

**"ALL THE REAL INDIANS  
DIED OFF"**

**AND 20 OTHER MYTHS  
ABOUT NATIVE AMERICANS**

Part 1  
from p. 44

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MYTH 6

# "INDIANS SHOULD MOVE ON AND FORGET THE PAST"

Dina relates the story of an experience she once had:

Many years ago I had an eye-opening conversation with a person who was at the time my employer, someone who by most standards would be considered highly educated. We were discussing the possibility of an Indian casino being built in our town, at the time a very contentious and divisive issue in the community. I was pro-casino and he was con. Our conversation veered off into the territory of the historical injustice that today's Indian nations face and that gave rise to the law that regulates Indian gaming. Smugly and with an air of righteousness he said, "Indians should just accept the fact that there was a war and they lost," seeming oblivious to the fact that he was talking to one of those Indians. I was shocked at his insensitivity and not sure how to respond. It was the first time I remember coming face to face with the sentiment, but it was definitely not the last.

Like many of the myths covered in this book, the idea that Indians should forget the past is multilayered. In this case, as Dina's employer's proclamation reflects, the implication is that Indians have failed to accept a fundamental fact about history (they were conquered) and are sore losers, as if they had lost an election or a game of poker. Indians are expected to flow seamlessly (if not happily) into the civic and political landscape of the United States and let go of their cultures, their homelands, and

their very identities. The myth of being conquered is encompassed by a larger myth—that Indians are stuck in the past and that by holding on to their identities they fail to function in the world as modern people.

The reality is far more complex than winning and losing, or being stuck in the past. To embrace and perpetuate a narrative of conquest as a defining feature of the US relationship with American Indian nations is to exhibit an extremely limited understanding of that history in general, and of federal Indian law in particular. Additionally, the meaning of "conquest" in this line of reasoning is predicated on the idea that might makes right. It is used to serve a political agenda that justifies the violence of the settler state, taking for granted the philosophy of manifest destiny as though it is a natural law of the universe. There is an unconscious adherence to manifest destiny in the writing of US history, a default position and "trap of a mythological unconscious belief" in the idea.<sup>1</sup>

Indeed, after the 1840s, when the phrase "manifest destiny" was first coined and incorporated into the national vernacular, it gained so much currency that it was rarely questioned until the advent of the Indian rights movement of the 1960s and 1970s.<sup>2</sup> The concept of conquest did find its way into the federal legal system in 1823 with the notorious *Johnson v. M'Intosh* Supreme Court ruling—laying the foundation for the vast body of federal Indian law with the articulation of the doctrine of discovery and preparing fertile ground for the seeds of manifest destiny and the roots of American exceptionalism. It was also made possible by fraud and collusion within the US court system.<sup>3</sup> However, from the beginning the relationship between American Indian nations and the United States was based on treaties, which by their very nature are characterized by the recognition of mutual sovereignty. Since the 1820s Native people have without their consent been subject to a foreign system of law so rife with

conflict and contradiction that it has been described as "schizophrenic" and "at odds with itself."<sup>4</sup> In short, the doctrine of discovery (and its offspring, the myth of conquest) is only one legal principle among numerous others that make up the complex labyrinth of federal Indian law. By considering it in the context of other competing legal doctrines, we can see why "conquest" is a misnomer that conceals other salient principles that support the opposite of conquest, which is sovereignty.

Even though *Johnson v. M'Intosh* didn't involve Indians directly, it is generally considered to be the first legal precedent to begin intervening in the lives of Indian people. The decision, penned by Chief Justice John Marshall, articulated the concept that "discovery" by the culturally and religiously "superior" Christian Europeans constituted conquest, but it did so in a way that admitted the pompousness of the claim. Marshall even went so far as to say that "however extravagant the pretension of converting the discovery of an inhabited country into conquest may appear [emphasis added]; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land, and cannot be questioned."<sup>5</sup>

It has been noted that many scholars believe the purpose of the *Johnson* decision was to "craft a rational scheme for land acquisition in the United States," but the fact that the decision had catastrophic effects would become clear almost immediately as it became instrumental in Andrew Jackson's removal policy, leading to the Trail of Tears.<sup>6</sup>

In 1832, on the other hand, Marshall appeared to backpedal from the *Johnson* decision when in *Worcester v. Georgia* he ruled that tribes were "distinct political communities, having territorial boundaries, within which their authority is exclusive." Native nations, said Marshall, paraphrased by David E. Wilkins,

"retained enough sovereignty to exclude the states from exercising any power over Indian peoples or their territories."<sup>7</sup> The *Worcester* decision gave rise to the concept of tribal sovereignty and is one of the bedrock principles of federal Indian law today. It is important to understand, as many scholars and legal experts argue, however, that tribal sovereignty is not a right granted by US law, but that it is inherent in the treaty relationship. The idea of conquest is, therefore, one among numerous legal fictions that today make up the federal Indian law canon.

Like the myth of conquest, the concept of modernity is vexed, presenting a "modern/traditional dichotomy" for Indigenous peoples, as Colleen O'Neill writes.<sup>8</sup> This dichotomy presumes a universalist and linear view of human development rooted in the European Enlightenment, where all humans are seen to progress from stages of barbarity to civilization (also known as the theory of "natural law" by philosophers Thomas Hobbes, John Locke, and others). In this model, American Indians, as "backward" and "uncivilized," are seen as an impediment to progress, and indeed all US Indian policy has been based on this philosophy. O'Neill argues that "modernity" is really code for "capitalist development" and that many American Indians have adapted to the capitalist system in ways that infuse cultural values and tradition with modernity. Examples include Tlingit fishermen in Alaska, who adopted the commercial salmon industry in ways that "did not necessarily undermine their subsistence practices," and the development among Navajo women of a market for their wool rugs.<sup>9</sup> The same can be said for the rise of the Indian gaming industry, and many other examples too numerous to name illustrate the ways Fourth World peoples transcend the modern/traditional dichotomy in late capitalism.

Modernity signifies more than just adaptation to capitalism, however. Ojibwe scholar Scott Lyons believes that the "next big project" for Native American studies and the Indigenous

movement more broadly is "to develop new ways of engaging with the irreducible *modernity* and *diversity* that inheres in every Native community and has for some time."<sup>10</sup> Lyons's point is that in today's Native communities on reservations (he draws on the example of his own reservation at Leech Lake in Minnesota), Native people are so diverse ethnically, religiously, politically, and culturally that it makes no sense to talk in terms of assimilation and authenticity (where the adaptation to the modern world is understood as assimilation, and authenticity is understood as adherence to a culturally "pure" past). He recognizes the existence of a binary in academic and activist discourses where modernity is juxtaposed to indigeneity, but he argues for "an embracement of indigenous modernity [that] requires a different relationship to the past, one that does not seek to go backward but instead attempts to bring the past forward."<sup>11</sup> This he sees as strengthening the decolonization project and articulated most strenuously in expressions of tribal nationalism, defined as "the politicization of culture for the achievement of national goals, such as land rights and sovereignty." It is the modernization of ancient tribal nations and is ultimately a form of resistance to oppression.

But what about Indian people who live outside their home reservation communities, as the majority of Native people today do? How do they maintain Native identities without succumbing to the modern/traditional dichotomy or Lyons's modernity/indigeneity binary? Just as in reservation communities, they do it not only by "bringing the past forward" but by adapting the past to the present in ways that appeal to the common interests and characteristics of the wide diversity of Native people in large urban centers, in what is sometimes called "pan-Indianism." Pan-Indian practices include powwows and certain spiritual traditions like the sweat lodge and pipe ceremonies. Religious studies scholar Dennis F. Kelley contends that historically for

non-Indians this pan-Indian identity was a marker of modernity that signaled a stage in the elimination of Indianness altogether on the road to assimilation, but that it was in fact—and still is—a tool for resistance to assimilation.<sup>12</sup> For Native people who grow up in large cities, participating in powwows and other pan-Native cultural activities is the road back to their particular tribal identities, or what Kelley calls cultural "reprise."<sup>13</sup> In this way, "Indian country" is not limited to reservation boundaries but is defined as the places where Indian people gather. At powwows, for example, even though they might take place in white-dominated spaces and there may be many non-Native people in attendance, it is Indian protocol (worldview, knowledge, rules, history, etc.) that controls the powwow space—with all its modern adaptations.

Indian people can be seen in all walks of modern life bringing their Nateness with them. From the world of modern cinema, where people like Chris Eyre (director and coproducer of the movie *Smoke Signals*) and Neil Diamond (*Reel Injuns*) are helping to reshape the distorted contours of a notoriously racist industry, to the political arena, where Indian people like Ben Nighthorse Campbell and Tom Cole exercise influence in public discourse, Indigenous people bring their identities with them. Astronaut John Harrington (Chickasaw) became the first Native American to fly into space, making his Indigenous mark on science. A member of the sixteenth shuttle mission to the International Space Station in 2002, Harrington carried with him six eagle feathers, a braid of sweetgrass, two arrowheads, and the Chickasaw Nation flag. Professional sports has been a terrain of modern achievement for Indians from Jim Thorpe to Navajo professional golfer Notah Begay. Even in what some might think of as the whitest of cultural spaces, surfing, which originated with Native Hawaiians, Native people can be found bringing their cultures with them. Take the case of the late surfer and



surfboard shaper Johnny Rice (Prairie Band Potawatomie). Rice was known in surfing circles for his commitment to the Sundance tradition and often talked about surfing being similar to the four directions because of its ability to balance a person mentally, emotionally, physically, and spiritually. All of these individuals remind US Americans that Indians are more than relics of a bygone past. They are people with vibrant, relevant cultures who are here to stay.

## MYTH 7

## "EUROPEANS BROUGHT CIVILIZATION TO THE BACKWARD INDIANS"

"Behind each successful man stands a woman and behind each policy and program with which Indians are plagued, if traced completely back to its origin, stands the anthropologist," wrote Vine Deloria Jr. in 1969, with the snarky tone that characterized so much of his work.

The fundamental thesis of the anthropologist is that people are objects for observation; people are then considered objects for experimentation, for manipulation, and for eventual extinction. The anthropologist thus furnishes the justification for treating Indian people like so many chessmen available for anyone to play with.

The massive volume of useless knowledge produced by anthropologists attempting to capture real Indians in a network of theories has contributed substantially to the invisibility of Indian people today.<sup>1</sup>

Deloria's issue with academia—and anthropology in particular—was essentially that it was irrelevant to the problems of everyday Indians. It failed to meet the needs created by rampant poverty and the never-ending encroachment of settlers into Indian lands. Anthropologists' work set traps for Indian people and rendered them invisible when they didn't conform

to stereotyped images of dancing Indians or Indians forever on the warpath. Deloria wrote, "The conclusion has been reached—Indians must be redefined in terms that white men will accept, even if that means re-Indianizing them according to a white man's idea of what they were like in the past and should logically become in the future."<sup>2</sup>

Picking up where Deloria left off, Robert Berkhofer scathingly critiqued non-Natives' obsession with defining Indians in *The White Man's Indian*.<sup>3</sup> Berkhofer traced the excruciating history of what is commonly called "scientific racism," building on Reginald Horsman's oft-cited 1975 article "Scientific Racism and the American Indian in the Mid-Nineteenth Century."<sup>4</sup> Scientific racism, like the Bering Strait land bridge theory, has deep roots in Christian theology and is connected to the concept of manifest destiny. Manifest destiny was first articulated as the guiding principle for US expansionism, underpinned by Euro-American ethnocentrism and the imperative of Christian fundamentalists to save the Indian soul. The "white man's burden" was based on a deeply entrenched ideology of the racial inferiority of nonwhite peoples, which by the 1880s had been shored up by evolving social Darwinist theories. That all nonwhite peoples were inferior was a given, accepted as fact among religious fundamentalists as well as secular intellectuals and scientists.

Emerging scientific theories in the eighteenth and nineteenth centuries came to explain human diversity in terms of evolution and progress, and some humans were seen as innately more advanced than others and thus superior. This was expressed in the scientific terms "monogenesis" and "polygenesis." Monogenesis—the theory that all humankind descended from an original pair—found itself contending with polygenesis, the idea that human diversity could be explained by "the separate creation of individual races."<sup>5</sup> Embracing the latter idea,

Samuel George Morton and his disciples in what had become known as the "American School" of ethnology had scientifically "proven" the superiority of the white race based on comparative cranium measurements of white, black, Australian Aborigine, and Indian skulls. The results of their study of several hundred skulls, in which average cranium measurements were smaller for non-Caucasians, were correlated to the supposed barbarity of non-Caucasians. Published in 1854, the eight-hundred-page *Types of Mankind: Or, Ethnological Researches*, by Morton follower J. C. Nott, summarized that

intelligence, activity, ambition, progression, high anatomical development characterize some races; stupidity, indolence, immobility, savagism, low anatomical development characterize others. Lofty civilization, in all cases has been achieved solely by the "Caucasian" group. Mongolian races, save in the Chinese family, in no instance have reached beyond the degree of semi-civilization; while the Black races of Africa and Oceania no less than the Barbarous tribes of America have remained in utter darkness for thousands of years. . . .

Furthermore, certain savage types can neither be civilized nor domesticated. The Barbarous races of America (excluding the Toltecs) although nearly as low in intellect as the Negro races, are essentially untameable. Not merely have all attempts to civilize them failed, but also every endeavor to enslave them. Our Indian tribes submit to extermination, rather than wear the yoke under which our Negro slaves fatten and multiply.

It has been falsely asserted, that the Choctaw and Cherokee Indians have made great progress in civilization. I assert positively, after the most ample investigation of the facts, that the pureblooded Indians are everywhere unchanged in their habits. Many white persons, settling among the above tribes,

have intermarried with them; and all such trumpeted progress exists among these whites and their mixed breeds alone. The pureblooded savage still skulks untamed through the forest, or gallops athwart the prairie. Can any one call the name of a single pure Indian of the Barbarous tribes who—except in death, like a wild cat—has done anything worthy of remembrance?<sup>6</sup>

Nott was a staunch defender of slavery, and his polemics are on the extreme end of scientific racism. His work was nonetheless on a spectrum of scientific thought that constructed categories of humans based on biological characteristics that could be used to explain cultural differences and that provided "the rationale for the exploitation, appropriation, domination, and dehumanization of people of color . . . sanctioned by the state."<sup>7</sup> In Nott's narrative, if there is to be redemption (framed as civilization or domestication) for "certain savage types"—in this case Indians—it is only through the racial blending with whites that this can occur. Inter-marriage between Indians and whites is cast as the only possibility for progress for the Indian "race."<sup>8</sup> The argument was not a new one, and it was imperative for Indians to adopt other white practices. Thomas Jefferson, for instance, had argued in 1785, in *Notes on the State of Virginia*, that if Indians adopted European-style agriculture, gave up hunting as a subsistence lifestyle, and lived in European-style towns they could advance from savagery to civilization. The shift to a sedentary life would also conveniently free up the hunting grounds and facilitate white settlement with greater ease, and presumably intermarrying with whites would contribute to their elevation.

The bigotry inherent in science, in other words, provided the intellectual justification for the social hierarchies that kept all people of color culturally and legally subordinated to dominant white society well into the twentieth century, and laid the

foundation for federal Indian policy, especially the assimilationist project of the Dawes Act (General Allotment Act) from 1887 to 1934, which authorized the division of Indian land into individually owned allotments. The philosophical tenets of assimilation held that Indians could advance from their perceived savage state to civilization through farming, private ownership of land, and formal, European-style education.<sup>9</sup> The philosophy was embraced not only by those openly hostile to Indians but also by Indian advocates, white "friends of Indians" who saw assimilation policy as the most compassionate approach in the face of aggressive white settlement. Promoting assimilation was one of many techniques the federal government used for ethnic cleansing, removing Indigenous people from their land and assuring their disappearance by absorbing them into the US citizenry. In the end, true to the imperative of settler colonialism to gain access to Indigenous territories, it turned out to be a massive land grab by the United States, with a loss of two-thirds of Indian treaty lands by an act of legislation.

It might be tempting to think that by applying the term "racism" to the social Darwinist philosophies of the eighteenth and nineteenth centuries we are unfairly judging yesterday by today's standards because we now presumably live in a different, more just world. The problem, however, is that where American Indians are concerned the prejudice that defined the past has woven itself into the present through the vast and bewildering body of federal Indian law, in what legal scholar Robert A. Williams unapologetically referred to as the racist language of the US Supreme Court. Williams explores in vivid detail the court's development and use of the Marshall Trilogy (three cases from the 1820s and 1830s, *Johnson v. M'Intosh*, *Cherokee Nation v. Georgia*, and *Worcester v. Georgia*), whose reliance upon the racist language regarding Indian "savagery" and cultural inferiority maintains a system of legalized white racial dictatorship over

Indian tribes even today. Williams writes, "As evidenced by their own stated opinions on Indian rights, a long legacy of hostile, romanticized, and incongruously imagined stereotypes of Indians as incommensurable savages continues to shape the way the justices view and understand the legal history, and therefore the legal rights, of Indian tribes."<sup>10</sup> Beginning in 1823 with *Johnson v. M'Intosh*, considered by Williams to be by far the most important Indian rights opinion ever issued in the United States, the racist language of Indian savagery was institutionalized in the Supreme Court: "The tribes of Indians inhabiting this country were fierce savages, whose occupation was war." With Justice Marshall's words several things were accomplished: the precedent for all subsequent Indian cases was set; the taking of Indian land based upon racial, cultural, and religious superiority of Europeans was justified; and language was codified that would justify future federal incursions into Indian lives and resources.

References to Indian savagery occurred many times in subsequent nineteenth-century Supreme Court decisions, in cases such as *United States v. Rogers* (1846), *Ex Parte Crow Dog* (1883), and *United States v. Kagama* (1886). While the tradition of racist language in the court reared its ugly head in African American cases as well, most famously in *Dred Scott v. Sanford* (1856) and later in *Plessy v. Ferguson* (1896), the twentieth century saw a paradigm shift with *Brown v. Board of Education* (1954), the landmark decision credited as heralding the civil rights movement a decade later. Yet when it came to Indian rights cases, the language of white racial superiority was still very much alive in *Tee-Hit-Ton v. United States* (1955) and even into the Rehnquist Court with *Oliphant v. Suquamish Indian Tribe* (1978) and *United States v. Sioux Nation of Indians* (1980). The entire body of federal Indian law is based on nineteenth-century precedents and outmoded ways of thinking, yet this is tolerated if not staunchly defended by those in power. Historically, when the justices of

the Supreme Court have chosen to reject the language of prior decisions (the practice of *stare decisis*)—decisions that only served to oppress certain peoples—and adapt a new language that affirms their rights, positive paradigm shifts have occurred within the court and society at large.

MYTH 8

# "THE UNITED STATES DID NOT HAVE A POLICY OF GENOCIDE"

Chiitaanibah Johnson, a nineteen-year-old of Navajo and Maidu ancestry, was a sophomore English major at Sacramento State University in September 2015 when she got into an intellectual tussle with her American history professor one day in class. In a lecture about California Indian history, the part-time adjunct professor, Maury Wiseman, claimed that he did not like the term "genocide" when describing Native American history, believing it "too strong a word for what happened" and saying that "genocide implies that it was on purpose and most native people were wiped out by European diseases."<sup>1</sup> Over the next couple of days of ongoing class discussions and Johnson producing evidence for genocide, Wiseman contended that she had hijacked his class and was accusing him of bigotry and racism.<sup>2</sup> Claims emerged that he had subsequently disenrolled her from the class (claims that were disputed), triggering an investigation into the incident. The result of the university's investigation found no one at fault.

The story quickly infiltrated online news outlets and social media, sparking heated debates about Native American history and whether or not the word "genocide" accurately characterizes the American Indian experience, or more to the point, US treatment of Indians. Among professional and lay historians few topics can elicit the kind of emotional charge that discussions about genocide can. Conventional exceptionalist historical narratives that celebrate the United States as the beacon of

democracy and human rights in the world are, after all, diametrically opposed to those that implicate the United States in the "crime of crimes" alongside Nazi Germany, the Ottoman Empire (Armenian Genocide), the Rwandan Hutus, and others. It wasn't until the second half of the twentieth century, with the rise of the civil rights movement, the birth of ethnic and native studies programs, and increasing entrance of people of color into higher education that scholars began applying the term "genocide" to the US policies, even though the term "extermination" was widely used throughout the nineteenth century and earlier when referring to US policies regarding Indians.

After several unsuccessful attempts to pass legislation issuing a formal apology to Native Americans, in 2009 a bill was passed without fanfare, having been slipped quietly—and ironically—into a defense appropriations bill. The joint resolution acknowledges historical events like the massacres at Wounded Knee and Sand Creek, forced removals of entire nations from their homelands, and the taking of children from their families for education in distant boarding schools. It acknowledges "years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes" and expresses "regret for the ramifications of former wrongs." But nowhere is the word "genocide" used. In fact, as if to minimize US violence against Natives, one sentence mentions Native violence: "Natives and non-Native settlers engaged in numerous armed conflicts in which unfortunately, both took innocent lives, including those of women and children." The inclusion of this clause problematically decontextualizes the reality of counterinsurgency-style warfare that the United States and earlier European settlers exercised against Native peoples, which ultimately killed far more Natives than non-Natives.<sup>3</sup>

Debates on whether or not genocide occurred on US soil follow several different tracks and depend largely upon how



narrowly or loosely "genocide" is defined. The most common method among historians who argue against it is to compare the Native American experience to other genocides, the Jewish Holocaust in particular. Along this line of analysis, as Lyman Legters points out, the problem with too expansive a definition is that diluting the criteria for genocide too much renders its definition meaningless.<sup>4</sup> On the other hand, as Legters argues, if the definition of genocide is limited to the "actual mass killing of victim peoples," it blurs the concept of genocide as a crime by diminishing "those practices directed against whole peoples or other definable social groups with the effect of destroying their integrity as groups," in what is called cultural genocide. Even the term "cultural genocide," Legters argues, is problematic because it obscures "the seriousness obviously intended in the campaign to make genocide a crime." A. Dirk Moses, author of a study based on Australia's colonial experience, contends that regarding genocide as synonymous with the Jewish Holocaust discourages comparative genocide studies. Moses suggests instead that thinking of genocide as extreme counterinsurgency aids in understanding how colonial violence unfolds.<sup>5</sup>

Another common argument detractors use to refute the genocide contention is the one used by the Sacramento State professor: that it was disease that killed off most of the Indigenous population, not violence. As scholar Benjamin Madley writes, the argument that the dramatic decline of Native populations was due primarily to the "natural disaster" of biological pathogens has been so widely perpetuated that it has become a standard trope among historians.<sup>6</sup> One of its biggest problems is that it also promulgated the myth of an unoccupied virgin wilderness imagined by early settlers that justified their continual encroachment into Native territories.

A third and more moderate line of analysis holds that the term "genocide" may not necessarily apply to all American

Indian groups but might more appropriately be assessed on a group-by-group or region-by-region basis (a concept we'll return to momentarily). In order to make an accurate assessment of genocide, there must also be evidence of the deliberate intent of a state or government to annihilate an entire population. In the academic world, despite resistance during the 1970s and early 1980s within some disciplines to grant platforms to the study of genocide, the field of comparative genocide studies coalesced in 1994 with the founding of the International Association of Genocide Scholars. After reciting a comprehensive genealogy of the Native American genocide literature, Madley points out that genocide is more than an academic study since it is a crime under international law, framed by a treaty and subsequent case law.

Genocide was first legally defined in 1948 with the United Nations Convention on Genocide (Resolution 260 [III] of the General Assembly) in the wake of the Jewish Holocaust. One hundred forty-six member states, including the United States, are signatories to the convention. Raphaël Lemkin was a Polish legal scholar who escaped the Holocaust and emigrated to the United States, and it was he who coined and defined the term "genocide" in 1944 as it was adopted in the UN convention. According to the text of the treaty, "In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group."

The description constitutes two aspects of genocide, physical (each of the five criteria) and mental ("the intent to destroy"). According to the organization Prevent Genocide International, "It is a crime to plan or incite genocide, even before killing starts, and to aid or abet genocide: Criminal acts include conspiracy, direct and public incitement, attempts to commit genocide, and complicity in genocide."<sup>7</sup> In the US context, the forcible transfer of children throughout the Indian boarding school era and the extent of transracial Indian adoption in the nineteenth and twentieth centuries alone arguably count as genocidal intent, even if no other criteria are considered.<sup>8</sup> Yet even if we accept conservative arguments against US genocidal intent against all Indian groups as a whole and assess it on a regional basis, California stands out as an exceptional site of genocidal intent, according to the research of Brendan C. Lindsay.

Lindsay draws upon the UN genocide convention to defend claims of full-scale genocide in his award-winning 2014 book *Murder State: California's Native American Genocide, 1846–1873*. For Lindsay, it is "not an exercise in presentism to employ the [UN] Convention as a model in a study of genocide for a period well before its creation" because the roots of genocide go deep into the historical past.<sup>9</sup> Even though the term "genocide" did not exist in nineteenth century California, the concept of "extermination" was well developed and widely deployed throughout the state. Citizen militias were empowered to murder Indians via a legal system that offered Indians no protection and rendered their existence basically illegal. The same legal structure had allowed the existence of a system of Indian slavery

disguised as "apprenticeship." Recent research affirming Lindsay's findings has revealed that after 1846 at least twenty thousand California Indians worked in some form of bondage under non-Natives.<sup>10</sup> Lindsay contends that "by separating families, depriving children of Native linguistic and cultural education, and inflicting mental and physical hardships, Euro-Americans destroyed Native families, lowered birthrates, and committed physical, cultural, and economic genocide."<sup>11</sup>

Lindsay's research finds that "rather than a government orchestrating a population to bring about the genocide of a group, the population orchestrated a government to destroy a group."<sup>12</sup> As Lindsay writes,

While California had a state militia, it was the legally organized, heavily armed local volunteer units that committed most of the murders needed to speed up the dispossession and destruction of California Native peoples. These men, often elevated to the status of local heroes, served as the most violently effective tool of a democracy aroused against Native Americans: citizen-soldiers engaged in acts of self-interest disguised as self-preservation.<sup>13</sup>

The California gold rush had inspired a state-supported philosophy of extermination that only recently has acceptably begun to be referred to as genocide in the scholarship on California Indian history.<sup>14</sup> Lindsay's remarkable study, gathered from copious documentation of the era, argues that a full-scale genocidal campaign was waged against California Indians between 1846 and 1873. Carried out largely by citizen soldiers in "roving death squads known as volunteer companies," the extermination of Native people was driven initially not only by the gold rush and the imperative of manifest destiny but increasingly by the changing values of gold and land.<sup>15</sup> As the gold rush

failed to live up to the expectations of immigrant miners, land came to be more important than gold. As Indians were pushed out of their traditional territories because of a flood of white settlement and encroachment into Native territories, they resisted and fought back in multiple ways to protect their lives, lands, cultures, and sovereignty. Self-defense was construed by settlers as aggression, and the deeply entrenched ideology of Indian inferiority meant that settlers considered California Indians as little more than animals. This dehumanization paved the way for the bloodbath that took place during the second half of the nineteenth century all over California.

Finally, Lindsay writes in no uncertain terms,

A key to understanding the relationships between Native Americans and non-Natives in California is to recognize that our shared past contains a genocide of monstrous character and proportions, perpetrated by democratic, freedom-loving citizens in the name of democracy, but really to secure great wealth in the form of land against Indians cast as savage, uncivilized, alien enemies. . . . We Californians are the beneficiaries of genocide.<sup>16</sup>

Around the same time that Chiitaanibah Johnson was battling her professor at Sacramento State about genocide, the topic of whether or not genocide took place in California was being debated with the Catholic Church's imminent canonization of Father Junipero Serra. Serra had been beatified in 1988, earning him the official title of "blessed," one step on the road to canonization, the declaration of sainthood. Potential saints must demonstrate holiness through particular types of godly works and verified miracles. Serra qualified for sainthood, the Vatican argued, based on his extensive evangelizing among American Indians in California, when he founded the California

mission system in the eighteenth century. He was held up as a model for today's Hispanics, spokesmen for the Vatican said.<sup>17</sup> But to the descendants of the Indians he converted, Serra was hardly the sort who should qualify for sainthood.

Native scholars and activists have long known about the abuses of the Catholic Church and publicly spoke of these and denounced them in 2004 when Senator Barbara Boxer sponsored a bill to provide \$10 million of federal tax money to restore twenty-one crumbling California missions. Signed into law by George W. Bush in November that year, the California Mission Preservation Act was criticized by many as part of Bush's notorious and unconstitutional faith-based agenda.<sup>18</sup> The mission bill performed the work of not only stimulating the California tourist economy but of perpetuating the always romanticized image of the California mission era, a time California Indians consider as the beginning of the brutality their ancestors would face for the next century and a half, beginning with the Spanish padres under Father Serra.

As Lindsay noted, among historians the term "genocide" had been unacceptable in the scholarly literature until the 1970s, when the tide began to change, and the deeply entrenched habit of romanticizing the missions had not allowed for the characterization of slavery by the Catholic Church. In 1978, however, historian Robert Archibald controversially called attention to mission history by blatantly referring to it as a system of slavery, comparing it to the "forced movement of black people from Africa to the American South," making the connection between forced labor and Spanish economic self-interest. He argued that under the Spanish there was little distinction between the secular and the religious because of "a vested interest in economic exploitation of natives possible within the system. Too often economic exploitation of native peoples was the strongest foundation of the surrounding civilian and military society."<sup>19</sup>

In 2004 Elias Castillo, a three-time Pulitzer Prize nominee, wrote an op-ed for the *San Francisco Chronicle* criticizing the mission preservation bill and describing the missions as "little more than death camps run by Franciscan friars where thousands of California's Indians perished."<sup>20</sup> Castillo said that the editorial prompted him to write the book *A Cross of Thorns: The Enslavement of California Indians by the Mission System*, which wasn't released until January 2015, well into the Serra canonization crusade. *A Cross of Thorns* is a frontal assault on the Church's mission history and helped shore up the California Indian movement to oppose Serra's sainthood. The movement coalesced with a petition urging Pope Francis to abandon his canonization plans, signed by over ten thousand people.<sup>21</sup> With the pope's travels to South America and his apology to Indigenous peoples for the historic mistreatment of them by the Church, a glimmer of hope was raised that he might be persuaded to change his mind. That hope was dashed, however, when despite widespread criticism the elaborate canonization ceremony proceeded unabated in Washington, DC, in September 2015. The Church stood up for Serra's work, claiming that it was unfair to judge Serra for his actions by today's standards, and it contended that the friar had protected the Indians.<sup>22</sup>

## MYTH 9

## "US PRESIDENTS WERE BENEVOLENT OR AT LEAST FAIR-MINDED TOWARD INDIANS"

*Indians and wolves are both beasts of prey,  
tho' they differ in shape.*

—George Washington

*If ever we are constrained to lift the hatchet against any tribe,  
we will never lay it down till that tribe is exterminated,  
or driven beyond the Mississippi. . . . [I]n war, they will  
kill some of us; we shall destroy them all.*

—Thomas Jefferson

*Established in the midst of another and a superior race,  
and without appreciating the causes of their inferiority or seeking  
to control them, they [the tribes] must necessarily yield to the force  
of circumstances and ere long disappear.*

—Andrew Jackson<sup>1</sup>

The myth of benevolent, fair-minded presidents derives from denial of the policy of genocide upon which the founding of the United States was based. After a decade of war, the British conceded independence to the colonists. In the 1783 Treaty of Paris, they transferred ownership of all British territory south of the Great Lakes, from the Mississippi to the Atlantic, and north of Spanish-occupied Florida, a much larger area than the thirteen colonies.



However, before the promulgation of the Constitution in 1787 and subsequent election of the first president, the elite of the thirteen insurgent British colonies issued a genocidal policy in the Northwest Ordinance. This was the first law of the incipient republic, revealing the motive for those desiring independence. It was the blueprint for occupying and driving out the substantial agricultural societies of the formerly British-protected Indian Territory ("Ohio Country") on the other side of the Appalachians and Alleghenies. Britain had made settlement there illegal with its Proclamation of 1763.

The Northwest Ordinance was a policy document based on the Land Ordinance of 1785 that had established a national system for surveying and marketing plots of land, and as historian Woody Holton has noted, "Under the May 1785 ordinance, Indian land would be auctioned off to the highest bidder."<sup>2</sup> The Northwest Ordinance, albeit containing rhetoric about guaranteeing Native occupancy and title, set forth an evolutionary colonization procedure for annexation via military occupation, territorial status, and finally statehood, with the Pacific Ocean as the final western boundary. Conditions for statehood would be achieved when the settlers outnumbered the Indigenous population, which required decimation or forced removal of Indigenous populations. 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 US wealth and power must be seen.

The drawing up of maps for US continental colonization was preceded and accompanied by brutal wars of extermination by Anglo colonialists in seizing the Indigenous territories that became the thirteen colonies, and the Anglo-American colonists warring against Britain for independence didn't miss a beat

during that decade of war in wiping out Indigenous communities on the peripheries of the colonies. Those Native nations in British North America that refused to support the separatist forces were marked for annihilation. For instance, in response to the decisions by five of the six Iroquois nations to stay neutral or join the British effort, General George Washington wrote instructions to Major General John Sullivan to take peremptory action against the Iroquois,

to lay waste all the settlements around . . . that the country may not be merely *over-run* but *destroyed*. . . . [Y]ou will not by any means, listen to any overture of peace before the total ruin of their settlements is effected. . . . Our future security will be in their inability to injure us . . . and in the terror with which the severity of the chastisement they receive will inspire them.<sup>3</sup>  
[Emphasis in the original]

Sullivan replied, "The Indians shall see that there is malice enough in our hearts to destroy everything that contributes to their support."

A new element was added to the independent Anglo-American legal regime: treaty-making. The US Constitution specifically refers to Indigenous nations only once, but significantly, in Article 1, Section 8: "[Congress shall have power] to regulate Commerce with foreign Nations and among the several States, and with the Indian Tribes." In the federal system, in which all powers not specifically reserved for the federal government go to the states, relations with Indigenous nations are unequivocally a federal matter.

Although not mentioned specifically, Native peoples are implied in the Second Amendment. Male settlers had been required in the colonies to serve in militias during their lifetimes for the purpose of raiding and razing Indigenous communities,



and later states' militias were used as "slave patrols." The Second Amendment, ratified in 1791, enshrined these irregular forces into law: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The continuing significance of that "freedom" specified in the Bill of Rights reveals the settler-colonialist cultural roots of the United States that appear even in the present as a sacred right.

US genocidal wars against Indigenous nations continued unabated in the 1790s and were woven into the very fabric of the new nation-state, continuing across the continent for the next hundred years. The fears, aspirations, and greed of Anglo-American land speculators and settlers on the borders of Indigenous territories perpetuated this warfare and influenced the formation of the US Army, much as the demands and actions of backcountry settlers had shaped the colonial militias in North America. Brutal counterinsurgency warfare would be the key to the army's destruction of the Indigenous peoples' civilizations in the Ohio Country and the rest of what was then called the Northwest over the first two decades of US independence.<sup>4</sup>

In 1803, the Jefferson administration, without consulting any affected Indigenous nation, purchased the French-claimed Louisiana Territory (formerly Spanish) from Napoleon Bonaparte. This territory comprised 828,000 square miles, and its addition doubled the size of the United States. The territory encompassed all or part of multiple Indigenous nations, including the Sioux, Cheyenne, Arapaho, Crow, Pawnee, Osage, and Comanche nations, among other peoples of the bison. It also included the area that would soon be designated Indian Territory (Oklahoma), the future site of the forced relocation of Indigenous peoples from east of the Mississippi. Fifteen future states would emerge from the taking: all of present-day Arkansas, Missouri, Iowa, Oklahoma, Kansas, and Nebraska; the pari-

of Minnesota west of the Mississippi; most of North and South Dakota; northeastern New Mexico and North Texas; the portions of Montana, Wyoming, and Colorado east of the Continental Divide; and Louisiana west of the Mississippi River, including New Orleans. Except for the city of New Orleans, the lands had not yet been subjected to settler-colonialism. The territory pressed against lands occupied by Spain, including Texas and all the territory west of the Continental Divide to the Pacific Ocean. These would soon be next on the US annexation list.

Wealthy plantation operators in Virginia and the Carolinas were usurping Cherokee- and Muskogee-developed farmlands in what became Georgia and were intent on establishing themselves in the Mississippi Valley. Neither superior technology nor an overwhelming number of settlers made up the mainspring of the birth and development of the United States. Rather, the chief cause was the colonialist settler-state's willingness to eliminate whole civilizations of people in order to possess their land. The avatar for the ethnic cleansing of that vast territory in what is now the US South was Andrew Jackson, the seventh president, serving from 1829 to 1837. He began the project in 1801, initiating his Indian-killing military career as head of the Tennessee militia.

As the most notorious land speculator in western Tennessee, Jackson had enriched himself by acquiring a portion of the Chickasaw Nation's land. After his militia's brutal wars of annihilation against the Choctaws and Creeks (Muskogees), Jackson continued building his national military and political career by tackling the resistant Seminole Nation in what was then Spanish-occupied Florida, with successive presidents Jefferson and Madison turning a blind eye. For his bloody and illegal deeds (invading a foreign European country), President James Monroe made Jackson the military governor of Florida and a general in the US Army, beginning what are known as the

three Seminole Wars. In 1836, during the second of these wars, US Army general Thomas S. Jesup captured the popular Anglo attitude toward the Seminoles: "The country can be rid of them only by exterminating them." By then Jackson was finishing his second term as one of the most popular presidents in US history to that date.

During Jackson's first year as president, he shepherded through Congress the Indian Removal Act, and during the rest of his tenure oversaw the massive forced relocations to Indian Territory (now Oklahoma) of the five large agricultural nations of the Southeast—the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, a third to half of migrants dying on the long journeys. There is little doubt that Jackson was the single most destructive president for Native Americans, but it is essential to remember that the deeds he carried out before and during his presidency had been inscribed as policy of the US government from its inception. As the late Cherokee principal chief Wilma Mankiller wrote in her autobiography:

The fledgling United States government's method of dealing with native people—a process that then included systematic genocide, property theft, and total subjugation—reached its nadir in 1830 under the federal policy of President Andrew Jackson. More than any other president, he used forcible removal to expel the eastern tribes from their land. From the very birth of the nation, the United States government truly had carried out a vigorous operation of extermination and removal. Decades before Jackson took office, during the administration of Thomas Jefferson, it was already cruelly apparent to many Native American leaders that any hope for tribal autonomy was cursed. So were any thoughts of peaceful coexistence with white citizens.<sup>5</sup>

The Southern slave owner elite that controlled the presidency for nearly all of the first half-century of the United States succeeded in instrumentalizing the removal of all Native nations east of the Mississippi. With the cotton baronies free of Indigenous inhabitants, the seat of political power moved north with the expansion of slavery into the territories being a growing division between north and south, leading to the bloody Civil War. But the administration of Abraham Lincoln continued the policy of Indian destruction under the banner of "free soil." Lincoln's campaign for the presidency had appealed to the vote of land-poor settlers who demanded that the government "open" Indigenous lands west of the Mississippi. They were called "free-soilers," in reference to cheap land free of slavery.

In Minnesota, which had become a nonslavery state in 1859, the Dakota people were on the verge of starvation by 1862. When they mounted an uprising to drive out the mostly German and Scandinavian settlers, Union army troops crushed the revolt, slaughtering Dakota civilians and rounding up several hundred men. Three hundred prisoners were sentenced to death, but upon Lincoln's orders to reduce the numbers, thirty-eight were selected at random to die in the largest mass hanging in US history. In the midst of war, Lincoln did not forget his free-soiler settler constituency that had raised him to the presidency. During the Civil War, with the Southern states unrepresented, Congress at Lincoln's behest passed the Homestead Act in 1862, as well as the Morrill Act, the latter transferring large tracts of Indigenous land to the states to establish land grant universities. The Pacific Railroad Act provided private companies with nearly two hundred million acres of Indigenous land. With these land grabs, the US government broke multiple treaties with Indigenous nations. Most of the Western territories, including Colorado, North and

South Dakota, Montana, Washington, Idaho, Wyoming, Utah, New Mexico, and Arizona, were delayed in achieving statehood because Indigenous nations resisted appropriation of their lands and outnumbered settlers. So the colonization plan for the West established during the Civil War was carried out over the following three decades of war and land grabs. Under the Homestead Act, 1.5 million homesteads were granted to settlers west of the Mississippi, comprising nearly three hundred million acres (a half-million square miles) taken from the Indigenous collective estates and privatized for the market. This dispersal of landless settler populations from east of the Mississippi served as an "escape valve," lessening the likelihood of class conflict as the Industrial Revolution accelerated the use of cheap immigrant labor.

Up until the 1849 establishment of the Department of Interior, "Indian affairs" fell under the Department of War (renamed Department of Defense in 1947).<sup>6</sup> The Constitution established the president of the United States as commander in chief of the armed forces. So over the first seven decades of the United States, making war and expanding from the original thirteen states across the continent to the Pacific, US presidents' relationship with Indigenous nations was war. War on Native nations did not end with the transfer to Interior but rather continued for four decades, and the genocidal policy of elimination of the Native nations, as nations, is clear.

In 1871, Congress unilaterally ended Native nations' treaty-making power, an act that President Ulysses S. Grant did not challenge, although it was surely unconstitutional as a direct breach of the separation of powers doctrine. The result was the weakening of the US government's acknowledgment of Native nations' sovereignty. The role of the president was reduced to administrative powers regarding the Bureau of Indian Affairs and using executive orders to establish reservations. As Vine

Deloria Jr. noted, the president's role was reduced from that of a "negotiator of treaties to an administration of domestic disputes. . . . Indians as a subject of congressional debate were moved from the national agenda to an item on a committee agenda, and they were never again seen as having an important claim on national government."<sup>7</sup>

Since 1977, Native organizations and governments have been building institutional infrastructure and international human rights law within the United Nations. In 2007 this work produced the long-negotiated UN Declaration on the Rights of Indigenous Peoples, which calls for self-determination and a full range of specific and general human rights. There is a UN Special Rapporteur on Indigenous Peoples who monitors and reports on Indigenous complaints and government action in relation to the declaration. This has moved much Native American policy work from the Interior Department to the State Department and has led Native Americans to feel some optimism about future nation-building efforts.

MYTH 10

## "THE ONLY REAL INDIANS ARE FULL-BLOODS, AND THEY ARE DYING OFF"

At the core of narratives about Indian authenticity—particularly on the personal level—are popular assumptions about Indian "blood." They are made visible by the question "How much Indian blood do you have?"—asked inevitably by non-Native people of Native people or people who claim Native ancestry. At the root of the question, whether the questioner is cognizant of it or not, is an implicit demand to authenticate the claim. Is the percentage of Native ancestry sufficiently high? Whether or not the answer is acceptable may be based also on looks, clothing, or other situational elements. The hidden context is that a claim to Indian ancestry is automatically suspect since all the real Indians are presumed dead, or if there are any alive they are on a reservation. This is especially true in big cities, where Indians are invisible for a variety of reasons, not the least of which is because they can be easily mistaken for other ethnicities.<sup>1</sup> Among American Indians the "blood quantum" conversation is always contentious. It is contentious not only because it can mean the difference between being viewed by outsiders as authentically Native or conversely phony, but also because it can mean the difference between belonging and not belonging within Native communities or even within families. Unlike other ethnicities in the United States, American Indians are the only citizens who are subject to state-sanctioned legal definitions of identity, obligated to prove who they are as Indigenous peoples.

Native studies scholars talk about the dominant society's obsession with Indian authenticity as a fetishization of "blood," where blood is metaphorical, a stand-in for culture. A calculus where blood equals culture presupposes that genetics alone determines identity, absent other conditions such as upbringing, language, or other culturally specific markers of belonging outside dominant Euro-American society.<sup>2</sup> It emerges out of the history of scientific racism (discussed in myth 7), particularly where intermarriage was thought to improve (i.e., civilize) the inherently degraded "race." As Ryan Schmidt at the University of Montana writes, scientific racism linked physical characteristics with behavior, strengthening racial worldviews and creating social hierarchies. He points out that by the 1960s and 1970s, anthropologists had begun discarding systems of racial classification and had abandoned the validity of the concept of race.<sup>3</sup> Contemporary social scientists now widely affirm the idea of race as a social construction. Schmidt, like many scholars before him, traces the history of blood quantum as the arbiter of Indian identity, locating it throughout various eras of colonial and federal Indian policy, particularly as it was used during the period following enactment of the Dawes Act. This era "saw the concept of blood quantum become officially integrated into the legal status of Indian identity for the purposes of dividing communal tribal lands into individual parcels called allotments," whose ultimate purpose was to break up the communal lifestyles of Indigenous peoples.

The allotment policy connected Indian blood with competency (or lack thereof). Competency meant that an individual was capable of managing his or her own affairs, thus lifting a twenty-five-year restriction on the ability to sell an allotment (invariably resulting in more Indian land in white hands). Commissions that established competency equated competency with European ancestry. The more that European ancestry could



determine the status of the allotments, the easier they would be to alienate, which served the US agenda to dispossess Indians of their lands. During this era tribes were encouraged to create rolls to determine tribal membership for the purpose of distributing allotments. Many scholars have argued that it was during this period that tribes internalized the blood quantum ideology in a process of being duped. Schmidt argues, however, that this is inaccurate since the federal government didn't force tribes to adopt blood quantum requirements, but rather advised them, providing them with step-by-step guidelines and charts on how they should determine blood quantum.<sup>4</sup> One study about allotment on the Colville reservation confirms the extent that tribal councils exercised their own will, influenced by their own cultural understandings about belonging and community membership. It demonstrates that in the early days (between 1906 and 1917), enrollment was more a function of perceptions of kinship and cultural affiliation than it was about adhering to the government's strictly defined blood quantum standards.<sup>5</sup>

In the bigger picture, however, the Colville example does reveal how blood quantum congealed as the prime determinant of tribal membership when in the 1937 base roll a one-eighth blood quantum requirement was established, which by 1939 had been changed again to one-quarter blood degree, where it remains today. This more restrictive and exclusionary criterion parallels the increasing commodification of Indian lands as tribal nations merged into a cash economy and came under the control of the Bureau of Indian Affairs. By the time tribes had become reconstituted under the Indian Reorganization Act of 1934, via corporate charters for the purpose of economic development, most tribal nations were extensions (or at least reflections) of the federal bureaucracy that oversaw them.<sup>6</sup> Tribes were now in the business of managing and distributing limited

resources for which there had to be some way to divide a rapidly shrinking pie.<sup>7</sup> By and large, blood quantum became the default way to count who was and who was not deserving, even when it contradicted customary norms of Indigenous inclusion and identity. And it was complicated by the conditioning of boarding schools, which instilled a sense of shame about being Indian in the context of a white supremacist dominant social structure. Many denied their Indianness at times to avoid discrimination, while at other times they affirmed it for the benefits of land and other resources, often leaving behind impossibly tangled genealogical webs of documentation for future generations to sort out.

A solid body of federal Indian case law has for decades affirmed the power of Native nations to decide their membership in whatever ways they choose, blood quantum or not. But an equally ample body of scholarship makes the case that if they continue to adhere to minimum blood quantum standards eventually there will be no Indians left, in what has been called "paper" or "statistical" genocide. This is because Indians marry outside their cultures more than any other ethnic group, resulting in multiracial and multiethnic children. What's more, even when Indians have children with other Indians but from different tribes, it lowers the blood quantum necessary to enroll in one tribe (a requirement written into most tribal constitutions). It's possible for a person to have one half or more Indian blood combined from two or more tribes but not be able to enroll in any one tribe if they can't prove the tribally specific minimum blood degree—which is often one-quarter or one-half—or if the minimum blood degree derives from the wrong parent.<sup>8</sup> Some tribes, for instance, will only enroll children with maternal ancestry, while others will enroll only children with paternal ancestry, regardless of blood degree. Or a person can have a high



degree of Indian blood from a tribe that has had federal recognition terminated (which happened to over one hundred tribes in the 1950s and 1960s). While he or she may self-identify as American Indian, the person won't be legally defined as such, resulting in ineligibility for federal benefits, whereas someone with much lower blood quantum could be eligible. Some Native nations are turning to genetic testing to assist them in their enrollment procedures.<sup>9</sup> This is not the magic bullet it's made out to be, however, because, for one thing, no test can determine the precise tribes from whom one has descended.<sup>10</sup>

For these reasons and more, scholars increasingly call on tribes to rethink their enrollment criteria. Seen through the lens of settler colonialism, blood quantum is the ultimate tool of Native elimination, but when tribes themselves employ it, it is self-imposed erasure. Native nations are gradually changing their practices, however. Some tribes have moved to accept all Indian blood in their blood quantum calculations for enrollment (the Colvilles among them). Other tribes have lowered the blood quantum minimums. The Ojibwes at White Earth are a recent high-profile example: in 2013 the tribe adopted a new constitution that changed a requirement for one-quarter blood quantum to lineal descent from an enrolled ancestor, with no minimum blood quantum required. Overall, the move toward definition by lineal descent is increasing. One 2011 study found that 42 percent of tribes are now utilizing a lineal descent rule, which is up from 15 percent using a lineal descent rule prior to 1940.<sup>11</sup>

Native scholars stress that the blood quantum system is foreign to ways Indigenous peoples historically determined community membership. In most tribal nations, individuals could be incorporated from outside through capture, adoption, or intermarriage, where belonging was a function of cultural

participation and competence. Identity from an Indigenous perspective, in other words, is less a product of quantifiable biology than it is a function of kinship and culture, directly invalidating the popular myth that "real" Indians are only full-bloods who are dying off.<sup>12</sup>

MYTH 11

## "THE UNITED STATES GAVE INDIANS THEIR RESERVATIONS"

Of all the myths that surround American Indians, none is as confounding as the misunderstanding that the federal government gave Indians their lands. Arguably it derives from the conquest myth, which would have people believe that because of military domination (and later legal domination) whatever lands and rights Indian nations do enjoy are due to the "benevolent supremacy" of the US government.<sup>1</sup> Belief in the conquest myth and benevolence of the United States underscores the tenacity of the manifest destiny narrative, but it fails to change the actual reality that all of Turtle Island (the North American continent) has been Indian land since tens of thousands of years before European invasion. And it does not change the fact that it was Indians who gave up lands to the United States in treaties, not the other way around.

The word itself—"reservation"—refers to the lands that were reserved for Native nations after they ceded vast swaths of their territories to the United States through treaties. Land cessions were one of two primary functions of treaties, the other being to forge peace agreements. Today the federal government refers to three different types of reservations: military, public, and Indian. Indian reservations are lands that are held in trust for tribal nations by the federal government. According to the Bureau of Indian Affairs, 56.2 million acres of land are held in trust on behalf of tribal nations and individuals, with approximately 326 Indian land areas in the United States administered

as federal Indian reservations, known variously as reservations, pueblos, rancherias, missions, villages, and communities.<sup>2</sup> Other types of Indian lands include allotted lands (individual allotments held in trust by the government) and state reservations, in which lands are held in trust for Indians by a state, not the federal government. Reservations were also created by executive order and congressional acts, and even though there are now 567 federally recognized tribal nations, not all nations have reservations. There is only one Indian reservation in Alaska (the Metlakatla Indian Community of the Annette Island Reserve in southeastern Alaska). Alaska Native groups are organized as corporations under the Alaska Native Claims Settlement Act of 1971, so while there are many Indigenous people in Alaska, their legal status is slightly different than American Indians in the lower forty-eight states.

Along with the myth that the federal government gave Indians their lands, there is another fiction that goes something like this: because Indian reservations are places of oppression they should be abolished. This fiction has been behind numerous disastrous policy decisions. The early days of the reservations (mid- to late-nineteenth century) were oppressive in many places—especially where subsistence lifestyles had been dependent upon hunting, like in the Great Plains—because of federal policies that restricted Indians to their reservation boundaries, which were often too small to allow a subsistence hunting lifestyle. In frequent cases, treaty-guaranteed annuities and food rations were never received, resulting in starvation and conditions of extreme poverty, especially as traditional political economies became supplanted by Euro-American capitalism.<sup>3</sup> Viewing traditional Native lifestyles as backward and uncivilized, the federal government enacted a policy of forced assimilation to break up communal landholdings and imposed a system of private property ownership through the General

Allotment Act of 1887 (the Dawes Act). The law turned out to be no more than a massive land grab for the United States that resulted in the loss of two-thirds of the lands reserved for Indians by treaties and increased reservation poverty rates. Poverty intensified also when the federal government embarked on a campaign to eradicate the massive buffalo herds on the plains (to force a sedentary lifestyle), and when Indians were defrauded out of their individual allotments, leaving many penniless and landless.

By the early twentieth century, a commission to study the deplorable conditions on the reservations found Indian poverty a direct result of failed government policies. The Meriam Report of 1928 recommended (among other things) that Native nations be allowed to be more self-governing, signaling a new policy direction, which would be manifest with the passage of the Wheeler-Howard Act (the Indian Reorganization Act) of 1934. While a step in the right direction, this still kept Indians tightly tethered to the paternalism of the US government.<sup>4</sup> Within twenty years, with the political winds blowing in a far more conservative direction under the postwar (and emerging Cold War) Eisenhower administration, Congress pushed for a new policy in a renewed attempt to forcibly assimilate Indians into mainstream society. This time assimilation was framed in terms of "liberating" Indians from the oppressive control of the federal government, which it proposed to do by eliminating the trust relationship, effectively freeing the United States from its own treaty obligations. House Concurrent Resolution 108 was passed in 1953 in an effort to abolish federal "supervision" over Indians. By eliminating the trust responsibility, the United States would terminate Indian reservations by converting them to private ownership once and for all.<sup>5</sup> Under HCR 108, Congress also established the relocation program—a jobs program that gave Indians a one-way ticket from their reservations

to low-paying jobs in big cities such as Chicago, Los Angeles, San Francisco, Minneapolis, Seattle, and New York—all in an attempt to "negate Indian identity."<sup>6</sup> In the long run, relocation resulted in a wholesale population transfer, so that more Indians now live in cities than on reservations. The federal trust relationship was terminated for 109 tribes, affecting 1.3 million acres of Indian land (falling out of Indian hands) and an estimated twelve thousand Indians.<sup>7</sup>

The words "termination" and "relocation" to this day are enough to make an Indian's blood run cold. The Colville reservation is often looked to in termination studies as a case where termination was narrowly averted in a highly contentious twenty-year intra-tribal battle. Because tribes were allowed to vote on whether or not to accept termination, it is a study not only in the ways Native nations exercised choice but also a retrospective view on how disastrous termination was for so many, as it would have been for the Colvilles.<sup>8</sup> It illustrates that even with the problems associated with the federal trust relationship and the paternalistic nature of aboriginal title, reservations are still considered homelands for those who are born and raised there—and even for some who were not.

Accompanying the various assumptions about reservations as undesirable places that should be abandoned is another common belief related to Native authenticity and identity, that the only real Indians today are from reservations. The implication is that Native people who are from cities are not authentically Native, presumably because they are more acculturated to dominant white society (i.e., assimilated) and cut off from their Indigenous cultures of origin. Native scholars and writers have vigorously challenged this idea for generations, in both fiction and nonfiction. While reservations are geographic centers that link Native people to their Indigenous ancestry and historical continuity, Renya K. Ramirez conceptualizes urban Native

spaces as "hubs" of culture that facilitate connections between reservations and cities. Such Native spaces include Indian centers, powwows, sweat lodges and other ceremonies, and any other kind of places and activities that gather Native people together in expressions of indigeneity.<sup>9</sup> In traveling between cities and reservations, Native identity is enacted and reinforced. Ramirez writes, "This constant movement and interaction disrupts the idea of Native cultural identity as a fixed, core essence. In contrast, urban Indian identity, according to the hub, is flexible and fluid. Thus, Native Americans' interactions with each other in the city and on the reservation can transform and rejuvenate tribal identity."<sup>10</sup>

As people living in diaspora, the hub emphasizes urban Indians' "strong rooted connection to tribe and homeland" and demonstrates the "potential for political power as Native men and women organize across tribal lines."<sup>11</sup> The Red Power movement of the 1960s and 70s, for instance—born out of the Alcatraz Island occupation in San Francisco and the formation of the American Indian Movement in the mean streets of Minneapolis—displays the way urban political organizing had far-reaching positive effects for both city and reservation Indians. Finally, the idea of hubs also applies to Indigenous conceptions of transnationalism (as opposed to pan-tribalism), where Indigenous nationhood is underscored. Sovereignty and self-determination are affirmed as political principles that differentiate Native peoples from other racial and ethnic groups, while it decenters the nation-state as the default arbiter of civic belonging and national identity.

## MYTH 12

## "INDIANS ARE WARDS OF THE STATE"

In December 2014, Arizona Republican congressman Paul Gosar set off a tidal wave of controversy through Indian country when he referred to American Indian nations as "wards of the federal government." Gosar sponsored the Southeast Arizona Land Exchange and Conservation Act of 2013—a bill that opened up an Apache sacred site to copper mining—and his comment was made during a public meeting in Flagstaff to discuss it. According to an Associated Press report, during a roundtable discussion with a White Mountain Apache citizen who voiced his concerns about the land deal and proposed mine, Gosar retorted, "You're still wards of the federal government," implying not so subtly that what Indians want doesn't matter and that the federal government can do as it likes.<sup>1</sup>

Gosar's comment added insult to injury after a decade-long battle to protect the site known as Oak Flat, formerly Apache-owned land but now national forest, from mining development. His bill was a gift to Resolution Copper (whose parent company is the controversial British-Australian mining giant Rio Tinto), which had long been courting Congress for permission to mine the site, an action staunchly resisted by environmental and Native activists. Rio Tinto has a long record of human rights violations and egregious environmental practices dating back to the 1930s Spanish dictatorship of Francisco Franco. It is deeply implicated in the ongoing genocide of the Indigenous peoples of West Papua in Indonesia. The bill provided for the swap of five



thousand acres "of overgrazed grassland, burned out forests and dry riverbeds in various parcels of land scattered around the state" held by Resolution Copper for twenty-four hundred acres of "forests, streams, desert, grasslands, craggy mountains, and huge rock formations with ancient petroglyphs."<sup>2</sup> The open pit mine will create a massive hole in the ground that will inevitably leave the site a toxic wasteland, as so many of Rio Tinto's projects have been known to do throughout the world.<sup>3</sup>

The land swap is a brutal example of the lack of sacred site protections that Fourth World nations in the United States still endure, and Gosar's remark was a slap in the face to the Apache people who use Oak Flat for traditional purposes like ceremonies and medicine gathering. Yet as offensive as it was, it did open up a public conversation about the "wards of the government" myth that is still so indelibly etched in the public imagination. It has become a cliché that can be bandied about callously in public battles between Congress and Indian country.<sup>4</sup>

The misnomer finds its origins in the nineteenth-century Supreme Court case *Cherokee Nation v. Georgia* (1831), part of the Marshall Trilogy (see myth 7), which forms the basis of today's body of federal Indian law. The court in the Marshall Trilogy cases of the 1820s and 1830s attempted to articulate a coherent approach for US dealings with Native nations at a time of relentless settler encroachment into Indian lands and a gradually shifting balance of military power. In *Cherokee Nation*, the court needed to decide how much authority states possessed to intervene in the affairs of Indians, which meant determining the nature of Indians' relationship to the United States and thus the nature of Indian sovereignty. Chief Justice Marshall claimed, "They may, more correctly, be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will, which must take effect in point of possession, when their right of possession ceases. Meanwhile,

they are in a state of pupillage; their relation to the United States resembles that of a ward to its guardian."

Marshall did not explicitly define the relationship between Native nations and the federal government as a ward to its guardian, but used that—with exceptional hubris—as an analogy to describe the inferior status of the nations.<sup>5</sup> The *Cherokee* opinion (as with the Marshall Trilogy in general) was a blatant display of the growing US paternalism toward the nations and was the beginning of the eventual repudiation of the treaty-based relationship that had been in place from the country's beginning. If *Johnson v. M'Intosh* (1828) created the legal fiction known as the doctrine of discovery, which essentially legalized the concept of Indian inferiority, the wardship idea further bolstered it and has since been used by jurists and legislators in convoluted and manipulative ways to maintain dominance. For instance, when Indian Country Today Media Network asked for comments from Gosar about his statement, his reply was that "the federal government's dirty little secret is that Native American tribes are not fully sovereign nations in today's society as many people are led to believe. My comments made at the roundtable last Friday were about this reality and current laws that govern the relationship between tribes and the federal government."<sup>6</sup>

Beside the fact that Gosar was on the one hand implicating himself in the maintenance of a "dirty little secret" and on the other hand appearing to denounce it, he was referring obliquely to another concept in federal Indian law known as the "plenary power doctrine." First articulated in 1886 in *United States v. Kagama*, most scholars agree, and then more explicitly in *Lone Wolf v. Hitchcock* (1903), the plenary power doctrine ostensibly holds that Congress has unlimited authority to unilaterally make decisions about Indian lands and rights. It has no constitutional basis and was, like the other doctrines that emerged from the Marshall Trilogy, an invention of the Supreme Court.



According to Native legal experts Wilkins and Lomawaima there are three ways that the plenary power doctrine can be (and has been) interpreted:

1. Plenary power as an *exclusive power* of Congress, meaning that the Constitution recognizes Congress alone as the sole authority among the three branches of government to "regulate commerce with foreign nations . . . states . . . and with the Indian tribes" (one of only two places in the Constitution that mentions Indians).
2. Plenary power as *preemptive power*; Congress has power that preempts and supersedes the authority of states.
3. Plenary power as *unlimited and absolute power*. [All emphasizes in the original]<sup>7</sup>

The first two interpretations are seen as constitutionally supported, while plenary power as unlimited and absolute power is not, even though it has been widely deployed in this way by the Supreme Court throughout the twentieth century. Wilkins and Lomawaima, along with other scholars, argue that this interpretation of the doctrine is based on several errors in the court's analysis in *Kagama*. In the *Lone Wolf* decision, they write, Justice Edward D. White (who wrote the opinion)

inaccurately stated that Congress had exercised plenary authority over tribal lands "from the beginning" and that such power was "political" and therefore not subject to judicial review. These statements were legal rationalizations, yet they were in line with the reigning view that federal lawmakers held of Indians—Indians were dependent wards subject to their sovereign guardian, the United States.<sup>8</sup>

Wilkins and Lomawaima further contend that plenary power interpreted as unlimited and absolute is "aberrant and undemocratic." Laurence Hauptman (quoting Alvin J. Ziontz)

likewise argues that it "is an extraordinary doctrine for a democracy to espouse."<sup>9</sup>

The trust doctrine—another bedrock principle in federal Indian law—is also a vexed concept upon which legal scholars disagree. Like the plenary power doctrine, the trust doctrine has been subject to a wide range of interpretations and meanings, and there is no consensus on when the doctrine originated. Some believe that it originated in the "'discovery era' of Europe's commercial and religious excursions into the Americas," others believe it was an outgrowth of the Indian law cases of the 1820s and 1830s, and still others think it was a fiction of the American Indian Policy Review Commission of the mid-1970s.<sup>10</sup> There is also wide disagreement on what exactly "trust" means. In an "antitrust" view, Congress can exercise unlimited and absolute plenary power over the management of Indian affairs, or what can be thought of as a theory of non-beneficial trust. On the other hand, others believe that the trust doctrine—commonly referred to as the "trust responsibility"—obligates Congress to manage Indian affairs in a way that benefits them, and that they even have a fiduciary responsibility to Indian nations. In other words, Indians are not wards of the state but are trustees in a trust relationship. In this definition, the United States is morally obligated and is accountable for violations of the trust relationship.<sup>11</sup>

Paul Gosar's "wards of the government" comment was highly inflammatory and viewed as a race-baiting tactic. Aside from the fact that it was factually inaccurate, it was an overt display of congressional hostility toward Native nations. It reflects a skewed and very conservative view of both the plenary power and trust doctrines, for which there are not absolute definitions as he would have us believe. It is a prime example of how these highly controversial concepts can be used to justify political agendas that not only work against Native peoples, but also, in this case, against the good of the general public.

MYTH 13

# "SPORTS MASCOTS HONOR NATIVE AMERICANS"

At an Atlanta Braves baseball game, fifty thousand fans are whipped into a frenzy, many of them dressed in Halloween-costume-style feathered headbands, their faces unself-consciously painted in "war paint," doing the "tomahawk chop" to a contrived Indian drumbeat. The same thing happens at Kansas City Chiefs football games. The Cleveland Indians flaunt Chief Wahoo, a cartoon Indian that was likened to a "red Sambo" by Cleveland councilman Zack Reed.<sup>1</sup> In Dallas, a gay pride parade annually features a float called "Kaliente" with a banner that reads "Honoring Native Americans." The float and accompanying marchers are dressed in all manner of Halloween-style Indian garb, and the float is a mishmash of pseudo-Indian symbols ranging from totem poles to a life-size papier-mâché buffalo. At music festivals like Coachella, Sasquatch, and Bamboozle, where fashion matters as much as music, Native head-dresses have become all the rage. These are only a handful of countless examples of Native American cultural appropriation that can be named, a phenomenon that is so complex and persistent that the topic has filled volumes. Because of the vast scope of the issue, we devote the next two chapters to the most egregious and common aspects of it.

Sociologist James O. Young writes that cultural appropriation happens when people from outside a particular culture take elements of another culture in a way that is objectionable to

that group.<sup>2</sup> According to Young's definition, it is the objection that constitutes appropriation, as distinguished from cultural borrowing or exchange where there is no "moral baggage" attached. Native American cultural appropriation can be thought of as a broad range of behaviors, carried out by non-Natives, that mimic Indian cultures. Typically they are based on deeply held stereotypes, with no basis at all in knowledge of real Native cultures. This acting out of stereotypes is commonly referred to as "playing Indian," and, as Philip Deloria's research so eloquently revealed, it has a long history, going at least as far back as the Boston Tea Party.<sup>3</sup> Some forms of appropriation have been outlawed, as is the case with the Indian Arts and Crafts Act of 1990 (IACA). Responding to the proliferation of faux Indian art (which undermines economic opportunities for actual Native American artists), the IACA is a truth-in-advertising law that regulates what can legitimately be sold as Indian art. No such possibility exists, however, for the vast majority of appropriations American Indians endure daily.

Non-Native people play Indian whenever they don any garb that attempts to replicate Native culture (however serious or trivial their intent) or otherwise mimic what they imagine to be Indian behavior, such as the tomahawk chop, a fake Indian dance, or bogus war whoop.<sup>4</sup> Native American appropriation is so ubiquitous in US society that it is completely normalized, not only rendering it invisible when it occurs, but also adding insult to injury. Native people are also shamed for being "hypersensitive" when they protest. Halloween costumes, popular fashion, and children's clubs and activities (such as the YMCA's Indian Guides and Princesses programs and other summer camps) are some of the more obvious ways cultural appropriation occurs through Indian play in mainstream society, but perhaps its most visible form is in school and sports team mascots. Campaigns to

put an end to the turning of American Indians into mascots began in the early 1960s when the National Indian Youth Council began organizing on college campuses to remove Indian sports stereotypes.<sup>5</sup> Then in 1968 the National Congress of American Indians (NCAI), the largest pan-Native representational and advocacy organization in the United States, established its own anti-mascot initiative.<sup>6</sup> Once obscure, the movement to eradicate Indian mascots has snowballed into mainstream awareness.

In 2013 the NCAI issued a report outlining their position on Indian mascots. It mentions numerous resolutions that have been passed by the organization over the years, including one in 1993 imploring the Washington professional football team referred to as the "Redsk\*ns" to drop its name, and another in 2005 supporting the National Collegiate Athletic Association (NCAA) ban on native mascots, nicknames, and imagery.<sup>7</sup>

The report summarizes the negative impacts that Indian mascots have been shown to have on Native youths, citing, for example, a study by cultural and social psychology scholar Stephanie Fryberg. Her 2004 study revealed that when exposed to stereotypical "Indian" images, the self-esteem of Native youths is harmed, eroding their self-confidence and damaging their sense of identity.<sup>8</sup> This is crucial given that the suicide rate among young American Indians is epidemic at 18 percent, more than twice the rate of non-Hispanic white youth, and contextualized by the fact that Native Americans experience the highest rates of violent crimes at the hands of people from another race.<sup>9</sup> Since the early 1970s thousands of public and postsecondary schools have dropped their Indian mascots, and hundreds more professional and governmental institutions have adopted resolutions and policies opposing the use of Native imagery and names, including the American Psychological Association, the American Sociological Association, the National Association

for the Advancement of Colored People (NAACP), and the US Commission on Civil Rights. In 2015 California became the first state to ban "Redsk\*ns" as a mascot name in public schools.

As the NCAI report indicates, the "Redsk\*ns" name is particularly offensive to Native peoples. According to the report,

The term originates from a time when Native people were actively hunted and killed for bounties, and their skins were used as proof of Indian kill. Bounties were issued by European companies, colonies, and some states, most notably California. By the turn of the 20th century it had evolved to become a term meant to disparage and denote inferiority and savagery in American culture. By 1932, the word had been a term of commodification and the commentary on the color of a body part. It was not then and is not now an honorific. . . . The term has since evolved to take on further derogatory meanings. Specifically, in the 20th century [it] became a widely used derogatory term to negatively characterize Native characters in the media and popular culture, such as films and on television.<sup>10</sup>

Over the last twenty-five years, at least twenty-eight high schools have abandoned the name, but the Washington football team's owner, Dan Snyder, has stalwartly insisted that he will never change the name, despite mounting legal challenges to its trademark and public outspokenness by President Barack Obama and other political leaders about its offensiveness.<sup>11</sup> A growing number of media outlets and prominent sports reporters have vowed to stop using the name, and even NFL commissioner Roger Goodell has acknowledged its insensitivity.

Although arguments to justify the usage of Native images in the world of professional sports are weak at best, there are some instances where the use of Native mascots has been

deemed acceptable at the college level, according to the NCAI report. The NCAA ban, for instance, includes a "namesake exception" that allows universities to keep their Native American nicknames and logos when they are based on a specific tribe and they have been granted the permission by that tribe. Such permission was granted for Florida State University ("Seminoles"), Central Michigan University ("Chippewas"), and the University of Utah ("Utes"). The University of North Dakota, on the other hand, due to opposition of the name "Fighting Sioux" from local tribes, was not granted an exemption. At the high school level, at least one high school in New York State has successfully fought to retain its Native mascot despite a request from the state's education commissioner to boards of education and school superintendents to end their use of American Indian mascots and team names. Salamanca Central High School (SCHS) is located within the boundaries of the Seneca Nation, 26 percent of its student body is American Indian, and the team name "Warriors" is represented by an accurate depiction of a Seneca sachem rather than the cartoonish Plains-style Indian so typical of Native mascots. A name change was opposed by the Seneca Nation of Indians Tribal Council, the SCHS administration and student body, the Salamanca school board, and the Salamanca city council in a show of cross-cultural solidarity.<sup>12</sup>

Native cultural appropriation via fashion is nothing new. It has been around at least since the counterculture of the 1960s and 1970s. Pop icon Cher did her part when she appeared on national television dripping with silver and turquoise Navajo jewelry and singing about Cherokee "half-breeds." The same was true for an entire generation of alienated middle-class white youth who, adorned in beads and feathers, were moving into teepees on hippie communes. Things got so convoluted that when Sacheen Littlefeather went in front of the country to

reject an Academy Award on behalf of Marlon Brando in 1973, dressed in full traditional regalia, she was accused of not being a real Indian and of renting her dress. So when a new generation began parading around in Native "war bonnets" and other Indian-inspired attire at music festivals and on fashion runways and magazine covers, it was simply business as usual—only there was a new generation of American Indians and their allies, who were well-informed, mobilized, and unwilling to sit idly by and take it without vociferous criticism and even lawsuits.

Designer Paul Frank, for example, drew outrage from the Native American community in 2012 when he threw a high-profile, star-studded, Indian-themed bash (called "Dream Catchin' Powwow"), complete with plastic tomahawks, bows and arrows, war paint, and feathers. Getting the message loud and clear, the company issued an apology and announced a series of positive steps that included plans for a new collection by Native American designers, with proceeds to be donated to a Native organization.<sup>13</sup> That same year the Navajo Nation filed a lawsuit (which it eventually won) against Urban Outfitters for trademark violations after the company used the word "Navajo" for underwear and flasks.<sup>14</sup> And in 2014—as if completely oblivious to what was happening in the fashion world—hip-hop artist and fashion designer Pharrell Williams appeared on the cover of *Elle UK* magazine in a costume version of a Plains-style feather headdress, for which he later apologized.<sup>15</sup> Even some mainstream US Americans understood the transgression when *Time* magazine published an online opinion piece spelling out just why the image was so odious. Pointing out that clothing designers are notorious for borrowing from other cultures for inspiration, and comparing fashion to cultural fusion in cooking, the author wrote, "The link between clothing and personal identity, however, means that putting on another culture's clothes is a



greater claim to ownership and belonging than sampling sushi or buying a burrito for lunch. As long as nudity isn't a socially acceptable option, we are what we wear—and our desire to define ourselves through borrowed finery can either enrich or impoverish the source community."<sup>16</sup>

Among other things, it is this subtle claim to ownership that scholars of cultural appropriation unmask, especially in the realm of mascot names and images. With university and college examples like the Florida State Seminoles, the University of Illinois Fighting Illini, and many others, non-Native mascot defenders claim such representations honor particular tribal nations and peoples. But what they really do is assert an imagined indigeneity whereby white dominant society assumes control of the meaning of Nateness. Professor of professional sport management at Drexel University Ellen Staurowsky characterizes these kinds of fraudulent claims to Indianness as a system of sustainable racism within a "sociopolitical power structure that renders Indianness tolerable to Whites as long as it is represented on terms acceptable to them."<sup>17</sup> She also points out the inconsistency of tolerating objectionable university Indian mascots with the central mission of higher education.

The myth that Indian mascots honor Native Americans, then, appears to be little more than a carefully constructed rationale to justify the maintenance of a system of domination and control—whether intentionally or unintentionally—where white supremacy is safeguarded, what Robert F. Berkhofer Jr. famously called the "White Man's Indian." And particularly at the level of professional sports, the branding of Native American team names and images also serves more as a rationale to maintain financial empires (explaining the stubborn adherence to racist portrayals of Native peoples in organizations like the Washington Redsk\*ns), than dubious claims to be honoring

them. But the justifications for American Indian cultural appropriation don't end with sports team mascot battles and fashion debacles. Appropriating Native cultures by playing Indian permeates US society so broadly it strikes at the very heart of Native American cultures, their spiritually based systems of belonging and identity, which we turn to next.