Minnie and possessed such a bad disposition that she was later called "mean Minnie." Minnie bore Charlie 13 children. Long after Minnie's parents had died, and she and Charlie lived on the allotment, he never failed to go to their cabin in the middle of the day and cook dinner for her.³²⁰

³¹⁷ Sovereign Bodies Institute, *To' Kee Skuy' Soo Ney-Wo-Chek': I Will See You Again in a Good Way*, Year 3 Progress Report, (Eureka: Yurok Tribe, 2022), 67-68.

³¹⁸ *Ibid.*

³¹⁹ "Charlie Moon Only Chinese Resident of the County Dies," *Blue Lake Advocate* Vol. 55 no. 30 Feb. 6, 1943, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=BLA19430206.2.6&srpos=1&e=-----194-en--20--1--txt-txIN-“Charlie+moon”----->.

³²⁰ Tom Bair. "Charlie Moon, One of the Few Chinese to Survive Expulsion." *The Humboldt Historian* (Spring 1995): 23.

This charming story sheds light on the intimacy between Minnie Tom and Charlie Moon. Unlike the “proper intimacies” of white settler subjects, Tom and Moon’s intimacies disrupt the colonial social and political order.³²¹ The emphasis on Minnie Tom’s meanness and sour disposition, while very funny, is undermined by the tenderness she shared with Charlie Moon. “Mean Minnie” had lived her life defying the invasion and occupation of the settler state and her relationship with Moon was a significant part of that. “Last, he must have carried some very good genes, as in subsequent years I have never met one of his progeny who has not been above average in intelligence and extremely industrious.”³²² This offhanded comment may have been meant in jest but it does point to the qualities that make the people of the Hoopa Valley a constant threat to the permanence of the United States. As the familial bond formed between Charlie Moon and Minnie Tom demonstrates, Indigenous modes of kinship offer alternative practices of place-making that resist the carceral settler state. Charlie Moon and Minnie Tom’s relationship, “frustrates the prose of U.S. countersovereignty” represented by settler historical narratives and raises questions about what alternative futures might be possible.³²³ Moon and Tom’s descendants are still in the valley, making lives for themselves in spite of the ongoing occupation of the carceral settler state.

³²¹ Kandaswamy, 47.

³²² Bair, 24.

³²³ Manu Karuka, *Empire’s Tracks*, 19.

Chapter Four: Inventing the Indian Cop: Colonial Political Formation and Carceral Sovereignty

Dozens of billboards, homemade posters, and roadside memorials with the faces of missing and murdered Indigenous people can be seen while driving up U.S. Highway 101 in northwestern California. The images of Native people literally mark the landscape and reveal the ongoing violence of settler invasion and occupation which Native women continue to bear the brunt of. Missing and murdered Indigenous persons (MMIP) is such a pervasive problem in northwestern California, particularly in Humboldt County, that many Native families and community members have become leaders in grassroots MMIP advocacy efforts by organizing public protests that demand justice for their loved ones and an end to violence against Native peoples.³²⁴ On September 9th, 2020 a crowd of 150 protestors gathered outside of the Humboldt County Sheriff's office, holding pictures of MMIP and signs that demanded more action from law enforcement.³²⁵ Protestors held signs with images of local Native people who are missing or were murdered including Tawny James, Jules Tripp, Kadhija Britton, Nick Vigil, and Virgil Bussell Jr. Protestors grieved for their lost loved ones and decried the inaction of state police, which they identified as a leading cause of MMIP.³²⁶ Ineffective state police and the so-called "jurisdictional maze" on Indian reservations have also been widely cited by Native legal scholars

³²⁴ A 2020 report conducted by the Sovereign Bodies Institute in partnership with the Yurok Tribe found that 1 in 5 cases of MMIP in California occur in Humboldt County, and 36% of MMIP cases occur in northern California in Mendocino, Humboldt, and Del Norte Counties. Sovereign Bodies Institute, *To' Kee Skuy' Soo Ney-Wo-Chek' I Will See You Again in a Good Way*, July 2020, 44.

³²⁵ Matt Lafever, "Not Invisible: Protest Seeks Justice for Missing, Murdered Native People," *North Coast Journal*, September 13, 2020.

³²⁶ *Ibid.*

as a major impediment to recovering MMIP and protecting Native people, particularly Native women, from violence.³²⁷

Emmilee Risling, a 32 year old Hoopa Valley tribal member and mother of two, was last seen on October 14, 2021 near Weitchpec on the Yurok Indian reservation.³²⁸ Risling was officially declared missing four days later by the Humboldt County Sheriff's office which collaborated with the Hoopa Valley, Yurok, and Karuk Indian Tribes. According to her family members, in the months leading up to her disappearance Risling behaved erratically and was struggling with substance abuse and mental health issues including postpartum psychosis from recently giving birth to her infant daughter.³²⁹ Prior to her disappearance, Risling was frequently brought into contact with state and tribal police in the area when they would pick her up but ultimately release her with no additional resources for mental health or addiction services. Emmilee Risling's disappearance has left her family and friends devastated and desperate for a solution to the crisis of missing and murdered Native peoples in northwestern California.

Emmilee Risling's disappearance, which was one of five disappearances of Native people between northern California and southern Oregon during an eighteen month period, led to public

³²⁷ Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America*. (Minneapolis: University of Minnesota Press, 2015), 34-35.; Angela Riley, "Crime and Governance in Indian Country." 63 *UCLA Law Review* 1564 (2016), 1569.

³²⁸ Carlos Holguin. "After One Year, Disappearance of Emmilee Risling Still Looms over North Coast," *KRCR ABC*, October 14, 2022, <https://krctrv.com/north-coast-news/eureka-local-news/after-one-year-disappearance-of-emmilee-risling-still-looms-over-north-coast>.

³²⁹ Hannah Wiley, "Her Mother Disappeared. Then Her Babysitter. A Lawman Fears She Might be Next," *Los Angeles Times*, March 14, 2023, <https://www.latimes.com/california/story/2023-03-14/native-americans-tribes-california-missing-women-girls>.

speculation about the cause of such high rates of violence and disappearance.³³⁰ The most common explanation for the high rates of violence against Native people in the United States, particularly violence against Native women, is a complex “jurisdictional maze” caused by federal Indian policies which law enforcement has to contend with on Indian reservations. Gaps in law enforcement which arise from the imposition of federal and state criminal jurisdictions on Indian reservations are presented as one of the major causes of violence against Native peoples by Native legal scholars such as Sarah Deer, National Institute of Justice reports, and tribal police and state police alike.³³¹ However, over-emphasizing state and federal criminal jurisdictions on Indian reservations as a major contributing factor to violence against Native peoples has led scholars, policy makers and tribal governments to focus their energies on expanding Native nations’ criminal jurisdiction and carceral capacities in the name of eradicating violence. I intervene in the existing discourse on violence against Native people and criminal jurisdiction by arguing that expanding the carceral capacities of Native nations extends the reach of the carceral settler state through a form of punitive tribal governance that I call carceral sovereignty.

³³⁰ Gillian Flaccus, “A Young California Mom Disappears, the Latest Native Woman to go Missing. Few are Paying Attention,” *Desert Sun*, February 21, 2022, <https://www.desertsun.com/story/news/nation/california/2022/02/21/emmilee-risling-among-string-missing-and-murdered-native-american-indian-women-california-mmw-fbi/6883917001/>.

³³¹ Sarah Deer, *The Beginning and End of Rape*, 106.; “A Roadmap for Making Native America Safer,” *Indian Law and Order Commission*, 2013.; Carole Goldberg and Duane Champagne, “Law Enforcement and Criminal Justice Under Public Law 280,” 2007.; Amy Radon, “Tribal Jurisdiction and Domestic Violence: The Need for Non- Indian Accountability on the Reservation,” 37 *University of Michigan J. L. Reform* 1275 (2004).; Ronet Bachman et al, “Violence Against American Indian and Alaska Native Women and the Criminal Justice Response: What Is Known,” *National Institute of Justice*, 2008, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/violence-against-american-indian-and-alaska-native-women-and>.

In this chapter I trace the development of the U.S. carceral settler state by analyzing its self-authorized criminal legal jurisdiction over Native peoples on Indian reservations. I examine the Court of Indian offenses, *Ex parte Crow Dog*, and the Major Crimes Act which were all passed into law during the assimilation era at the end of the nineteenth century. Using these policies as evidence, I analyze the formation of a colonial legal structure which facilitated Indigenous land dispossession by criminalizing Indigenous political and social practices and enforcing the imposed boundaries of the Indian reservation. I unpack the significance of the U.S. Supreme Court case *United States v. Kagama* and argue that by affirming its criminal jurisdiction over the Hoopa Valley, and all Indian reservations, the settler state ensured that ongoing occupation and dispossession of Indigenous homelands would be managed with carceral violence. I also discuss the development of the Indian police force during the assimilation era as carceral violence and argue that it was established to disrupt Native nations' capacities to self-govern and impose the sovereignty of the United States by upholding settler regimes of property. The formation of the Indian police force in 1878 was also intimately related to maintaining the borders of the reservation and the Indian boarding school system, both of which are evidenced by the actions of the Indian police on the Hoopa Valley Indian reservation during this period. Next, I focus on another period of assimilation in federal Indian policy that impacted policing in northwestern California, the termination era. I analyze Public Law 280 in particular in order to demonstrate how ongoing California Indian dispossession required the expansion of the state's carceral capacities and bringing Native peoples into more frequent contact with state police. I discuss police violence against Native people in northwestern California and beyond in order to illustrate that for Native people, as with other racialized groups in the United States, interactions

with police are lethal and further exacerbate the high rates of MMIP. Since tribal police were established by the occupying settler government in order to facilitate Indigenous dispossession, I argue that expanding Native nations' criminal jurisdiction cannot offer a solution to the crisis of colonial gender violence and MMIP.

Assimilation Policies and the Expansion of the Carceral Settler State

After the official end of the “Indian wars” in the United States, the federal government enlisted assimilation as a tactic to subvert Native resistance and the threat that it posed to the perpetuity of the settler state. Federal Indian policies during the assimilation era between approximately 1871-1934 shared a common goal of “civilizing” or “domesticating” Native peoples by imposing schooling, private property ownership, and law and order. For example, the boarding school program first developed by Richard Henry Pratt during the 1880s targeted Indian children for removal from their families so that the federal government could use schooling to, in Pratt’s infamous words, “kill the Indian and save the man.” The Dawes Allotment Act of 1887 also promised to “civilize” Native peoples by dividing communally held land into individually owned parcels of private property which were distributed in order to support a racialized heteropatriarchal nuclear family structure.³³² A cornerstone of the “civilization” process was over-emphasizing the importance of the individual; individual achievement through education and assimilation, individual private property ownership, and individual responsibility for crime.

³³² Mark Rifkin, *When Did Indians Become Straight? Kinship, the History of Sexuality, and Native Sovereignty* (Oxford: Oxford University Press, 2010), 152-153.

During the assimilation era of federal Indian policy the settler state enacted conquest through the inclusion and biopolitical management of Native peoples with the law and carceral violence.³³³ The Department of the Interior established the Court of Indian offenses in 1883 in order to formally impose U.S. laws on Native nations and criminalize the cultural and political practices of Native peoples that were perceived by Indian agents as threats to the white settler state. Indian agents were representatives of the U.S. government who were assigned to Indian reservations in order to surveil Native people and ensure that they were obeying the law. Indian agents wielded a lot of power over Native people and were keen to enforce particular laws that reflected their own moral and political investments. Judges for the Court of Indian offenses were appointed by the Indian agent on the reservation who generally selected Native men he perceived to be “progressive” or “assimilated” to enforce the law among their own people.³³⁴ The Court of Indian Offenses led to the criminalization of significant elements of cultural, economic, and political life for Native peoples and attempted to discipline them through the surveillance and punitive capacities of the federal government, which were embodied by Indian agents and the Indian police force. These policies attacked Indian nations, undermined their ability to organize and manage their own social and political structures, and guaranteed that Native people would

³³³ Rene Dietrich describes biopolitics as the struggle between settler state and Indigenous sovereignties in unique structural sites of settler colonialism. Policing and the law are given as two examples of biopolitical and geopolitical techniques of settler colonialism. Rene Dietrich, “Introduction: The Bio/Geopolitics of Settler States and Indigenous Normativities,” in *Biopolitics, Geopolitics, Life: Settler States and Indigenous Presence*, eds. Rene Dietrich and Kerstin Knopf (Durham: Duke University Press, 2023), 1-43.

³³⁴ Vine Deloria Jr. & Clifford M. Lytle, *American Indians American Justice*, (Austin: University of Texas Press, 1983), 115.

have constant encounters with the police. These policies worked together to “invent” Indian criminality and diminish the sovereignty and self-determination of Native nations.³³⁵

In the Hoopa Valley, these federal Indian policies had significant impact on the lives of Native peoples. The Hupa had their way of life criminalized by Indian agents who sought to break apart the political, economic, and familial structures that organized social life in the Hoopa Valley. The Indian agents also compelled Hupa parents under threat of arrest to send their children away to Chemawa Indian school in Salem, Oregon until 1893 when the Hoopa on-reservation boarding school was established for Hupa children to attend instead. Significantly, the Hoopa boarding school was housed in the disused buildings of the abandoned Fort Gaston, one of the primary carceral sites discussed in chapter one. Soon after the establishment of the Hoopa boarding school, Hupa girls and young women who attended the boarding school would be enlisted in outing programs to be hired as domestic laborers by either local white families in Humboldt County or the bay area.³³⁶ Indian outing programs were an extension of the colonial domestic carceral sphere discussed in chapter two. The Hupa also suffered from the uneven, slow, and disorganized process of allotment on the Hoopa Valley Indian reservation.³³⁷ Perhaps surprisingly, a majority of Hupa people were eager to receive individual land allotments on the reservation because they perceived that local settlers would respect private property more than

³³⁵ Luana Ross, *Inventing the Savage*, 17.

³³⁶ Caitlin Keliiaa, *Unsettling Domesticity: Native Women and 20th-Century U.S. Indian Policy in the San Francisco Bay Area 1911-1931* (Berkeley: Institute for the Study of Societal Issues, 2017).

³³⁷ Nelson, *Our Home Forever*, 150.

communally held land and quit encroaching.³³⁸ Despite the fact that many Hupa were eager for allotment as a form of defense from ongoing land dispossession at the time, it still had detrimental effects on life in the Hoopa Valley. Land allotment displaced Hupa practices of communal land tenure by introducing private property ownership to the Hupa. Establishing private property on the reservation also required police to defend and maintain the rights of property. All of these changes to the organization of social and political life for the Hupa were enforced by the carceral violence of the settler state which was authorized by the law and enforced by police.

The Major Crimes Act was passed in 1885, granting the U.S. federal government criminal jurisdiction over crimes committed by Indian people on Indian reservations. The Major Crimes Act was passed in response to the U.S. Supreme Court ruling on *Ex Parte Crow Dog* in 1883, which affirmed the sovereign authority of Native nations to adjudicate crimes among their own people within Indian territory.³³⁹ *Ex Parte Crow Dog* was a case which arose after a Lakota man named Spotted Tail was killed by another named Crow Dog and Crow Dog was arrested and prosecuted in a federal court.³⁴⁰ The Supreme Court overturned the federal court ruling and determined that Crow Dog could not be convicted or sentenced by U.S. courts due to a lack of federal criminal jurisdiction over Native people on Indian reservations. To address this gap in federal jurisdiction, the legislature passed the Major Crimes Act thereby expanding its criminal jurisdiction over Native peoples and affirming the territorial sovereignty of the United States.

³³⁸ *Ibid.*, 156.

³³⁹ Deer, 36.

³⁴⁰ Matthews, Stanley, and Supreme Court Of The United States. *U.S. Reports: Ex Parte Crow Dog*, 109 U.S. 556. 1883.

Following Ex Parte Crow Dog, the Major Crimes Act provided the federal government with the authority to police crime on Indian reservations, prosecute Native people in federal courts and sentence them to incarceration. Significantly, the Major Crimes Act was written and passed by Congress to appease white settlers' public demand that Indians be prosecuted under the U.S. criminal legal system despite their being citizens of their own sovereign nations and not citizens of the United States.³⁴¹ Just as the federal government had responded to the anti-Chinese racism of white settler citizens by enacting the Page Act and Chinese Exclusion Act discussed in chapter three, it also responded to their demand for more power over Indians by expanding its carceral capacities and jurisdictional reach. Using the law to expand the territorial sovereignty of the United States and facilitate the dispossession of Indigenous peoples was not a new state tactic, but until the Major Crimes Act of 1885, legislating Indigenous criminality had not been of interest to state or federal governments.³⁴²

United States v. Kagama

On the Hoopa Valley Indian reservation on June 25, 1885 a heated disagreement between three Yurok men over a debt became violent and one of the men was killed.³⁴³ Kagama, alias Pactah Billy, shot and killed Iyouse, alias Ike, and both he and his son, Mahawaha, alias Ben, were arrested by a U.S. Marshal. Kagama and Mahawaha were charged with murder and their

³⁴¹ Deer, 35-36.

³⁴² Gelya Frank and Carole Goldberg, *Defying the Odds: The Tule River Tribes' Struggle for Sovereignty in Three Centuries* (New Haven: Yale University Press), 74.

³⁴³ *The Humboldt Times* Volume XXVI, Number 63. September 14, 1886. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18860914.2.11&srpos=8&e=-----en--20--1-byDA-txt-txIN-%22pactah+billy%22-----1>.

case was tried before the U.S. Circuit Court in San Francisco the following September. Assistant District Attorney Henry Clay Dibble prosecuted on behalf of the United States arguing that the federal government had legal jurisdiction over crimes committed by Indians on Indian reservations due to the recent passage of the Major Crimes Act and therefore the two men should be convicted of murder.³⁴⁴ However, the judge presiding over the case, Judge Sawyer, was unconvinced and the jury was instructed by the court to find the defendants not guilty due to a lack of federal jurisdiction.³⁴⁵ Judge Sawyer's ruling was the subject of some public ire in California and an article in the Los Angeles Herald, titled "Saved by a Technicality," even jested about the failure of federal jurisdiction at issue in the case claiming it had shielded Kagama and Mahawaha from serving sentences at San Quentin federal prison.³⁴⁶ Kagama and Mahawaha's narrow escape from incarceration was short-lived and the case was appealed and tried before the U.S. Supreme Court. Kagama's defense once again argued that the federal government had no jurisdiction over crimes committed by Native people against Native people on Indian reservations, but the Supreme Court ruled to uphold the Major Crimes Act and affirmed the federal government's criminal legal jurisdiction over Native nations. Following the ruling of the Supreme Court, Kagama was convicted of murder and his son, Mahawaha was convicted of aiding and abetting a murder; both men were incarcerated in San Quentin federal prison.

³⁴⁴ *Daily Alta California*, Volume 39 Number 13039, November 25, 1885. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=DAC18851125.2.24&srpos=1&e=-----188-en--20--1-byDA-txt-txIN-kagama-----1>.

³⁴⁵ Ibid.

³⁴⁶ "Saved by a Technicality." *Los Angeles Herald*, Volume 25, Number 161, September 10, 1886. California Digital Newspaper Archive, UCR. <https://cdnc.ucr.edu/?a=d&d=LAH18860910.2.4&srpos=9&e=-----188-en--20--1-byDA-txt-txIN-kagama-----1>.

Iyouse's murder on the Hoopa Valley Indian reservation created an opportunity for the U.S. federal government to test and uphold the Major Crimes Act. *United States v. Kagama* had a remarkably similar set of circumstances to those of *Ex Parte Crow Dog*, however in this case the Supreme Court ruled to uphold federal criminal jurisdiction over Native peoples who were portrayed as incapable of governing themselves. The opinion in *Kagama's* case, delivered by Justice Miller, describes Native peoples as politically fractured, dysfunctional, and in need of protections provided by the United States. Miller states that,

It seems to us that this is within the competency of Congress. These Indian tribes *are* wards of the nation. They are communities *dependent* on the United States. Dependent largely for their daily food. Dependent for their political rights. They owe no allegiance to the States, and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection, and with it the power. This has always been recognized by the Executive and by Congress, and by this court, whenever the question has arisen.³⁴⁷

Justice Miller's dicta reveals that the United States used the law to develop its sovereign authority over Indigenous homelands and Indigenous people in part by disavowing their status as independent sovereigns. By minimizing the sovereignty of Native nations and claiming that Native peoples are wards of the United States and dependent on it for "food, protection, and rights," the Supreme Court sought to erase the long history of the United States making treaties with Indian tribes to establish its own sovereignty. The Supreme Court opinion relied on an interpretation of the language of federal guardianship used in *Worcester v. Georgia* that described Native nations as "domestic dependent nations." The moniker of "domestic dependent nations"

³⁴⁷ Miller, Samuel Freeman, and Supreme Court Of The United States. U.S. Reports: United States v. Kagama, 118 U.S. 375. 1885. Periodical. <https://www.loc.gov/item/usrep118375/>.

was first used by Chief Justice John Marshall in the court opinion on the ruling on Worcester v. Georgia in 1832 and signaled a gradual shift in federal Indian policy to a relationship of federal guardianship over Indians tribes.³⁴⁸ The ruling in United States v. Kagama was used to confer absolute authority to legislate criminal codes for Native nations to Congress citing the federal government's role as tribal guardian.³⁴⁹

The Supreme Court opinion professed concern about defending Indigenous people from the violence and abuses of settler citizens and state governments and in so doing performed an act of liberal disavowal which claimed to defend Native peoples from the same genocidal violence which makes settler governance possible. As Native legal scholar Angela Riley argues, the U.S. federal government had previously passed laws such as the 1817 General Crimes Act in order to manage violent crimes between white and Native people that might impede its efforts to acquire more territory.³⁵⁰ The General Crimes Act as well as the ruling in U.S. v. Kagama illustrate how "the law enables the state to subject groups and individuals to its authority."³⁵¹ Thus, expanding the criminal jurisdiction of the federal government was a liberal strategy of biopolitical management which subjugated California Indians, and all Native peoples, with carceral supervision to serve settler state interests in territorial expansion and facilitate ongoing Indigenous dispossession.

³⁴⁸ Walter R. Echo-Hawk, *In the Courts of the Conqueror: The 10 Worst Indian Law Cases Ever Decided* (Golden: Fulcrum Publishing, 2012), 198-199.

³⁴⁹ N. Bruce Duthu, "Implicit Divestiture of Tribal Powers: Locating Legitimate Sources of Authority in Indian Country" *American Indian Law Review* Vol. 19, No. 2 (1994): 353-402, 373.

³⁵⁰ Riley, 1577.

³⁵¹ Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011), 8.

The settler state consolidated its carceral power in *United States v. Kagama* by expanding its criminal jurisdiction in order to police and punish Native people for breaking the laws of the invading United States. *United States v. Kagama* is a significant Supreme Court ruling because it presented a challenge to the absolute authority of Congress over Indian tribes and lost. Kevin Bruyneel states that, “In particular, Supreme Court decisions in *United States v. Kagama* (1886) and *Love Wolf v. Hitchcock* (1903) legitimated the ‘plenary power’ of the U.S. federal government over Indigenous peoples by constructing the IAA’s language as signaling that 1871 was the year that the status of Indigenous nations as independent political entities seriously diminished in the eyes of the U.S. state.”³⁵² The Supreme Court ruling in *U.S. v. Kagama* affirmed Congressional plenary power over Native peoples and attempted to reduce the sovereign status of Native nations. Subsequently, As Geyla Frank and Carole Goldberg illustrate, the *Kagama* ruling was used to diminish the sovereignty of the Tule River Tribe in *United States v. Whaley* in 1888, which dismissed tribal law and reasserted the jurisdiction of the federal government over crimes committed by Indians on Indian reservations in California.³⁵³ As these two cases demonstrate, proving that the United States has superior sovereignty to that of Native nations and absolute jurisdiction over Native peoples in California was one of the intended outcomes of assimilation policies. However *U.S. v. Kagama* had wider reaching impact than California and California Indians, the ruling was also used to reaffirm congressional plenary

³⁵² Kevin Bruyneel, “When is the Past Not the Past?,” in “No More Nations Within Nations: Indigenous Sovereignty after the End of Treaty-Making in 1871,” Joel T. Helfrich et al., *The Journal of the Gilded Age and Progressive Era* (2021), 325–349. doi:10.1017/S1537781421000141.

³⁵³ Frank & Goldberg, 103.

power in *Lone Wolf v. Hitchcock*, a major ruling that claimed that Congress has absolute power over Indian tribes on Indian territories that it conquered.³⁵⁴

Since *U.S. v. Kagama* originated in Hoopa, the *Humboldt Times* followed the Supreme Court proceedings and published an article about the case which phrased the court ruling as a waste of resources since it had, “cost the government more than all the Indians concerned in the affair are worth and, the result of the action of the Supreme Court will cause the Indians to do just exactly as they always have done in settling their family jars.”³⁵⁵ The article expressed the views of local white settlers for whom California Indian resistance was a very recent memory by depicting Indigenous peoples in northwestern California as unassimilable and incompatible with the laws that governed “civilized modern life.” California Indians’ refusal to quit living as Indigenous peoples regardless of the incessant violence and interference from the state caused the *Humboldt Times* to declare that the ruling of *United States v. Kagama* would prove to be inconsequential to the goings on among the Indians in the Hoopa Valley. In her analysis of Indigenous resistance to land dispossession in Hawaii, Laurel Mei-Singh argues that settler state response to Indigenous political formations and refusal to concede sovereign authority leads the colonial state to develop its “territorial jurisdiction through acts of criminalization.”³⁵⁶ While the settlers in Humboldt County were correct in assessing California Indians’ will to resist the state, they woefully misunderstood the ramifications of the ruling, through which the United States

³⁵⁴ Walter Echo-Hawk, *Courts of the Conquerer*, 178.

³⁵⁵ *Humboldt Times*, Volume XXV, Number 20, January 24, 1886. California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=HTS18860124.2.12&srpos=3&e=-----188-en--20--1-byDA-txt-txIN-kagama-----1>.

³⁵⁶ Laurel Mei-Singh, “Accompaniment Through Carceral Geographies: Abolitionist Research Partnerships with Indigenous Communities” *Antipode* Vol. 53 No. 1 (2021): 85.

named itself the ultimate sovereign on Native homelands and ensured that Indian people everywhere in the United States were more vulnerable to carceral violence.

Indian Police

California Superintendent of Indian Affairs and former editor of the Humboldt Times, Austin Wiley, signed the Treaty of Peace and Friendship in 1864 with the Indians of the Hoopa Valley, Redwood Creek, and Grouse Creek, but hostilities between the military, settlers and the Indians in the Hoopa Valley never completely abated.³⁵⁷ White settlers in Humboldt County resented the Hupa for retaining their homelands in the Hoopa Valley and frequently attacked or killed Indians in an effort to drive them out. Settler civilians as well as soldiers stationed at Fort Gaston until it was abandoned in 1892 also continued to target Hupa women and girls for abduction and sexual violence. The Hupa were living in the aftermath of a brutal genocide enacted by soldiers and civilian settlers, and their self-sufficiency was made nearly impossible by the imposed borders of the reservation. The environmental damage caused by mining depleted the once rich salmon runs and soldiers' deliberate destruction of oak trees which provided acorns also put Native people in danger of starvation.³⁵⁸ The Hupa, both out of necessity and as an act of resistance, killed cattle, attacked settlers, and robbed homesteads during this period to survive. Increasingly, these actions were depicted not as Indigenous resistance or acts of war against the United States but as the criminal actions of an individual.³⁵⁹ Indian "theft" of cattle and goods

³⁵⁷ Redwood Creek and Grouse Creek Indians who lived in the Hoopa Valley eventually intermarried and now primarily refer to themselves as Hupa. Many Hupa today have at least one Redwood Creek ancestor.

³⁵⁸ Byron Nelson, *Our Home Forever*, 100.

³⁵⁹ *Ibid.*, 100.

had been more than enough to justify the “Indian hunts” put on by soldiers and settler vigilantes during the gold rush as demonstrated in chapter one, but during the assimilation era the United States sought to manage California Indians by developing its capacities for carceral violence. After the assimilation era, California Indian crime and criminality would be managed by a new arm of the carceral settler state, the Indian police.

The Indian police force was established by Congress in 1878 to bring Native peoples under the supervision and management of the federal government without having to maintain a military presence on reservations.³⁶⁰ At the behest of Indian agents and civilian settlers politically invested in the “civilizing mission” of assimilation for Indian peoples, the Indian police force was established in 1878 with 30,000 dollars in funds approved by Congress for 50 officers and 430 privates.³⁶¹ As Vine Deloria Jr. and Clifford M. Lytle argue, Indian agents appointed Indians as policeman since Indigenous leaders could not be relied upon to carry out their wishes nor make their people obey.³⁶² By 1890 nearly all Indian agencies had police and there were 70 officers and 700 privates.³⁶³ As Stewart Paul concluded in his study of Indian police, “Indian police, while perhaps viewed as a temporary expedient, were the single largest personnel classification in the Indian service during the 1880s.”³⁶⁴ On the reservations where they were appointed the Indian police forces served at the pleasure of the Indian agent and provided them

³⁶⁰ William Thomas Hagan, *Indian Police and Judges* (New Haven: Yale University Press, 1966), 3.

³⁶¹ *Ibid.*, 42.

³⁶² Deloria & Lytle, 114.

³⁶³ *Ibid.*, 43.

³⁶⁴ Stuart Paul. *The Indian Office: Growth and Development of American Institution 1865-1900* (Ann Arbor: UMI Research Press, 1979), 23.

with the capacity to surveil and discipline Native people without calling for military aid.³⁶⁵

Indian police also emphasized the individual actions of Native people as crimes and disavowed ongoing collective California Indian resistance to U.S. occupation.

The civilizationist settler state project of “domesticating” Native peoples in northwestern California, as elsewhere throughout the carceral settler state, would soon be carried out by the Indian police who were employed by the Indian service and acted under the supervision of Indian agents. The Indian agent on the Hoopa Valley Indian Reservation exercised sole authority over both the Indian police force and the judges appointed to the Court of Indian Offenses who enforced laws that prohibited the Hupa from living as Hupa people. For example, Hupa world renewal ceremonies and dances were targeted by Indian agents who believed that ceremonial practices were evidence of Hupa resistance to civilization.³⁶⁶ For the Hupa, ceremony is a time to renew their relationships with one another, the land, and with the more-than-human beings that make life possible in the Hoopa Valley. Criminalizing Hupa spiritual and political practices was one way that the Indian agents were able to safeguard the settler relations of property which were imperiled by grounded ethical practices of Hupa relationality. Hupa people as well as other Native peoples in northwestern California were depicted as threats to the settler social order which justified the expansion of the Indian police. However, Hupa people were ambivalent about the Indian police and did not readily comply with their orders since they had no centralized government and individual authorities did not receive a lot of deference from them.³⁶⁷

³⁶⁵ Ibid., 26.

³⁶⁶ Nelson, 146-147.

³⁶⁷ Norton, 25.

Frank Kyselka was one of the Indian agents appointed to the Hoopa Valley Indian reservation during the assimilation era. Kyselka, like many Indian agents during this era, believed that Indigenous peoples could be civilized only if they abandoned their cultural and spiritual practices and assimilated into the United States. After Kyselka arrived in Hoopa in 1902, he put his assimilationist views into practice by focusing most of his attention on the success of the Hoopa boarding school and encouraging students to attend boarding schools outside of the Hoopa Valley to increase their contact with white “civilization.”³⁶⁸ Agent Kyselka also appointed the Indian police on the reservation and ordered them to make arrests when parents refused to send their children to school. In one example discussed by Byron Nelson, Kyselka sent the police after a Hupa woman named Emma Henry for failing to send her son to school. The police arrested Henry and dragged her into a wagon while she resisted before locking her in a small guardhouse that functioned as a jail cell on the reservation.³⁶⁹

Kyselka also sent the Indian police whenever there were complaints of white settlers selling alcohol to Indians or reports of drunk Indians on or near the reservation.³⁷⁰ In his report to the Commissioner of Indian Affairs Kyselka wrote that, “Strong efforts have been made to minimize the evils resulting from the use of intoxicants, with a fair degree of success. It is seldom that a drunken Indian is seen on the reservation, and all such are promptly taken in charge by the police and held for trial.”³⁷¹ Kyselka’s fixation on using the Indian police to arrest

³⁶⁸ Nelson, 146.

³⁶⁹ Ibid., 147.

³⁷⁰ Ibid., 147.

³⁷¹ Frank Kyselka. “Reports Concerning Indians in California,” *Annual Report of the Commissioner of Indian Affairs*, 1903. 171-172.

“drunk Indians” on the reservation is particularly important because it demonstrates what Sherene Razack has identified as a fundamental and longstanding colonial encounter between the police officer and the “drunk Indian.”³⁷²

As a result of his punitive policing practices in the Hoopa Valley, Indian agent Kyselka was immensely unpopular among the Hupa. Kyselka’s emphasis on policing Indians’ alcohol consumption and his lack of popularity eventually led to an unfortunate incident where ironically, he was shot by one of the Indian policeman he himself had appointed. On September 15, 1906 an article in the Blue Lake Advocate reported that Kyselka had been shot in the leg by Hoopa Indian policeman Richard Hayden whom Kyselka had tried to arrest and imprison for drunkenness.³⁷³ While resisting his arrest, Richard Hayden had a physical altercation with Kyselka where they struggled over his gun, causing it to fire and shoot the Indian agent in the leg. After shooting Indian Agent Kyselka, Richard Hayden was discharged from the police force.³⁷⁴

Richard Hayden had a longer history of conflicts with Indian agent Frank Kyselka who seemed to have spent a large portion of time policing Hayden’s movements and behaviors. For example, just a few years prior to the shooting incident, Kyselka filed a complaint against a white settler in the bordertown of Willow Creek for selling liquor to Hayden and two other Hupa

³⁷² Sherene Razack, *Dying From Improvement: Inquests and Inquiries into Indigenous Deaths in Custody* (Toronto: University of Toronto Press, 2015), 58.

³⁷³ “A Shooting at Hoopa. Frank Kyselka Wounded by a Drunken Indian. Was Endeavoring to Arrest Him. The Indian Fired Three Shots With Intent to Kill, but Fortunately Failed,” *Blue Lake Advocate* Volume XIX, Number 23, September 15, 1906, California Digital Newspaper Collection, UCR. <https://cdnc.ucr.edu/?a=d&d=BLA19060915.2.11&srpos=5&e=-----en--20--1--txt-txIN-“kyselka”----->.

³⁷⁴ Cahill, *Federal Fathers and Mothers*, 198.

men, Dumphy Hosler and Alfredo Mescat.³⁷⁵ These run-ins with Kyselka and the Hupa people that he policed are indicative of the Hupa peoples' displeasure at being policed and their unwillingness to be governed by the carceral settler state. Agent Kyselka's preoccupation with policing the everyday lives of Hupa people is indicative of the close relationship between carceral violence and California Indian dispossession. The federal Indian policies during the assimilation era imposed U.S. law and order on the Hoopa Valley and established policing as a mechanism of ongoing Indigenous dispossession. However, as the example of Richard Hayden demonstrates, the Hupa resisted the carceral management of their political and social lives and the state responded by increasing state policing of Indian reservations.

Public Law 280 and State Criminal Jurisdiction

During the early 1950s at a time of heightened paranoia about both international and domestic "foreign threats" to American sovereignty following World War II, federal Indian policies geared toward the dissolution of Native nations through assimilation emerged yet again. The policies of the termination era between approximately 1953-1968 introduced another set of laws which sought to sustain Indigenous dispossession with carceral violence in ways that were strikingly similar to the policies of the 1880s. In California and throughout the United States Indian children were once again targeted for removal from their homes and were permanently placed with white families through state child welfare agencies, which were assisted with finding

³⁷⁵ "A Serious Charge To Prove, Willow Creek Whisky Said to Have Been Sold to Hupa Indians, Superintendent Kyselka of Hupa Makes the Charge—About the Football Game Xmas," *Blue Lake Advocate* Volume XV, Number 37, December 13, 1902, California Digital Newspaper Collection, UCR. [https://cdnc.ucr.edu/?a=d&d=BLA19021213.2.9&srpos=1&e=-----190-en--20--1--txt-txIN--"mescat"-----](https://cdnc.ucr.edu/?a=d&d=BLA19021213.2.9&srpos=1&e=-----190-en--20--1--txt-txIN--).

children for removal by the Bureau of Indian Affairs.³⁷⁶ California Indians were also once again targeted for removal from their homelands by the federal relocation program which recruited Native people to leave their homes on the reservation to work and live in large cities. While seemingly unrelated to the expansion of the carceral settler state, both Indian child removal and relocation during the Termination era attacked Indigenous peoples' place-based relations and networks of kinship and paved the way for the further entrenchment of settler regimes of property on their dispossessed homelands.

The Termination era earned its name from House Concurrent Resolution 108, which stated that all Indians "be freed from all Federal supervision and control and from all disabilities and limitations specifically applicable to Indians."³⁷⁷ The United States terminated federal recognition for 109 Native nations nationally, including 41 in California, whose people were then divested of their legal status as Indians and all benefits previously guaranteed to them through that recognition, such as land and annuities.³⁷⁸ Termination of federal recognition also meant that many reservations were effectively dissolved and opened for white settlement as private property. The Rancheria Termination Act of 1958 specifically targeted smaller rancherias of California Indians who had been subjected to genocide and displacement since the onset of colonial invasion. The Termination era in federal Indian policy was a period of assimilation where the federal government further developed the carceral settler state by extending states'

³⁷⁶ Addie C. Rolnick, "Assimilation, Removal, Discipline, and Confinement: Native Girls and Government Intervention," *Columbia Journal of Race and Law* Vol. 11 no. 3 (2021): 813-859, 832.

³⁷⁷ Quoted by David E. Wilkins and Heidi Kiiwetinepinesiiik Stark, *American Indian Politics and the American Political System* (Lanham: Rowan & Littlefield Publishers, Inc: 2011), 130.

³⁷⁸ *Ibid.*, 130.

criminal jurisdiction over tribes in the six states with the highest population of Native peoples via the passage of Public Law 280 (PL 280) in 1953.³⁷⁹

When PL 280 was passed in 1953 it withdrew federal criminal jurisdiction on Indian reservations and authorized states to assume concurrent criminal jurisdiction with Indian Tribes without their consent.³⁸⁰ PL 280, much like the Major Crimes Act, was justified by the portrayal of Indian reservations as spaces of “lawlessness” caused by dysfunctional tribal governance.³⁸¹ However, as legal scholar and foremost PL 280 expert Carole Goldberg has argued, “lawlessness” on Indian reservations was largely a construct of the settler state which perceived the lack of tribal police and courts as evidence of a lack of formal systems of governance.³⁸² The failure of the settler state to recognize Indigenous forms of governance and its efforts to manage Indian reservations by imposing law and police echoed the sentiments of the assimilation era. “Like the Major Crimes Act, Public Law 280 was designed to compel cultural assimilation of Indian people by subjecting them to the non-Indian system of legal obligations and individual rights.”³⁸³ The expansion of state criminal jurisdiction on Indian reservations in California effectively expanded the carceral power that states could exercise against Native peoples.

According to Goldberg, it is ironic that the so-called “lawlessness” on Indian reservations attributed to Native peoples was the main justification for PL 280 since PL 280 effectively

³⁷⁹ Carole Goldberg-Ambrose, "Public Law 280 and the Problem of Lawlessness in California Indian Country," *UCLA Law Review* 44, no. 5 (June 1997): 1405-1448, 1406.

³⁸⁰ *Ibid.*, 1406.

³⁸¹ *Ibid.*, 1408.

³⁸² *Ibid.*, 1409.

³⁸³ Frank & Goldberg, 281.

created a legal vacuum where crimes against Native people can be enacted with a large degree of impunity.³⁸⁴ Frank and Goldberg also argue that PL 280 “eliminated most federal criminal jurisdiction in Indian country, including jurisdiction under the Major Crimes Act. Thus Public Law 280 left the affected tribes with no federal alternative if the state or county failed to live up to its obligations.”³⁸⁵ The emphasis on the failure of state police to respond to calls on Indian reservations coupled with the “jurisdictional maze” exacerbated by PL 280 is often cited as a hinderance to tribal nations adequately addressing violence against Native peoples in states like California. Sarah Deer has pointed to the failure of state police to respond consistently and meaningfully to crimes committed on Indian reservations as a key factor for the high rates of violence committed against Native peoples, especially when the violence is committed by non-Indians. Deer argues that “many of the [PL 280] states have not responded with effective law enforcement, leaving tribal communities at the mercy of criminals who prey on the vulnerable.”³⁸⁶ While it has been proven that Native people are victimized by high rates of violence committed on Indian reservations, it is also true that police presence on Indian reservations and in bordertowns often proves fatal for California Indians. The extension of federal and state jurisdiction over California Indian peoples and homelands plagues the health of those communities because it interferes with the grounded networks of relations that constitutes Indigenous nationhood and facilitates the criminalization of Native peoples.³⁸⁷

Colonial Policing and Bordertowns

³⁸⁴ Goldberg-Ambrose, 1427.

³⁸⁵ Frank & Goldberg, 266.

³⁸⁶ Deer, 38.

³⁸⁷ Million, “Policing the Rez,” 102.

Bringing Indians under the criminal jurisdiction of state police in California has not led to greater safety for Native peoples. In fact, research shows that police involved killings of Native people in PL 280 states occur at rates three times higher than non-PL 280 states.³⁸⁸ In a 2019 study of police involved killings of Native people, Mathew Harvey also found that PL 280 states have higher rates of fatal police encounters for Native people, with Native men being fourteen times more likely to be killed by police than white men and Native women being thirty-eight times more likely to be killed in a police encounter than white women.³⁸⁹ Relatedly, a data collecting project on missing and murdered Indigenous women in northern California co-authored by the Yurok Tribe produced a report which found that eight percent of the MMIW cases in the region were killings perpetrated by state police officers.³⁹⁰ Police harassment and violence against Native people on reservations and in white bordertowns is a major problem in Humboldt County. Bordertowns, as Cheryl Redhorse Bennett has articulated, are white settler towns that sit just beyond the borders of Indian reservations and are spaces of gendered racial violence and exploitation for Native peoples.³⁹¹ As members of Red Nation Rising assert, the

³⁸⁸ Hallie Golden, “‘It Haunts Your Life’: California’s Legacy of Police Violence Against Native American Women,” *The Guardian*, Sept. 25, 2020, <https://www.theguardian.com/us-news/2020/sep/25/california-native-american-women-police-violence>.

³⁸⁹ Mathew Harvey, “Fatal Encounters Between Native People and the Police” *The Center For Indian Country Development*, (2019): 14, https://www.minneapolisfed.org/~media/assets/articles/2020/fatal-encounters-between-native-americans-and-the-police/fatal-encounters-between-native-americans-and-the-police_march-2020.pdf?la=en.

³⁹⁰ Sovereign Bodies Institute. *To’ Kee Skuy’ Soo Ney-wo-chek’: I Will See You Again in a Good Way*. July 2021. 49.

³⁹¹ Cheryl Redhorse Bennett, “Another Type of Hate Crime: Violence Against American Indian Women in Reservation Border Towns,” in *Crime and Social Justice in Indian Country* eds. Karen Jarratt-Snyder and Marianne O. Nielsen (Tucson: University of Arizona Press, 2018), 21-38, 24.

bordertown is not just a place, but rather a space of colonial relations which reveals the violence and contradictions of settler colonialism.³⁹²

In rural northwestern California Native people often travel to bordertowns like Willow Creek, the small town that sits outside of the Hoopa Valley Indian reservation, to shop for groceries, dine at restaurants, and picnic in public parks. In the bordertown Native people are surveilled by both civilian settlers and police demonstrating that Indians being outside of the reservation marks them as potential targets for colonial violence. Sherene Razack argues that the police enact violence against Indigenous people in order to both evict them from the civilized space of the settler city and to provide “frontier relationships of regular, violent contact” through which the settler subject comes to exist.³⁹³ By invoking the geographical scale of the Indigenous body and the frontier, Razack demonstrates the close relationship between police violence and the civilizing mission of the settler state that seeks to “domesticate” dispossessed Indigenous homelands and Indigenous people who are portrayed as threats to settler civilization.³⁹⁴ Police violence against Native people in white bordertowns illustrates how the expansion of the carceral settler state is a spatial project that is reproduced by the constant eviction of Indigenous bodies from white settler spaces. Police violence redraws the imposed boundaries of Indian reservation and partitions Native peoples off from the white bordertowns that surround them thereby defending the settlers’ ownership of dispossessed Indigenous homelands. Due to the ongoing

³⁹² Nick Estes et al. *Red Nation Rising*, 6.

³⁹³ Razack, *Dying From Improvement*, 83.

³⁹⁴ *Ibid.*, 84.

resistance and presence of Indigenous peoples the maintenance of settler state legitimacy and settler ownership of dispossessed Indigenous lands requires acts of police violence.

In 2015, Richard Tismil Estrada, a 17 year old Hupa teenager, was killed by California Highway Patrol officer Timothy Gray in the settler bordertown of Willow Creek. Gray was off duty when he responded to a call about a downed power line and possible car crash in Willow Creek at 1:33am.³⁹⁵ Since Gray was off duty he responded to the call without knowing that Estrada's mother in Hoopa had called the police earlier in the evening to request help for her bipolar son who was a minor suffering with a psychotic episode. Estrada had taken a vehicle and left his home at approximately 9:04 pm and his family feared for his well-being.³⁹⁶ Officer Gray alleges that as he approached the wrecked car in Willow Creek that night Estrada attacked him by swinging a machete. Gray immediately discharged his weapon and fired his gun eleven times at Estrada, striking him seven times in the head and body.³⁹⁷ Gray then retreated into his patrol car and called for backup which was answered by Officer Eric Nelson. Nelson arrived on the scene to find Estrada laying naked face down in the street while Gray waited in his patrol car. Nelson then proceeded to tase the naked and severely wounded Estrada and restrained him in

³⁹⁵ Andrew Goff, "DA: No Charges Will be Filed in Officer-Involved Shooting Death of Richard Estrada" *Lost Coast Outpost*, October 1, 2015. <https://lostcoastoutpost.com/2015/oct/1/da-no-charges-will-be-filed-officer-involved-shoot/>

³⁹⁶ Ibid.

³⁹⁷ Ibid.

handcuffs until medical aide arrived. Paramedics arrived on the scene but tragically were unable to revive Richie Estrada, he was pronounced dead at 3:01 am.³⁹⁸

No one was found culpable for the death of Richard Estrada. Estrada was described by police as mentally ill and possibly under the influence of drugs which absolved them of any blame for his death. As Razack has argued, the bordertowns where the police kill Indigenous people are spaces of death that “sustains the colonial order.”³⁹⁹ It is not even a question as to why police encounters with Native people result in their deaths because these encounters are explained away by the pathologization of Indians as inherently dysfunctional and in need of police intervention. Richard Estrada as a Hupa teen with mental health issues was described as an “at risk” youth. “At risk” Native people are depicted as both victims and perpetrators of violence in bordertowns while settlers remain innocent of any wrongdoing.⁴⁰⁰ In her work on the policing of Indigenous girls in Saskatchewan, Jaskiron Dhillon argues that marking Native youth as “at risk” minimizes the role of the state in making them vulnerable to violence and normalizes their encounter with police and policing institutions.⁴⁰¹ Being labeled “at risk” is a colonial inheritance of assimilation, one based in an ideology of improvement and civilization. At risk youth are depicted as being in need of services and intervention either by the police or by social

³⁹⁸ Grant Scott-Goforth. “DA: No Charges in CHP Shooting of Hoopa Boy Last Year,” *North Coast Journal* Oct. 1, 2015. <https://www.northcoastjournal.com/NewsBlog/archives/2015/10/01/da-no-charges-in-chp-shooting-of-young-hoopa-man-last-year>.

³⁹⁹ Sherene H. Razack, “Settler Colonialism, Policing and Racial Terror: The Police Shooting of Loreal Tsingine” *Feminist Legal Studies* 28, 1–20 (2020), 2. <https://doi.org/10.1007/s10691-020-09426-2>.

⁴⁰⁰ Denetdale, “Border Town Violence and Navajo Resistance,” 112.

⁴⁰¹ Jaskiran Dhillon, *Prairie Rising: Indigenous Youth, Decolonization, and the Politics of Intervention* (Toronto: University of Toronto Press, 2017), 87.

workers, school counselors, and even community based non-profits. Policing is a technology that is deployed by the the state to maintain settler dominion over both territory and Native bodies. If California Indians are contained on reservations or in prison, then they pose no threat to the settler bordertown. Police violence dissolves the threat that Native women pose to settler state sovereignty and to the white settler subject who is imperiled by ongoing Indigenous presence.⁴⁰²

Carceral Sovereignty

The shockingly high numbers of MMIP in the U.S. settler state is often blamed on the lack of tribal criminal jurisdiction over crimes committed on Indian reservations, especially crimes committed by non-Indian offenders. However, there is no evidence that tribal police, who are trained and deputized by state police, would do anything to prevent violence against the most marginalized people in Native communities. As demonstrated in this chapter, Indian police were initially created as a way to bring Indians under the “civilizing influence” of settler state law, therefore policing is antithetical to the ethical practices and landed networks of relations that constitute California Indian peoples’ sovereignty. The capacity of Native nations to police, arrest, and incarcerate those who transgress the law within the borders of the reservation has too often been conflated with tribal sovereignty. I argue that tribal governance enacted through the expansion of Native nations’ capacities to deploy carceral violence and punishment in cooperation with the state and federal governments is more accurately described as carceral sovereignty.

Carceral sovereignty is dangerous for Native nations because it displaces the networks of relations which form what Leanne Betasamoksake Simpson refers to as Nishnaabeg

⁴⁰² Razack, 2020, 5.

intelligence.⁴⁰³ Simpson, drawing on Glenn Coulthard's definition of grounded normativity, argues that Nishnaabeg intelligence is Anishinaabe practices of ethical relationality with the land and more-than-human beings.⁴⁰⁴ The sovereignty of the Hupa people, which emanates from our relationships with land, peoples, and more-than-human beings, is diminished by policing. Hupa practices of grounded normativity, such as tending the land with controlled burns, gathering medicines, fishing, and renewing our connections to one another through ceremony, are marginalized by policing. Reducing sovereignty to the practice of policing the reservation also affirms the boundaries of the reservation and acquiesces to the carceral settler state's demarcation of land as property. Reforms that emphasize the expansion of Native nations' capacities to police their own people will not end violence against Native people. Police don't stop violence, housing, healthcare, adequate childcare, healthy rivers and community networks of care do.

⁴⁰³ Simpson *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis: University of Minnesota Press, 2017), 22-23.

⁴⁰⁴ *Ibid.*, 22-23.

Epilogue: Hupa Feminist Abolition

On the night of August 3rd, 2019, a Humboldt County Sheriff's deputy drove north on State Route 96 from Hoopa toward Orleans to answer an emergency call regarding a drug overdose. Just as the Sheriff's deputy drove through Weitchpec, a Yurok town on the border of the Hoopa Valley and Yurok Indian reservations, a black bear tumbled down an embankment and landed squarely on the patrol car. The sudden weight of the bear smashed the windshield, crushed the hood, and caused the car to crash into the embankment.⁴⁰⁵ The officer driving the vehicle managed to escape unharmed just prior to the crash and sat dumbfounded as the car rolled on its side and burst into flames. The bear, having wreaked sufficient havoc, fled like a fugitive into the night.

The story of the destroyed police car made the Bear into something of a local celebrity and granted her the fifteen minutes of fame she was due. She was featured in the Los Angeles Times, The Guardian and a host of smaller periodicals, each of which depicted the incident as an unlucky coincidence that resulted in the fiery destruction of a police car. However, Hupa feminist epistemologies which attend to embodied ethical relationships that are grounded in practices of internationalism, encourage a different reading of Bear's story. In Hupa origin stories, Bear is a sibling to all Indian people who live in the Hoopa Valley and she teaches us how to live together on our homelands in a good way. Bear fishes for salmon out of the Trinity River, she scratches the bark of the bigleaf maple trees, she rests in the winter months, and she gathers medicine to keep her spirit strong. Hupa people, who have always relied on the help of our more-than-human

⁴⁰⁵ "Bear Falls on California Patrol Car, Causing Crash and Fire." *The Guardian*. August 10, 2019, <https://www.theguardian.com/us-news/2019/aug/10/california-bear-patrol-car-fire-crash-humboldt-county>.

kin to make life possible in the valley, have taken many of these important lessons from Bear. Since Hupa people recognize that Bear is a spirited being who acts with intention, what meaning can we make of her destruction of the patrol car? What if, while trudging up the embankment during the evening hours, Bear spotted the oncoming patrol car from a distance and anticipated the exact time that it would cross her path? Perhaps Bear had seen police cars passing through the reservation before and resented their blaring sirens and inconsiderate driving. I wonder, does Bear know the high rates of police violence and incarceration of California Indian peoples? Does she miss those of our people who have been taken away by these cars? Was she acting in mutual self-defense of our homelands which are still invaded by the carceral violence of the settler state? I think so.

The events that inspired the story about Bear destroying a police car occurred the same week that I moved back to Humboldt County to write *Policing, Incarceration, and Dispossession*. I have returned to this particular story about Bear to orient myself toward an expansive Hupa theorization about the carceral experiences of California Indian peoples who live under settler state occupation. Bear's story is indicative of how the U.S. carceral settler state maintains its occupation of Hupa homelands by policing the reservation and her act of mutual self-defense alludes to the long and complex history of U.S. invasion, ongoing Indigenous dispossession, and most importantly, anti-colonial resistance.

To examine the carceral experiences of California Indian peoples who live under settler state occupation as well as sustained Indigenous resistance to ongoing dispossession, I engage with a varied archive of historical newspapers, state and federal laws, and public art. In chapter one I narrate the story of Curly-Headed Tom, a Redwood Creek Indian resistance leader who was

executed in jail at the end of the Indian wars. I share this story in order to demonstrate the endemicity of police violence to U.S. settler state occupation. I also examine the establishment of military forts and Indian reservations in northwestern California and argue that they constituted a carceral geography of invasion which upheld settler regimes of property and enforced the territorial sovereignty of the United States. California Indian dispossession took shape through a carceral geography in northwestern California. However, I also emphasize that California Indians contested the carceral geography of invasion with embodied counter-geographies of refusal by remaining in their homelands and reasserting their relationships to the land and more-than-human beings. In chapter two I emphasize the gendered carceral violence of settler state occupation by interrogating Native women's containment in the white settler household as enslaved domestic laborers. I argue that Native women and girls' containment in the colonial domestic carceral sphere was a foundational element of maintaining U.S. occupation, but I also highlight examples of how California Indian women contested their captivity by killing their captors, stealing provisions, and running away.

The ongoing occupation of California Indian homelands requires a sustained legal structure which deploys carceral violence against racialized and displaced peoples to maintain settler state ownership of territory. In chapter three I tell the story of Charlie Moon, the so-called last Chinese man in Humboldt, and his familial relationship with Minnie Tom, a Redwood Creek Indian woman. I argue that Chinese exclusion and expulsion were a significant part of the history of carceral settler state occupation in northwestern California and demonstrates that Indigenous modes of kinship challenged the carceral logics and machinations of the United States. In analyzing the public commemoration of Charlie Moon through murals and the dedication of

Charlie Moon way in Eureka's historic Chinatown, I assert that the relationship between Moon and Tom disrupts the carceral geography of U.S. occupation.

The development of the U.S. settler state requires the expansion of its capacities to police California Indians and their homelands. In chapter four I analyze federal Indian policies and argue that the development of the carceral settler state was enacted through its self-authorized criminal jurisdiction over Native peoples on Indian reservations. By bringing Native peoples into more frequent contact with the police, higher rates of missing and murdered Indigenous persons occurs and therefore calls to expand the role of policing on Indian reservations cannot end violence against California Indians. Increasing the capacities of Native nations to police and incarcerate people on their homeland encourages ongoing carceral sovereignty.

I want to close by returning to the story of Bear destroying the police car. How does Bear teach us to refute carceral logics of settler state occupation? How does the image of a police car set ablaze in between the Yurok and Hoopa Valley Indian reservations articulate a Hupa feminist abolitionist politic? What is Bear demanding, if not an end to the policing of our lives and homelands.

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