

**Until They're All Home: An Examination of State Violence and Transformative  
Possibilities in the Crisis of Missing and Murdered Indigenous Women**

Lila Crank

Undergraduate Honors Thesis  
Ethnic Studies Department

Thesis Advisor:

Dr. Natalie Avalos, Ethnic Studies

Defense Committee:

Dr. Nishant Upadhyay, Ethnic Studies, Honors Council Representative

Dr. Enrique Sepulveda, Ethnic Studies, Additional Committee Member

Dr. Gabriela Rios, Program for Writing and Rhetoric, Additional Committee Member

Dr. Johanna Maes, School of Education, Outside Reader

April 10, 2023

University of Colorado at Boulder

## Acknowledgements

I would like to first recognize my ancestors: to my ancestors who wept, laughed, held one another, and spoke out against injustice; I can only weep, laugh, hold my loved ones, and speak out against injustice because of their resistances. I would like to thank my parents, Orly and Tony for how they have taught me to be a proud, strong, loving Dine Jewish woman; my partner and my dear friends who have patiently held my hand and fed me through the thesis process; my cousins, aunties, and uncles, for their tremendous support; my advisor, Dr. Natalie Avalos, for her guidance and brilliance; my entire committee, for their teachings, warmth, and collaboration; and the Native community at CU Boulder, for inspiring me to show up every day and work to secure more liberated futures for our future children and their children.

I would like to honor my grandparents: Nina Judd, Mary Lou Crank, Loren Crank Sr., and Gilbert Hersh. They each taught me how to live in community, how to enjoy life in their own unique ways, how to cherish traditional teachings and family stories, and how to build a better world for future generations. My grandfathers, Loren Crank Sr. and Gilbert Hersh are no longer with us, but they were both my biggest academic champions and I credit them with my tenacity. As I wept while writing about grief and loss in this thesis, their memories guided me and reminded me how painful wounds can also be fruitful sites for cultivating hope, gratitude, and joy, and how stories can keep us alive beyond our physical beings.

Finally, I would like to express my deepest gratitude to my sibling, Sarah. They are my guiding light, my most cherished person, and my reminder of life's vibrancy. I would not know the depth of love that is possible in this life without our siblinghood and there is no reason for creating, theorizing, and envisioning, without the guiding light of love.

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### Abstract

In this paper, I critically examine State responses to the crisis of Missing and Murdered Indigenous Women (MMIW) in the United States and identify its causes across colonial history. I then offer recommendations for improving immediate responses to MMIW, as well as strategies to properly rectify and prevent the continuation of violence against Native women. Engaging with historical and contemporary testimonies, policies, and critical theory, I argue that to accrue land and capital, the United States has relied on the ideological and institutional dehumanization of Native women across colonial memory. I then illustrate that contemporary violence against Native women is a legacy and recycled form of colonialism: as a result of convoluted State jurisdictional policy and the dehumanization of Native women imbued in American narratives, law enforcement regularly neglects, obstructs, and even perpetrates MMIW cases, facing few if any consequences for their (in)actions and consequently the majority of violent perpetrators go free. The existing State responses to MMIW invest in these neglectful, violent, and punitive law enforcement agencies and further entrench Native communities in the colonial systems that originally opened our wounds. I posit that to remedy the MMIW crisis, the Native community must divest from the State and approach community remedies both systemically and individually: by countering colonial ideologies through critical consciousness building; and by healing generational wounds through intergenerational storytelling. In this way, I propose that fusing traditional teachings with contemporary lenses of *Critical Consciousness* and *Transformative Justice* expands our imaginaries and thus the possibility of transformative futures. By examining the crisis of MMIW as a systemic open wound, we can situate this contemporary movement as an opening to heal from all deadly colonial forces, starting by bringing our women home.

lay your hands upon the truth of beauty's loss

heavy, soft as moss, this blanket

full of tears and dust and dying

becomes ocean cradle, healing, dark

the promise, washed clean by our sorrow

today crying out, as we're birthing tomorrow

not so much redemption

as the law of moon and season

calls for justice

one day, the lawmakers must

exit their echoing halls, fall in

with the grandmothers dancing

carry it            cry it clean

*until they're home, until they are all home*

– “Washing the World” (Sewell, 2018)

### **An Introduction and A Request**

As I sit on the stone steps in front of my grandparents' light blue house on the Navajo Rez, I look down to see the red ants reaching my toes, look up to see cottonwood leaves against a cloudless blue sky and look straight to see the San Juan River's gentle current. My parents would caution me never to go too close to the river because though the current may look gentle, it is strong and could pull me under before I could even call for help. As I sit on the stone steps in front of my grandparents' light blue house, I wonder exactly where my family buried my umbilical cord after I was born into this world. I wonder how many umbilical cords are beneath my feet as I walk across my ancestors' land; how many first laugh ceremonies were held right beneath my feet where my ancestors could hear the same flowing river as they celebrated; how many new lives and first joys the land carries in its memory. In my family, laughter comes in waves, as does grief. When someone passes, often far before their time, we sit around a table or in a circle and tell stories from their life, little bits and pieces, moments that speak to their whole person. Sometimes the older generations tell stories in Navajo and the kids have to piece together the picture from the words we know, but everyone always knows the pattern: gentle talking, quiet stories, then a burst of laughter that hits the same harmony of notes every time. Our memorial storytelling always starts with "Remember when..." or "One time..." and we piece together the life of someone who can no longer make new memories with us in the future. When there is no laughter from our storytelling, there is crying and an ensuing silence from everyone in the room in solidarity, our heads facing down, all of us remembering the reason we're recounting these stories and gathered together.

Grief is not a gentle process, nor is it predictable or linear. Grief can look like laughter, crying, regrets, and anger; tending to wounds and opening our wounds more. There is something

unique, however, when we grieve together. Each of us holds a different piece of the person's life, the person's words and wishes, and how we interpret their death. However, grief without a concrete conclusion can be corrosive. It is the most insidious effect of American violence that Native families often do not have the privilege of a final goodbye, which can hold their grief in suspension. Many Native families lose their children, parents, elders, uncles, friends, their relatives, to violence, some murdered without a known cause or the justice of holding a perpetrator accountable; others lose their children to forces of disappearing, or what is referred to as "going missing," with little to no help from non-Native governmental organizations and agents responsible for searching. These families often describe their wounds as unhealed, wide open, their grief processes wholly torn from them.

Though most painful to the families, the violent deaths and disappearances of our Native relatives remain a tremendous wound for all Native people and a constant, lingering fear we face when we awaken every day: who will it be next? The threat and shrapnel from violence across colonial history is a perpetual condition maintained by settler colonial State institutions, both physical and ideological. At first contact, colonizers believed Native people were more useful dead, as removing our bodies was integral to the building of settlements and stealing resources. In this way, the colonial State might as well consider us dead from the moment we are born, our umbilical cords are buried, and our laughter is commemorated with celebration and joy. A particularly potent example of how this dehumanization manifests over colonial history to the contemporary moment is in the case of Native women who experience violence through a unique positionality as both women and Indigenous under European colonial and patriarchal frameworks.

Notably, patriarchy is a tool of colonialism; both structures are key in institutionalizing one another, tracing back to first contact. As argued by Andrea Smith and Luana Ross (2004), the “constant assault of Native bodies” was key to methods of colonization across colonial history, wherein colonizers “have attempted to eradicate our sense of Indian identity” and deemed the Native body “dirty,” and thus deserving of violence. Native women and girls are particularly vulnerable to *sexual* violence as a form of assault against their bodies, as they are akin to the land in colonial consciousness: they are “sexually violable and ‘rapeable,’” and, just like the land colonizers intend to colonize, “invadeable” (Smith & Ross, 2004). Under European patriarchal logics, sexual violence against “dirty” women is seen as justified, or the violence “does not count,” and stands as the assumed inherent nature of Native women (Smith & Ross, 2004). As offered by Sarah Deer, “rape is more than a metaphor for colonization– it is part and parcel of colonization,” wherein sexual assault “mimics” colonial forces of invasion, assumed ownership, and its “disregard for humanity” (Deer, 2009).

The specific historical forms of violence against Native women and girls are not identical to the original rampages, yet the logics that *justified* said violence is still “deeply embedded” in our contemporary society (Deer, 2009). When a Native woman is missing and law enforcement dismisses her case using dehumanizing or stereotypical language, or when a Native woman is murdered and police neglect her case, lie to families, and even perpetrate violence themselves, all of which are not addressed or shifted by State policy, the State is exemplifying a perpetuation of the colonial ideologies that deemed Native women as disposable and inhuman; through their inaction in cases of violence against Native women, the contemporary State is exposing that it does not believe Native women are deserving of State-defined justice. In this way, across colonial memory into today, Native women are born assumed less deserving of life, if not

entirely inhuman, and thus when their bodies are sexually violated, they vanish, or their breath is permanently stolen through brutal bodily violence, the State accepts these cases of violence as a natural fact, imbued in our country's original order.

Families whose daughters and mothers are missing or murdered and left in suspense are told by the State agents to wait for justice and an arrest that, in reality, they rarely provide (Gilcrease Museum, 2021). Native peoples, however, faced tremendous violence because of American paradigms of "justice," as they were constructed to be enemies of the State, inherently uncivil and violent (Dunbar-Ortiz, 2015). The State was then able to use this narrative to incarcerate, murder, and enslave Native people (Dunbar-Ortiz, 2015). Today, there is a disproportionately high Native incarceration rate that exists in the same justice system where the overwhelming percentage of white perpetrators of violence against Native women do not face arrest, trial, or conviction, State justice, for their violence. Further, the colonial State also deemed Native people incapable of maintaining their own justice systems, in turn justifying paternalistic jurisdictional laws (Bradford, 2002). Therefore, when Native families rely on State-based responses to their Native relatives' murders or disappearances, not only are they relying on a State that ideologically dehumanizes Native women, but a systemic consequence of dehumanization wherein the State exempts perpetrators of violence against Native women from punishment and incarceration, or State-defined "justice."

This paper will explore the intersecting problem of Indigenous women's deaths and disappearances, grief in suspense, finding justice, and building Indigenous futures. I ask, how has the specific positionality of Native women contributed to their dehumanization and thus the invisibility of violence against Native women? What structures and mechanisms maintain and reshape historical colonial violence against Native women into the present day? How has the

State and how have our communities responded to high rates of missing and murdered Indigenous women and girls? What are some fruitful opportunities to rectify and prevent violence against Native women using frameworks beyond State logics? What can happen when we transform our lenses of “justice” from punitive to transformative? To answer this final question, I engage with Transformative Justice (TJ), which seeks to repair harm outside of punitive and carceral State ideologies and institutions by reshaping our consciousnesses about what constitutes a crime and examining and operating to dismantle the *roots* of violence (Mingus, 2019). TJ is a framework that “challenges the validity of...individualistic and legalistic processes,” which are not historically-rooted, but rather “actor-centred...ignor[ing] the social relations that give structure to human societies” (McGill, 2017). In the case of MMIW, the relevant social relations at hand would be colonialism and patriarchy.

I argue the colonial State’s desire to eliminate the Native paired with outright physical violence has taken many forms over time, today represented by the crisis of MMIW, all of which are built on the colonial and patriarchal ideologies that Native women and girls are not deserving of bodily safety, act naturally as sexual objects, and are not deserving of justice. I argue that the methods with which Native peoples heal our perpetual grief and find *non-State* justice for our disappeared and murdered women and girls should not be tied to colonial logics, but should instead be guided by the framework of transformative justice through the development of critical consciousness, theorized by abolitionist Mariame Kaba and educator Paulo Freire. Transforming justice requires Native people to deconstruct present systems and build new imaginaries through various strategies, a few of which I offer guided by Paulo Freire’s theory of critical consciousness development. I offer that by intertwining contemporary frameworks of critical consciousness and transformative justice with intergenerational and cultural re/membrance, we

can free ourselves from the colonial grip that relies on logics of five hundred years ago to maintain dominance today. I humbly offer these transformative possibilities with the recognition that I am building from long bodies of work from Black, Indigenous, disabled, Queer and Trans, and woman-identifying peoples (and all of their intersections), with significant recognition of the theoretical and organizational work of Native women at the frontlines of the MMIW movement.

Transformation of our social world relies on community and relationships, without which we have no futures to theorize, no consciousnesses to reclaim. Native women and girls' disappearances and murders have been invisibilized and discarded by the State. In response, I trouble the problem, offer solutions, and tell their stories. I encourage readers to remember moments they have been in grief. When we grieve for loved ones, we remember them as whole beings, never just their deaths. This dignity should be afforded to the people whose stories are detailed in this paper; remember they cannot live on in our memories if their deaths are all we know. This paper is an offer to sit at a metaphorical table of remembrance and like my family, tell stories of real people, real families, our grief transcending time and space. When new lives enter this world, their births marked through ceremony, and their laughter celebrated, we must model for our children how to remember with love, how to grieve with purpose, and how to imagine more liberated futures. As with all good Indigenous storytelling, we do this in the name of those who have passed and we do this for those who will be born.

until light through their bodies

translates to rainbows hung over the land

until light through their bodies

translates to rainbows strung over this land

until light through our bodies

translates to rainbows shining over our land

*until we're home, until we all are home*

– “Washing the World” (Sewell, 2018)

**Part I: In Suspense, In Grief: An Overview of Missing and Murdered Indigenous Women  
and Girls (MMIWG)**

Dark secrets

Darker lies

Fading heartbeat

Fading cries

Started sinking

Like a stone

Going down

Not going home

The tide has turned

The waters rise

Another day passes by

I could see them, I could see them

My love

I could see them I could see them

My blood

Rising through the flood

– “Through the Flood” (Indian City, 2017).

## **The Movement**

Like many twenty-first-century movements, #MMIW, or #Missing and Murdered Indigenous Women, started on Twitter. In 2012, Sheila North Wilson, former Grand Chief of a Canadian First Nations policy advocacy organization Manitoba Keewatinowi Okimakanak, coined and employed #MMIW for an awareness campaign on social media, inspired by the many stories of families with missing or murdered loved ones (CBC Radio, 2016). MMIW grew into a grassroots movement across Canada, led primarily by First Nations women, and put pressure on government officials to document, publicly address, and respond to the national crisis of disproportionately high rates of missing and murdered Indigenous women and general violence against Native women. Importantly, MMIW as a unified movement was born in 2012, but various organizations, including the Native Women's Association of Canada, collected case data back to the 1980s (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2017). Additionally, central to the spirit of the movement, families carried the stories of their missing and murdered relatives and MMIW served as a comprehensive collection of community experiences; MMIW was formed to make visible the larger trend, the individual stories, and tie together their realities of perpetual grief to similar histories across *colonization*. Soon after Canada, MMIW was quickly adopted by Indigenous communities in the United States. The Trump Administration signed the bipartisan, first federal MMIW policies, Savanna's Act and the Not Invisible Act, into law in 2020 (Savanna's Act, 2019) (Not Invisible Act, 2019).

## ***Language***

As the MMIW movement has evolved, the language and focuses have also grown to identify the unique positionalities of relatives across and beyond the gender binary, Indigenous children, Native people who identify as men, and Native people as a whole. Depending on the

practice of an individual, organization, or community, the movement may be referred to as MMIW (Missing and Murdered Indigenous Women), MMIWG (Missing and Murdered Indigenous Women and Girls) to include children, MMIWGQ2S+ (Missing and Murdered Indigenous Women, Girls, Queer and Two-Spirit Peoples) to include Queer, Two-Spirit, Trans, and those identifying beyond the gender binary, and MMIP (Missing and Murdered Indigenous People) or (Missing and Murdered Indigenous Relatives), both created to include all peoples in recognition of the rates of violence against Native people of all genders and ages. Indeed, these practices are context-specific; one may recognize the importance of each focus but use MMIW instead of MMIP because they are focusing specifically on the unique issues women-identified Indigenous people face. For the purposes of this thesis, explorations will primarily be of MMIWG, though the general discussion of Indigenous necropolitics requires the inclusion of *all* Native people. Much of the existing literature and policy primarily uses MMIW and MMIWG and that will be my focus, but when I am referencing specific reports, theoretical texts, policies, and other sources, I will use the term each text uses for accuracy. Additionally, policies and reports use “American Indian and Alaska Native” from the census racial classifications, which are self-identified in surveys and census data. In this paper, outside of these cases in which the legal racial classification is used, the terms “Native” and “Indigenous” refer to the same people.

### ***Open Wounds***

The heart of the movement lies within the individual stories of each relative who experiences violence, is disappeared, or is murdered, and also the ensuing ripple effects across family and community. Indeed, for all people, violence against their relatives is always a looming possibility. However, for Native peoples in the United States, violence, disappearance, and murder have been a reality we have faced across colonial history, from first contact to today.

Calling upon the lessons of critical Indigenous pedagogy, our deaths, and injuries are never in isolation; every moment of pain, every death of a Native person is a reminder of the imminent danger upon which the colonial state has bestowed our peoples from first contact to every new breath we take. The organization Native Hope describes the impact of missing and murdered Indigenous women on our peoples:

There are families whose loved ones are missing—babies growing up without mothers, mothers without daughters, and grandmothers without granddaughters. For Native Americans, this adds one more layer of trauma upon existing wounds that cannot heal (Native Hope, 2022)

This sentiment is expressed in some form by family and community members across various cases. Alyssa Mclemore, of Camp Washington, just south of Seattle, was last seen at a rest stop talking to a man in a green truck. She has been missing for over ten years and the family has been left in suspense. Her aunt, Tina Russell, describes the unknown fate of Alyssa and the challenge of the constant searching as an open wound: “The wound is poisoning our spirits and causing us so much trauma, we have to keep searching for her. We can’t let anything stop us. If we can’t look, who’s going to look?” (Al Jazeera English, 2019). Tina Russell highlights the wound as being beyond loss, the unknown, but also the isolation of being the only one looking for her niece. In most cases, Native family members are the only ones advocating for their missing or murdered relatives. This too is a wound on its own, a constant reminder of the devaluation of their loved one’s life and a devaluation of their own health.

Many families, however, accept this reality and continue their advocacy beyond the State. Henny Scott, Northern Cheyenne, was just 14 years old when she went missing for 20 days in December 2018, ultimately found passed close to her family home (Gualtieri, 2021). The

authorities said she died due to hypothermia. However, after seeing the battered condition of her body, Henny's family knows there is far more to her daughter's death than the authorities disclosed or cared to explore. Her stepfather, Nathan Stops, accepts that the family must now "be her voice," because "she was silent out there. But now she's gone and she's louder than ever, cause it brought up a movement that needs to be addressed. Not only in this state but everywhere else in the country" (Al Jazeera English, 2019). Henny and Alyssa are two beautiful young women with unique human lives, stories, memories, and spirits. They are also bound together with thousands of other Native women who have experienced, or are currently experiencing, tremendous violence, disappearance, and silencing; they are situated within a seemingly endless historical legacy of invisibility and violence against Native women.

### ***A Picture in Data***

In 2016, there were approximately 5,700 cases of MMIWG reported (Echo-Hawk & Lucchesi, 2018, p. 2), yet only 116 cases were logged in the Department of Justice's database. United States federal and state data collection has been tremendously sparse, thus placing the labor upon Native peoples to track our missing and murdered relatives. MMIWG cases have so many different complex factors leading to their deaths or disappearances, data collection from a bird's eye view of MMIWG in the United States can represent the severity of MMIWG and situate individual cases within a larger national crisis. According to the National Congress of American Indians' 2021 Report "State of the Data on Violence Against American Indian and Alaska Native Women and Girls," there are several striking trends that build an overall picture of violence against Native women and girls. First, they cite data from the CDC's Leading Cause of Deaths for 2019 that found for girls aged 15 to 19, homicide was the leading cause of death, as

well as for women aged 20 to 24 (Heron, 2021). This same report found that for Native women aged 25 to 34, homicide was the fourth-leading cause of death in 2019 (Heron, 2021).

Additionally, a US Department of Justice 2016 report, “Violence Against American Indian and Alaska Native Women and Men: 2010 Findings from the National Intimate Partner and Sexual Violence Survey,” that 56% of American Indian and Alaska Native women experience sexual violence in their lifetime and 84.3% experience any form of violence in their lifetime (Rosay, 2016). This report defined sexual violence within two categories: with penetration, defined with the three categories of completed forced penetration, completed alcohol- or drug-facilitated penetration, and attempted forced penetration; and “other” sexual violence, defined with the three categories of sexual coercion, unwanted sexual contact, and non-contact unwanted sexual experiences (Rosay, 2016). The same study found that 55.5% of Native (American Indian and Alaska Native) women experience intimate partner violence (IPV) and in 2010 were 1.7 times more likely to experience violence than white women (Rosay, 2016).

Significantly, NCAI’s 2021 report stated that 96% of all Native women have experienced some form of violence from non-Native perpetrators, compared to 21% of Native women experiencing violence from Native perpetrators. There seems to be a never-ending supply of data, but their meaning cannot be confined to numbers. To be sure, data self-determination for Native people is significant in a world that insists on invisibilizing our lived experiences, however, in the wise words of Vine Deloria, “In the reduction of knowledge of phenomena to a sterile, abstract concept, much is lost that cannot be retrieved” (Deloria, 2010, p. 6); when we express the MMIWG crisis with numbers, we must not forget that we are speaking about relatives who had full, rich, colorful lives. Otherwise, we are participating in a colonial legacy of

erasing Native women and girls' humanity by seeing them as only a "sterile" configuration of digits devoid of life.

### ***The Roots***

Why do Native women and girls face such horrific violence? Why are the vast majority of violent perpetrators non-Native in these cases? Formal research, oral storytelling, traditional metaphysics, and various academic lenses offer us diverse responses within their respective limitations. With these answers also comes a litany of recommended solutions, each addressing different aspects of MMIWG. Unfortunately, the most widely accepted solutions are limited within colonial imaginaries. For example, the two existing federal policies addressing MMIW both rely on law enforcement reform, such as training (Savanna's Act, 2019) (Not Invisible Act, 2019). However, law enforcement agencies, from the State agents that committed genocide, relocated, and imprisoned our ancestors, to the Federal Bureau of Investigation, illustrate that State agents deployed to pursue justice have a four-hundred-year legacy of dehumanizing and perpetrating violence against Native women (Smith & Ross, 2004). The question, with which we as Native people have to grapple, is, why do we continue to rely on a system, on a government, that is neglectful and violent towards our people? Do we dare to explore different possibilities to bring our women home? What do we risk in divesting from colonial solutions to our missing and murdered women? Most importantly, what do we risk if we continue to apply colonial remedies? I pose that we must not be confined to numbers, just as we must not be confined to *any* colonial systems. The futures of our women rely on our collectivity, our memories, and an unmoving commitment to transformation.

## Part II. Native Women and the State

*We carry the Earth's me too inside us, a howling wind, our mothers & their mothers  
swallowed these bullets long ago.*

– “Love Lessons in a Time of Settler Colonialism” (Winder, 2018).

The systematic, organized, and long-lasting destruction of Indigenous life is essential to the colonial project (Wolfe 2006), not only through murder, but also through repression of bodily autonomy, access to safety, and the incessant spiritual injuries that come with each transgression of our physical forms. Wherein the body is an “object and target of power,” States develop ideologies that determine the physical presence/existence, the safety, and expression of bodies over which they have power (Foucault, 1995). In this way, the social order determines whose bodies are “subjected, used, transformed and improved.” In the history of the American State, Native peoples’ bodies were under “constant assaults” by colonial forces (Smith & Ross, 2004). Althusser's “Ideological State Apparatus” (1971) offers a useful theoretical framework to understand how colonial logics require and justify the destruction of Native bodies. Althusser argues that ideology, or the formation of a set of expectations, behaviors, rituals, conscience, and self/other awareness, often referred to as consciousness, is made to reify the dominant powers to (re)produce beneficial material conditions for the ruling class (Althusser, 1971).

Althusser argues that the Ideological State Apparatus garners its power through the formation of many different institutions that dominate and control aspects of human life. These apparatuses are invented uniquely by the ideology that manipulates universal needs in most life forms, such as the pursuit of nutrition, shelter, survival, and relationship. The central aspect of colonial ideology that is unique to colonization is the requirement that the Natives of the

colonized land are less deserving of life, resources, land, spirituality, and freedom than the colonizer; colonial ideology is reliant on the Native/colonizer binary wherein the colonizer is inherently superior and has a right to life the Native cannot have. Indeed, white supremacy and settler colonialism were tied closely by colonial powers at the infancy of American colonization: the Native/colonizer binary was a project of European, white supremacist racialization, wherein the “Indian” as an othered racial category served colonizers to practice “logics of elimination,” or the idea that colonizers must eliminate Native people to accrue land and resources for profit and settlement.

The State benefitted from institutionalizing and naturalizing these logics, as this empowered the military and white settler civilians to essentially do the State’s most violent work in pursuit of their own individual power and profits. Althusser (1971) posits that the constellation of various institutions and subliminal “self-ruling” behaviors are united in a (both physical and ethereal) imaginary with material, emotional, and spiritual consequences that, within the Ideological State Apparatus, serves the State, or the bourgeoisie. Applied to settler colonialism, to maintain ideologies reliant on Native dehumanization, the State must employ various apparatuses, or distinct parts to a larger system, expressed both formally and informally: formal colonial State apparatuses include policies, jurisprudence, and agreements such as treaties with Indigenous communities; informal colonial State apparatuses would be the various methods from which its narratives can mold all colonial subjects’ (Indigenous and non-Indigenous alike) knowledge systems and sense of what is true and real.

In early American history, narratives of the Indigenous person as a devil or unworthy of life aided the State in empowering State agents to murder, rape, and enslave, as well as infiltrate white civilians’ consciousnesses that make the common man capable of expanding land

ownership and their own (direct/passive) participation in genocide, also often raping, murdering, and enslaving Native peoples (Dunbar-Ortiz, 2015). Ideology itself is not direct violence, but rather the logic that allows the individuals who commit unthinkable violence to feel *justified* (Althusser, 1971). In this way, collective settler-colonial ideology positioned Native elimination as just, which historically made Native people vulnerable to death and violence, by both military and white settlers.

Native women hold a particularly unique position within the American social order. Historically, they were subject to both the violent structures of settler colonialism and patriarchy (Smith & Ross, 2004). Their bodies experienced the violent nexus of the settler colonial requirement to eliminate the Native body for land and the patriarchal repression of women through sexual violence. Historically, these two repressive ideologies were deployed by the State in the form of formal institutions, such as policymaking and the justice system, and messaging, such as language and media, to its non-Native civilians, all of which worked together to justify violence against Native women. The crisis of Missing and Murdered Indigenous Women and Girls is a contemporary manifestation of patriarchal and settler colonial ideologies, as non-Native civilians are far more likely to commit violence against Native women (Rosay, 2016), police neglect cases based on sexualizing and dehumanizing stereotypes (Echo-Hawk, 2018) (Al Jazeera English, 2019), and perpetrators, which can include police, face little to no punishment. However, the MMIW crisis remains tremendously difficult to solve, as settler colonial and patriarchal ideologies are deeply woven into the fabric of our State and its various apparatuses, such as policymaking and the justice system. In this section, I explore the interaction between settler colonial and patriarchal ideologies as a tool of the State that used violence against Native women as a nation and State-building project. I specifically examine

how these two repressive ideologies formed policymaking and law enforcement/military practices that are foundational to today's MMIW crisis.

### **Social Death as a Colonial Apparatus**

The white man, observing the Indian:

*I am genuine white, a white man*

*Who has no taint, who has the full blood*

*Of the whites. My judgment is greater,*

*I am a man of white blood, and being a white-*

*Skin, I will not deny my nature*

But you are just a man.

...

White experience

The notions of the white men.

Fabrication of the whites.

Execution, the white men.

– The Whites of New York (Pelky, 2021)

### ***Racialization and White Supremacy as Colonial Tools***

Settler colonial forces in the United States used racialization, specifically white supremacist ideology to justify violence. Within this social hierarchy, the white body is the normative body, the white mind is the rational, normative mind, and the bodies and minds of those who are “othered” are “racial non-humans,” are incapable of rational behavior (Almeida,

2015). In this way, colonial leadership and white patriarchs become the figureheads for “reason,” acting as arbiters of objective truth, shaping the ideologies on which all State apparatuses are formed. Whiteness, therefore, claimed ownership over rationality and reality that made white people the sole constructors and beneficiaries of collective consciousness. Race and racial “characteristics,” in turn, are concepts seen by whiteness as immovable *truths* wherein white supremacy is an “objective condition” (Almeida, 2015). However, said objectivity and certainty about race “fails to account for history, the social construction of race, as well as the multiple meanings in identity,” also failing to see that race is not “static, essentialist, or unchangeable” but rather “constantly shifting in relation to the social order” (Almeida, 2015). Importantly, regardless of the dynamic nature of racialization, essentialist racial *truths* continue to serve the purpose of hegemony and domination, exposing how racial formation is a technology of domination in itself.

Settler society developed language to describe and even categorize Indigenous peoples as less human and civilized. Indeed, the terms Native and Indigenous exist only as they are relative to a non-Native or non-Indigenous visitor, which are historically often colonizers. This conceptualization of the Native positions colonial powers as diametrically, naturally in opposition to Native peoples. Patrick Wolfe posits that the specific racial formation of the “Indian” in America served the explicit purpose of land acquisition, arguing “where [Indigenous peoples] are *is* who they are...the primary motive for elimination is not race... but access to territory” (2006). Wolfe goes on to argue that because the settler colonizer wants to accrue land, they adopt “logics of elimination,” which require the “dissolution of native societies” to physically make space for their initial land grab and subsequent settler colonial land and society creation (2006). These “logics” define the settler-colonial ideology that entitles the State to

perpetually gain land; the classification of “Native” by the American State is inextricably tied to our elimination, as the practice of racial formation developed, and maintained, an enduring “structure” of elimination and genocide.

Settler society assigned the term “savage” to their “Indian” racial category. The “savage” is incapable of civility, unlike white colonial counterparts, and thus less human. Racial logics, like savagery, were justification for violence the United States deployed (Byrne, 2017). In his 1833 Fifth Annual Message, Andrew Jackson demonstrated the nation’s *white truth*, or constructed imaginary, that Indigenous people were incapable of civility and thus fundamentally inferior to white settlers: “That those tribes can not exist surrounded by our settlements and in continual contact with our citizens is certain. They have neither the intelligence, the industry, the moral habits, nor the desire of improvement which are essential to any favorable change in their condition” (Jackson, 1833). He continues to clarify his perspective on Indigenous peoples and larger political intentions, announcing to a land-hungry white citizenry that, “established in the midst of another and a superior race, and without appreciating the causes of their inferiority or seeking to control them, they must necessarily yield to the force of circumstances and ere long disappear” (Jackson, 1833). His proposed solution to “avert” such a fate is to “remove” and “reorganize” communities, a violent effort to which he refers as an “experiment” (Jackson, 1833). Jackson theorized that Indigenous peoples did not have the intelligence or morality to act as sovereign peoples.

This ideology was used to justify the systematic elimination of Native lives and multiple projects of displacement. It also produced a paternalistic relationship wherein Native nations became domestic dependent nations managed by the State since Native people were positioned as primitive “savages” and less capable of governing themselves. The American government

used this racist ideology to enact a violent storm of massacres, imprisonment, displacement, and projects of cultural erasure, such as forced removal and compulsory education in boarding schools, throughout the late 18th and 19th centuries (Dunbar-Ortiz, 2015, p. 151). White supremacy, and racialization, are ideological apparatuses of the American colonial State, but when analyzing violence against Native women and today's crisis of Missing and Murdered Women and Girls would be missing the other key apparatus of domination: European patriarchal social order. The State employed various logics, including property ownership, paternalism, and sexual violence to achieve and maintain patriarchal colonialism, intentionally attempting to commit physical, spiritual, and cultural genocide of Native women and girls.

### ***Virginal (Land) and Property***

An essential element of colonial control of Native peoples is the concept of ownership and property (Bhandar, 2018). When Europeans first discovered, for themselves, the existence of the land eventually to be known as the Americas, they claimed it to be the “New World,” open to their pursuits of capital. English and Spanish settlers came to what is now known as the United States looking for gold and eventually also began trapping for furs (National Geographic Society, 2022a). The English were not only “lured” by the potential capital building from the land, but many were also religiously motivated by the opportunity to start anew, as “the New World would offer them an opportunity to live and worship in accordance with their [Christian] beliefs” (National Geographic Society, 2022a). In this way, they conceptualized this land to be ripe for their settlements, their religious freedoms, and a promising source of riches. However, this conceptualization was based on their imagined construct of a virginal land, untouched, waiting for domination. Juniper Lewis argues that the United States used the “myth” of American “virgin soil” to justify “colonial conquest and control,” pointing to the land’s “under-develop[ment]” as

proof of Indigenous incivility (Lewis, 2019). Building from this logic, the American colonial State continued the European tradition of using land as a signifier of political and social power, only affording land to those who were at the top of the white supremacist, colonial, and patriarchal social orders. As argued by Cheryl Harris (1993) in her paper “Whiteness as Property:”

...the settlement and seizure of Native American land supported white privilege through a system of property rights in land in which the “race of the Native Americans rendered their first possession rights invisible and justified conquest. This racist formulation embedded the fact of white privilege into the very definition of property, marking another stage in the evolution of the property interest in whiteness... Because the land had been left in its natural state, untilled and unmarked by human hands, it was a “waste” and, therefore, the appropriate object of settlement and appropriation.

According to both Lewis (2019) and Harris (1993), the State not only used land ownership as a mechanism of dividing power and capital among the most powerful, but it also used the land’s virginal condition as a mechanism in and of itself to codify the legal racialization of Native people and justify colonial violence.

Further, the State used property rights to land as a method of cultural assimilation. The Dawes Act of 1887 was a key policy that assigned plots of reservation land to individual Native people for agricultural production under the guise of “property rights” (An Act to Provide for the Allotment of Lands in Severalty to Indians on the Various Reservations, 1889). However, this land was largely “unsuitable for farming,” outside of many Indigenous peoples’ lifeways, and many Native peoples could not afford any of the necessary tools to farm (An Act to Provide for the Allotment of Lands in Severalty to Indians on the Various Reservations, 1889). It appeared

that the State did not give property rights to Native people to support tribal sovereignty or self-determination. Rather, they did so as a form of colonial assimilation: “[the State] reasoned that if a person adopted "White" clothing and ways, and was responsible for their own farm, they would gradually drop their "Indian-ness" and be assimilated into White American culture (An Act to Provide for the Allotment of Lands in Severalty to Indians on the Various Reservations, 1889).

Further, the Dawes Act “only recognized and allotted land to male heads of household,” also reshaping Indigenous family structures to reorganize according to white heteropatriarchy (Ball-Schaller, 2020). In European heteropatriarchal gender relations, women were considered “property” of their husbands or fathers. In contrast, many Native communities had vastly different family and relationship structures, gender roles, and often far more expansive gender imaginaries (Dunbar-Ortiz, 2015). However, white settlers classified anything outside of heteropatriarchy as “uncivilized” and in need of immediate remedy (Ball-Schaller, 2020). Therefore, settlers employed property ownership as a method of assimilation, forcing Native women to accept the subordination of white patriarchy.

### ***Patriarchy as a Colonial Tool***

Patriarchy is a social ideology and structure that institutionally situates men as dominant over women: men and masculinity are afforded “dominance, aggression, power, and agency” while women and femininity are assigned “passivity, emotionality, dependence, and subordination” (Sheffield, 1987). Importantly, patriarchy naturalizes and normalizes men committing violence against women, and any “other configurations are perceived as abnormal, aberrant, and abhorrent” (Sheffield, 1987) (Arvin et al., 2013). Patriarchal ideologies and social structures were forcefully imported to what is now called America from Europe, along with

white supremacy and settler colonialism (Arvin et al., 2013). In collaboration with settler colonialism and racialization, patriarchy added another dimension of oppressive systemic subjugation that multiplied Indigenous women's vulnerability to physical, emotional, and spiritual violence. Feminist scholar Melissa Wright (2011) makes the connection between securing state power and gender politics:

Gender, in other words, is central to the violent dynamics linking the production of states to the reproduction of their subjects. As the proliferation of gendered violence around the world indicates, this kind of violence is constitutive of necropolitics: the politics of death and the politics of gender go hand in hand.

Subject to colonial ideology, Native women must face the horrors of dehumanization for being Indigenous, however, they also must face the horrors of patriarchal ideology that is deeply embedded within United States colonialism. Kimberle Crenshaw's concept of intersectionality is a useful theoretical frame for the experience of Native women's overlapping oppressions.

Intersectionality is a legal term Crenshaw coined, designed to articulate the systemic invisibility that Black women experience in American society as both Black in a white supremacist society and as women in a patriarchal society (Crenshaw, 1991). Though the theory was originally created to represent the complex experience of Black women, it also applies to the positionality of Native women, as they are subject to the State ideologies of white supremacy, colonialism, and patriarchy, and are rendered particularly invisible in their pursuit of State-based justice. It is within this specific location of subjugation where the State can take advantage of Native women's invisibility to force its (and the settler's) desires onto the Native woman's physical body and feels no urgency to address MMIW cases.

Indeed, as a result of the additional matrix of gendered violence, Native women also historically served as objects upon whom white men could impose both their sexual and violent fantasies, taking ownership of her body as though she were a plot of land. For example, Spanish Catholic missionization perpetrated horrific patriarchal violence in Californian Indigenous communities (Miranda, 2012). Native women were considered inherently sinful and punished for their own sexual assaults, which were often perpetrated by Church leaders themselves. In her book *Bad Indians*, Deborah Miranda analyzes historical documents and produces her own poetry about colonial violence against Indigenous people in California. Her poem “Los Pajaros” paints a picture of moments when Spanish colonizers would storm communities and kidnap women:

Six or more soldiers set out together on horseback.

Both men and women at sight of them took to their heels  
in the far distant rancherias even many leagues away,  
fleeing the soldiers, clever as they are at lassoing cows.

Both men and women at sight of them took to their heels  
but the women were caught with Spanish ropes.  
the soldiers, clever they are at lassoing cows  
preyed on the women for their unbridled lust

The women were caught with Spanish ropes.  
indian men defended their wives –  
prey for the Spaniard’s unbridled lust–  
only to be shot down with bullets

In Miranda's description, Native women were bound, stolen, and "preyed" upon just like animals. The women are bridled by the soldiers' metaphorical "unbridled lust," exemplifying the colonial conceptualization of Native women's autonomy as antithetical to the interests of white men. The State has developed systems wherein their greed, their logics, and their behaviors *rely* on the repression of Native women; serving the interests of white men, which were not only desires of power, but specifically, desires of capital accrument, required various methods of making the Native woman unworthy of life and humanity. Roxanne Dunbar-Ortiz argues in her novel, *An Indigenous Peoples History of the United States* (2015), that capital accrument was central to the project of settler colonialism:

In this US system, unique among colonial powers, land became the most important exchange commodity for the accumulation of capital and building of the national treasury. To understand the genocidal policy of the US government, the centrality of land sales in building the economic base of the US wealth and power must be seen (p. 124).

Smith & Ross (2004) draw a connection between land accumulation and sexual violence against Native women, arguing that because Native women's bodies are marked as "dirty," "rapeable," and "sexually violable," their bodies are mapped unto land accumulation practices: in the colonial imaginary, "Native lands become marked as inherently invadeable," hand-in-hand with the bodies of Native women.

### ***Colonial Justice Ideologies***

Punitive and carceral justice have historically been used as a tool of the settler State to punish Native peoples for not complying with colonial policies since they were viewed as enemy combatants by the State for centuries. In reference to Jodi Byrd's analysis of how the American State conceptualized Native peoples as inherently criminal, Roxanne Dunbar-Ortiz argues,

...anyone who could be defined as "Indian" could...be killed legally, and they also could be held responsible for crimes they committed against any US soldier. As a result, citizens of American Indian nations become in this moment the origin of the stateless terrorist combatant within U.S. enunciations of sovereignty (Dunbar-Ortiz, 2015, p. 224).

Constructed as “incorrigible and non-reformable savages” (Dunbar-Ortiz, 2015. P. 147), the colonial State formed Native people as both inherently violent to justify murdering “Indians” and simultaneously as required to answer to State “justice.”

A report by the Safety and Justice Challenge on the over-incarceration of Native peoples traced the historical mechanism of the justice system as a way the colonial State gained dominance over Native peoples. Native people’s justice was about harm repair and “led by people who earned their role in the community, people strived to make a better life for the people as a whole, to respect and understand one another, to learn the right and wrong of life.” However, colonizers once again cited differences between their justice paradigms and Indigenous justice paradigms as an issue of “civility.”

...European laws sought retribution for victims through the establishment of proof, guilt, and the enforcement of punishment. The clashing of these concepts eventually led to attempts to force Native people to subscribe to a Euro-American view of justice, first by means of war and military force and then by legislation that systematically eroded and delegitimized Native justice systems and inherent rights of sovereignty (Fox et al., 2023).

All apparatuses of State violence we have discussed, including patriarchy, settler colonialism, white supremacy, racialization, and narrative-building, are exposures of what American justice truly was in application to Native people: a process of justifying State violence and inhumanity

by constructing “the Indian” as the actual savage and the true criminal. In the mid to late 19th century, sudden seizures, relocations, and imprisonments of Native people began to increase. The implicit logic of this State violence was that Native people deserved the punishment of incarceration for the crime of existing on fruitful land (Wolfe, 2006). Justice, as a violent colonial concept, therefore, was a manipulatable concept without integrity, used to exonerate State agents from their participation in violence.

### ***State Heteropaternalism***

The Dawes Act, the previously mentioned Andrew Jackson quote, and the colonial concept of justice shared a similar paternalistic logic: Native people are too uncivilized to maintain the land in the European fashion, too uncivilized to uphold tribal justice systems, and are too uncivilized to practice European patriarchy in their traditional social systems; therefore the State must act on behalf of Native peoples, revoking Native sovereignty. In this way, gender relations, the justice system, and land ownership rights are all pawns used by the State to cross the boundaries of tribal sovereignty, the right of tribes to establish sovereign tribal nations, in order to justify breaking their own constitutional commitment and promise of tribal sovereignty (National Congress of American Indians, n.d.). The State uses paternalistic narratives not only to undermine our relationships with the land and intimate family structures, but it also recreates the patriarchal family structure, wherein the State itself is the patriarch or the “father figure.” As argued by Arvin et al., (2013), heteropaternalism, or an ideological norm that is in close relationship with patriarchy that assumes the masculine figure as the arbiter of truth and reality, is extended from the nuclear family to the State’s practice of hegemony over Native peoples:

By heteropaternalism, we mean the presumption that heteropatriarchal nuclear-domestic arrangements, in which the father is both center and leader/boss, should serve as the

model for social arrangements of the state and its institutions. Thus, both heteropatriarchy and heteropaternalism refer to expressions of patriarchy and paternalism that rely upon very narrow definitions of the male/female binary, in which the male gender is perceived as strong, capable, wise, and composed and the female gender is perceived as weak, incompetent, naïve, and confused.

When the State practiced paternalism, the State is the “masculine,” logical, and capable entity and Native nations were functionally placed as “the feminine,” weak, and incompetent entity.

Recalling my former discussion of white supremacy and racialization, the State maintains its ideological ability to justify violence against Native people because the white mind is considered far more aware and intellectual than Native people; the construction of Native incompetence is the basis of our racialization and the colonial logics that deny us of our humanity. In this way, colonial patriarchal social orders that put Native women and girls in positions of subordination are applied to Native nations, communities, and individuals as a racialized group. Therefore, MMIWG is more than an issue of individual violent perpetrators preying on our women; the patriarchal roots of MMIWG are inextricable from the colonial ideological roots that have subjected all Native people, all of our ancestors, to mass genocide and pain.

### **Today**

Seemingly endless stories of violence against Native women trace back to initial colonial contact and continue through each moment of a Native woman’s life, as a looming potential, a daily reality, and/or in remembering a painful past. Brave Heart et al. (2011) found the harmful effects of historical trauma on Native peoples’ psychological health, sourcing the pain from “devastating collective, intergenerational massive group trauma and compounding

discrimination, racism, and oppression.” In this way, we carry our ancestors’ pain within our relationships with one another and our relationships with ourselves; violence against one of us is not a singular phenomenon in a vacuum, but part of a large history. Every time one of our women and girls disappears or is murdered, it is a reminder that the colonial State refuses us of our humanity on a systemic level *and* that our inhumanity is far more pervasive in civilian consciousness than our complexity as human beings. Both Indigenous and non-Indigenous consciousnesses are formed by white supremacist, colonial, and patriarchal ideologies, the depth of which maintains a dynamic expression of each respective form of violence from first contact to the present moment. The Missing and Murdered Indigenous Women and Girls (MMIWG) Movement is a radical contemporary way Native people have insisted on the value of our lives when we are still breathing and the humanity of our deaths after our breath is stolen.

### **Part III: The System Did Not Fail**

The question of *why* Native women and girls are missing and murdered at such high rates produces socio-cultural and legal answers, all of which are initial causes *and* reify existing violence, either through inaction or harmful responses. The importance of identifying reasons lies in the importance of designing responses; if we don’t know the issues, then where do we put our energy? Since the inception of the MMIW movement in the early 2000s, far more attention, and thus funding, has gone towards analyzing MMIW cases to identify recurring systemic issues. Cases are each uniquely complex, based on geography, the perpetrator’s identity, financial resources, technological access, and many other factors. Each factor, however, is rooted in the long history of colonial subjugation of the Native woman. Therefore, all of the contributions are inextricably tied to one another and often work to create a positive feedback loop. This paper

specifically focuses on State violence but mentions various other reasons at the end of this section like man camps and social narratives.

### **Jurisdiction**

MISSING: Kaczinski Ariel Begay. Native American. Age: 26. Hair: Black. Eyes: Brown. Height” 5’3. Weight: 94 lbs. Last seen by family on July 3rd in Oak Springs, AZ. Last heard from by friends on July 5th in Lupton, AZ. Last seen wearing light blue jeans, a grey sweater, she had a black purse with a gold strap. If you have any information about Kaczinski please call: Navajo Nation PD, Mother Jacqueline, Grandfather Jackie, Sister Valya. (Bayona-Strauss, 2020)

MISSING: Kaczinski Ariel Begay. Diné. Sister Valya and Mother Jaqueline desperately searching with no help from the Navajo Nation Police Department or FBI. Family calls her Ariel, like the Little Mermaid. Called her three-year-old nephew every day. Only person who can make Grandpa take a selfie. Survivor of Intimate Partner Violence. Not suicidal, didn’t run away, worth the time and effort to open an investigation. (Kehrt, 2018).

FOUND: Kaczinski Ariel Begay. Discovered: October 2017. Discovered: at the bottom of a canyon. Discovered: and then her remains weren’t returned to her family for one year. Discovered: FBI said she died by suicide. Discovered: but the FBI says there’s not enough evidence to know what’s happened. Discovered: under a bridge, upon which Mother Jacqueline regularly places flowers “to remember her and to get a piece of where she was last found, where she took her last breath.” Case still open for investigation. (Kehrt, 2018) (Al Jazeera English, 2019).

Katczinski Ariel Begay, called Ariel by her family, went missing in July of 2017 on the Navajo Nation and was found dead at the bottom of a canyon, under a white bridge, in October of 2017. Her family shared that she had an “infectious grin,” would “challenge her brothers to eat strange things,” and she loved her three-year-old nephew, anxiously awaiting for the newest member of the family, a niece, to arrive (Kehrt, 2018). When she went missing in July, her sister, Vayla, and her mother, Jacqueline waited for five days and then quickly reported her missing to the Navajo Nation Police Department. They didn’t hear back for weeks. After a few weeks, Ariel’s case was assigned a criminal investigator from the FBI, and the family was given a Victim Advocate (Kehrt, 2018). When asked why they hadn’t done so at the beginning, they responded that “it didn’t warrant a criminal investigator” and it was only after the community held a demonstration that they assigned one “for courtesy” (Kehrt, 2018). The family continued to call, wait, call, wait and there was no word. Ariel was finally found in October of 2017 and her sister learned through a knock at the door asking for DNA (Kehrt, 2018). Her mother had passed before she was found. Since they found her, the FBI has not solved the case, at one point telling Vayla they thought it was a suicide (Al Jazeera English, 2019). However, Vayla has heard horrific rumors throughout the community about what happened to her sister. To this day, the FBI has not yet told Vayla the state of her sister’s body or any aspect of the scene and has not solved the case because of “insufficient evidence” (Al Jazeera English, 2019).

Why did Ariel’s case go to the FBI? Why didn’t they act quickly? Why was there such little communication? Why don’t they know what happened to Ariel? Many of the answers lie in jurisdiction. The Navajo Nation has sovereign powers, just like many other tribes across the nation, and their own justice system. However, through a series of paternalistic policies, the

federal government has claimed the right to manage justice for all sovereign Native nations, thus limiting the power of tribes to manage their own justice system.

### ***Policies***

The General Crimes Act of 1817 and the Major Crimes Act, of 1885 placed all non-major and major crimes, respectively, under federal jurisdiction. Major crimes include murder, manslaughter, kidnapping, sexual abuse, assault, abuse, or neglect, among a few others (Department of Justice Archives, 2020a) (Department of Justice Archives, 2020b) (Wirth Law Office, 2020). The General Crimes Act allowed the federal government to prosecute non-Native people who commit crimes against Native people and Native people against non-Native people. The Major Crimes Act allowed the federal government to prosecute Native people who commit any major crimes, regardless of whether the victim is non-Native or Native (Department of Justice Archives, 2020b). Public Law 280, passed in 1953, gave criminal jurisdiction to states housing tribal nations National Institute of Justice (2008). According to Sarah Deer, a Distinguished Professor at the University of Kansas School of Law, these policies were placed due to similar sentiment as that of the Dawes Act, wherein Native people require a paternalistic figure (Al Jazeera English, 2019). Deer describes the laws as “imposed,” not requested, “and yet it is still the law today that governs when a family is going through a crisis” (Al Jazeera English, 2019).

These policies were fortified by the Supreme Court case, *Oliphant v. Suquamish Indian Tribe*, in 1978 which determined that “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” (*Oliphant v. Suquamish*, 1978). The Indian Civil Rights Act of 1968 did grant tribes the ability to punish tribal members, the punishment capped

at one year in prison or a fine of \$5,000 or both (*Indian Civil Rights Act*, 1968) and the Violence Against Women and Girls Act of 2013 gave tribes the ability to exercise Special Domestic Violence Criminal Jurisdiction and “exert their inherent ability to prosecute non-Indians who commit domestic violence, sexual assault, dating violence, and violation of protection orders” (*Violence Against Women Reauthorization Act*, 2013). However, this does not include kidnapping, trafficking, murder, or manslaughter, nor does it guarantee that Native Nations can practice it (*Violence Against Women Reauthorization Act*, 2013).

The effects of these laws, and the process of amending them over time, have two significant contemporary implications: sovereignty conflicts and confusion. In terms of sovereignty, all jurisdictional laws were battles over whether tribes were capable of prosecution and maintaining justice. The federal government stepping in and asserting its prosecution power, and thus the ability to determine justice for tribal citizens regardless of tribal input was a severe violation of tribal sovereignty. However, they did so operating on their tradition of racist, paternalistic perception of Native peoples as incapable of upholding full sovereignty like that of the United States government. Because tribal prosecution rights are particularly frequent sites of federal overstepping, cases of violence against Native people, and thus MMIW cases, are often at the center of sovereignty conflicts, exemplifying how integral attending to MMIW cases is for supporting and cultivating Indigenous self-determination.

These laws also cause tremendous confusion for families and law enforcement when women and girls are disappeared or murdered, as families may not know where to go and law enforcement may not know their powers or limitations. Unfortunately, this means that people looking to commit a major crime, like trafficking, murder, rape, or assault, have a major opportunity to do so on tribal land and against Native women, as they will not have to face

punishment. This is an active incentive for violence, as the harm is not being addressed at all, and accountability of both the perpetrators and law enforcement is lost in the shuffle of complex jurisdictional issues. Recalling the staggering statistic from Section I, 96% of Native women have experienced violence at the hands of non-Native peoples and 84.3% of all Native women have experienced some form of violence in their lifetimes (NCAI Policy Research Center, 2021). These are not accidental statistics; the fact that almost every single Native woman who reported experiencing violence had a non-Native offender *is for a reason*. Jurisdictional issues certainly make way for non-Natives to easily get away with a crime without facing any accountability. As a result, many families feel listless in the face of these circumstances, trying to heal open wounds but caught up in a storm of law enforcement passing the baton or refusing to take a case seriously. Ariel's sister, Vayla, describes this exhaustion: "justice just seems so far away" (Al Jazeera English, 2019).

### **Policing**

Far too many families of MMIWG experience tense or nonexistent relationships with Police – Tribal, State, and Federal alike – characterized by police practicing scarce or unclear communication and having little to no willingness to investigate, including in cases with witnesses and ample evidence (Golden, 2021). Mary Kathryn Nagle, J.D., is a partner at Pipestem Law, P.C., a firm that often represents families of MMIWG. Nagle takes many cases of families whose daughters have been murdered and the families are unable to get ahold of police. She describes how families call her saying that law enforcement won't return their phone calls, they won't meet with the family or interview family members, they won't look at the evidence the family has, and they won't even return family phone calls (Gilcrease Museum, 2021). The reasons police give vary, but they often come down to resources and priority.

### ***Resources***

As a result of the federal government robbing Native nations of their sovereignty, including economic sovereignty, tribes are often severely under-resourced with very few officers to cover large areas of land. Additionally, though tribes can concurrently conduct criminal investigations with federal agencies, they often choose to hand the cases over to the FBI, as they are only able to punish people with \$5,000 and, now because of the 2010 Tribal Law and Order Act, up to 3 years in prison for one major crime, or nine years if there are multiple convictions (*Tribal Law and Order Act of 2010*, 2010). Wanting the maximum possible punishments, many tribal police departments pass major cases to the FBI (Al Jazeera English, 2019). Further, in the cases of missing people, tribal police departments, whether they opt to pass the entire case to the FBI or request to work in partnership, the FBI often puts these cases on the back burner.

### ***Priority***

Just like in Ariel's case, the FBI often does not prioritize searching for a Native woman and does not prioritize investigating mysterious deaths of Native women, citing that a murder case cannot be closed because of "insufficient evidence," or that a missing case "does not warrant a search" (Kehrt, 2018) (Al Jazeera English, 2019). Sarah Deer shares that in her experience, federal agents tend to think, "I have more important things to do than worry about what's happening to one Indian woman four hours away" and push MMIWG cases to the sidelines (Al Jazeera English, 2019). The combination of various intricate policies (as discussed in the "Jurisdiction" section), under-resourced tribal police, and an unwillingness of law enforcement offices, both tribal and federal, to follow through or prioritize MMIWG cases creates a cacophony of confusion and often the main reason so many cases are not tended to

properly. Tragically, when their relatives are missing, many families believe that their loved one would have been found alive if the police had taken their reports seriously.

### ***Misty***

Misty Upham, Blackfeet, disappeared in August of 2014 in the Seattle area. Only 32 years old, she had an impressive career as an Indigenous actor known for her roles in films such as *August: Osage County*, *Frozen River*, *Cake*, and *The Dry Land*. Misty had a painful life plagued by anti-Indigenous racism, sexual violence, police brutality, and mental health struggles. In her personal blog, she described “being gang raped” at 13:

First there is the physical pain and never being able to forget it. The fear of having someone hold you down, the cheering and the laughter. All these noises won't leave my mind. I keep hearing it, like a ghostly voice. But the physical is nothing compared to the mental (Young, 2015).

Her account of such violence bridges the physical and mental pain so many Native women face, describing her mental illness as “the edge of loneliness” (Young, 2015). Suffering from severe panic attacks and self-harm, Misty turned to illicit substances to self-medicate. According to Kristen Millares Young's deep dive article “Misty Upham: the tragic death and unscripted life of Hollywood's rising star,” in October of 2014, Misty went missing just two months after being “involuntarily committed” to a mental health treatment facility and, though she was released, she continued to experience severe mental health issues. While in the care of her family, she suddenly ran from the home while in a mental health crisis, disappearing for hours. When her family called 911, the police refused to take a missing person report until after 24 hours of Misty missing. They also claimed that “Misty did not meet the police department's criteria for a

heightened state of alert because she could ‘care for herself,’” refusing to use K-9 tracking dogs and never using social media to alert the public that Misty was missing.

Police eventually came to search for Misty and, according to her family, barely checked the surrounding areas. Misty’s father continued to advocate for his daughter, calling the police, but they were indignant, at one point telling him “We don’t have evidence that she’s missing. She’s probably off partying somewhere with her friends” (Young, 2015). Eventually, the family decided they would no longer rely on the police to search for Misty and organized a search effort with friends. The search party found her body at the bottom of a cliff about two weeks after she went missing. They called the police to the scene, but the police responded by screaming at the family to leave the crime scene, one friend recalling “they made me feel like a criminal” (Young, 2015). The Medical Examiner reported her cause of death as “blunt force injuries to her head and torso,” but is to this day unsure of the manner of death (Marco, 2015).

The ME report also revealed the family’s biggest fear, causing outrage in the community: police’s refusal to look for Misty was likely a significant factor in her death, as *she died only six hours after she ran from her family home*. Had they looked thoroughly with every resource at their disposal, the police would have had a much greater chance of finding and tending to Missy before she died (Young, 2015). Instead, her family, in a state of severe anxiety and exhaustion, had to look for her themselves, traumatize themselves with the sight of her body, and then, while experiencing the grief of finding her body, had to endure scolding and criminalization by police after they did the police’s job. In many MMIWG cases just like Misty’s, the police not only neglect the case so severely that they play a hand in the women’s deaths, but they also often traumatize the family in response. Indeed, many Native people already have little trust in the police (Begay et al., 2001), but rarely have other recourse to find their missing relatives and in

both the case of missing relatives and murdered relatives, many families are getting tired of fighting to be taken seriously.

### ***Police Violence***

Black and Indigenous men and women face the highest rates of being murdered by police, varying each year and by state (Ross-Pilkington, 2017). Native women face high rates of police violence and profiling in various states, California, for example, is a standout as a PL280 (Public Law 280) state or a state that was given jurisdiction over Native peoples (Golden 2020). Additionally, Native women tend to experience high rates of police violence not just in specific states, but also in specific towns. In the Urban Indian Health Institute's report on Missing and Murdered Indigenous Women and Girls in DATE, a few of the cities they researched had the highest cases of MMIWG, unified as border towns to reservations (Echo-Hawk & Lucchesi, 2018). Cities like Albuquerque and Gallup border the Navajo Nation and, like many border towns, are known for high rates of violence against Native people, including police violence (*New Mexico Missing and Murdered Indigenous Women and Relatives Task Force Report, 2020*).

In March of 2016, Loreal Tsingine, Navajo, was murdered by police officer Austin Shipley in the border town of Winslow, Arizona. Shipley arrived at a scene where another officer "already had [Loreal] completely under control," claimed she was threatening him with scissors and amidst his threatening shouting, shot Loreal five times while she was on the sidewalk (Agorist, 2016). Shipley was caught using undue force against two fifteen-year-old girls just months before murdering Loreal and other officers even advised the department to not hire (freethought). Importantly, Shipley was not charged, despite bystander accounts and footage clearly showing the murder and the County Attorney declined to file criminal charges even after Loreal's family filed a wrongful death suit (Jeong, 2016). The Navajo Nation also did not take

action to sue the Arizona State Police. Shipley eventually resigned, but the City Manager assured reporters that Shipley was not forced to resign (Jeong, 2016). Loreal was originally arrested for *shoplifting*. Hope Alvarado, a Navajo woman familiar with border town police violence, believes Loreal's death was "symbolic to the type of treatment Native people receive from the police in border towns" and part of a larger colonial project with the "ability to seize and destroy indigenous bodies and communities" (Junes, n.d.). In this way, police negligence is not the only law enforcement action that leads to Native women's deaths, like in Misty's case, but police can also be direct perpetrators of the violence and face little to no consequence.

### ***Police (Metaphysical) Violence***

Though the term "police violence" conjures stories like Loreal Tsingine's murder to mind, police can also play a significant role in metaphysical violence, perpetuating colonial logics as agents of a violent State. Indeed, cultural genocide is an integral tool in American nation-building (Dunbar-Ortiz, 2015); police also participate in metaphysical violence by disrupting our ability to grieve in our traditional ways. Policies such as the Code of Indian Offenses, created by Commissioner of Indian Affairs Hiram Price, were part of the process of outlawing the metaphysical practices, or what they referred to as religious practices, in the name of assimilation and "civilization" (National Geographic Society, 2022b). Brave Heart et al. (2011) argues that the inability to grieve according to traditional practices is a "risk factor for complicated or prolonged grief" and that Native peoples are exposed to high degrees of "interpersonal losses and trauma exposure," which increases the likelihood of "PTSD, prolonged grief, substance abuse, and depression." Though the Code of Indian Offenses was overturned by the American Indian Religious Freedom Act, violent violations of Indigenous grief processes are still ever-present, particularly in cases of MMIR when the physical bodies of already passed

Native peoples are not treated with the cultural respect and practices required in their respective belief systems.

### ***Kaysera***

Kaysera Stops Pretty Places, Crow, went missing on August 24, 2019, and her body was found on August 29. However, her family was not alerted she had been found and had passed on until September 11 (Cavallier, 2021). Her family is sure she was murdered, but the police ruled her cause of death “undetermined” and have neglected to investigate further. A petition called #JusticeForKaysera details the family’s outrage:

In August 2019, 18-year-old Kaysera Stops Pretty Places was murdered in Big Horn County, Montana. Three years have passed since her murder, and the FBI, Big Horn County Sheriff’s Office, and the Montana Department of Justice have done nothing to undertake a criminal investigation. This miscarriage of justice cannot stand. Law enforcement must be held accountable so we can finally bring #JusticeForKaysera (Pipestem & Nagle, 2022).

Specifically, Kaysera’s body was found about a mile from her reservation, but the FBI refuses to investigate because they say it is not their jurisdiction despite Kaysera being a tribal citizen and her murder most likely being on tribal land (Gilcrease Museum, 2021). On top of neglecting to tell her family of her death as soon as she was found and identified, the coroner’s office cremated her body without the consent of her family (Agtuca et al., 2021). This not only destroyed potential evidence for investigation but also violated her tribal nation’s cultural protocols around death and dying, interrupting her family’s ability to grieve in their traditional ways (Agtuca et al., 2021). Brave Heart et al. (2011) argue that “addressing grief and loss must incorporate an understanding of traditional normative grief resolution along with modern practices within each

tribal community;” Native peoples’ right to grieve according to traditional practices is a tremendously important aspect of religious freedom and the violation of said right increases the risk for prolonged grief, PTSD, depression, and substance use disorder (Brave Heart et al., 2011).

### ***On Mourning***

I admit, the mourning is constant  
 the names, the words, the whispers  
 colors and textures that were lost,  
 persecuted, poisoned, disinherited,  
 extracted, cut down, shaved, kidnapped,  
 unclaimed, and forgotten.

– “The Archive of Our Relation” (Chilomé, 2021)

In his book *Mourning in America: Race and the Politics of Loss* (2016), David McIvor examines the practice of mourning in America, positing that “mourning is inescapably a part of politics because politically, just as much individually, we are what (or who) we mourn.” The State determines who is “mournable,” with the logic that those who are worthy of life are also worthy of a memorable death. However, those who are unworthy of life are usually *worth more dead* in the American political consciousness; Native peoples’ physical removal from land expanded the physical space American capitalists could exploit for future profit. Our mourning as Indigenous people is a reminder of the irreparable, though transformable, harm that colonialism wrought upon our physical, emotional, and spiritual beings, which is harm that (white) America cannot face (McIvor, 2016). Thus, when police are cruelly neglectful of a case, which can lead to the death of Native women like Misty Upham, or violate the traditional mourning practices, like in the case of Kaysera’s family, or are in fact the perpetrators of murder,

like in the case of Loreal's death, they are operating from an ideology that says Native lives have no value and should be eliminated so they will destroy the lives of Native women, directly or indirectly, and destroy the sacred ability for Native families to mourn their relatives. A wound first opened by historical memory at every Native person's birth can be even further ripped open with the murder of a loved one, and then the wound is left to be permanently bleeding when our traditional processes of grief are destroyed with a single decision in the coroner's office.

### **Reporting**

Before Native families pick up the phone to call the police, the question that remains is whether they *should*. The same is the case for Native women who experience violence, in a constant balancing act between communal expectations, a violent Justice system, and knowledge of police neglect. When Native people report a family member missing, as previously discussed, there is often very little care for the cases, reflected in violent police sentiment. As a part of police neglect, police handling missing and murdered cases, especially in urban areas, do not record accurate data. These are conditions that perpetuate even more violence: when Native people report and are not taken seriously by police, missing cases are not recorded, and the police even actively devalue the death of a Native person, there is little data for public attention to accurately represent the MMIW crisis and, insidiously, serves as direct messaging that murdering and disappearing will likely not end in consequences, both of which opens the door for more violence.

### ***Intracommunal Complications***

In her Minnesota Law Review paper "Seeking an Oliphant-Fix," Marie Quasius (2009) discusses the impact of *Oliphant v. Suquamish* (1978). She argues that because of this jurisprudence, Native women and families of MMIW are not given prosecution power through

the tribe if the perpetrator is non-Native, disempowering them as victims of violence. However, when a perpetrator *is* Native and known, they have to make a community-based decision about whether they should prosecute. Two complicating factors come with reporting fellow community members: intra-communal politics and facing the carceral system. In the case of intra-communal politics, Mary Kathryn Nagle, who represents families of MMIW, shares that in her experience, many family members know who is responsible for the murders but because the family is high-powered in the Native community, they fear pursuing prosecution:

[Families] are very concerned that the killer of their daughter is loose and free for very well-explained reasons: that person has political connections in that community and is not going to be prosecuted for murder and the family is fearful for their lives that should it become known to that murderer that they're trying to get law enforcement to do something, that they themselves could also be murdered (Gilcrease Museum, 2021)

Nagle also goes on to say that Indian country does face stranger murders, but often murder is a continuation of a domestic violence situation or “it’s someone we know in the community and there’s evidence or eyewitnesses.” She argues that these cases are not unsolvable, “it’s just that law enforcement is choosing not to arrest and prosecute and investigate these crimes” (Gilcrease Museum, 2021). She also shares that in her experience the FBI uses the excuse of jurisdiction to not investigate, even if they know full well their right to do so. In the same panel that Nagle shares this perspective, other panelists also underscore the unwillingness of police to pursue missing person cases specifically because they say “missing” is not considered a crime, agreeing that it should be treated as a crime because “it is not [law enforcement’s] job to say if something is serious; it is their job to apply resources” (Gilcrease Museum, 2021). Therein lies the other

integral piece of the puzzle, and where I argue there is a fundamental issue with State-based responses: the idea of extending definitions of *crime* to pursue justice for missing Native women.

Importantly, I am not arguing that the application of resources that police have is not tremendously important in cases of missing Native women. Though police are violent, they indeed have unique resources many community and family search parties do not have, therefore giving them the ability to be more systematically effective in a search with a wider reach: law enforcement can call for Amber Alerts, they can coordinate with transportation services across the area to keep a lookout, they can hold press conferences, to name but a few. Having police use these resources is not necessarily contributing to future harm. Law enforcement is, as we discussed, of course, neglectful and underutilizes these resources. However, expanding what is considered a *crime* will logically do very little. Murder is certainly a crime, if not the most harmful crime, but just as Nagle shared, police don't show any motivation to pursue justice in cases when Native women are confirmed dead any more than in cases where Native women are still missing. Understandably, the hope that responding to something classified as a crime will presumably make police respond more quickly is appealing to families and communities desperately searching for their missing women. However, why would there be any difference if law enforcement doesn't respond to things *already* classified as crimes?

As stated previously, Nagle shares that the majority of the families she represents know the perpetrator and the perpetrator is Native as well. Native men are four times more likely to be imprisoned than white men in a lifetime and also face high rates of police profiling, brutality, and murder (Ross-Pilkington, 2017). Classifying something as a crime necessitates that there is a criminal. How many innocent Native people will be profiled and assumed guilty without evidence if “missing” becomes a crime? Additionally, if the true perpetrator *is* Native and *is*

pursued, arrested, and imprisoned, how much does that truly help to mend wounds and prevent future violence beyond a single individual? I am not suggesting that a perpetrator should be able to act freely without consequence, however, the system to which the perpetrator is taken (prison) should not be the only goal or the end of the road in finding justice for MMIW and their families.

### *A Perfect Victim*

We have certainly covered that police do not respond with urgency or any type of inspiration, often using jurisdiction as an excuse. However, there are additional, quite insidious reasons that police show little care for these cases. Aubrey Dameron, a Trans Cherokee woman, was reported missing on March 9, 2019. Captain Gayle Wells told the family that he didn't believe she was a missing person due to her "lifestyle," and denied that he was referring to her Trans identity when Aubrey's aunt asked him what he meant by "lifestyle" (Boston, 2021). However, he later called her case "unique," because "not only was she transgender and very sexually active, but she was also a known drug abuser" (Boston, 2021). When Native families like Aubrey's report their relatives missing, the police make a determination whether the person is missing or not. However, this translates to whether the person is worth their time and resources, or whether this person is worthy of life, as police have access to potentially life-saving procedures and consciously choose not to use them. Further, police narratives about why Native women go missing or are murdered, if they admit a woman is missing or murdered, fit Captain Wells' characterization of the circumstances around death or missing cases quite well. For example, Terrill Bracken, the first Crow Chief of Police, sees MMIW as a drug, crime, and tribal problem:

We get a lot of drug trafficking right on the interstate and, you know, with the crime, drugs, the domestic violence, it's all a perfect breeding ground for people to go missing...

if the tribe is able to take back over its law enforcement, increase its numbers, and do a better job of taking care of its own, you know, of the reservation, I believe it will have an immediate impact and make things better (Al Jazeera English, 2019).

Bracken's characterization of the crisis reduces the issue down to tribes having a lack of care for their people, painting a picture of criminal Native people hurting their community members. This is not only dangerous because it perpetuates stereotypes and the criminalization of Native people, but it also fails to look at the issue systemically, which exonerates the State and all of its agents from the consequences of violent behavior. This further invisibilizes and covers up the *truest* reason for the MMIW crisis, which feeds into devaluation narratives and echoes the victim-blaming in Aubrey Dameron's case.

Law enforcement officers like Bracken never stop to ask themselves *why* there may be substance use disorders or crime but rather takes it as an inherent truth attached to the reservation, if not Nativeness. Many Native people, especially Trans women, participate in alternative economics, such as sex work. Abolitionists, like Mariame Kaba, discuss how sex work is often a reclamation of body, used to survive in economic structures made to destroy us: "Survival sex and involvement in the sex trade are often the only means for young people to provide for themselves when they leave home. This is especially true for youth of color and queer and trans youth, who have less access to resources and opportunities" (Kaba, 2021). The criminalization of sex work disproportionately affects Trans women of color (Drug Policy Alliance, 2018) and does not question why people participate in an alternative economic exchange or divest from the normative capitalistic expectations (Cacho, 2012). On top of their already vulnerable identities as Native people, when police use these "criminal" activities to explain *why* the crisis is happening or why they don't take action on cases, low-income Native

women, especially low-income Trans Native women, can no longer be victims and are made responsible for their own murders and disappearances.

### ***Data crisis***

Another aspect of reporting is how police record and track MMIW cases in their systems. In their cornerstone study “Missing and Murdered Indigenous Women & Girls: A snapshot of data from 71 urban cities in the United States,” Urban Indian Health Institute (2018) reports the current state of MMIWG cases in urban areas and the severe gap in police data tracking of MMIWG cases, arguing that the abhorrent data collection, if there is even any collection at all, is one of the reasons the crisis is not being addressed with the proper urgency, especially in urban settings. UIHI describes that this report serves to “[highlight] the results of a deeply flawed institutional system rooted in colonial relationships that marginalize and disenfranchise people of color and remains complicit in violence targeting American Indian and Alaska Native women and girls” (Echo-Hawk & Lucchesi, 2018, p. 3). They combed through law enforcement records, state and federal databases, interviewed community and family members, and interviewed the police who were willing to speak to them. Their findings painted a striking picture of the data gap in police agencies’ recording processes. For example, of the 506 unique cases of MMIWG, 75% “had no tribal affiliation listed” and 16 of the 128 missing cases were labeled as “status unknown,” meaning that the researchers “could not verify whether the woman or girl was located safe or deceased” (Echo-Hawk & Lucchesi, 2018, pp. 6-7). Additionally, a Santa Fe Police Department representative said that they could not give UIHI all of the records because many Native people had “Hispanic names,” and their systems “are not flexible enough to pick out Native Americans from others in the system...it would be impossible to compile any statistically relevant information for you” (Echo-Hawk & Lucchesi, 2018, p. 16). Fargo Police Department

told UIHI that “sometimes the information (on a victim’s race) would not be asked and our record system defaults to white” (Echo-Hawk & Lucchesi, 2018, p. 16). There were a few cities that did not even have the ability to search records by race (Echo-Hawk & Lucchesi, 2018, p. 20). These results exposed the law enforcement reporting systems in urban areas as fundamentally unfamiliar and incompatible with Native contexts and the law enforcement agents themselves as negligent in properly reporting cases with due diligence.

Further, UIHI reported there were challenges and obstacles in obtaining data from law enforcement. They requested “all data on cases of missing persons (unsolved only), homicides, suspicious deaths, and deaths in custody (solved and unsolved) involving American Indian or Alaska Native victim that was female or identified as a trans-woman/girl” from the law enforcement agencies in all 71 cities. They received mixed responses and mixed results. Only 40 of the agencies actually provided data, 33 of the 40 searched their records, and 10 of the 40 gave accounts “from memory” (Echo-Hawk & Lucchesi, 2018, p. 13). In response, Dr. Annita Lucchesi, Founder and Director of Research at Sovereign Bodies Institute, said that the fact that 10 of the 40 gave accounts from memory is “unacceptable,” sharing that one of the agencies had an officer search after an initial interview with UIHI and he had forgotten additional cases. Lucchesi argues that this instance “ highlights the need for improved records provision standards and shows that the institutional memory of law enforcement is not a reliable or accurate data source” (Echo-Hawk & Lucchesi, 2018, p. 13). Alarming, UIHI found 153 cases that law enforcement had not recorded. All of these findings expose how State data collection is another site of social death; the socially dead are not valued in life, thus their deaths and disappearances are fundamentally insignificant and not worthy of recording or tracking.

### **Violent Language and Imagery.**

Jurisdictional issues create a significantly large opening for non-Native people to come onto tribal land, commit a violent crime, and leave without punishment. But what else contributes to this? Though violent imagery of Native women and poor media reporting are not directly from State agencies, they are certainly important in understanding how subliminal dehumanization perpetuates and encourages violence against Native women in the American consciousness. This is a brief discussion of how today's media supports and reifies Native women's social death, connecting today's narratives to policies and narratives of early America.

### ***Everyday Depictions***

No Doubt's 2012 "Lookin Hot" music video is set in a wild west town and features Gwen Stefani, a white woman, being kidnapped, cowboys pointing guns at her as she is bound at the wrists. Throughout the video, she is cosplaying a Native woman in a strange pan-Indian outfit, wearing the classic stereotypical headband and feather, dancing in a teepee, and dancing around a fire. The violent imagery is partnered with astounding, yet illustrative lyrics. Stefani sings:

[Verse 1]

Go ahead and look at me

Cause that's what I want

Take a good look won't you please

Cause that's what I want

I know you wanna stare

You can't help it and I don't care

So look at me

Cause that's what I want

[Chorus]

Do you think I'm looking hot?

Do you think this hits the spot?

How is this looking on me, looking on me?

Do you think I'm looking hot?

Do you think this hits the spot?

How is this looking on me, looking on me?

Go ahead and stare

And take a picture please, if you need, yeah

I think that says it all

– “Looking Hot” (HiSound, 2014)

Recall the statistic that 96% of Native women who have experienced violence were victimized by non-Native perpetrators (Rosay, 2016). The impact of dehumanization, a keystone State ideology, fixes Native women as objects of ownership, immovable from their designations as desirable sexual subjects. [analysis] In her paper “Fighting Colonial Violence in ‘Indian Country’,” Sophie Croisy (2017) brings this historical tradition to the modern era where “the over-sexualized Indian woman has become a global object of desire from the sexy Halloween Indian costumes for women available on clothing websites to contemporary ‘sexy squaw’ performances found in fashion and music shows.” No Doubt and Gwen Stefani’s portrayal of a Native woman subject to violence is placed in a Wild West-type context, representing the connection between westward expansion and violence against Native women. Additionally,

Gwen Stefani performs sexually suggestive poses and is wearing little to no clothing, or imagery meant to sexualize the Native woman through the colonial definition of what is sexy. The lyrics are almost unbelievable when paired with the imagery, overtly positioning a Native woman who is tied up with guns pointed at her as a sex object. This is not meant to be a self-aware parody that intentionally exposes the evils of gendered colonial violence; “Lookin’ Hot” is simply using social tools maintained by the State to paint a portrait of what they can sell as “sexy.”

Across colonial memory, Native women are understood in two sexual tropes in the colonial consciousness, the promiscuous “squaw” or the virginal princess, both in contrast to European “demure ‘true’ women” (Berger, 1997). Bethany Ruth Berger (1997) shares an interesting example of the dichotomous, dueling artistic portrayals of Pocahontas from the 18th and 19th centuries. One of the pieces portrays a virginal, sexually pristine Pocahontas and the other portrays Pocahontas as the stereotypical promiscuous, hypersexualized “squaw” trope, closely resembling Gwen Stefani’s depiction of a Native woman in No Doubt’s music video:

In the early eighteenth century, a young woman at a Massachusetts finishing school pictured Pocahontas as young and virginal, clothed in a simple dress, hair neatly pulled back, holding a single flower in her tiny hand. In the nineteenth century, by contrast, Robert Matthew Sully would depict Pocahontas with wild, loose hair, bare neck and shoulders, and a thick fur draped over her breasts. This Pocahontas smiles seductively at the viewer.

The dueling perspectives of Pocahontas, though the former depiction could be viewed as simple flattery, both erase her true story, her full humanity, her choices, agency, and complexities as a whole human. Rather, they both center her sexuality as a focal piece by drawing either as a promiscuous sexual object or as a “pure” and innocent young girl, the complexity of her human

expression and story entirely neglected in both pieces; she is “transformed from princess to virgin to primitive siren” (Berger, 1997). Edwin Shur argues that patriarchy places women in an “object-like status,” they are considered “sexual property,” and every woman is seen as “primarily a potential source of sexual satisfaction” (Shur, 1988). Both portrayals of Pocahontas serve a larger colonial ideology that dehumanizes Native peoples, as they turn her into an object, tearing a Native woman’s wholeness from her and seeing her only through a sexual gaze.

In their article that analyzes sexual violence during the Guatemalan genocide, Sanford et al. discuss how the Indigenous Mayan women “were objectified as enemy ‘property’ deserving cruel destruction. Thus, the Guatemalan army raped and tortured women with the same ferocity with which they torched fields of sacred maize, burned houses, and slaughtered animals, leaving these signs of destruction to further terrorize any survivors” (Duyos Álvarez-Arenas et al., 2020, p. 94). Native women are stripped of their humanity when they are understood as only objects of sexual pleasure; the patriarchal colonial ideology empowers military forces and settler civilians to murder or assault Native women without conscience, as Native women’s inhumanity is an accepted reality.

The over-sexualization of Indigenous women is not only a mirror of the historical tradition of sexual violence against Native women in the United States, but also reproduces the colonial dehumanization of the specific identity of being both Native and a woman, aiding in future violent sexual assaults. Clarissa Hayward speaks to perpetual societal stories: “People reproduce identities, not just by telling and retelling the stories from which they were constructed, but also by institutionalizing those stories by building them into norms, laws, and other institutions...” (Hayward, 2013, p. 2). The continued reproductive narrative of Native women’s sexualization leads to violence that is normalized and thus allowable, if not integral, to

the culture and institutions of the United States. Croisy (2017) speaks to this experience of Indigenous women as well, arguing “the racist sexual violence endured by Native women today is the consequence of the reinforcement overtime of cultural and social injustices through laws which have institutionalized the inferior status and subordinacy of Native Americans.”. Because the State used these narratives to justify our murders and our assaults, we must identify and deconstruct the various entities that perpetuate these narratives as acceptable representations of Native women.

### ***Media***

Though the State participates in the direct repression of Native women through State agents (lawmakers, the justice system, and law enforcement), an essential aspect of the invisibility of MMIW is the general public’s subliminal consciousness. Media like No Doubt’s music video reflect how sinister the State’s ideological foundations permeate into the general public’s imaginary; No Doubt made that concept, producers, and directors spent money on the production, Gwen Stefani decided to participate, and every single one of the cast had to consent to be in the music video. There are endless examples of media that depict Native women as sexual stereotypes or undeserving of humanity. In her music video for “half breed,” Cher is wearing a headdress and face paint in a “Native-style” two-piece bikini while sitting on a horse and singing about being a “half-breed,” when she is not, in fact, Native at all (CherChannelHD, 2013). The Children’s cartoon Peter Pan draws on the squaw/virgin binary to portray love interest Tiger Lily using the pristine princess stereotype. She speaks in broken English and dances around a fire while her tribe sings “What Makes The Red Man Red.” Importantly, she is the only one from her tribe who does not have red skin, constructing her appeal as a love interest by racially distancing herself from the “Red Man.” There are a plethora of examples, all of which

could be laughable if their implications were not so serious. Recall my original framing of the sexualization of Native women and colonial violence as within Althusser's Ideological State Apparatus, or a constellation of violent institutions that are united by a common goal of using subliminal messaging to maintain ruling class power (Althusser, 1971). The media is one of the said apparatuses, built from the colonial ideology that inherently devalues Native humanity; whereas the actual physical violence against Native women can be understood as a function of a Repressive State Apparatus, the Ideological State Apparatus can be understood as the logics that allow the individuals who commit such unthinkable violence to feel justified. The State plays a part in building ideology with policies and historical foundations, but also by sanctioning violence through intentional inaction.

In the Urban Indian Health Institute's MMIW Report, they analyzed media about MMIW cases. Their findings were striking, exemplifying how language and subliminal messages about the value of Native women are not only reflections of larger colonial logics, but perpetuate the violence through participating in dehumanization and victim-blaming. Their study described "violent language" as "language that engages in racism or misogyny or racial stereotyping, including references to drugs, alcohol, sex work, gang violence, victim criminal history, victim-blaming, making excuses for the perpetrator, misgendering transgender victims, racial misclassification, false information on cases, not naming the victim, and publishing images/video of the victim's death" (Echo-Hawk & Lucchesi, 2018, p. 19). In total, of 46 media outlets UIHI studied, 25% used violent language in 50% or more of the MMIW cases they covered and 15% used violent language in *all* of their MMIW case coverage (Echo-Hawk & Lucchesi, 2018, p. 19). UIHI argues that this is particularly insidious, as "language fuels violence." Sexualized and dehumanized narratives of Native women that break them down to stereotypes serve only the

State in its project of settler colonialism; though the State itself may not be directly creating these violent media, the State is surely benefitting from the violence that results from them. The State continues to benefit from the ideology that places Native women into an “inferior status and subordination,” (Croisy, 2017), as it can therefore maintain the systems of white supremacy, settler colonialism, and patriarchy without disruption. While families mourn their loved ones, no longer able to make new memories or hear their laughter again, the State remains indifferent, accepting the status of Native women as it always has: unworthy of attention, worthy of death, and our communities deserving of the violence. The State has relied on the subjugation of our bodies to maintain a cohesive national identity and social order since its inception. However, the white colonial American self-concept is wholly disrupted by movements like MMIWG, which have power through truth-telling, community support, and determination. We have power in our stories of resistance and resilience, so the question is, where do we wield it?

### **State Responses**

“Not when or where but how, did we lose you,  
 in between Last Seen \_\_\_\_\_ the words become elegy  
 echoing sidewalks and streets. Hand out your picture to  
 strangers. Post it on Post Office bulletin boards: Missing  
 as if it were destination, a place one goes  
 to disappear in invisible cities. Except there’s no hero like  
 in the movies. No ads, mainstream coverage, or TV shows  
 to show our story. Are we invisible if no one knows, why?  
 When 1,181 women were taken, did eyes cease to have vision  
 or pay attention to a body being swallowed up?

Those left behind who remember you continue on a mission,  
 an endless search of the cities in which we loved  
 (and love) you. We will never forget. We demand for you  
 action, words, even a poem that ends: your lives matter, too.”

– “Sonnet MCLXXXI: for the murdered and missing Indigenous women on Turtle  
 Island” (Winder, n.d.)

Liberal politics often insists that it is not the *system* that is wrong, but rather how the system is being practiced. In communities that are repressed by the State (people of color, women, disabled people, Queer and Trans people, low-income people, children, and their many intersections), we are often drawn to advocating for what Charles Taylor refers to as “Politics of Recognition,” or the idea that with enough work, the State is capable of “recognizing” or “dignifying” peoples using a unilateral approach to inclusion (Taylor, 1992). This political formation relies on the State to define liberation *for* people, which looks like policies such as advocating for an increase in representation/diversity in State institutions like Congress or increasing police funding, for multicultural training or body cameras, without disrupting the roots of the white supremacist, colonial social order that requires such addendums. Multiple reform policies along these lines have been passed in the past few years. Today, two federal laws, Savanna’s Act (2020) and the Not Invisible Act (2020) have been passed as largely bipartisan. They recommend funding for police training, data tracking, and improving relationships with state, tribal, and federal law enforcement (BIA). On the state level, Minnesota, Indiana, South Dakota, Montana, New Mexico, and Colorado all have some form of a Department or Liaison

whose job is to oversee MMIR (relatives) cases, track cases, and be advocates for families during policy development and voting seasons (Kenney, 2022) (Benallie, 2021).

However, the significance of policies like Savanna's Act and the Not Invisible Act are not lost on those of us who want to remove ties from the state; the reformist work of the many Indigenous people who created these laws and who are fighting for our lives *within* the system can be deeply impactful. It is integral, however, to delineate between reforms that entrench us further in the system and reforms that open the door for future transformation (Duda & Kaba, 2017). Increasing police training is vesting trust in State agents who are not only an integral piece of the carceral system, but who are also outwardly neglectful of cases and are themselves incredibly violent towards Native people (Ross-Pilkington, 2017). Two of the six initiatives in Savanna's Act increase police training on MMIR. There are areas where this could be helpful, particularly in Urban areas when police are collecting data and identifying murder victims or when a Native person goes missing. However, the reason the police don't immediately search for Native people is anti-Indigenous racism, and sexism, they are understaffed (usually in tribal police departments), and/or they claim that they have more important work to do (Echo-Hawk & Lucchesi, 2018) (Gardner & Scott, 2022) (Al Jazeera English, 2019).

A reformist response to this would be diversity training, however, diversity training reforms have historically not been effective (Vitale, 2017). Alex Vitale in his book *The End of Policing* discusses training and diversity reforms in police departments across the nation, finding that they have not shown any evidence of change. He argues that "American police function, despite whatever good intentions they have, as a tool for managing deeply entrenched inequalities in a way that systematically produces injustices for the poor, socially marginal, and nonwhite" (Vitale, 2017). If the police don't respond to missing calls any differently or care to

investigate homicides due to racism and trainings probably *does not help*, what is the purpose of bringing them into the cause? If it's because we want to find our missing relatives right away, there is merit in trying, but we cannot put all of our energy and trust into a single training. Or are we investing in the police because we want revenge on perpetrators of violence?

As a community in perpetual grief, where we spend our time and labor is integral to how we can respond to current cases and prevent future murders and disappearances. There is no singular answer to where we spend our time, and reformist work *can* open doors for future transformation, but I posit that there are far more fruitful ways for us to spend the majority of our energy: if we can view reformist policies as temporary and not as solutions, we give ourselves permission to step outside of the ideological boundaries that restrict us within the system as it is and thus give ourselves broader opportunities to create, experiment, and transform. We can claim agency of consciousness to liberate our imaginations and work towards more liberated futures and importantly, imagine futures with our ancestors in memory of the past.

#### **Part IV: Transformative Possibilities**

“We want the process to work for us” - Henny Scott’s mother, Paula Castro, Northern Cheyenne (Al Jazeera English, 2019).

“Justice seems so far” - Ariel Begay’s sister, Vayla, Navajo (Al Jazeera English, 2019)

“Justice for Pepita” - Sign from a 2021 MMIW awareness rally in Albuquerque, NM for Pepita Redhair, Navajo (John, 2021)

“Our relatives deserve justice” - Lori Jump, Director, StrongHearts Native Helpline  
(Dumke & Schoettler, 2022)

Our communities, in perpetual mourning, have an open wound. Families of missing and murdered Indigenous women and girls are made to sit in wait, told their relative’s murder or disappearance is not important or even a reality. Protests, parents and siblings and children, community leaders, and policymakers have fought for justice until they are physically, spiritually, and emotionally unable. In the 2021 Gilcrease Museum Virtual Panel on Missing and Murdered Indigenous Women, Representative Ruth Buffalo shares that she was inspired to run for the North Dakota House of Representatives after she took part in a community-based searching task force. She shared how these community efforts are integral, but not sustainable in the long term, as she may never forget the trauma of participating in the search (Gilcrease Museum, 2021). Not only do families and communities have to grieve and fear for their missing and murdered loved ones, not only is State justice virtually unattainable in MMIWG cases, but the desperate community responses that work to do the police’s work for them, like search task forces, also traumatize the only people who care to take meaningful steps to bring out women home. These wounds are not tended to by the State, not by coincidence or ignorance, but by design.

The crisis of MMIWG sheds a bright, indicting light on the violence of the American State, and specifically the American Justice System: high rates of violence against Native women by non-Native perpetrators result from the combination of complex, outdated jurisdiction laws paired with the State’s ideological, systemic dehumanization of Native women. Legacies of colonial, patriarchal historical violence are continuously recycled, as these core issues of

systemic repression remain untouched and unrectified by the State. Indeed, State violence against Native women is central to the State's identity, as its original physical and economic construction was entirely reliant on the elimination of Native peoples (Wolfe, 2006). It is the most painful irony that when a Native community is scrambling to find a relative or answers about a relative's death, they are told to invest directly into the systems that are the root of the violence.

### **Awakening Critical Consciousness**

It's been months since I've seen a Native/ It's messing with my creative/Approach/ It's  
got me jaded/ isolated

No one understands me like my people/ these white kids don't know my struggle

I ain't equal in their eyes and their intolerance brings me troubles/ I'm not/

Their noble savage/ doing damage/ to their perception of who I am

Self-destruct when I self-construct my own plan/ of my identity/ from their affinity

To raping culture/ they rape the land/ shame an NDN just to save the man

But this NDN never dies/ dies dies dies/ RISE

– “ABoriginal” (Frank Waln, 2013)

If our imaginations must grow to transform our attachments to the current social order, we must first expand our consciousness as Native people. Because the State begins its project of colonial indoctrination across all State apparatuses, we as Native people are subject to a vast number of messages that make clear our subordination as a natural and normative aspect of the American project (Masta, 2018). The harsh realities many of us must face at young ages are constructed by the State as deserved, as suffering that we must endure. These logics are particularly insidious when internalized, which is an integral aspect of maintaining settler

colonial control (Grande, 2015). Paulo Freire, in his canonical text *Pedagogy of the Oppressed* (2017), argues that oppression results in a corrosive self-concept:

Self-depreciation is another characteristic of the oppressed, which derives from their internalization of the opinion the oppressors hold of them. So often do they hear that they are good for nothing, know nothing and are incapable of learning anything—that they are sick, lazy, and unproductive—that in the end they become convinced of their own unfitness.

This description of internalization fits well within the Indigenous framework offered by S. Grande in *Red Pedagogy* (2015), who argues that education is a “forceful weapon used by dominant powers to create boundaries to control and mold the minds of youth and adults, to eradicate or weaken their Indigenous identity, and to assimilate them into mainstream society.”

### ***Deconstruction***

When we are grieving the horrific murders of our family members, our wounds open, and we must also face the reality that State agents, such as police, care so little about our loved ones that they neglect their cases. A constant state of begging for answers and hanging onto hope that a perpetrator would be found is an understandable impulse: when we are in crisis following a major crime against a loved one, we want retribution and maybe even revenge or State-defined justice. However, this is in itself an internalization of our dehumanization. Freire offers that when the “oppressed” has a “dominated consciousness,” they are rendered powerless through the intentional disabling effects of the dominant narrative:

The internalization of the oppressor by the dominated consciousness of the peasants explains their fear and their inefficiency. The behavior and reactions of the oppressed, which lead the oppressor to practice cultural invasion, should evoke from the

revolutionary a different theory of action. What distinguishes revolutionary leaders from the dominant elite is not only their objectives, but their procedures. If they act in the same way, the objectives become identical (p. 167).

Violence against our Native women and girls is inherent to the State on which we are told to rely during crisis and grief. The more we operate under State logics, the more we continue to entrench ourselves further into State violence. For example, many of us know the police do not care to take our cases, but trusting they will help us is our conditioned first impulse. State-based responses to the crisis of MMIW are through an almost automatic process, wherein our minds are similar to the bodies of our ancestors: *bound* (by the State) and our energies remaining reliant on punitive paradigms of control, of which we ourselves face the brunt. As Kaba (2021) offers, “the system will never indict itself” (p. 114). This is a painful irony, but not one without a solution. Friere offers that an expansion of our consciousness as “the oppressed,” what he refers to as *conscientizacao*, or critical consciousness, is a liberatory opportunity for removing ourselves from this cycle of self-imprisonment (Friere, 2017). The process of “freeing” ourselves requires a deconstruction of systemic oppression, but parallel to transformative justice, does not stop at recognition, but rather “enrolls [us] in the search for self-affirmation” (Friere, 2017, p. 35). When we are brave enough to raise our consciousness beyond the borders of our dehumanization, we open new worlds and possibilities for constructing lives beyond the colonial imaginary.

### ***Construction***

Though there is tremendous, destabilizing fear in changing the way we approach the most painful wounds of death and disappearance, we must realize its liberatory possibilities: rejecting, or decentering, carceral and punitive justice within our individual and collective Indigenous consciousnesses transforms how we respond to the crisis of MMIW; if we reject internalization

of the ideological and violent mechanisms that maintain our subjection to the colonial State, we reclaim agency over our realities, our *truths* and thus, our imaginations. Along with Freire's Critical Consciousness, I recommend Mariame Kaba's Transformative Justice as a guiding light in developing community-based responses to MMIW. TJ centers the idea of transforming power through both deconstruction and construction (Kaba, 2021); transformation requires the willingness to deconstruct all we have been taught and is truly combined with creative constructions, both of which feed one another. Undressing and divesting from the State at this moment is impossible to do tomorrow, nor is it advisable. Mariame Kaba (2021) argues that we should have all the answers when we are looking at how to divest from the State:

When we set about trying to transform society, we must remember that we ourselves will also need to transform. Our imagination of what a different world can be is limited. We are deeply entangled in the very systems we are organizing to change. White supremacy, misogyny, ableism, classism, homophobia, and transphobia exist everywhere. We have all so thoroughly internalized these logics of oppression that if oppression were to end tomorrow, we would be likely to reproduce previous structures.

Though we cannot be swift, we can be intentional with one another. As Native people, our wounds are so deep, so vulnerable, so many, that our only answers cannot rely on the State to mend us, but rather mend our relationships with one another, expand our imaginations, and break through the ideological borders with which the State is enforced. In the following section, I offer intergenerational storytelling as a practice of critical consciousness as an aid in liberating ourselves from the bounds of State logics and developing healing intergenerational relationships.

### ***What-if's***

What if after we call the police to report a daughter missing, we have the ability to rely on community-based resources? What if we defunded the police and put more funding into existing tribal programs? What if we can offer families of MMIWG the permission to divest from reliance on police in service of their spirits? What if we liberated ourselves from reliance on not just law enforcement, but the entire paradigm of American carceral justice to expand ourselves outside of colonial thought borders? What if?

### **Recommendations**

I offer a few recommendations to answer the question, what if? In such a dark and violent issue, there could seem to be few meaningful recommendations. However, I approached this as a long-term project of healing, recognizing the violence against Native women today is inextricably tied to the very first instance of colonial violence against Native women on this land; these are intergenerational wounds founded in physical, spiritual, and emotional harm. My approach is a slow process, but one that achieves getting to the root of the issue: to bring our women home permanently, I believe that we must engage in a dialogical process between generations, to both free our spiritual ties to the State in our lifetimes and ultimately build to a more liberated world for our children.

### ***Storytelling and Re/membering***

Importantly, Freire's critical consciousness is a "dialogical teaching method," meaning its core lies in "[creating] a process of learning and knowing that invariably involved theorizing about the experiences shared in the dialogue process" (2017, p. 17). It is in dialogue and thus in relationship with one another that we can learn most. Friere (2017) poignantly argues that "the pursuit of full humanity...cannot be carried out in isolation or individualism, but only in fellowship and solidarity; therefore it cannot unfold in the antagonistic relations between

oppressors and oppressed. No one can be authentically human while he prevents others from being so” (p. 85). In a parallel thought, Kaba submits that she is less interested in correcting narratives, but far more interested in the transformative possibilities of relationships and the collective (Kaba, 2021). In many Native communities, the process of dialogic storytelling bridges generations and maintains a collective memory. Written as a story within a story, a memory within a memory, “In 1864,” by Diné poet Luci Tapahonso (1992), is a strong example of the link between Navajo storytelling tradition and developing transformative consciousness. The poem is a recounting of familial oral storytelling, an aunt to her nieces on a road trip. The relatively short but heartbreaking re/membrance begins with a reminder many Diné kids hear from their parents and grandparents:

My aunt always started the story saying, "You are here  
because of what happened to your great-grandmother long ago"  
(Tapahonso, 1992).

So much of Diné re/membering and *truthtelling* is regular reminders of our ancestors’ survivance, strength, and resistances. Starting a story by tying present living to past survival is a practice of the Diné lifeway. Tapahonso goes on, to describe the violent intimacies of the Long Walk:

The journey began, and the soldiers were all around us.  
All of us walked, some carried babies. Little children and the elderly  
stayed in the middle of the group. We walked steadily each day,  
stopping only when the soldiers wanted to eat or rest.  
We talked among ourselves and cried quietly.  
We didn't know how far it was or even where we were going.

All that was certain was that we were leaving Dinétah, our home.

As the days went by, we grew more tired, and soon,  
the journey was difficult for all of us, even the military.

And it was they who thought all of this up.

When we crossed the Rio Grande, many people drowned.

We must not ever forget their screams and the last we saw of them -  
hands, a leg, or strands of hair floating (Tapahonso, 1992).

The practice of exposing young generations to virtually indescribable colonial violence is integral to Navajo lifeway, as it allows young people to truly *know* the injustices against their ancestors. This is a development of critical consciousness, as it is in the dialogue between generations that Indigenous children can interact with the pain and violent deaths, and thus lives, of their peoples. Importantly, the narrative utilizes “we” and “us” in describing collective consciousness and grief, placing Navajo people in community and unity through the devastating loss of family members. Additionally, the storyteller identifies the irony of the soldiers who were also experiencing the physical toll of the journey, as “it was they who thought all of this up” (Tapahonso, 1992). In this way, the grandmother’s experience on the Long Walk was not just an awakening of her critical consciousness, but when it is passed down from generation to generation it serves as a foundation of her descendants’ education; she engages in a brief, yet impactful critical awareness of militaristic tactics of the United States.

Significantly, however, the elder focuses on the communal experience and even the humanity of the confused soldiers. There is no craving for vengeance or violent language used against the agents of the State, though it would be understandable, because the centerpiece of this

story is the re/membrance of a buried history to make whole the grandchild's sense of self. Dr. Andrea Dyrness and Dr. Enrique Sepulveda's book *Border Thinking* offers an analysis of the importance of re/membrance, guided by Susan Coutin's study of Salvadoran Transnational youth (2020). Though their analysis is focused on youth transnational identity, Dyrness and Sepulveda argue that it is the denial of history, and often colonial, a memory that disrupts youth conceptualization of self and their relationship to place (geographic and communal) (Dyrness & Sepulveda, 2020):

In her study of Salvadoran transnational youth, Coutin (2016) writes, "Exclusion disconnects individuals from national histories such that accounts of the processes that led to and followed their migration or displacement can be submerged, denied, or ignored" (207). *This is the essence of dismemberment*. Coutin argues that this can be countered by "re/membering," by "recuperating and recognizing submerged histories," making it possible to reconnect the historical conditions that provoke migration to the outward effects of these conditions (e.g., joblessness, illegality), which otherwise might appear to be intrinsic characteristics of migrants (emphasis added, p. 130).

Though this is speaking to the experience of Salvadoran transnational youth developing critical consciousness, it is highly effective when applied to the (re)construction of Native identity through a pedagogical method of storytelling and memory.

The practice of re/membrance is a reunification of the pieces of self with which colonial forces attempt to break Indigenous personhood. If we as Native people are *dismembered*, our deaths are already woven into the fabric of colonial social order, both when we are alive and convinced we are incomplete, and when we are dead, at times even physically dismembered. Revisiting *Mourning in America: Race and the Politics of Loss* (2016), McIvor has a similar

frame, which they name “shattering,” a process of experiencing loss as “feelings of anxiety and pain resulting from frustration, suffering, or misrecognition” (p. 134). The misrecognition, or what I want to reframe as an ideological social death, of one’s process of loss, is particularly insidious, as McIvor argues that during periods of grief or loss, a person needs the “external world” to “stabilize” the “struggle against the ‘chaos inside – the misplaced, out-of-place, or wandering objects dislodged by loss” (p. 134).

In this way, when the grieving person does not have an external world upon which they can rely in the deeply vulnerable process of loss, “grief cannot be experienced but instead is split off or manically denied” (p. 134). Tapahonso’s poem (1992) positions the reader as a witness to the Navajo re/membrance process, re/membering a dismembered self and a shattered mourning process. Witnessing pain and mourning reifies the humanity of ancestors through the intimacies of their deaths and suffering, developing a critical consciousness of how personal social death is and how there is a throughline from historical experiences to the present moment. In her analysis of Stó:lō author, Lee Maracle’s, book *Celia’s Song*, Laura J. Beard (2018) examines “witnessing, storytelling, and resistance” in Indigenous circles. She offers a Salish epistemology that deeply values the practice of remembrance: “[remembrance] is an active and creative process of imagining thought, looking to the future and to the past, evaluating impact, taking responsibility, and acting with the cultural context” (Beard, 2018).

### ***Re/membering our MMIW***

As I cautioned in my introduction, remembering just suffering and death (and the State forces that cause suffering and death) cannot be the only development of transformative critical consciousness, because this too closely mirrors the colonial conceptualization of Native women in particular as already dead when alive or more valuable dead. A re/membrance of our missing

and murdered Indigenous women and girls is a practice of calling their names and stories into space, disrupting silence, and then identifying root causes to inspire more effective activism. In the case of describing violence, the “roots” could refer to The National Indigenous Women’s Resource Center uses the analogy of a tree, called “From the Roots Up” as a guide for program development. They outline the roots as representative of “a belief system that describes values, perceptions of reality and relationships,” examples including “reclaims indigenous belief systems and values;” “describes root causes of violence against Native women as a result of colonialism;” “validates the expertise & voice of women who are battered” (National Indigenous Women’s Resource Center, 2021). This conceptualization of “roots” has both a meaning of the roots of colonial violence and how deeply violence affects the Native woman, outlined in this paper in Section II, and the roots, or decolonial values, of how we empower Native women in response to violence. Gina Still Smoking’s poem “Like A Wildflower: A Poem About Overcoming Sexual Violence” paints a picture of this duality:

Like a wildflower.

So innocent and pure her first season in bloom. She breathes in the fresh air and dances with the sunrise; swims in the spring rain. So innocent and pure this Lakota wildflower. Without warning she is torn away; roots barely intact. The darkness continues to slowly tear away her precious petals one by one until she is tossed aside to wilt with pain. She tries to hold on but the air is no longer fresh making it hard to breathe. The summer rain stings the open wounds.

She now dances with the sunset to hide the shame. So sad and alone this Lakota wildflower.

The cold settles in as her roots lay frozen in shock. She questions this pain and yearns for the innocence; her dances with the sunrise and swimming in the rain.

Her roots planted deep down tell her it is time to rise up; it's a new season. She slowly takes in the sunlight and the rain and with a big breathe of air grew into a new wildflower; a Lakota wildflower! (Still Smoking, 2017)

Gina refers to herself as a wildflower whose roots have been “torn” and “frozen” after sexual assault. She completes the poem with a transformation, wherein she can capture the power of what is left of her roots, describing them as “planted deep down,” who tells her she must “rise up.” This serves as a storytelling very similar to Luci Tapahonso’s “In 1864,” as it transforms the pain into a story of survivance. Transformative Indigenous storytelling illuminates the intimacies of violence – strands of hair floating, the cries of children and the elderly, the darkness tearing petals – the recounting of which powerfully counteracts ideological social death logics *and* illustrates ancestral survivance and resistance. Tapahonso ends her recounting of the story of the Long Walk with her grandmother’s wisdom:

There were many who died on the way to Hwééldi. All the way  
we told each other, "We will be strong, as long as we are together."

I think that was what kept us alive. We believed in ourselves  
and the old stories that the holy people had given us.

"This is why," she would say to us. "This is why we are here.

Because our grandparents prayed and grieved for us" (Tapahonso, 1992).

If we apply Friere’s (2017) critical consciousness and Kaba’s (2021) framing of transformative justice to Indigenous epistemology of storytelling, we can see the dialogic consciousness-raising characteristic of intergenerational re/membrance and the ensuing transformative possibilities that

come from survivance: developing a liberatory consciousness, while physically imprisoned, drawing from traditional teachings of maintaining a strong sense of community; believing in oneself (the development of self-esteem); and shifting focus from the militant violence to the effects on the people, illustrating that though our Native ancestors were rounded up and imprisoned by the State, they could maintain a survivance consciousness by decentralizing focus on the military.

Remember the wind. Remember her voice. She knows the  
origin of this universe.

Remember you are all people and all people  
are you.

Remember you are this universe and this  
universe is you.

Remember all is in motion, is growing, is you.

Remember language comes from this.

Remember the dance language is, that life is.

Remember.

– “Remember” (Harjo, n.d.)

### ***Transformative Justice and Tradition***

Transformative Justice is unique as it “[looks] for the good within a conflict and [searches] for peace within oneself and others,” flipping criminal and carceral logic, that looks at people of color as inherently criminal or deserving of violence, on its head (Nocella II, 2011). The beautiful part of applying Transformative Justice to responding to MMIWG is that its core messages are tied closely to many Indigenous value systems. Traditional Indigenous practices,

thus, can serve as critical consciousness building for Native communities to not only awaken our minds to other possibilities, but also engage in the traditions that were stolen from us, our parents, and our grandparents. For example, a key tenet of Transformative Justice is the idea that “to change situations in positive ways, start with ourselves, our attitudes, beliefs, manners of speaking, tone of voice and behavior” (Nocella II, 2011). In close parallel, Navajo traditional lifeways have a similar belief called Hozho, which can best be translated as balance and harmony, often referred to as beauty, or walking in the Beauty Way.

Hozho means honoring and growing four areas of your life: the spiritual, emotional, intellectual, and physical. Historian Wally Brown, Dine, teaches that Hozho is a lifeway and determines how “we perceive things in life,” because “happiness is there,” and realizing true joy, happiness, self-confidence, and peace, we must work hard, tied closely to the Transformative Justice tenet of “peace within oneself and others” and focusing on the positive opportunities instead of the “negative or violent situation” (Navajo Traditional Teachings, 2018) (Nocella II, 2011). Bridging the theoretical framework of Transformative Justice with traditional Indigenous lifeways develops a new type of critical consciousness, bringing the traditional to today through processes of reclamation *and* reimagining the traditional. In this way, we do not incorporate the traditional into our lives ruled by State conceptions of social order and ourselves, but instead, we invite tradition into our lives with expanded imaginations and possibilities for our traditional practices to tend to the current systems of power with which they were not familiar at their inception.

Brown also teaches that one key aspect of Hozho is awareness “of the self, [linked] to grasping one’s position in the larger scheme of things, including one’s own community, and to securing a confident sense of who one is as a person” (Navajo Traditional Teachings, 2018).

Transformative Justice is based on relationships in a very similar way. As Mariame Kaba explains it, “Community matters. Collectivity matters. To me, that’s the whole thing. And if we can’t get along with each other, and we can’t take responsibility for what we do with each other, then what the hell are we doing?” (Kaba, 2021). These tenets are bound together by a fierce advocate for social equity, based on the idea that there is always goodness within people even if they are harmed (Nocella II, 2011). In combining Transformative Justice with traditional lifeways, we can all at once reclaim tradition and create new ways of taking care of one another, reimagine and uproot violent systems, and develop consciousnesses with which we can create new epistemologies of co-resistance, re/membrance, and healing to redefine what justice really means to us, and therefore claim collective *truths*. To claim truth-telling as our own and divest from the State promises to liberate us today from the confines of a spirit in wait, counting American justice, and promises to cultivate unimaginable worlds for our descendants.

### **V. Final Thoughts and Concrete Recommendations**

As we walk through horrifying stories of murder and disappearances and the deep pain and historical traumas from State violence, the goal is not to break our spirits but to see the abundant possibilities of newness. The State is recycling its colonial ideological basics. They have the same priorities, the same arrangements, the same conceptualizations of Native inhumanity. This is narrow and tiny, which means that though it feels all-consuming, and does affect our material and biopolitical resources, there is far more outside of colonial ideologies and repressive systems than there is inside. The current State-based responses are not going to go away, nor am I trying to imply we cannot work with the State in pursuit of liberation, however, I argue that to develop critical consciousness as a people for the purposes of transforming our minds to transform our futures, we must have State policies that do not encourage an increased

relationship with police. At this time, making the jurisdictional lines clear and centralizing data is a tremendously important State-based effort. I also recommend we work with policymakers to eventually divest funds from federal law enforcement operations that would otherwise be used on MMIWG cases to go to mental health services and centers for Native women and girls to find help if they are facing violence in circumstances where they may be otherwise criminalized if they go to the police.

With the specific lens of critical consciousness and transformative justice, there are vast possibilities that can come from our ancestors whose consciousnesses were far less tied to the logics of the State, but held closely traditional teachings from which many young people have been alienated: acting with the tools of the community (cultural and intergenerational healing dialogues) primarily before focusing on the State; and analyzing and activating with an emphasis on the *effects* of State violence as opposed to hoping the State will change its intrinsic ideologies. I offer that this begins first with critical consciousness-raising as a pedagogical method as a foundation of Native children's education, either in Bureau of Indian Education schools on reservations or in-person/virtual afterschool groups for those off the reservations. Secondly, and intrinsically tied to developing our children's critical consciousness through educational programs, I also recommend that tribal governments begin to reconstruct their justice systems with the intersecting matrices of traditional and transformative justice, shifting our focus from the goal of having more prosecution power and towards rehabilitation of our peoples and healing for survivors of violence and surviving families of murder victims outside of punitive justice. Finally, I recommend that as those more large-scale efforts develop, we can start tomorrow by using transformative justice as the framework for how we guide families about the steps they can take when they are experiencing a case of MMIWG. This could look like moving funds from

police training on MMIW to developing local community accountability and support councils in urban areas with high numbers of Native people, also accessible free of cost virtually, and financially supported by tribal governments on reservations. These councils would oversee the organization of community-based searching task forces, healing circles, and protests, and even represent family members in conversations with police to take the pressure off of families to organize and instead give them space to truly grieve losses and collect their energy in cases of disappearances.

I don't have all the answers, but at Mariame Kaba and Angela Davis offer us, we should not have all the answers; Kaba says she doesn't "feel extra pressure to give answers right now but feel a responsibility to have more people make more things," recommending that we should "[build] a million different little experiments" (Kaba, 2021). It starts with the bravery to begin, to build, and to engage our little ones and our elders in the experiments. It will be both reminiscent and like nothing they have ever seen. As I see it that is the power of bringing together generations of thought and community members: to deconstruct the long history of violence against our peoples, we must link ourselves before the suffering through tradition, during the suffering through critical pedagogy, and together move forward in the memory of our ancestors with transformative justice. So much can be found if we start with what, and who, has been lost; so much can be healed if we start with those with the largest wounds; so much can be born if we start with our grief.

The first born of dawn woman slid out amid

crimson fluid streaked with stratus clouds

her body glistening August sunset pink

light stream rising from her like rain on warm rocks

(a sudden cool breeze swept through the kitchen

and Grandpa smiled then sang quietly,

knowing the moment),

She came when the desert day cooled and dusk began to move in

In that intricate changing of time she gasped and it flows

from her now with every breath with every breath.

She travels now sharing scarlet sunsets

named for wild desert flowers

her smile a blessing song.

- "A Breeze Swept Through" (Tapahonso, 1987)

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