

Sexual Violence and American Indian Genocide

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SUMMARY. This paper discusses the relationship between Christian imperialism, colonialism and sexual violence within Native communities. It is inadequate to conceptualize sexual violence simply as a tool of patriarchy, because sexual violence has served as a primary tool of racism and genocide against Native peoples. Thus, colonialism and sexual violence cannot be separated. This relationship also compels anti-violence advocates to develop responses to sexual violence that do not at the same time strengthen institutions of colonialism and racism. [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-342-9678. E-mail address: getinfo@haworthpressinc.com <Website: <http://www.haworthpressinc.com>>]

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I once attended a conference where a speaker stressed the importance of addressing sexual violence within Native communities. When I returned home, I told a friend of mine, who was a rape survivor, about the speaker's talk. She replied, "You mean other Indian women have been raped?" When I said yes, she asked, "Well, why don't we ever talk about it?" Indeed, the silence surrounding sexual violence in Native communities—particularly the sexual assault of adult women—is overwhelming. Under Janet Reno, the Department of Justice has poured

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millions of dollars into tribally-based sexual and domestic violence programs. While domestic violence programs are proliferating, virtually no tribes have developed comprehensive sexual assault programs.

Native survivors of sexual violence often find no support when they seek healing and justice. When survivors seek help from non-Indian agencies, they are often told to disassociate themselves from their communities where their abusers are. The underlying philosophy of the white-dominated anti-rape movement is implicit in Susan Brownmiller's statement: [Rape] is nothing more or less than a conscious process of intimidation by which all men keep all women in a state of fear.¹ The notion that rape is "nothing more or less" than a tool of patriarchal control fails to consider how rape also serves as a tool of racism and colonialism. At the same time, when Native survivors of sexual violence seek healing within their communities, other community members accuse survivors of undermining sovereignty and being divisive by making public their abuse. According to the Mending the Hoop Technical Assistance Project in Minnesota, tribally-based sexual assault advocates believe that a major difficulty in developing comprehensive programs to address sexual assault in tribal communities, particularly sexual violence against adult women, is that many community members believe that sexual violence is "traditional." Historical evidence suggests, however, that sexual violence was rare in Native communities prior to colonization, and that it has served as a primary weapon in the U.S. war against Native nations ever since. Not only have tribal communities adopted European practices of sexual violence; they have largely lost sight of the fact that sexual violence is, in fact, not an Indian tradition. Both these responses reveal a lack of understanding of how sexual violence itself is an act of colonialism and genocide. Far from being traditional, sexual violence is an attack on Native sovereignty itself. As one elder stated at a conference I attended, "as long as we destroy ourselves from inside, we don't have to worry about anyone on the outside."

THE COLONIAL CONTEXT OF SEXUAL VIOLENCE

Ann Stoler argues that racism, far from being a reaction to crisis in which racial others are scapegoated for social ills, is a permanent part of the social fabric. "[R]acism is not an effect but a tactic in the internal fission of society into binary opposition, a means of creating 'biologized' internal enemies, against whom society must defend itself."² She notes that in the modern state, it is through the constant

purification and elimination of racialized enemies within the state that ensures the growth of the national body. “Racism does not merely arise in moments of crisis, in sporadic cleansings. It is internal to the biopolitical state, woven into the web of the social body, threaded through its fabric.”³ Similarly, Kate Shanley notes that Native peoples are a permanent “present absence” in the U.S. colonial imagination, an “absence” that reinforces at every turn the conviction that Native peoples are indeed vanishing and that the conquest of native lands is justified.⁴ Ella Shoat and Robert Stam describe this absence as “an ambivalently repressive mechanism [which] dispels the anxiety in the face of the Indian, whose very presence is a reminder of the initially precarious grounding of the American nation-state itself . . . In a temporal paradox, living Indians were induced to ‘play dead,’ as it were, in order to perform a narrative of manifest destiny in which their role, ultimately, was to disappear.”⁵ This “absence” is effected through the metaphorical transformation of Native bodies into a pollution which the colonial body must purify itself. As white Californians described in the 1860s, Native people were “the dirtiest lot of human beings on earth” (Rawls, 195). They wear “filthy rags, with their persons unwashed, hair uncombed and swarming with vermin.”⁶ The following 1885 Proctor & Gamble ad for Ivory Soap also illustrates this equation between Indian bodies and dirt.

We were once factious, fierce and wild,
In peaceful arts unreconciled
Our blankets smeared with grease and stains
From buffalo meat and settlers' veins.
Through summer's dust and heat content
From moon to moon unwashed we went,
But IVORY SOAP came like a ray
Of light across our darkened way
And now we're civil, kind and good
And keep the laws as people should,
We wear our linen, lawn and lace
As well as folks with paler face
And now I take, where'er we go
This cake of IVORY SOAP to show
What civilized my squaw and me
And made us clean and fair to see.⁷

In the colonial imagination, Native bodies are also immanently polluted with sexual sin. Albert Cave, Robert Warrior, H.C. Porter, and others have demonstrated that Christian colonizers often likened Native peoples to the biblical Canaanites, both worthy of mass destruction.⁸ What makes Canaanites supposedly worthy of destruction in the biblical narrative and Indian peoples supposedly worthy of destruction in the eyes of their colonizers is that they both personify sexual sin. In the Bible, Canaanites commit acts of sexual perversion in Sodom (Gen 19:1-29), are the descendants of the unsavory relations between Lot and his daughters (Gen 19:30-38), are the descendants of the sexually perverse Ham (Gen 9:22-27), and prostitute themselves in service of their gods (Gen 28:21-22; Deut 28:18; 1Kings 14:24; 2Kings 23:7; Hosea 4:13; Amos 2:7).

Similarly, Native peoples, in the eyes of the colonizers, are marked by their sexual perversity. Alexander Whitaker, a minister in Virginia wrote in 1613: "They live naked in bodie, as if their shame of their sinne deserved no covering: Their names are as naked as their bodie: They esteem it a virtue to lie, deceive and steale as their master the divell teacheth them."⁹ Furthermore, according to Bernardino de Minaya: "Their [the Indians] marriages are not a sacrament but a sacrilege. They are idolatrous, libidinous, and commit sodomy. Their chief desire is to eat, drink, worship heathen idols, and commit bestial obscenities."¹⁰

This understanding of Native peoples as dirty whose sexuality threatens U.S. security was echoed in the comments of one doctor in his attempt to rationalize the mass sterilization of Native women in the 1970s:

People pollute, and too many people crowded too close together cause many of our social and economic problems. These in turn are aggravated by involuntary and irresponsible parenthood . . . We also have obligations to the society of which we are part. The welfare mess, as it has been called, cries out for solutions, one of which is fertility control."¹¹

Herbert Aptheker describes the logical consequences of this sterilization movement:

The ultimate logic of this is crematoria; people are themselves constituting the pollution and inferior people in particular, then crematoria become really vast sewerage projects. Only so may

one understand those who attend the ovens and concocted and conducted the entire enterprise; those “wasted”-to use U.S. army jargon reserved for colonial hostilities-are not really, not fully people.¹²

Because Indian bodies are “dirty,” they are considered sexually violable and “rapable.” That is, in patriarchal thinking, only a body that is “pure” can be violated. The rape of bodies that are considered inherently impure or dirty simply does not count. For instance, prostitutes have almost an impossible time being believed if they are raped because the dominant society considers the prostitute’s body undeserving of integrity and violable at all times. Similarly, the history of mutilation of Indian bodies, both living and dead, makes it clear to Indian people that they are not entitled to bodily integrity. Andrew Jackson, for instance, ordered the mutilation of approximately 800 Muscogee Indian corpses, cutting off their noses and slicing long strips of flesh from their bodies to make bridle reins.¹³ Tecumseh’s skin was flayed and made into razor-straps.¹⁴ A soldier cut off the testicles of White Antelope to make a tobacco pouch.¹⁵ Col. John Chivington led an attack against the Cheyenne and Arapahoe in which nearly all the victims were scalped, their fingers, arms, and ears were amputated to obtain rings, necklaces and other jewelry, and their private parts were cut out to be exhibited before the public in Denver.¹⁶ In the history of massacres against Indian people, colonizers attempt not only to defeat Indian people but to eradicate their very identity and humanity. They attempt to transform Indian people from human beings into tobacco pouches, bridle reins or souvenirs-an object for the consumption of white people.

As Stoler explains this process of racialized colonization,

[T]he more ‘degenerates’ and ‘abnormals’ [in this case Native peoples] are eliminated, the lives of those who speak will be stronger, more vigorous, and improved. The enemies are not political adversaries, but those identified as external and internal threats to the population. Racism is the condition that makes it acceptable to put [certain people] to death in a society of normalization.¹⁷

She further notes that “the imperial discourses on sexuality cast white women as the bearers of more racist imperial order.”¹⁸ By extension,

Native women as bearers of a counter-imperial order pose a supreme threat to the imperial order. Symbolic and literal control over their bodies is important in the war against Native people, as these examples attest:

When I was in the boat I captured a beautiful Carib woman . . . I conceived desire to take pleasure. . . . I took a rope and thrashed her well, for which she raised such unheard screams that you would not have believed your ears. Finally we came to an agreement in such a manner that I can tell you that she seemed to have been brought up in a school of harlots.¹⁹

Two of the best looking of the squaws were lying in such a position, and from the appearance of the genital organs and of their wounds, there can be no doubt that they were first ravished and then shot dead. Nearly all of the dead were mutilated.²⁰

One woman, big with child, rushed into the church, clasping the altar and crying for mercy for herself and unborn babe. She was followed, and fell pierced with a dozen lances . . . the child was torn alive from the yet palpitating body of its mother, first plunged into the holy water to be baptized, and immediately its brains were dashed out against a wall.²¹

The Christians attacked them with buffets and beatings . . . Then they behaved with such temerity and shamelessness that the most powerful ruler of the island had to see his own wife raped by a Christian officer.²²

I heard one man say that he had cut a woman's private parts out, and had them for exhibition on a stick. I heard another man say that he had cut the fingers off of an Indian, to get the rings off his hand. I also heard of numerous instances in which men had cut out the private parts of females, and stretched them over their saddle-bows and some of them over their hats.²³

While the era of Indian massacres in their more explicit form in North America is over, in Latin America, the wholesale rape and mutilation of indigenous women's bodies continues. During the 1982 massacre of Mayan people in the Aldea Rio Negro (Guatemala), 177 women and children were killed, the young women were raped in front of their mothers and the mothers were killed in front of their

children. The younger children were then tied at the ankles and dashed against the rocks until their skulls were broken. This massacre was funded by the U.S. government.²⁴ While many white feminists are correctly outraged by the rapes in Bosnia, organizing to hold a war crimes tribunal against the Serbs, one wonders why the mass rapes in Guatemala, Chiapas or elsewhere against indigenous people in Latin America has not sparked the same outrage. In fact, feminist legal scholar Catherine MacKinnon argues that in Bosnia, “the world has *never* seen sex used this consciously, this cynically, this elaborately, this openly, this systematically . . . as a means of destroying a whole people.”²⁵ She seems to forget that she only lives on this land because millions of Native people were raped, sexually mutilated and murdered. Is perhaps mass rape against European women genocide while mass rape against indigenous women is business as usual? In even the white feminist imagination, are native women’s bodies more rapable than white women’s bodies?

The colonization of Native women’s bodies continues today. When I served as a non-violent witness for the Chippewa spearfishers in the 1980s who were being harassed by white racist mobs, one white harasser carried a sign saying “Save a fish; spear a pregnant squaw.” During the 1990 Mohawk crisis in Oka, a white mob surrounded the ambulance of a Native woman who was attempting to leave the Mohawk reservation because she was hemorrhaging after having given birth. She was forced to “spread her legs” to prove she had given birth. The police at the scene refused to intervene. An Indian man was arrested for “wearing a disguise” (he was wearing jeans), and he was brutally beaten, with his testicles crushed. Two women from Chicago WARN (the organization I belong to) went to Oka to videotape the crisis. They were arrested and held in custody for eleven hours without being charged, and were told that they could not go to the bathroom unless the male police officers could watch. The place they were held was covered with pornographic magazines.

This colonial desire to subjugate Indian women’s bodies was quite apparent when, in 1982, Stuart Kasten marketed a new video, “Custer’s Revenge,” in which players get points each time they, in the form of Custer, rape an Indian woman. The slogan of the game is “When you score, you score.” He describes the game as “a fun sequence where the woman is enjoying a sexual act willingly.” According to the promotional material:

You are General Custer. Your dander's up, your pistol's wavin'. You've hog-tied a ravishing Indian maiden and have a chance to rewrite history and even up an old score. Now, the Indian maiden's hands may be tied, but she's not about to take it lying down, by George! Help is on the way. If you're to get revenge you'll have to rise to the challenge, dodge a tribe of flying arrows and protect your flanks against some downright mean and prickly cactus. But if you can stand pat and last past the strings and arrows-You can stand last. Remember? Revenge is sweet.²⁶

Ironically, while enslaving women's bodies, colonizers argued that they were actually somehow freeing Native women from the "oppression" they supposedly faced in Native nations. Thomas Jefferson argued that Native women "are submitted to unjust drudgery. This I believe is the case with every barbarous people. It is civilization alone which replaces women in the enjoyment of their equality."²⁷ The *Mariposa Gazette* similarly noted that when Indian women were safely under the control of white men, they "are neat, and tidy, and industrious, and soon learn to discharge domestic duties properly and creditably."²⁸ In 1862, a Native man in Conrow Valley was killed and scalped with his head twisted off, with his killers saying "You will not kill any more women and children."²⁹ Apparently, Native women can only be free while under the dominion of white men and both Native and white women have to be protected from Indian men, rather than from white men.

A 1985 Virginia Slims ad reflected a similar notion that white patriarchy saves Native women from oppression. On the left side of the ad was a totem pole of cartoonish figures of Indian women. Their names: Princess Wash and Scrub, Little Running Water Fetcher, Keeper of the Teepee, Princess Breakfast, Lunch and Dinner Preparer, Woman Who Gathers Firewood, Princess Buffalo Robe Sewer, Little Woman Who Weaves All Day; and Woman Who Plucks Feathers for Chief's Headdress. The caption on top of the totem pole reads: "Virginia Slims remembers one of many societies where the women stood head and shoulders above the men." On the right side of the hand, a model, dressed in make up, a tight skirt, nylons and high heels, with the familiar caption: "You've come a long way, baby." The message is that Native women, oppressed in their tribal societies, need to be liberated into the patriarchal standard of beauty where their true free-

dom lies. Ironically, however, while stereotypes prevail that Native women were beasts of burden for their men; in fact, prior to colonization, Indian societies for the most part were not male dominated. Women served as spiritual, political, and military leaders. Many societies were matrilineal and matrilocal. Although there existed a division of labor between women and men, women's and men's labor was accorded similar status.³⁰ Thus, the historical record would suggest, as Paula Gunn Allen argues, that the real roots of feminism should be found in Native societies. In this Virginia Slims ad, however, feminism is tied to colonial conquest-(white) women's liberation is founded upon the destruction of supposedly patriarchal Native societies.

Just as historically white colonizers who raped Indian women claimed that the real rapist was the Indian man, today white men who rape and murder Indian women often make this same claim. In Minneapolis, a white man, Jesse Coulter, raped, murdered and mutilated several Indian women. He claimed to be Indian, adopting the name Jesse Sittingcrow, and emblazoning an AIM tattoo on his arm.³¹

Similarly, Roy Martin, a full-blooded Native man, was charged with sexual assault. The survivor identified the rapist as white, about 25 years old, with a shag haircut. Martin, was 35 with hair past his shoulders.³² Although the case was eventually dismissed, the fact that his case even made it to trial indicates the extent to which Native men are seen as the rapists of white women. Of course, Indian men do commit acts of sexual violence. After years of colonialism and boarding school experience, violence has also been internalized within Indian communities. However, this view of the Indian man as the "true" rapist serves to obscure who has the real power in this racist and patriarchal society. The U.S. is indeed engaged in a "permanent social war" against the Native bodies, particularly Native women's bodies, which threaten its legitimacy.³³ Colonizers evidently recognize the wisdom of the Cheyenne saying, "A Nation is not conquered until the hearts of the women [and their bodies as well] are on the ground."

Through this colonization and abuse of their bodies, Indian people learn to internalize self-hatred. Body image is integrally related to self-esteem. When one's body is not respected, one begins to hate oneself.³⁴ Anne, a Native boarding school student, reflects on this process:

You better not touch yourself . . . If I looked at somebody . . . lust, sex, and I got scared of those sexual feelings. And I did not know how to handle them . . . What really confused me was if intercourse was sin, why are people born? . . . It took me a really long time to get over the fact that . . . I've sinned: I had a child.³⁵

As her words indicate, when the bodies of Indian people are inherently sinful and dirty, it becomes a sin just to be Indian. Thus, it is not a surprise that Indian people who have survived sexual abuse often say that they no longer wish to be Indian. The Menominee poet Chrytos writes in such a voice in her poem "Old Indian Granny."

You told me about all the Indian women you counsel
who say they don't want to be Indian anymore
because a white man or an Indian one raped them
or killed their brother
or somebody tried to run them over in the street
or insulted them or all of it
our daily bread of hate
Sometimes I don't want to be an Indian either
but I've never said so out loud before
Since I'm so proud and political
i have to deny it now
Far more than being hungry
having no place to live or dance
no decent job no home to offer a Granny
It's knowing with each invisible breath
that if you don't make something pretty
they can hang on their walls or wear around their necks
you might as well be dead.³⁶

The fact that many Native peoples will argue that sexual violence is "traditional" indicates the extent to which our communities have internalized self-hatred. As Frantz Fanon argues, "In the colonial context, as we have already pointed out, the natives fight among themselves. They tend to use each other as a screen, and each hides from his neighbor the national enemy."³⁷ Then, as Michael Taussig notes, Native peoples are portrayed by the dominant culture as inherently violent, self-destructive and dysfunctional. For example, Mike Whelan made the following statement at a 1990 zoning hearing, call-

ing for the denial of a permit for an Indian battered women's shelter in South Dakota:

Indian Culture as I view it, is presently so mongrelized as to be a mix of dependency on the Federal Government and a primitive society wholly on the outside of the mainstream of western civilization and thought. The Native American Culture as we know it now, not as it formerly existed, is a culture of hopelessness, godlessness, of joblessness, and lawlessness . . . Alcoholism, social disease, child abuse, and poverty are the hallmarks of this so called culture that you seek to promote, and I would suggest to you that the brave men of the ghost dance would hang their heads in shame at what you now pass off as that culture . . . I think that the Indian way of life as you call it, to me means cigarette burns in arms of children, double checking the locks on my cars, keeping a loaded shotgun by my door, and car bodies and beer cans on the front lawn . . . This is not a matter of race, it is a matter of keeping our community and neighborhood away from that evil that you and your ideas promote.³⁸

Taussig comments on the irony of this logic: "Men are conquered not by invasion but by themselves. It is a strange sentiment, is it not, when faced with so much brutal evidence of invasion."³⁹ But as Fanon notes, this destructive behavior is not "the consequence of the organization of his [sic] nervous system or of characterial originality, but the direct product of the colonial system."⁴⁰

Completing the destruction of a people involves the destruction of the integrity of their culture and spirituality which forms the matrix of Native women's resistance to sexual colonization. Native counselors generally agree that a strong cultural and spiritual identity is essential if Native people are to heal from abuse. This is because Native women's healing entails healing, not only from any personal abuse she has suffered, but also from the patterned history of abuse against her family, her nation, and the environment in which she lives.⁴¹ Because Indian spiritual traditions are holistic, they have the ability to restore survivors of abuse to community, to restore their bodies to wholeness. That is why the most effect programs for healing revolve around reviving indigenous spiritual traditions.

In the colonial discourse, however, Native spiritual traditions become yet another site for the commodification of Indian women's

bodies. As part of the genocidal process, Indian cultures become no longer the means of restoring wholeness, but become objects of consumerism for the dominant culture. Hanauni Kay Trask, Native Hawaiian activist, describes this process as “cultural prostitution.”

“Prostitution” in this context refers to the entire institution which defines a woman (and by extension the “female”) as an object of degraded and victimized sexual value for use and exchange through the medium of money . . . My purpose is not to exact detail or fashion a model but to convey the utter degradation of our culture and our people under corporate tourism by employing “prostitution” as an analytical category . . .

The point, of course, is that everything in Hawai’i can be yours, that is, you the tourist, the non-native, the visitor. The place, the people, the culture, even our identity as a “Native” people is for sale. Thus, Hawai’i, like a lovely woman, is there for the taking.⁴²

Thus, this “New Age” appropriation of Indian spiritualities represents yet another form of sexual abuse for Indian women, hindering its ability to help women heal from abuse. Columnist Andy Rooney represents this dominant ideology when he argues that Native spiritual traditions “involving ritualistic dances with strong sexual overtones [are] demeaning to Indian women and degrading to Indian children.”⁴³ Along similar lines, Mark and Dan Jury produced a film “Dances: Sacred and Profane” (August 1994) which advertised that it “climaxes with the first-ever filming of the Indian Sundance ceremony.” This so called ceremony consisted of a white man, hanging from meat hooks from a tree, praying to the “Great White Spirit,” and was then followed by C.C. Sadist, a group that performs sadomasochistic acts for entertainment.⁴⁴ Similarly, “plastic medicine” are often notorious for sexually abusing their clients in fake Indian ceremonies. Jeffrey Wall was recently sentenced for sexually abusing three girls while claiming this abuse was part of American Indian spiritual rituals that he was conducting as a supposed Indian medicine man.⁴⁵ David “Two Wolves” Smith and Alan Campney “Spotted Wolfe” were also charged for sexually abusing girls during supposed “cleansing” ceremonies.⁴⁶ That so many people do not question that sexual fondling would be part of Indian ceremonies to the point where legitimate spiritual leaders are forced to issue out statements such as “no ceremo-

ny requires anyone to be naked or fondled during the ceremony,”⁴⁷ signifies the extent to which the colonial discourse attempts to shift the meaning of Indian spirituality from something healing to something that is abusive.

Meanwhile, the colonizing religion of Native peoples, Christianity, which is supposed to “save” Native women from supposedly sexually exploitative traditional practices, has only made them more vulnerable to sexual violence. The large scale introduction of sexual violence in Native communities is largely a result of the Christian boarding school system, which had their beginnings in the 1600s under Jesuit priests along the St. Lawrence River. The system was more formalized in 1870 when Congress set aside funds to erect school facilities to be run by churches and missionary societies.⁴⁸ Attendance was mandatory, and children were forcibly taken from their homes for the majority of the year. They were forced to worship Christianity (native traditions were prohibited), and speak English only.⁴⁹ Children were subjected to constant physical and sexual abuse. Irene Mack Pyawasit, a former boarding school resident from the Menominee reservation testifies to her experience which is typical of many students’ experiences:

The government employees that they put into the schools had families but still there were an awful lot of Indian girls turning up pregnant. Because the employees were having a lot of fun, and they would force a girl into a situation, and the girl wouldn’t always be believed. Then, because she came up pregnant, she would be sent home in disgrace. Some boy would be blamed for it, never the government employee. He was always scot-free. And no matter what the girl said, she was never believed.⁵⁰

Even when teachers were charged with abuse, boarding schools refused to investigate. In the case of just one teacher, John Boone at the Hopi school, FBI investigations found that he had sexually abused over 142 children, but the principal of that school had not investigated any allegations of abuse.⁵¹ Despite the epidemic of sexual abuse in boarding schools, the Bureau of Indian Affairs did not issue a policy on reporting sexual abuse until 1987, and did not issue a policy to strengthen the background checks of potential teachers until 1989.⁵²

While not all Native people viewed their boarding school experiences as negative, it appears to be the case that, after the onset of boarding schools in Native communities, abuse becomes endemic

within Indian families. Randy Fred, a former boarding school student, says that children in his school began to mimic the abuse they were experiencing.⁵³ After Father Harold McIntee from St Joseph's residential school on the Alkali Lake reserve was convicted of sexual abuse, two of his victims were later convicted of sexual abuse charges.⁵⁴

ANTI-COLONIAL RESPONSES TO SEXUAL VIOLENCE

The struggle for sovereignty and the struggle against sexual violence cannot be separated. Conceptualizing sexual violence as a tool of genocide and colonialism then fundamentally alters the strategies for combating it. Currently, the rape crisis movement has promoted strengthening the criminal justice system as the primary means to end sexual violence. Rape crisis centers receive much state funding, and their strategies consequently tend to be state-friendly: hire more police, give longer sentences to rapists, etc. There is a contradiction, however, in relying upon the state to solve the problems it is responsible for creating. Native people per capita are the most arrested, most incarcerated, and most victimized by police brutality of any other ethnic group in the country.⁵⁵ Given the oppression Native people face within the criminal justice system, many communities are developing their own programs for addressing criminal behavior based on traditional modes of regulating their societies. However, as James and Elsie B. Zion note, Native domestic violence advocates are often reluctant to pursue traditional alternatives to incarceration for addressing violence against women.⁵⁶ Survivors of domestic and sexual violence programs are often pressured to "forgive and forget" in tribal mediation programs that focus more on maintaining family and tribal unity rather than on providing justice and safety for women. Rupert Ross's study of traditional approaches for addressing sexual/domestic violence on First Nations reserves in Canada notes these approaches are often very successful in addressing child sexual abuse where communities are less likely to blame the victim for the assault. In these cases, the community takes a pro-active effort in holding perpetrators accountable so that incarceration is often unnecessary. When a crime is reported, the working team that deals with sexual violence talks to the perpetrator and gives him the option of participating in the program. The perpetrator must first confess his guilt and then follow a

healing contract, or go to jail. The perpetrator can decline to participate completely in the program and go through normal routes in the justice system. Everyone affected by the crime (victim, perpetrator, family, friends, and the working team) is involved in developing the healing contract. Everyone also holds the perpetrator accountable to his contract. One Tlingit man noted that this approach was often more difficult than going to jail:

First one must deal with the shock and then the dismay on your neighbors faces. One must live with the daily humiliation, and at the same time seek forgiveness not just from victims, but from the community as a whole . . . [A prison sentence] removes the offender from the daily accountability, and may not do anything towards rehabilitation, and for many may actually be an easier disposition than staying in the community.⁵⁷

Elizabeth Barker notes along similar lines that the problem with the criminal justice system is that it diverts accountability from the community to players in the criminal justice system. Perpetrators are taken away from their community and are further disabled from developing ethical relationships within a community context.⁵⁸ Ross notes: "In reality, rather than making the community a safer place, the threat of jail places the community more at risk."⁵⁹

Since the Hollow Lake reserve adopted this approach, 48 offenders have been identified. Only five chose to go to jail, and only two who entered the program have repeated crimes (one of the re-offenders went through the program again and has not re-offended since). However, these approaches, notes Ross, often break down in cases where the victim is an adult woman because community members are more likely to blame her instead of the perpetrator for the assault.⁶⁰

Many Native domestic violence advocates I have interviewed note similar problems in applying traditional methods of justice to cases of sexual assault and domestic violence. One advocate from a tribally-based program in the Plains area contends that traditional approaches are important for addressing violence against women, but they are insufficient. To be effective, they must be backed up by the threat of incarceration. She notes that medicine men have come to her program saying, "we have worked with this offender and we have not been successful in changing him. He needs to join your batterers' program." Traditional approaches toward justice presume that the com-

munity will hold a perpetrator accountable for his crime. However, in cases of violence against adult women, community members often do not regard this violence as a crime and will not hold the offender accountable. Before such approaches can be effective, we must implement community education programs that will sufficiently change community attitudes about these issues.

Another advocate from a reservation in the midwest argues that traditional alternatives to incarceration might in fact be more harsh than incarceration. Many Native people presume that traditional modes of justice focused on conflict resolution. In fact, she argues, penalties for societal infractions were not lenient—they entailed banishment, shaming, reparations, and sometimes death. This advocate was involved in an attempt to revise tribal codes by reincorporating traditional practices, but she found that it was difficult to determine what these practices were, and how they could be made useful today. For example, some practices, such as banishment, would not have the same impact as today. Prior to colonization, Native communities were so close-knit and interdependent that banishment was often the equivalent of a death sentence. Today, however, Native peoples can simply leave home and join the dominant society. In addition, the elders with whom she consulted admitted that their memories of traditional penal systems were tainted with the experience of being in boarding school.

Since incarceration today is understood as punishment, this advocate believes that it is the most appropriate way to address sexual violence. She argues that if a Native man rapes someone, he subscribes to white values rather than Native values because rape is not an Indian tradition. If he follows white values, then he should suffer the white way of punishment.

However, there are a number of difficulties in pursuing incarceration as the solution for addressing sexual assault. First, so few rapes are reported that the criminal justice system rarely has the opportunity to address the problem. Among tribal programs I have interviewed, an average of about 2 cases of rape are even reported each year. Complicating matters, because rape is a major crime, rape cases are generally handed to the States Attorney, who then declines the vast majority of cases. By the time tribal law enforcement programs even see rape cases, a year might have passed since the assault, making it difficult for these programs to prosecute. Also because rape is covered under the Major Crimes Act, many tribes have not even developed codes to

address sexual assault as they have for domestic violence. One advocate who conducted a training for southwestern tribes on sexual assault says that the participants said they did not need to develop codes because the “feds will take care of rape cases.” She then asked how many cases of rape have been federally prosecuted, and the participants discovered that not one case of rape had ever reached the federal courts. In addition, there is inadequate jail space in many tribal communities. When the tribal jail is full, the tribe has to pay the surrounding county to house its prisoners. Given the financial constraints, tribes are reluctant to house prisoners for any length of time.

But perhaps most importantly, as sociologist Luana Ross (Salish) notes, incarceration has been largely ineffective in reducing crime rates in the dominant society, much less Native communities. “The white criminal justice system does not work for white people; what makes us think it’s going to work for us?” she asks.

The criminal justice system in the United States needs a new approach. Of all the countries in the world, we are the leader in incarceration rates—higher than South Africa and the former Soviet Union, countries that are perceived as oppressive to their own citizens. Euro-America builds bigger and better prisons and fills them up with criminals. Society would profit if the criminal justice system employed restorative justice . . . Most prisons in the United States are, by design, what a former prisoner termed “the devil’s house.” Social environments of this sort can only produce dehumanizing conditions.⁶¹

As a number of studies have demonstrated, more prisons and more police do not lead to lower crime rates.⁶² For instance, the Rand Corporation found that California’s three strikes legislation, which requires life sentences for three-time convicted felons, did not reduce the rate of “murders, rapes, and robberies that many people believe to be the law’s principal targets.”⁶³ In fact, changes in crime rate often have more to do with fluctuations in employment rates than with increased police surveillance or increased incarceration rates.⁶⁴ Concludes Steven Walker, “Because no clear link exists between incarceration and crime rates, and because gross incapacitation locks up many low-rate offenders at a great dollar cost to society, we conclude as follows: gross incapacitation is not an effective policy for reducing serious crime.”⁶⁵ Criminologist Elliott Currie similarly finds that “the

best face put on the impact of massive prison increases, in a study routinely used by prison supporters to prove that ‘prison works,’ shows that prison growth seems not to have ‘worked’ at all for homicide or assault, barely if at all for rape . . . ”⁶⁶ The premise of the justice system is that most people are law-abiding except for “deviants” who do not follow the law. However, given the epidemic rates of sexual and domestic violence in which 50 percent of women will be battered and 47 percent will be raped in their lifetime, it is clear that most men are implicated in our rape culture. It is not likely that we can send all of these men to jail. As Fay Koop argues, addressing rape through the justice system simply furthers the myth that rape/domestic violence is caused by a few bad men rather than acts which most men find themselves implicated in.⁶⁷ Thus, relying upon the criminal justice system to end violence against women may strengthen the colonial apparatus in tribal communities that furthers violence while providing nothing more than the illusion of safety to survivors of sexual and domestic violence. As the London based Women Against Rape states:

The prison sentences imposed for rape and sexual assault are often very low relative to sentencing for other offences. It is plain that these very low sentences can endanger women, and also tell potential rapists that rape and sexual assault are not serious crimes in the eyes of the Law. It is equally clear that longer prison sentences are no solution to the tragic problems women have with the courts and the police, and no solution to the causes of rape. An increase in punishment does not satisfy demands for women’s safety. A generalised call for heavier sentencing has traditionally been the way in which politicians have appeared to be doing something about rape, without spending any money on rape prevention, or showing any genuine interest in the protection of women. In fact long sentences are often advocated for reasons which have nothing to do with women’s safety.⁶⁸

Sexual violence is a fundamental attack on Indian sovereignty, and both Native and non-Native communities are challenged to develop programs that address sexual violence from an anti-colonial, anti-racist framework so that we don’t attempt to eradicate acts of personal violence by strengthening the apparatus of state violence. Nothing less

than a holistic approach towards eradicating sexual violence can be successful. As Ines Hernandez-Avila states:

We must imagine a world without rape. But I cannot imagine a world without rape, a world without misogyny, without imagining a world without racism, classism, sexism, homophobia, ageism, historical amnesia and other forms and manifestations of violence directed against those communities that are seen to be “asking for it.” Even the Earth is presumably “asking for it”. . .

What do I imagine then? From my own Native American perspective, I see a world where sovereign indigenous peoples continue to plunge our memories to come back to our originality, to live in dignity and carry on our resuscitated and ever-transforming cultures and traditions with liberty . . . I see a world where native women find strength and continuance in the remembrance of who we really were and are . . . a world where more and more native men find the courage to recognize and honor—that they and the women of their families and communities have the capacity to be profoundly vital and creative human beings.⁶⁹

NOTES

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18. Stoler, 35.

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