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**HISTORICIZING SEXUAL VIOLENCE AGAINST NATIVE AMERICAN WOMEN:
COLONIZATION, INTRACOMMUNAL SHIFTS, AND CREATIVE FORMS OF
DISCOURSE**

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**SUBMITTED TO SCRIPPS COLLEGE IN PARTIAL FULFILLMENT OF THE
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Introduction

In early January of 2003, Lavetta Elk, Oglala Sioux, reported to the tribal police that she had been sexually assaulted.¹ Elk identified Staff Sergeant Joseph Kopf from the Army's Rapid City recruiting office as her perpetrator. Kopf was leading Elk through the process of joining the Army, and on the day of the assault, Kopf arrived at her house unannounced, claiming he had to take her to Sioux Falls for a required re-evaluation, but instead Kopf took Elk down a dirt road on the reservation and sexually assaulted her in his government. Elk reported that "[h]e took me on a dirt road, tried to rape me and then he completely denied it all."²

After reporting the incident to the tribal police, eventually the Pine Ridge Public Safety Department detained Kopf and escorted him off the reservation. As a white man, Kopf was not under tribal jurisdiction, and therefore the tribal police could not do anything to him.³ Meanwhile, Elk's case was turned over to the U.S. Attorney, who declined to prosecute, a common response from the state and federal attorneys. As for Kopf, as a member of the military, he would be tried in military court, or rather he *should* be tried, but that never happened.⁴

In the court documents, Elk reported Kopf said he had been watching her for three years.⁵ Kopf was in a position of power, one where he had time to watch and plan how he would assault her. It would be naïve to believe that after three years of predatory observation, Kopf did not know how to assault Elk and get away with it. If he was informed on the laws, he would know that non-Native men cannot be prosecuted in Native courts, and he would know that even if he was prosecuted in U.S. court's, non-Native men rarely faced any real punishment.

¹ Jim Kent, "Lakota Woman Accuses U.S. Army Recruiter of Sexual Assault", (Oklahoma City, Oklahoma Indian Times Inc., 2003)

² Ibid.

³ In my first section, I will elaborate on the laws that prohibit tribal governments from prosecuting white men just like in this case. See *Oliphant v. Suquamish* Supreme Court case.

⁴ Kent, "Lakota Woman Accuses U.S. Army Recruiter of Sexual Assault."

⁵ Ibid.

The U.S. Army released a statement that Kopf had “committed an indecent assault [...]with intent to gratify [his] sexual desires” without prosecuting him in military court.⁶ The Military did not even discharge him, and instead he was reduced in rank from Staff Sergeant to Sergeant and transferred out of the area for three months.⁷ Today Elk’s assailant is a free man, employed by the federal government despite the military’s own admission that he did sexually assault Ms. Elk.⁸ While the federal attorney’s refusal to get involved meant Kopf could not be prosecuted in criminal court, Elk pursued a civil case and sued the United States of America for damages from the assault.⁹ A federal judge awarded Elk over one-half million dollars in damages, which indicated the validity of Elk’s case despite the fact that Kopf did not face any formal punishment.¹⁰

Native American women, like Elk, are the most likely to be assaulted of any ethnic group.¹¹ They are then met with the most complex legal system that prevents the administration of justice. The ways in which the federal government and Native Nations’ legal systems overlap deny justice to Native women who have experienced gendered violence. The contemporary map of bizarre overlap between tribal, state, and federal sovereigns is the result of a long history between Anglo-American colonizers and the Indigenous populations of North America. The historical context of federal and tribal jurisdictional conflict helps to make sense of the injustice Native women face today. The historical framework illustrates how the contemporary climate of violence came to be, and this historical analysis is also the only way to build a future without

⁶ Amy L. Casselman, *Injustice in Indian Country : Jurisdiction, American Law, and Sexual Violence against Native Women*, (New York, Peter Lang Publishing, 2016). 2

⁷ Ibid.

⁸ Ibid.

⁹ *Lavetta Elk v. United States*, 2013

¹⁰ Ibid.

¹¹ United States. Department of Justice. *Violence Against Women Act Reauthorization*, 2013.

violence. The history of sexual violence and colonization directly impacts the future because it reveals how violence against Native women was systematized and institutionalized. A future without violence must first address institutions that support and produce violence against Native women. After addressing how these institutions came to be and how they continue to operate, Native activists can breakdown institutionalized violence to create a decolonized future. The long history of sexual violence against Native American women is the first step towards a progressive future.

Sexual violence against Native American women began with the first Europeans. European colonists brought sexual violence with them to America, and they attacked Indigenous women with impunity. One of Columbus' aristocratic friends, Michele de Cuneo, who came with Columbus to North America wrote in his diary:

When I was in the boat, I captured a very beautiful Carib woman...Having brought her into my cabin, and she being naked as is their custom, I conceived desire to take my pleasure. I wanted to put my desire to execution, but she was unwilling for me to do so, and treated me with her nails in such wise that I would have preferred never to have begun. But seeing this...I took a rope-end and thrashed her well, following which she produced such screaming and wailing as would cause you not to believe your ears. Finally we reached an agreement such that, I can tell you, she seemed to have been raised in a veritable school of harlots.¹²

Michele de Cuneo felt it was within his rights as a colonizer to sexually assault an Indigenous woman, and this colonialist sentiment was a core component of the colonial project. Columbus' conquest represented the destruction of Indigenous cultures and livelihood, but it was also representative of the role rape played in the Europeans' destruction.¹³ The rape of Native American women was a cornerstone of American history, and accepting this fact is the first step to understanding the contemporary climate of violence Native women face.

¹² Michele de Cuneo, "Letter to a Friend," in Castillo, Susan P, and Ivy Schweitzer. *The Literatures of Colonial America : An Anthology*. (Malden Blackwell Anthologies, 2001).

¹³ Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America*, (Minneapolis, University of Minnesota Press, 2015).

Settler colonialists used rape and violence as a tool to colonize the New World, and this physical violence continued far after the early days of settlement and well into the establishment of the United States. The consistent violence Native peoples endured from frontiersmen, the U.S. military, traders and more has been well documented.¹⁴ Modern analyses recognize violence and colonization as codependent factors in the founding of the United States. What is less recognized and explored in today's scholarship is how Anglo-American systems institutionalized sexual violence against Native women after 1776, and how this violence against Native women was built to endure throughout time. The first way in which the federal government institutionalized violence was through their push to "civilize" Indians by subjugating Native women within their own communities and creating a patriarchy (a mission carried out by Native men). The second way was through developments in federal Indian policies that eroded tribal sovereignty, which in turn prevented tribal governments from effectively responding to cases of sexual assault. The combination of restructuring Indigenous communities into a patriarchy and diminishing sovereignty worked to build a foundation on which the current climate of violence against Native women could succeed and persist.

The first section of my thesis is on these two historical phenomena. I will begin the section with internal structural shifts in the Cherokee Nation's society, specifically I will focus on how gender roles changed. The Cherokee society is the perfect case study because in the early years of the 19th century, the Cherokee had undergone extensive changes that have been documented in detail.¹⁵ The Cherokee created a new Anglo-American style of government that

¹⁴ For more on violence, rape, and conquest, see Trexler, Richard C. *Sex and Conquest: Gendered Violence, Political Order, and the European Conquest of the Americas*, and McClintock, Anne. *Imperial Leather: Race, Gender, and Sexuality in the Colonial Conquest*.

¹⁵ The Cherokee Nation is only one example of a Native Nation that underwent substantial changes in the colonial context. The shifts I explore cannot be applied to all Native Nations and their histories.

was patriarchal, and it marginalized Cherokee women. Cherokee women became vulnerable to violence in their own communities through the erosion of their positions of power and respect. Theda Perdue, the leading scholar on Cherokee history, illustrates what pre-contact Cherokee life likely resembled—women were agricultural producers and controlled domestic affairs while men were hunters and warriors who engaged in international affairs.¹⁶ By the mid 19th-century, the Cherokee society had completely shifted and men controlled agriculture and internal and external affairs, while women were subjugated and disenfranchised.¹⁷

In my exploration of internal structural shifts, I draw upon a variety of sources, like 19th century anthropologists' works, Cherokee government documents, and correspondence between the Cherokee and the federal government. I use these sources establish what Cherokee life might have been like pre-contact, and how it changed over time. These sources document how the Cherokee Nation transitioned from a matrilineal society in which men and women's roles balanced each other to a patriarchal society in which women were less important than men. The sources reveal that Anglo-American civilizing tactics and Cherokee men worked together to subjugate Cherokee women. Cherokee men played an integral role in the subjugation of their society's women, and this disrupts the traditional colonizer versus colonized dichotomy that portrays the colonizer as the sole perpetrator of violence and the colonized as being helpless victims. While the Cherokee are only one Indigenous society, and they serve as only one example of intracommunal shifts that disrupt the colonizer versus colonized dichotomy, their history can be used to think of more general ways in which Native communities institutionalized intracommunal violence. I use the Cherokee to begin the exploration of how colonization

¹⁶ Theda Perdue, *Cherokee Women : Gender and Culture Change, 1700-1835*. (Lincoln, University of Nebraska Press, 1998).

¹⁷ Ibid.

impacted internal structures that can help illuminate how contemporary violence came into existence.

As Cherokee men institutionalized intracommunal gendered violence, the federal government shifted from assimilationist policies (like the civilizing mission) to policies of removal and elimination. Following the case study of the Cherokee, in my first section I move outward from one specific Nation to the general federal government's Indian policies of the 19th and 20th centuries. These general policies undermined *all* Native judicial systems, so they do not need to be focused on one group specifically.¹⁸ Federal policies created a complex web of jurisdictional conflict around criminal law, leading to cases resembling Lavetta Elk's.¹⁹ The legacy of these policies has created an unnavigable justice system for Native women survivors of gendered violence. If Native women *do* report, there is almost no chance of justice being served for the crimes committed. Contemporary Native women are still suffering from colonialist practices of the past, which means colonization is not over, but rather it is in full operation today.

When the external shifts of federal Indian policy and the internal shifts of gender roles in Native societies are not part of the discourse on violence against Native women, there is little possibility for true progress in the future. The historical account I explore explains *why* present violence exists in the ways it does, and this context can inform *how* to construct solutions that will not simply reinforce institutional violence. While this historical framework is a key starting point, it is still incomplete because Native women's voices are unheard. As Cherokee society shifted into a patriarchal hierarchy, Native women's voices were lost. Throughout changes in federal Indian policy, Native women's experiences with violence, jurisdiction, and justice again appear to be nonexistent. These apparent gaps in the historical discourse make the project of

¹⁸ Carol Lujan, "U.S. Colonization of Indian Justice Systems: A Brief History." (Wicazo Sa Review 19, 2004) 9–23.

¹⁹ Amy Casselman. *Injustice in Indian Country*

understanding violence against Native women incomplete, which means solution-building is still hindered. Native women are the experts on their own experiences, especially with regards to how they relate to history. Given the necessity of Native women's voices in the historical project, my first section cannot exist alone. Cultural transitions and federal Indian policy merely outline the historical reality with context. Native women's perspectives connect to history in a way that complete the historical narrative on gendered violence against Native women because they illuminate how institutionalized violence operates today.

If Native women's perspectives are rendered invisible in most historical sources, like colonizer's diaries, Bureau of Indian Affairs documents, and newspaper articles, I must look to unofficial sources, including fiction, art, poetry, and other imaginative creations. In my second section, I explore how Indigenous women have taken control of their own histories in imaginative creations, and how they refuse to be marginalized and victimized as they appear in normative discourse. These creative sources illuminate Native women's strength and resilience in the ongoing colonization project and its use of sexual violence. The way Native women understand the legacy of colonization informs their discourse on their contemporary experiences. Native art activists use history to work against the notion of colonization being exclusively part of the past, and instead they recognize the contemporary and ongoing colonization project that shapes their everyday lives. Native women in creative sources bring colonization into the present; they bring institutionalized violence into the present, and this is why their contemporary sources are critical in the larger historical project.

My three topics of exploration—internal structural shifts, external federal Indian policy, and Native women's voices in creative sources—historicize contemporary gendered violence. Current political analyses, even found in the Violence Against Women Act, use rhetoric that

separates the contemporary from the historical, which places violence in a vacuum.²⁰ The vacuum hinders any real or tangible progress because it does not face the reasons *why* this violence exists, and *why* it goes unchecked, nor does it account for the voices of those who are actually affected. This multi-layered delusion allows the federal government to propose more and more federally-run programs for Native women survivors without addressing the need for fully realized sovereignty and Native rights. Native women are agents who deserve the right to design their own future outside of the confines of the federal government. Rather than connecting statistics and more federal involvement in Indian Country, history must be analyzed and Native women's agency must be respected to in order to imagine a future with progressive change.

A Note on Terminology

I use the three terms “Native American,” “Indigenous,” and “Indian” interchangeably throughout my work. “Indian” was the most common term used by Americans and the American government for most of this country's history; it is the term that appears in government and official documents, and the nature of the first part of my thesis depends upon these official documents, so it makes sense to use “Indian”. “Indigenous” and “Native American” are both more temporally and geographically accurate than “Indian”, but they are largely new and have not completely eclipsed “Indian.” Contemporary Native women use “Native American” and “Indigenous” in their activism (along with Indian), and given my exploration of Native women's expressions in the second section of my thesis, these terms are also appropriate.

²⁰ U.S. Department of Justice *Violence Against Women Act*. VAWA, even in its many reauthorizations to include Native women (who were not separately noted until 19 years after the first bill passed), fails to connect their statistics to American history and colonization. They continue to allocate much-needed funding to programs for survivors, but they do not address the root of the problem—lack of tribal sovereignty. VAWA 2013 Reauthorizations shines light on the massive problem of violence against Native women, an important first step in combatting violence, but provides no long-term or Native-controlled solutions.

Ultimately, I chose to use all three terms to demonstrate how difficult it is to navigate identity within the colonial context, which resembles the impossible web of jurisdiction created by the federal government explored in my thesis. The overlapping nomenclature for identity is a reflection of the overlapping systems that operate within Native lives and their communities.

A Note on Gender

In this project, I use the heteronormative gender binary of men and women. This is not meant to undermine the very serious role of colonization in violence against two-spirit and non-conforming Native individuals. Even more so, this is not meant to obscure the reality that two-spirit and non-conforming people are the most likely to experience sexual violence, as is the devastating case for all ethnic and racial groups. The gender binary without fluidity is a Euro/Western construct, and many historians of Native America believe this was not the case in Native societies pre-contact.²¹ Native societies divided themselves based on a male/female divide, but this was not an impenetrable boundary. European colonizers forced a strict gender division on Native societies, which itself is a form of violence. My thesis did not concentrate on how this colonialist violence operates today because I have limited my study to the use of woman/man binary for clarity and concision. Qwo-Li Driskill's work *Sovereign Erotics*, David Robertson's *Love Beyond Body, Space, and Time* and Joanne Barker's *Critically Sovereign* are all decolonial works that explore non-binary and non-heteronormative Indian realities.

²¹ Two historians who study this pre-contact possibility are Devon Mihesuah and Theda Perdue.

Section One: Internal and External Shifts Framing Violence Against Native Women

We, collectively, find that we are often in the role of the prey, to a predator society, whether for sexual discrimination, exploitation, sterilization, absence of control over our bodies, or being the subjects of repressive laws and legislation in which we have no voice. This occurs on an individual level, but equally, and more significantly on a societal level. It is also critical to point out at this time, that most matrilineal societies, societies in which governance and decision making are largely controlled by women, have been obliterated from the face of the earth by colonialism, and subsequently industrialism.

-Winona LaDuke (Anishinaabe)²²

Internal Shifts in Cherokee Society

In one of Tillie Black Bear's speeches to the 2008 UNITED Conference in Michigan, she argued "tribal women...were not recognized in [their] rights as leaders within [their] tribes," and this patriarchal colonial history was at the root of violence against Native women.²³ Black Bear has been credited as the "grandmother" of the Native women's movement against abuse.²⁴ In her speech, Black Bear implied tribal women had "rights as leaders," and therefore power in their

²² Winona LaDuke, *The Winona LaDuke Reader: A Collection of Essential Writings* (Stillwater, Voyageur Press, 2002).

²³ *Tillie Black Bear: Tribal Domestic Violence Once Punished by Death* <http://archive.org/details/WhiteHorse-TillieBlackBearTribalDomesticViolenceOncePunishedByDeat802-2>.

²⁴ Anne L Horton and Judith A Williamson. *Abuse and Religion: When Praying Isn't Enough*. (Lexington, Lexington Books, 1988).

communities prior to colonial contact; it was how the Europeans undermined Native women's power that led to the modern system in which Native women are victims of abuse without protection or justice. The erosion of Native women's power institutionalized Indigenous intracommunal violence. If Tillie Black Bear's line of logic is correct, then how, when, and why Native women's roles lessened in importance are the first questions to ask to historicize contemporary violence against Native women. The shift of gender roles within Indigenous societies illuminates where institutionalized sexual violence in Indian Country originated.

The Cherokee Nation's history perfectly exemplifies changing gender roles throughout the 18th, 19th, and 20th centuries. Cherokee women were subjugated within an emerging patriarchy in the early 19th century; Cherokee women's importance lessened as the Nation, their laws, and their governmental structures began to closely resemble the Anglo-American world around them. The Cherokee serve as a specific example for the larger and more general 19th century trend Native women becoming subjugated in their own communities, as Black Bear argued in 2008. In the later part of the 19th century, federal Indian policies eroded Native Nations' judicial power, which hindered Nations' ability to administer justice for women. In conjunction, these two historical transitions of the 19th century, encompassed in Winona LaDuke's quote, create a historical framework through which contemporary violence against Native women can be understood.

Europeans, as they explored the New World, wrote of the Indigenous populations, their customs, and beliefs. Historians must rely on a combination of these colonial documents with oral histories still passed down within Indigenous communities in order to construct various Native histories. While these limited resources make it impossible to unquestionably know what a Nation, like the Cherokee, was like pre-contact, there are some documents from

anthropologists and ethnographers that claimed to have recorded the true oral traditions of the Cherokee. James Mooney, a 19th century anthropologist, set out to record Cherokee traditional stories. Of course, stories and myths were not historical accounts, but they were the stories a people told about themselves, where they came from, and the natural laws that dictated their lives.²⁵ Among the stories Mooney transcribed, the Cherokee creation story was most revealing of traditional ideas of gender roles. The Cherokee creation myth outlined the separate and categorized roles of men and women, and it explained the natural world around them. The creation myth revealed how the Cherokee possibly structured their society pre-contact, and this pre-contact reality is the base upon which the change in gender roles can be measured.

The Cherokee traditionally lived in the valleys of the Southern Appalachians, and they believed their people inhabited that part of the earth since the beginning of time. Among the first Cherokee were hunter Kana'ti and his wife Selu (meaning corn).²⁶ Kana'ti went out every morning to find meat for the family, taking his bow and arrow, and he came back with ample amounts of meat. His sons followed him one day, found all the deer and animals were blocked into a cave, and they discovered that every day Kana'ti moved the stone enclosing the animals, released one, killed it, and brought it home for Selu to prepare and cook. The boys moved the stone to kill one of the animals themselves, and they accidentally released all the animals. Kana'ti said, upon discovery, "whenever you were hungry all I had to do was to come up here and get a deer or a turkey and bring it home for your mother to cook; but now you have let out all the animals, and after this when you want a deer to eat you will have to hunt all over the woods for it, and then maybe not find one."²⁷ This part of the creation story explained why men had to

²⁵ Rayna Green. *Women in American Indian Society*. Indians of North America (New York: Chelsea House, 1992)

²⁶ James Mooney, *Myths of the Cherokee* (Washington, 1902).

²⁷ Ibid.

search far and wide for meat (natural law), but it also solidified the role of men as hunters and women as the ones who prepared animals and cooked the food (social law). Selu always brought home corn and beans, and one day when the boys went to see how she got the corn and beans, they saw her “rub her stomach” and “rub under her armpits” to produce the food, which the boys considered witchcraft.²⁸ The boys pledged to kill Selu for her witchcraft, and when she discovered this plan, she gave them explicit instructions on what to do with her body in order to grow corn. The boys did not completely follow her instructions, and that explained why corn only grew twice a year and only in certain areas. Selu’s part of the story explained corn and bean’s growing patterns (natural law), and again it reinforced women’s roles as agricultural producers (social law).

Kana’ti and Selu explained the Cherokee way of life, specifically with regards to gender roles and divisions of labor. The story showed Cherokee men and women lived in cosmic balance. Theda Perdue, the leading scholar on Cherokee history, used these myths, along with oral testimonies and 19th century documents like Mooney’s, to assess what pre-contact Cherokee life was like. Perdue argued that “Men did not dominate women, and women were not subservient to men. Men knew little about the world of women; they had no power over women and no control over women’s activities. Women had their own arena of power, and any threat to its integrity jeopardized cosmic order.”²⁹ Perdue believed the historical account supported the notion that traditional Cherokee society balanced gender roles and lacked a patriarchal hierarchy. This balance stood in stark contrast to the way European invaders structured their societies.³⁰

²⁸ Ibid.

²⁹ Theda Perdue, *Cherokee Women*. 13

³⁰ Ibid. 14

The Europeans who arrived in North America, despite national and religious differences, were Christian peoples. The Christian creation story similarly addressed gender, but in a strikingly different manner; Christianity charged the first woman, Eve, with bringing sin into the world, consequently demanding women's subordination. The Spanish, English, and French all organized themselves according to a Christian patriarchal hierarchy in which women were subservient to men. European men and women did not balance each other like the Cherokee, but rather men and their roles in society were more important than women.³¹ European colonizers did not respect the difference between their own society and the Indigenous societies around them. Instead, through active and passive measures, the settler colonialists restructured Cherokee society to resemble their own European patriarchy. Passively, or rather inadvertently, the colonizers did not engage with Cherokee women and only formed official relationships with Cherokee men, which became more important as contact between the Cherokee and settlers increased over time. Actively, the Anglo-American federal government deployed a civilizing mission that forced the subjugation of women. Both of these passive and active measures resulted in a Cherokee patriarchy.

In the first years of contact between the Cherokee and Europeans, trade and war dominated their relationships. The Cherokee traded deerskins with all of the Europeans and would fight in wars with some groups, like the Spanish, against other groups, like the French. The emphasis on trade and war during the initial contact period threatened the cosmic gender balance by making Cherokee men more important than women. Men hunted and provided the deerskins that drove the eighteenth-century Indian trade, and men were the warriors who

³¹ John D'Emilio and Estelle B Freedman, *Intimate Matters : A History of Sexuality in America* (Chicago, University of Chicago Press, 2012).

made military alliances with the Europeans.³² The changes in men's importance in Cherokee society were part of the European's "passive" restructuring, and it threatened "to take precedence over the interests of women rather than balance them."³³ The colonizers did not force Cherokee men to become more powerful with stronghanded tactics, but rather it was the inadvertent side effect of the nature of colonial relationships. These internal shifts during initial contact enabled further shifts caused by the civilizing mission.

The newly formed American government began an active mission to restructure Indian societies immediately after the American Revolution. George Washington and Henry Knox both advocated for "civilizing policies" as a solution to the "Indian Problem."³⁴ Rather than engage in costly and detrimental wars with the Indigenous peoples, Washington believed they could be taught the ways of Anglo-American life and eventually assimilate. Washington and Knox saw the Native Americans as savage people who could be redeemed if they adopted the tenets of civilization, which for Washington meant the subjugation of women. Washington's plan for Indigenous societies' assimilation appeared in his letter to his "beloved Cherokee."

In his letter, Washington encouraged the Cherokee to adopt an Anglo-American way of life in exchange for goods and federal assistance. Washington first wanted the men to keep farm animals rather than hunt for wild game. He wrote that "[s]ome among you already experience the advantages of keeping cattle and hogs: let all keep them, and increase their numbers, and you will ever have a plenty of meat", as the white settlers did.³⁵ Next, he wanted Cherokee women to learn domestic tasks like spinning and weaving.³⁶ In order to receive federal assistance and new

³² Theda Perdue, *Cherokee Women* p. 62

³³ Ibid. p. 63

³⁴ Devon Mihesuah, *Indigenous American Women* (Lincoln, University of Nebraska Press, 2003).

³⁵ United States. "From George Washington to Cherokee Nation, 29 August 1796," (*Founders Online*) <https://founders.archives.gov/documents/Washington/99-01-02-00897>

³⁶ Ibid.

equipment for farming and weaving, Cherokee women could no longer control agriculture and domestic affairs. Washington's civilizing mission actively worked to restructure Cherokee society by implementing a rewards program. Washington ended his letter with a warning of what would happen if the Cherokee *did not* heed his advice and take advantage of his rewards program. Washington warned:

The advice I have given you is important as it regards your nation: but still more important as the event of the experiment made with you may determine the lot of many nations. If it succeeds, the Beloved Men of the United States will be encouraged to give the same assistance to all the Indian tribes within their boundaries. But if it should fail, they may think it vain to make any further attempts to better the condition of any Indian tribes: for the richness of the soil and the mildness of the air render your country highly favourable for the practice of what I have recommended.³⁷

The threat was overt. In Washington's view, the Cherokee could either assimilate or perish. Or, in other terms, the Cherokee could either subjugate Cherokee women or become extinct—a very active form of colonization.

The American government actively demanded Native societies subjugate their women. Paula Gunn Allen argues that “the colonizers saw (and rightly) that as long as women held unquestioned power of such magnitude, attempts at total conquest of the continents were bound to fail”, so the Americans “exercised every available method to remove Native women from positions of power and to obliterate their gynocratic history.”³⁸ Gunn obviously believes that the colonists actively subjugated *all* Native women in their respective societies. Again, the Cherokee serve as one case study that represents the general trend that obliterated all Native Nation's “gynocratic history.” Gunn's argument, however, is not very dynamic because it only focuses on the reasons why colonization worked to restructure Cherokee society. This argument eliminates the agency of the Cherokee, especially Cherokee men. Cherokee men and the emerging elite

³⁷ Ibid.

³⁸ Paula Gunn Allen, *The Sacred Hoop* (Boston, Beacon Press, 1986) 4

class were far too willing to create a patriarchy in place of cosmic balance. Allen's argument creates a colonizer/colonized dichotomy, which is an inaccurate representation of complex relationships in the colonial context. The major shifts within the Cherokee Nation, while perhaps encouraged by the American colonizer through active and passive methods, were executed by Cherokee men. Cherokee women lost power and control in their communities because Cherokee men willed it.

The emerging elite class of mixed Cherokee-and-white men exerted the most control over the changing society. These men were typically the sons of Cherokee women and white men (traders, Indian agents, frontiersmen). As boys, these mixed men were educated in Christian mission schools created by the civilizing mission. In Christian mission schools, they learned the American way of plantation agriculture and wealth accumulation. Meanwhile, girls were taught domesticity and subjugation, and they would soon use these skills as they became the domestic wives of the wealthy Cherokee elite. Theda Perdue's research found the Cherokee were matrilineal, but this new wealthy class of men threatened matrilineality³⁹ by bequeathing their new inheritances to their sons. Matrilineality was key to women's power and control because it "placed women in a unique position: they alone could convey kinship ties essential to a Cherokee's existence."⁴⁰ The new elite class of Cherokee men rejected matrilineality, and this was a result of both Anglo-American influence and Native men's desire to maintain their newfound monopolization of power. Again, colonization was a major part of women's subjugation, but Native men's participation cannot be ignored.

³⁹ It is interesting to note that the word "matrilineality" is not recognized by Microsoft Word, and when offering a replacement word, the only suggestion is "patrilineality," which perfectly exemplifies how the United States, in the past and now, has never recognized matrilineality as legitimate.

⁴⁰ Theda Perdue, *Cherokee Women* 46

As early as 1808, the Cherokee recorded their first written law, and it officially codified patrilineality. The law concerned fathers' ability to pass down property to their children and it read that men had a right

to give their protection to children as heirs to their fathers property, and to the widows share whom he may have had children by or cohabited with, as his wife, at the time of his decease, and in case a father shall leave or will any property to a child at the time of his decease, which he may have had by another women, then, his present wife shall be entitled to receive any such property as may be left by him or them, when substantiated by two or on disinterested witnesses.⁴¹

Where once "Cherokee law had been informal and clan-based", it was now written and codified to protect Cherokee men's property interests.⁴² The Anglo-American world around them encouraged the establishment of a formal written code and government as a sign of legitimacy and civilization, which further exacerbated Cherokee men's newfound power and control.

The new elite class of Cherokee men benefitted from shifting gender roles beyond their familial unit because removing matrilineality and women's power across the entire community enabled these men to acquire total power unchecked. This class of men worked with Indian agents to encourage total community change, as evidenced by the letters they exchanged. John Ridge, a member of this new elite mixed class, charted Cherokee cultural change in his 1826 letter to an Indian agent. Ridge took pleasure in the ways in which Cherokee life emulated Anglo-American life. He wrote "that there is not...a solitary Cherokee to be found that depends upon the chase for subsistence and every head of a family has his house and farm. The hardest portion of manual labor is performed by the men."⁴³ Ridge illustrated a sharp deviation from women's traditional role as agricultural laborers. He bragged that Cherokee women "sew, they

⁴¹ Cherokee Nation, "Laws of the Cherokee Nation : Adopted by the Council at Various Periods : Printed for the Benefit of the Nation."

⁴² Theda Perdue *Cherokee Women* 13

⁴³ Theda Perdue and Michael D Green, *The Cherokee Removal : A Brief History with Documents*, (Boston, Bedford/St. Martin's, 2016).

weave, they spin, they cook our meals and act well the duties assigned them by Nature as mothers as far as they are able and improved.”⁴⁴ Cherokee men were the new agricultural producers, and Cherokee women had moved into domestic roles, just as Washington had hoped for his “Beloved Cherokees”.

As Cherokee women were pushed towards domesticity, elite Cherokee men created government institutions that closely resembled Anglo-American society. Cherokee men traditionally engaged in international affairs like trade and war, and Cherokee women worked within the community to keep domestic affairs running (domestic in the sense of intracommunal), which would presumably include Cherokee national government institutions. The Cherokee National Council was exclusively made up of men, a clear shift that stripped Cherokee women of the domestic power and control they once had.⁴⁵ The National Council first formed a written code of law including the 1808 inheritance provision. By the 1820’s, the Council drafted the Cherokee Constitution. The Constitution largely resembled the American Constitution, both in the institutions it created and the lack of women’s rights. Men were the sole authors of the Constitution with no input from women, and this eliminated women’s voices for future generations. Article II of the Constitution declares who was allowed to hold positions of power:

No person shall be eligible to a seat in the National Council but a free Cherokee male citizen, who shall have attained to the age of twenty-five years. The descendants of Cherokee men by all free women, except the African race, whose parents may have been living together as man and wife, according to the customs and laws of this Nation, shall be entitled to all the rights and privileges of this Nation as well as the posterity of Cherokee women by all free men. No person who is of negro or mulatto parentage, either by the father’s or the mother’s side, shall be eligible to hold any office of profit, honor or trust, under this government (Article II, Sec. 5).⁴⁶

⁴⁴ Ibid.

⁴⁵ Cherokee Nation, *Constitution and Laws of the Cherokee Nation*. (Harvard University, 1875)

⁴⁶ Ibid.

Cherokee women were not eligible to hold positions of power, nor were they allowed the right to vote (Article III Sec. 7). As in the Anglo-American world, women did not have rights or power in their own communities, but unlike in the Anglo-American world, this was a new and powerful change from their previous way of life.

European invaders did not view Cherokee women as leaders in their communities, and soon after initial contact, the Cherokee society began to resemble the patriarchy surrounding them. Cherokee women's subjugation was institutionalized. Women became vulnerable to intracommunal violence because they were no longer respected or valued in their society. When women are subjugated and considered less than their male counterparts, violence can flourish. Similar versions of shifting power and gender roles can be found in many other Indigenous communities.⁴⁷ The results were almost always the same—Native women became inferior to Native men, and now they are the victims of high rates of domestic abuse.

Unfortunately, Native women's perspectives on their own experiences with the erosion of power are invisible. These gaps in the historical account cannot be retrospectively filled, but instead, contemporary Native women's connection to the past, like Tillie Black Bear's, complete the historical story. In the epigraph, Winona LaDuke finds it "critical" to emphasize "that most matrilineal societies, societies in which governance and decision making are largely controlled by women, have been obliterated from the face of the earth by colonialism" because that historical reality is critical to understand Native women's contemporary lives. Winona LaDuke and her dedication to historical context is an example of why contemporary women's work will be critical in this historical thesis.

External Shifts from Federal Indian Policy

⁴⁷ Devon Mihesuah, *Indigenous American Women: Decolonization, Empowerment, Activism* (Lincoln, University of Nebraska Press, 2003).

LaDuke also argues in her quote that Native women are “the subjects of repressive laws and legislation in which we have no voice,” and the historical account reveals which “repressive laws and legislation” in particular have made Native women vulnerable to sexual violence committed with impunity. As the United States expanded geographically, so did federal Indian policy. As seen in the civilizing mission, the federal government once viewed the Indian as a separate entity that needed to learn the American ways of life. However, this assimilationist view gave way to Andrew Jackson’s era in which Native Americans were viewed as unassimilable savage beings. Jackson and his compatriots famously advocated for the removal of Eastern Indians to West of the Mississippi,⁴⁸ known as the Trail of Tears. Removal was the beginning of the federal government’s project to destroy Indian sovereignty. Throughout the rest of the 19th century and into the 20th, federal Indian policy prevented Native Nations from administering justice for Native women survivors. These federal policies institutionalized state-sanctioned violence by leaving Native women vulnerable to sexual violence without any form of redress.

In 1883, Supreme Court case *Ex Parte Crow Dog* triggered the development of a federal Indian policy that would radically change Native judicial systems. Before reaching the Supreme Court, the case was tried in tribal court. In the tribal court system, Crow Dog, a Brule Sioux band member of the Sioux Nation was found guilty of murdering Spotted Tail, a fellow member of the same band and nation.⁴⁹ The murder happened on Sioux land. The tribal courts found Crow Dog guilty and administered a traditional punishment.⁵⁰ Despite this, the Dakota Territory court took Crow Dog into their custody and tried him in their own district court, where they also convicted

⁴⁸ Register of Debates, 21st Congress, 1st Session 1930

⁴⁹ *Ex Parte Crow Dog* 109 U.S. 5663, 1883

⁵⁰ Stephen L. Pevar, *The Rights of Indians and Tribes*. Fourth ed. (Oxford, Oxford University Press, 2012).

him of murder, but they ruled for capital punishment. Crow Dog claimed that “the district court had no jurisdiction to try him, and that its judgment and sentence are void.”⁵¹

The central question in this case was whether or not the Dakota Territory district court had jurisdiction over Crow Dog’s case. The Territory defended their jurisdiction by employing the famous “bad man clause” from an 1868 treaty with the Sioux nation. The bad man clause states that

If bad men among the Indians shall commit a wrong or depredation upon the person or property of anyone, white, black, or Indian, subject to the authority of the United States and at peace therewith, the Indians herein named solemnly agree that they will, upon proof made to their agent and notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws⁵²

In the Supreme Court decision, penned by Stanley Matthews, the Justices believed “it is quite clear from the context that this does not cover the present case of an alleged wrong committed by one Indian upon the person of another or the same tribe.”⁵³

Justice Matthews argued that the Sioux Nation was enough of an autonomous body to adjudicate crimes in Indian country committed by and against their own people. While he also noted Indian Nations were savage and dependent upon the federal government, he believed precedent indicated federal law did not apply to this case. Matthews cited a previous decision that stated

The tribes for whom the act of 1854 was made were those semi-independent tribes whom our government has always recognized as exempt from our laws, whether within or without the limits of an organized state or territory, and, in regard to their domestic government, left to their own rules and traditions, in whom we have recognized the capacity to make treaties, and with whom the governments, state and national, deal, with a few exceptions only, in their national or tribal character, and not as individuals.⁵⁴

⁵¹ Ibid.

⁵² Sioux Treaty of 1868, National Archives <https://www.archives.gov/education/lessons/sioux-treaty>

⁵³ *Ex Parte Crow Dog*, 1883

⁵⁴ Ibid.

The Sioux were their own group who had the power to adjudicate crimes on their own land committed by their own people. Justice Matthews' decision confirmed the limitations of the federal government's control over Indigenous sovereignty.

When Matthews handed down the decision, absolute mayhem ensued. Frontiersmen and women were outraged over the support of Indian sovereignty, and they cried for the federal government to step in.⁵⁵ Prior to *Ex Parte Crow Dog*, in 1871, the U.S. government passed a law that prohibited federal officials from making any additional treaties with Indian tribes, which officially made tribes wards of the government.⁵⁶ The passage of this law “meant that Congress no longer considered tribes as independent nations capable of signing a treaty...[and] it meant that Congress could limit tribal powers...anytime it wanted, simply by passing a law to that effect.”⁵⁷ Following the Crow Dog case, the federal government used this law to their advantage and passed the Major Crimes Act of 1885. This act completely changed the way Native justice systems operated, and the effects of the Act continue today.

In essence, the Major Crimes Act granted federal jurisdiction over seven kinds of violent crime committed on Indian land: murder, manslaughter, rape, larceny, arson, burglary, and assault with the intent to kill. This Act interfered with tribal self-government, and it forced Native Nations into dependence upon the federal government.⁵⁸ The Act applied to any case in which these violent crimes were committed, even Indian-Indian crimes in Indian Country. Native victims of any of these seven violence crimes could not use their tribal court system, and instead they depended upon the federal government to step in and administer justice. The Major Crimes

⁵⁵ Amy Casselman, *Injustice in Indian Country*

⁵⁶ 16 Stat. 544, 566 codified as 25 U.S.C., this is explored in Stephen Pevar's *The Rights of Indians and Tribes* (2012), and the language of the statute can be found on the U.S. House of Representative's website on U.S. Codes, <http://uscode.house.gov/view.xhtml?path=/prelim@title25/chapter3&edition=prelim>

⁵⁷ Stephen L. Pevar, *The Rights of Indians and Tribes*. 8

⁵⁸ Carol Lujan, “U.S. Colonization of Indian Justice Systems: A Brief History.”

Act operates today in the same way; Native women who have survived sexual violence cannot seek justice within their own communities and instead face the reality that the federal or state government will refuse to prosecute, as seen in Lavetta Elk's case.⁵⁹ The Major Crimes Act was the first of many obstacles placed in the way of Native women seeking justice for sexual violence.

The Major Crimes Act had an interesting caveat as it did not completely divest Native nations from authority over rape.⁶⁰ Tribal Nations argued that "the doctrine of inherent sovereignty requires Congress to divest tribes of concurrent jurisdiction in clear language", which the MCA never explicitly did.⁶¹ Tribal nations and the federal government currently share concurrent jurisdiction over the crimes listed in the Major Crimes Act, but unfortunately "many tribes do not pursue cases against rapists," and instead they seek federal intervention.⁶² Sarah Deer believes tribal courts are so underfunded and mismanaged as a consequence of colonization that they decline these kinds of serious cases.⁶³ Concurrent jurisdiction found in the MCA further complicates sexual assault cases, as the case can volley between tribal and federal courts indefinitely.

As Deer notes, the Major Crimes Act complicated sexual assault in Indian Country by introducing federal jurisdictional conflicts. In 1953, this jurisdictional issue became even more complex when Congress passed Public Law 280. Public Law 280 transferred jurisdiction over criminal matters to some state governments, Alaska, Oregon, California, Nebraska, Minnesota, and Wisconsin. This new state jurisdiction applied to crimes in Indian country by and against

⁵⁹ Amy Casselman, *Injustice in Indian Country* and Sarah Deer, *The Beginning and End of Rape in Indian Country*

⁶⁰ Amy Casselman, *Injustice in Indian Country*

⁶¹ Sarah Deer, *The Beginning and End of Rape* 36

⁶² *Ibid.*

⁶³ *Ibid.* Also see Steven Johnson, "Jurisdiction: Criminal Jurisdiction and Enforcement Problems on Indian Reservations in the Wake of Oliphant," *American Indian Law Review* 7.2 (1979)

Nation members, which are the cases sovereign bodies should have jurisdiction over. The U.S. Department of Justice conducted a study in the 1990's on the repercussions of this law, and in the report, they found that States and tribes have expressed concerns about jurisdictional uncertainty and insufficient funding for law enforcement.⁶⁴ The report argued that “affected tribes and States have faced obstacles in complying with the statute, including jurisdictional uncertainty and insufficient funding for law enforcement.”⁶⁵ Similar to the MCA, Public Law 280 did not completely divest tribal nations of jurisdiction but created a system of concurrent jurisdiction. The Justice Department identified one of the drawbacks of concurrent jurisdiction as “engender[ing] conflict or competition between State and tribal institutions”, which can result in a biased justice system that works against Native women in court.⁶⁶

The jurisdictional conflicts created by the Major Crimes Act and Public Law 280 served as barriers to tribal governments' ability to address sexual assault, and the conflicts continue today. The Supreme Court case *Oliphant v. Suquamish Indian Tribe* (1978), went beyond jurisdiction and completely divested sovereign tribal nations of authority over all crimes involving a non-Indian. Justice William Rehnquist delivered the opinion of the Court, in which he argued “Indian tribal courts do not have inherent criminal jurisdiction to try and to punish non-Indians, and hence may not assume such jurisdiction unless specifically authorized to do so by Congress.”⁶⁷ Rehnquist did not agree with the Suquamish tribe that they had inherent rights to exercise jurisdiction given their status as an autonomous body. Importantly, Rehnquist emphasized that Indian Nations had submitted to the “overriding sovereignty of the United

⁶⁴ Goldberg and Singleton, “Public Law 280 and Law Enforcement in Indian Country—Research Priorities.” (United States Department of Justice, Office of Justice Programs, 1998).

⁶⁵ Goldberg and Singleton. P. 2

⁶⁶ Ibid.

⁶⁷ *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 1953

States” when they “relinquished all rights that it might have had in the lands of the State of Washington and agreed to settle on a reservation.”⁶⁸ Rehnquist’s revisionist narrative about the forced relocation of Native Nations established a tone of superiority that appeared throughout his decision. Rehnquist believed the Suquamish did not have “any semblance of a formal court system” prior to the federal government stepping in, which in combination with his incorrect reference to forced removal reveal Rehnquist’s ignorance of history.⁶⁹ Rehnquist’s opinion reflected the legacy of imperialism and colonization in ongoing decision-making about Indigenous sovereignty; colonization continues to inform knowledge production about Native sovereignty. This colonizer mentality decided how Native women could seek justice in cases involving sexual assault—*Oliphant* allowed non-Indians to come onto Native land, assault Native women, and leave with no immediate consequences from tribal governments and courts.

Federal Indian policies and Supreme Court case decisions left tribal governments powerless to address sexual assault on their land. Native women, like the Cherokee, were left vulnerable to sexual assault when they were subjugated in the colonial context. Both external and internal shifts throughout the ongoing American colonization project have led to the contemporary violence epidemic. The victims of this violence, Native women in today’s world, are invisible in the historical account, and until their perspectives are accounted for, the historical analysis is incomplete. Contemporary Native women, as evidenced with LaDuke and Black Bear, center their modern violence discourse on colonization and the enduring legacy of institutionalized violence throughout history. Without their voices completing the historical story, the future will continue to be riddled with violence. Real constructive progress relies upon two main concepts: first, a systemic-oriented framework for understanding why history has led to

⁶⁸ Ibid.

⁶⁹ Ibid.

a climate of violence, and second the inclusion of Native women’s perspectives on and experiences with institutional-based history. The two ideas, in combination, create solutions that do not rely on the federal government for healing and progress. Grassroots activism calls for the decolonization of state-sanctioned solutions for the future because state solutions perpetuate violence rather than solve it. State solutions perpetuate violence because history shows how the “state” or rather the federal government institutionalized violence and helped institutionalize intracommunal violence. A future without violence cannot use the institutions that created violence.

Section Two: Native Women’s Perspectives in Imaginative Creations

*“it is time to remember
Time to summon our voices from the belly of the earth
Time to feel, cry, rage, heal, and to truly live life instead
it is time to tell ourselves and our daughters
the things that should have been said”*

*--The Things We Taught Our Daughters
by Helen Knott (Dane Zaa/Cree)⁷⁰*

Contemporary Native women are highly aware of the role colonization has played in their present experiences with violence. Indigenous women frequently connect colonization and gendered violence in their activism, just as Tillie Black Bear did when she argued the colonizer’s rejection of women’s power was the reason for intracommunal violence. Indigenous narratives like Black Bear’s argue gendered violence was not a problem in communities before the settlers arrived, which frames colonization as not a mere factor in the prominence of violence, but as an outright cause of violence in women’s lives. Native women’s activism is rooted in the idea that

⁷⁰ Mary Beth Leatherdale, and Lisa Charleyboy, eds. *#notyourprincess : Voices of Native American Women*, (Toronto, Annick Press, 2017) Toronto: Annick Press, 2017.

gendered violence was absent in pre-contact Indigenous life, which counters the notion that violence is natural or simply a part of the Native experience.

Violence in Native American societies now appears as natural. The colonization project has done an excellent job of naturalizing the violence epidemic through systems explored in my previous section. Native women counter this naturalization by analyzing history through a systemic and institutional lens to fight for an alternative future. One of the violent forms of colonization is how it eliminates alternative modes of understanding the world—the world can only operate as a hierarchical patriarchy in which women are subjugated to men’s power and violence. Native women are advocating for an alternative mode of understanding the world by using historical context to denaturalize violence. Violence was never natural, but rather is was institutionalized in the colonization project, and once that reality is established, an alternative future can begin.

Official and government sources, like Bureau of Indian Affairs’ reports, Indian agents’ diaries, and journalism all marginalize Native women’s perspectives. Traditional historiographies that exclusively depend on these official sources in turn also marginalize Native women in the same manner. Native women could neither control the narrative about their own experience nor participate whatsoever in the historical account. Without Native women’s voices and perspectives on how they engage with history, the story is partial. The incomplete history around sexual violence in Indian country has two main consequences. The first consequence is how Native women’s resilience and strength is replaced with their victimization. Native women’s own narratives identify with strength and resilience because they are multi-dimensional beings. Incomplete historical accounts render Native women two-dimensional. Native women have endured centuries of violence yet are still here and advocating for a bright future. Native

women should not be portrayed as victims who have not advocated for themselves because that account would be false. When Indigenous women control the narrative, they can be multi-dimensional beings who fight against the ongoing project of colonization.

The second consequence of this incomplete history is that it places America in a postcolonial time. The oppression and marginalization of Native women becomes a phenomenon of the past; colonization appears to be over, which erases both the ongoing project against Indigenous women's bodies and the history of institutionalized violence. Not only does the incomplete history strip Native women of their multi-dimensional emotional and spiritual humanity, but it also erases the systems in place that allow colonization to endure today. Thus, Native women's perspectives are necessary to illuminate the "real" relationship between historic colonization and contemporary Native women's experiences.

The two consequences of an incomplete history have a direct impact on the future. Native women want and deserve to live in a world where they are not assaulted. The current political potency around the issue and the presence of Native women in the Violence Against Women Act indicates the American government is attempting to discover solutions. Administrative figures, those with power to create change, have brought violence against Native women into public discourse in an attempt to make progress towards a future with no violence. Unfortunately, this administrative attention is not connected to the history of how the climate of violence was created nor is it connected to the ongoing colonization project. Solutions that are not historically informed will not actually decolonize the future because those solutions will not deconstruct institutionalized violence. If the old cliché is true—that history is important because it prevents us from repeating our mistakes—then a full history, one that includes Native women's voices, is

the only way to prevent the past from repeating itself and instead create a future with change and safety.

The question then becomes, where are Native women's voices? They are absent in the history of shifting gender roles, and they are certainly absent in the history of federal Indian policy's erosion of judicial sovereignty. In what forms can Native women control their own narratives while also reaching the public? The answer lies in the many forms of contemporary imaginative creations, such as literature, art, and poetry. In these forms, Native women connect to history and fill historical gaps. The institutions of the past operate in Native women's lives today, so their contemporary imaginative creations can explore this history as an ongoing project. Native women can also complete the project of historicizing violence by exploring the dimensions of their emotional and spiritual experiences; when Native women are in control of narratives about violence, they can characterize themselves as the true multi-dimensional beings they are. The history of colonization without Native women's voices erases their emotions--it does not include how Native women *feel*. Imaginative creations allow Native women to analyze history with a new decolonized perspective, and they also allow space for the emotional response of those who are victims of institutional violence. These contemporary sources are part of a historical thesis because of the ways in which they contribute to, expand upon, and work to complete the historical account.

I will examine three imaginative creations to reveal how they connect to historical context on Native women's own terms. I will illustrate how these pieces educate readers and viewers about the history and contemporary ongoing colonization project of gendered violence as part of a larger project to create a promising future. Louise Erdrich's *The Round House*, Sierra Edd's multi-medium visual piece *Am I Next?*, and the Minnesota Indian Women's Sexual

Assault Coalition's *The Barrette Project* are all excellent examples of imaginative creations that value history as the cornerstone of conversations about contemporary sexual violence. These projects are all built to reach the public, and they can teach the public both about a painful history and the strength and resilience of Native women.

The Round House

Native women's fiction is unique in the way it can harmoniously combine history, contemporary realities, and emotional experiences. They are stories that "document intergenerational suffering and celebrate survival."⁷¹ Jana Magdaleno believes the act of storytelling serves a role of great importance because "the stories we hear and tell, those we inherit and those we generate, all shape who we are and who we might become."⁷² As Jana Magdaleno indicates, story-telling is deeply connected to building Native identity. Magdaleno argues that Native women's stories, like Louise Erdrich's *The Round House*, are "reckonings with the brutal history of colonization and its ongoing consequences."⁷³ These reckonings lay blame on ongoing colonization for contemporary suffering, so the stories "we hear and tell" are ones that connect history to the present. *The Round House* confronts history as a factor in shaping all the characters' lives. Erdrich's characters navigate the impossibly complicated space of being Native in a world where their autonomous personhood is not valued. Federal Indian policies, explored extensively in her novel, control every character's life. *The Round House* is a

⁷¹ Jana Magdaleno, Lauren Muller, and Hertha Dawn Wong, *Reckonings : Contemporary Short Fiction by Native American Women* (Oxford, Oxford University Press, 2008). 2

⁷² Ibid. 3

⁷³ Ibid. 3

“reckoning” exactly as Magdaleno outlined—Erdrich’s story is about ongoing violence in the larger context of a violent history.

Erdrich’s book further builds upon the historical account by exploring her characters’ emotional experiences and their survival tactics. How Native women have survived centuries of violence, and the implications of this survival on their emotional psyche are both part of the historical account. Not only does Erdrich’s book engage with the importance of history in shaping everyday life, but it explores what modern women’s experiences could *feel* like. The form of fiction adds dimension to a historical analysis, and this dimension works to complete the story about Native identity, and, in this case, the story of sexual violence against Native women.

Louise Erdrich, a member of the Turtle Mountain Band of Chippewa Indians, has written over a dozen novels on Native experiences. David Stirrup argues that Erdrich manages to “depict what many understand as ‘Chippewa experience’ while innovatively embracing the ‘European American novelist tradition’ –to successfully navigate the betwixt and between.”⁷⁴ Erdrich has been immensely successful, she has won several awards and is a best-selling author. This success is key because her books are one of the only avenues through which white Americans can access the Native narrative.⁷⁵ Erdrich is in a powerful position to reach white American readers and educate them on the Native experience with authority and literary beauty. In 2012, Erdrich wrote *The Round House*, which addresses contemporary sexual violence against Native women. Overall, the novel analyzes the history of federal Indian policy and also humanizes those who are affected by federal policies. The fictional form allows Erdrich’s characters, including the rape victim, her family, and her community members to all exist as multi-dimensional beings.

⁷⁴ David Stirrup, *Louise Erdrich*. Contemporary American and Canadian Writers, (Manchester, Manchester University Press, 2010). 3

⁷⁵ Ibid.

Historiographies have neutralized Native women and their real pain, trauma, and resilience. History and the past *create* contemporary women's emotional experiences, which is the reason why these emotions must be part of the historical account. Even though it is a work of fiction, Erdrich's book combines historical context with the emotional experiences of her characters, which makes it integral to this history thesis.

The Round House's narrator, Joseph, is a 13-year-old boy whose mother, Geraldine, has been violently raped. Joseph follows his and his family's life after Geraldine's rape, and it is a story filled with pain, community suffering, and healing. The novel begins with Joseph and his father finding Geraldine in her car in the garage after she had been brutally beaten. Joseph does not completely understand what has happened, but, at the hospital, it becomes apparent that Geraldine was violently raped, and it is assumed that the perpetrator had intended to burn her alive. The painful scene at the hospital immediately encounters the issue of jurisdictional conflict. Joseph's father complains that the police should have already arrived to take a statement, and Joseph asks "Which police?" and his father responds with "Exactly."⁷⁶ This moment introduces readers to the bureaucratic complexity surrounding Native women's experiences with sexual assault. Geraldine was traumatized and all focus should have been on her immediate needs, but the bureaucratic web around sexual assault victims denied Geraldine this right.

After returning from the hospital, Joseph tried to understand the overlapping legal problems surrounding his mother's attack. His father was a tribal judge, so Joseph had familiarity with some aspects of the law, and he believes "the problem with most Indian rape cases was that even after there was an indictment the U.S. attorney often declined to take the case to trial."⁷⁷

⁷⁶ Louise Erdrich, *The Round House*, (London, Harper, 2012).

⁷⁷ Ibid.

This typical failure to prosecute was comparable to Lavetta Elk's case. Joseph sees that the roots of this problem

went back to Ex Parte Crow Dog and then the Major Crimes Act of 1885. That was when the federal government first intervened in the decision Indians made among themselves regarding restitution and punishment...then Congress not only decided to try Termination out on us but passed Public Law 280, which gave certain states criminal and civil jurisdiction over Indian lands within their borders. If there was one law that could be repealed or amended for Indian s to this day, that would be Public Law 280....[the agent's] presence was a statement of our toothless sovereignty.⁷⁸

The tribal police could not claim full jurisdiction over Geraldine's case because federal Indian policy divested tribal governments from power over cases of sexual assault. Erdrich briefly educated the reader on federal Indian policy because that history exacerbated Geraldine's suffering. These clear moments (Ex Parte Crow Dog, the Major Crimes Act, and PL 280), are concrete examples of how colonization continues to destroy lives today. These examples link Erdrich's touching contemporary intergenerational tale to the past.

Erdrich's historical context makes sense of the processes surrounding Geraldine's situation, like why the tribal government cannot do anything about her rape. This historical framework, however, is not the end of Erdrich's "reckoning".⁷⁹ The "ongoing consequences" of colonization impact psyches and emotional experiences.⁸⁰ Erdrich chronicles the pain Joseph feels as his mother locks herself in her room and refuses to eat. Joseph describes the rape as having "nearly severed my mother's spirit from her body."⁸¹ Joseph is a young boy who must grapple with trauma more severe than most readers can imagine. In using a young boy as the narrator, Erdrich shows how trauma's impact reaches beyond the victim or survivor. Erdrich treats trauma as a community experience. Contemporary sexual assault is about sovereignty and

⁷⁸ Ibid.

⁷⁹ Stirrup, *Louise Erdrich*.

⁸⁰ Magdaleno, Muller, and Wong, *Reckonings: Contemporary Short Fiction by Native American Women*.

⁸¹ Ibid.

tribal rights, but it is also about community suffering and intergenerational pain. Historiographies render communal trauma obsolete because Native women's voices are absent. Erdrich's perspective as a Native woman tells the historian that the story of sexual assault does not end with court cases and legislation. These are real people who are suffering in real ways. Erdrich uses a 13-year-old boy as the narrator to exemplify how his mother's experience with rape traumatizes everyone around her as well.

History and emotional trauma work together in Erdrich's book to expose the reality of sexual assault in Indian country. Federal Indian policy and colonization have created system in which Native women suffer without any form of redress. Geraldine's story educates the reader on why her rape happened, and why it was so difficult to obtain justice. Erdrich can reach a mass of readers who will be educated on her terms, and this is important because the readers are people who can help shape the future into a reality without violence. Once readers know *how* circumstances have been formed and institutionalized, they can decolonize the future. Once readers are exposed to the communal suffering history has caused, they can understand the stakes involved. Erdrich's book completes the historical account of sexual assault and it functions as a call to action.

Am I Next?

Visual art is an imaginative creation in which Native women can express their understanding of the climate of violence surrounding them, and their experience with the ongoing effects of colonization. Native women produce art about their interwoven experience

with colonization and violence, and in this way, they are contributing to the historical discourse. One young Native artist, Sierra Edd (Diné), argues that “Native art is, and will always be political. As a Diné artist, my art is my resistance. It’s my storytelling and my activism all at once.”⁸² Her art illuminates the detrimental effects of colonization seen in her community. One of her pieces, *Am I Next?* (Figure 1) is a multi-medium work that explores ongoing colonization of Native women’s bodies. The work depicts an Indigenous woman with the text “No mechanism for handling sexual harassment complaints on Navajo Nation,” which is a reference to the many institutions that work against women seeking justice, like Lavetta Elk in her case against Sgt. Kopf.

The woman’s naked body has sections drawn all over with dates written in them. These dates presumably represent years in which the colonial project stripped Native women of their bodily autonomy, like in 1885 with the Major Crimes Act. The fact that her body is naked could



also represent the hyper-sexualization of Indigenous women by settler colonists.⁸³ Native women’s bodies have history inscribed on their skin because American history institutionalized violence against Native women in a way that makes it endure over time. Edd’s work exposes the effects of history on the

contemporary bodies of Native women.

⁸² This quote is on the homepage of Edd’s website: <https://www.eddgirlart.com/>

⁸³ *Intimate Matters*

Am I Next? also highlights the institutional silencing of Native women in the U.S. In the background of the work, there are two faceless Indigenous women, one of whom has attempted to speak but the words are crossed out. When Native women are assaulted, murdered, or go missing, it is unlikely that the world will ever find out due to a lack of publicity in American media, rendering their experience invisible and their faces never seen. Even more common are the instances of violence that women never report. Their pain and trauma go unheard because America has built a system in which they are told not to speak out. If they do speak out, like Lavetta Elk, their voices are often silenced again by a system that refuses to deliver justice.

Despite institutionalized violence, the central female figure shows strength and resilience. History may have written away her bodily autonomy, but the scars on her face show she has healed and is ready to face the colonialist world around her. Scars are signs of healing after a wound, and Native women are always showing immense strength in their ability to heal and continue fighting for justice. As seen in *The Round House*, Native women's narratives importantly marry a "reckoning" with colonialist violence and Native women's strength and resilience. The combination of the two phenomena make Native women's perspectives particular and unique in comparison to historiographies, and the combination is also what makes Native women's works critical to the historical account. *Am I Next?* demands viewers to recognize what ongoing colonization has done to Native women, but more importantly, it shows the strength Native women have and continue to show in the face of this violence.

Edd's work appears in the book *#NotYourPrincess*, a compilation of imaginative creations that act as platforms for Native women's voices. While she is a young artist with a small following and platform, her work still resonates with Native women activists who are working to bring women's voices to the front of their movement. Edd's youth and lack of fame

further exemplifies how all Native women, even the young and emerging activists, connect history to contemporary violence. Sierra Edd makes the inherent connection between gendered violence and ongoing colonization. She layers history, pain, violence, and empowerment into one politically provocative piece. Native women have been denied voices in official or government documents on which historiographies depend, and activists like Edd use art as a legitimate form to participate in historical and political discourse. Art acts as a site of resistance because it is a refusal to remain silent in the colonizer's space. Edd, like many Native women artists, expand conversations on what it means to be a Native woman in the colonial reality in a way that typical historiographies could never achieve.

The Barrette Project

In 2012, the Minnesota Indian Women's Sexual Assault Coalition published *The Barrette Project* to honor Native women survivors of sexual violence. *The Barrette Project* is both a book and a movement that brings awareness to the prevalence of sexual assault against Native women. Most importantly, this project allows Native women to control their own stories and experiences in the form of testimonies. *The Barrette Project*, in its book form, layers several creative forms to create one cohesive piece of resistance to hegemonic historical narratives. *The Barrette Project* achieves three main goals: first, the project resists the notion that colonization of Native women's bodies is problem of the past. Second, the women's testimonies resist the silencing of their voices in the ongoing colonization project. Third, it resists the notion that Native women are solely victims of their circumstances, but instead that they are active agents with resilience and strength. The visual and literary components of *The Barrette Project* allow for these forms of resistance to flourish whereas non-creative historical sources would not.

The Barrette Project, before becoming a book, was first a project that called for the donation of beaded barrettes. The beaded barrettes served as a physical manifestation of Native women's experiences and their strength in the face of violence. The Coalition (MIWSAC) states their reason for using barrettes was also because

they represent so much to us as Native women; pride and beauty - a piece of our dance regalia - the love we feel when clipping a barrette in our daughter's hair - or fear and helplessness, knowing that the same barrette may have been jerked from her hair as she was being assaulted. It is because we feel that beaded barrettes carry with them this strong symbolism that we wanted to use them as a physical representation of our stories, that we share on our traveling memorial- red, velvet covered boards with the stories and barrettes displayed.⁸⁴

The MIWSAC turned the barrette project into a book to share with the world for two main reasons: people need to be educated on this issue, and Native women should not feel alone in the climate of violence. On the first pages of the book, they reference the statistics found in the VAWA, and follow them by saying "while these statistics are unthinkable, these numbers represent the lives of actual women and children forever changed by acts of violence."⁸⁵ This analysis addresses the way in which statistics, when used as evidence of the problem of violence, strips women of their humanity along with their emotional, mental, and spiritual experiences. When standing alone, statistics present a violent reality for Native women that erases the humanity of the victims. The MIWSAC clearly understands statistics are a good first step, but alone they are not enough. Native women still feel alone and need support. The MIWSAC published *The Barrette Project* with the expressed interest that they "hope this book lands in the hands of those who should know they are not alone. They are not invisible."⁸⁶ Native women know about the statistics, they *are* the statistics, and now *The Barrette Project* is the opportunity

⁸⁴ Minnesota Indian Women's Sexual Assault Coalition, *The Barrette Project* (2012)

⁸⁵ Ibid.

⁸⁶ Ibid.

for Native women to go beyond quantitative data and share their stories with each other to create a visible network of solidarity.

The book's format has an image of a beaded barrette next to a written testimony on each page. The testimonies vary widely in their format—poetry, short story, and memorials. These are the stories of Native “mothers, grandmothers, sisters, daughters and aunties” and they “raise awareness, honor survivors, and share [their] powerful stories of healing.”⁸⁷ Importantly, the MIWSAC wanted to share Native women's stories in “beautiful, powerful way”, which gives these women's experiences more dimension, just as Erdrich did in *The Round House*. The women in *The Barrette Project* tell stories of strength and strength and resilience in a variety of beautiful creative forms.

Many of the writers recognize the role of colonization in their current experiences as Native women, but they refuse to allow ongoing colonization to render them helpless victims. Cristine Davison writes that she is “living proof that our history shapes us, but it does not define us” and she is “resilient and powerful.”⁸⁸ She negates the idea that she is just “an image from the past” and other stereotypical ideas of Indians, like that she lives in a tipi. Davidson says “I don't need you to romanticize me, fix me, pity me or patronize me.”⁸⁹ The way in which Davidson engages with history would not be found in a typical historiographical text. The way Davidson depicts her daily life in a world of colonial violence is *part of* the historical discourse because it analyzes how history continues to operate in the present. Davidson's excerpt from *The Barrette Project* is an example of how contemporary works further historical dialogue in order to show how the processes of colonization continue today.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

The second entry in *The Barrette Project* is particularly poignant and visually represents the magnitude of sexual violence. “Names” (see Figure 2) has a list of all the names the author knows who have been assaulted. The author says she timed herself for 5 minutes and wrote



Figure 2

all the names she could think of (the names are coded in a symbolic font so their identities were hidden). There are 99 names listed in coded font. Visually, seeing 99 names is much more powerful than just being told that the author knows 99 people who have been assaulted. Visual representation is more impactful than written statistics and numerical values. This list allows readers to see in one instant a small piece of the magnitude of violence surrounding Native women. 1 in 3 Native women are assaulted in their lifetime, but what does that number really look and feel like? For Native women, instantly they see they are not alone. For non-Native readers, instantly they can see this problem is of monumental proportions.

The imaginative creation of *The Barrette Project* is a site of resistance, education, and cultural remembrance. Those who participate in it are resisting the typical narratives about their experiences, like how they are stereotypically portrayed as victims. The stories themselves and the preface by the MIWSAC educate readers on the prevalence of sexual violence against Native women. The barrettes themselves are manifestations of cultural memory and resilience. The many functions of *The Barrette Project* are only possible because of its format as a creative and

unofficial source. Along with *The Round House*, and “Am I Next?”, *The Barrette Project* is a creative form in which Native women are in control of their own stories. These three sources work against silencing Native women, and Native women’s voices contribute to the historical narrative by making it both more accurate and more multi-dimensional. They all help make the historical account more accurate by exposing the United States’ history of institutionalizing violence against Native women. These institutions, formed by federal Indian policy and colonization, are what allow violence to succeed today. The three creative forms make history more multi-dimensional by introducing their emotional experiences as they relate to the past. Contemporary emotions about how the past functions in the present is all part of the historical account, and this is why they are critical to a historical thesis.

Conclusion

Sexual violence against Native American women has been reported as reaching “epidemic” levels.⁹⁰ The word “epidemic” appeared in many newspaper reports following the Violence Against Women Act Reauthorization in 2013 because the Act stated that “1 in 3 Native women are sexually assaulted in their lifetime.”⁹¹ Sarah Deer, a Native professor who works to end violence against Indigenous women, believes it is incorrect to use the word “epidemic” to describe violence against Native women. Deer argues that “the connotations of the word...suggests that the problem is biological, that the problem originated independent of long-standing oppression” and that violence against Native women “is not a crisis of human origin.”⁹² The connotations of the word “epidemic” stand in opposition to what history reveals—that violence against women has been a long-term and human-motivated project in the ongoing

⁹⁰ Deer, Sarah. *The Beginning and End of Rape* ix

⁹¹ Ibid.

⁹² Ibid.

colonization of Native Americans. Colonization restructured Native societies with the help of Native men, and Indigenous women were made vulnerable to intracommunal violence. Federal Indian policy then eroded Native Nations' judicial power to combat sexual violence in their communities. From the first days of colonization, sexual violence against Native women was normalized and eventually institutionalized. Sexual violence therefore is not a rapidly spreading phenomenon over which nobody had any control, as the word "epidemic" suggests, but rather sexual violence was an integral part of American history that continues today.

Native women are highly aware of how institutionalized violence and colonization have shaped their lives today. Activists have written on it, like Louise Erdrich, painted about it, like Sierra Edd, and organized around it, like the Minnesota Indian Women's Sexual Assault Coalition. These women link history directly to their contemporary experiences. Andrea Smith is one of the founding members of INCITE!, an organization of feminists of color who build coalitions around the intersections of state violence and interpersonal sexual and domestic violence. She believes that "by putting Native women at the center of analysis...we can develop more comprehensive strategies for ending gender violence that benefit not only Indigenous women and women of color, but all people affected by gender violence."⁹³ As Smith suggests, Native women's authority on the role of colonization and the violence they continue to face is key to developing strategies to end gendered violence.

My historical framework argues that the federal government is largely responsible for creating this climate of violence. Native women argue this is exactly the reason why the State should have nothing to do with solution-building. In her book, Smith explores solutions that have been presented by grassroots groups, like Far Out, that are centered on accountability structures

⁹³ Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide*, (Cambridge, South End Press, 2005).

rather than depending on the “racist and colonial criminal legal system to stop domestic and sexual violence” as these systems continue to oppress rather than protect communities of color.⁹⁴ Solutions that are historically informed should not depend on federal structures to protect Native women because federal structures are the reason Native women face violence.

Successful strategies also rely on an educated and motivated public. Native women’s voices on history in creative forms are excellent sources to educate the public. Erdrich and Edd’s works not only place Native women at the center of an historically-informed discourse, but they are also forms that are intended to be consumed. Purely academic sources don’t necessarily educate the greater public. Tillie Black Bear was an outstanding activist in the movement to end domestic violence, but her reach paled in comparison to Erdrich’s. Louise Erdrich can educate millions of Americans on the multi-dimensional experiences of Native American women today. Sierra Edd’s work portrays pain and resilience as part of the Indigenous woman’s experience, and it does so in one quick glance. Creative forms can engage in many different facets of history and historical discourse while also reaching a massive audience, and that is why contemporary creative forms, above other contemporary forms, are so important to the historical account. History and contemporary creative forms, in combination, are the foundations upon which a constructive dialogue about change can be built. Native women’s wellbeing and safety are at stake. It is critical to figure out how to adequately historicize and complete the story on contemporary sexual violence against Indigenous women because the stakes are human lives.

⁹⁴ Ibid.

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