

UCLA

American Indian Culture and Research Journal

Title

Denial of Genocide in the California Gold Rush Era: The Case of Gary Clayton Anderson

Permalink

<https://escholarship.org/uc/item/33p0786x>

Journal

American Indian Culture and Research Journal , 45(2)

ISSN

0161-6463

Author

Ostler, Jeffrey

Publication Date

2021-06-01

DOI

10.17953/aicrj.45.2.ostler

Copyright Information

This work is made available under the terms of a Creative Commons Attribution-NonCommercial License, available at <https://creativecommons.org/licenses/by-nc/4.0/>

Peer reviewed

Denial of Genocide in the California Gold Rush Era: The Case of Gary Clayton Anderson

Jeffrey Ostler

In June 2019, California Governor Gavin Newsom issued a formal apology to California's Native Americans for "historical mistreatment, violence, and neglect," and, in order "to provide Native Americans a platform to clarify the historical record and work collaboratively with the state to begin the healing process," established a Truth and Healing Council (THC).¹ Although the state's apology did not word the historical mistreatment as "genocide," in his public remarks Newsom added, "That's what it was, a genocide. No other way to describe it. And that's the way it needs to be described in the history books."² The twelve members of the THC, all tribal leaders, first met in December 2020 to begin five years of work, with a final report to be delivered in January 2025. As the vice chair of the Yurok tribe, THC member Frankie Myers, stated, the THC is "charged with articulating one of the worst chapters of state-sponsored violence this country has ever known—the genocide perpetuated against tribal nations in the early days of California statehood."³

That California committed genocide against Indigenous peoples rests on a substantial body of scholarship. Since the late 1960s, a long line of scholars—Theodora Kroeber, Robert F. Heizer, Jack Norton, Russell Thornton, Benjamin Madley, Ashley Riley Sousa, Brendan Lindsay, and many others—have applied the term *genocide* to the Gold Rush era.⁴ Leading historians of California and the American West, including Stephen Aron, Robert V. Hine, John Mack Faragher, Patricia Nelson Limerick, Michael Magliari, and Richard White, have endorsed this view.⁵ Not all

JEFFREY OSTLER is professor of history emeritus at the University of Oregon. His recent publications include *Surviving Genocide: Native Nations and the United States from the American Revolution to Bleeding Kansas* (Yale University Press, 2019) and, with coauthor Karl Jacoby, contributed "After 1776: Native Nations, Settler Colonialism, and the Meaning of America" to a special issue on patriotic history in *Journal of Genocide Research* (2021).

of these scholars agree on all issues. Norton, Madley, and Lindsay, for example, apply the definition adopted in 1948 by the United Nations Convention on the Crime and Punishment of Genocide:⁶

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.⁷

Magliari, on the other hand, rejects the UN definition as too broad and adopts one limited to “exterminatory campaigns.” Magliari agrees that some Indigenous communities, especially in the north, were subject to genocide during the Gold Rush, but questions the view that all or even most California Indigenous communities suffered genocide.⁸

Despite these differences, there is a general consensus that the term *genocide* at least applies to some times and places in the state’s early history. A few scholars, however, object to using the concept of genocide for the California Gold Rush era at all. In a review of Madley’s highly influential book *An American Genocide*, Alan Taylor contends that the term, coined to describe “the industrial and bureaucratic scale of slaughter perfected by the Nazis ... distorts if projected back onto the mid-19th century, when governments were far weaker and less cohesive in their purpose.”⁹ However, only one professional historian has made a detailed argument against characterizing the California Gold Rush era as genocidal. In a chapter of *Ethnic Cleansing and the Indian* (2014), an overview of colonial and United States policies and actions toward American Indians, Gary Clayton Anderson contends that these policies and actions in California constituted “ethnic cleansing,” but emphatically *not* genocide.¹⁰ He reiterates this view in an article that gave rise to a *Western Historical Quarterly* forum, in which Boyd Cothran expresses his concern that to raise the issue of genocide, “inevitably devolves into a debate over definitions,” and leads us to “forget about the people for whom this is not merely an academic exercise but a horrible, tragic, and traumatic part of their everyday lives.”¹¹

Although Cothran rightly warns against unproductive academic debates, the establishment of the California THC makes it impossible for scholars to avoid discussions of genocide. Despite Cothran’s concerns, many Native people want such discussions and regard a recognition of genocide as deeply meaningful. Present when Governor Newsom issued the state’s apology was James C. Ramos, the first Native American elected to the California Assembly. He described the “acknowledgment of the true history” of California as “groundbreaking.”¹² For council member Caleen Sisk, chief of the Winnemem Wintu Tribe, “telling the truth” begins a “whole healing cycle” that she hopes will lead to “taking action and doing things so tribal ways can continue to exist.”¹³ Acknowledging genocide, in other words, is important not just as a matter of

historical fact, but as a foundation for constructive action. “Until we break down the long-held assumptions, erasure and distorted history on equal terms,” Myers observes, “we can’t begin to work together to build a thriving future based on mutual honesty, respect, and accountability.”¹⁴ At stake, as summaries of the THC’s early “listening sessions” held in spring 2021 make clear, is the need to provide better health care, improve education for Native and non-Native students, respect Indigenous sovereignty, repair environmental damage, rename offensive landmarks, address ongoing violence against Native women and girls, obtain reparations, and regain land.¹⁵

Given Governor Newsom’s and the California THC’s identification of genocide as foundational to the state’s history and a constructive future, it is crucial to examine Gary Anderson’s argument that genocide does not apply to the state of California’s early history. Anderson is a credible scholar whose work claims to bring overlooked sources to bear on the question of genocide in California. If he is correct, both Newsom’s framing of his apology in terms of genocide and the THC’s call for a public recognition of genocide are erroneous. However, this essay exposes flaws in Anderson’s argument, demonstrating that Anderson consistently misreads the evidence, that his criteria for genocide are too restrictive, and further, that ethnic cleansing is an unsatisfactory alternative category. I conclude with some observations about defining genocide, which are not intended to propose a new definition that would resolve the issue once and for all, but rather to contribute to discussion among scholars and the THC and its constituents, as well as the general public.

ANDERSON’S TWO KEY ARGUMENTS

Anderson begins by contesting a consensus, grounded in the decades-long research of historical demographer Sherburne F. Cook, that the population of California Indians was around 150,000 in 1845, and that in 1850 it declined to 100,000 and in 1860 to 35,000. Cook also concluded that the population continued to fall to an estimated 20,000 in 1880.¹⁶ Anderson suspects that Cook’s figure of 150,000 for 1845 may be inflated, but he is willing to accept it. Against Cook’s figure of 100,000 for 1850, however, Anderson insists on a radically lower estimate of 35,000 for only a year later, in 1851. For 1860, Anderson gives an estimate of 31,000, slightly lower than Cook’s figure of 35,000. He reasons, “If Cook’s foundation figure of 150,000 Indians for 1845 . . . is accepted, then 75 to 80 percent of Native peoples had died from disease,” primarily malaria, by 1851. These numbers, he contends, “fundamentally discount the argument that thousands of Indians were killed in fits of mass murder by miners after 1849.”¹⁷

Anderson further asserts that only “two thousand Indians were murdered in California during and after the gold rush” and states that “it is highly questionable that they were the product of a policy of genocide.”¹⁸ Instead of genocide, Anderson draws on Article 7 of the 1998 Rome Statute of the International Criminal Court, which identifies several “crimes against humanity,” including section (d), “deportation or forcible transfer of population,” which Anderson treats as a synonym for “ethnic cleansing” and applies the term to define California’s Native history, as well as that of the United States in general.¹⁹

Population Figures for 1851

Let us first consider Anderson's claim that California's Indigenous population in 1851 was only 35,000. Anderson begins his attack on Cook's much higher figure by seriously misrepresenting Cook's methodology, asserting that he relied on "exaggerated newspaper accounts." In fact, in the total of 118 references supporting his estimates, Cook cites only eight newspapers, and these were relevant to estimates after 1854 only.²⁰ Anderson then turns to sources that Cook did not use, reports by topographical engineers tasked with surveying California in 1849–1850 and by federal treaty commissioners who negotiated eighteen treaties (never ratified) with 119 Indigenous communities in 1851–1852. Anderson uses these reports to provide population estimates for four California regions.²¹ Based on his survey of four regions, Anderson concludes that "the total Native population . . . living outside the ranching community in California north of Los Angeles was at most 19,500." To arrive at his final number of 35,000 for 1851, he adds "another 7,000" south of Los Angeles and "large numbers of Indians who were working and living on ranches and those the army was not concerned with."²² The next sections will demonstrate many compelling reasons for rejecting Anderson's total as far too low.

REGION ONE: 5,000 INDIGENOUS PEOPLE IN THE "ROUND VALLEY, CLEAR LAKE, AND COASTAL REGIONS OF TODAY'S MENDOCINO COUNTY"

Anderson derives this figure from numbers reported by treaty commissioner Redick McKee and Lieutenant Henry Wessells, who traveled from Sonoma northward to negotiate some of the 1851–1852 treaties. McKee and Wessells's figures of 1,200 for Pomos and Wappos in the Sonoma and Russian River valleys and 1,100 on the south fork of the Eel (Pomos and Cahtos) are plausible, but they identified only five hundred people "on the mountains and valleys of the Eel river . . . and about its mouth." It is clear, however, from McKee's report and a more detailed account by an ethnologist who accompanied McKee, George Gibbs, that they did not visit one of the many valleys of the Eel, Round Valley, home to most Yukis, who numbered at least 3,000 and almost certainly more. They also missed small communities of Wailakis, Mattoles, Nongatls, Sinkyones, Lassiks, and Wiyots in this area, as well as communities on the coast south of Humboldt Bay (Sinkyones and Coast Yukis). McKee and Wessells rightly noted that populations had recently declined, mostly from disease, although the Army had killed at least three hundred Pomos and Wappos in a series of massacres in 1849–1850, but their 5,000 total was clearly low, probably by half.²³

REGION TWO: 5,000 INDIGENOUS PEOPLE IN THE "PITT, SALMON, SCOTT, TRINITY, AND KLAMATH RIVERS"

Anderson derives this figure mainly from information in McKee's report of his and Wessells's continuation of their travels up the Klamath to Scott's Valley in the far northern part of the state. Near the confluence of the Trinity and Klamath rivers, McKee negotiated treaties with twenty-four Hupa, Yurok, and Karuk communities with a population McKee reported was between 1,400 and 1,500. McKee also estimated that there were 1,500 additional Yuroks on the lower Klamath and Chilulas

along Redwood Creek. He further noted that on the Upper Trinity were several villages, which he estimated at between 1,000 to 1,500 persons (Hupas and possibly Wintus). Farther up the Klamath at the mouth of the Salmon, McKee negotiated a supplemental treaty with four Karuk villages numbering between 225 and 250 persons. At Scott's Valley, despite the refusal of some leaders to talk with the commissioners due to "apprehensions . . . that the object of assembling them was to kill the whole together," McKee negotiated another treaty with the "Upper Klamath, Shasta, and Scott's River tribes" (Shastas), whose population he gave as 4,000. How Anderson determined 5,000 from McKee's reports is unclear, since McKee's numbers total between 8,125 and 8,750 persons.

Furthermore, McKee failed to include Tolowas on the coast north of the Klamath and Achumawis and Atsugewis in northeastern California.²⁴ Anderson overlooks the Tolowas altogether, though he does address the Achumawis and Atsugewis. Based on two reports, one by Captain Nathaniel Lyon in 1850, who "found no Indian villages between Redding and Goose Lake," and the other by Lieutenant Robert Williamson a year earlier, which, according to Anderson, stated "that the only Indians in the region were Modocs, found well to the north in Oregon," Anderson reaches the conclusion that there were no Achumawis or Atsugewis in 1850. This is astonishing to anyone knowledgeable about California Indian history, to say nothing of contemporary descendants of the Achumawis and Atsugewis who are members of the Pit River Tribe. Merely because neither Lyon nor Williamson saw Achumawis or Atsugewis does not establish that they did not exist.

Ranchers whose stock was appropriated by Achumawis and Atsugewis in the late 1850s certainly knew these tribes existed, as they consequently called on the state of California to exterminate or remove them to the Mendocino and Round Valley reservations. How many Achumawis and Atsugewis were alive at the advent of the Gold Rush is unclear, but a conservative estimate would be at least twice the 1,000 recorded in the 1910 census. In sum, taking McKee's actual estimates along with 2,400 Tolowas and 2,000 for the Achumawis and Atsugewis indicates that Anderson's figure is once again too low, this time by more than one half.²⁵

REGION THREE: 4,000 INDIGENOUS PEOPLE "NORTH OF THE AMERICAN RIVER, IN THE FEATHER AND YUBA VALLEYS" AND AN ADDITIONAL 1,000 "IN THE FOOTHILLS WEST OF THE UPPER SACRAMENTO"

Anderson derives the first of these numbers from two sources. The first is a report by Lieutenant George Derby, a topographical engineer, of his 1849 survey of the Sacramento River Valley. Derby came across a rancheria on the lower Feather River (probably Nisenans), one at John Sutter's farm house (Nisenans), two on the west bank of the Sacramento near Butte Creek (Konkows/Maidus), and three several miles up the Feather (Konkows/Maidus) with a total population of 1,000. Derby also stated that he was informed that there were 2,000 to 3,000 Indians living in the hills on the upper Feather and the Yuba rivers (Maidus and Nisenans). Here Anderson makes two mistakes. First, he misreads Derby's figure of 1,000 for the rancherias he came across as covering the entire population of the Sacramento River valley. But Derby did not

visit many villages in the valley and did not intend his figure to be comprehensive. Second, Anderson assumes that Derby's estimate of 2,000 to 3,000 in the hills on the upper Feather and Yuba rivers accounts for everyone in the foothills and mountains when it left out communities north of the Feather (some Konkows and Yanas) and south of the Yuba (some Nisenans).²⁶

Anderson's second source consists of reports by Oliver Wozencraft on five treaties he negotiated in 1851.²⁷ Wozencraft stated that the "ten tribes [villages] of Indians"²⁸ between the Yuba and Bear rivers (Nisenans) who agreed to one of the treaties numbered between 3,900 and 4,000. Anderson takes this to confirm the figure of 4,000 for the entire region. Here again Anderson commits a basic error by failing to realize an obvious fact: that Wozencraft's figure of 3,900 to 4,000 Nisenans whose leaders signed one of his five treaties represented only a portion of the region's population. Wozencraft noted that there were other "hostile Indians" in the area of this treaty (also Nisenans) who refused to talk to him, and he negotiated four other treaties in the region (though without providing population figures).²⁹ Given this, and because a substantial additional population of Maidus (including Konkows), as well as a smaller number of Yanas also did not sign treaties, it is clear that Anderson's figure is again low by a considerable margin.³⁰

As for Anderson's estimate of an additional 1,000 in the "foothills west of the upper Sacramento River Valley," he fails to provide a source or explain why he is only considering people west of the upper valley (presumably Wintus). There were others (Nomlakis and Patwins) west of the central and lower parts of the valley that ought to be included. According to a credible estimate by Cook, based not on newspapers but an extrapolation from a settler with knowledge of the Native population in Colusa County in 1852, the total Wintu, Nomlaki, and Patwin population was 5,700 in 1852.³¹ Even accounting for the fact that some Wintus lived in the upper Trinity area and not in the western Sacramento Valley hills, and allowing for the possibility of an overestimate, Anderson's figure is again far too low.

REGION FOUR: 4,000 INDIGENOUS PEOPLE FOR THE AREA "ALONG AND SOUTH OF THE SAN JOAQUIN RIVER AND ITS TRIBUTARIES" AND 1,200 TO 1,500 WHO "OCCUPIED THE SOUTHERN LAKES AND TEJON PASS"

Anderson derives these numbers from three sources. The first is another survey by Lieutenant Derby in 1850, which Anderson represents as stating that the number of Indians in the San Joaquin Valley was 4,000. The second and third, reports by treaty commissioners McKee, Wozencraft, and George Barbour, who negotiated several treaties in the region in 1851, and Captain E. D. Keyes, who accompanied them on part of their travels, supposedly confirm the 4,000 figure.³² Familiar problems arise. Although Anderson states that "Derby reasoned ... that the entire watershed of the Sierra Nevada from Sutter's Fort south to the Kern River contained just '4,000 Indians,'"³³ Derby's figure of 4,000 was only for "Indians in the valley" and did not include people in the foothills and mountains.³⁴ Similarly, the only numbers the treaty commissioners reported were for those communities whose leaders agreed to treaties. Signers of a treaty at Kings River represented 4,120 Yokuts; a treaty on the Kaweah

River represented between 1,200 and 1,500 Yokuts; a treaty on Paint Creek near Tulare Lake represented an additional 1,700 Yokuts; a treaty near Tejon Pass represented additional Yokuts, as well as Kitanemuks, with a combined population of 600. A fifth treaty on the Mariposa River concerned an unspecified number of Miwoks. The total number covered by these treaties was at least between 7,620 and 7,920, well above Anderson's figure of 5,200 to 5,500 for the entire region.³⁵

Anderson's claim that Keyes's report confirms his number is also flawed. Keyes did not accompany the commissioners the entire time and did not report on the treaty covering the largest number, the one at Kings River. Furthermore, as in other regions, many communities did not agree to treaties. The commissioners were aware of this and in their estimate, between 10,000 and 12,000 members of "warlike" tribes lived on the headwaters of the San Joaquin River and its major tributaries—whose leaders rebuffed their demands to accept treaties despite genocidal threats that the "annihilation of their whole tribe would be the inevitable result" of refusal.³⁶

In February 1852, after concluding his travels, Barbour provided a comprehensive figure for the total population south of the Stanislaus River, including the San Joaquin and Tulare valleys as well as the foothills and mountains, that estimated between 25,000 and 30,000.³⁷ Although Barbour's figure is based on several months in the region, Anderson completely overlooks this estimate, which is five to six times higher than his own. Anderson emphasizes that Barbour and Wozencraft initially thought the entire Native population in California might be as high as 200,000 to 300,000 before they began their work³⁸ and argues that once the commissioners began traveling in the San Joaquin Valley, they "soon discovered" that they were "terribly wrong."³⁹ True, the commissioners had to revise their initial estimates, but, as evidenced by Barbour's 1852 summary, if anyone is terribly wrong, it is apparently Anderson.

TOTAL FOR CALIFORNIA

I have detailed many compelling reasons for rejecting Anderson's 1851 total. That it is far too low is confirmed by California Superintendent of Indian Affairs Edward Beale's November 1852 statement, based on officials "well calculated from position and experience to judge," that the California Indian population was between 75,000 and 100,000, a number consistent with Cook's estimate.⁴⁰ Despite the impression Anderson gives of having thoroughly researched government documents, he apparently missed this conclusive source. Finally, it should be noted that in his article in the *Western Historical Quarterly*, published two years after his book, Anderson gives a lower figure of 30,000 for the 1851 population. Anderson provides no explanation for his apparent change of mind and asserts that the "army concluded that, by 1851, just 30,000 Indians" were alive in California. The only reference is to "journals of expeditions by army officers" in his own coedited volume, with no specific citation.⁴¹ As we have seen, these journals do not support either the 35,000 or the 30,000 figure.

Massacres and Killing

Given that Anderson provides a figure of 31,000 for 1860, his contention that California's Indigenous population was only 35,000 (or 30,000) in 1851 is significant

because this estimate allows him to claim that the acceleration of the Gold Rush from 1851 to 1860 resulted in little or no population loss. This, in turn, supports his argument that settler Americans killed relatively few Native people during the California Gold Rush. However, Anderson's discussion of anti-Indigenous violence in the 1850s consistently understates its severity. In his account of the US Army's 1850 massacre of Pomos at Clear Lake, for example, also known as the "Bloody Island Massacre," Anderson mistakenly writes that Captain Nathaniel Lyon, the expedition's commander, reported that the total number of Pomos he attacked at Bloody Island was "only" sixty, with the obvious implication that the number of casualties was no more than this. In fact, however, Lyon stated that four hundred were at Bloody Island; sixty was the number he gave for the minimum number killed and he thought it was more likely that "it extended to a hundred or upwards."⁴²

Of the 1860 Humboldt Bay Massacre, Anderson writes that settlers "supposedly killed eighty Wiyot women and children."⁴³ As Magliari notes in a review of *Ethnic Cleansing and the Indian*, Anderson "omit[s] other attacks that took place simultaneously with the assault on the Indian Island village." Magliari points out that the "Wiyot tribe, numbering around 800 individuals, lost at least 153 people, and perhaps as many as 300."⁴⁴ Furthermore, as Madley documents, the "killing squads" continued their murderous work and committed two additional massacres against Wiyots a few days later.⁴⁵

Anderson further argues that perpetrators overstated the number of casualties. Anderson focuses particularly on the claim of Walter Jarboe, commander of a militia calling itself the Eel River rangers, that he killed "283 Warriors," mostly Yukis in the Round Valley area, between September 1859 and January 1860, months when his militia had formal authorization from Governor John Weller. Anderson dismisses this figure on the grounds that "no evidence . . . even suggested that that number lived in the hills," even though government officials at Round Valley in 1858 stated that there were 3,000 Yukis in the area and that Captain Edward Johnson reported in May 1859 that whites had killed "some six hundred" Yukis over the previous year.⁴⁶ Anderson also contends that since Jarboe spoke with the "braggadocio that commonly came with being a ranger captain," his figure was "very likely an exaggeration."⁴⁷ Indian killers in California and elsewhere in the American West sometimes inflated their exploits, but in this case, there is substantial corroborating evidence for Jarboe's claim. In an investigation of the situation at Round Valley, Captain Johnson reported in August 1859 that Jarboe informed him that "he had attacked twelve Indian rancherias, and . . . he had killed some fifty Indians." Perhaps Jarboe was simply boasting, but Johnson did not think so and concluded, "a war of extermination is being vigorously waged by the citizens of Round and Eden valleys."⁴⁸

Three months later, J. Ross Browne, a federal agent under the Office of Indian Affairs, reported that "a man named Jarboe . . . has been engaged for some months past in a cruel and relentless pursuit of the Indians in this vicinity, slaughtering miscellaneous all with whom he comes in contact, without regard to age or sex."⁴⁹ Johnson's and Browne's reports include evidence that Jarboe regularly targeted noncombatants; if anything, they indicate that in claiming to have killed "283 Warriors" (men only), Jarboe

did not intend to boast about his deeds, but to hide a substantial part of them—his slaughter of women and children. Adding noncombatants to Jarboe's number means that the total could well have been about the four hundred Native dead that the *Daily Alta California* reported in January 1860.⁵⁰

Anderson also understates the geographical extent of anti-Indigenous violence, declaring, "Mass murders committed by miners certainly occurred between 1850 and 1862 in two or three mountainous northwestern counties." Yet massacres were committed not by only miners, but ranchers and others, and took place in the northwest counties of Humboldt, Mendocino, Del Norte, Trinity, and Siskiyou, as well as in the northeast counties of Shasta and Tehama. Moreover, violence continued after 1862.⁵¹ Likewise far too low is Anderson's overall estimate that "approximately two thousand Indians were murdered in California during and after the gold rush," noted earlier. One would expect Anderson to provide a source for this figure, but rather than explain how it was calculated, he simply asserts it. In contrast, using extensive documentation to provide a comprehensive and highly detailed accounting of American settlers' killings of California's Indigenous people during the Gold Rush era, Madley concludes that "non-Indians killed at least 9,492 to 16,094 California Indians, and probably more, between 1846 and 1873."⁵² Anderson's unsubstantiated estimate is at least five times too low.

Criteria for Genocide

After arguing that California's Native peoples did not suffer significant population losses and that violence against them was relatively minor in the 1850s, Anderson proposes several criteria for genocide, none of which he contends applies to California. These criteria are overly rigid and Anderson's discussion of them obscures the destructive impact of the United States' colonization of California on its Indigenous communities during the Gold Rush era. Anderson's first criterion is that genocides cannot have survivors—at least that seems to be the implication of his statement that "many Indian tribes (indeed the vast majority) survived" and that this "perhaps makes impossible the argument for calling what happened in North America genocide of any sort." The weakness of this position is obvious, since by this criterion, the fact that there are today at least 14 million living Jews means that the Holocaust was not a genocide.⁵³

Anderson's second criterion is that genocides must have a very high number of deaths. Although Anderson finds it "abhorrent" that 2,000 Indigenous people were murdered in California, he contends that this number "hardly equals the numbers of those killed under other regimes across the globe in either the nineteenth or twentieth centuries" with death tolls ranging from the hundreds of thousands into the millions and so cannot be considered genocidal.⁵⁴ Clearly, though, the crucial issue is not absolute numbers, but the threat to specific peoples. If to begin with, that is, a given population is low and a substantial percentage of that population then is destroyed, genocide has occurred regardless of the total lives taken. The annihilation of peoples, no matter their population, is still annihilation. In the case of California, where there

were “only” 75,000 to 100,000 people at the time of statehood, by Anderson’s criterion, even if the United States had killed every single individual, the total might be too low for genocide. This, of course, is an absurd proposition.

Anderson’s third criterion is that population loss from disease cannot be considered to be genocidal. As noted earlier, accepting Cook’s figure of 150,000 Indigenous people in 1845 and proposing 35,000 (30,000?) for 1851 allows Anderson to identify disease as the primary cause of population decline and to pose the question, was it “genocide or disease?” assuming the two are mutually exclusive.⁵⁵ Anderson could concede that Cook’s population figures are accurate and argue that depopulation in the 1850s was due to disease and hence non-genocidal, but his argument that the main disease afflicting Native communities in the late 1840s was malaria and malaria “subsided” in 1851 preempts any consideration of how United States colonialism created conditions that made communities vulnerable to multiple illnesses.⁵⁶ The explosion of a non-Native population—from 7,300 in 1845, to 93,000 in 1850, and 362,000 in 1860—meant that miners, ranchers, and farmers rapidly took Native lands and destroyed salmon runs and oaks bearing the acorns that were California Indigenous peoples’ major source of carbohydrates. Material deprivation led to malnutrition, outright starvation, and social stress, the latter compounded by violence. Syphilis and gonorrhea remained endemic in communities with prior exposure, stemming from initial outbreaks in the Spanish missions, and spread to other communities previously isolated from its ravages. In addition, throughout California government officials and other observers noted many afflictions, including dysentery, tuberculosis, cholera, typhoid, malaria, smallpox, whooping cough, pneumonia, measles, and alcoholism. Anderson says next to nothing about these diseases and their social context.⁵⁷

Anderson’s fourth criterion is that there must be a stated government policy to annihilate all members of the targeted group and that neither the federal government nor the state of California established a formal policy of exterminating every single Native person in the state. As if recognizing that this is an overly narrow criterion, Anderson further states that there is “no evidence that any [California] state ... entity ever supported the militias or miners in their murderous endeavors.”⁵⁸ This is untrue. High-ranking officials never openly called for genocide, though the prediction of the state’s first governor, Peter Burnett, that “a war of extermination will continue to be waged between the races, until the Indian race becomes extinct” tacitly sanctioned genocide by rendering it inevitable, a clear form of ideological support. More concretely, the state government appropriated \$1.5 million in the 1850s to fund state militia expeditions that attacked Native communities.⁵⁹ State officials sometimes disavowed a desire for genocide, such as when Governor John B. Weller admonished Jarboe in 1859 “not to suffer a war of extermination against a whole tribe,” but Weller was aware of Jarboe’s reputation and method—if for no other reason that Jarboe himself informed Weller that “nothing short of extermination will suffice to rid the Country” of the Yuki tribe. Weller eventually disbanded Jarboe’s Eel River Rangers, but he thanked them “for the manner in which the campaign was conducted.”⁶⁰

Similarly, although federal government policy did not call for exterminating all California Indians, and, in some instances, Army officers took steps to protect them

from murderous settlers, Congress appropriated funds to enable deadly militia operations and the Army undertook violent operations against Indigenous communities.⁶¹ Although Anderson recognizes the Army's role in the 1850 Bloody Island Massacre, his claim that this massacre was "the last of its kind conducted by the regular army in California" is incorrect and undermines his generalization that the Army "devoted more energy to protecting Indians rather than fighting them."⁶² From 1851 to 1873, the Army, sometimes acting on its own and sometimes in support of state militias and vigilantes, launched dozens of attacks on California Native communities with a cumulative death toll of between 1,300 and 2,300.⁶³

Consistent with federal policy adopted in the late 1780s, Army officials justified using overwhelming violence against Native communities, including the killing of noncombatants, as a necessary response when Native communities killed settlers or appropriated their livestock as a matter of survival.⁶⁴ Furthermore, Army officials supported the forcible removal of some tribes. Responding to the demands of settlers in the Sacramento Valley to eliminate Indians, for example, in 1863 federally authorized state militiamen rounded up 460 Konkows and Maidus and marched them from Chico to the Round Valley reservation. According to Damon Akins and William Bauer, Jr., oral histories recall "soldiers killing the elderly, women, and children."⁶⁵ The other relevant federal agency, the Office of Indian Affairs, sought to concentrate Indigenous peoples on reservations as a way to make land and resources available to settlers without resorting to outright extermination. After the Senate's rejection of the eighteen treaties made for this purpose in 1851–1852, California Superintendent of Indian Affairs Edward Beale called on Congress to authorize small reservations where Indians would support themselves through farming and be protected by military posts.⁶⁶

Anderson goes out of his way to exonerate federal officials who oversaw reservations, writing that they were places of "sanctuary"⁶⁷ and quoting an 1857 inspection report by J. Ross Browne that he "had never seen Indians of California better fed or better satisfied."⁶⁸ In a footnote, Anderson concedes that Browne "became a critic of the reservation system two years later" but finds this "impossible to explain."⁶⁹ The reasons, however, are clear enough from Browne's 1859 report, which found that the reservations had failed because of corruption and mismanagement.⁷⁰ Other reports reveal that conditions in these places of supposed sanctuary were abysmal. On the Nome Cult farm in the Round Valley in 1859, as many as "eight or ten per day" were dying because of "scarcity of food, and the great prevalence of syphilitic diseases."⁷¹ Three years later, as the dwindling population remained "in starving condition," some people (mostly Yukis) left the farm to try to eke out a living by hunting, gathering, and taking settlers' livestock, but this, of course, increased their vulnerability to settler violence.⁷² Dispossessing Native communities and confining them to reservations had devastating consequences.⁷³

Ethnic Cleansing

As an alternative to unproductive debates about genocide and its definition, it may appear that Anderson's proposal to apply "ethnic cleansing" to the events of Gold

Rush era-California, as well as the United States in general, is useful, but a closer look reveals problems. As I have pointed out, Anderson sees the crime of ethnic cleansing as a synonym for “deportation or forcible transfer of population” as found in section (d) of Article 7 of the Rome Statute. To translate this particular language as ethnic cleansing is reasonable, but delimiting ethnic cleansing to the range of acts this section describes would exclude many of the policies and actions of federal and state officials and California settlers. As we have seen, federal officials not only authorized some removals, but also supported direct killing. Further, it did not require “deportation” or “transfer” when officials confined tribes to small reservations within their own homelands—but rather actual dispossession.⁷⁴ Likewise, in 1850 the state of California passed the notoriously euphemistic Act for the Government and Protection of Indians, which cannot be encompassed under “ethnic cleansing” as it legalized indenture and debt peonage, and also contributed to population decline by incentivizing raids on Indigenous communities to obtain captives for sale to traffickers. Although Anderson recognizes these crimes when he describes the 1850 legislation as allowing for “virtual slavery” and indicts it as “a clear crime against humanity,” he does not clarify that because “enslavement” is covered under a different section of Article 7 (section c), the existence of this subsection itself exposes that it is inadequate to categorize California’s policies and acts against Native peoples only under section d as “ethnic cleansing.”⁷⁵

Anderson’s discussion of the consequences of the 1850 legislation underscores another weakness in his application of ethnic cleansing to California. He observes that an 1854 report “put the number of Indian children seized at 150” and states that it is “impossible to determine ... how many Indians were victimized,” leaving the impression that it may not have been much more than 150.⁷⁶ Anderson shows no awareness of Sherburne Cook’s conclusion that from 1852 to 1867 “perhaps between three and four thousand children were stolen,” or of Edward D. Castillo’s estimate that the number was “well over 4,000.”⁷⁷ Anderson’s minimization of the 1850 legislation’s harms is consistent with his determination to understate the impact of the US colonization of California by arguing that population loss, violence, and disease were relatively minor. Although Anderson sees United States ethnic cleansing as a strong indictment—in the words of his book’s subtitle, “The Crime that Should Haunt America”—nonetheless his chapter on California reads more as an apology for colonialism than an exposure of a crime.

Finally, even though Article 6 of the Rome Statute incorporates the UN definition of genocide verbatim, Anderson fails to provide a satisfactory explanation for using the Rome Statute to apply ethnic cleansing to California’s Native history, but not genocide. Anderson justifies rejecting Article 6 since “it is much more difficult to prove” the “crime” of genocide than those outlined in Article 7. However, difficulties in prosecuting the crime of genocide are irrelevant for its use as a historical category; Anderson himself defends his use of ethnic cleansing as a guide to historical analysis by stating his “indictment” is a “moral one, not a legal one.”⁷⁸

CONCLUSION: DEFINING AND CONFRONTING GENOCIDE

Observing the significant barriers to Anderson's application of ethnic cleansing to California returns us to the issue of genocide. Although it is beyond the scope of this essay to fully explore all of the complex issues related to defining genocide, I offer a few concluding observations that, moving forward, I hope might contribute to academic and public discussions. One approach to defining genocide would be to apply the Rome Statute consistently, rather than selectively, and affirm its inclusion of the UN definition of genocide as an authoritative yardstick. Under that definition, it is clear that, as Madley concludes, "a variety of perpetrators committed examples of all five acts of genocide listed in the convention."⁷⁹ As noted earlier, however, Magliari sees the acts of genocide the UN definition identifies as overly broad. Quoting a genocide studies textbook, Magliari observes, "the UN Convention is so widely cast that *one does not need to kill anyone at all to commit genocide*."⁸⁰ Some genocide studies scholars have similarly called for limiting genocide to "one-sided mass killing."⁸¹ Limiting genocide to direct killing, however, as Magliari advocates, overlooks how other forces of destruction, often interacting with violence, can have genocidal consequences.

In California, as in many other parts of what became the United States, disease was undoubtedly the major proximate cause of the catastrophic decline of California's Indigenous population from between 75,000 and 100,000 in 1850 to 35,000 in 1860 and 20,000 in 1880.⁸² In treating disease as entirely separate from genocide, Anderson reproduces a common argument that has appeared in academic writing as well as classrooms. In a 2015 incident that received widespread media attention, for example, Maury Wiseman, a Sacramento State University professor, told his students that he objected to using the term *genocide* because it "is something that is done on purpose" and that it was "European diseases" that "wipe[d] out Native American populations in the two continents." Chiitaanibah Johnson, a Diné/Maidu student, objected, "it is indisputable that [genocide] is what happened here to the Indigenous peoples of the Americas [and] in California in particular."⁸³

The view that depopulation from disease was an unfortunate accident rests on the so-called "virgin soil epidemic thesis," which holds that when Europeans first arrived in the western hemisphere, they brought crowd diseases (smallpox and measles). Because Indigenous peoples had never been exposed to these diseases and lacked immunity, so the thesis goes, diseases took the lives of 70 percent or more of virtually all Indigenous communities in the western hemisphere upon initial contact. Recent scholars, however, have shown that virgin soil epidemics were far less universal and had less deadly consequences than has generally been assumed. Depopulation from disease more often resulted from conditions created by colonialism—in California, loss of land, destruction of resources and food stores, lack of clean water, captive taking, sexual violence, and massacre—that encouraged the spread of pathogens and increased communities' vulnerability through malnutrition, exposure, social stress, and destruction of sources of medicine and capacities for palliative care. Identifying the colonial context for disease reveals that germs did not act alone as agents of population decline. Instead, their lethality was a product of deeper factors, which intersected

and reinforced one another and were directly tied to a societal intention to dispossess Indigenous peoples.⁸⁴

Disease, then, was not an accident. But was it genocide? One possible response is that because government officials and California's citizens did not intend to inflict disease on Indigenous peoples, it was not. This, however, is an overly legalistic reading of intent. Since the United States' colonization of California was intended to dispossess Indigenous peoples and since that intention had the predictable consequence of making communities vulnerable to multiple diseases which led to massive population loss, disease in this case qualifies as a crucial factor contributing to genocide. This broader reading of intent fits with an approach taken by many genocide studies scholars such as A. Dirk Moses, who proposes a "structuralist paradigm," which highlights "genocidal processes," rather than an overly legalistic "intentionalist paradigm."⁸⁵ A structuralist approach does not mean that the process by which the United States colonized California affected all Indigenous peoples in the exact same way, nor does it mean that all Indigenous communities necessarily suffered genocide during the Gold Rush. Some may have had experienced genocidal processes only under Spanish and Mexican colonization and some not at all. Further research will be needed to clarify these specifics.

As academics, non-Native Californians, and California Indigenous communities continue to discuss California's history, debates about how to define and apply genocide are bound to continue. Not everyone will agree on all the issues, but as this essay has shown, there is clarity on crucial points. As the United States colonized California prior to and during the Gold Rush era, Indigenous peoples suffered a demographic catastrophe that threatened their very existence. Even under a conservative definition limited to "extermination," genocide applies to the experience of many of California's Indigenous peoples. Above all, despite what happened, California Indians have survived and thrived. After Governor Newsom's apology and the creation of the THC in particular, California's Indigenous peoples are in a better position than ever to contribute to a more accurate understanding of California history, one that establishes a basis for providing redress for a long history of injustice.

NOTES

1. California Executive Department, Executive Order N-15-19, June 18, 2019, <https://www.gov.ca.gov/wp-content/uploads/2019/06/6.18.19-Executive-Order.pdf>.

2. Jill Cowan, "It's Called Genocide': Newsom Apologizes to the State's Native Americans," *New York Times*, June 19, 2019, <https://www.nytimes.com/2019/06/19/us/newsom-native-american-apology.html>.

3. Kolby Kicking Woman, "California Truth, Healing Council Begins Historic Work," *Indian Country Today*, January 15, 2021, <https://indiancountrytoday.com/news/california-truth-healing-council-begins-historic-work>; Frankie Myers, "Path to Reconciliation Begins with Truth and Healing," *CalMatters*, December 7, 2020, <https://calmatters.org/commentary/my-turn/2020/12/path-to-reconciliation-for-native-people-in-california-begins-with-truth-and-healing/>.

4. Theodora Kroeber and Robert F. Heizer, *Almost Ancestors: The First Californians* (San Francisco: Sierra Club, 1968), 19; Jack Norton, *Genocide in Northwestern California: When Our Worlds Cried* (San Francisco: Indian Historian Press, 1979); Russell Thornton, *American Indian Survival and Holocaust: A Population History since 1492* (Norman: University of Oklahoma Press, 1987), 107; Benjamin Madley, "Patterns of Frontier Genocide, 1803–1910: The Aboriginal Tasmanians, the Yuki of California, and the Herero of Namibia," *Journal of Genocide Research* 6, no. 2 (June 2004): 167–92, <https://doi.org/10.1080/1462352042000225930>; Ashley Riley Sousa, "'They Will be Hunted Down Like Wild Beasts and Destroyed': A Comparative Study of Genocide in California and Tasmania," *Journal of Genocide Research* 6, no. 2 (June 2004): 193–209, <https://doi.org/10.1080/1462352042000225949>; Brendan Lindsay, *Murder State: California's Native American Genocide, 1846–1873* (Lincoln: University of Nebraska Press, 2012); Benjamin Madley, *An American Genocide: The United States and the California Indian Catastrophe, 1846–1873* (New Haven: Yale University Press, 2016). See also Van H. Garner, *The Broken Ring: The Destruction of the California Indians* (Tucson, AZ: Westernlore Press, 1982), 107; James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 171; Ben Kiernan, *Blood and Soil: A World History of Genocide and Extermination from Sparta to Darfur* (New Haven: Yale University Press, 2007), 349–54; Alex Alvarez, *Native America and the Question of Genocide* (Lanham, MD: Rowman and Littlefield, 2014), 107–14; Margaret D. Jacobs, "Genocide or Ethnic Cleansing? Are These Our Only Choices?" *Western Historical Quarterly* 47, no. 4 (Winter 2016): 444, <https://doi.org/10.1093/whq/whw104>; Cutcha Risling Baldy, *We Are Dancing For You: Native Feminisms and the Revitalization of Women's Coming-Of-Age Ceremonies* (Seattle: University of Washington Press, 2018), 51–72; Damon B. Akins and William J. Bauer, Jr., *We Are the Land: A History of Native California* (Oakland: University of California Press, 2021), 137–38.
5. Meg Sullivan, "Q&A: Rethinking the History of the American West with Stephen Aron," *UCLA Newsroom*, May 8, 2015, <https://newsroom.ucla.edu/stories/q-a-rethinking-the-history-of-the-american-west-with-ucla-professor-stephen-aron>; Robert V. Hine and John Mack Faragher, *The American West: A New Interpretive History* (New Haven: Yale University Press, 2000), 249; Limerick, qtd. in James Brooke, "Less to Celebrate at this Gold Rush Anniversary," *The New York Times*, March 22, 1998, <https://www.nytimes.com/1998/03/22/us/less-to-celebrate-at-this-gold-rush-anniversary.html>; Michael F. Magliari, review of *An American Genocide: The United States and the California Indian Catastrophe, 1846–1873* by Benjamin Madley, *Ethnohistory* 64, no. 2 (April 2017): 341–42, <https://doi.org/10.1215/00141801-3789465>; Richard White, *California Exposures: Envisioning Myth and History* (New York: W. W. Norton, 2020), 87.
6. Norton, *Genocide in Northwestern California*, 143–44; Madley, *An American Genocide*, 4; Lindsay, *Murder State*, 15.
7. United Nations Convention on the Crime and Punishment of Genocide, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.
8. Magliari limits genocide to "exterminatory campaigns" in his review of *An American Genocide*, 342.
9. Alan Taylor, review of *An American Genocide: The United States and the California Indian Catastrophe, 1846–1873*, by Benjamin Madley, *The New York Times*, May 27, 2016, <https://www.nytimes.com/2016/05/29/books/review/an-american-genocide-by-benja.html>.
10. Gary Clayton Anderson, *Ethnic Cleansing and the Indian: The Crime That Should Haunt America* (Norman: University of Oklahoma Press, 2014), 192–218. This book is hereafter cited as "EC."
11. Gary Clayton Anderson, "The Native Peoples of the American West: Genocide or Ethnic Cleansing?" *Western Historical Quarterly* 47, no. 4 (Winter 2016): 417–21, <https://doi.org/10.1093/>

whq/whw126; Boyd Cochran, "Melancholia and the Infinite Debate," *Western Historical Quarterly* 47, no. 4 (Winter 2016): 436, <https://doi.org/10.1093/whq/whw091>. For a response to Anderson that defends the application of genocide to California during the Gold Rush era, see Benjamin Madley, "Understanding Genocide in California under United States Rule," *Western Historical Quarterly* 47, no. 4 (Winter 2016): 449–61, <https://doi.org/10.1093/whq/whw175>.

12. James Ramos, "What Gavin Newsom's Apology for Genocide against Native Americans Signifies," *Cal Matters*, August 8, 2019, <https://calmatters.org/commentary/2019/08/indian-genocide-apology/>.

13. Sisk is quoted in Kicking Woman, "California Truth, Healing Council Begins Historic Work."

14. Myers, "Path to Reconciliation."

15. Issues for the THC to address are outlined in these and other articles cited above, and in monthly "listening sessions" that the THC held in March, April, and May 2021; see <https://tribalaffairs.ca.gov/cthc/meetings/>. Kaitlin Reed argues that Newsom's apology needs to be followed up by action, including land return; see "We Are Part of the Land and the Land Is Us: Settler Colonialism, Genocide, and Healing in California," *Humboldt Journal of Social Relations* 1, no. 42 (2020): 27–49, <https://digitalcommons.humboldt.edu/cgi/viewcontent.cgi?article=1131&context=hjsr>.

16. Sherburne F. Cook, *The Population of the California Indians, 1769–1970* (Berkeley: University of California Press, 1976), 44, 46, 53. For assessments of Cook's scholarship, see Wilbur R. Jacobs, "Sherburne Friend Cook: Rebel–Revisionist (1896–1974)," *Pacific Historical Review* 54, no. 2 (May 1985): 191–99, <https://doi.org/10.2307/3639040>; Albert L. Hurtado, "California Indian Demography, Sherburne F. Cook, and the Revision of American History," *Pacific Historical Review* 58, no. 3 (August 1989): 323–43, <https://doi.org/10.2307/3640269>. For an overview of various population estimates from 1845 to 1880, including Cook's, see Madley, *An American Genocide*, 347.

17. *EC*, 205.

18. *EC*, 217.

19. For the Rome Statute, see https://legal.un.org/icc/statute/99_corr/cstatute.htm. *EC* mistakenly refers to Rome "Statutes" and erroneously identifies the International Criminal Court as the World Court, which is actually the International Court of Justice; see *EC*, 5.

20. S. F. Cook, *The Conflict between the California Indian and White Civilization, III: The American Invasion, 1848–1870* (Berkeley: University of California Press, 1943), 96–104.

21. For these regional estimates, see *EC*, 205. Many of these sources are in *The Army Surveys of Gold Rush California: Reports of the Topographical Engineers, 1849–1851*, ed. Gary Clayton Anderson and Laura Lee Anderson (Norman: University of Oklahoma Press, 2015). For the treaties, see Robert F. Heizer, "The Eighteen Unratified Treaties of 1851–1852 between the California Indians and the United States Government," 1972, <https://digitalassets.lib.berkeley.edu/anthpubs/ucb/text/arfs003-001.pdf>. Heizer's summary of the treaties shows 119 tribes (at 14–15), though the text of the treaties shows an additional three tribes signing Treaty H (at 51), and an additional ten signing Treaty Q (at 93–95).

22. *EC*, 205.

23. Redick McKee to Commissioner of Indian Affairs (hereafter "CIA"), September 12, 1851, *Report of the Commissioner of Indian Affairs* (hereafter *RCIA*), 32d Cong., 1st Sess., 1851, S. Ex. Doc. 1, serial 613, 499; H. W. Wessells to Asst. Adjt. Genl. Pacific Division, November 14, 1851, United States House, *Indian Affairs on the Pacific*, 34th Cong., 3d Sess., 1857, H. Ex. Doc. 76, 59–68; George Gibbs, "Journal of the Expedition of Colonel Redick M'Kee," in Henry Schoolcraft, *Information Respecting the History, Condition, and Prospects of the Indian Tribes of the United States*, pt. 3 (Philadelphia: Lippincott, Grambo & Co., 1853), 99–177. *EC*, at 201, tries to discount the Yuki population by saying that only 200 to 300 were "attached" to the Nome Cult Farm, a reservation established in

Round Valley in 1856 by Congressional authority, but this figure refers only to Yukis actually living on the reservation. In fact, government officials stated in 1858 that 3,000 Yukis lived in Round Valley; see Vincent E. Geiger to Thomas J. Henley, July 1858, *RCIA*, 35th Cong., 2d Sess., 1858, S. Ex. Doc. 1, serial 974, 641. Since, as Benjamin Madley details in “California’s Yuki Indians: Defining Genocide in Native American History,” *Western Historical Quarterly* 39, no. 3 (Autumn 2008): 310–16, <https://doi.org/10.1093/whq/39.3.303>, Yukis experienced a significant population loss from 1851 to 1858, the 1851 number was higher. For Army massacres of Pomos, see Madley, *An American Genocide*, 115–38.

24. Redick McKee to Acting CIA, October 7, 28, November 15, 1851, *Report of the Secretary of the Interior Communicating . . . Correspondence between the Department of the Interior and Indian Agents and Commissioners in California*, 33d Cong., spec. sess., 1853, S. Ex. Doc. 4, serial 688, 194–95, 211–14, 219–223, hereafter cited as “*Correspondence, 1853*”; Gibbs, “Journal of the Expedition,” 166 (“apprehensions”). *EC*, 202, also cites an 1856 “survey” that the “entire population between the Humboldt coast and the Sierras, north of Round Valley, reached just 5,000 Indians.” The actual figure is 5,000 to 6,000; more to the point, though, is that the report also noted that “since the settlement of this section of the country by the whites (which began about the year 1851), the Indians (then much more numerous than now) have considerably decreased in numbers.” See James P. Goodall to Thomas J. Henley, August 30, 1856, *RCIA*, 34th Cong., 3d Sess., 1856, S. Ex. Doc. 5, serial 875, 811.

25. *EC*, 204–205; N. Lyon to Major E. R. S. Canby, August 1, 1850; R. S. Williamson to Bvt. Lieut. Col. J. Hooker, February 14, 1850, *The Army Surveys*, ed. Anderson and Anderson, 188–93, 151–62. For conflict between settlers and Achumawis and Atsugewis and the removal of some in the late 1850s, see Frank H. Baumgardner III, *Killing for Land in Early California: Indian Blood at Round Valley, 1856–1863* (New York, Algora, 2006), 76–78, 82–86; William J. Bauer, Jr., “We Were All Like Migrant Workers Here”: *Work, Community, and Memory on California’s Round Valley Reservation, 1850–1941* (Chapel Hill: University of North Carolina Press, 2009), 18; Madley, *An American Genocide*, 271–76. For the Tolowa population, see Sherburne Friend Cook, “The Aboriginal Population of the North Coast of California,” *University of California Anthropological Records* 13, no. 3 (1956): 101. For the 1910 Achumawi population, which probably included Atsugewis, see D. L. Olmstead and Omer C. Stewart, “Achumawi,” in *Handbook of North American Indians*, vol. 8, *California*, ed. Robert F. Heizer (Washington, DC: Smithsonian Institution, 1978), 234.

26. *EC*, 204; George H. Derby to Major E. R. S. Canby, December 1, 1849, *The Army Surveys*, ed. Anderson and Anderson, 93–117.

27. O. M. Wozencraft to CIA, July 18, October 14, 1851, *Correspondence, 1853*, 120–22, 203–11.

28. *Ibid.*, 120.

29. *Ibid.*, 121.

30. *EC*, 204, also cites a survey by Redick McKee in late 1852 of the “Indian population in Sierra, Placer, and Nevada Counties,” which Anderson characterizes as “virtually the entire region” and “found just 3,220.” McKee actually provided a figure of 5,000 for these counties, and this number did not capture the entire region, as it did not include Sutter, Butte, southern Shasta, and Colusa counties. See R. McKee to E. F. Beale, November 22, 1852, <https://cdm15952.contentdm.oclc.org/digital/collection/p15952coll4/id/705/rec/1>.

31. Cook, *The Conflict between the California Indian and White Civilization, III*, 97, 103 n102. Cook’s main source is William Semple Green, an early settler who stated there were “a thousand or more Colus Indians” in 1850 in Colusa County. See Justus H. Rogers, *Colusa County* (np, Orland, CA, 1891), 29–30. Cook’s figure of 5,570 is an extrapolation based on his knowledge of the locations and number of other Wintu, Nomlaki, and Patwin villages.

32. George H. Derby to Major E. R. S. Canby, July 10, 1850, E. D. Keyes to Captain F. Steele, June 17, 1851, *The Army Surveys*, ed. Anderson and Anderson, 124–45, 194–97; G. M. Barbour and O. M. Wozencraft to CIA, March 5, 1851, G. M. Barbour and Redick McKee to CIA, March 25, 1851, G. W. Barbour to CIA, May 14, 1851, Redick McKee to CIA, July 28, 1851, G. W. Barbour to CIA, undated received February 2, 1852, all in *Correspondence*, 1853, 60–63, 69–71, 81–82, 130–31, 249–64.
33. *EC*, 203.
34. Derby to Canby, July 10, 1850, *The Army Surveys*, ed. Anderson and Anderson, 145.
35. Barbour and McKee to CIA, March 25, 1851, Barbour to CIA, May 14, 1851, McKee to CIA, July 28, 1851, Barbour to CIA, undated, received February 2, 1852, *Correspondence*, 1853, 69–71, 81, 122, 251–56.
36. Keyes to Steele, June 17, 1851, Barbour and Wozencraft to CIA, March 5, 1851, *Correspondence*, 1853, 60–61.
37. Keyes to Steele, June 17, 1851, Barbour and Wozencraft to CIA, March 5, 1851, *Correspondence*, 1853, 60–61.
38. Barbour and Wozencraft to CIA, March 5, 1851, *Correspondence*, 1853, 62.
39. *EC*, 193, 203.
40. E. F. Beale to CIA, November 22, 1852, *Correspondence*, 1853, 379. Anderson also overlooks CIA George Manypenny's 1853 annual report, which gave 100,000 as California Indian population. See George W. Manypenny to R. McClelland, November 26, 1853, *RCIA*, 33d Cong., 1st Sess., 1853, S. Ex. Doc. 1, serial 690, 243.
41. Anderson, "The Native Peoples of the American West: Genocide or Ethnic Cleansing?": 418–19, endnote 31.
42. *EC*, 200; N. Lyon to E. R. S. Canby, May 22, 1850, *Annual Report of the Secretary of War*, 1850, 31st Cong., 2d Sess., 1850, S. Ex. Doc. 1, serial 587, 82. Madley, *An American Genocide*, 132, accepts the possibility of as few as sixty killed, though he also suggests, based on the recollections of Major Edwin Allen Sherman, who was part of an unofficial company that went to the Clear Lake area in June 1850 to round up cattle and subdue lingering Pomo resistance and who stated that "four hundred warriors were killed and drowned" while an equal number of women and children "plunged into the lake, through fear, committing suicide" (see Sherman, "Sherman Was There," 54), that as many as 800 were killed. Sherman does not explain how he arrived at these figures, and the assertion that 400 women and children committed suicide seems highly implausible, although it may reflect the fact that so many drowned. See Edwin A. Sherman, "Sherman Was There: The Recollections of Edwin A. Sherman (Continued)," *California Historical Quarterly* 24 (March 1945): 54, <https://doi.org/10.2307/25155883>. *EC*, 200, does provide a reasonable estimate of "nearly a hundred Indians" killed in a second massacre Lyon committed a few days later, also against Pomos, on the Russian River.
43. *EC*, 215.
44. Michael F. Magliari, review of *Ethnic Cleansing and the Indian: The Crime That Should Haunt America*, by Gary Clayton Anderson, *H-Net Reviews in the Humanities and Social Sciences*, December 2016, <https://networks.h-net.org/node/2718/reviews/156035/magliari-anderson-ethnic-cleansing-and-indian-crime-should-haunt>. Magliari also criticizes Anderson for his use of the word "supposedly," which "without any explanation or justification, deliberately casts doubt upon the very occurrence of this well-known and heavily documented atrocity." Anderson may have intended only to cast doubt on the number not the event, but his often-cavalier tone leaves him open to Magliari's criticism.
45. Madley, *An American Genocide*, 283.

46. EC, 215; Jarboe quoted in James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 164; Johnson quoted in E. G. Tassin, "Chronicles of Camp Wright," *Overland Monthly*, 2d ser., 10 (July 1887): 27. For the report of 3,000 Yukis in Round Valley in 1858, see note 23.

47. EC, 215.

48. Edward Johnson to W. W. Mackall, August 21, 1859, *Correspondence Relative to Indian Affairs in Mendocino County*, in *Appendix to the Journals of the Senate of the Eleventh Session of the Legislature of the State of California* (Sacramento: C. T. Borts, 1860), 8.

49. J. Ross Browne to CIA, October 18, 1859, *Report of the Secretary of the Interior Communicating ... Correspondence Between the Indian Office and the Present Superintendents and Agents in California ...*, 36th Cong., 1st Sess., 1860, S. Ex. Doc. 46, serial 1033, 15.

50. "The Late Indian War in Mendocino County," *Daily Alta California* (San Francisco), January 22, 1860.

51. EC, 10. The most comprehensive account of this violence is in Madley, *An American Genocide*, 173–335.

52. EC, 217; Madley, *An American Genocide*, 12.

53. EC, 11. For the Jewish population see, <https://www.jewishvirtuallibrary.org/jewish-population-of-the-world>.

54. EC, 217. In a footnote, Anderson gives as examples of nineteenth-century cases with much higher numbers: "Australia, where 80,000 Aborigines were killed in Queensland," and "Algeria, where over 500,000 Native people died as a result of French colonization," and further notes that "these numbers pale in comparison to twentieth-century genocides in central Europe, Cambodia, and South Africa." See EC, 380 n99. It is telling that for Queensland, the case most similar to California, the source he cites, Kiernan, *Blood and Soil*, 308, actually gives a figure of "approximately 8,000–10,000," not the 80,000 Anderson states.

55. EC, 194.

56. EC, 197–98. To emphasize malaria, which EC, 198, mistakenly refers to as a virus (it is a parasite), Anderson attributes government officials' observations about sickness to malaria even though they were often very general. For example, EC, 197, notes that Wessells stated that Indians on the lower Eel River were "loathsome with disease," but there is no reason to think that malaria was the culprit other than that Wessells complained that his animals were "worried by mosquitoes" north of Humboldt Bay, some distance away. Wessells to Asst. Adj. Genl. Pacific Division, November 14, 1851, *Correspondence*, 1853, 62–63. EC, 194, does mention venereal disease (also misidentified as a virus), cholera, measles, and smallpox, although his narrative focuses almost entirely on malaria. In some cases, especially in the Sacramento and San Joaquin valleys, Indigenous communities no doubt suffered from malaria, which had become endemic in those regions since an initial devastating epidemic in 1833, but in the late 1840s Indigenous peoples were suffering from gonorrhea, syphilis, dysentery, tuberculosis, cholera, typhoid, influenza, smallpox, whooping cough, pneumonia, and measles. These diseases would continue to afflict them through the 1850s and beyond. For a summary of these diseases, see Cook, *The Conflict between the California Indian and White Civilization III: The American Invasion*, 13–21. For the initial outbreak of malaria in 1833, see Peter Ahrens, "John Work, J. J. Warner, and the Native American Catastrophe of 1833," *Southern California Quarterly* 93, no. 1 (Spring 2011): 1–32, <https://doi.org/10.2307/41172554>.

57. Population figures are from David J. Weber, *The Mexican Frontier, 1821–1846: The American Southwest Under Mexico* (Albuquerque: University of New Mexico Press, 1982), 206; Joseph C. G. Kennedy, *Population of the United States in 1860; Compiled from the Original Returns of the Eighth Census* (Washington, DC: GPO, 1864), 28. For the introduction of venereal diseases, sexual violence, and the impact of these diseases, see Lisbeth Haas, *Conquests and Historical Identities in California*,

1769–1936 (Berkeley: University of California Press, 1995), 22; James A. Sandos, *Converting California: Indians and Franciscans in the Missions* (New Haven: Yale University Press, 2004), 111–13, 124–27; Steven W. Hackel, *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769–1850* (Chapel Hill: University of North Carolina Press, 2005), 116–18, 225–27. For an overview of dispossession and resource destruction in the Gold Rush era, see Akins and Bauer, *We Are the Land*, 133–35. In his account of the various diseases afflicting Indigenous peoples, Cook, *The Conflict between the California Indian and White Civilization*, III, 13–35, relates this to the destruction of food sources.

58. EC, 217.

59. For Burnett’s statement and an assessment of it as an indication of an emerging “genocidal policy,” see Sousa, “They Will be Hunted Down,” 205. For California’s funding of state militia expeditions, see Madley, *An American Genocide*, 354, and Lindsay, *Murder State*, 237.

60. Madley, *An American Genocide*, 280.

61. As an example of the Army’s efforts to protect Indians, Anderson cites the actions of Lieutenant Henry Judah, who in 1855 protected vulnerable Indians on the Klamath River (Karuks, Yuroks, and Hupas) and provided them with food; see EC, 213–14. For California’s efforts to secure federal funding of state militias and vigilantes, see Lindsay, *Murder State*, 236–43. For the success of these efforts, see Madley, *An American Genocide*, 199–200, 250–54.

62. EC, 206.

63. The figure of 1,300 to 2,300 is derived from data in Madley, *An American Genocide*, 537–50.

64. For the late 1780s policy, see Jeffrey Ostler, “‘Just and Lawful War’ as Genocidal War in the (US) Northwest Ordinance and Northwest Territory, 1787–1832,” *Journal of Genocide Research* 18, no. 1 (February 2016): 1–20, <https://doi.org/10.1080/14623528.2016.1120460>.

65. For the 1863 removal, see Akins and Bauer, *We Are the Land*, 149, and Madley, *An American Genocide*, 318–20. For the authorization of the removal by General George Wright, commander of the Department of the Pacific, see George M. Hanson to CIA, August 21, 1863, RCIA, 1863, 38th Cong., 1st Sess., 1863, H. Ex. Doc. 1, serial 1182, 215.

66. William H. Ellison, “The Federal Indian Policy in California, 1846–1860,” *Mississippi Valley Historical Review* 9 (June 1922): 59–60, <https://doi-org.libproxy.uoregon.edu/10.2307/1886099>.

67. EC, 218.

68. EC, 212, quoting a June 1857 report of J. Ross Browne, which I have been unable to locate.

69. EC, 378 n79.

70. Browne to CIA, October 18, 1859, *Report of the Secretary of the Interior Communicating ... Correspondence Between the Indian Office and the Present Superintendents and Agents in California ...*, 1860, 12–16.

71. Johnson to Mackall, August 21, 1859.

72. Madley, “California’s Yuki Indians,” 324.

73. For conditions at Nome Cult, see also Bauer, “We Were All Like Migrant Workers Here,” 37–45. For the creation of reservations and farms, see Ellison, “The Federal Indian Policy in California,” 60–65; Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1988), 141–45.

74. Magliari’s review of *Ethnic Cleansing* makes the additional point that Anderson fails to acknowledge that the authority he cites for ethnic cleansing, Norman Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth-Century Europe* (Cambridge: Harvard University Press, 2001), understood that ethnic cleansing, defined as deportations, could have genocidal consequences.

75. For the 1850 legislation and its impacts, see Hurtado, *Indian Survival*, 131; Michael Magliari, “Free Soil, Unfree Labor: Cave Johnson Coutts and the Binding of Indian Workers in

California, 1850–1867,” *Pacific Historical Review* 73 (August 2004): 349–90, <https://doi.org/10.1525/phr.2004.73.3.349>; Stacey L. Smith, *Freedom’s Frontier: California and the Struggle over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: University of North Carolina Press, 2013), 144–51; Madley, *An American Genocide*, 161–62, 172; Anderson, *EC*, 208–9.

76. *EC*, 209.

77. Cook, *The Conflict between the California Indian and White Civilization, III: The American Invasion, 1848–1870*, 61; Edward D. Castillo, “The Impact of Euro-American Exploration and Settlement,” *Handbook of North American Indians*, vol. 8, *California*, 109.

78. *EC*, 5–6.

79. Madley, *An American Genocide*, 350.

80. Adam Jones, *Genocide: A Comprehensive Introduction* (Abingdon, UK: Routledge, 2006), 13, quoted in Magliari, review of *Ethnic Cleansing and the Indian*.

81. Frank Chalk and Kurt Jonassohn, *The History and Sociology of Genocide: Analyses and Case Studies* (New Haven: Yale University Press, 1990), 23.

82. Madley, *An American Genocide*, 352, recognizes that disease played an “important role in the California Indian population decline,” but does not weigh this factor in relationship to direct killing. Clearly, though, Madley’s figures for direct killing (between 9,492 to 16,094 from 1846–1873), noted above, account for far few deaths than disease.

83. Tai S. Edwards and Paul Kelton, “Germs, Genocides, and America’s Indigenous Peoples,” *Journal of American History* 107 (June 2020): 53, <https://doi.org/10.1093/jahist/jaaa008>. For a typical argument that depopulation from disease cannot be genocidal, see Guenter Lewy, “Can There Be Genocide without the Intent to Commit Genocide?” *Journal of Genocide Research* 9 (December 2007): 661–74, <https://doi.org/10.1080/14623520701644457>.

84. Alfred W. Crosby, “Virgin Soil Epidemics as a Factor in the Aboriginal Depopulation in America,” *William and Mary Quarterly*, 33 (April 1976): 289–99, <https://doi.org/10.2307/1922166>; Edwards and Kelton, “Germs, Genocides”; *Beyond Germs: Native Depopulation in North America*, ed. Catherine M. Cameron, Paul Kelton, and Alan C. Swedland (Tucson: University of Arizona Press, 2015). To be clear, some episodes of disease, such as the 1833 malaria epidemic, do not fit the virgin soil epidemic thesis.

85. A. Dirk Moses, “Genocide and Settler Society in Australian History,” in *Genocide and Settler Society: Frontier Violence and Stolen Indigenous Children in Australian History*, ed. A. Dirk Moses (New York: Berghahn, 2004), 23. For an overview of US settler colonialism, which sees genocide as inherent to the process, see Walter L. Hixson, *American Settler Colonialism: A History* (New York: Palgrave, 2013). Anderson, “The Native Peoples of the American West,” 414, mischaracterizes Patrick Wolfe’s famous formulation of settler colonialism’s “logic of elimination” as defining a “process as being something other than genocide.” On the contrary, Wolfe argued that settler colonialism was “not invariably genocidal,” but that it certainly could be. See Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8 (December 2006): 387–409, 387, <https://doi.org/10.1080/14623520601056240>. Margaret Jacobs argues that neither genocide nor ethnic cleansing capture all settler-colonial processes, especially those involving Indigenous child removal, though her proposal to replace genocide (as well as ethnic cleansing) with settler colonialism for the “broader history of Indian-white conflict” forecloses an analysis of settler colonialism’s potentially genocidal consequences. See Jacobs, “Genocide or Ethnic Cleansing,” 445.

