

UC Berkeley

UC Berkeley Electronic Theses and Dissertations

Title

Bordering the Nation: Land, Life, and Law at the U.S.-Mexico Border and on O'odham
Jeved (land)

Permalink

<https://escholarship.org/uc/item/3tw1q89w>

Author

Painter, Fantasia

Publication Date

2021

Peer reviewed|Thesis/dissertation

Bordering the Nation: Land, Life, and Law at the U.S.-Mexico
Border and on O'odham Jeved (land)

By

Fantasia Lynn Painter

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

Ethnic Studies

in the

Graduate Division

of the

University of California Berkeley

Committee in charge:

Professor Thomas Biolsi, Chair

Professor Beth Piatote

Professor Shari Huhndorf

Professor Rosemary Joyce

Summer 2021

Abstract

Bordering the Nation: Land, Life, and Law at the U.S.-Mexico
Border and on O’odham Jeved (land)

By

Fantasia Painter

Doctor of Philosophy in Ethnic Studies

University of California, Berkeley

Professor Thomas Biolsi, Chair

Bordering the Nation: Land, Life, and Law at the U.S.-Mexico Border and on O’odham Jeved (land), theorizes the U.S.-Mexico borderlands from an Indigenous cultural, epistemological, and political standpoint. How, it asks, do legal, social, and ceremonial demarcations, claims, performances, and authorities in the borderlands shape, and how have they shaped, *O’odham jeved* (Indigenous land)? Analyzing geopolitical borders as they have been constituted, contested (or ignored), reified, and made permeable over more than a century (1900- 2020), I conclude that settler imaginaries and jurisdictions collaborate in the borderlands under the auspices of border security, conservation, and humanitarian aid to both materially and symbolically undermine and inhibit O’odham connections and claims to land.

Following an Indigenous and Ethnic Studies methodology and ethic, my project draws from (1) government archives, records from the Bureau of Indian Affairs, the National Park Service, U.S. district courts, and the Tucson City Council; (2) Indigenous and migrant literatures—poetry, court testimonies, and oral histories (3) and ethnographic fieldnotes, which I collected while working alongside O’odham communities between January 2019 and March of 2020.

The study is presented in five chapters. Chapter One brings the reader into the Indigenous borderlands and introduces the reader to O’odham jeved. Chapter Two investigates how Bureau of Indian Affairs officials leveraged geopolitical incorporation in the early 1900’s to control Indigenous people and Indigenous land spanning the border. Shifting to the present, Chapter Three, studies the Tucson City Council as a point of contact for actors across O’odham *jeved*. Looking to city resolutions passed in response to the happenings at the U.S.-Mexico border, I discern the flexibility and rigidity of contemporary jurisdictional power in the borderlands. Chapter Four theorizes the connection between Indigenous land and criminal immigration law by exploring *U.S. v. Scott Warren* (2019), a case in which a white humanitarian aid worker stood trial for allegedly harboring two undocumented border crossers. Citing the inhospitable landscape, both the prosecution and the defense constructed the land as an agent of violence to be accounted for, defied, or relied upon. Finally, Chapter Five, analyzes the *hasañ* (saguaro cactus) as a symbol in Indigenous and migrant literatures through which they contest national jurisdictions and assert their relationships to land.

Acknowledgements

I am filled with gratitude, and I am humbled by the vast network of individuals, communities, and institutions that have helped make this dissertation possible. In short, thank you to my advisors, my mentors, my peers, my students, my family, and my community.

I am because we are.
We:sij t-we:m (All of us together)

In long, thank you to my chair Thomas Biolsi and my truly spectacular dissertation committee: Beth Piatote, Shari Huhndorf, and Rosemary Joyce.

Thank you to Juana Maria Rodriguez, Keith Feldman, Carolyn Chen, Raul Coronado, and Leti Volpp who I worked with in various capacities during my time at Berkeley.

Thank you to my advisors in the Institute for the Study of Societal Issues: Deborah Freedman Lustig, David Minkus, and Christine Trost.

Thank you to my many graduate school comrades. Among them: Hector Callejas, Alan Pelaez Lopez, Rachel Lim, Marcelo Garzo Montalvo, Sarah Whitt, Melanie Plasencia, Angela Aguilar, Tria Blu Wakpa, Jen Rose Smith, Meredith Alberta Palmer, Ataya Cesspooch, Sierra Edd, Val Sierra, Gregoria Grigsby-Olson, David Pham, Ngoc-Mai Phan, Yesenia Trevino, C.N.E. Corbin, Louise Ly, and Monique Hosein. Caleb Dawson, Eduardo Bautista Duran, Alicia Sheares, Nallely Mejia, Ree Botts, and David Philoxene.

Thank you to all the amazing staff at CAL. A special shout out to Latonya Minor, Dewey St. Germaine, Phenocia Bauerle, Louisa Harstad, Carmen Foghorn, Cindy Andallo, Patrick Naranjo, Melissa Stoner, Sine Hwang Jensen, and Lilian Castillo-Speed.

Thank you to my friends, my family, my crew at the Native American Literature Symposium, and my partner who have all supported me behind the scenes. You know who you are.

Finally thank you to all the Indigenous people, peoples and allies who paved the way and to all those that will follow.

Sape!

Table of Contents

List of Figures

Introduction 1

Literature Review 5

O'odham Jeved 45

The Tohono O'odham Reservation 57

S-Cuk Son, 'Ali Son (Tucson, Arizona) 94

The Desert 126

The Saguaro 157

References 154

List of Figures

Figure	Page
1.1 The Border Wall on O’odham Jeved	45
1.2 The Sonoran Desert	46
1.3 Native American Reservations in Arizona	46
2.1 Trial of Tohono O’odham Leaders	87
3. 1 Surface Management in Arizona	96
3.2 New Border Wall System	96
3.3 Concertina Wire in Nogales, Arizona	111
4.1 Undocumented Border Crosser Recovered Remains	127
4.2 Prevention Through Deterrence	127
4.3 Migrant Deaths on O’odham Jeved 1992-2018	135
5.1 Saguaro Flowers	164
5.2 Saguaro Fruits	164

Introduction:

Bordering the Nation theorizes the U.S.-Mexico border and borderlands in southern Arizona from an Indigenous cultural, epistemological, and political standpoint by centering *O'odham jeved* (Indigenous land). How, it asks, are the borderlands produced, reproduced, and negotiated? How are they and the people who live in, pass through, will or have passed through them variously mediated by the state? How is land and landscape contested here, and what do these contestations reveal about the connections between the state, local Indigenous peoples, and border crossers?

To answer these questions, I employ two theoretical/conceptual frames: *incorporation* and *deserting*. These concepts speak to how the land is on the one hand, designated, managed, and negotiated through the state; and on the other, experienced, understood, and imagined on the ground. By putting these two spatial analytics (bureaucratic and experiential) into conversation, I reveal the ways they inform and transform one another.

My use of **incorporation** plays on the ambiguous meaning of the term. To incorporate something can mean either *to constitute it or to subsume it*. Looking to the history and contemporary politics of jurisdictions and territoriality in the Arizona borderlands from 1900-2020, I examine how the constitution and subsumption of Indigenous land were linked. In generating the patchwork of local, sector, and state jurisdictions, various federal and non-Indigenous actors sought (and seek) to incorporate pieces of Indigenous land differently and haphazardly into legal, political, and cultural landscapes. While mostly non-Indigenous actors have drawn jurisdictional lines, Indigenous peoples have historically leveraged juridical incorporation to their own ends.

My second frame, **deserting**, echoes and invokes Martin Heidegger's concept of worlding and Yi-Fu Tuan's concept of place, which Tuan says, "incarnates the experiences and aspirations of a people."¹ In rendering the noun, desert, into an active verb, "deserting," I signal that the desert in southern Arizona is a place variously made, imagined, negotiated, and experienced. Depending on the observer, it is a place of transit, a natural border, or a "land of open graves." To the Tohono O'odham, it is a homeland. *Deserting* signals imaginaries that overwrite or elide the Indigenous, that work to render Indigenous land into a desert. These worlds are continuously made and remade through practice and story. By looking to narratives about the desert in various texts (archives and cultural productions), I explore the senses of place articulated by local non-Indigenous actors, by Indigenous people, and by border crossers.² By

¹ Yi-Fu Tuan "Space and Place: Humanistic Perspective" *Progress in Geography*, Vol 6 (1974), 236

² Both "sense of place," a geography term, and "articulation," a cultural studies term, are broad. Here I am specifically drawing on Keith Basso's usage who explores the sense of place of the western Apache in his book *Wisdom Sits in Places*. He writes, "The people's sense of place, their sense of their tribal past, and their vibrant sense of themselves are inseparably intertwined. Their identity has persisted. Their ancestors saw to this, and in the country of the past, where the ancestors come alive in resonating place-worlds, they do so still today." Basso, Keith H. *Wisdom Sits in Places: Landscape and Language Among the Western Apache*. (Albuquerque: UNM Press, 1996), 35. I am also drawing from Kim TallBear's term "articulations of indigeneity", which she uses to signify understandings and definitions of Indigeneity that become material and that are laden with power. Finally, I employ border-crosser as a term that signifies those recognized as refugees and (im)migrants (authorized or not) and

putting these narratives into conversation, I investigate how these multiple worldings/deserts align and conflict.

Incorporation and deserting are not independent of one another. Bureaucratic realities affect and are affected by how individuals relate to and imagine the desert. Jurisdictional differences seek to designate some places livable, some temporarily accessible (through various levels of bureaucracy), and others “off limits,” which in turn changes who interacts with the land and how or when they do. That is not to say that jurisdiction is determinate. Jurisdictional lines that are imagined as parsing the land often make little sense looking at the landscape and go largely unannounced when walking through it (the permeability of this landscape of course depends on where, when, and who you are and what you look like). Instead, jurisdiction appears at precise moments and in particular ways. Various actors work to designate land according to their own vision. Divergent desert imaginaries influence how, when, and where land is incorporated. Various actors work to make the desert into spaces that reflect their vision. They seek to designate it for public or private use, for storage or recreation, for conservation or security, or other uses.

Framed through incorporation and deserting, this project addresses a conspicuous gap in borderlands scholarship by emplacing the U.S.-Mexico border and borderlands on and analyzing them through Indigenous land. It also speaks to the complex and multifarious iterations of Indigenous sovereignty as a more-than-legal concept theorized in Native American Studies which I discuss more in the literature review below.

Following an Indigenous and Ethnic Studies methodology and ethic, one cultivated by Linda Tuhiwai Smith and others this project draws from (1) government archives, records from the Bureau of Indian Affairs, the National Park Service, U.S. district courts, and the Tucson City Council; (2) Indigenous and migrant literatures—poetry, court testimonies, and oral histories (3) and ethnographic fieldnotes, which I collected while working alongside O’odham communities between January 2019 and March of 2020.

I present the study in five chapters. Chapter One brings the reader into the Indigenous borderlands and introduces the reader to O’odham *jeved*. Chapter Two investigates how Bureau of Indian Affairs officials leveraged geopolitical incorporation in the early 1900’s to control Indigenous people and Indigenous land spanning the border. Shifting to the present, Chapter Three studies the Tucson City Council as a point of contact for actors across O’odham *jeved*. Looking to city resolutions passed in response to the happenings at the U.S.-Mexico border, I discern the flexibility and rigidity of contemporary jurisdictional power in the borderlands. Chapter Four theorizes the connection between Indigenous land and criminal immigration law by exploring *U.S. v. Scott Warren* (2019), a case in which a white humanitarian aid worker stood trial for allegedly harboring two undocumented border crossers. Citing the inhospitable landscape, both the prosecution and the defense constructed the land as an agent of violence to be accounted for, defied, or relied upon. Finally, Chapter Five analyzes the *hasañ* (saguaro cactus) as a symbol in Indigenous and migrant literatures through which they contest national jurisdictions and assert their relationships to land

those not yet arbitrated by the state. TallBear, Kim. “Genomic Articulations of Indigeneity.” *Social Studies of Science* 43, no. 4 (August 2013): 509–33. <https://doi.org/10.1177/0306312713483893>.

Literature Review

This project intersects and overlaps with and means to intervene in borderlands scholarship by revealing and analyzing the U.S.-Mexico border and borderlands, as they play out on and through Indigenous land. It also speaks to the complex and multifarious iterations of Indigenous sovereignty as theorized in Native American Studies. As such, it is critical to engage these field in some depth. Below, I examine 1) the ways that concepts employed by Borderlands History including the frontier and wilderness create and continue to reinforce the colonial *deserting* of O'odham jewed, and 2) the ways that sovereignty as it has been developed and deployed by Native American Studies includes but is not limited to incorporated Indigenous polities.

Borderlands History: Deserting

When Herbert Eugene Bolton³ conceived of the Spanish borderlands⁴ in the early twentieth century, he did so as an appendix, footnote, and sequel to Frederick Jackson Turner's now infamous Frontier Thesis (1893). The Frontier Thesis⁵ held that America was different from Europe *because* it was violently forged through encounters with the American wilderness and the Indigenous peoples always already conflated with it.⁶ While Turner's Thesis has long since fallen out of fashion, Borderlands History, the field opened by Bolton, has been conspicuously branded by its basic tenets: violence, American exceptionalism, civilization, and wilderness. I trace the development of Borderlands History as scholars struggled to free the field and the term "borderlands" (and occasionally "frontier" itself) from the ideological baggage of Turner's Thesis. Touching on key contributions from American Studies, Chicano Studies, New Western History, and others, I follow the field's changing purview from Bolton's Spanish Borderlands to the material and racial borders to demonstrate why and how my research of the U.S.-Mexico Borderlands from an Indigenous O'odham perspective offers insight and perspective these

³ Herbert Eugene Bolton is considered to be one of the founders of Western History. The other is Frederick Jackson Turner. See *Bolton and the Spanish Borderlands*. Ed., John Francis Bannon (Norman: University of Oklahoma Press, 1974).

⁴ Interestingly, Bolton does not explicitly define the borderlands in his book, but he uses the term to refer to the edges of the Spanish empire that would later become part of the United States.

⁵ Turner famously wrote, "the existence of an area of free land, its continuous recession, and the advance of American settlement westward, explain American development" Frederick Jackson Turner, "The Significance of the Frontier in American History," in Martin Ridge, ed., *Frederick Jackson Turner: Wisconsin's Historian of the Frontier*, (Madison: State Historical Society of Wisconsin, 1986), 185. Turner originally presented his Thesis to the American Historical Association. His presentation sought to sound the alarm for the United States as the Frontier—which was for Turner the defining element of American exceptionalism—was closing. Frederick Jackson Turner, "The Significance of the Frontier in American History," in Martin Ridge, ed., *Frederick Jackson Turner: Wisconsin's Historian of the Frontier*, (Madison: State Historical Society of Wisconsin, 1986).

⁶ Manifest Destiny and the Doctrine of Discovery hinge upon two ostensibly contradictory tenets: 1) The land was empty and open to conquest as the residents were not Christian (*terra nullius*) and 2) The Indians who once occupied the land disappeared.

related fields have been missing.⁷

As a Native American Studies scholar, who came to the Borderlands by way of my own research on the Indigenous peoples who claim them, I pay special attention to the field's changing tack on Indigeneity. Early intellectuals saw Indigenous peoples as mere conduits of American exceptionalism; later scholars claimed them as part of a syncretic *mestizaje*; and most recently, researchers have theorized them as the perpetrators of Western vacancy (and violence) themselves. In the final pages of this section, finding purchase in Michel-Rolph Trouillot (1995) I theorize the field through the power and limitations of History. Ultimately, I suggest that my dissertation interrogates the historical and contemporary intersections of settler colonial logics, Indigeneity, and race in the borderlands while centering contemporary Native sovereignty. This interdisciplinary project presents a new *Indigenous* take on the borderlands.

A student of Turner, Bolton conceived of "The Spanish Borderlands" as an overtly placed supplement to Turner's Frontier Thesis. He hoped to show that America (by which he meant, the United States) was forged by two European empires, not one. Bolton initially advanced the term in his 1920 book of the same name. The text opens,

This book is to tell of Spanish pathfinders and pioneers...the rule of Spain has passed; but her colonies have grown into independent nations. From Mexico to Chile, throughout half of America, the Spanish language and Spanish institutions are still dominant. Even in the old borderlands north of the Río Grande, the imprint of Spain's sway is still deep and clear.⁸

In his work, Bolton asserted that Spain, in parts of California, Louisiana, Florida, and the U.S. Southwest, *kindly*⁹ and bravely civilized the Indians, built buildings and roads, and, overall, graciously contributed to an early idyllic American West.¹⁰ For both Turner and Bolton, the American West was unique; it was irreducible to, though forged in conversation with, European roots/institutions/histories; and it hinged upon the disappearance of Native peoples (by death or assimilation) in the wake of civilization.

While popular during their lifetimes, by the mid-twentieth century, with the "founding fathers of western history" buried, the Frontier Thesis and its Spanish Borderlands progeny looked more and more like shibboleths. Early critics focused on factual errors: the American West was not an original construction; it was not partially fashioned by Spain; and to assert as much was to overwrite the true imperialist and racial history of the borderlands.

Famously, in his 1955 essay, "Toward a Reorientation of Western History," Earl Pomeroy challenged the American exceptionalism—what he called "The legend of unqualified

⁷ I take the field, Borderlands History, to be the historical scholarship concerning what would *become* the U.S. Southwest and the Mexican north; I do not directly address the expansive and international field of the same name that grew out of it.

⁸ Bolton, Herbert E. *The Spanish Borderlands* (New Haven: Yale University Press, 1921), 1.

⁹ Bolton's approach to the Spanish borderlands, which came to be known as "The Bolton School," sought to recast Spain's role in the colonization of the New World. Specifically, it sought to push back on the idea that Spanish colonization was particularly inhumane and violent. See David Weber, *The Spanish Frontier in North America: The Brief Edition* (New Haven, Yale University Press, 2009).

¹⁰ Bolton did not see the Spanish borderlands as antagonistic to Turner's Frontier Thesis. In fact, he often credited Turner's Thesis in his own work. See Albert Hurtado "Bolton and Turner: The Borderlands and American Exceptionalism" *Western Historical Quarterly* 44, no.1 (February 2013): 4-20.

western radicalism”¹¹—at the heart of the construct of The Frontier. Historians, Pomeroy argued, had neglected “the spread and continuity of ‘Eastern’ institutions and ideas” in favor of a unique and rugged West.¹² Implicating the environment, Pomeroy contended, was a futile attempt at maintaining this fictitious imagining. He wrote, “The environmental interpretation appealed to Americans in a nationalistic and ostensibly democratic era, even though the nation was visibly becoming more like Europe.”¹³ Not forgoing a jab at Bolton and his following, Pomeroy added, “Actually the native Spanish and Mexican element in many parts of the West—particularly California, where they are most revered today—were small and uninfluential.”¹⁴

The Borderlands also came under fire for its service to an insidious, racialized present. In 1949, public intellectual Carey McWilliams published, “The Fantasy Heritage.” In the essay McWilliams challenged the American infatuation with a Spanish past not in terms of accuracy, as did Pomeroy, but in terms of hypocrisy. He wrote,

None of this would really matter except that the churches in Los Angeles hold fiestas rather than bazaars and that Mexicans are still not accepted as a part of the community... When one examines how deeply this fantasy heritage has permeated the social cultural life of the borderlands, the dichotomy begins to assume the proportions of a schizophrenic mania.¹⁵

If America treasured its Spanish (European) heritage then, in McWilliams’s view, it despised the actual legacy of it: Mexican Americans. Moreover, the “Fantasy Heritage” was not, McWilliams reasoned, accidental. He wrote, “Thus the dichotomy throughout the borderlands between what is ‘Spanish’ and what is ‘Mexican’ is a functional, not an ornamental, arrangement. Its function is to deprive the Mexicans of their heritage and to keep them in their place.”¹⁶

Early interrogations of the Frontier and the Spanish Borderlands by McWilliams and Pomeroy became institutionalized and intertwined in the historical aspect of Ethnic Studies scholarship and New History of the West respectively. These sustained critiques enabled and developed through scholarship that posited Indigenous peoples as interlocutors and lingering elements in and of the Borderlands.

By the 1960’s, Chicano scholars in particular began to flesh out the connection between a distant Spanish (and Indian) past and a Mexican-American present.¹⁷ They reminded the field

¹¹ Pomeroy, Earl, “Toward a Reorientation of Western History: Continuity and Environment.” *The Mississippi Valley Historical Review* 41, no. 4 (1955), 586.

¹² *Ibid.*, 579.

¹³ *Ibid.*, 580.

¹⁴ *Ibid.*, 590.

¹⁵ Carey McWilliams, “The Fantasy Heritage.” *North from Mexico: The Spanish-Speaking People of the United States* (Philadelphia: J.B. Lippincott Co., 1948)

¹⁶ *Ibid.*, 39.

¹⁷ The Chicano Movement advocated for civic equality in the face of U.S. white supremacy, which maintained racial, economic, and cultural hierarchies. Part of articulating the Chicano present included an articulation of history and a critique of it. Simultaneously, Native American Studies was branching off as a field. In 1962, Ed Spicer published his text *Cycles of Conquest*. In the text Spicer attempted to synthesize what was then a wealth of disparate historical information on “Native American cultures” in the Southwest and to show the ways Native peoples had

that the U.S.-Southwest did not simply have a quaint Spanish colonial history, but up until 1848 the so-called U.S.-Southwest, including O’odham jeved this dissertation addresses *was* Mexico (See Chapter 1).¹⁸ The questions then became: how did the United States maneuver to racially, materially, and ideologically dispossess Mexican-Americans and relegate them to second class-citizens?¹⁹ How were Mexican-Americans articulated as the perpetual new arrivals even as the U.S. stole Mexican land?²⁰ How did Mexican-Americans become “foreigners in their own land?”²¹ Chicano scholars also reinserted a qualified Indigeneity into the field by way of mestizaje and syncretism. As Gloria Anzaldúa writes in her book, *Borderlands/La Frontera*, “This land was Mexican once,/ was Indian always/ and is./And will be again.”²² Introductory texts such as Acuña’s *Occupied* (1972) and James Diego Vigil’s *From Indians to Chicanos* (1984) trace Mexican-American history from the Maya, Aztec, and other Indigenous groups to the Chicano movement.²³ Indigenous people did not disappear, Chicano scholars held; they transformed, learned Spanish, migrated, and lingered.

The Frontier, and the West it implicated, also came under heavy fire from another budding sub-discipline: New Western History. An extension of New Social History—which

responded to Spanish, Mexican, and Anglo onslaughts. Edward H. Spicer, *Cycles of Conquest: The Impact of Spain, Mexico, and the United States on Indians of the Southwest, 1533-1960* (Tucson: University of Arizona, 1967).

¹⁸ Some of that land remained in Mexico’s possession until the Gadsden Purchase of 1854. See Chapter 1.

¹⁹ *The Story of the Mexican American* by Rodolfo Acuña was certainly one of the earliest texts on Chicano history, though it is geared at children and never received as much attention as his follow-up text *Occupied America: A History of Chicanos*. Rodolfo F. Acuña, *The Story of Mexican Americans: The Men and the Land* (New York: American Book Company, 1969). Rodolfo F. Acuña, *Occupied America: A History of Chicanos*. 8th edition (Boston: Pearson, 2014).

²⁰ See David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: University of Texas Press, 1987). Tomás Almaguer, *Racial Fault Lines: The Historical Origins of White Supremacy in California* (Berkeley: University of California Press, 1994).

²¹ David J. Weber, ed. *Foreigners in their Native Land: Historical Roots of the Mexican American* (Albuquerque, University of New Mexico Press, 1973).

²² Gloria Anzaldúa, *Borderlands/la Frontera* (San Francisco: Aunt Lute, 1987), 25.

²³ At the extreme, in *Occupied America* (1972), Rodolfo Acuña proposed that Chicanos in the U.S. could be better understood as an internal colony. He writes, “the conquest of the Southwest created a colonial situation in the traditional sense—with the Mexican land and population being controlled by an imperialistic United States.” While the internal colony has long since fallen out of favor—Acuña dropped the theory in later editions—the tension between Indigeneity and race continues. Rodolfo F. Acuña, *Occupied America: A History of Chicanos*. 8 edition (Boston: Pearson, 2014), 3. See James Diego Vigil, *From Indians to Chicanos: A Sociocultural History* (New York: Waverland, 1984); Almaguer, “Ideological Distortions in Recent Chicano Historiography: The Internal Model and Chicano Historical Interpretation,” *Aztlan* 18 (Spring 1987), 7-28; Martha Menchaca, *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans* (Austin: University of Texas Press, 2010); Laura E. Gómez, *Manifest Destinies: The Making of the Mexican-American Race* (New York: NYU Press, 2008); Maylei Blackwell, et al., “Introduction Special Issue: Critical Latinx Indigeneities” *Lat Stud* 15 (2017):126-137.

sought to illuminate the story of common folk rather than the story of National politics²⁴—New Western History challenged Frontier romanticism by focusing on the West “as a place and not a process.”²⁵ Focusing on individuals (poor-whites, communities of color, and Native people), New Western historians demonstrated, as Patricia Limerick writes in *The Legacy of Conquest: The Unbroken Past of the American West*—one of the earliest New History texts—“the West is the place where everybody was supposed to escape failure, but it didn’t happen that way.”²⁶ Rather than a monolithic and rugged white frontier and the disappearing Native/wilderness, New Western historians revealed that the West contained abysmal failure and racially diverse populations.²⁷ The Frontier was never “closed,” and the so-called empty wilderness never existed.²⁸ Taking direct aim at the ideology of Turner’s Frontier, New Western Historians deemed the concept “nationalistic,” “ethnocentric,” and “racist”²⁹ and in service of a fantasy that

²⁴ New social history is distinct from social history in terms of its objects. While social history took on a Marxist tone by focusing on the general non-elite/proletariat, New social history focused increasingly on those marginalized in mainstream narratives such as those of non-whites, working class people, and women.

²⁵ Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: Norton, 1987), 26.

²⁶ Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: Norton, 1987), 198.

²⁷ See Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: Norton, 1987); White, Richard. “*It’s Your Misfortune and None of My Own*”: *A New History of the American West*, (Norman: University of Oklahoma Press, 1991).

²⁸ New Western historians also critiqued the wilderness ideology of the frontier. For example, after, Alfred Crosby, in *The Columbian Exchange: Biological and Cultural Consequences of 1492* demonstrated how the so-called empty wilderness was made through ecological and microscopic invasion, William Cronon investigated the imaginaries of conservation. In his essay, “The Trouble with Wilderness; or, Getting Back to the Wrong Nature” published in 1995, he addresses National parks and the frontier nostalgia that propelled them. He writes, “The myth of the wilderness as ‘virgin’ uninhabited land has always been especially cruel when seen from the perspective of the Indians ... forced to move elsewhere with the result that tourists could safely enjoy the illusion that they were seeing their nation in its pristine, original state, in the new morning of God’s own creation.” New Western Historians confronted the “disappearing Indian” and the “pure wilderness” central to the frontier and they argued that as an ideology and historical project. Alfred Crosby, in *The Columbian Exchange: Biological and Cultural Consequences of 1492* (New York: Greenwood, 1973); William Cronon, “The Trouble with Wilderness; or, Getting Back to the Wrong Nature” (1995), 23.

²⁹ Not all were as quick to proclaim the death of the frontier as Patricia Limerick. In the hands of New Western Historians, it seemed that Frontier was the new ‘f’ word. See Kerwin Lee Klein, “Reclaiming the ‘F’ Word, or Being and Becoming Postwestern.” *Pacific Historical Review* 65, no. 2 (1996): 179–215; Jack D Forbes and Derrick Jensen, *Columbus and Other Cannibals: The Wetiko Disease of Exploitation, Imperialism, and Terrorism* (New York: Seven Stories Press, 2008). Generally, New Western Historians agreed that the frontier at the very least must be reconstructed if it was to be rescued. See Howard Lamar and Leonard Thompson, “Comparative Frontier History,” in Lamar and Thompson, eds., *The Frontier in History: North America and Southern Africa Compared*, (New Haven, Conn., 1981), 3-13; William Cronon, George Miles, and Jay Gitlin, “Becoming West: Toward a New Meaning for Western History,” in Cronon, Miles, and Gitlin, eds., *Under an Open Sky: Rethinking America's Western Past* (New York, 1992), 3-27; Stephen Aron, “Lessons in Conquest: Towards a New Western History,” *Pacific Historical Review* 63 (May 1994): 125-47; John Mack Faragher, “Afterword: The Significance of the Frontier in American Historiography,” in Faragher, *Rereading Frederick Jackson Turner: The Significance of the Frontier in American History and Other Essays* (New York, 1994), 237-41; Kerwin Lee Klein, “Reclaiming the ‘F’

never existed.³⁰

In the late twentieth century, Borderlands History broke away from Western History. Moving away from “the nation,” the field sought to illuminate the borderlands as a place without the predetermined, normative, and teleological nation all together (“The Borderlands” became “the borderlands”). With the tools of New Social History, historians focused on the borderlands engaged with the limited data available on the everyday level. They focused on how local people (Indigenous, settlers, and non-elites) met in what is today the U.S. Southwest and the Mexican north. These scholars employed the term, “Spanish borderlands,” to signify the specific geopolitical edges of the Spanish empire, which then became the Mexican borderlands and the U.S.-Mexico borderlands. For these scholars, “borderlands” no longer signified a meta-thesis about the pacification of the continent but a technical temporal-political geography.

One of the first works that engaged in New Social history of the borderlands (though it is still at least partially invested in the meta-history of The Borderlands), was Ramon Gutiérrez’s book, *When Jesus Came the Corn Mothers Went Away* (1991). In this text, Gutiérrez sets out to show the transition from 1500 and 1846, from matriarchal pueblo (Indigenous) communities to patriarchal New Mexican society.³¹ To do this, Gutiérrez employed the cultural analytics of honor, sex, and conquest. While his initial chapter employed ethnographic data to assert that Native life ways “went away”—a claim that drew heavy fire from Native American Studies³²—at the center of his book, Gutiérrez thoroughly engaged with parish records that spoke to some of the most intimate moments of New Mexican local-life: marriage and gender. Examining litigation surrounding marriage, Gutiérrez illuminated the power, practice, and regulation of sexuality in the eighteenth-century New Mexico settler communities, and in the process, he shifted the terms through which scholars understood and studied the border. No longer a simple geopolitical designation, the border now included local communities.

A few years later, anthropologist Ana Maria Alonso published her text, *Thread of Blood: Colonialism Revolution, and Gender on Mexico’s Northern Frontier* (1997).³³ The book seemed to be a direct response to Gutiérrez (1991) and his insistence that the Natives *became* New-Mexicans. In her text, Alonso sidelined Native people as objects in and of themselves and instead interrogated the northern Mexican settlements built in the late eighteenth century to rebuff them. While she looked at the same population as Gutiérrez, and she too centered honor and conquest as cultural themes, Alonso embraced the limits of state archives. She zoomed in on the colonizers as such. Alonso’s text was broken into two parts: first, it followed the mobilization

Word, Or Being and Becoming Postwestern," *Pacific Historical Review* 65 (May 1996): 179-215.

³⁰ New Western History in some ways made way for, was influenced by, and contributed to the histories of Native Americans—who were undoubtedly the victims of and “on the other side” of the Frontier imaginary. See Richard Slotkin, *Regeneration Through Violence: The Mythology of the American Frontier, 1600-1860*. (Norman: University of Oklahoma Press, 2000).

³¹ Ramón Gutierrez, *When Jesus Came the Corn Mother Went Away* (Palo Alto: Stanford University Press, 1991).

³² Dunbar-Ortiz, Roxanne. “The Corn Mothers Never Went Away.” *Latin American Perspectives* 23, no. 2 (1996): 143–49.

³³ Ana Maria Alonso, *Thread of Blood: Colonialism Revolution, and Gender on Mexico’s Northern Frontier* (Tucson: University of Arizona Press, 1997).

of peasants by the Spanish and Mexican state as they were charged with defending the nation against the *indios barbaros*. It then examined the ways those same peasants and their cultures of honor, independence, and violence later became a hindrance to state progress in the early twentieth century once the Indians were “pacified.” Both Alonso and Gutiérrez sought to incorporate (one more literally than the other) Indigenous peoples into the history of the borderlands. Focusing on love and war, they seem to demonstrate two opposing visions of the borderlands, and yet, they reveal a singular and fundamental struggle of the field: how to tell a history where Native peoples are central but where they also, by and large, remain unavailable in the archives.

Like Alonso’s *Thread of Blood*, Cynthia Radding’s demographically driven book, *Wandering Peoples* was also published in 1997. In it, self-identifying as a “New Mission Historian,” Radding used church records to reconstruct Indigenous familial constitution, agricultural productions, social stratification, and individual migrations in Sonora between 1700 and 1850. Moving away from commentaries on the present, Radding held that “culturally the demarcation between ‘Indians’ and ‘non-Indians’ was not fixed or immutable but changing and negotiated over time.”³⁴ She argues, “social stratification occurred through the internal differentiation of the Indian and Hispanic segments of Sonoran society, processes in which the separate lines of class, ethnicity, and gender intersected.”³⁵

Taken together, Gutiérrez, Alonso, and Radding reveal the borderlands—the geographic space that is today the U.S. Southwest and Mexican north during and after transition from Spanish to Mexican to U.S. rule—as a space of cultural transition and hybridity, as a space where Indigenous people and Spanish/Mexican nationals met, mingled, and fought, with or without and sometimes against nation-states. Gutiérrez and Alonso do not use the ‘b’ word; Radding, who does, tellingly does so only to signify the edges of a changing Spanish empire. By the time Radding entered the scene, “the borderlands” maintained its temporal-empirical ties to Spain, but it had lost its ideological pull. Borderlands historians of the late twentieth century were less interested in national transition than in what data might reveal about the effects on the everyday lives of “borderlands” communities (which included Indigenous people).

If at the turn of the century the Frontier Thesis appeared slain at the hands of New Western History, and the “The Spanish Borderlands” was increasingly a very specific and ostensibly neutral term, then in 1999, Jeremy Adelman and Stephen Aron attempted to definitively strip both concepts for parts. In their now ubiquitous piece, “From Borderlands to Borders: Empires, Nation-States, and the Peoples in between in North American History,” Adelman and Aron sought to “disentangle frontiers from borderlands to rescue the virtue of each construct.”³⁶ With the ideologies that the terms implied long since forgotten, Adelman and Aron called out scholars who overemphasized continuity and syncretism where they saw true power differentials at play; the two attempted to re-foreground the imperial conflict that defined

³⁴ Cynthia Radding, *Wandering Peoples: Colonialism, Ethnic Spaces, and Ecological Frontiers in Northwestern Mexico, 1700-1850* (Durham: Duke University Press, 1997), 5.

³⁵ *Ibid.*, 6.

³⁶ Jeremy Adelman, and Stephen Aron. “From Borderlands to Borders: Empires, Nation-States, and the Peoples in between in North American History.” *The American Historical Review* 104, no. 3 (1999): 814–41, 815.

Indigenous-settler contact.³⁷ According to Adelman and Aron a “frontier,” defined as “a meeting place of peoples in which geographic and cultural borders were not clearly defined,” was distinct from a “borderlands,” a space of competing colonial claims. After articulating the technical definitions of both constructs, Adelman and Aron went on to explore the transition from borderlands to borders in the Great Lakes, the lower Mississippi valley and the greater Rio Grande basin. By 1999, “borderlands” and “frontier” no longer represented methodological and theoretical flagships in the field but had been rendered into narrow and technical descriptive terms.

While Adelman and Aron initiated a global “Borderlands” discipline, their quantification of the frontier and the borderlands was largely too late to be useful in the traditional/original Spanish-Mexican-U.S. borderlands. Scholars like James Brooks and Juliana Barr continued to illuminate the communities of the borderlands, and in doing so insisted that Indigenous people were not *outside* of power struggles but part of them; they asked how, in Brook’s words, “peoples of markedly different cultural heritage found solutions to the crises of the colonial encounter.”³⁸ Rather than the unqualified syncretism or conquest posited by early Borderlands scholars or the accommodation and common meaning that Adelman and Aron disparaged, these authors highlighted the uneven violence surrounding and permeating these forged colonial systems.

In *Captives & Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (2002), one of the first texts to unabashedly use the “borderlands” term as both a space and a politics, James Brooks illustrated Indigenous agency and power in the borderlands while confronting the limits of the archive itself through his exploration of slavery. Engaging with anthropological and colonial archives, Brooks featured short and incomplete vignettes as they were presented in the archives, and in doing so, he exposed the ways scholarly attempts to denote separate empires overwrote what was an intricate Indigenous economy of violence and exchange surrounding captives (who became kin and community). Likewise, Juliana Barr’s *Peace Came in the Form of a Woman: Indians and Spaniards in the Texas Borderlands* (2007) using colonial archives and contemporary interviews demonstrated the ways the Spanish and Comanches forged their own systems of communication (a system that revolved around women) during conflict and peace. Barr revealed that power was not unilateral; Spain was forced to make concessions to Comanche forces and together they created new cultural codes and practices.

³⁷ Adelman and Aron, while critiquing contact narratives that emphasize melding, rail against the melding of anthropology and history. Anthropology, which focused on culture and its changes, versus history whose true purview was the unfolding of empires, were perhaps a little too close for the pair, and worse still, the boundaries between them seemed to increasingly blur. Social history, amenable as it was to local and micro experience, had gone too far in their minds. Unfortunately, for them, the damage was done. From contact zones theorized by Mary Louise Pratt in 1991 onward, history and anthropology shared a vocabulary. In a 2005 collection, *Untaming the Frontier in Anthropology, Archaeology and History*, editors Bradley Parker and Lars Rodseth meditated on the common ground of history and anthropology when it came to the study of frontiers. They posit that “borders, diasporas, and contact zones—those ‘transnational fields’ in which peoples, commodities, and cultural ideas tend to mingle and recombine... must be understood as extensions of frontier processes that have developed over hundreds or even thousands of years” (4). Parker, Bradley J., and Lars Rodseth. *Untaming the Frontier in Anthropology, Archaeology, and History*. (Tucson: University of Arizona Press, 2005), 4.

³⁸ James Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill: University of North Carolina Press, 2002), 31.

Brooks and Barr asserted a “borderlands” that incorporated Indigenous agency and power.

By 2008, the field was uninterested in rehashing imperial relations, or writing about when frontiers became borderlands or when borderlands became bordered-lands. These designations, dictated by far-off national leaders, had little meaning for communities/economies on the ground. As Samuel Truett wrote,

The result is a patchwork of histories with considerable overlap and conspicuous divides. The most visible boundary splits the U.S. and Mexican history in two but a similar line divides colonial and national borderlands... This is largely a problem of scholarly perspective... To address these blind spots and develop the untapped potential of borderlands history, historians need to reclaim the center of the field. We need to start with the border itself and include both sides as our unit analysis.³⁹

And as Jacoby (2009) wrote one year later,

Much as the U.S.-Mexico border never completely separated the communities on either side of the boundary, the ‘Mexican’ and ‘American’ eras in the Southwest do not divide neatly at some moment in time, but rather bleed into one another, mutually constructing the borderlands of the nineteenth century—and beyond.⁴⁰

At the end of the first decade of the 21st century, historians focused on the borderlands were devoted to revealing a space that was claimed and constricted by national entities but primarily connected various communities.⁴¹

Fugitive Landscapes: The Forgotten History of the U.S.-Mexico Borderlands (2008) for example, echoing New Western History, explored “how the best-laid plans of states, entrepreneurs, and corporations repeatedly ran aground in fugitive landscapes of subaltern power.”⁴² Using records from U.S. government offices, local periodicals, corporations, and individual collections, Truett got at the intentions, fears, hopes, and haunts of nations and individuals. Uncommitted to a complete or hermetic narrative (like Brooks), Truett illuminated human collectivities largely transitory in the records: women, minorities, Chinese, Indigenous laborers, as they moved in, out, and across the border. Further, the book, true to its name, also featured landscapes. Truett wrote of fugitive landscapes, “fugitive not only because it resisted efforts to fix and police territory, but also because in its unsettled condition it represented an ambiguous, shifting blank space on most mental maps of North America.”⁴³

Jacoby’s text, *Shadows at Dawn: An Apache Massacre and the Violence of History*, explored the state as a key actor but rather than focusing on it, he demonstrates how it positioned various communities in alliance or in conflict. Pulling from atypical sources such as calendar sticks (O’odham) and oral histories by living Native peoples, as well as government documents,

³⁹ Samuel Truett, *Fugitive Landscapes: The Forgotten History of the U.S.-Mexico Borderlands* (New Haven: Yale University Press, 2008), 7.

⁴⁰ Karl Jacoby, *Shadows at Dawn: An Apache Massacre and the Violence of History* (New York: Penguin, 2009), 98.

⁴¹ Prior to Truett’s text, U.S.-Mexico borderlands, as a term was largely relegated to Anthropological studies on Mexican Americans and cultures.

⁴² Samuel Truett, *Fugitive Landscapes: The Forgotten History of the U.S.-Mexico Borderlands* (New Haven: Yale University Press, 2008), 9.

⁴³ *Ibid.*, 37.

correspondences, and court records, Jacoby examined a singular event: the 1871 Camp Grant massacre. Each chapter, told from the perspective of either O’odham (Pima), Nnee (Apache), los vecinos, or “the Americans” illuminated how each of these communities came together in a singular moment of violence.⁴⁴

Focusing on the constraints of the time and the constraints of the archive, Jacoby and Truett sidestep a greater colonial context and opt instead for empirical depth (the former contained in a singular event, and the latter specific—like this dissertation—to a space). Truett and Jacoby demonstrated how Indigenous people were not simply disappeared, incorporated, or assimilated but implicated as separate participants in a broader racial landscape. Vecinos, Mexicanos, Navajo, Yaqui, Apache, and O’odham people appear in these texts alongside each other as laborers, victims, and the perpetrators of violence themselves. On this final note, where Indigenous people participated in the violence of the borderlands, the field lingered.

In 2006 Ned Blackhawk published *Violence Over the Land: Indians and Empires in the Early American West*. The text employed violence as an intervention into and analytic of U.S. history. Blackhawk asserted, “those investigating American Indian history and U.S. history more generally have failed to reckon with the violence upon which the continent was built.”⁴⁵ (For Blackhawk, violence served as an interpretive concept and a method through which to understand the history of the Great Basin.

Others expounded on violence as a structuring narrative. Brian Delay’s *War of a Thousand Deserts: Indian Raids and the U. S.-Mexican War* (2008), for example, examined the ways Indigenous raiding, violence, and war made way for American expansion, by creating a desert of civilization out of Mexican land. Beginning with Article 11 of the Treaty of Guadalupe Hidalgo, Delay focuses upon state archives, the imaginings of power that Native people on the ground failed to adhere to, and the ubiquitous and catastrophic violence in the borderlands. Delay turns Bolton’s formulation of the borderlands somewhat on its head. Delay argues that it was not the Spanish who pre-civilized the wilderness of the West—ultimately creating the landscape that enabled American expansion—but instead, it was the Indians who displaced Mexican civilization, rendering the landscape back into a wilderness (or as he says, a desert) which enabled American expansion.⁴⁶ Doubling down on Delay’s formulation of Indigenous violence as an emptying force, Pekka Hämäläinen, in his 2009 book *Comanche Empire*, zoomed in on the Comanches. Using traditional archives along with “upstreaming” and “side streaming” (using ethnographic data from other tribes as a proxy for Comanche) Hämäläinen ventured to recapture Comanche people as an Empire that emptied Spain and Mexico of its resources, which ultimately enabled way for American expansion.

In the original frontier thesis, Turner conflated Native people with the wilderness that

⁴⁴ The O’odham word for a white person is *mi:lgan*, an O’odham approximate pronunciation of “American.”

⁴⁵ Ned Blackhawk, *Violence over the Land: Indians and Empires in the Early American West* (Cambridge: Harvard University Press, 2006), 3.

⁴⁶ The desert has long held an interesting place in the American imaginary. It is interestingly an unproductive, untamable wilderness. See Patricia Nelson Limerick *Desert Passages: Encounters with the American Deserts*. (Albuquerque: UNM Press, 1985); Mary Austin. *The Land of Little Rain*. (Boston: Houghton, Mifflin, 1903); Povinelli, Elizabeth A. *Geontologies: A Requiem to Late Liberalism*. (Durham: Duke University Press, 2016).

produced American originality. While less supportive of American exceptionalism (instead positing American expansion as mere empirical fact), Brian Delay and Pekka Hämäläinen still posit Native peoples as the conduits of the United States. Only, for these two authors, Indians—and not settlers—enact the violence that made way for the U.S. While they note Indian power struggles in the Spanish Borderlands (and Indian agency here is certainly an amendment to Bolton’s thesis), for them, Indians remain a part of the wilderness that the U.S. was violently forged from. Indians in these texts remain intellectually valuable in terms of the nation-state that they engendered.

Revealing organized Indigenous violence in the borderlands and arguing that it created ideal conditions for American expansion, as Delay and Hamalaninen do, is not necessarily bad. Neither is revealing the multi-racial violence of the borderlands as Truett and Jacoby do. To speak of violence and expansion is not necessarily a rehashing of the racist ideologies of the original Frontier Thesis. However, the structural similarities between the two, does beg the question: Why, and to what ends, do we tell these histories?

History, of course, is not neutral; it is produced and it is productive. In the words of Michele-Rolph Trouillot, “is it really inconsequential that the history of America is being written in the same world where few little boys want to be Indians?”⁴⁷ In his book, *Silencing the Past* (1995), Trouillot asks how and in service to what do we tell histories? What is the true value of mere empiricity? “The meaning of history,” Trouillot writes, “is also its purpose. Empirical exactitude as defined and verified in specific context is necessary to historical production. But empirical exactitude alone is not enough. Historical representation... cannot be conceived only as vehicles for the transmission of knowledge. They must establish relation to the knowledge” (149). For Trouillot, drawing clear lines from past to present, from historical events and the telling of those events is a moral question. He writes “The focus on The Past often diverts us from the present injustices for which previous generations only set the foundations.”⁴⁸

While empirical exactitude may not be “enough” in a moral and ideological landscape of history-telling, for borderlands history mere empirical data has proven to be a major hurdle. Colonial institutions have produced the majority of available sources on the borderlands. Church records, anthropological accounts, state archive, and settler journals. fail to give a self-determined account of the populations they ostensibly document. Such an archival challenge particularly informs the first and last chapters of this dissertation. While it is clear that Native people are and were in the borderlands, in terms of sources they are historically defined by colonial reactions to them. We must struggle to illuminate this population that is only visible through colonial shadows. Gutierrez employed ethnographic accounts from the 1920s, and he projected the culture they ostensibly documented into the past as fact. Jacoby used O’odham calendar sticks documented by ethnographers. Hämäläinen used ethnographic data from related tribes to fill in the information gaps on Comanche culture and politics. Jacoby focused on a singular well-documented event, and Truett leaned into the fragments of the archives. Each of these scholars has negotiated the sources available and the claims they are able to make, whether those claims are about nation-formation, violence, or rupture.

In the last decade, in the wake of a rising white-American-nationalism, beginning with 9/11 and reaching a crescendo in the Trump presidency, the U.S.-Mexico border has

⁴⁷ Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995), 22.

⁴⁸ *Ibid.*, 15.

(re)emerged as metonym for national integrity. If the borderlands, and the Mexican American war over them, seemed to serve as the final chapter of U.S. history—one where the Nation’s “destiny” to inhabit the continent, from sea to shining sea, was fulfilled—then today the same geopolitical space appears again, to symbolize the [racial] integrity of the U.S. In 2016, the Tohono O’odham Nation—a tribe bifurcated by the border in what is today Southern Arizona and the community on which this project focuses—announced that it would not allow a border wall to be built on Tohono O’odham jeved (a span of 62 miles). The borderlands, it seems, are still not yet settled.

In this analysis, I have followed the field of Borderlands History’s changing purview from Bolton’s Spanish borderlands to the U.S.-Mexico’s material and racial border[land]s. I have traced Indigenous peoples in borderlands scholarship as they served as conduits of American exceptionalism, were incorporated in a syncretic mestizaje, and, most recently, were proffered as the perpetrators of Western vacancy (and violence) themselves. Citing Michel-Rolph Trouillot, I then theorized the field through the power and limitations of History.

The borderlands as a concept and conceptual frame, born out of Turner’s frontier thesis, continues to actively and incidentally dispossess and/or elide Indigenous peoples. The available data on the era all but ensures that this project will continue.

Borderlands scholars like Rachel St John and Eric Meeks have taken to discussing in their epilogue the contemporary politics of the borderlands. I hope to flip that. In this dissertation I begin with the Tohono O’odham refusal and work backwards to ask about the material and ideological conditions of possibility for such a refusal.⁴⁹ Using anthropology and history, influenced by the methodology of James Brooks and Ana Maria Alonso in particular, and by starting with and centering Indigenous sovereignty, survival, and land I produce a new and *Indigenous* take on the borderlands. But what is Indigenous sovereignty?

Native American Studies: Sovereign Incorporations

The recent collection, *Native Studies Keywords* (Teves et al. 2015), begins quite literally with sovereignty. Not only is it the first and most extensively discussed term,⁵⁰ but also, even before the entry, the opening paragraph of the “Introduction and Acknowledgements” begins with a quote from Laura Harjo, “Sovereignty! Sovereignty! Sovereignty!” (vii).⁵¹ Sovereignty’s overbearing and primary presence in the text and its initial appearance as a multiple imperative

⁴⁹ “Refusal” has become a pillar in the field. Audra Simpson’s book, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Duke University Press, 2014), explores multiple aspects of the concept, and here I am invoking and playing on one such aspect where refusal describes the deployment of political sovereignty in direct contrast to recognition defined and mobilized by the settler state.

⁵⁰ *Native Studies Keywords* (2015) features eight keywords: Sovereignty, Land, Indigeneity, Nation, Blood, Tradition, Colonialism, and Indigenous Epistemologies/Knowledges. Each term has an anonymous introductory essay and is followed by two essays authored by scholars in the field. Except for Sovereignty. Sovereignty has the longest introduction and is followed by three essays. While Teves, et al. seek to set the record straight, to discuss words, “whose meaning are presumed rather than articulated or debated,” in some ways they recapitulate the problem.

⁵¹ Teves et al. *Native Studies Keywords* (Tucson: University of Arizona Press, 2015), vii; Laura Harjo, “Muscogee (Creek) Nation: Blueprint for a Seven Generation Plan” (PhD Dissertation, University of Southern California, 2011), 18.

are indicative of the presence of sovereignty in Native American Studies (NAS) as a whole. We must always begin with, acknowledge, foreground, and privilege sovereignty! But which one?

If the tri-partite structure of Harjo's quote can be said to imply the multiplicity of the term, the presence of *sovereignties* and not just a singular sovereignty is of vital importance, it does so true to the absolute lack of clarity surrounding them. Sovereignty, in an NAS context, can signify various degrees of legislative and jurisdictional power (the ability to make laws and enforce them), an ontological and epistemological alterity (separate from those of Europeans or Westerners), or the term and discourse through which local settler-Indigenous battles are waged. While relative definitions of sovereignty fall somewhat along disciplinary lines (lawyers, for example, usually conceive of it as a narrow, legal status), these understandings are often tacit, and in the interdisciplinary field of NAS they constantly interact. Unpredictable interactions are only exacerbated by the sometimes-synonyms of sovereignty: nation(hood), self-determination, and decolonization.⁵² In sum, sovereignty discourse is opaque/vague/amorphous/imprecise and yet, foundational, as each of these formulations addresses, contends with, counteracts, contradicts, and/or upholds settler attempts at the *incorporation* of Indian individuals and communities.

My discussion herein, at its most basic level, seeks to address sovereignty-confusions by presenting a rhizomatic genealogy of the term as it has been used in Native American Studies in relationship to those modes of incorporation.⁵³ My hope is that in illuminating the fields around sovereignty it becomes clear how a dissertation that often does not focus on federally recognized nations but on Indigenous place, space, and relations is still deeply invested in sovereignty. I begin with the dominance of sovereignty discourse following U.S. Termination policy of the mid 1950's, and proceed through time as the concept multiplied, frayed, developed, and, to add confusion, as time went on Native American Studies identified the origins of sovereignty further and further back in time. I seek to go beyond elucidation, however; there is more at stake than passing confusion. "Sovereignty!" and its homonyms represent separate understandings *and* imperatives; while all its iterations are wielded by scholars against elimination (and its pseudonyms: assimilation and incorporation), the multiplicity of sovereignty indicates nothing less than distinct normative visions of *how* to ensure and/or enable Native futurity.⁵⁴ Thus, this

⁵² To again turn to *Native Studies Keywords* (2015), the section on Nation features a block quote on sovereignty from Craig Womack's *Red on Red*, while the chapter on sovereignty begins with a quote on nationhood from Elizabeth Cook-Lynn. *Keywords* (2015) did not bring this conflation into being. At least since Vine Deloria Jr. and Clifford Lytle's book, *The Nations Within: The Past and Future of American Indian Sovereignty* (1998), a text that mentions the word sovereignty twice, nations a few more, but primarily takes up the terms peoplehood (as a perfect past and a past perfect, "we were sovereignty-ing before contact"), self-determination (as a future goal), and self-government (to describe the unhappy present), these vocabularies have been hard to tease out and yet, conspicuous. If as Benedict Anderson famously wrote, "Nation, nationality, nationalism— all have proved notoriously difficult to define, let alone analyze," then the sometimes-synonyms: sovereignty, self-determination, and decolonization have only intensified the difficulty. Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983), 3.

⁵³ The project of this discussion is distinct from an etymology of the word or a historical accounting of tribal placement under U.S. law, which became popular engagements at particular times and places in the field. Instead, I offer a Foucauldian genealogy, distinguished by the assertion that truth is "linked in a circular relation with systems of power which produce and sustain it, and to effects of power which it induces, and which extends it." Michel Foucault, *The Foucault Reader*. (New York: Pantheon Books, 1984), 74.

paper, while tracing when and how the discourse developed also divides the field into three *types* of sovereignty! That is, it renders Sovereignty! Sovereignty! Sovereignty! into Sovereignty1, Sovereignty2, and Sovereignty3, where Sovereignty1 is defined through and calls for action in U.S. law, Sovereignty2 through/in alterity, and Sovereignty3 through/in local settler-Indigenous politics. While any broad strokes division is doomed to overwrite certain nuance, when placed into this architecture the field, I reveal three large themes currently front and center in NAS: the incommensurability of Native peoples and U.S. racial politics, the meta-struggle between Native people(s) and the State, and the relatively separate disciplinary contributions to NAS (in order, from 1 to 3: History/law, literature, and anthropology).⁵⁵

Native American Studies (NAS) emerged in the mid-twentieth century, and it did so wielding a legal understanding of sovereignty. In the late nineteenth and early twentieth centuries, the U.S. sought to eliminate Native peoples through assimilation, specifically through allotment policy (which resulted in the loss of two-thirds of the remaining Indian land base) and the boarding school system (which infamously sought to “kill the Indian...save the man”).⁵⁶ Although assimilation efforts took a brief hiatus during the era of Indian self-determination, which included the Indian Reorganization Act of 1934, in 1953 they culminated, or resurged, in House Concurrent Resolution 108, which pronounced that “as rapidly as possible” the U.S. ought to “make Indians... subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States” (HCR 108). Starting what is today referred to as the “termination era” of Federal Indian policy, HCR108 sought to extricate the U.S. from the “special” or unique legal relationship it had forged with tribes/nations through treaties and in the courts (i.e., the Marshall Trilogy).⁵⁷ Responding to the assault on Native [legal] existence and building off of the momentum from the civil rights movement and the Vietnam War protests, Native communities and individuals fought back.

As part of anti-termination efforts, “sovereignty” famously made its debut during the fishing rights protests/civil disobedience of Pacific Northwest tribes from the 1950’s through the

⁵⁴ Patrick Wolfe asserts “The logic of elimination not only refers to the summary liquidation of Indigenous people, though it includes that. Settler colonialism has both negative and positive dimensions. Negatively, it strives for the dissolution of native societies. Positively, it erects a new colonial society on the expropriated land base.” Wolfe, Patrick. “Settler Colonialism and the Elimination of the Native.” *Journal of Genocide Research* 8, no. 4 (December 2006): 388. <https://doi.org/10.1080/14623520601056240>. Wolfe wields “positively” here to indicate only that colonization is additive, not that it is ethically defensible.

⁵⁵ While this paper attempts to touch upon the key texts of Sovereignty in NAS, it is important to note that it does so from the present. The texts I cite are those those that contemporary scholars continue to cite. Along these lines, it is also important to note that these texts did not come into existence in a vacuum; often they codified but did not invent the concepts for which they today serve as flagships. Where I am able, I include in the notes, tendrils of other texts being published, and the intellectual traditions being expounded upon.

⁵⁶ Assimilation efforts were nothing short of genocide. See Walter R. Echo-Hawk, Walter R. *In the Courts of the Conqueror: The 10 Worst Indian Law Cases Ever Decided*. (Ann Arbor: Fulcrum Pub., 2010).

⁵⁷ “The Marshall Trilogy” is shorthand for three major Supreme Court decisions that established the status of Native Nations within the U.S. as “domestic dependent nations.” Marshall refers to John Marshall, the fourth chief justice from 1801-1835. *Johnson v McIntosh* (1823) determined that that tribes had no right to sell lands to anyone without the approval of the federal government, because of European right of discovery. *Cherokee Nation V Georgia* (1831) established that Native Nations were dependent nations with a relationship to the U.S “as wards to its guardian.” One year later, *Worcester v Georgia* (1832) determined that States had no jurisdiction in Indian Country.

1970's. Tribal individuals refused to get permits for fishing in Puget Sound citing their guaranteed right to fish under the *Point No Point* treaty. As Vine Deloria Jr. writes,

Sovereignty in my experience comes from the little fishing rights groups in the Pacific Northwest who always cited treaties when they were arrested by fish and game officers, forcing the courts to begin to deal with the treaty provisions. Their slogan was 'if you act like your sovereign, eventually you will be treated as one.' *U.S. v Washington* [1974] proved they were right.⁵⁸

Unlike its racial civil rights counterparts—which centered fantasies of a liberal humanist self—Native rhetorics of sovereignty did not only focus on inequity but also upon legal recognition of Native polities. While Vine Deloria Jr. imagined that sovereignty might act for a model for other movements for racial equality, it was a recognized legal difference that took precedence in the American Indian movement.

As a result, with the backdrop of Termination, early NAS scholars, including Deloria, traced the U.S. legal landscape that positioned Native peoples historically and in the present. Working from technical classics such as Felix Cohen's *Handbook of Federal Indian Law* (1942) and populating the field with histories on the politics, ideologies, and individuals who engendered, contributed to, and challenged U.S. Federal Indian Policy and Supreme Court case decisions, these scholars argued that "sovereignty"—the unique position of Native peoples in U.S. law—provided the bulwark that protected Native peoples and their continuing cultures. Thus, the initial goal of NAS and of sovereignty broadly was uncompromised self-determination and autonomy *within* the U.S. law.⁵⁹ As Deloria asserts in *Custer Died for your Sins* (1969), "What we need is a cultural leave-us-alone agreement, in spirit and in fact."⁶⁰ It is this combination, of legal definition—tied to the U.S.—and imperative, that I call Sovereignty1.

Nearing the turn of the century a new discourse and imperative emerged, one that focused on the irreducible epistemological, ontological, and political exteriority of Native peoples. In "Who Stole Native American Studies" (1997), Elizabeth Cook-Lynn identified "indigenouness (culture, place, and philosophy) and sovereignty (history and law)" (11) as the two ideal centers around which NAS cohered at the *First Convocation of American Indian Scholars* at Princeton University (1970).⁶¹ While Cook-Lynn used the term "sovereignty" to designate a legal-historical positionality, ostensibly like Deloria, importantly, for her, the legal and historical reality of Native peoples transcended U.S. law. While Supreme Court decisions and U.S. policy bore down on Native material existences in the present, Native precarity, for Cook-Lynn, could

⁵⁸ In the article, Deloria Jr. also identified the birth of self-determination. Self-determination, he wrote, entered the scene in 1966 and was "deliberately chosen ... to be able to compare the status of American Indian nations to those African and Middle Eastern nations who had been given self-determination after WWII" (26). Deloria, Vine "Intellectual Self-Determination and Sovereignty: Looking at the Windmill in our Minds" *Wicazo Sa Review* 13(1). Spring 1998: 24-31, 26.

⁵⁹ W.E.B. Dubois first used the phrase "the nations within" to advocate for the political and economic development of African Americans. Deloria not only drew on this legacy, but also, as mentioned in the body of the article, he imagined that sovereignty might lend itself to other marginalized communities.

⁶⁰ Vine Deloria, Jr. *Custer Died for Your Sins* (Norman: University of Oklahoma Press, 1969), 27.

⁶¹ Vine Deloria, Jr. *Behind the Trail of Broken Treaties: An Indians Declaration of Independence*. (Austin: University of Texas Press, 1974), 249.

not be remedied by navigating the U.S. courts alone. Instead, she asserted that the U.S. had no legal jurisdiction over Native Nations (despite what it told itself). Native nations, she held, were exactly that: sovereign Nations *outside* of the United States. Whereas Deloria saw treaties as documents from which Native rights in the U.S. sometimes stemmed, (and in *Behind the Trail of Broken Treaties* he advocated for the reinstatement of the treaty process), for Cook-Lynn, treaties acted as nothing less than evidence that Native people were beyond the legal jurisdiction of the U.S. Moreover, for her, sovereignty was only a piece of a larger alterity.⁶² “Indigenesness”—the ontological and epistemological existence of Native peoples—also separated the U.S. and Indigenous peoples. Thus, the purpose of Native American Studies was, above all, to defend “Indigenous nationhood,” both the sovereign and ontological difference of Native peoples. It is this combination of holistic alterity and the imperative to support it that I call Sovereignty2, aka Native nationalism.⁶³ (While Cook-Lynn was careful to provincialize her use of the term “sovereignty” to history and the law in keeping with Deloria and other Sovereignty1-ists, those that developed her arguments justify overwriting that terminology, through Sovereignty2, for the sake of continuity.)

Craig Womack’s *Red on Red* and Taiaiake Alfred’s *Peace, Power and Righteousness*, both published in 1999, extended Sovereignty2 by enumerating *how* Indigenous alterity might be cultivated from the past and in the present. They also drew hard divisions between Indigenous Nations and the U.S. legal structure in ways that reverberated throughout the field. Craig Womack’s *Red on Red* (1999) centered Indigenous epistemologies in Native nation-building.⁶⁴ He wrote, “definitions of sovereignty, which come from the oral tradition, might be used as a model for building nations in a way that revises, modifies or rejects, rather than accepts as a model, the European and American nation.”⁶⁵ Womack, as an English PhD, not surprisingly imagined that literature had the potential to articulate and propel Indigenous Nation(hood)s.⁶⁶ He wrote,

[A] key component of nationhood is a people's idea of themselves, their imaginings of who they are. The ongoing expression of a tribal voice, through imagination, language, and literature, contributes to keeping sovereignty alive in the citizens of a nation and

⁶² Elizabeth Cook-Lynn. “Who Stole Native American Studies” *Wicazo Sa Review* 12(1). Spring 1997: 9-28, 11.

⁶³ While this argument is a little thin, it is representative of Cook-Lynn’s work. Cook Lynn emphasizes tribal nations as “legal entities, rather than merely cultural ones.” Elizabeth Cook Lynn, *Anti-Indianism in Modern America: A voice from Tatekeya’s Earth* (Urbana: University of Illinois Press, 2001), 79.

⁶⁴ *Red on Red* was in many ways an extension of what Robert Warrior in his text, *Tribal Secrets*, had called “Intellectual Sovereignty,” or a process devoted to community renewal through a focus on Native intellectual traditions (1-3). *Red on Red* expands the implications of such a project by saying that post-modern readings of American Indian texts are counterproductive at best and insidious at worst.

⁶⁵ Craig S. Womack, *Red on Red: Native American Literary Separatism* (Minneapolis: University of Minnesota Press, 1999), 60.

⁶⁶ Such a worldview, critics asserted, runs the risk of putting constraints on what can count as “good Native art.” Can Native literature, they wondered, not support Native nationalism? They were similarly suspicious of the nation-centric definition of peoplehood. It is along these lines that literary nationalism, a movement that was developing in this moment, staked its claim in cultural identity and integrity (this is not a static or monolithic identity, an important caveat considering this issue divided the field momentarily into tribal nationalists and cosmopolitans).

gives sovereignty a meaning that is defined within the tribe rather than by external sources.⁶⁷

Womack implored the field to look inward to discover Indigenous nation(hood)s, which for Womack was a synonym for sovereignty. Indigenous nationhood in Womack's mind must move away from U.S. law and ought to rely upon Indigenous identity, cultures, and literatures.⁶⁸

Taiaiake Alfred's *Peace Power and Righteousness* (1999) similarly called for Native polities to invest in traditional governance and divest from the U.S. nation-state. However, Alfred called for Indigenous polities to reject "sovereignty" as a term, goal, and tool wholesale, because, he believed, it was burdened by an investment in the colonization of Native peoples. In a later article he put it succinctly:

Sovereignty is inappropriate as a political objective for Indigenous peoples...Most of the attention and energy thus far has been directed at the process of decolonization - the mechanics of escaping from direct state control and the legal and political struggle to gain recognition of an indigenous governing authority. There has been a fundamental ignorance of the end values of this struggle.⁶⁹

Native nations as cultural, spiritual, and communal entities were not, in Alfred's framing, reducible to the kinds of absolute Westphalian authority, power, and self-government that the sign "sovereignty" necessarily invoked. He called for a return to traditional governments and governance.⁷⁰

Cook-Lynn, Womack, and Alfred imagined their goals differently; Cook-Lynn looked to Native Studies, Womack to tribal literature, and Alfred to traditional governance. Where Cook-Lynn believed that protecting Native nations from U.S. termination was important, and thus she imagined her work compatible with Deloria, Womack and Alfred thought that sovereignty1 threatened to re-center a colonial framework. However, all three sought Indigenous futures that were tribally specific, that emanated from within, rather than from the pan-Indigenous U.S. legal-activism of Sovereignty1. The true imperative of NAS, they believed, was to develop and promote Indigenous alterities, (a project that also threatened to exclude Native works and Native people that failed to support Indigenous Nationalism). While the alterity they proposed would become more amenable to change and adaptation over time, the suspicion of a sovereignty dictated through the U.S. nation-state would linger in the field.

The history herein is not teleological. Sovereignty1 did not disappear with the arrival of Sovereignty2; it was still walking the earth. For example, also published in 1999, was John Wunder's collection *Native American Sovereignty*. This collection included essays by a handful of historical and legal scholars including Vine Deloria Jr, Sidney Haring, Glen T. Morris, and

⁶⁷ Craig S. Womack, *Red on Red: Native American Literary Separatism* (Minneapolis: University of Minnesota Press, 1999), 14.

⁶⁸ Literary nationalism is well described after the fact by Lisa Brooks in her piece and afterward to the 2006 *American Indian Literary Nationalism*."

⁶⁹ Taiaiake Alfred, *Peace, Power, Righteousness: An Indigenous Manifesto* (Don Mills, Ont. ; New York: Oxford University Press, 2009), 464,467.

⁷⁰ In the preface to the second edition of *Peace, Power and Righteousness: An Indigenous Manifesto* published in 2009, Alfred encourages his audience to read his works as a trilogy. *Heading the Voices of Our Ancestors* (1995), *Peace Power and Righteousness* (1999), and *Wasáse: Indigenous Pathways of Action and Freedom* (2005).

David E. Wilkins, with the stated purpose of “defining Native American sovereignty in today’s world.”⁷¹ It did so by looking at Native-U.S. legal entanglements in the courts, in the law, and in the ideologies perpetuated by both.

Deloria, Cook-Lynn, Womack, and Alfred are still the most cited, earliest, and most influential authors on sovereignty.⁷² In 2000 and 2001 two more foundational pieces entered the scene, and they attempted to bridge the gap between Sovereignty1 (in the U.S. legal system) and Sovereignty2 (Indigenous alterity). In 2000, Scott Lyons’s article “Rhetorical Sovereignty” (2000) insisted that Sovereignty “denotes the right of a people to conduct its own affairs, in its own place and its own way.” The article continued, “The twin pillars of sovereignty [are] the power to self-govern and the affirmation of peoplehood”⁷³—notice how the structure resonates with Elizabeth Cook-Lynn if we replace “sovereignty” with “Native American Studies.” While Lyons’s article sought to introduce “rhetorical sovereignty” as a self-determined community writing, teaching, and learning project, Lyons argued that peoplehood, which could be articulated through writing, was just as important as legal status. He wrote, “Our claims to sovereignty entail much more than arguments for tax-exempts status or the right to build and operate casinos; they are nothing less than our attempt to survive and flourish as a people.”⁷⁴ Lyons sought a middle ground between defensive U.S. legal advocacy, for which Deloria wrote, and the productive literary Native nationalism of Womack. Together, Lyons asserted, they constituted a whole sovereignty and the grounds for Native survival.

A year after Lyons’s article, David E. Wilkins’ published his now ubiquitous primer, *American Indian Politics and the American Political System* (2001).⁷⁵ The text sought to expound upon a technical and legal-sovereignty of Deloria, however, it *also* made inroads for the legal alterity of Cook-Lynn.⁷⁶ In the first chapter of the book, Wilkins stated that Native American individuals were “triple citizens;” they were subject to three sovereignties or law-making entities: the state, the nation, and the tribe. However, he also asserts a Native political timeline that begins with “original,” moves to “transitional constitutional,” and ends with “contemporary constitutional” (Deloria was only concerned with the last). The relationship between Native nations and the United States, Wilkins averred, “can best be characterized as nation to nation” (51). Thus, Wilkins draws a connecting line between Sovereignty1, which asserts that legal realities in the U.S. manufacture the difference of Indigenous politics, *and*

⁷¹ John Wunder, ed. *Native American Sovereignty (Native Americans and the Law)* (New York: Routledge, 1999), v.

⁷² That same year, Gerald Vizenor’s *Manifest Manners: Narrative of Post Indian Survivance* (1999) leveled a critique at internalized and static notions of Native existence and identity. While *Manifest Manners* did not engage with sovereignty as such, Vizenor’s theorization of adaptable Native presences and futures was developed throughout the 1990’s by Vizenor and others and would later be picked up by sovereignty discourse. Similarly, in 1997, Joy Harjo and Gloria Bird implored the field to “reinvent the Enemy’s language” in their collection of the same name. This discourse was invoked to speak directly to the opponents of Sovereignty2.

⁷³ Scott Richard Lyons, “Rhetorical Sovereignty: What do American Indians Want from Writing?” *Communication* 51(3). Feb 2000: 447-468, 456

⁷⁴ Scott Richard Lyons, “Rhetorical Sovereignty: What do American Indians Want from Writing?” *Communication* 51(3). Feb 2000: 447-468, 449.

⁷⁵ For the 3rd and 4th edition David E. Wilkins is a coauthor alongside Heidi Kiiwetinepinesiik Stark

⁷⁶ Importantly, Wilkins’s text is still in use today, and as of 2017 it is in its fourth edition.

Sovereignty2, which posits these differences as innate.⁷⁷ Taking a historical step back, Wilkins shows that Indigenous people *were* legally outside of the U.S. and are *now* inside of it, a temporal trajectory that presages a desire for return to whole or complete or ideal Sovereignty2.

Scott Lyons and David Wilkins, in trying to bridge Sovereignty 1 and 2, in some ways codified the many confusions between them. By the turn of the century, it was clear that sovereignty was indeed, as Lyons wrote, “nothing less than our attempt to survive” but it was unclear if Native survival ought to be pursued inside or outside of the U.S. legal system, as a pan-tribal network or by individual tribes, grounded in the past or future, propelled through law or literature, or theorized under the “sovereignty” banner at all.

In response, moving away from these meta-questions, in the first decade of the twenty first century, social scientists began to investigate the local, the material, and the everyday realities of Native politics/governance. In 2006, Joanne Barker gave a name to this incipient movement through her collection, *Sovereignty Matters*. In it she writes, “sovereignty has become notoriously generalized to stand in for all of the inherent rights of Indigenous peoples. Certainly, many take for granted what sovereignty means and how it is important.”⁷⁸ “Sovereignty,” she concluded, “is historically contingent...” and, “the challenge, then, is to understand how and for whom sovereignty matters.”⁷⁹ Barker, like Deloria, believed that Indigenous sovereignty was dictated through the U.S., but she held that scholars had forgone the most important part of that legal positioning: the Native peoples themselves (their lived reality, their struggles, and their visions of the future). After a lengthy introduction to the historical positioning of Native peoples in international and U.S. law—specifically through the attenuation of sovereignty via the Marshall Trilogy—Barker connects these structural histories to the everyday,

The erasure of the sovereign is the racialization of the ‘Indian.’ These practices have had important consequences in shaping cultural perspectives about the relationship between indigenous identity and sovereignty, not only from the viewpoint of some dominant privileged position but within indigenous communities as well.⁸⁰

While Barker’s collection was not the first to do this kind of work it officially announced that sovereignty was limited and situational. It was not, Barker held, an unqualified ideal or an amorphous alterity but a legal mode and means for struggle and oppression, not just between

⁷⁷ Wilkins posits the distance between race and Indigeneity not as contingent but as categorical, a move that is somewhat contentious. Deloria imagined that sovereignty as a model might work for other communities of color. He argued that sovereignty was historical and not innate. Something of interest to me is that way sovereignty1 as described by Wilkins is used to divorce Indigeneity from race; it also divorces the U.S. and Canada, where Indigenous peoples are recognized in settler-courts, from the rest of the world. It is because of this insidious rallying call – in some ways sovereignty itself— that we can get away with talking about Indigeneity in the U.S. and Canada exclusively. I also suspect that this articulation is at least partially responsible for the longstanding but improving exclusion in NAS of Alaska Native peoples and Hawaiian Sovereignty as their legal situation is distinct.

⁷⁸ Joanne Barker, ed. *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination*. (Lincoln: University of Nebraska Press, 2005), 1.

⁷⁹ *Ibid.*, 21. Barker redoubles on her argument that “The making ethnic or ethnicization of indigenous peoples had been a political strategy of the nation-state to erase the sovereign from the indigenous.” See “Looking for Warrior Women Beyond Pocahontas” (2001) and “Indian™ U.S.A” (2003)

⁸⁰ *Ibid.*, 17.

Indigenous peoples and the U.S. broadly but also on a local level, within tribal communities, in conversation with states, and between individuals. The task of NAS, then, was to adumbrate the ways Indigenous lives and polities were affected by their legal positions, to identify where, how, and by whom Native political and individual existences were defined and negotiated. It is this understanding and imperative that I call Sovereignty3 (or, after Barker, Sovereignty Matters).⁸¹

Sovereignty3 is not only a huge and sweeping movement but also many of its texts take a local rather than a pan-Indian approach, a composition that makes the movement hard to summarize. However, it has made some key interventions in the field that are worth noting. Sovereignty3 texts have illuminated the parameters of tribal legal power,⁸² the conflicts that power engenders with local non-native communities⁸³, and the constrained economic and cultural opportunities it enables.⁸⁴ Sovereignty3 has also taken special care to examine internalized structures of [legal] authenticity that predetermine Native possibility i.e. race,⁸⁵

⁸¹ Meanwhile, the debate surrounding sovereignty as an ideal raged on. Amanda Cobb's article "Understanding Tribal Sovereignty: Definitions, Conceptualizations, and Interpretations" struggled to pull sovereignty back from the edge of Alfred's 1999 interpretation of it as a flawed ideal. In the article, Cobb argued against the idea that sovereignty was unsalvageable, instead, thinking with Lyons, she posited the problem as the "inter-sovereign experience with the colonizer." Sovereignty, for Cobb was a workable ideal for Indigenous nations. Amanda Cobb, "Understanding Tribal Sovereignty: Definitions, Conceptualizations, and Interpretations" *American Studies* 46, nos. ¾ (2005), 130.

⁸² Thomas Biolsi, "Imagined Geographies: Sovereignty, Indigenous Space, and American Indian Struggle." *American Ethnologist* 32, no. 2 (May 1, 2005): 239–59.

⁸³ Kevin Bruyneel in his book *The Third Space of Sovereignty* (2007), identifies and advocated for "the third space of sovereignty" a sovereignty engendered by Indigenous resistance to colonial impositions that attempt to pin down Native tribes in an either/or construction. Indigenous sovereignty, according to Bruyneel was not neither/nor, but rather both/and. Native polities maneuvered inside *and* outside of the U.S. political system. Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.–Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007), xvii. Biolsi, *Deadliest Enemies: Law and the Making of Race Relations on and off Rosebud Reservation*. (Berkeley: University of California Press, 2001). Audra Simpson's text, "Subjects of Sovereignty" argued, "Indigeneity and sovereignty have been conflated with savagery, lawlessness, and 'smuggling'" Caught on an international border, the Kahnawake's legal and physical exteriority engenders not just settler discourses of ambiguity but a physical and jurisdictional threat to the settler state; settler discourses of ambiguity quickly turn on the border—one can see the machinations of national incorporation, a fact particularly relevant to my own work. Audra Simpson, "Subjects of Sovereignty: Indigeneity, The Revenue Rule and Juridics of Failed Consent." *Law and Contemporary Problems*. (June 2008): 191.

⁸⁴ Likewise, in 2008, Jessica Cattelino, in her manuscript *High Stakes*, investigated Florida Seminole gaming. She posited sovereignty away from the either/or construction of ideal/incorporation and instead focused on the ways Seminole sovereignty was constituted by relational interdependency that took material form. In her 2009 article, "Fungibility: Florida Seminole Casino Dividends and the Fiscal Politics of Indigeneity," she elaborated by arguing that per capita payments from gaming allowed a freedom that funds funneled through the BIA or tribal programs didn't. Jessica Cattelino, "Fungibility: Florida Seminole Casino Dividends and the Fiscal Politics of Indigeneity" *American Anthropologist* 111.2 (2009): 190-200; Cattelino, *High Stakes: Florida Seminole Gaming and Sovereignty* (Durham: Duke University Press, 2008); Noelani Goodyear-Ka'opua, *The Seeds We Planted: Portraits of a Native Hawaiian Charter School* (Minneapolis: University Minnesota Press, 2013).

⁸⁵ Circe Dawn Sturm, *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (Berkeley: University of California Press, 2002).

identity,⁸⁶ and culture.⁸⁷ Overall, Sovereignty3 is unconcerned with whether tribes ought to pursue a reality within or without the U.S. It holds that here and now tribes are both, and it seeks to enumerate what contemporary U.S.-Native entanglements entail.

While its most famous architect, Vine Deloria, Jr. left this world in 2005, Sovereignty1 remains, like his memory and his work, deeply present in our current academic and intellectual realm. In *Like a Loaded Weapon* (2005) Robert Williams Jr., revealed the ways “tribal sovereignty” adumbrated by the U.S. courts was articulated through race, racism, and racists going back to the Marshall trilogy and continued in the Rehnquist court.⁸⁸ In 2006, Charles Wilkinson, a professor of law, sought to give a history of the “sovereignty movement” in his book, *Blood Struggle*. Building off Deloria’s preoccupation with Termination, Wilkinson began with the Termination “abyss” of the mid-twentieth century, and he demonstrated the ways Native individuals and tribes wrought certain measures of self-determination.⁸⁹ Wilkinson combined a legal-centric positioning of Native polities with the ideal of complete legal control. He wrote of sovereignty, “one of the noblest ideals that has ever touched my mind—every bit as much so as the ideals of freedom or justice, to which tribal sovereignty is closely related.”⁹⁰ Later he elaborated, sovereignty is, “true self-rule not a false-front version where the BIA or the state had the final say.”⁹¹

Also in 2006, Dale Turner’s *This is not a Peace Pipe* (2006) sought to renew ties to activism. In the text, Turner advocated for a rise in what he called (borrowing from Vizenor) “word warriors,” or Native individuals and allies adept at maneuvering within the complex legal field and charged with defending and expanding legal sovereignty. He believed that these word warriors would and could support Indigeness. Though writing in a Canadian context (against white paper liberalism), Turner’s call resonated with and drew from Deloria. He wrote, “Aboriginal conceptions of political sovereignty must be included in political liberalism’s justification of Aboriginal rights so that the racist and oppressive public policies that have held Aboriginal peoples captive for more than one hundred thirty years can be changed.”⁹² Turner and

⁸⁶ Eva Marie Garrouette, *Real Indians: Identity and the Survival of Native America* (Berkeley: University of California Press, 2003).

⁸⁷ Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham: Duke University Press, 2011).

⁸⁸ Williams was building off Philip Frickey, who literally wrote the books on the Federal Indian Law. Frickey’s immense body of work explored U.S. courts’ articulation and attenuation of tribal sovereignty—sovereignty here a technical legal term, going back to U.S. courts in *Worcester v Georgia* (1832).

⁸⁹ Charles F. Wilkinson, *Blood Struggle: The Rise of Modern Indian Nations*. (New York City: W. W. Norton & Company, 2005), xv.

⁹⁰ *Ibid.*, xvi.

⁹¹ *Ibid.*, 271.

⁹² Dale Turner, *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. (Toronto: University of Toronto Press, Scholarly Publishing Division, 2006), 59. While these projects are easily defined through U.S. law and seek to make the most out of a bad situation, as Williams notes in *Like a Loaded Weapon* (2005), this type of Native futurity sustains a central irony: namely, Native legal activism depends upon the continuation of settler constructions of Native peoples. William’s is a loving critique as he also looks to engage with U.S. law; said

Wilkinson, in the continued spirit of Sovereignty1, sought to increase the power of Native nations within settler-colonial legal systems and to move the “nations within” toward an ideal sovereignty, a cultural *and* political “leave us alone agreement.”

Sovereignty2 was also still around; however, it had begun to walk back its claim to radical alterity. Alfred wrote in the forward to the second edition of *Peace, Power, and Righteousness*, “Just as I recognized the problems with the native nationalist approach, I have come to see that there is a fundamental problem with this traditionalist approach as well.”⁹³ He went on to argue that NAS had to *reclaim* Indigenous epistemologies and ontologies with the recognition that Indigenous alterities had been damaged through colonialism. It was this thread that Sovereignty2 followed in the second decade of the twenty first century.

Sovereignty2 scholars in the late 2010’s sought to “decolonize.” Native Two-Spirit, queer, and feminist scholars interrogated the problematic local, communal, and material manifestations of Indigenous [hetero-patriarchal] sovereignty.⁹⁴ Building off Sovereignty3’s concern for the local and the embodied, they argued that Indigenous power was not enough if it failed to support Indigenous liberation. They asserted, Indigenous communities ought not settle for the same hetero-normative and patriarchal nation-state dressed up in “Indian” garb.

Daniel Heath Justice’s piece, “‘Go Away, Water!’: Kinship Criticism and the Decolonization Imperative” in the collection *Reasoning Together* (2008) located Indigenous sovereignty not in the law but in a politics of responsibility, community, and kinship. One year later, Mishuana Goeman and Jennifer Nez Denetdale turned this assertion into critique, “Indigenous sovereignties must account for the legacy of settler-colonial spatial restructuring of our lands, bodies, and communities in order to build healthy nations.”⁹⁵ Mark Rifkin’s *The Erotics of Sovereignty* (2012) too questioned the Indigenous nation. Rifkin articulated this query through the queer body. Engaging with Qwo Li Driskill, Deborah Miranda and others, and building off Sturm (2002) and Barker (2011), Rifkin interrogated the weight of “self-determination” and “nationalism” on same-sex desire and non-reproductive sex. Ultimately, Rifkin proffered Indigenous relationships to land as a sovereignty that moves beyond the legal-

differently by Circe Sturm, “it is a form of political independence conditioned by interdependency,” Circe Dawn Sturm, *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (Berkeley: University of California Press, 2002), 592.

⁹³ Alfred, *Peace, Power, Righteousness*, 5. Ironically, this same year, Taiake Alfred sought to articulate an action plan in the present that moved away from his earlier manifesto. His book, *Wasáse: Indigenous Pathways of Action and Freedom* (2005), advocated for a project not of rejection and return, as did his earlier work, *Peace Power and Righteousness*, but restoration of Indigenous relationships and an engaged personal and communal struggle to decolonize.

⁹⁴ One of these earlier iterations can be found in the short article, “Don’t Cheapen Sovereignty” (1996) In it, author Winona LaDuke writes, “There is an immense amount of talk about rights. But what of our responsibilities? How do the actions of today’s alleged leaders and *ogitchidaag* stack up against tradition?” Specifically, LaDuke takes aim at the use of sovereignty by tribal leaders and members to get out of child support and to escape embezzlement and money laundering charges. Winona LaDuke, “Don’t Cheapen Sovereignty.” In *The Winona LaDuke Reader: A Collection of Essential Writings* (New York: Voyageur Press, 2002), 192-193.

⁹⁵ Mishuana Goeman, and Jennifer Nez Denetdale. “Guest Editors’ Introduction, Native Feminisms: Legacies, Interventions, and Indigenous Sovereignties.” *Wicazo Sa Review*, 24.2 (Fall 2009): 9-13, 12

hetero-nationalism. Sovereignty2 scholars sought to reconcile a material and cultural embodied reality, but they were very much still invested in an alterity/Indigenous nationhood ideal.⁹⁶

While Sovereignty2 turned to processes of healing, the suspicion of the U.S. Nation-state and the discourse of sovereignty it had once cultivated continued to amplify. In 2009, Mark Rifkin turned to examine the ways that the position of Native polities within the U.S. legal structure, a position that Sovereignty1 jockeyed to better, was a construction imbedded in settler-logics of elimination. Rifkin theorized the insider/outside status of Native nations through Agamben's state of exception (he coins the term *bare habitance*). According to Rifkin, by claiming Native Nations were exceptional populations in the U.S., the U.S. moves to construct Native Nations within the jurisdiction of the U.S. Sovereignty, Rifkin argued, "functions as a placeholder that has no determinate content";⁹⁷ it is rhetorically foundationalizing for the U.S.;⁹⁸ and it is a structuring force of domination.⁹⁹

Red Skin White Masks: Rejecting the Colonial Politics of Recognition (2014), by Glen Coulthard also sought to tease out processes of incorporation. While he did not take up sovereignty as such, Coulthard, aiming his text at *This is Not a Peace Pipe*, wrote against what he saw as a renewed colonial project through *recognition* and ultimately incorporation into the Canadian liberal state. The politics of recognition, Coulthard argued, were just colonialism's new form. Playing on a hermeneutics of suspicion canonized by Taiakai Alfred (Alfred also wrote the forward to *Red Skins*), and revitalized by Rifkin, Coulthard questioned not just the terms and ideals of sovereignty1 but the value of sovereignty1-gear'd activism itself.

At the heart of the sovereignty-debates is a singular set of questions: how are Native peoples tied to the U.S.? Are they inside or outside? When did it happen? Is the process complete (it isn't), and what do we do about it? How do we move forward? As Kirby Brown (2018) writes, responsibly navigating the tensions and relations of sovereignty (and I would add sovereignties) "is one of the central challenges facing contemporary Native studies scholarship" (84). In service of those responsibilities, this investigation has adumbrated the major voices and developments of NAS with respect to sovereignty. Importantly, Sovereignty1, 2, and 3 were never separate. While they emerged in order, they did so in direct conversation with each other. What's more, the three sovereignties have continued to develop, mix, and diverge in whole or in part. However, the basic assumptions of Sovereignty 1, 2, and 3 along with their incumbent visions for the field are still alive and well; scholars continue to envision paths forward through the U.S. law, through alterity, or through local Indigenous politics. It is carrying all these visions and imperatives that I now turn to *O'odham jeved* (Indigenous land).

⁹⁶ In "Decolonizing Rape Law" (2009), published the same year as Goeman's text, Sarah Deer called for a reconfiguration of Navajo courts to better serve victims of rape, a new crime that could not rely on traditional or settler models.

⁹⁷ Mark Rifkin, "Indigenizing Agamben: Rethinking Sovereignty in Light of the 'Peculiar' Status of Native Peoples." *Cultural Critique* 73, no. 1 (November 19, 2009): 88–124, 91.

⁹⁸ *Ibid.*, 97.

⁹⁹ *Ibid.*, 106.

Chapter 1

O'odham Jeved



Figure 1.1 Saguaro Looms over Border Wall, Photo by Author

In this photograph, the recently constructed border wall along the U.S.-Mexico border in southern Arizona is missing a few panels. A giant *ha:šaň* (saguaro cactus) in the foreground appears to occupy the empty space and towers over the thirty-foot wall. The *ha:šaň* is just developing its first arm on the right-hand side, which means it is about one hundred years old. It remembers, if *ha:šaň* can be said to remember, a time long before the border wall. Some of its peers, at over two hundred years old remember a time before the U.S. laid claim to this land at all.

O'odham, a linguistic and cultural designation, are peoples Indigenous to what Anglo-Americans call the Sonoran Desert (See Figure 1.1). *O'odham* have been in the area since at least 300 BC (*O'odham* recognize the civilization termed the Hohokam as their ancestors). While the Spanish first claimed what would become Arizona as part of New Spain in the mid-sixteenth century, the first permanent missionary entered what the Spanish labeled the upper Pimeria around 1687 (Erickson, 1994, p19). Spain occupied the region up until Mexican independence in 1810. During Spanish and Mexican occupation, religious and economic resources were primarily

directed to missionizing California, occasionally pulling directly from the resources of Arizona (See Erickson 1994). O’odham and the desert have maintained their relationships eons before, as well as since, the establishment of the border. Herein, O’odham *jeved* (land) can be taken as synonymous with what Anglo Americans call the Sonoran Desert, though it in fact extends slightly beyond the delimits of the Sonoran Desert, especially in the South.¹⁰⁰ O’odham *jeved* extends from Hermosillo, Sonora in the south; Yuma, Arizona in West, Tucson, Arizona in the East; and Phoenix, Arizona in the North. Based on what region they hail from, O’odham are subdivided into *Akimel* (River), *Tohono* (Desert), and *Hia Ced* (Sand Dune) O’odham, but they share a language and many (if not most) cultural practices.

A common refrain among O’odham is “we belong to the land.” Unsurprisingly, as Indigenous peoples, O’odham have a unique relationship with the Sonoran Desert and its human and other-than-human residents. Ha:šaṣāñ, which features heavily in this manuscript is one such

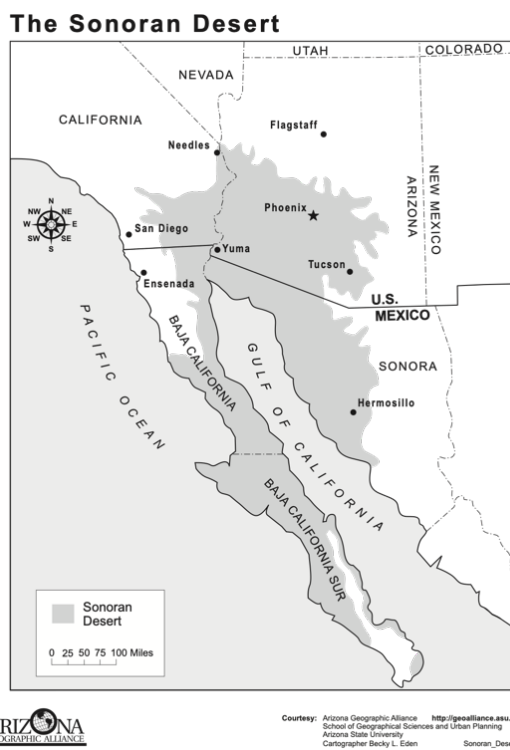


Figure 1.2 The Sonoran Desert



Figure 1.3 O’odham reservations

entity. Ha:šaṣāñ is also indigenous to the Sonoran Desert, and I hold that wherever it grows is O’odham *jeved*.¹⁰¹ In Chapter Five I share one version of ha:šaṣāñ’s origin story.

Much of O’odham *jeved* is not recognized as such. There are currently four federally recognized O’odham tribes and reservations in the United States, all in Arizona. In Figure 2, which maps out the twenty-one Native American reservations in the state of Arizona, O’odham

¹⁰⁰ For example, the lower Pima located in Sonora, Mexico claim the Sierra Madre Occidental mountain range. The Yavapai, the Pascua Yaqui, the Cocopah, the Opata, and the Seri are also Indigenous to the Sonoran Desert. These claims are not mutually exclusive.

¹⁰¹ The Hiaki (Pasqua Yaqui) word for the Saguaro is *Sauwo*.

reservations appear in yellow. From the northernmost community to the southernmost: 1) Salt River Pima-Maricopa Indian Community (where I am enrolled), 2) Gila River Indian Community 3) Ak Chin Indian Community, and 4) Tohono O’odham Nation. A fifth O’odham community, 5) Hia Ced O’odham, is currently compiling a bid for federal recognition.¹⁰² In their current state, O’odham reservations represent only a fraction of traditional O’odham land, but on the reservation, O’odham jевed is directly controlled and managed by O’odham polities.

While for O’odham the Sonoran Desert has always been a homeland, to outsiders O’odham jевed has at times appeared inhospitable. The desert receives three to fifteen inches of rain per year, most rain falls during the monsoon season (July-September), and in the summer temperatures can reach over 120 degrees Fahrenheit. Thus, when the United States acquired the northern half of O’odham jевed, officials initially imagined O’odham jевed as a mere conduit of East-West transit. The U.S. obtained the northern half of O’odham jевed in two swaths. The first, in 1848 at the conclusion of the Mexican-American War. In 1846 the U.S. initiated war with Mexico ostensibly because of ongoing Indian raids. In reality, officials were interested in little more than gaining Mexican land holdings. The subsequent war lasted two years and ended when both parties signed the Treaty of Guadalupe Hidalgo (1848), in which Mexico ceded nearly half of its land to the United States. The land acquired by the United States would become Nevada, Colorado, California, Utah, Arizona, and New Mexico. It also included a small slice of O’odham jевed. Six years later, President Polk sent John Gadsden to Mexico City to purchase nearly thirty million acres south of the Gila River. The land was touted and sold (politically) as the future site of a federal railroad.¹⁰³ With the Gadsden Purchase, the U.S.-Mexico border took its current form. It effectively moved the border 100 miles south, and as such the U.S. Mexico border went from skirting the top of O’odham jевed to running precisely through the middle of it.

U.S. officials not only imagined O’odham jевed would be the site of a transcontinental railroad, but also, they imagined that it was suitable for little else. As historian Patricia Limerick writes “something, after all, had to connect Texas to California.”¹⁰⁴ In 1854 John Russell Bartlett, the U.S. boundary commissioner hired to represent the United States in marking the international border, crossed through the Sonoran Desert and was unimpressed. He wrote,

Much of this country, that by those reading at a distance, imagined to be a perfect paradise, is a sterile waste, utterly worthless for any purpose other than to constitute a

¹⁰² The Hia Ced O’odham previously had an office in Tohono O’odham Nation.

¹⁰³ A host of economic and political motives compelled President Polk to send John Gadsden to Mexico. For one, Polk wanted to renegotiate Article 11 of the Treaty of Guadalupe Hidalgo. As originally written, Article 11 held the United States financially responsible for Apache raids in Mexico. The territory acquired through the Gadsden purchase included part of what is now southwestern New Mexico, but primarily it moved the U.S. Mexico border from the Gila River which cuts through much of central Arizona to where it now sits over 100 miles south. For more on how officials imagined and constructed the land acquired during the Treaty of Guadalupe Hidalgo see Patricia Limerick, *Desert Passages: Encounters with the American Deserts* (Albuquerque: University of New Mexico Press, 1985).

¹⁰⁴ Patricia Limerick, *Desert Passages: Encounters with the American Deserts* (Albuquerque: University of New Mexico Press, 1985),166.

barrier or natural line of demarcation between two neighboring nations.... [it] can never be rendered useful for man or beast, save for a public highway¹⁰⁵

To Bartlett O'odham jeved appeared to be a wasteland, worthless, and sterile (without life) even as he documented many O'odham people and places during his travels.¹⁰⁶ He imagined, as did the officials who advocated for the acquisition of O'odham jeved, that it would serve primarily as a place of passage, not to be stayed in (or settled) but to be moved through.

Less than thirty years after Bartlett surveyed the border, the Southern Pacific Railroad came to Tucson (although it was privately owned and not the public railroad that President Polk and Bartlett initially envisioned). On the occasion, Charles Debrille Poston—the “Father of Arizona,” a man of many hats, and the first Superintendent of Indian Affairs in the Arizona Territory—published an opinion piece in the *Arizona Daily Star*. In it, he wrote his history of O'odham jeved,

The Toltecs and Aztecs... passed away... the Spaniard pass away... The Mexicans pass away, and the Americans come along with the emigrant wagon and make another step in progress and the evolution of mankind. And now the railroad comes along...breathes the vitality of civilization in sonorous respirations, breaking the silence of the desert and awakening the reverberations of the mountains for the first time since the planet commenced its revolutions in the universe...The typical New Zealander, in crossing this continent by the ‘Southern Pacific Railroad’ a thousand years hence will stop at the ‘Casa Grande’ and ask a descendant of the [O'odham], who built the cuticle of that name, and the gentle savage will reply, in the soft dialect of his tribe, “pima'h” (I don't know); but ask him, ‘who built the Southern Pacific Railroad?’ and the child of centuries will answer, ‘[Charles] Crocker’¹⁰⁷

While longwinded and prone to hyperbole, Poston made it clear that the railroad was a monument worth celebrating, a testament to the “evolution of mankind” and the “vitality of civilization.” He asserted the railroad and its maker would be remembered a thousand years hence, even by O'odham. For Poston the railroad brought life to O'odham jeved where there was none, the railroad was “breaking the silence of the desert and awakening the reverberations of the mountain for the first time.” Poston seems unaware, even while wielding the cognate *sonorous*

¹⁰⁵ John Russell Bartlett, *Personal Narrative of Explorations and Incidents in Texas, New Mexico, California, Sonora, and Chihuahua: Connected with the United States and Mexican Boundary Commission, During the Years 1850, '51, '52, and '53* (New York: D. Appleton, 1854), 247

¹⁰⁶ The summer weather on O'odham jeved certainly contributed to the image of O'odham jeved as inhospitable. The weather humorously peppers the descriptions of Indian agents, military personnel, and government officials in the years before and after Arizona Statehood. In the summer of 1874, for example, the U.S. army distributed and solicited reports on various Indian tribes (and factions) from the Arizona Territory, and one survey-taker wrote, “The awful heat here makes it almost impossible for me to do anything beyond ordinary routine business.” Reports on Arizona Indians, 1874; Bancroft Library, UC Berkeley; BANC MSS P-D 3, Pamphlet #2. Likewise, in 1880, Gila River Agent A.B. Ludlam wrote, “The climate here is considered healthy, yet the heat of the summer months and the rays of an Arizona sun are most enervating to those who are unacclimated... Enduring this heat, one is compelled to make liberal concessions to the red men and women for their loose and flowing garments adapted to the requirements of a hot and arid desert” (United States. Office of Indian Affairs *Annual report of the commissioner of Indian affairs, 1863-1880* Washington, D.C.: G.P.O. p.4 <http://digital.library.wisc.edu/1711.dl/History.AnnRep63>)

¹⁰⁷ Charles Poston, “The Railroad in Tucson” *Arizona Daily Star*, March 19, 1880.

while referring to the *Sonoran Desert*, that O’odham jeved was quite alive with sound long before the railroad came chugging through.

Poston elaborates on a settler fantasy about not only an empty land made productive by U.S. civilization, but also the disappearance of the relationship between Indigenous people and the land. The Indigenous people featured in Poston’s future forget themselves as the makers of Casa Grande. They say, in O’odham, “pima’h,” which Poston translates to “I don’t know,” but they remember the maker (financer, actually) of the railroad: Charles Crocker. Even in this fantasy though, a moment of slippage enables us to insert Indigenous continuity where Poston intended none. Pima’h, which today would be written *pi mac* does translate to “don’t know,” although it is unclear in this formulation *who* doesn’t know. The phrase is also the origin of their exonym, Pima. The story goes: Spaniards who came through the Sonoran Desert were met with O’odham touting the phrase *Pi mac*, “I don’t know.” Presumably in the form *Pi mac añ map kaij* “I don’t know what you are saying.” The Spaniards mapped out these confused O’odham as the Pima and their land as the Pimaría. Today, my own community (The Salt River Pima-Maricopa) still goes by and uses Pima when speaking to outsiders. Thus, reading from an O’odham standpoint suggests that the speaker featured in Poston’s future may have been identifying the Indigenous creators of Casa Grande by their exonym. Read this way, the “gentle savage,” when asked who built this place replies, “the Pima.”

In the Twentieth and Twenty-First centuries O’odham jeved became home to “The Border” (not only a line on a map but an ideological construction of alterity, and its concomitant wall, another monument to U.S. civilization based on another imaginary of O’odham jeved. The border wall was not meant to facilitate movement but to stop people from crossing the border undetected. It was constructed because of national imaginaries that posited the permeability of O’odham jeved as an existential threat to the Nation.

As I signal with my title, *Bordering the Nation*, I take “the border” to be a set of ongoing practices whereby various actors, including state governments, create an inside and an outside, a here and a there, a for whom and against whom. Less conspicuous in my title is the double signification that I employ around “The Nation.” The nation, at times synonymous with the territory and citizenry claimed by the United States, also herein signifies the Tohono O’odham Nation, a federally recognized tribe and reservation in Southern Arizona colloquially known as “The Nation.” The covert presence of Indigeneity in the title reflects designations at the US-Mexico Border, which are framed in an either/or construction of nation-states recognized by the UN, but which elide the presence of Indigenous people.

The U.S. was not always interested in stopping people from coming across the border, and even when it was the stakes seemed relatively low when compared to today. The U.S. began policing its border with Mexico in earnest as a response to the passage of the 1882 Chinese Exclusion Act. Prior to the act, the primary goals of policing the border involved the taxation of goods; after it, however, the focus shifts to ensuring that Chinese immigrants were not entering the U.S. via Mexico.¹⁰⁸ Even in recent memory officials did not take the border as seriously as they do today. In 1987 historian Patricia Nelson Limerick could write about the cat and mouse game between Border Patrol and “illegal entrants” near Tijuana. In her book, *Legacy of Conquest*, she writes,

¹⁰⁸ Rachel St. John, *Line in the Sand: A History of the Western U.S.-Mexico Border*. (Princeton: Princeton University Press, 2012).

In the 1980's, a place called the Soccer Field became a routine stop on the itineraries of journalists writing about the problems of the American West. The Soccer Field was an open flat area near Tijuana, where hundreds of people gathered every night. After dark, Mexicans would begin their walk from the Soccer Field into the United States, while the Border Patrol deployed men, vehicles, and heat-seeking surveillance devices to interrupt them. The odds of the game were heavily weighted against the home team. Along the nearly 2,000-mile border, for every illegal entrant the Border Patrol caught, two or three (or more) got through. Returned to the Mexican side of the border, the apprehended one's could simply try again.¹⁰⁹

In the aftermath of 9/11, making the border hermetic seemed more and more important to U.S. officials. As a result, the border became increasingly militarized. In 2005 John Cornyn, a U.S. Senator from Texas and member of the 9/11 Commission reported to congress,

I recently flew with the border patrol over the Texas- Mexico border around Laredo, Texas, and I must tell you, from what I saw there and reported back to my colleagues, I am concerned that our expansive and porous border leaves our country vulnerable still today. It is imperative that we find a solution to this exposure. Clearly, a part of the ultimate resolution is well-equipped, trained, and funded border patrol agents and inspectors.

Cornyn got his wish. In 2005 there were about 11,300 Border Patrol agents. Around 10,000 worked at the Southern Border. As of 2017 there were over 16,000 at the Southern Border, and around 19,500 total. To put that into perspective, the U.S.-Mexico-border is just shy of 2,000 miles. At the rate of Border Patrol employment at the southern border, we could have around 2,000 agents on duty at any time. We could station them 1 mile apart along the whole of the southern border. If every mile of the southern border were to be covered like this around the clock, an individual agent's work *week* would be around seventeen hours.

The porous border is imagined and peddled by right wing politicians and policy makers as an existential threat to the Nation, a space uncontrolled and inundated. Rising militarization has been further buoyed by a national imaginary that increasingly turns away from a fear of "terrorists" and toward a fear of undocumented immigrants. For example, the very first TV advertisement released by Trump's 2016 presidential campaign, featured grainy footage of dozens of people hopping over a fence. A disembodied voice promises and threatens, "He'll stop illegal immigration by building a wall on our southern border that Mexico will pay for."¹¹⁰ The coupling of narration and video implies that the people pictured are "illegal immigrants" coming in swarms over the U.S.-Mexico border. The video actually pictures the border fence around Melilla, one of two Spanish cities in Morocco. A world away, the people pictured hopping the fence are entering the European Union on the African continent.¹¹¹

¹⁰⁹ After recounting the game between Border Patrol and unauthorized border crossers at the Soccer Field, Limerick went onto to discuss Mexico's economic troubles that not only at led to increased illegal border crossing attempts, but also led U.S. legislators faced with the Immigration Reform and Control Act of 1986 to debate if *this* was the time to close the border. Limerick, *The Legacy of Conquest: The Unbroken Past of the American West*, (New York: Norton, 1987).

¹¹⁰ Trump 2016, January 4, 2016. As featured in "Donald Trump Releases First TV Ad" *YouTube*. Uploaded by Wall Street Journal. Accessed Oct. 10, 2019. <https://www.youtube.com/watch?v=qa3edsMzHkA>

¹¹¹ Scholars have meticulously documented and theorized the discourse of immigration. Here and globally right-wing politicians perpetuate the flood as a metaphor for unchecked immigration. This linguistic (re)configuration of

In the US today the US-Mexico border is widely thought about and commented upon by politicians, policy advocates, the mainstream media, and social media avatars. Concerned with “national issues” these discourses both formal and informal have little to do with either the communities who occupy the US-Mexico borderlands—as of 2019 over thirty cities, tribes, and tribal organizations have passed resolutions condemning the border wall—or the fact that there are multiple barriers already in place.¹¹² Speaking materially, Trump supporters chanting “build the wall” would be better factually suited by chanting, “build new walls,” “replace old walls,” or “extend existing walls.” In other words, people have lived with the border and the various barriers it embodies as both physical and legal fact every day for quite some time.

O’odham Impacts

Contemporary political discourses concerning the US-Mexico border are largely divorced from realities and communities on the ground. Of course, the promise of a wall and its realization in the presidential office is neither about the architecture itself nor the communities there. As many scholars have pointed out, it confirms that certain (racialized) bodies are unthinkable in terms of “the nation,” and it works to render certain people into what Mai Ngai calls impossible subjects.¹¹³ On the ground, the scene is different, one of law, order, paperwork, and control: checkpoints, court hearings, deportations, construction, and everyday life. Amy Juan, a citizen of the Tohono O’odham Nation, suggested in a 2018 interview with *AZ Central* that to live in the borderlands is to “go through checkpoints to leave your neighborhood,” that it includes militarization and occupation, but that it is not the pandemonium depicted by the media or in politics. She said, “the borderlands are not open. They are not crazy places that a lot of media or people play it out to be. They are where we grew up. They are where we are raising our families.” One woman in her twenties, told me, “My younger brothers will never know a world before Border Patrol. We grew up playing cowboys and Indians, they play *jujkum* (Mexicans) and Border Patrol.” During the Unity Run, an annual ceremonial run that goes from my O’odham community in Salt River to the O’odham communities across the border in Mexico, we see helicopters, Border Patrol cars, and integrated fixed towers. We have crossed under vehicle barriers, at traditional gates where we showed our tribal IDs, and through designated ports of entry. Border Patrol is everywhere. Even as individuals feel passionately, act aggressively, and vote in support of or against it, the majority of US citizens encounter “the wall,” and the border that it acts as metonym for, only as an abstract discourse with little to do with the people and the land in the southwestern United States.

As I work on this project, I am finding that jurisdiction works, both intentionally and incidentally, to construct the desert as empty. Again, jurisdictions seek to designate some places

immigration as deluge of black and brown bodies indicates that racialized immigration is a problem to be fixed, stopped, dammed. The fact that this language is cropping up globally indicates, according to J Hogan and K Haltinner (2015), an emergent “international right wing play book.” J. Hogan, and Kristin Haltinner (2015) “Floods, Invaders and Parasites: Immigration Threat Narratives and Right-Wing Populism in the U.S.A, UK and Australia” *Journal of Intercultural Studies*, 36:5, 520-543.

¹¹² No More Border Wall, 2019. “The Opposition: Resolutions/Legislation Against the order Wall” <https://noborderwalls.org/opposition/> Accessed October 10, 2019. See Madsen, Kenneth D. 2011. Barriers of the US-Mexico border as landscapes of domestic political compromise, *Cultural Geographies*. 18 (4): 547-556.

¹¹³ Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004).

livable, some temporarily accessible (through various levels of bureaucracy), and others “off limits.” These designations contribute to the image of the desert as simultaneously empty, sterile, and natural.¹¹⁴ This imaginary, like that of the border itself, has little to do with the actual militarized and populated landscape. Deserting, as I invoke it, thus also contains my critique of actors and actions that move to render the Sonoran Desert into a generic desert, a place distanced from life and O’odham life in particular.¹¹⁵ As other Native Studies scholars find of other contexts, this rendering remains incomplete.¹¹⁶ Thus, my theorization of deserting also draws upon and echoes what settler colonialism scholars call destroying to replace and what New Western historians identify as the myth of the West.¹¹⁷ In the first half of the dissertation, I trace this haphazard project historically through jurisdictional line drawing and its contentions; in the second half I look at how these battles continue today in the courts and through cultural texts. The desert looks very different for O’odham the border patrol agent, the humanitarian, and the border-crosser. By bringing these divergent “desertings” into conversation, by showing how they are at moments simultaneous, parallel, and incompatible, I ultimately reveal the borderlands as a multiply contested landscape.

O’odham have wielded several tactics to maintain access to O’odham jeved, particularly through efforts that employ the unique *jurisdictional* position of Tohono O’odham Nation. The Tohono O’odham reservation was established in 1916 (See Chapter Two) and is today the third largest in the United States at 2.8 million acres. It co-terminates with the United States at the U.S.-Mexico border over 62 miles. Therefore, unlike many of its counterparts along the border,¹¹⁸ in addition to the rights of peoples to land and life recognized by the United Nations, Tohono O’odham exercises certain U.S.-legal powers (the right to consultation) over a significant stretch of the U.S.-Mexico border (Sovereignty 1).¹¹⁹ The Tohono O’odham Nation has used its position to leverage rights for O’odham people on both sides of the border (Sovereignty 3). For example, Tohono O’odham has always enrolled citizens from what are currently known as Mexico and the United States and advocated for their border crossing rights.

¹¹⁴ The border in many ways act as and enacts a wilderness, a manufactured concept/designation that necessitates white conquest and control.

¹¹⁵ As Danielle Endres writes, wasteland “is often synonymous with the desert” (925). The desert is imagined and discursively made into a space without life and valuable for its emptiness, a process that erases, or at least overwrites, Indigenous people. See Danielle Endres, “From Wasteland to Waste Site: The Role of Discourse in Nuclear Power’s Environmental Injustices” *Local Environment* 14.10 (2009): 917-937.

¹¹⁶ Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States*, (Durham: Duke University Press, 2014).

¹¹⁷ Patrick Wolfe 2006 “Settler Colonialism and the Elimination of the Native.” *Journal of Genocide Research* 8.4 (2006): 387-409; Limerick, *Legacy of Conquest*, 26.

¹¹⁸ Other communities include the Kickapoo, the Cocopah, the Kumeyaay, the Yavapai Apache, and the Carrizo/Comecrudo See Christina Leza, “Divided Nations: Policy, Activism and Indigenous Identity on the US Mexico Border,” (PhD Diss., University of Arizona, 2009); Jeffrey M. Schulze, *Are we Not Foreigners Here? Indigenous Nationalism in the US-Mexico Borderlands* (Chapel Hill: University of North Carolina Press, 2018).

¹¹⁹ Federal law requires the Bureau of Land Management to consult with tribal governments before making any changes to land use. To build a wall on the land would require a stand-alone bill in Congress that would remove it from trust.

They have lobbied to keep traditional crossing points open, and even though it was unsuccessful, in 2001 they attempted to get congress to grant all Tohono O’odham citizens U.S. citizenship.¹²⁰ In recent years, Tohono O’odham Nation’s legal claims to the U.S.-Mexico border have appeared front and center in national and international headlines.¹²¹ During his presidential campaign, Donald Trump promised (or threatened) that he would “build the wall.” Shortly after he re-upped on his commitment to build the wall from the seat of the president, the Tohono O’odham Nation asserted that there would be no wall on the reservation land of Tohono O’odham Nation. The Tohono O’odham vice chairman, Verlon Jose, declared that the wall would be built, “over my dead body.” Now that Trump is out of office, the Tohono O’odham Nation is the only part of O’odham jeved not marred by the wall (See Chapter Three).

¹²⁰ Historically there have been five gates or traditional points of crossing, and throughout the twentieth century the Tohono O’odham have enjoyed relative freedom to cross back and forth. In June 2001 Representative Ed Pastor introduced the “Tohono O’odham Citizenship Bill” in the U.S. House of Representatives. Representative Frank Pauline, Jr. introduced a second. The bills stalled in the Republican-led Congress. As part of the legislative efforts in 2001, the Tohono O’odham Nation identified four groups adversely affected by the boundary and U.S. nationality laws: those born in the U.S. without documentation, those born and living south of the boundary, those born south of boundary but living in the north, and those born in the south to O’odham parents born in the North without documentation. In 2003, Representative Raúl Grijalva introduced a new bill to clarify the citizenship eligibility for members of the Tohono O’odham nation of Arizona who lived in Mexico.

¹²¹ Randal Archibold, “Border Wall Must Skirt Objections from Arizona Tribe,” *New York Times*, Sep 20, 2006. Samantha Schmidt, “A 75-mile-wide gap in Trump’s wall?” *Washington Post*; Nov 15, 2016. Staff Writer, “The Tohono O’odham Nation concerned about a border wall splitting their tribal land” *Fox News*, Nov 23, 2016. Sam Levin, “‘Over my Dead Body’: tribe aims to block Trump’s border wall on Arizona land” *The Guardian*, Jan 26, 2017. Fernanda Santos, “Border Wall Would Cleave Tribe, and Its Connection to Ancestral Land,” *New York Times*, Feb 20, 2017. Lily Herman, “Trump’s Border Wall Could Cut the Tohono O’odham Tribe’s Reservation in Half” April 13, 2017, *Teen Vogue*. Christopher Livesay and Melanie Saltzman, “At U.S.-Mexico, a tribal nation fights wall that would divide them” Jan 13, 2019, *PBS NewsHour*

Chapter 2

The Tohono O’odham Reservation: Suppression, Incorporation, and Refusals on Tohono O’odham, 1912-1933

In this chapter, I reveal how the historical *incorporation* of the Tohono O’odham reservation played out on the ground. When the reservation was established by executive order in 1916, the BIA acquired jurisdiction over a huge swath of O’odham jemed and people.¹²² One of the most immediate changes to day-to-day life, and the one I explore herein, came in the form of a quickly expanded liquor suppression program. BIA officials had long sought to support their liquor suppression efforts by mobilizing the language of *protection* to seek more punitive power. Before the reservation, officials on the ground insisted to their superiors that they could *protect* Tohono O’odham from alcohol in the nearby cities by bringing offenders into the BIA jails and coming across the U.S.-Mexico border by increasing the BIA police force. After the reservation was established, BIA officials asserted that they could protect Tohono O’odham from alcohol being made by Tohono O’odham themselves by arresting and prosecuting tribal leaders. After giving an overview of prohibition in Indian country and liquor suppression—the latter a project long tied up in defining or incorporating Native American communities and individual—I explore each of these in turn. Regardless of their target, BIA officials mobilized discourses of protection and believed that protection would materialize through *incorporation*.

While the *incorporation* of the reservation did not change BIA discourses and agenda, it did give officials the jurisdiction to extend their punitive reach, and it exposed more O’odham

¹²² This chapter is based on 250 letters, telegrams, and reports housed in the BIA archives at the National Archives in Riverside, California dated from 1912-1933, and directly or indirectly related to the Papago agency’s attempts to suppress liquor use among Tohono O’odham (Papago is an outdated exonym for Tohono O’odham). This work is identified as “liquor suppression” in the archives and throughout this chapter. These documents are primarily communications between the local superintendents who worked out of the Papago field office in Arizona and the commissioners of Indian affairs who worked out of Washington DC. However, they also include letters to and from local BIA police officers, privates, field matrons, other superintendents, and the special liquor suppression officer stationed in Denver, CO.

Terminology: Government nomenclature, jurisdiction and officers changed considerably over the relatively small 36-years this paper takes up. With the contemporary legacies and iterations of these institutions in mind, I employ the contemporary terms as anachronism when talking about the past. For example, I consistently reference the Bureau of Indian Affairs (BIA) as the governmental organization charged with overseeing Native American peoples even though in 1824 it was called the Office of Indian Affairs (OIA). The OIA was renamed the Bureau of Indian Affairs (BIA) in 1947. My usage is consistent with government practices. The documents I examined, housed in the National Archive at Riverside are housed under the name “Sells (Papago).”

Importantly, BIA letters offer inherently limited insight to researchers. As official BIA communications, their depictions of reality ostensibly represent only their individual personal and official/professional positions. Further, the Indigenous voices and actions depicted within are primarily hearsay. Despite these limitations, given the consistency of prohibition discourse disseminated by the three commissioners and the multiple local superintendents at Tohono O’odham during the time covered (1912-1933), this article assumes that these letters expose the BIA’s official, organizational, *and* structural discourse. This assumption is reflected in my decision to identify the superintendents and commissioners—except for Cato Sells—solely by their office in the body of the article. This paper also takes reported voices of Indigenous people as true and accurate.

people and lifeways to BIA surveillance, discipline, and violence. Before the reservation was established BIA officials targeted alcohol in Tucson and coming over the U.S.-Mexico border. They believed that non-Native bootleggers and one-off smugglers were to blame. After the reservation was established, BIA officials had jurisdictional access to remote O'odham communities. They moved their local headquarters to the center of O'odham territory, and as a result of their newfound access and proximity, they discovered that alcohol was not exclusively a colonial import for the Tohono O'odham but also a key part of *Nawait*, a ceremonial substance that O'odham refused to give up (I explore the ceremonial aspects in Chapter Five). In this chapter I follow the BIA's liquor suppression efforts in Tohono O'odham from 1912 to 1933, I explore the difference the reservation did and did not make, and I assert that even though BIA officials could not have known exactly what the new reservation would mean for liquor suppression, *incorporation* ensured that Native people would be subjected to the BIA power one way or another. In the process I trace some of ways that Tohono O'odham individuals and communities employed *incorporation* to their own benefit.

Prohibition in Indian Country and Indian-Prohibition:

In March of 1914, Cato Sells, the newly appointed commissioner of the Bureau of Indian Affairs (BIA), sent a letter to each of his 6,000 employees. He opened the letter with an excerpt from a speech that he had delivered to a group of field supervisors a month earlier,

‘I believe that the greatest present menace to the American Indian is whisky. It does more to destroy his constitution and invite the ravages of disease than anything else. It does more to demoralize him as a man, and frequently as a woman. It does more to make him an easy prey to the unscrupulous than everything else combined. If I say nothing more to you to-night that leaves an impression, let it be this one thought: Let us save the American Indian from the curse of whisky.’¹²³

Setting the tone for the agency under his leadership, Commissioner Sells declared in his speech, and re-declared in his letter, that alcohol was a menace to the American Indian.¹²⁴ It was a danger to both Indian men and Indian women.¹²⁵ It invited disease. It rendered American Indians into “easy prey” to “unscrupulous” predators. Sells concluded his letter by calling his employees to action: “It is my great desire that every employee in the Indian Service shall realize the

¹²³ Cato Sells, Commissioner of Indian Affairs to All Employees in the Indian Service, Mar 23, 1914; Report No. 519, Indian Appropriation Bill, p19; In United States Congressional Serial Set, Volume 6553, 63rd Congress 2nd Session Dec 1, 1913-Oct 24, 1914, Senate Reports Vol. 2

¹²⁴ Further down in the letter Sells wrote, “I especially request that on the Sixth Day of April, Nineteen Fourteen, the same be read to the student body of every Indian School, including those under Government, Mission or private supervision.” Thus, bureau-wide, to non-Native BIA employees and Native students alike, Sells declared that Native people had to be saved. Cato Sells, Commissioner of Indian Affairs to All Employees in the Indian Service, Mar 23, 1914; Report No. 519, Indian Appropriation Bill, p19; In United States Congressional Serial Set, Volume 6553, 63rd Congress 2nd Session Dec 1, 1913-Oct 24, 1914, Senate Reports Vol. 2

¹²⁵ The Bureau of Indian Affairs (BIA), originally called the Office of Indian Affairs (OIA), is a United States (U.S.) agency established in 1824. It was established within the Department of War to oversee the “trade and treaty” relationships between the U.S. and Native American nations. In 1849, one year after the treaty of Guadalupe Hidalgo, the BIA/OIA was moved from the Department of War to the newly created Department of the Interior. Cato Sells was the Bureau of Indian Affairs (BIA) commissioner from 1913 to 1921.

tremendous importance of the liquor suppression work and exert his best efforts and influence for the protection of the Indian from [alcohol], his worst enemy.”¹²⁶

Liquor, the regulation of liquor, and the paternalism surrounding liquor-use all have long histories in U.S.-Indian relations. In many Native communities, alcohol itself was a part of the material and cultural invasion of Native America and it acted as “a particularly versatile weapon in the invader’s arsenal.”¹²⁷ Liquor also has a contentious presence in Indigenous communities today. While Cunningham et al. has demonstrated that, despite a prevalent belief to the contrary, Native Americans do not in fact have a higher rate of alcoholism than the general population, alcohol and alcoholism remains a high-priority social issue in and for many Native communities.¹²⁸

In many communities, Indian prohibition—legislation banning the sale, consumption, or manufacture of alcohol to/by Indians—has been around nearly as long as liquor itself. Indian prohibition was first instituted in 1802 under Thomas Jefferson, who wrote of Native Americans, “[Liquor] has weakened their bodies, enervated their minds, exposed them to hunger, cold, nakedness, & poverty, kept them in perpetual broils, & reduced their population.”¹²⁹ Notably, for Jefferson the problem was neither alcohol itself nor those who used it for coercive ends.¹³⁰ It was the improper use of the substance; Jefferson continued, “Spirituous liquors are not in themselves bad. They are often found to be an excellent medicine for the sick. It is the improper &

¹²⁶ Cato Sells, Commissioner of Indian Affairs to All Employees in the Indian Service, Mar 23, 1914; Report No. 519, Indian Appropriation Bill, p19; In United States Congressional Serial Set, Volume 6553, 63rd Congress 2nd Session Dec 1, 1913–Oct 24, 1914, Senate Reports Vol. 2

¹²⁷ See, William E. Unrau, *White Man’s Wicked Water: The Alcohol Trade and Prohibition in Indian Country, 1802-1892* (Lawrence: University of Kansas Press, 1996), 12. See also Peter C. Mancall, *Deadly Medicine: Indians and Alcohol in Early America* (Ithaca: Cornell University Press, 1997). Erica Prussing, *White Man’s Water: The Politics of Sobriety in a Native American Community* (Tucson: University of Arizona Press, 2011). Jack O. Waddell and Michael W. Everett, eds, *Drinking Behavior Among Southwestern Indians: An Anthropological Perspective* (Tucson: University of Arizona Press, 1980). A. D. Fisher “Alcoholism and Race: The Misapplication of Both Concepts to North American Indians,” *Canadian Review of Sociology/Revue Canadienne de Sociologie* 24, no. 1 (1987): 81–98.

¹²⁸ It is also worth noting that some Native communities have higher rates of alcoholism than others and that such broad population statistics elide critical cultural, economic, and geographic differences among the diverse breadth of Native peoples and nations. Further, Fisher suggests that alcohol abuse is most likely rooted in the group’s relations to the means of production in North America. James K. Cunningham, et al. “Alcohol Use Among Native Americans Compared to Whites: Examining the Veracity of the ‘Native American Elevated Alcohol Consumption’ Belief.” *Drug and Alcohol Dependence* Vol.160 (2016): 65-75.

¹²⁹ Thomas Jefferson, *The Works of Thomas Jefferson: Published by Order of Congress from the Original Manuscripts Deposited in the Department of State*. (New York: Townsend Mac Coun, 1884), 187

¹³⁰ As Bernard Sheehan (1973) has demonstrated, legislators and philanthropists believed that “the white man had a moral obligation to himself and to his posterity to see that the tribesman survives. If the Indian were transformed, if he adopted civilization and lived like a white man, his savage ways would disappear and he would endure to become a useful member of the white man’s world” (5). The goal of Jeffersonian era philanthropists was to civilize Native people “for their own good” and for their own survival. However, as Sheehan points out, while philanthropists may have been filled with good intentions, they ultimately killed Native people with kindness. Bernard Sheehan, *Seed of Extinction: Jeffersonian Philanthropy and the American Indian*. (Chapel Hill: University of North Carolina Press, 1973), 5.

intemperate use of them, by those in health, which makes them injurious.”¹³¹ For Jefferson, Indians seemed to be categorically incapable of regulating their own alcohol consumption properly. Thus, to protect them from their incapacities, Jefferson thereafter prohibited white traders from selling alcohol to Indians.

In the century or so after 1802, when Jefferson instituted Indian prohibition, and 1914 when Cato Sells declared whiskey the mortal enemy of Native people, Indian prohibition went from being aimed at outsiders who supplied Indigenous communities with alcohol to being aimed at Indigenous individuals themselves. By the late 19th century, officials directed prohibition policy decreasingly at Native communities or categorizations and increasingly at identifiably Indian individuals. The criminalization of Native people was made possible by the BIA establishment of the Courts of Indian Offenses and the *Code of Indian Offenses* (1883). While the *Code of Indian Offenses* primarily took aim at “heathenish dances,” plural marriage, and medicine men—all of which the commissioner considered “a great hindrance to the civilization of the Indians”—in the ninth and final article the code declared,

Any Indian who shall be found intoxicated, or who shall sell, exchange, give, barter, or dispose of any spirituous, vinous, or fermented liquors to any other Indian, or who shall introduce or attempt to introduce, under any pretense whatever, any spirituous, vinous, or fermented liquors on the reservation, shall be punishable by imprisonment for not less than thirty days nor more than ninety days, or by the withholding of Government rations.¹³²

With the new *Code of Indian Offenses* (1883), the BIA officially recalibrated its efforts. It moved away from stopping white traders and toward punishing individual Indians for consuming and distributing alcohol, and in doing so the BIA concretized a new regime that created criminals out of those it previously deemed merely ne’er-do-wells. By 1914, the punishment for drunkenness, the most noteworthy crime documented by BIA officials in Tohono O’odham Agency, was a \$10.00 fine (the equivalent of \$250.00 in 2019). When Indian prohibition was instituted under Jefferson in 1802, Jefferson believed that alcohol was a physical threat to the Indians, but he aimed his legislative efforts at white traders. Over 100 years later, under Cato Sells, a growing portion of prohibition policy and enforcement—what Cato Sells called “the best efforts and influence”—targeted Native individuals.

The changes in Indian prohibition policy reflected the nation’s changing perception of the “Indian problem.” By the time Sells wrote about alcohol and the danger it posed to the Indian, the BIA was no longer interested in keeping Indians separate and isolated, as it was in Jefferson’s time. Instead, Federal Indian Policy had turned to assimilation. The U.S. sought to incorporate Native peoples into the U.S. citizenry. It sought to render them into U.S. subjects and political agents. Prohibition was explicitly linked to the citizenship project. Sells wrote of liquor suppression, “[it will provide] a substantial foundation in solving the Indian problem” and “a long step forward looking toward their equipment for the responsibilities of citizenship.”¹³³

¹³¹ Ibid.

¹³² *Regulations of the Indian Office, 1904*. Code of Indian Offenses, Section 584 “Courts of Indian Offenses,” Rule Nine.

¹³³ Superintendent to Commissioner of Indian Affairs Washington D.C. Apr 25, 1914; Commissioner of Indian Affairs Jan-Jun 1914; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

Indian-prohibition was intimately tied to an ideal political agency (i.e., U.S. citizenship) for Native people.

The national vision was not only changing in terms of Indians. The prohibition movement had caused the nation to question alcohol (in certain hands) altogether and created a unique political opening for Indian prohibition. In 1907, Congress appropriated funds specifically for national liquor suppression. Nearly half of the appropriation was dedicated to Indian Country. Also, during the 1907 fiscal year the BIA commissioner created the Special Officer position, “special” because the officer was to be specialized in the enforcement of liquor laws.¹³⁴ Thus, national prohibition in the early 20th century dovetailed with the longstanding Indian prohibition, and though the latter predated it (and would continue after national prohibition was long gone) it created new fiscal opportunities for BIA suppression efforts.

When BIA Commissioner Sells (re)declared whiskey the mortal enemy of the Indian in 1914, he imagined it as the most pressing obstacle on the Indian’s path to citizenship. While the discourse of protection of the Indian that he espoused had roots in the time of Jefferson, the language, philosophy, substance, and goals of that “protection” had transformed in the century between the two white men. Where Indian prohibition had started as an attempt to insulate Native people from alcohol for their own physical well-being, and, as a policy, it took aim at white sellers of alcohol, by 1914, prohibition sought to discourage Native intemperance through criminalization of Native individuals. At stake was their perceived compatibility with and capacity for U.S. citizenship. What hadn’t changed was BIA concern with what they thought was best for the Indians (paternalism) and the juridical technologies –law, enforcement, and jurisdiction—that they wielded to realize it..

The sections that follow engage with the primary materials from the National Archives at Riverside and zoom in on Tohono O’odham communities in the city, on public lands, and on the reservation.¹³⁵ These sections trace the ways BIA liquor suppression manifested as both discourses of protection and how they were tied up in the politics of *incorporation*.

Protection from the City:

In the early 1900’s the majority of Tohono O’odham did not live on the San Xavier reservation, the small reservation established in 1874 to oversee them and located about 10 miles southwest of Tucson, Arizona.¹³⁶ Instead, Tohono O’odham lived throughout O’odham jевed (see Figure 1.2): in the city of Tucson, Arizona; at the mining camps in Ajo, Arizona (half way between Tucson and Yuma); in the vast desert landscape between the two cities; and on both sides of the U.S.-Mexico border. O’odham had always been farmers (O’odham agriculture in the

¹³⁴ Etheridge, David. *Indian Law Enforcement History*, (U.S. Government, 1975), 35.

¹³⁵ For more on Tohono O’odham see Eric Meeks, *Border Citizens: The Making of Indians, Mexicans, and Anglos in Arizona* (Austin: University of Texas Press, 2007); Winston P. Erickson, *Sharing the Desert: The Tohono O’odham in History* (Tucson: University of Arizona Press, 1994); Peter MacMillan Booth, “Creation of a Nation: The Development of Tohono O’odham Political Culture, 1900--1937.” (PhD Diss., Purdue University, 2000); Peter MacMillan Booth, “‘IF WE GAVE UP THE MAKING OF NAWAIT, IT WOULD MEAN STARVATION’: Saguaro Wine Defenders of Tohono O’odham Land and Way-of-Life,” *The Journal of Arizona History*, 46.4 (2005): 375–96.

¹³⁶ In 1876 the Papago Agency was dissolved, and Tohono O’odham affairs were administered through the Pima Papago, and Maricopa Agency in Sacaton, Arizona. In 1902 Tohono O’odham affairs was moved back to San Xavier, to the newly established and appropriately named San Xavier Agency.

area dates back countless centuries), but by the 1900's they were also cattle ranchers, miners, and hands-for-hire.¹³⁷ Few Tohono O'odham lived on the small reservation, and therefore, most were beyond the BIA's land-based jurisdiction.

In 1912, BIA officials focused their liquor suppression efforts on Tohono O'odham located just outside of the city of Tucson, Arizona, who were, in the BIA's estimation, exposed to sinister influences.¹³⁸ The superintendent (the highest-ranking official at the agency) wrote to the commissioner, "Their village is located in a most undesirable part of the city, where they are thrown in contact with Mexicans, Negroes, Chinese and people of other nationalities. There are numerous bootleggers in this locality who prey upon the Indian people, and conditions are very bad."¹³⁹ Like Cato Sells, the superintendent characterized Native people as prey. However, where Sells imagined danger emanating from liquor itself, the superintendent projected the predatory danger of alcohol onto its providers: bootleggers. Those bootleggers seemed to him to come part and parcel with "Mexicans, Negroes, Chinese and people of other nationalities."¹⁴⁰ The superintendent identified contact with non-whites as the problem. Non-whites appeared as the conduits of alcohol, threatening to contaminate O'odham people and communities. Indeed, this sentiment regarding bootleggers remained in play at the BIA for many years. A circular from the Commissioner, dated April 2, 1918, contends, "Of all men the bootlegger, as a class, is the most despicable. He has no respect for God, man, or even his own family. There is no legitimate place for him anywhere on earth. He is without a defender... the lowest of low down criminals."

BIA officials believed that the necessary solution to this contamination of O'odham individuals and community would materialize through the law generally and through expanded jurisdiction in particular. The superintendent implored the commissioner for the authority to punish those Native people charged with alcohol-related crimes off the reservation (to relocate them to the agency jail) and subsequently to punish them more severely than the county. In a

¹³⁷ Winston P Erickson, *Sharing the Desert: The Tohono O'Odham in History* (Tucson: University of Arizona Press, 2003), 87-93

¹³⁸ **BIA Officials Connected to Tohono O'odham 1912-1933**

- **1912** Robert G Valentine resigns as Commissioner
- **1913** Cato Sells appointed BIA Commissioner
- **1916** J.D Martin replaces H.J Mc Quigg appointed Papago Superintendent
- **1917** T.F. McCormick appointed Papago Superintendent
- **1921** Charles Burke appointed BIA Commissioner
- **1927** E.S. Stewart appointed Papago Superintendent
- **1929** Charles Rhoads appointed BIA Commissioner
- **1930** J.W. Elliot replaces E.S. Stewart Papago Superintendent
- **1933** John Collier appointed BIA Commissioner
- **1935** T.B. Hall appointed Papago Superintendent

¹³⁹ Superintendent of Sells Indian Agency to Commissioner of Indian Affairs Washington, D.C. Jan 8, 1932; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA

¹⁴⁰ Superintendent of Sells Indian Agency to Commissioner of Indian Affairs Washington, D.C. Jan 8, 1932; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA

1914 letter the superintendent wrote, “In order to do any real good it is necessary to give them a more severe punishment... turn them over to me [from the city].” He elaborated,

The County authorities have taken up a great many drunken Indian cases but the light fines and imprisonments given them by the Justices do not seem to materially deter them, and it is desired to punish them more severely in the agency jail with the hope of at least checking this demoralizing and nefarious practice.¹⁴¹

The superintendent argued that bringing city-Indians under his jurisdiction and into the agency jail, where the punishments could be more severe, would deter Indians from imbibing.¹⁴²

The superintendent invoked the danger of non-whites and poor whites to support his bid for legal authority. He went on to insist that if granted the power to pull Native people into the agency jail, the resulting segregation would further liquor suppression gains. “By this method” he assured the commissioner, “the Indians are not thrown in contact with the low class of Mexicans and whites who infest the city and county jails and where they would undoubtedly learn more wickedness.”¹⁴³ Mobilizing the discourse of danger and endangerment (danger that required BIA protection), BIA officials insisted that Native people had to be segregated and more severely punished. Practically, the superintendent sought to extend his jurisdictional reach to city-Indians, to re-incarcerate Tohono O’odham offenders from the city in the BIA jail.

BIA officials mobilized the discourse of endangerment (from alcohol and lower classes) in an attempt to gain material power over Native people in the city. Indeed, *protection* was always consciously tied to physical and legal control. Two correspondences concerning one local resident’s complaint about interracial “fiestas” suggests the connection between discourses of Native vulnerability and legal control. The power to control Native people outside of Indian Country that they sought could well have resulted in legal challenges to the BIA. To the complainant, the superintendent wrote, “The Indians living in the village near Mexicans and Negroes, are subjected to a great deal of temptation.”¹⁴⁴ To the commissioner, about the same complaint he wrote, “It is extremely difficult to control the Indians living near Tucson, and off the Reservation.”¹⁴⁵ Switching between closely aligned Christian and disciplinary discourse, the superintendent elected when to wield one or the other, but clearly, protection and control were synonymous.

¹⁴¹ Superintendent to Commissioner of Indian Affairs Washington D.C. Apr 16, 1914; Commissioner of Indian Affairs Jan-Jun 1914; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁴² Importantly, the superintendent’s vision for more severe sentencing complemented the commissioner’s vision which centered a more liberal subjectification program. The commissioner’s program included a pledge-signing campaign and a letter campaign to “progressive Indians.”

¹⁴³ Superintendent to Commissioner of Indian Affairs Washington D.C. Apr 27, 1914; Commissioner of Indian Affairs Jan-Jun 1914; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁴⁴ Superintendent to Mr. F. S. Herndon. Jul 9, 1915; L&O Liquor suppression; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 7; BIA, RG 75; NA Riverside, CA

¹⁴⁵ Superintendent to Commissioner of Indian Affairs Washington D.C. Jul 9, 1915; L&O Liquor suppression; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 7; BIA, RG 75; NA Riverside, CA

Notably, the BIA was positioned to materially gain from Tohono O’odham incarceration. Officials claimed that they sought to punish Native people for their own good, but the agency would have benefited tremendously from such an arrangement. The superintendent tellingly wrote of the labor completed by Native prisoners: “A large quantity of labor is also performed on the reservation by the prisoners with small cost.”¹⁴⁶ By bringing Native people into the BIA jail officials would not only increase nearly free manual labor supplies, but also shore up business, creating more paperwork, staff-needs, and points of rehabilitative contact with Indian wards.

But, in the longstanding infantilization of Indian people that erased the very possibility of their own agency in matters concerning intoxicants, what BIA officials argued to their superiors was that Tohono O’odham were vulnerable. They had to be protected from liquor in the city. Specifically, officials imagined racial others in the city to be the carriers, conduits, and those truly culpable for the liquor that was falling into Native hands. Compelled by what they saw as insufficient and ineffective disciplinary regimes in the local jails, BIA officials sought to extend their jurisdictional reach to Native bodies beyond the reservation, the first in a series of expansions of power. With that newfound power, they imagined they would segregate Tohono O’odham.

Protection from the Border:

In November of 1914, Arizona became one of the many states to “vote dry” before national prohibition took effect (in 1920). On Christmas Day of 1914, days before the policy went into effect, the superintendent mobilized the image of the nefarious bootlegger in an appeal for a “liberal appropriation” for his liquor suppression work:

As you know Arizona has voted dry this last election and while this may be enforced in some counties of the state, I am very much afraid that as the sentiment of this county is so much against prohibition, that much illegal sale of liquor will be winked at for a while at least... I am very much afraid that the consumption of liquor will not be curtailed to any extent... I am very much afraid that there may be more liquor sold to Indians than before by means of this nefarious traffic. The saloon-keepers in Tucson have been careful not to sell to any Indians the past couple of years through sheer fear but the law-breakers that may spring come, will not quibble over going ... to [Arizona Prison at] Florence or to [the newly constructed Federal Prison in] Atlanta, if convicted.¹⁴⁷

The superintendent painted the fearless criminal as an insidious threat to Native temperance. The bootlegger, he asserted, was a criminal undeterred by either the law or the threat of punishment. The superintendent once again sought to expand liquor enforcement, but this time using expanded funding rather than expanded jurisdiction. He was not granted the appropriation, most likely because the BIA simply had other priorities.

Nearly a year later, the specter of emboldened and hardened criminals in the city failed to materialize, but the superintendent penned a new bid for funds to the commissioner, “The liquor traffic among these Indians has changed to a marked degree in this State since January 1st. There

¹⁴⁶ Superintendent to Commissioner of Indian Affairs Washington D.C. Apr 27, 1914; Commissioner of Indian Affairs Jan-Jun 1914; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁴⁷ Superintendent to Special Officer Henry Larson, Washington D.C. Dec 24, 1914; Law and Order Special Officer Henry Larson 1912-1916; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 7; BIA, RG 75; NA Riverside, CA

has been a vast improvement so far among the Indians around the city.”¹⁴⁸ In a statement markedly different from his harrowing prediction, the superintendent hailed prohibition as an unexpected and happy resolution to the dangerous urban landscape. He continued, “Prohibition has advanced many of these Indians as nothing else could and I see that it is a great blessing to many in the city who were thrown in contact with it and could not be prevented from drinking otherwise.”¹⁴⁹

With the same breath, however, the superintendent identified the new biggest danger to the Native: access to Mexico. His letter continued, “but I believe the Indians living west where there is no fence or patrol along the international line should be assiduously protected against this nefarious [bootlegger] traffic now.”¹⁵⁰ Further down he clarified, “The evils resulting from the liquor traffic have apparently shifted from the city of Tucson to the country West along the border.”¹⁵¹ Stoking new fears, the superintendent continued, “I have heard reports that some of the ripe mescal roots are being brought across the Line, with which Indians could make their own drink.”¹⁵² Mescal, a type of alcohol related to tequila and made with the roasted heart of any number of agave plants, was steeped in racial subtext that identified it as a beverage of the Mexican working class.¹⁵³ Faced with a calm in the city wrought by state prohibition, the superintendent identified Mexico as the new threat to Native sobriety; his use of the passive voice removes the verb, smuggling, from the racialized smugglers. Notably, while the origin of danger transitioned from urban-miscegenation to border-smuggling, both held Mexico (as either an individual’s nationality or the nation-state) as the central moral threat to Indigenous sobriety. The superintendent believed that Indians needed to be protected from Mexican alcohol and the ingredients of that liquor coming over the U.S.-Mexico border.¹⁵⁴

¹⁴⁸ Superintendent to Commissioner of Indian Affairs Washington D.C. Oct 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁴⁹ Superintendent to Commissioner of Indian Affairs Washington D.C. Oct 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁵⁰ Superintendent to Commissioner of Indian Affairs Washington D.C. Oct 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁵¹ Superintendent to Commissioner of Indian Affairs Washington D.C. Oct 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁵² Superintendent to Commissioner of Indian Affairs Washington D.C. Oct 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁵³ Tequila must technically be made from the blue agave; other production processes differentiate the two spirits as well.

¹⁵⁴ The superintendent’s letters quickly conflated the U.S.-Mexico border with the existing black market and the vast public lands to the West. Turning to the Border is not a conceptual move uncommon for the era. See Stephen Moore’s *Bootleggers and Borders: The Paradox of Prohibition on a Canada-U.S. Borderland* (2016); Rachel St.

In articulating what Native people needed protection from (i.e., access to the border), the BIA acknowledged that Native people sought out alcohol and were not simply passive recipients of insidious influences. Even as the BIA saw them as not simply victims of circumstance, Native people still required *protection* due to their perceived susceptibility to liquor and liquor abuse. In the letter quoted above, the superintendent fretted about Native people making their own mescal. Ten days later, in a letter to Special Officer, Henry Larson, he wrote,

There are several Mexican settlements in the irrigable country just South of the Boundary and these places as a rule all have a Cantina and some a still to make mescal. There are frequent carousals out through the County West when some Indian will bring up a few [containers] and distribute it among his friends. There is more danger of the Indians out there drinking liquors and becoming addicted to their abuse than the Indians around Tucson who heretofore have been the principal offenders.¹⁵⁵

As the superintendent remarked on the Indian who would bring up alcohol from Mexico and distribute it among his friends, he could not avoid the role that Tohono O'odham played in their own debauchery. They were seeking out alcohol, and they were crossing international lines to get it (though they had, of course, been traversing this space in trade and intercourse since time immemorial). But even as he characterized the Indians as distributors of alcohol, the superintendent still assigned blame for Native insobriety to outside forces. They still needed protection. While he no longer imagined racial others in the city as the biggest threat to Native sobriety, he transposed that danger onto the country of Mexico, which provided access to liquor.

As in the city, the superintendent had no jurisdiction over Tohono O'odham on the public lands to the west. He had no means to "protect" Tohono O'odham from either Mexico or from themselves. To counter his legal powerlessness, the superintendent lobbied for a jurisdictional expansion that would give him access to Native bodies along the border. Although Congress and the BIA were working at the time to reduce the size of reservations through allotment and the sale of "surplus" reservation land, the superintendent began to campaign for a new reservation that would incorporate the remote Tohono O'odham living on the public lands. He did so in the name of controlling liquor but also in the name of getting a grip on crime, immorality, and the Indians in general. The superintendent wrote again, this time recounting other cases that were just out of jurisdictional reach. The superintendent wrote, "with further reference to the agency work here, I beg to advise you that there are many more or less serious cases coming up among the Indians living on the public lands west, in which I am unable to mete out justice on account of their being off a reservation."¹⁵⁶ The superintendent then enumerated various crimes committed by Tohono O'odham including adultery and "witchcraft." He concluded his letter,

John's *Line in the Sand* (2011), and Robert Buffington, "Prohibition in the Borderlands: National Government-Border Community Relations" (1994).

¹⁵⁵ Superintendent to Special Officer Henry Larson, Washington D.C. Oct 23, 1915; Law and Order Special Officer Henry Larson 1912-1916; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 7; BIA, RG 75; NA Riverside, CA

¹⁵⁶ It is worth noting that, at times, the superintendent did write about encroaching white ranchers, which the superintendent also had no power over. However, this letter and those that preceded it exclusively enumerate the various crimes committed by Tohono O'odham. The fact that the superintendent asks for officers first and jurisdiction second may suggest that even though the Papago agency had no de jure jurisdiction off the reservation, when it came to alcohol, they may have exercised de facto jurisdictional powers. Superintendent to Commissioner of Indian Affairs Washington D.C. Dec 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

I write the above to give a faint idea of the anomalous situation here, and how difficult it is to administrate the affairs of this agency at this time, and to request renewed efforts be made to create a reservation for these Indians who are living on the public domain here with little protection under the law.¹⁵⁷

Looking to become the arbiter of justice (i.e., punishment) in the community, the superintendent campaigned for the creation of a reservation by mobilizing the discourses of protection.¹⁵⁸

In January 1916 the Superintendent got what he desired. A 2.8 million-acre reservation was established for the Tohono O’odham.¹⁵⁹ Today it is the third largest reservation in existence after Navajo Nation and the Uintah and Ouray reservation. Reservation-creation ostensibly ran counter to the entire BIA program at the time, which through the Dawes Act and boarding school system sought to whittle down Indian Country and render Indigenous people into land-owning citizens. However, in the mind of the Superintendent the impulse to protect/punish Native people “under the law” won out.

Protection From Themselves—Nawait:

While the Superintendent hoped to extend BIA authority to the border the creation of the reservation exposed Tohono O’odham’s ceremonial substance, Nawait, to BIA recourse.¹⁶⁰ In 1919, a few years after the creation of Tohono O’odham reservation and two years after it was enlarged, the superintendent officially moved agency headquarters from San Xavier to Indian Oasis, Arizona.¹⁶¹ The former reservation at San Xavier is today considered a district of the Tohono O’odham Reservation. Shortly afterwards, he renamed the town “Sells, Arizona” as a tribute to the then-Commissioner of Indian Affairs, Cato Sells, who oversaw the creation of the reservation in the name of law and order.¹⁶² The O’odham name remains Komkic’ed ‘E

¹⁵⁷ Superintendent to Commissioner of Indian Affairs Washington D.C. Dec 13, 1915; Commissioner of Indian Affairs July-Dec 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁵⁸ Moreover, oblique references in the archive suggest that a previous effort to establish a reservation was undertaken in 1913, however documentation of that effort is otherwise missing.

¹⁵⁹ In the archive that I analyze for this chapter, the reservation is established suddenly. Little correspondence precedes expressions of support from the Commissioner and the Governor Arizona and the Executive Order that established the reservation. In the archive I examine, it appears that the BIA’s campaign to “protect” Native people from the alcohol coming across the border led directly to an increase in Native land. However, other scholars have traced how the establishment of the 2.8 million-acre Tohono O’odham reservation was at least also the culmination of a well-known and unsuccessful land-grab scheme engineered by a Los Angeles real estate developer. From the archive that I analyze, it is unclear to what extent national versus local conditions factored into the creation and demarcation of the reservation, an avenue for future research.

¹⁶⁰ I hesitate to call Nawait alcohol, even though that is what the BIA called it. Nawait is a ceremonial substance that outsiders deemed alcoholic, but it remains a substance of its own category (see Chapter Four).

¹⁶¹ Superintendent to Commissioner of Indian Affairs Washington D.C. Feb 26, 1919; Commissioner of Indian Affairs 1919 Jan-Jul, 1917-1920; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 12; BIA, RG 75; NA Riverside, CA

¹⁶² Today Sells, Arizona, is the capital of Tohono O’odham Nation. Cato Sells was Commissioner from 1913-1921.

Vaa'osidk, which translates to "Place Where the [big Desert] Tortoise Got Itself Stuck."¹⁶³ The new agency headquarters were in the heart of Tohono O'odham country and 60 miles from Tucson. Stationed closer than ever before, the superintendent began to target Tohono O'odham Nawait.

Tohono O'odham living on public lands in the West had long flown under the BIA's radar; the BIA lacked the jurisdiction, personnel, and funds to oversee them. As a result, it seemed to officials that the remote Tohono O'odham didn't need protection from alcohol because they were already segregated, and as such, protected by their remoteness. While in 1914 officials knew the term "Nawait"—which the superintendent labeled a "mild intoxicant [made] from the crushed fruit [of the Saguaro cactus] for old semi-religious reasons"—they viewed it as a trivial substance made by a "backwards" (read traditional) few.¹⁶⁴ In one letter to the superintendent, the commissioner cited a recent report on Tohono O'odham that read,

"The Indians living on the [San Xavier] reservation and on the public domain seem to be well protected because of their remoteness from white settlements, their own good habits, the vigilance of Agency officers, and the influence of the missionaries. The Indians living near [the cities] are much more exposed to temptation and are too often demoralized and vicious."¹⁶⁵

The superintendent's assertion that those in the West were well *protected* from liquor by their remoteness belies the directed and systematic attack on Nawait that would follow. Stationed some 60 miles away from Tohono O'odham communities in the West, officials could imagine them in a state of nature, unsullied by "white savagery" in the city.

The superintendent initially imagined the creation of the reservation as a victory for liquor suppression. In January of 1916, he confidently penned a response to the commissioner's inquiry on Tohono O'odham's relationship with Tulapai, a fermented corn drink made most notably by certain Apache groups. He wrote, "These Indians do not make tulapai yet but only a form of tiswin, which they prepare from the ripe fruit of the giant cactus and call 'naaiwak."¹⁶⁶ After explaining the manufacturing process, the superintendent asserted that his newfound jurisdiction would deliver precisely the remedy required: "Since this country is made a reservation now by Executive Order the liquor situation can be handled by the agency force alone and I believe that very little drinking will be indulged in after this."¹⁶⁷ The superintendent

¹⁶³ Harry J. Winters, Jr. *O'odham Place Names: Meanings, Origins, and Histories, Arizona and Sonora* (Tucson: SRI Press, 2020), 86

¹⁶⁴ Superintendent to Commissioner of Indian Affairs Washington D.C. Feb 4, 1914; Commissioner of Indian Affairs 1913; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁶⁵ Commissioner of Indian Affairs to Superintendent Feb 19, 1915; Commissioner of Indian Affairs Jan-Jun 1915; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 2; BIA, RG 75; NA Riverside, CA

¹⁶⁶ Superintendent to Commissioner of Indian Affairs Washington D.C. Jan 22, 1916; Commissioner of Indian Affairs 1916; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 7; BIA, RG 75; NA Riverside, CA

¹⁶⁷ Superintendent to Commissioner of Indian Affairs Washington D.C. Jan 22, 1916; Commissioner of Indian Affairs 1916; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Quigg, Box 7; BIA, RG 75; NA Riverside, CA

envisioned the newly created reservation as a means to better control Tohono O’odham, protect them from Mexican liquor and curb what he saw as their primitive wine-making.

Rather than getting a greater hold on the U.S. Mexico border, and keeping Mexican liquor from falling into Native hands, once relocated, the Superintendent found liquor suppression to be an unwieldy, bordering on futile, task. The superintendent quickly had to come to terms with the fact that liquor suppression on the new reservation was not as easy as he had assured the commissioner it would be; instead, it was made markedly more difficult and infinitely more frustrating due to limited BIA resources. Although he was now in the center of Tohono O’odham territory and seeing more alcohol in Native hands than ever before, due to the budget cuts engendered by the simultaneous rise of National Prohibition (1919), the Superintendent was increasingly powerless to stop it.¹⁶⁸

Expanded jurisdiction failed to give superintendent the control he desired. Typical in the Papago archives is a 1920 letter from the superintendent to the commissioner that read, “The police force at this Agency is wholly inadequate. The present force being 1 Police Officer and 5 Privates. These men have to travel over a territory of nearly three million acres and it is impossible for so few Police to keep proper discipline in this jurisdiction.”¹⁶⁹ The superintendent went on, “the reservation borders on the Mexican line for fifty miles and this Mexican country being ‘wet’ a considerable amount of ‘tequila’ and ‘mescal’ is smuggled across onto the Reservation and from now on a closer watch than ever will have to be kept on the Border if this liquor traffic is to be handled the proper way.”¹⁷⁰ Letters from the superintendent during this period invoke a concern with the vast space of the reservation. What had before seemed just out of reach in terms of jurisdiction now seemed an incorporated but no-less intractable desert landscape. Although the superintendent had the jurisdictional power to stop Tohono O’odham from drinking, he lacked the manpower.

In a letter dated November 5, 1915, Sells writes to the superintendent “relative to the manufacture of a beverage by these people called ‘naiiwak’ and the possibility of their taking up the manufacture of tiswin.... Direct your police to destroy the preparation, as well as the vessels in which It is made.”¹⁷¹ A letter written in 1917 by a white agency officer who did just that and destroyed fifty-three ollas (bulbous pots made and used by O’odham for storing and cooking

¹⁶⁸ In addition to budget cuts, the massive land mass itself proved unwieldy. Everyday operations like communication, travel, and supplies became logistical nightmares to BIA officials unaccustomed to the vastness of O’odham jeved. Tucson was over a full days’ ride on horseback away (60 miles), an especially long distance when compared to the former headquarters in San Xavier (16 miles). The lack of water and the sheer size of the reservation proved hostile to any meaningful control. In 1921 the young agency nearly had to shut down due to lack of water.

¹⁶⁹ Superintendent to Commissioner of Indian Affairs Washington D.C. Mar 14, 1920; Commissioner of Indian Affairs 1920 Jan-Jun, 1919-1921 2/2. Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 13; BIA, RG 75; NA Riverside, CA

¹⁷⁰ Superintendent to Commissioner of Indian Affairs Washington D.C. Mar 14, 1920; Commissioner of Indian Affairs 1920 Jan-Jun, 1919-1921 2/2. Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 13; BIA, RG 75; NA Riverside, CA

¹⁷¹ Commissioner of Indian Affairs Washington, D.C. to Superintendent of Sells Indian Agency Nov 5, 1915; “Commissioner of Indian Affairs July-Dec 1915”; Sells Indian Agency (Papago) Subject Files of the Superintendent 1900-1928. Quigg, Box 2; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA.

food) provides a stark contrast with earlier characterizations of the substance as trivial and gives insight into the changing stakes of liquor suppression efforts:

In reply to yours of the 16th inst., in regard to breaking ollas at Santa Rosa Indian village, will say that I did break as many as 53 in all... These Indians have a great many ollas. Some of them they use for water and others to store their stuff in... I examined every one carefully. The odor [of Nawait] from every one I destroyed was very strong... I remember of one Indian who had a small grocery store and who claimed to be a chief that had 3 ollas filled with wheat... telling me that he had used these ollas to make his wine and that he would not make any more if I would let him keep them. I then at a loss as to what to do told him that I had broken a good many ollas for the other Indians and that I would not be treating right by letting him keep his ollas... He helped empty his ollas, and after we had them emptied I asked him if he would destroy them. He said 'no'; that if I wanted to break them to do it.¹⁷²

The systematic reaction of the officer reveals the alarm that Nawait raised in Agency officials. The meticulous care the officer employs: inspecting, smelling, and checking "every one," suggests the severity with which he approached, and was told to approach, Nawait.

When they encountered Nawait, BIA officials were forced to acknowledge the fact that Native people were not only victims of circumstance or proximity. They were seeking out and manufacturing alcohol of their own, and they had been since time immemorial. Officials could no longer displace the fault of Native drinking only onto Mexicans or Mexico. Nawait was a substance made, named, and consumed by Tohono O'odham. The BIA's role as simultaneous protector, disciplinarian, and teacher of Native people made for a strange encounter for the officer charged with destroying the Nawait. The BIA sought to destroy the substance and stop Tohono O'odham from manufacturing it. However, when the officer arrived none of the ollas had Nawait in them, only residue. Faced with his untimely arrival (the Nawait already consumed), the officer sought to prevent Nawait in the future. He destroyed the containers, but when faced with the elder's promise that he would not make tiswin in the future if he could keep his olla, the officer is "at a loss as to what to do." Was destroying the ollas his objective or was he supposed to stop Tohono O'odham from manufacturing it? Said otherwise, was he there to punish Native people for making alcohol or to stop them from making it? Native-made alcohol obfuscated for officials the distinction between the BIA's objectives to protect, prevent, and punish.

To make matters worse, some Tohono O'odham outright refused the so-called protection of the BIA. In September of 1922, the superintendent wrote to the commissioner concerning the attempted arrest of one Tohono O'odham leader, Tapia. The superintendent described Tapia, a tribal leader at Big Fields, as "non-progressive and opposed to anything that has anything to do with the white man's ways."¹⁷³ Tapia was accused of producing and distributing Nawait, crimes that came to light while two (American Indian) BIA policemen (Hugh Norris and Juan Louis)

¹⁷² D.A. Jamison to Henry Larson Washington D.C. Apr 21, 1917; Commissioner of Indian Affairs 1919 Jan-Jul, 1917-1920 Law and Order Chief Special Officer Henry A Larson 1916-191; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 9; BIA, RG 75; NA Riverside, CA

¹⁷³ Superintendent to Commissioner of Indian Affairs Washington D.C. Sep 18, 1922; Law and Order Liquor Suppression 1918-1923; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 27; BIA, RG 75; NA Riverside, CA

were searching the village for truant children to send to the Fort Yuma Indian School; compulsory education represented another arm of the policed and enforced civilizing process. When the two policemen arrived, Tapia was in the middle of ceremony. The superintendent wrote, “They found that Tapia had made a couple of large ollas of tiswin, an intoxicating drink made from the fruit of the giant cactus, and there were between two and three hundred Indians – men and women – drinking this wine. Some were already intoxicated.”¹⁷⁴ When confronted, Tapia “informed Hugh Norris that he had made it [Nawait] and was giving it away in order to make it rain and that he always did it and always would.”¹⁷⁵ As Tapia was being arrested, he called out for help and Tohono O’odham community members rushed in, grabbed Tapia, and dragged him away from the police. Tohono O’odham were not only refusing *protection* but also resisting arrest/enforcement, and in doing so they would test the limit of the BIA’s good will.

Just over a month later, the superintendent wrote again to the commissioner concerning another Tohono O’odham leader, Jose Pablo. Pablo was arrested for and pled guilty to making tiswin. He passed away in custody while serving his 90-day sentence.¹⁷⁶ Later, while reporting on his liquor suppression efforts, the superintendent recalled the incident:

I have been trying hard to eliminate [Nawait], but it is a difficult task... I have convicted three of the main ones but unfortunately one of these men died while serving out his sentence in the county jail. Immediately after this all the head men of the reservation called on me and wanted to know what I expected them to do. If they gave up the making of [Nawait], it would mean starvation for their wives and children, as it would never rain again. They claim that when the creator put them here he told them to make this drink in order to have rain, and the old timers firmly believe in this.¹⁷⁷

As the arrest and death of Jose Pablo and the attempted arrest of Tapia indicate, the stakes of liquor suppression were incredibly high for both Tohono O’odham and the BIA. For the BIA, at stake was authority, control, and a sober U.S. citizenship (what the BIA believed was best) for the Indians. For Tohono O’odham, whether dead in custody for making Nawait or dead by starvation because they didn’t, death loomed on either side. Liquor suppression had come to threaten Tohono O’odham lives and a Tohono O’odham way of life. For Tohono O’odham to make Nawait was to break U.S. law, but to forgo it was to break O’odham law (see Chapter Five for more on Nawait and the associated ceremony). The superintendent was faced with a problem: liquor on Tohono O’odham was endemic. It was not a new influence that Tohono O’odham needed to be protected from, but an old (savage) tradition to be rooted out.

¹⁷⁴ Superintendent to Commissioner of Indian Affairs Washington D.C. Sep 18, 1922; Law and Order Liquor Suppression 1918-1923; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 27; BIA, RG 75; NA Riverside, CA

¹⁷⁵ Superintendent to Commissioner of Indian Affairs Washington D.C. Sep 18, 1922; Law and Order Liquor Suppression 1918-1923; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 27; BIA, RG 75; NA Riverside, CA

¹⁷⁶ Superintendent to Commissioner of Indian Affairs Washington D.C. Nov 2, 1922; Law and Order Liquor Suppression 1918-1923; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 27; BIA, RG 75; NA Riverside, CA

¹⁷⁷ Superintendent to Commissioner of Indian Affairs Washington D.C. Feb 28, 1923; “Commissioner of Indian Affairs 1923 1/3”; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 14; BIA, RG 75; NA Riverside, CA

Two years after his notorious encounter with the reservation police, Tapia reappears in the archive.¹⁷⁸ He is once again resisting arrest, and this time liquor suppression efforts and Tohono O'odham resistance had come to a head:

On August 5, I sent Juan Louis and Abe Pablo, two Indian police to arrest Tapi[a] at the Big Fields village for making [Nawait] at his fiesta... When the police arrived at Tapi[a]'s house and informed him why they had come he walked into the house and returned with this cartridge belt on and his rifle in hand. He said to the police 'Now get me if you can'.¹⁷⁹

Tapia was not just refusing BIA policed protection or simply resisting arrest, as before. He was now actively taking up arms against it.

As Native people increasingly became the villains in the superintendent's eye, one can't help but wonder what the superintendent replied when one interested writer inquired, "Will you be so kind as to state whether in your opinion immorality among the Indians is due to the presence of low whites, or temptations in boarding schools, or to the Indian pupils themselves regardless of white influence?"¹⁸⁰

Importantly, not all Native people were villains in the eyes of BIA officials, though all had the potential to be. While many Tohono O'odham people felt the wrath of the superintendent's program, a few seized a small window of opportunity to align themselves with the BIA. After receiving one of the commissioner's boilerplate letters about the dangers of whiskey, one Tohono O'odham, Domingo Franco, composed a response:

I am glad that I do not touch any whiskey because I know it will do a great harm to my body. I am telling you the truth. I am sorry to say that these other fellows can't stop drinking liquor. I will tell you the truth that I have never asked a Mexican to do such thing as to buy whiskey for me. Of course I got drunk 2 times just because a fellow that had whiskey told me to take a drink. No, I said. The fellow was drunk. He was very mad after telling me to have a drink, so of course I had to take it because he might hurt me...

That is what my friend did to me while I was trying to keep off the whiskey.

Domingo Franco mobilized the BIA narrative of morality and danger. He had been tempted, and fearing for his life, he was forced to drink. Underscoring truth-telling explicitly twice, he underlined these expositions through the mobilization of the confessional. Whether the narrative was in earnest or was meant to convince the superintendent that he would be a good employee, Domingo's bid was effective in gaining the tentative trust of both the commissioner and the superintendent; later that year, at the recommendation of the commissioner, the superintendent hired Domingo onto the Indian Police force. As a letter from Domingo Franco, who landed a job as a liquor suppression agent suggests, the politics of liquor suppression quickly became

¹⁷⁸ Despite a change in spelling in the archive I believe it is the same person, as the O'odham "o" is somewhere between an English "a" and an "o." I keep the spelling uniform throughout.

¹⁷⁹ Superintendent to Commissioner of Indian Affairs Washington D.C. Aug 17, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA

¹⁸⁰ Warren Ki to Superintendent of Sells Indian Agency Mar 15, 1924; "Commissioner of Indian Affairs 1924-1926 1923-1926"; Sells Indian Agency (Papago) Subject Files of the Superintendent 1900-1928 Quigg, Box 14 Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA.

entangled. When individuals were arrested for drunkenness, it was often Native people doing the arresting.

Neither were Native people so easily divided into progressive and non-progressive. For example, in 1934 a Native judge was caught drinking with his friends.¹⁸¹ Although outside of the time and scope of this chapter, small vignettes like this one pepper the archives, and they suggest that Native people used, and were in the process of using, positions of power to shield themselves (and their communities) from the law. I get into some other examples in the final section of the chapter. Native people were victims, perpetrators, and manipulators of liquor suppression efforts in concert with, under the radar of, and against the BIA.

Faced with Indigenous refusal of and hostility toward BIA protection, officials were unsure of the best course of action. Should Tohono O'odham, they wondered, be compelled to give up their Nawait by force or by reason? As the superintendent, once again, was forced to write the commissioner about Tapia, he was at the end of his rope. The impetus to protect Tohono O'odham was gone. He wrote, "I have gone to the limit with them in patience and trying to avoid trouble and recommend that the U.S. Marshal be instructed to make the necessary arrests in this matter immediately."¹⁸² The commissioner, however, hoped to emphasize the political responsibility of citizenship. The commissioner responded almost immediately to the superintendent's distressed missive with a telegram that read, "do not precipitate trouble."¹⁸³ Elaborating in a letter that arrived a few weeks later, the commissioner suggested that the Indians who were charged with making and giving away intoxicating liquor be brought before a grand jury rather than arrested via warrant from the commissioner of Indian Affairs. This way, he wrote, "the Indians will realize that they are directly violating the law."¹⁸⁴ The commissioner imagined that by bringing the Indians before a grand jury they might realize themselves as subjects of the U.S. and subject to U.S. law. Either by immediate arrest or indictment, though, the transgressors at hand would end up in jail. The commissioner and the superintendent agreed that the culprits had to be punished.

Tapia and eight other leaders who were charged with making Nawait and dodging compulsory education were indicted on the 24th of August 1924. However, even after the indictment, the commissioner wrote a letter that sought to convince Native people of the BIA's beneficence and to responsabilize them as citizens:

¹⁸¹ Affidavit by Roswell Manuel, Chief of Police Sells Indian Agency October 8, 1934; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA

¹⁸² Superintendent to Commissioner of Indian Affairs Washington D.C. Aug 14, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA

¹⁸³ Commissioner of Indian Affairs to Superintendent Sells, Arizona. Aug 16, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA

¹⁸⁴ Commissioner of Indian Affairs to Superintendent Sells, Arizona. Sep 6, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA

It has been reported to the Office that each of you are opposed to the actions of superintendent McCormick in attempting to stop the making of [Nawait] and his attitude on education of young Indians... Thus you can see that you are not only violating the state law but you are also violating the Federal law... Since the [Indian Citizenship Act of 1924] was enacted citizenship has been granted to the Indians. This makes the education of the children even more important than before because the Indians must have more education to meet the new duties and obligations which have been bestowed upon them... These laws and regulations are made for your benefit and when you violate them you not only harm yourselves, but cause superintendent to take action which he does not desire but must take.¹⁸⁵

Deeply invested in its perceived benevolence, the BIA held that the Federal and State laws were made for Tohono O’odham’s benefit, even as Tohono O’odham leaders/elders were incarcerated.

The BIA sought to convince Tohono O’odham people of its good intentions through the language of citizenship. In 1924, Tohono O’odham and all Native people had been “granted” (or, in the words of Audra Simpson, “gifted,” U.S. citizenship with the passage of the Indian Citizenship Act.¹⁸⁶ The BIA sought to assert to Tohono O’odham that Tohono O’odham were political and moral agents capable of making their own decisions and that they were accountable for their own transgressions. The BIA maneuvered to set an example for Tohono O’odham through the prosecution of some of their leaders; it flexed its power to reveal the extent of U.S. power and the punishment regime that supported it, and to insist to Tohono O’odham that it was the BIA’s prerogative to incorporate, discipline, and punish them. In indicting Tohono O’odham leaders, the superintendent and the commissioner sought to stress the power of U.S. over Native law (traditional customs and political structures), and the power of U.S. law over Native bodies. Jose Tapia, Louis Foot, Helino, Helise, Geronimo, and Waukatch (it is unclear in the archives what happened to the other three leaders who were indicted) stood trial for making Nawait. Figure 2.1 shows a local newspaper headline announcing the trial. The trial proceedings that led to the conviction of Jose Tapia and his cohort proceeded on January 6, 1925. They centered

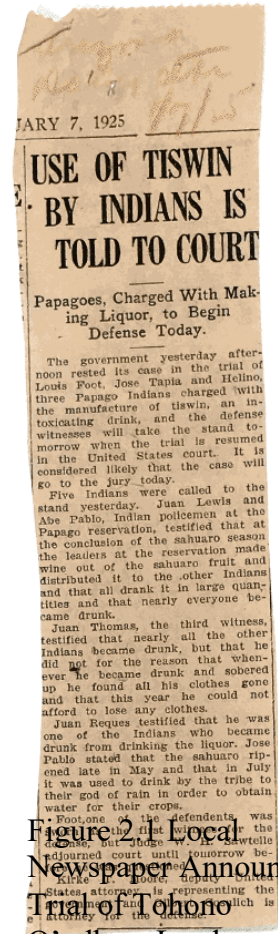


Figure 2.1 Local Newspaper Announces Trial of Tohono O’odham Leaders

¹⁸⁵ Commissioner of Indian Affairs Mr. Konaron, Mr. Antonio Lopez, and Mr. Louis Foot Care of Superintendent Sells, Arizona. Oct 2, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA. The Indian/agent aporia comes into sharp focus as the BIA sought to convince Tohono O’odham people of its good intentions through the language of citizenship.

¹⁸⁶ Some Native people had already been conferred citizenship as part of the allotment system. However, state citizenship varied wildly. Western states including New Mexico, Utah, and Arizona denied full citizenship to Native people until the mid-twentieth century. For more on Indigenous citizenship and sovereignty during this era see Jacqueline Fear-Segal, *White Man’s Club: Schools, Race, and the Struggle of Indian Acculturation* (Lincoln: University of Nebraska Press, 2007).

around the question: Was Nawait really for religious purposes? Juan Louis, Abe Pablo, and Hugh Norris (all notably on the BIA payroll) completed an interview with the superintendent. One interview with an otherwise unidentified “Sam” reads, “Supt: Did you ever hear any of the Indians in the olden days claim that this was their religion? Sam: No, I never heard of it being religion.”¹⁸⁷

Ultimately, the testimony from the Native BIA police would lead to the conviction of Louis Foote, Jose Tapia and Helino. In the conviction of Tohono O’odham leaders, the superintendent had achieved a victory of jurisdiction and ostensibly for the Indians themselves. Resonating with the commissioner’s letter, which asserted that the laws were made for Tohono O’odham’s own benefit, as Tohono O’odham leaders sat in a prison in Prescott, Arizona, the superintendent distributed a letter to the “The Chief and Inhabitants” of seven Tohono O’odham communities.¹⁸⁸ It read,

The making of Tiswin or other intoxicating drink in the above named village or at any other place on the Papago Indian reservation is hereby expressly prohibited and all Papago Indians are hereby warned not to make or drink Tiswin or other intoxicating liquor. All persons violating the Laws of the Unites States and the Regulations of the Department of the Interior pertaining to the making or use of intoxicating liquors on the Papago Indian Reservation will be prosecuted and punished in accordance with the said laws and regulations.¹⁸⁹

BIA protection had finally manifested into a full-on threat of persecution and prosecution without pretense.

Protecting Themselves—Nawait:

Although the Tohono O’odham had little control over the official narrative relayed to the commissioner, the archives suggest that the Tohono O’odham consistently and simultaneously maneuvered to test and contest the limits of BIA authority in several ways. Certainly, they had little interest in being *protected* from ceremony. In a letter to Antonio Lopez of Florence, Arizona the superintended wrote,

You are claiming that the letter written you on June 7, 1923, by Commissioner Burke in answer to yours of May 20 gives you and the people among whom you live permission to go on and do whatever you like or have been doing, including the making of a wine called ‘Tiswin’ for use at your fiestas. You have a wrong impression about this matter.¹⁹⁰

While just a fragment in the archives, this letter reveals that Native people sought to use the bureaucracy of the BIA against itself. Natives appear to have been proclaiming to what the reader imagines is police, that they made Nawait under the auspices of the commissioner. Going

¹⁸⁷ Interview, A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA.

¹⁸⁸ The letter was addressed to “achchim, achi, anegam, Big Fields, Camababi, Iloidek & Sical-humat-ker Villages & Cababi Village.”

¹⁸⁹ Superintendent to The Chief and Inhabitants of the achchim, achi, anegam, Big Fields, Camababi, Iloidek & Sical-humat-ker Villages & Cababi Village. Jul 31, 1926; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago); Central Classified Files 1925-1951, Box 31; BIA, RG 75; NA Riverside, CA

¹⁹⁰ Commissioner of Indian Affairs Washington D.C. to Antonio Lopez Florence, AZ; Sept 29, 1923; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA

right over the superintendent's head, Natives drew upon the chain of command to at the very least buy themselves some more time to finish ceremony. In another letter, this time to the commissioner, the superintendent writes, "I had two policemen at the border searching the Indians as they crossed the line [the U.S.-Mexico border, following the Magdalena Fiesta] and one crowd that was on horseback would not stop and one of them fired two shots in the air."¹⁹¹ The Tohono O'odham at the border, refused to stop for BIA officers at the U.S.-Mexico Border. Charging through, they physically avoided search and seizure. Shooting a gun into the air, they dared officials to follow.

The case of Tapia and other Tohono O'odham leaders reveals interesting maneuvers for power as well. Tapia and three other leaders (most notably those who weren't already confined in Tucson) refused to surrender to the superintendent until the return of a Tohono O'odham delegation to Washington. The superintendent wrote,

They refused to surrender at this time their excuse being that they are awaiting the return of Louis Foote from Washington. They stated if Louis brought the message that it was wrong for them to make tiswin, they would voluntarily surrender, but if Louis brought word that the commissioner said it was all right for them to make it, they would not surrender.¹⁹²

It wasn't until later that the superintendent discovered that Louis Foote did not go to Washington to ask about the permissibility of Nawait but to negotiate the release of his comrades being held in Tucson.

Tohono O'odham sought to outmaneuver the superintendent. Going over his head, they attempted in various ways to maintain their lifeways with real or accepted authority. In addition, and no doubt exacerbating the superintendent's frustration was the fact that the Tohono O'odham leaders who refused to surrender revealed that they had been getting some legal advice from a mysterious source. The superintendent wrote to another Agent,

There is an Indian on your reservation that seems to be acting as legal advisor for these Papagoes that want to make the wine. I am told from other Indians that this Apache says that as long as it is their religion that I cannot stop it. There are about a dozen Papagoes over there now consulting him and I wish you would find out for me who this part is and where he is getting all his information from.¹⁹³

¹⁹¹ Superintendent Pima Indian School to Commissioner of Indian Affairs Washington D.C.; Jan 15, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA

¹⁹² Superintendent of Sells Indian Agency to Commissioner of Indian Affairs Washington D.C.; Sept 30, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA. See too Superintendent of Sells Indian Agency to Commissioner of Indian Affairs Washington D.C.; Sept 20, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA.

¹⁹³ Superintendent of Sells Indian Agency to Superintendent Salt River.; Sept 4, 1924, A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA) Riverside, CA.

This alleged Apache perhaps suggested that Indians were covered under the First Amendment's freedom of religion clause, whereas the aforementioned Code of Indian offenses effectively outlawed much of Native religious practice.

Prior to appointing the two attorneys to defend these men the superintendent wrote, "Judge Sawtelle asked Tapia if he had an attorney, and through the interpreter Tapia answered 'yes.' The judge then asked him where his attorney was, and Tapia turned around and pointed to Louis Foote."¹⁹⁴ It's unclear if Tapia intended to reveal the U.S. court system as a racket or if he simply didn't understand what he was being asked. Importantly, in O'odham the word for lawyer is the same as "council man," "wise one," and "elder." Regardless of his reasoning, Tapia's comical assertion that his fellow defendant was in fact his lawyer belied the pomp and circumstance the BIA sought to stress.

Conclusion:

In Tohono O'odham, BIA officials campaigned to "protect" the Indian from alcohol in the nearby cities, coming across the U.S.-Mexico border and made by Tohono O'odham themselves. In the BIA's estimation, Native people needed to be protected. BIA officials imagined that protection would materialize through the law, and more specifically, through legal *incorporation* that would enable punishment. BIA protection and criminalization of Native people proved to be two sides of the same coin, ultimately, a conduit for legal power grabs.

In 1916, the BIA officials received an infusion of power. The *incorporation* of the Tohono O'odham reservation both gave BIA officials more power over Native land and people—power that officials took full advantage of—and led officials to realize that alcohol was not exclusively an import for Tohono O'odham but constitutive of an Indigenous and ceremonial substance called "Nawait." *Incorporation* not only proved instrumental to an evolving campaign to suppress liquor use in Tohono O'odham communities, but also it provided BIA officials with the legal means and to take direct aim at traditional O'odham life and law.

Unlike the establishment of Organ Pipe National monument, the Barry M Goldwater bombing range, and other jurisdictions, which I discuss in the next chapter, the *incorporation* of the Tohono O'odham reservation didn't remove Native title to land, it redefined and circumscribed it. The incorporation of the reservation had its own consequences, however. While we can acknowledge that the Tohono O'odham reservation later became a stronghold of Native sovereignty, when it was established BIA officials used it to dismantle Native polities and lives.

¹⁹⁴ Superintendent of Sells Indian Agency to Commissioner of Indian Affairs Washington D.C.; Nov 25, 1924; A&S Policy Liquor and Drug Traffic 1918-1939; Sells Indian Agency (Papago) Central Classified Files 1925-1951, Box 31; Bureau of Indian Affairs (BIA), Record Group (RG) 75; National Archives (NA), Riverside, CA.

Chapter Three

S-Cuk Şon, 'Ali Şon (Tucson, Arizona): New Border Municipalities & O'odham Inroads

Building on the last chapter, where I explore how the jurisdiction *incorporation* on/of the Tohono O'odham reservation played out on the ground, I now turn to analyze how the jurisdictional landscape of O'odham jeved impacts the where, what, and who of border-politics in the present.¹⁹⁵ Specifically, in this chapter I provide an overview of the jurisdictional composition on O'odham jeved and demonstrate that it determined where construction of Trump's border wall proceeded. I then turn to examine Tucson, Arizona (the Tucson City Council in particular) as a locale where various anti-border networks from various jurisdictions coalesce. Drawing primarily from my qualitative analysis of over fifty video hours of City Council sessions and City Council documents from 2009-2020 (agendas, resolutions, and minutes) as well as periodicals, Department of Homeland Security (DHS) data, and my ethnographic fieldwork, I examine how Tucson City Council mediates and engages with broader border politics. I explore who calls upon the City Council to act and when the City Council considers pro-immigrant actions to be going too far. I discover that local citizens, municipalities, and states use multiple and heterogenous approaches to affect change at the border with varying success (and varying definitions of success), and I argue that these actions constitute an important, adaptable, and multifaceted network of resistance. I conclude that even though regions of O'odham jeved outside of the reservation and under federal jurisdiction remain at the mercy of the federal government, O'odham communities continue to find avenues and advocates in and through various other means.

Jurisdiction on O'odham Jeved

Like the Tohono O'odham reservation, the land at the border was *incorporated* not according to an insidious and grand settler colonial design but because of haphazard opportunity and local circumstance. Nonetheless, the jurisdictional composition of the borderlands has been a key player in the weaponization of O'odham jeved.¹⁹⁶ Figure 3.1, a map showing Arizona surface management responsibility and produced by the Arizona State Land Department, details the jurisdictional make-up of O'odham jeved along the U.S.-Mexico border.

About 250 of Arizona's 378 border miles fall on O'odham jeved (Figure 3.2). The largest parcel of land at the border not owned and managed by the federal government outright is the

¹⁹⁵ As I discuss in the first chapter, "the border" herein is ambiguous. I take "the border" to signify not just the material U.S.-Mexico border but all that it has become a metonym for namely, security. This includes but is not limited to the political platform of Donald Trump where "securing the border" acts as a code for anti-brown-immigrant racism. In step, anti-border here signifies both opposition to the U.S.-Mexico border as envisioned by Trump and pro-immigrant and pro-refugee policy and sentiment, which predates him.

¹⁹⁶ Whereas in Texas the administration had to attempt to coax or coerce individual land holders into selling, on public and military lands in Arizona, the wall was erected largely without incident. Of the 453 miles of the wall completed, 225 of them were in Arizona.

Tohono O’odham reservation (orange).¹⁹⁷ Over half of Arizona’s border miles (150) fall on land federally owned and are managed as either public or military space. They are overseen by the

¹⁹⁷ Reservation land is held in trust by the U.S. government for the use of various Native American tribes The National Resources Conservation Service (under the umbrella of the U.S. Department of Agriculture) elaborates “Tribal trust lands are held in trust by the United States government for the use of a tribe. The United States holds the legal title, and the tribe holds the beneficial interest. This is the largest category of Indian land. Tribal trust land is held communally by the tribe and is managed by the tribal government. Tribal members share in the enjoyment of the entire property without laying claim to individual parcels. The tribe may not convey or sell trust land without the consent of the federal government. Tribes may acquire additional land and have it placed in trust with the approval of the federal government.” “Definition of Indian Country” *United States Department of Agriculture*, 1

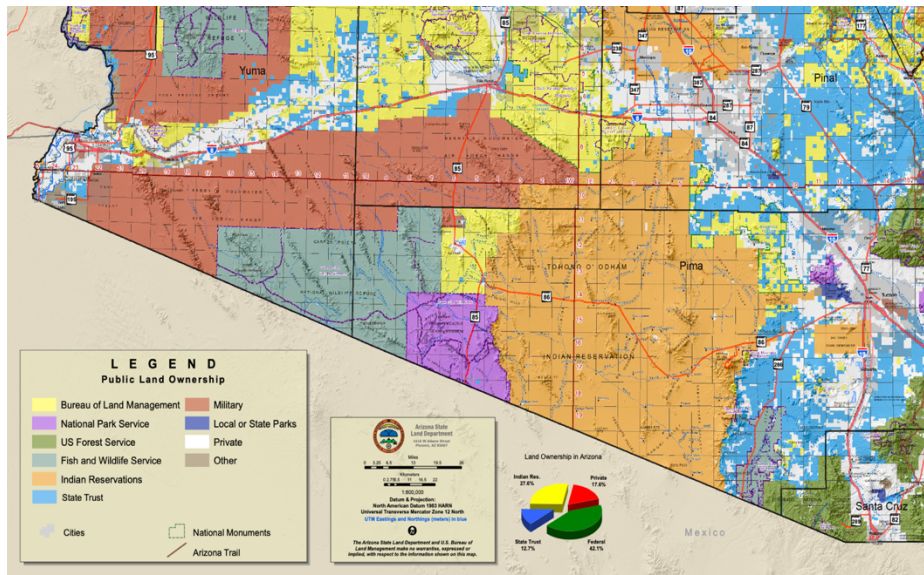


Figure 3.1: Surface management in Arizona



Figure 3.2 New Border Wall System

National Park Service (purple), the Fish and Wildlife Service (light blue), the Forest Service (green), and the U.S. Air Force (red). Much of this land is legally deemed “wilderness.” Designated wilderness as a legal concept in the U.S. originates in the 1964 U.S. Wilderness Act, which set out to “preserve and protect” areas “untrammeled by man.” Wilderness areas are parcels of land under federal ownership and management where human influence is

"substantially unnoticeable," and which possess "ecological, geological, or other features of scientific, educational, scenic, or historical value."¹⁹⁸

These areas are not only managed as wilderness but carefully crafted to appear empty and “untrammeled.” Organ Pipe National Monument, for example, is traditionally Hia Ced and Tohono O’odham territory. It was established as a national monument by President Roosevelt on April 13, 1937. Before the monument was established there were discussions about expanding the Tohono O’odham reservation to include at parts of the area what would become Organ Pipe. However, these talks fell through at the behest of conservationists. Instead, the Tohono O’odham Reservation (established in 1916) was used primarily as a point of reference; where the reservation ended, the monument began. And, as a compromise between conservationist and O’odham interests, the new monument administration was directed to accommodate O’odham fruit gathering sites and practices.¹⁹⁹

When the monument was established an [Hia Ced] O’odham family, the Orosco family, lived within the boundaries. The Oroscos lived at *A’al Wappia* (Quitobaquito Springs), which had been inhabited by O’odham forever and is just about a one-minute walk to the border.²⁰⁰ Bureau of Indian Affairs (BIA) officials advocated on behalf of the Oroscos and asked that the local National Park Service (NPS) allow the family to remain at A’al Wappia. While officially the National Park Service agreed to allow the Oroscos to remain in the monument, William S. Supernaugh, the monument’s first superintendent, “decided that Orosco’s livelihood conflicted with NPS conservation goals.”²⁰¹ Discovering four deer carcasses at Orosco’s home, Superintendent Supernaugh concluded that Natives and nature could not live in the same place, and he did everything within his power to deter Orosco from staying. He even went as far as to write to his superiors in an attempt to have Orosco deported. In response, officials informed the superintendent that while Orosco was not enrolled in the Tohono O’odham Nation, he had been granted U.S. citizenship under the 1924 Citizenship Act. After a lengthy power struggle, Jim Orosco, son of the family, signed a consent to condemnation in 1955 after his father’s death. The ranch was razed. The Organ Pipe Cactus National Monument was emptied of people, in order to make it pristine, untouched, wilderness.

Construction of Trump’s border wall was facilitated by the designation of public and military land. A map published on January 25, 2021 by U.S. Customs and Border Patrol (Figure 2) of new and existing barriers along the border in southern Arizona reveals that the largest continuous section of the wall or the “new border wall system” (designated in red) borders, from east to west, Barry M. Goldwater Bombing Range, Cabeza Prieta National Wildlife Refuge and

¹⁹⁸ [Pub. L. 88–577, § 2](#), Sept. 3, 1964, [78 Stat. 890](#).

¹⁹⁹ According to the proclamation the new National Park Service administration was subject to, the “Right of the Indians of the Papago Reservation to pick the fruits of the organ pipe cactus and other cacti, under such regulations as may be prescribed by the secretary of the interior.” *Proclamation 2232 Organ Pipe Cactus National Monument*, April 13, 1947.

²⁰⁰ Quitobaquito springs is also home to Al arivaipa, a Hia ced O’odham’s ancestral cemetery.

²⁰¹ Jessica Piekielek, “Creating a Park, Building a Border: The Establishment of Organ Pipe Cactus National Monument and the Solidification of the U.S.-Mexico Border,” *Journal of the Southwest* 58.1 (Spring 2016): 1-27, 11.

Organ Pipe National Monument.²⁰² A large gap in the new border wall system aligns with the sixty-two miles where the Tohono O’odham reservation abuts the U.S.-Mexico border. East of the reservation another section of the wall edges the Buenos Aires National Wildlife Reserve and the western half of Coronado National Forest. A second gap aligns with the city of Nogales and the surrounding area.

On O’odham jeved, the Tohono O’odham reservation is the only portion of the border without a 30-foot barrier. While on the map it appears that there are two areas with preexisting barriers (marked in blue) one that aligns with the boundaries of the Tohono O’odham reservation and another with the city of Nogales, Arizona, the graphic belies the reality on the ground as Nogales has had a massive border fence since the mid 1990s.²⁰³ The border along the Tohono O’odham reservation consists of various vehicle barriers, all under six feet tall. Presumably, Tohono O’odham Nation was able to leverage its unique legal and political position (sovereignty¹) to preempt construction. Early in the Trump presidency, the Tohono O’odham Nation made national headlines when the vice chairman, Verlon Jose, declared that the wall would be built, “over my dead body.” But afterwards officials of the Tohono O’odham Nation were relatively quiet on the subject, possibly because they assumed or hoped or knew that the border wall wasn’t coming to reservation lands.²⁰⁴ Regardless of the logistics, Tohono O’odham Nation is the only place on O’odham jeved where pedestrians can cross with relative ease; you can walk under some vehicle barriers and hop over others.²⁰⁵

While Trump’s wall was not erected on the Tohono O’odham reservation, off the reservation Indigenous and non-Indigenous people alike scrambled to find inroads and avenues of resistance in the face of U.S. nationalism. In February of 2020 news outlets—CBS, BBC, Democracy Now, and the Intercept among them—announced to the world that construction workers were detonating on Monument Hill, an important cultural site for Hia Ced and Tohono O’odham located in Organ Pipe Cactus National Monument.²⁰⁶ While the press decried the

²⁰² Border patrol is the law enforcement arm of Customs and Border Protection within the Department of Homeland Security.

²⁰³ It was constructed as part of a Border Patrol program called “Operation Safeguard.”

²⁰⁴ By the time Trump took office, the Tohono O’odham Nation was a seasoned expert at border issues. They had long been collaborating with various entities aligned with Homeland Security as a means of navigating border policies. For example, the Tohono O’odham Nation authorized the constructions of physical vehicle barriers along the border in 2007 and 2008. It allowed two Customs and Border Patrol (CBP) operating bases and an Immigration and Customs Enforcement office (ICE) to be established on the Nation’s land. It allowed Border Patrol Checkpoints. In March of 2019 the Tohono O’odham Nation legislative council approved what was termed by the media a “virtual wall,” ten unmanned Border Patrol surveillance towers.

²⁰⁵ Considering that of the 453 total miles of wall completed by the Trump administration around 373 already had structures in place there is little doubt that had the administration found it legally viable they would have attempted to replace the vehicle barriers on Tohono O’odham reservation.

²⁰⁶ Writing about Monument Hill, David Martinez professor at ASU and Keli Akimel O’odham himself explains, “as an unrecognized tribe, the Hia Ced O’odham exist in a political hinterland where their rights are not clearly affirmed within the federal system.” David Martinez “Trump’s Wall Would Destroy the Hia Ced O’odham Tribe’s History” *The Copper Courier*. February 27, 2020, <https://coppercourier.com/story/trumps-wall-would-destroy-the-hia-ced-oodham-tribes-history/>

blasts, construction continued. In September of the same year, O’odham activists organizing under the “O’odham Anti-Border Collective” blocked construction traffic at A’al Wappia (Quitobaquito Springs). The spring was quickly losing water due to nearby border construction. Like Monument Hill, A’al Wappia is currently within Organ Pipe National Monument. Two O’odham women, Amber Ortega and Nellie Jo David, were arrested. Construction continued. Ultimately, the 2020 victory of Joe Biden over Donald Trump in the U.S. presidential election was the only thing able to halt border wall construction. Once Biden took office, construction, which had been proceeding from west to east, stopped around fifteen miles east of Nogales in Coronado National Monument, fifteen miles east of O’odham jeved.

Tucson, Arizona

Tucson, Arizona is a multiplicity: it is a municipality, a major intersection, and a border patrol sector, and most centrally for his project, before any of these things it was and is an O’odham place, *s-cuk şon*. There is some scholarly as well as community debate about whether *s-cuk şon*, the O’odham designation from which Tucson, AZ derived its name, refers to the black volcanic rock base of Sentinel Peak (also known as “A’ Mountain,” called such because it sports a large A on its side representing the University of Arizona) or the water spring that was once there. Historians Thomas Naylor and Charles Polzer argue for the later. They write, “water’s occurrence in the desert was forever more important and more remembered than the color of the hills.”²⁰⁷ Nevertheless, Tucson, as a European designation of an O’odham place, first appeared on a 1695 map made by Father Eusebio Francisco Kino a missionary from Tyrol (later a part of Italy) and the first European to enter the region. According to Naylor and Polzer,

the legend on the map mentions precious expeditions Kino made in the early 1690s—expeditions which he failed to describe in his famed memoir of the Pimería Alta, *Favores Celestiales*. Most probably Kino first set foot in the west bank Piman villages below Tumamoc Hill on September 27, 1692, the feast of Saints Cosmas and Damian for who he names the rancherías.²⁰⁸

Settler governments have called *s-cuk şon* “Tucson” ever since.

As a municipality, Tucson is a Democratic-led (i.e., blue) city in a historically Republican-led (i.e., red) state.²⁰⁹ It is also one of the few population centers on O’odham jeved. The city serves as a major junction. It is where I-10 and I-19 meet, and every year around 300,000 commercial trucks carrying goods from Mexico to the United States cross the border in

²⁰⁷ Thomas H. Naylor and Charles W. Polzer. *The Presidio and Militia on the Northern Frontier of New Spain: 1570-1700*. (Tucson: University of Arizona Press, 1986), 22.

²⁰⁸ Thomas H. Naylor and Charles W. Polzer. *The Presidio and Militia on the Northern Frontier of New Spain: 1570-1700*. (Tucson: University of Arizona Press, 1986), 22. Father Kino’s remains still reside on O’odham jeved in Wegi Vav (meaning Red Outcrop), the town currently called Magdalena de Kino, Sonora, Mexico.

²⁰⁹ Historically, because in the 2020 elections, Arizona went blue as it had done only once before in the past seventeen Presidential elections. Prior to Biden, the previous two Democratic candidates to carry Arizona’s electoral college votes were Clinton, in his re-election bid of 1996 and Truman, in his reelection bid of 1948. See: Kaylani Saxena, “How the Navajo Nation Helped Flip Arizona for Democrats *NPR* November 13, 2020, <https://www.npr.org/sections/live-updates-2020-election-results/2020/11/13/934591289/how-the-navajo-nation-helped-flip-arizona-for-democrats>.

Nogales, Arizona and drive through Tucson an hour later.²¹⁰ As it is for trucking routes, as a border patrol sector, it is one of the busiest.²¹¹ In terms of undocumented border crossers, the Tucson sector reported in fiscal year 2017, 38,657 total apprehensions, 3,659 unaccompanied children, and 2,042 family units (DHS 2019).²¹² Tucson is a nexus of border politics. All these aspects of Tucson manifest, intersect, and coalesce in the chambers of the Tucson City Council.

For many citizens, the Tucson City Council is a ready access point to the state where few exist, and the legislation that makes it to the Council floor represents various and complex anti-border networks and visions. The City Council of Tucson is a legislative body. It convenes, on average, twice a month. The council consists of six people. Each person is elected to represent one of Tucson's six wards. The mayor of Tucson chairs the city council meetings and votes on each issue brought before the council. All members of Tucson City Council are currently registered Democrats. Here, individual and collective actors, Indigenous and non-Indigenous, put pressure on "the state" (i.e., local, state, and federal government). Local government puts pressure on state and federal government, and the city makes and remakes its own locale on O'odham jeeved. Many different types of border politics, including in relation to the nearby borders of the Tohono O'odham Nation, play out in the council chambers.

The Tucson City Council has long vocalized its support of immigrant communities and its opposition to national conservatism. Before Trump, the city largely employed its legislation to establish Tucson in contrast if not direct conflict with the state of Arizona, a notoriously anti-immigrant state (it is worth noting an irony that this anti-Latinx immigrant state's name derives from the O'odham *'ali şona*, or small spring, an aquifer that lies is what is currently Sonora, Mexico). For example, in 2010, Arizona governor Jan Brewer signed into law Arizona Senate Bill 1070, also known as the "show me your papers" law. The bill's most infamous provision compelled police to demand "papers" from and investigate immigration status of anyone they *suspected* to be undocumented. That this suspicion was likely to be conferred exclusively on Latinx, Asian American, and Black people made it clear that this measure invited--if not codified--racial profiling. Less than two weeks later, the City Council voted to make Tucson the first municipality to file suit against Arizona over its unconstitutional provisions. Moreover, in 2012, when the Supreme Court upheld the controversial provision of AZ SB1070 while striking down others, the city of Tucson (again less than two weeks later), passed a resolution "Committing to Community Wide Dialogue to Consider Proclaiming Tucson an 'Immigrant Welcoming City.'"²¹³ The resolution held that SB1070 had led to loss in tourism, adversely

²¹⁰ Tucson is the 6th most used port for commercial trans-border Mexico to U.S. traffic; it is comparable to Calexico East, CA; "Truck Crossings" *Trade Matters*, University of Arizona Arizona-Mexico Economic Indicators, <https://azmex.eller.arizona.edu/border-crossings/truck-crossings>.

²¹¹ Tucson was regularly the Border Patrol sector with the highest reported apprehensions up until 2013, when it was overtaken by the Rio Grande Valley sector formally known as the McAllen Sector. "U.S. Border Patrol Southwest Border Apprehensions by Sector" U.S. Customs and Border Protection <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions>

²¹² These numbers are notoriously inconsistent, with Pima County, Border Patrol, and NGOs that monitor border issues providing frequently vastly different totals.

²¹³ "Resolution 21944; Relating to Senate Bill 1070; Committing to Community Wide Dialogue to Consider Proclaiming Tucson an 'Immigrant Welcoming City,'" *Tucson City Council*, August 7, 2012.

affected the city's relationship with the Sonora, Mexico and the people of Mexico and impacted many sectors of the Tucson community and damaged trust in local law enforcement.¹¹ Even when the City Council city declared its support for the federal DREAM act, it took a pot shot at the state of Arizona for SB1070, reasoning that, "the state of Arizona has taken it upon itself to try and enforce the immigration laws by the passage of bills such as SB1070."²¹⁴ In the past decade Tucson has positioned itself as a dissenter from within the state of Arizona.

In conversation with national and state policy, Tucson has been invested in advocating for its community, both documented and undocumented. In a 2013 memorial declaring support for comprehensive immigration reform, the city reasoned, "we believe in the human dignity of all City residents, regardless of immigration status, and recognize the importance of immigrants' many contributions to the social and economic fabric of the City of Tucson."²¹⁵ In October 2016, with the Presidential election on the horizon, and with anti-Muslim rhetoric on the rise (indeed, on January 27, 2017 Trump signed Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," also known colloquially as the Muslim Ban) the City asserted, "There are more than 3 million Muslims living in the United States today, with thousands living in the city of Tucson, making invaluable contributions to our economy, our social and political life, and our culture."²¹⁶ Tucson's elected government envisions the cultural diversity of its community and the fact that it is composed of immigrants as a good thing to be cultivated in the face of rising xenophobia and nationalism.

Many times, the community that Tucson City Council has sought to support is not abstract but comprised of individuals who can be named and supported. In 2014, it demanded that the United States close the removal case involving Rosa Imelda Robles Loreto,

²¹⁴ "Memorial supporting the DREAM act" *Tucson City Council*, Dec 7, 2010. "Executive Order 13768 : Enhancing Public Safety in the Interior of the United States," *Office of the Press Secretary*, January 25, 2017; The City and County of San Francisco filed a civil action challenging the order six days later January 31, 2017. Moreover, California Senate Bill 54 "California Sanctuary Law" was passed shortly after the Executive Order. According to AZ Central, "on Feb 8, 2017, ICE arrested 36-year-old Guadalupe Garcia De Rayos when she attended her required annual review at the ICE office in Phoenix and deported her to Mexico the next day on a removal order issued in 2013 by the executive office for immigration review.... Immigrant advocates believe that she is one of the first to be deported after EO13768 was signed. In 2008, she was working at an amusement park in Mesa, AZ when then sheriff Joe Arpaio ordered a raid that resulted in her arrest and felony identity theft conviction for possessing a false Social Security number." Daniel Gonzalez "Deported Arizona mom Makes New Life in Mexico but Misses Kids Dearly" *AZ Central*, Feb 9, 2018.

²¹⁵ "A Memorial Relating to Immigration Reform; Declaring Support for Comprehensive Immigration Reform" *Tucson City Council*, February 26, 2013.

²¹⁶ See "Resolution 22657: Relating to Public Health and Safety; Condemning Violence and Hate Speech; Expressing Solidarity with Muslims and All Persons Targeted for Their Ethnicity, Race or Religion; and Declaring and Emergency. In solidarity with Muslims" *Tucson City Council*, October 19, 2016. The resolution was a little late considering the first known post 9/11 hate crime took place in Mesa, Arizona when Frank Silva Roque set out to "shoot some towel-heads." He killed Balbir Singh Roque a Sikh from India on September 15, 2001.

¹⁶ "Resolution 22699; Relating to Immigration and Human Rights; Declaring the City of Tucson's Support of the Rights of All its Residents, Including Immigrants; Reinforcing the Commitment to Humane Treatment of Immigrants; Condemning Any Threat of Mass Deportations; and Declaring an Emergency" *Tucson City Council*, December 20, 2016.

asserting, “Rosa Imelda Robles Loreto, her husband Gerardo, and their two sons, Gerardo and Jose Emiliano, are valued members of our Tucson community...the forced removal of Rosa Robles from her family and our community will not serve any legitimate public purpose.”²¹⁷ Rosa and her family spent 461 days on church ground at the Southside Presbyterian Church in Tucson.²¹⁸ After a tremendous amount of community advocacy ICE and Robles Loreto’s attorney reached a deal. She was able return her home in Tucson.

During the Trump presidency, The Tucson City Council, like the Tohono O’odham Nation, took aim at the wall.²¹⁹ In June 2017, Tucson joined Pima County and Tohono O’odham Nation in passing a resolution denouncing Trump’s border wall order (Executive Order 13767), Tucson City Council asserted that the border wall “remains the most expensive and least effective means of securing the border,” and that it was “an offensive and damaging symbol of fear and division,” and “an affront to the City’s core values of inclusiveness and tolerance.”²²⁰ The city was faced with legislating against the physical wall but also the wall as symbol.

Resolution 22992

It might seem on the surface that the goings-on of the Tucson City Council have little to do with O’odham people and vice versa. This simply is not the case. On February 20, 2019, brought by O’odham women organizing against the border wall, I attended the regular meeting of the Tucson City Council, I settled into one of the few unoccupied seats. Two weeks prior, the city of Nogales, Arizona, which abuts the U.S.-Mexico border and lies forty miles east of the Tohono O’odham reservation, had passed resolution R2019-02-001 demanding the U.S. federal government immediately remove both older and recently placed concertina wire (a total of six rows) from the portion of the border fence within city limits (see Figure 3.3).²²¹ During the

²¹⁷ See “A Memorial Relating to Immigration; Declaring Support for the Protection of Families and Children; Calling for Action to Suspend Deportation of Persons with No Serious Criminal History; and Urging the Federal Government to Provide Appropriate Care and Shelter for Children Being Processed Under Federal Immigration Laws.” *Tucson City Council*, July 8, 2014. “A memorial Relating to Immigration; Urging the Administrative Closure of Rosa Imelda Robles Loreto’s Removal Case,” *Tucson City Council*, September 23, 2014. Paul Ingram “Rosa Robles Loreto Leaves Sanctuary of Tucson Church After 461 Days” *Tucson Sentinel*, November 11, 2015, http://www.tucsonsentinel.com/local/report/111015_rosa_leaves_southside/rosa-robles-loreto-leaves-sanctuary-tucson-church-after-461-days/

²¹⁸ In such cases ICE has wide discretion on removal orders. Their discretion stems from a2011 memo issued by former ICE Director John Morton. Immigration officials can consider a person's ties and contributions to the community and their criminal history to decide. Additionally, the memo outlined places that were considered "sensitive" including schools, hospitals, and churches where immigration officials would not make arrests unless they had prior approval.

²¹⁹ Wall was defined as “a contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier.”

²²⁰ “Resolution 22763: Relating to Presidents Trump’s Executive Order 13767: Declaring Mayor and Council’s Opposition to the Proposed Construction of a Border Wall Along the U.S.-Mexico Border; and Declaring an Emergency,” *Tucson City Council*, June 6, 2017.

²²¹ “Resolution 22992: Declaring Mayor and Council’s Support of City of Nogales Resolution R2019-02-001.” *City of Nogales*, February 6, 2019.

meeting that I attended the council was scheduled to vote on Resolution 22992. If passed, Tucson would join Nogales “in calling upon the United States government to take immediate action to remove all concertina wire from the border wall and fencing located within the city limits of Nogales, Arizona.” We were there to show support for the resolution, to encourage the Tucson city council to stand with Nogales, also part of O’odham jeved.

Who Calls on the city to Act?

Jurisdictional ambiguities are not only reflected in the super-jurisdictional actions of the city of Tucson, but also in the position and affiliation of those who call upon the city to act. Tucson City Council is a meeting point for an anti-border network that goes beyond the city limits. Regardless of the objective efficacy or how policy-makers perceive the effectiveness of such legislation, proponents and opponents navigate the bureaucracy of the City Council to sign up for three minutes of speaking time during the routine 30-minute “call to the audience.” Folks sit in the audience with printed and homemade signs, and there are the occasional disruptions.

During the meeting on February 20, 2019, when the city council was set to vote on resolution 22992, Indigenous, immigrant, environmental, and religious stakeholders attended the event, and they revealed a rich and dispersed anti-border individual and organizational network. First to speak was a citizen of the Tohono O’odham Nation and former Tohono O’odham legislator, David Garcia, who urged Tucson to “take the position that all border communities have taken.” He no doubt counted Tohono O’odham among those communities. The City Council heard from individuals including two religious leaders and a few other citizens, and it heard from organizations such as Friends of the Sonoran Desert, the Center for Biological Diversity, and the Arizona Palestine Solidarity Alliance.

Most speakers expressed a general anti-Trump sentiment and a general objection to recent Trump policy, including the recent declaration by Trump of a national emergency. A new citizen of the United States spoke of the “Environmental impacts that border infrastructure have cost, are costing, and will cost in our environment.”²²² He argued that at stake was “the health of our ecosystems, the health of plants and animals, and more importantly the health and sovereignty of Native nations that have lived in these lands even before Mexico or the United States were countries or there were borders.”²²³ Roger McMannis of the 501C3, Friends of the Sonoran desert based in Tempe, Arizona spoke of “the fundamental assault to our democracy” that was the Trump administration.

Others were careful to make connections to the municipality. Dina Bear, a Tucson resident, focused on how the national emergency declaration allowed for the transfer of public lands from the Department of the Interior and other public land managers to the military services. She insisted, “I know this should be and is a concern to the city of Tucson since a lot of people have moved here to enjoy the public lands and travel here on vacations to enjoy public lands.”²²⁴

²²² Sergio Avila, CityofTucson, *Tucson Mayor and City Council Study Meeting Feb. 20th, 2019*, Feb 20, 2019, <https://www.youtube.com/watch?v=Y2ZD6S4pZrk>.

²²³ Sergio Avila, CityofTucson, *Tucson Mayor and City Council Study Meeting Feb. 20th, 2019*, Feb 20, 2019, <https://www.youtube.com/watch?v=Y2ZD6S4pZrk>.

²²⁴ Dina Bear, CityofTucson, *Tucson Mayor and City Council Study Meeting Feb. 20th, 2019*, Feb 20, 2019, <https://www.youtube.com/watch?v=Y2ZD6S4pZrk>.

Brittney Miller with the Center for Biological Diversity read from an opinion piece published in the Tucson Sentinel and written by Cynthia Pompa, the advocacy manager of the ACLU Border Rights Center and resident of El Paso. Together, Pompa and Bear called upon Tucson to follow through with its promise to disinvest from construction at the border. Bear read,

West Point Contractors, a Tucson-based company, is currently constructing a brand-new, 18-foot, 22 million, four-mile wall through some of my binational community's oldest neighborhood... The city of Tucson is doing big business with this company. My Neighbors and I in El Paso urge the city of Tucson, and its residents, to honor their promise to divest.²²⁵

When anti-border resolutions are on the agenda, they routinely draw a crowd. The anti-border network that materializes in the city council chambers illuminates the ways that Tucson does and is seen to extend beyond its jurisdiction, and also the ways that Tucson is impacted by federal policies implemented beyond the city limits. Part of larger spatial wholes that are not recognized in formal jurisdictional arrangements, localities including tribal communities demand to be recognized here in the Tucson city council chambers and mirror the jurisdictional disjunction between the border wall and those that feel the effects.

Resolution 22992 reveals not only the complexity of legislating against the wall as a material *and* ideological structure, but also the insidious nature of jurisdictional difference on O'odham jeved. In some ways the resolution which passed was only the most recent addition to Tucson's long legacy of opposition to anti-immigrant policies. Certainly, the decision to mount additional concertina wire onto the border wall in Nogales, Arizona was the most recent anti-immigrant show put on by the Trump administration. And it wouldn't be the last; some years later Trump sought to paint the border wall black to make it appear more foreboding. However, the wall, a physical structure outside of city limits, proved more difficult to address than systemic deficiencies in federal immigration systems, nationalisms, and policies. Although the resolution was aimed at the physicality of the wall, the resolution had little power. Resolution 22992 passed unanimously, officially declaring the Mayor and Council's support of the Nogales Resolution and joining "the Nogales Mayor and Council in calling upon the United States government to take immediate action to remove all concertina wire from the border wall and fencing located within the city limits of Nogales, Arizona."²²⁶ But as of February 16, 2021, more than two years later, the mayor of Nogales is still working to remove the wire. It has collected considerable debris.

²²⁵ Dina Bear, CityofTucson, *Tucson Mayor and City Council Study Meeting Feb. 20th, 2019*, Feb 20, 2019, <https://www.youtube.com/watch?v=Y2ZD6S4pZrk>.

²²⁶ Nick Phillips, "Mayor Still Pushing to Remove Concertina Wire from Border Fence" *Nogales International*, February 16, 2021, https://www.nogalesinternational.com/news/mayor-still-pushing-to-remove-concertina-wire-from-border-fence/article_45ee99e8-6d62-11eb-a4e7-473b6af91be4.html

In terms of jurisdiction, the relative locations of Tucson and Nogales dictated how each city positioned its opposition to the border wall. Between the original resolution and the resolution in support, there exists a technical and foundational disjunction. Nogales frames its opposition through the war-zone aesthetics, the trans-border economy, and the development code of the city. Tucson, somewhat distanced from the border, frames its opposition in terms of aesthetics, community, and redundancy. Nogales’s resolution begins by recognizing that “cross border trade and business with Mexico” is the city’s “most important economical resource.” It then notes that the “initial concertina wire,” which was installed in November 2018, “was installed at a height where it would only indiscriminately harm or kill anyone who actually scales



Figure 3.3: Concertina Wire In Nogales, AZ. Photo By Author

the border wall.” The most recent wire, however, which went from the top of the border wall to

the ground in six horizontal strands, was, the resolution held, inappropriate. It reads, placing coiled concertina wire strands on the ground is typically only found in a war, battlefield, or prison setting and *not* in an urban setting such as downtown Nogales, Arizona, and... in the immediate proximity of our residents, children, pets, law enforcement and first responders [concertina wire on the ground] is not only irresponsible but inhuman.

The resolution cites its own code as its final point. It reads, “The City of Nogales has a section in its Development Code that bans the use of this type of fencing in areas other than commercial or industrial storage areas and only at a minimum height of 6 feet.” After laying out its reasoning, Nogales resolved two major things, first that, “The Federal Government take immediate action to remove all concertina wire from the Border Wall and Fencing located within the Corporate City Limits of Nogales, Arizona” and two, that “No military force or the use of military type tactics designed to inflict indiscriminate harm be allowed in the City of Nogales without the Declaration of War by Congress of the United States or the Declaration of a National Emergency.”

The Nogales City Council asserts its own jurisdiction in referencing city fence code, taking issue with the particulars surrounding the height at which the razor wire was placed. In other words, it takes issue with the newly placed razor wire and not the wall itself. In fact, Nogales’s Mayor, Arturo Garino, said in an interview on the resolution with News 4 Tucson, “The president says he wanted a wall, we have had a wall already for 20 years, and [if] you see [the razor wire] are you going to want to go into Mexico? [No.] Because it’s gonna show you that there is something wrong.”²²⁷ Garino takes aim at the vilification of Mexico via the visual marker of this razor wire—a tacit demonstration of the fact that the United States side of the town he administers is in fact one facet of a transnational space often referred to as Ambos Nogales (Both Nogales). The city, like O’odham jeved, has been bifurcated by a border that both affords and limits movement, trade, and new and ongoing relationalities. The Nogales resolution does call for the removal of all wire, but it specifically names the initial wire with a tone of concession. The initial wire it states was “installed at a height where it would only indiscriminately harm or kill anyone who actually scales the border wall.” Moreover, the resolution invokes as inhuman, the “placing concertina wire... in the immediate proximity of residents.” For Nogales the problem is not the fact that harm and death would occur at all but the fact that it would be occurring in the *wrong place*, in an improperly zoned area and near residents, children, and pets and against the *wrong people*, passers-by and community members rather than fence-scalers. Framed first through the trans-border economy, second through the war-zone aesthetics, and finally, through the development code of the city, Nogales urged the U.S. to remove the concertina wire, a war-time technology, that threatened both the good will of the community and the local economy (in Chapter Four I return to discussion of militarized wire at the border in the poetry of Javier Zamora).

Like Nogales, the Tucson City Council was also concerned about the correct placement of concertina wire, though not in terms of inches or zoning code designations. As it is an hour away from the border by car, there is no border wall in Tucson. During the meeting, Tucson Councilwoman Romero echoed the Nogales resolution by emphasizing that Nogales is not a war

²²⁷ Eric Fink, “Tucson Leaders Write Memo Showing Solidarity with Nogales” *kvoa* February 10, 2019, <https://kvoa.com/news/local-news/2019/02/10/tucson-leaders-write-memo-showing-solidarity-with-nogales/>

zone. She said, “it’s one of the safest...cities” and she forcefully asserted, “There is no emergency on our border. There is no emergency.”²²⁸ This latter statement implicitly contested the national emergency at the U.S. southern border declared by Trump on February 15, 2019, in an attempt to appropriate funding for the wall. The emergency declared in the weeks between Nogales Resolution R2019-02-001 and Tucson’s resolution 22992,²²⁹ would seem to preempt the Nogales Resolution. Yet councilwoman Romero (re)asserted that, “The raising of the razor wire on the city of Nogales is repulsive and abhorrent and we should not stand for [it].” She then went on to talk about the ways that Tucson has historically stood in solidarity with immigrants and refugees, and she ended by reading the two sections from the Nogales resolution that addressed the war time aesthetics. She echoed, “concertina wire strands on the ground is typically only found in war, battlefield, or prison settings, and not in an urban setting” and then, “Placing concertina wire that is designed to inflict serious bodily injury or death in the immediate proximity to our residents, children, pets, law enforcement and first responders is not only irresponsible but *inhuman*.”²³⁰ The City of Nogales was concerned about specifics: height, code, and impact to the economy, and the city sought a specific and material end, the removal of concertina wire. For Tucson, the issue was the fact that there was concertina wire, a national emergency declaration, and a militarized border wall at all.

Tucson’s support of Nogales represents the complex position that the city found itself in. The inter-city exchange between Tucson and Nogales reveals the complexities and constraints of jurisdiction in the borderlands as both cities worked to put the brakes on Trump’s border-wall actions using their relative positions. For everyone involved, the declaration, indeed the manufacture, of a state of emergency from federal fiat threatened economic, political, ideological, and ethical concerns at the local level. O’odham jeved became the renewed site of United States federal militarization and settler *incorporation*.

The Border in Tucson

Cities are not the only entities that approach the border using diverse and divergent strategies; the Tucson City Council members, all of whom are critical of the border, have a range of ideas about what to do about it. What is obvious: the effects of the border are not sixty-seven miles south but here and now.

During the council session, it became clear that some council members were disenchanted with resolutions that seemed to be more bark than bite. After Regina Romero moved to pass the resolution, during the discussion, Tucson councilman Durham said, “This resolution before us tonight is an excellent example of standing up to the Trump administration’s attempt to use war-time iron curtain tactics along our border with Mexico.” Councilman Kozachik expressed a more tempered support. Kozachik explained the material effects of migration and refugees on and in the physical and local communities. He said,

Today we received another 125-ish guests at the Benedictine Monastery. If the president

²²⁸ CityofTucson, *Tucson Mayor and City Council Study Meeting Feb. 20th, 2019*, Feb 20, 2019, <https://www.youtube.com/watch?v=Y2ZD6S4pZrk>.

²²⁹ “Proclamation 9844 Declaring a National Emergency with Respect to the Southern Border of the United States” *Executive office of the President*, February 15, 2019.

²³⁰ Italicized to mimic the councilwoman’s emphasis.

wants to talk about a national emergency, we have a humanitarian emergency that we as a community—not as a city government but as a community—are addressing every single day at 800 North Country Club here in this city.... [where we] receive the families that ICE would drop off. Understand... these are people who travel by foot across Mexico... They are in this community legally. They have been processed by ICE. They are here pending deportation or asylum hearings... We can pass resolutions all month, but if you want to touch the lives of people who absolutely need your assistance, they need backpacks, they need shoes, blankets, food...

Kozachik articulated the materiality of the border as it manifests in the City of Tucson and the lives of specific and specifically embodied people. Dismissing the national emergency declaration, he located *the* crises in places with local addresses, at the monastery located at 800 North Country Club Road. In short, he recognizes what he describes as “community” that spans the Americas (migrants like those discussed in Chapter Three, whose journeys began in nations including El Salvador, Honduras, Nicaragua, and Guatemala, across the length of Mexico, and into the United States).

Such a view of connection, community, and shared collective responsibility is not present, as we have seen, across governmental agencies or levels of governments (federal/ state/ city) or even between municipalities. An April 26, 2019, *AZ Central* article reported that ICE had been releasing in Tucson processed migrant families who were seeking asylum and encountered in both the Tucson and Yuma Border Patrol sectors. Pima County officials, the article asserted, “estimate that ICE has released about 7,000 migrants in Tucson in the past eight months.” The article noted that in addition to the Tucson and Yuma sector migrant families, Border Patrol officials in El Paso have begun busing “hundreds of migrants each day to Tucson so they can be released there instead of El Paso, which has also been struggling greatly with the sheer number of migrant families.”²³¹

The disjunction between the Nogales resolution and the Tucson resolution begs the question: what is the purpose of resolutions like 22992?²³² Kozachik did still vote in favor of the resolution, but the councilman’s comment illuminated the paradoxical nature of Tucson resolution, and the position of the city it reveals. Tucson, distanced from the border, still feels the effects of border policy across multiple layers of its populace and policy. The city feels the effects of border wall discourses and resultant policy both in ways that are immediately tangible such as border patrol and in ways that are more diffuse such as fear among the local undocumented community. As I suggest throughout this reading of settler *incorporation* (and the settler state’s assumptions of its own permanence) as well as resistance from Indigenous activists like the ones who brought me to this city council meeting, the borderlands are not yet settled.

Unlike Nogales, which can measure and fight the border in inches, Tucson City Council struggles to effect change where the causal connections between the border, and the local

²³¹ Rafael Carranza, “Border Patrol is Now Releasing Migrant Families Directly in Tucson.” *AZ Central*. April 26, 2019.

²³² Where scholarship on municipalities has noted that councilmembers often seek to further their career often at the expense of efficacy, I want to suggest that when put into context with other border cities and off-border cities there is something more complex going on: namely, a struggle to navigate conflicting jurisdictions including, city, state, tribal, and national (the United States, Mexico, and Indigenous “domestic dependent nations.”

population are dynamic, complex, and always changing (but no less material). The resolution did include a non-procurement (divestment) clause.²³³ But overall, the border as a rhetoric and discursive body does not often draw immediate causal lines to any one entity. Instead, it transmogrifies to seep into and pull on the collective lives and networks of Tucson community members in ways sometimes invisible and indescribable and almost always unpredictable and heterogenous.

Tucson City Council policy looks beyond the city limits even as it is limited by a jurisdictional structure that provincializes its reach. Councilman Kozachik ended by saying, “we would also like to see the board of supervisors and surrounding jurisdictions join us in that so it’s not just a city of Tucson but a regional expression of repulsion over hanging razor wire on our fence along a commercial and residential corridor with our neighbors...”²³⁴ In response to border politics outside of its control, the Tucson City Council imagines itself as part of and makes moves to participate in the greater border region, and the people and interests of the region including O’odham and the Tucson metropolitan area look to Tucson City Council for support.

While Tucson is not considered to be one of Arizona’s six border cities, Tucson like every part of O’odham jeved is very much implicated in border politics.²³⁵ A border city is typically seen as a city touching or intersected by the international line. Tucson doesn’t touch the border, but it does fall within the “100-mile zone,” so named because Border Patrol is empowered to operate within 100 miles of any exterior border of the United States. The ACLU notes that this configuration offers dangerous potential for Border Patrol overreach, since roughly two-thirds of the United States’ population resides within the 100-mile zone.²³⁶ As such, Tucson is distanced from the wall, but still feels the effects of border politics and power. The city of Tucson, impacted by the border, attempts to legislate from afar and struggles to pass effective laws amidst National and State sovereignties. It may not be a “border city” but it is a city in firmly in the borderlands.

The Tucson City Sanctuary Initiative

Tucson and its citizens may be opponents of some forms of federal and state power, but

²³³ The divestment clause of Tucson’s anti-border resolution did come up during the call to the audience – specifically surrounding West Point contractors, a Tucson-based company involved in building the wall. Laiken Jordahl and Brittney Miller from the center for biological diversity, a national 501C 3 with its main office in Tucson, also spoke to encourage the council to follow through on section nine, colloquially known at the divestment section, of Resolution 22763, the anti-border wall resolution.

²³⁴ CityofTucson, *Tucson Mayor and City Council Study Meeting Feb. 20th, 2019*, Feb 20, 2019, <https://www.youtube.com/watch?v=Y2ZD6S4pZrk>.

²³⁵ I use cities here colloquially. Nogales is the only incorporated municipality on the border in Arizona. The other “cities” are Douglas, Naco, Sasabe, Lukeville, San Luis—just south of Yuma. Lochiel is a former border crossing site, but no longer.

²³⁶ The entire country is divided into Border Patrol sectors that transcend state, county, and city lines. These sectors are concentrated on the U.S.-Mexico border. Nine sectors cover the 2,000 miles of the U.S.-Mexico border. Eight cover the 5,500-mile U.S.-Canada border, and eight cover the 95,500 miles of coast.

“The Constitution in the 100-Mile Border Zone.” *American Civil Liberties Union*. <https://www.aclu.org/other/constitution-100-mile-border-zone>.

they are not anti-government. Most of the time residents and officials find themselves aligned in terms of what they perceive as the appropriate modes by which to push back on the anti-immigrant and pro-border antics of the state of Arizona and the U.S. federal government. It is telling, however, when and where they disagree. During my fieldwork one anti-border initiative notably failed: Proposition 205, the citizen-led “Sanctuary City” initiative.²³⁷

Proposition 205 was a citizen-led initiative organized by the People’s Defense Initiative and aimed at stifling the Trump administration’s deportation machine.²³⁸ It was set to declare

It is the policy of the city that the city be a sanctuary and safe refuge for all persons, regardless of race, color, ethnicity, immigration status, ability to speak English, mode of dress, religion, national origin, sex, gender identity, sexual orientation, disability, economic status, and familial or marital status. Further, the city is committed to protecting and defending all people, and upholding the self-evident truths that all people are created equal and endowed with the unalienable rights of life, liberty and sanctuary.

Prop 205 also contained amendments to the Tucson City Code that would limit where and how and under what circumstances Tucson Police Department (TPD) could seek to determine someone’s immigration status. If passed, TPD officers could not inquire about a person’s immigration status of anyone other than a detainee or arrestee. They could not inquire about immigration status in schools, hospitals, churches, or public buildings. And, when developing reasonable suspicion that a detainee was an alien, TPD officers would have to articulate two distinct factors and they could not consider, among other elements, race, color, or ethnicity, mode of dress, language, or name.

In the eyes of advocates of the proposition, the shooting, mass deportations, Trump, and the border were all connected, and stopping local officers from participating in deportations was the best and most accessible way to resist the whole. The ACLU, which bankrolled the initiative (\$105,000), adumbrated the national stakes by asserting, “Tucson is not going to be supporting

²³⁷ Depending on who you ask, the national sanctuary city movement began either in Berkeley, California or in Tucson, Arizona. In the 1970s the City of Berkeley was the first to interrupt a communication line between city employees and law enforcement. Their goal was to shield citizens from their own government. The City of Berkeley writes on its site, “Berkeley was the first U.S. city to become a sanctuary city, passing a resolution in 1971, to protect sailors resisting the Vietnam War. One of the pioneers of this movement was Gus Schultz, pastor at Universal Lutheran Chapel in Berkeley, who was approached by Bob Fitch, who organized San Diego churches to support conscientious objectors. Together, they drafted an initiative that forbade city employees from assisting in the enforcement of federal law, inspiring later generations of sanctuary movement activists.” In Tucson the sanctuary city movement became directly associated with immigration. In the 1980’s, Reverend John Fife and Jim Corbette began a campaign to protest immigration policies that made obtaining asylum difficult for Central Americans. Their campaign became known as the Sanctuary movement and ended in the courts. Fife and others were put on a five-year probation for their part in what was deemed by the media the “underground railroad for Central American Refugees.” John Fife went on to establish the nonprofit No More Deaths (see next chapter). Storer Rowley, “BEGINS IN REFUGEE SANCTUARY CASE TRIAL” *Chicago Tribune*, October 23, 1985, <https://www.chicagotribune.com/news/ct-xpm-1985-10-23-8503120670-story.html>

²³⁸ According to their website, the Peoples Defense Initiative (PDI) is “a grassroots, community-led, collective focused on the defense of human rights in Southern Arizona. Our mission is to advance an intersectional movement that challenges structural oppression, exploitation, and the criminalization of poverty.” [https://www.peoplesdefenseinitiative.org/about-us/#:~:text=People's%20Defense%20Initiative%20\(PDI\)%20is,and%20the%20criminalization%20of%20poverty.](https://www.peoplesdefenseinitiative.org/about-us/#:~:text=People's%20Defense%20Initiative%20(PDI)%20is,and%20the%20criminalization%20of%20poverty.)

Trump's deportation pipeline efforts."²³⁹ Likewise, one woman with the People's Defense Initiative explained,

The national rhetoric is increasingly violent, racist, xenophobic, and anti-immigrant. Being an 'immigrant friendly' city is no longer good enough, not by a long shot... And here we are, the tragedy we knew was waiting to happen on Saturday morning four hours from Tucson in El Paso, a city much like ours a white supremacist opened fire in a Walmart killing 22 people.²⁴⁰

The speaker was not being hyperbolic when she connected anti-immigrant rhetoric and the shooting in El Paso, Texas. The shooting was "the deadliest attack on Latinos in modern American history,"²⁴¹ and not by coincidence. In his manifesto the shooter warned of a "Hispanic invasion."²⁴² Supporters viewed the initiative as a stand against national anti-immigrant rhetoric that increasingly manifested in mass death and mass deportation.

To the Tucson City Council, the potential political and financial cost of the Sanctuary City initiative was too risky. When Proposition 205 appeared on the Tucson City Council's agenda on August 6, 2019, it had 12,400 signatures (2.2 percent of the city's population). Because the proposition received over 9,100 signatures, the Council was obligated by law to

²³⁹ Alessandra Navidad "Why we endorse 'sanctuary city' Proposition 205 for Tucson." *ACLU of Arizona*, November 5, 2019, <https://www.acluaz.org/en/news/aclu-arizona-why-we-endorse-sanctuary-city-proposition-205-tucson>

²⁴⁰ CityofTucson, *Tucson Mayor and City Council Regular Meeting Feb. 20th, 2019*, February 20, 2019, <https://www.youtube.com/watch?v=fu9dTp2fyHk>

²⁴¹ Heather Murphy, "[El Paso Shooting Suspect Indicted on Capital Murder Charge](#)". *The New York Times*. September 12, 2019.

2017 was the deadliest year in history in terms of mass shooting in the United States. 117 were killed and 463 were injured in mass shootings.

Follman, M., Aronsen, G., & Pan, D. (n.d.). U.S. mass shootings, 1982–2021: Data from Mother Jones' investigation. *Mother Jones*. Retrieved May 7, 2021, from <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>

Wilson, C. (2017, October 2). *41 Years of Mass Shootings in the U.S. in One Chart*. Time. <https://time.com/4965022/deadliest-mass-shooting-us-history/>

The shooter explicitly connected the logics of elimination (that craft Native people in the past, and the border as settled) with deadly anti-Mexican sentiment and the fear of a re-invasion. He wrote, "Some people will think this statement is hypocritical because of the nearly complete ethnic and cultural destruction brought to the Native Americans by our European ancestors, but this just reinforces my point. The natives didn't take the invasion of Europeans seriously, and now what's left is just a shadow of what was." *WALMART SHOOTER MANIFESTO*. (n.d.). Retrieved April 14, 2021, from <https://drudgereport.com/flashtx.htm>

Lorenzo Veracini, "On Settler Colonialism and Science Fiction (again)" *Settler Colonial Studies* 2:1 (2013): 268-272

²⁴² *WALMART SHOOTER MANIFESTO*. (n.d.). Retrieved April 14, 2021, from <https://drudgereport.com/flashtx.htm>

allow the measure on the ballot for the November 5, 2019, election. The initiative had already put the city council including then-mayoral-candidate Romero on edge. Romero insisted “The way that the proposition is written really puts the city of Tucson at financial risk.”²⁴³ Kozachik published an op ed in the *Arizona Daily Star* entitled “Why I oppose the ‘sanctuary initiative’ for Tucson.” The first reason, that Kozachik listed was federal retaliation. He wrote, “The state of Vermont is being sued by the Trump administration for \$2.1 million because it pursued sanctuary status. We can be compassionate to immigrants in ways that do not invite federal litigation.”²⁴⁴ Three council members went as far as to write and pay \$250 each to file arguments with the city court against the measure. The council members and others feared not only federal retaliation, but also retaliation from the state of Arizona. Republican lawmakers promised to file legislation to battle attempts to create sanctuary cities. Moreover, it seemed that if the initiative passed as it would conflict directly with AZ SB 1070 (2010), which again compelled police to demand “papers” from and investigate immigration status of anyone they *suspected* to be undocumented.²⁴⁵ The Tucson City Council feared the costs of passing the initiative.²⁴⁶

The Sanctuary initiative reveals the nuances of border networks playing out in Tucson city council. Although the city council no doubt agreed that Trump was fomenting anti-immigrant sentiment and violence, that the residents of Tucson deserve to feel safe in schools and hospitals, and that the police should not use racial profiling to determine who “looks undocumented,” they ardently opposed the initiative because of the threat posed by the state and the federal government. Nested in these larger sovereignties, Tucson’s ability to regulate and advocate for its community is limited. The jurisdictional composition of and over O’odham jeered undercuts their ability to or defines how they can and cannot oppose the border.

Conclusion

²⁴³ CityofTucson, *Tucson Mayor and City Council Regular Meeting Aug 6th, 2019*, August 6, 2019, <https://www.youtube.com/watch?v=HQdcDldFzU>

²⁴⁴ Kozachik, S. (2019). Steve Kozachik: Why I oppose the “sanctuary initiative” for Tucson | Local Editorials and Opinion | tucson.com. *Arizona Daily Star*. https://tucson.com/opinion/local/steve-kozachik-why-i-oppose-the-sanctuary-initiative-for-tucson/article_9c27ede3-c626-50ac-aa98-4081155443d1.html

²⁴⁵ The legitimacy of these fears was debated. University of Arizona Law Professor Shefali Milczarek-Desai asserted, “The state’s pre-emption law only addresses ordinances passed by local governments, not citizen initiatives.” She continued, “If you look at the plain language of the pre-emption statute, there is nothing in there that says if voters using their right to initiative ... there is nothing in the pre-emption statute that says when that happens that the state can go after state shared revenue dollars from the legislative entity where that initiative has been passed. As quoted in Christopher Conover, “Should Tucson become a sanctuary city?” *Arizona Public Media News*, September 19, 2019, <https://news.azpm.org/p/news-splash/2019/9/19/158562-should-tucson-become-a-sanctuary-city/>

²⁴⁶ In 1987 Oregon became the first state to pass a sanctuary state law. In 2017 when the Trump administration began trying to restrict federal dollars for sanctuary cities and states, Oregon took the federal government to court over the loss of federal law enforcement dollars and won. See Conrad Wilson, “Oregon Sues Trump Administration Over Withheld Federal Dollars,” *Oregon Public Broadcast*, November 9, 2018, <https://www.opb.org/news/article/lawsuit-sanctuary-state-oregon-grants-withheld/>; Andrew Selsky, “Judge rules for Oregon in sanctuary state case with Trump,” *AP NEWS*, August 9, 2019, <https://apnews.com/article/f68034c2c8ba45a6adbcbce2065a4b456>

This chapter interrogates how the Tucson City Council mediates and engages with broader border politics. It asks, how is and isn't Tucson a border⁶ city? Who calls upon the Tucson city council to act and how? The jurisdictional politics around City Council Resolution 22992, "Declaring Mayor and Council's Support of City of Nogales Resolution R2019-02-001" and the disparate positionality and positions of audience members who spoke in support of and against Resolution 22992 reveal the complex ways that sovereignties are being negotiated, talked about, and practiced, and/or ignored and erased. They also demonstrate how jurisdiction serves to disconnect the border from those impacted by it the most. Tucson's engagement with the border is complicated, multiple, and messy, and it is set up to be that way. The ways that jurisdictional battles, super-jurisdictional connections, anti-border networks materialize in the actions and spaces of Tucson City Council suggests, reflects, and responds to ambiguities and slippages in the border itself in its attempts to bifurcate, incorporate, and desert O'odham jeved. The border and the borderlands occur in gradients not binaries.

Chapter Four

The Desert: Border Enforcement and O’odham Jeved

Undocumented Border Crosser (UBC):

a foreign national who died attempting to cross the southern Arizona desert without permission from the United States government.

(Pima County Office of the Medical Examiner)

At the turn of the twenty-first century, Pima County (southern Arizona) witnessed a sharp increase in Undocumented Border Crosser deaths. In the 1990s the Pima County Medical Examiner received 15-20 Undocumented Border Crosser remains (UBC) per year. In 2000 they received 71. In 2001, 76, and from 2002 to 2019, they received on average 163 (See Figure 4.1). Pima County is the deadliest portion of the U.S.-Mexico borderlands. While the county accounts for less than 6% of the border line in terms of miles (125 miles of 1,954), more than 40% of border crossers who perish crossing the U.S.-Mexico border every year do so in Pima County (all of Pima County sits on O’odham jeved).²⁴⁷

²⁴⁷ U.S. Customs and Border Protection *United States Border Patrol Fiscal Year Southwest Border Sector Deaths (FY 1998-FY2019)*, January 28, 2020, <https://www.cbp.gov/document/stats/us-border-patrol-fiscal-year-southwest-border-sector-deaths-fy-1998-fy-2019>. American Civil Liberties Union, *Humanitarian Crisis: Migrant Deaths at the U.S.–Mexico Border Report sponsored by Mexico’s National Commission of Human Rights and the American Civil Liberties Union of San Diego and Imperial Counties* by Maria Jimenez, October 1, 2009, <https://www.aclu.org/files/pdfs/immigrants/humanitariancrisisreport.pdf>. Pima County Office of the Medical Examiner, *Annual Report 2019*, April 20, 2020, https://webcms.pima.gov/UserFiles/Servers/Server_6/File/Government/Medical%20Examiner/Resources/Annual-Report-2019.pdf

There is an increasing discrepancy between reporting sources. The biggest discrepancy is from 2019. Border Patrol reported 61 deaths in the Tucson Sector Pima County reported 136 recovered remains. Discrepancies may be due to the notoriously difficult task of identifying time or cause of death for human remains in the desert (see Jimenez 2009, 24).

UBC Recoveries FedFY2000 - 2019

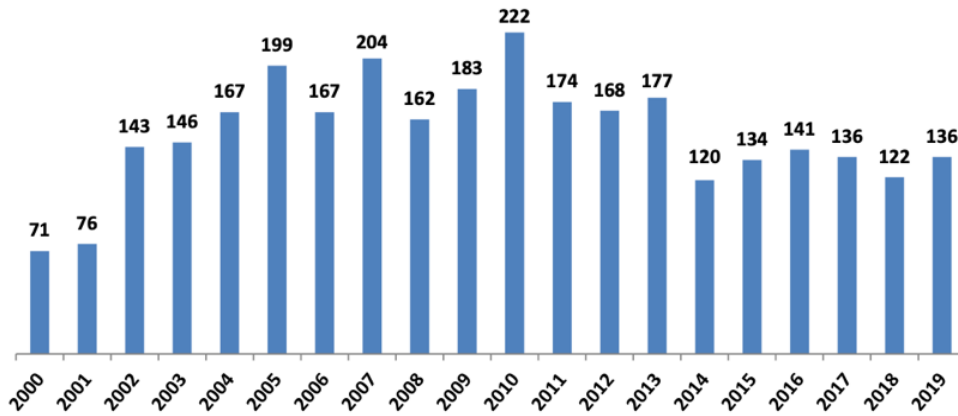


Figure 4.1: Undocumented Border Crosser Recovered Remains in Pima County Per Federal Fiscal Year 2000-2019. Source: Pima County Officer of the Medical Examiner—Annual Report 2019

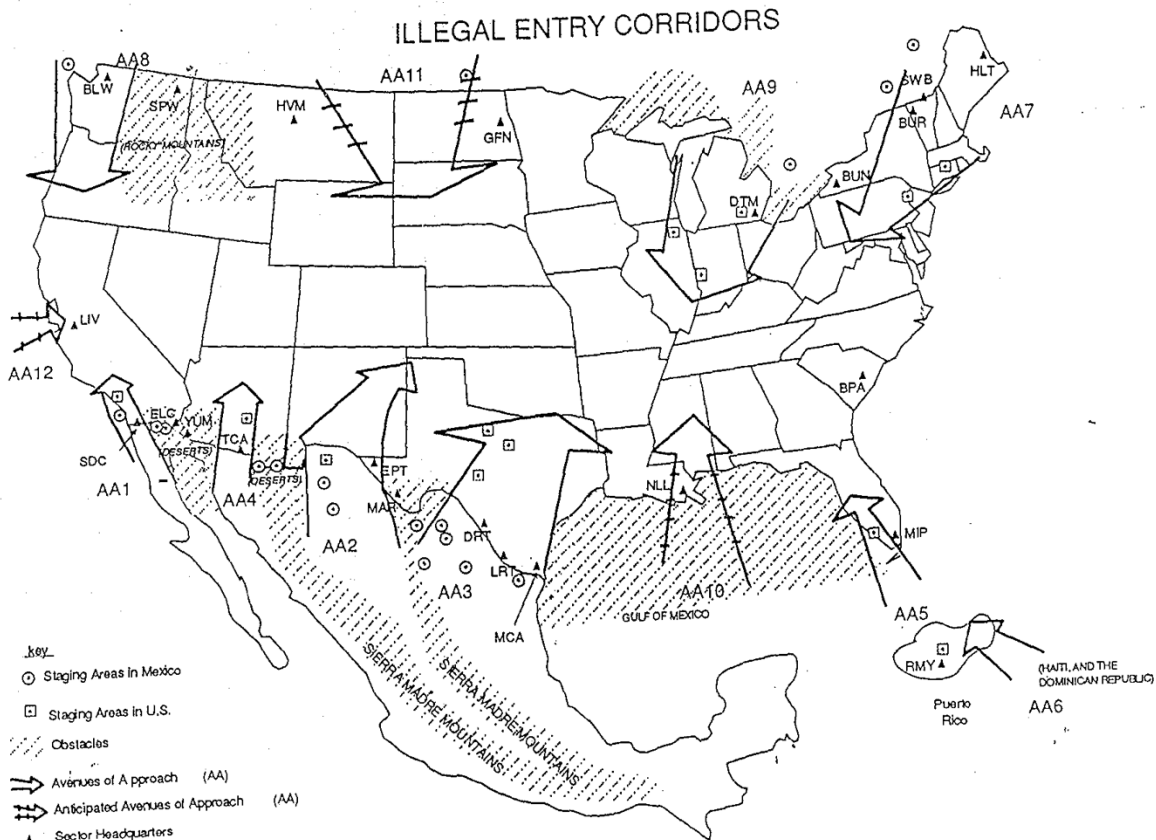


Figure 4.2: Image from Border Patrol Strategic Plan (1994) Introducing Prevention Through Deterrence

Scholars have traced the increased mortality at the United States-Mexico border to “Prevention through Deterrence,” a Border Patrol policy debuted in 1994.²⁴⁸ The premise of “Prevention Through Deterrence” is simple. The United States increases border enforcement personnel and measures in the major cities along the United States-Mexico border—where most undocumented border crossers on foot “jump the line”—in order to force border crossers to more hostile landscapes or what the policy itself calls “obstacles:” the deserts, the mountains, and the waterways. Architects of the policy posited that over time, as word of the strenuous (even fatal) journey circulated, people would be preemptively discouraged or deterred from crossing the international line without authorization. In practice, the policy didn’t change the number of people crossing the border without authorization. It did however change where and how they crossed, and it changed the stakes of their attempts to cross. For many, the policy changed when and how they died.²⁴⁹

Prevention Through Deterrence requires Indigenous land, in southern Arizona it requires O’odham javed. Local Border Patrol Sector Chief, Manuel Padilla Jr., addressing the lethality of the borderlands, has stated, “The desert does not discriminate.” Pointing to the desert, to nature and the *natural*, officials elide the roles and responsibilities of policies and practices that do discriminate: U.S. policies like Prevention Through Deterrence that purposefully funnel border crossers to O’odham javed; Border Patrol tactics designed to endanger, disorient, and isolate border crossers once they arrive—tactics such as such as “chase and scatter” in which officials employ helicopter spotlights to rend groups of border crossers—and U.S. economic-military interventions such as the North American Free Trade Act (1994) which push border crossers to cross in the first place. Looking to the desert, to O’odham javed, officials overwrite the milieus that create inequality, movement, and violence, that compel individuals to travel great distances to cross the border, and that intentionally increase the likelihoods of border crosser injury and death. The culpability for these deaths lied not with the land but U.S. law and policy.

Building on the previous chapters, where I theorize the *incorporation* (or jurisdictional parsing) of O’odham javed in the U.S.-Mexico borderlands, in this chapter, I assess how O’odham javed is *deserted*—variously made, imagined, negotiated, and experienced as empty—in relation to border enforcement. I discover that, under the auspices of border security and in response to it, U.S. state agencies and non-Indigenous humanitarian aid workers overwrite O’odham javed and in the process to overwrite O’odham people and relations. Analyzing the machinations of *deserting* in the borderlands, I argue that border enforcement serves as both an impetus and alibi in the material and symbolic occupation of O’odham land. I conclude that O’odham javed is both rendered into a weapon of the state—one that blisters, pierces, prods, disorients, and dehydrates and crafted into a no-man’s land, one where nobody has any business, including O’odham people.

United States of America v. Scott Warren

²⁴⁸ Jason De Leon, *The Land of Open Graves: Living and Dying on the Migrant Trail*. (Berkeley: University of California Press, 2015).

²⁴⁹ Scholars overwhelmingly discuss violence in the borderlands by referencing Timothy Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-intensity Conflict Doctrine Comes Home* (Austin: University of Texas at Austin, 1996).

For this chapter, I analyze the proceedings of the criminal case *United States v Scott Warren*, where a white humanitarian aid worker, Scott Warren, was tried for harboring two undocumented immigrants. This case provides a rare insight into the intersecting roles of humanitarian aid workers, border patrol agents, and the settler-state in *deserting*. Throughout the case, various actors articulate their vision of O’odham jeved, and ultimately, they illuminate how it is deeply implicated in and foundational to border enforcement but as conspicuously disconnected from O’odham politics, peoples, and peregrinations, and I assert that this elision is neither arbitrary nor innocent.

United States v Scott Warren (2018) made international headlines as the persecution and prosecution of humanitarian aid at the U.S.-Mexico border. Scott Warren, the defendant, was a white citizen of the United States and a humanitarian aid worker. Warren was charged with knowingly concealing, harboring, and shielding from detection two undocumented border crossers who had unlawfully crossed the U.S.-Mexico border on foot. When he was arrested and charged, Scott Warren was an employee of No More Deaths, a non-profit established in 2004, a self-designated humanitarian aid organization, and an official ministry of the Unitarian Universalist Church of Tucson (AZ). No More Deaths’ mission is to “end death and suffering in the Mexico-U.S. borderlands through civil initiative.”²⁵⁰ As Warren followed organizational protocols leading up to his arrest, the case promised to have implications for a multitude of organizations who worked to prevent death in the Sonoran Desert.²⁵¹ The public held that the

²⁵⁰ nomoredeath.org; The organization defines define civil initiative as non-violent, transparent (they use the term “truthfulness”), universal, dialogic (which they define as working with government officials), germane, volunteer-based, and community-centered. In practice, the organization is best known for running a service trip program. Volunteers from all over the country apply and pay either a 300.00 base fee or a 450.00 sustaining fee to spend a week, a month, or longer providing humanitarian aid in the Sonoran Desert. A sample schedule on the organization’s website informs potential volunteers that in a typical week they will train for two days, spend Monday through Thursday “doing water drops and exploratory hikes,” and on Friday they will attend Operation Streamline proceedings at the DeConcini federal courthouse in Tucson, Arizona, where Warren’s trial took place

²⁵¹ The court proceedings of *United States v Warren* happened twice. In June 2018, after seven days of proceedings and two full days of deliberation, the jury was deadlocked. The court declared a mistrial. In November 2019, the retrial took place; the prosecution dropped the conspiracy to transport charges and moved forward only with the harboring charges. Over six days the prosecution and defense presented arguments nearly identical to the first trial. The jury found Warren “not guilty” just hours after arguments had ended. The split jury only added to the marvel of the case.

²⁵¹ On the first day of the *United States of America v. Scott Warren* retrial, the street corner across from the courthouse was unable to contain the supporters, reporters, and signs of the No More Death’s press conference. People were spilling into the street. Three women among the handful of people who addressed the crowd through the portable PA system, triangulated the subtext and foundation of the case. A staff attorney with the American Civil Liberties Union (ACLU) spoke of the two undocumented border crossers, Kristian and Jose, at the heart of the *United States v Warren*. She said, “Unfortunately we will never get to hear their stories.” Nellie Jo David, a Tohono and Hia Ced O’odham woman, spoke next. She declared, “In the desert, the most valuable resource, the most important substance, is water.” Drawing the connections between the case, the broader politics, and O’odham jeved she concluded by saying, “Water is life. Demilitarize O’odham land. Stop the Wall. No human being is illegal. Humanitarian aid is never a crime!” Finally, a representative read out a message sent in support of Warren by the mother of 16-year-old Jose Antonia Elena Rodriguez— who was shot 16 times in 2012 by a Border Patrol agent— she insisted, “leaving water will never be more violent the bullets shot at our loved ones.” For Warren’s supporters,

prosecution of Warren was the most recent development of Trump’s notoriously anti-immigrant/pro-wall presidency and a foreboding omen of things yet to come.

The facts of the case were straight forward. Jose Arnaldo Sacaria-Goday, 21, and Kristian Gerardo Perez-Villanueva, 23, were in the United States without authorization from U.S. government officials. They crossed the U.S.-Mexico border on foot outside of a port of entry on January 12, 2018. Days after they had crossed without authorization, Jose and Kristian ate, slept, and showered for four days and three nights at “The Barn,” a building located in Ajo, Arizona that was used occasionally as a base camp by the non-profit No More Deaths among other humanitarian aid organizations. Scott Warren was occasionally at the Barn during Jose and Kristian’s stay. On January 17, 2018, Border Patrol officers observed but could not hear Warren outside The Barn, having a conversation with Jose and Kristian, and during that conversation, Warren gestured to the north.

The trial—which ended in a mistrial in June 2018 and went to retrial in November 2019—boiled down to a question of Warren’s intent. The prosecution and defense argued whether Warren *wanted* to hide Jose and Kristian from Border Patrol. In the process they asked: what did Warren hope, fear, and plan for Jose and Kristian? The prosecution argued that Warren was a high-ranking leader of an inter-organizational network of people committed to undermining the United States by helping “illegal aliens” further their journey into the interior. Prosecutors Anna Wright and Nathaniel Walters asserted that Warren wanted to help Jose and Kristian by telling them about the Border Patrol checkpoint up the road (at mile marker eighteen on Arizona State Route 85) and explaining how to avoid it. The pretense of humanitarian aid, they averred, was a slipshod cover up. The defense rebutted. Defense attorneys Greg Kuykendall and Amy Knight insisted that the evidence demonstrated nothing more than what the court already knew: Warren was a humanitarian aid worker and volunteer. He hoped only to keep people alive. And he bestowed upon Jose and Kristian basic live-saving orientation because he feared for their lives at the hands of the deadly desert. The defense and the prosecution painted two very different stories about Scott Warren’s intent.²⁵²

O’odham jeved was not on trial in *United States v Warren*. However, it was central to the case. Undergirding the debate of whether Warren wanted to help the undocumented border crossers continue north or to keep them alive, were the questions: were the undocumented border crossers in mortal danger? What did O’odham jeved mean to or for the border crossers? To support their case, the defense depicted O’odham jeved as the vacuous, disorienting, dangerous,

United States v Warren resided at the interstices of migrant erasure, O’odham land, and state violence. (Fieldnotes, November 13, 2019)

²⁵² In terms of undocumented border crossers, two images appeared in the court room, one of “illegal aliens” and one of “humans, migrants, and patients. The defense referred to Jose and Kristian as “humans,” “migrants,” and “patients.” The government prosecutors referred to Jose and Kristian as the “illegal aliens.” Unsurprisingly, the prosecution and defense employed different terminology to reference Jose and Kristian. Aware of the politics of the term, they cautioned the jury at the beginning that “illegal alien” was a technical term. They said, “It’s a term that is found in the United States Code. It’s something that is found throughout all of the immigration statues...It simply means someone who does not have legal status inside the United States. That’s it.”

United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 285, 27 (Nathaniel Walter, United States Attorney, Prosecution).

and arid desert that Prevention Through Deterrence (1994) had long worked to craft. O’odham jeved posed, the defense held, a palpable and mortal threat to border crossers generally and to Jose and Kristian specifically, and Warren, who had encountered many human remains in the desert knew that. The prosecution, conversely, portrayed O’odham jeved as an assemblage of landmarks conducive to transiting the desert north. ---A space employed by smugglers, a conduit of illegal activity and nefarious actors--- The desert, the defense insisted, was deadly. The prosecution saw it as an assemblage of guiding landmarks conducive to illicit northern foot traffic.

On its face, *United States v. Warren* was all about what a white humanitarian aid worker did and did not do, wanted and didn’t want. However, at its core, it was all about O’odham jeved.

O’odham Jeved, Weapon of the State

O’odham jeved has been rendered, through U.S. policy and practice, into a weapon of the state. In the courtroom, the prosecution and defense tacitly debated the efficacy of that weapon by looking to border crosser bodies. O’odham jeved appeared as either a tangible threat to undocumented border crossers lives or as the conduit of their crossing. In the process, they revealed the complex manipulation of time and space mobilized by the settler-state to eschew responsibility for undocumented border crosser injury and ultimately death.

During the proceedings, undocumented border crosser bodies became a proxy by which to understand O’odham jeved. As the objects of Warren’s actions, Jose and Kristian were under considerable scrutiny. Of particular concern, to both the defense and prosecution, was their potentiality, condition, location, and capability in the desert. What would have happened If Warren had not intervened? The two sides asked questions about undocumented border crossers generally and Jose and Kristian specifically.²⁵³

The defense attorneys argued that O’odham jeved was deadly. They asked the jury to consider that, at the hands of the desert, Jose and Kristian might have become *just bodies* as had countless others before them. They spent significant time articulating the reality of undocumented border crosser death in the Sonoran Desert. Tying these to the land, the defense introduced a map of southern Arizona produced by Humane Borders with the data from the Pima County Medical Examiner’s Office (See Figure 4.3). “Every red dot”, defense witness Gina Jackson explained, “is the recovery location of a human who has died in the desert.”²⁵⁴ Compressing time, the dots and the remains they represented—those whose journey had ended abruptly—spoke to a crisis, and they implicitly they spoke to the deadliness of the desert. Jose and Kristian, the defense asserted, could have become just another pair of red dots.

²⁵³ Central to the case was the question, did Jose and Kristian need *aid* or did they need *help*, where aid referred to actions taken by trained medical professionals on a body that requires medical attention and help referred to assistance or guidance in proceeding north and “further into the interior.” The prosecution challenged the defense justify the designation of Jose and Kristian as patients. Accidentally apropos, considering the main debate of the case, one juror abbreviated illegal aliens as “IL” in their notes. Indeed, the attorneys debated if Jose and Kristian just illegal aliens (IL) or they were actually ill.

²⁵⁴ *United States v. Scott Daniel Warren, Erica R. McQuillen*, United States District Court, District of Arizona (2019) Document 289, 128 (Geena Jackson, Witness for the Defense)

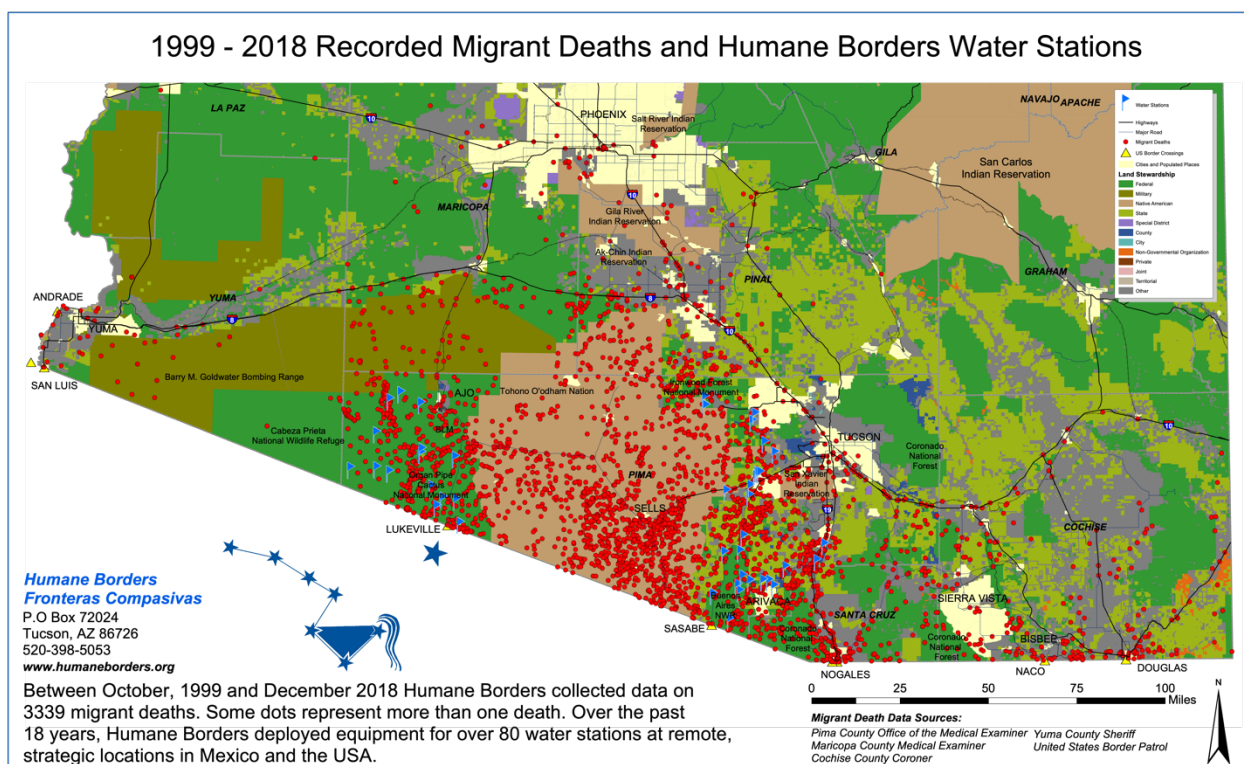


Figure 4.3: 1999-2018 Migrant Deaths and Humane Border Water Stations Courtesy of Humane Borders

The defense called upon medical experts and Warren to present a timeline/trajectory of living undocumented border crossers to dead ones at the hands of the desert. The living, they asserted, stumbled out of the desert, just escaping its grasp. If left in the desert, the argument went, the border crosser risked death. In making the connections between the dead and the living, the defense asserted that Scott Warren, in giving aid to Jose and Kristian, sought to make an intervention in what the defense attorney called a “predictable sequence.” Warren intervened in a temporal trajectory that went from living border crossers to remains.

Warren himself described the danger of the desert as he connected for the jury the image of living border crossers to the dead. He testified that he had helped to recover nearly a dozen sets of remains. He highlighted the urgency and frequency with which the living escaped. He said, “It is not a stretch to say every day migrants are stumbling out of the wilderness, knocking on doors in Ajo needing food and water and other kinds of basic care.”²⁵⁵ The living and the dead appeared almost cinematically side by side for Warren. He explained,

²⁵⁵ (United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 289, 166 (Scott Warren, Defendant))

When I see people who are going to undertake a crossing of the desert or who are in the desert or who stumble out of the desert into our town, I see these bones at the same time. It's almost like a split screen or something. Not that I see them as bones, but I see that disturbing, disturbing reality of how people who are living can become lose and disappeared to the desert...when I see people living, I just—I just see this connection between those who are living and those who have died in this place²⁵⁶

On the stand, Warren testified to the fact that he had encountered many remains in the desert, and he asserted that in encountering the living he also thought about the dead. Warren insisted that everyday migrants barely escaped the desert. The defense invited the jury to imagine the migrants, as Scott does when he sees living migrants “stumble out of the wilderness,” alongside the red dots, to imagine them as abandoned, dying, and dead. The defense asked the jury to see Jose and Kristian as potentially dead and O’odham jeved as the perpetrator.

O’odham jeved was culpable for what it contained (rough terrain and heat) and what it lacked (water). Defense attorneys tied general deaths in the desert to the warning signs in the living body, to dehydration, exhaustion, and blisters. Seeking to locate the lethal violence enacted by the desert on/in the body of the undocumented border crosser, they asked expert witnesses to enumerate the medical definitions of dehydration, its signs and symptoms, and to convey the stakes of dehydration in the desert. Defense witness Dr. Norma Price asserted, “if migrants don’t find that water [put out by No More Deaths volunteers] or find a flowing stream, which is pretty rare in the desert, then they are at high risk of dying of dehydration.”²⁵⁷

Witnesses pointed out that, physically, it is impossible to carry enough water for the multiday journey across the border and through the desert. The defense attorney sought to make the connection between blisters and death explicit. Addressing the jury, he explained,

You’ll hear that blisters will kill you. Blisters aren’t going to kill you because they cause gangrene. Blisters will kill you because it means you get left behind. If you can’t walk and your blisters get worse and worse, the rest of the group goes without you. And those are the remains that we find in the desert.²⁵⁸

No one was beyond the desert’s grasp. When asked by one of the jurors if anyone is immune to exposure, Pima County Chief Medical Examiners Dr. Gregory Hess joked, “Well, Superman certainly would be.”²⁵⁹ Dr. Hess’s invocation of Superman is funny considering Superman himself was an undocumented alien, but it also invited the jury to consider the indiscriminate violence of the desert. The desert by definition is a place without water and it is imagined as a place without life. The defense worked to characterize the land as a wilderness, empty, vast, and dangerous. They asked the jury to acknowledge the threat of the desert in order to conclude that Warren feared for Jose and Kristian’s life.

²⁵⁶ (United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 289; 175-177) (Scott Warren, Defendant)

²⁵⁷ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 288, 200 (Gregory John Kuykendall, Defense Attorney)

²⁵⁸ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 285, 48 (Gregory John Kuykendall, Defense Attorney)

²⁵⁹ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 387, 69 (Gregory Hess, Witness for the Defense)

The prosecution turned to focus on and direct the jury's attention to the bodies of Jose and Kristian. They attempted to splice the image of the dying migrant from the image of Jose and Kristian at the Barn by accounting as best they could for the actual bodies of the two. They turned to the cells, skin, and gait of the undocumented border crossers. Objecting to the relevance of Gregory Hess's testimony on the deaths of undocumented border crossers in the desert, the prosecution asserted, "there are no deaths in this case. This is completely irrelevant."²⁶⁰ Indeed, there were no deaths in the case, only potential ones, deaths in the background.

The prosecution pieced together an image of the two unmolested by the desert by presenting photos, videos, and observations. Border Patrol agents Marquez and Burns were the first government witnesses.²⁶¹ While Agent Burns was on the stand, the prosecution played security camera footage from two gas stations in Ajo, Arizona: The Why Not Gas Station and a Chevron. In the videos the jury could see Jose and Kristian walking around. Footage from inside, showed that the two purchased a cell phone charger and a red Powerade.

The prosecution challenged the jury to question whether, according to the footage, the migrants walked *as though* they had been assaulted by the desert, *as though* they had blisters on their feet, *as though* they had injuries. Would a dehydrated person buy a red Powerade and a bean burrito instead of water, the prosecution asked. Border Patrol agent Brenden Burns summed up the prosecution's strategy when he testified that when he saw them, "they didn't appear to be in any need of humanitarian aid."²⁶² The prosecution asked Burns to be explicit, "And during the time that you were watching [the footage], did you notice that Mr. Perez-Villanueva ever limped during that security footage?" "No," Agent Burns answered. Belaboring the point the following exchange took place,

Q: Did he ever hold his side?

A: No

Q: Did he ever walk significantly slower than those around him?

A: No.

Q And the same for Mr. Sacaria-Goday. Was he ever limping during that time?

A: No.

Q: Was he ever holding his side?

A: No.

Q: Did he ever look as if he was guarding an injury?

A: No.

Q: And did he appear to be walking any slower than anyone around him, or significantly slower?

²⁶⁰ Prosecution United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 387, 53 (Anna Roberta Wright, United States Attorney)

²⁶¹ Marquez and Burns, both members of Border Patrol's Disrupt Unit were surveilling the Barn on DATE. The two of them witnessed Warren speaking to Jose and Kristian as Warren gestured to the landscape to the north (see below).

²⁶² United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 73 (Brendan Burns, Witness for the Prosecution)

A: No ma'am.²⁶³

After reviewing the video, the prosecution turned Burn's attention to photos obtained from Kristian's cellular telephone to query whether the flesh of the migrants looked as though it has been attacked by the desert. One photo (exhibit 42A) was taken in living room of the Barn. Jose and Kristian were in the foreground, and volunteers posed behind them. The prosecutor asked, "Looking at these and looking at Mr. Perez-Villanueva and Sacaria- Goday, from what you can see do either of them have any bruises, cuts, marks on them?" Agent Burns replied "No, ma'am." Referring to another photo (exhibit 43), a selfie taken by Kristian of his own reflection in the bathroom mirror where he is pictured shirtless, the prosecution once again asked Agent Burns to account for the border crosser's body.

Q: In this photo, do you see any cuts or bruises on Mr. Perez-Villanueva?

A: No, ma'am

Q: Do you see any cuts?

A: I do not.

Q: Do you see any visible signs of injury?

A: No ma'am²⁶⁴

Guiding Agent Burns through exhibit after exhibit, photo after photo, the prosecution rehashed the line of questioning that asked the agent to appraise the undocumented border crosser bodies. Asking the agent to appraise the bodies of the border crossers, the prosecution inquired about any marks, bruises, scratches, cuts, and one time, any ACE bandages. The desert was innocent, the prosecution held.

Eschewing broader trends and contexts—employing a strategic myopia—the prosecution, the United States of America argued that the desert was innocent, that the threat of the desert, on which the state is so dependent, was marginal or non-existent. They worked to excise Jose and Kristian from their greater context. To obfuscate the violence orchestrated by the state over decades—a violence that produces the deaths at the border and that draws humanitarian aid workers like Warren to southern Arizona—the prosecution sought to meticulously account for the bodily integrity of Jose and Kristian. Indeed, there were no deaths in this case. The strategy employed by the prosecution asked not about border crosser bodies generally but these bodies in particular. Were *these* bodies the objects of violence? In the opening statement the prosecution promised, "You will get to judge for yourselves how they walked and how they moved that morning."²⁶⁵ The prosecution sought to demonstrate to the jury that it was obvious that Jose and

²⁶³ (United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 96-97)

²⁶⁴ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 117 (Brendan Burns, Witness for the Prosecution)

²⁶⁵ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 384, 5 (Nathaniel Walter, United States Attorney, Prosecution).

The defense sought to displace this line in a rare moment of humanization, "What Kristian's phone shows you is that he's a 23-year-old kid with a phone. He's glued to it. And if he's not looking at it, he's posing with it. He's taking pictures of himself. He's making himself look good, and he's sending those pictures to his loved ones back home. It's what anybody with a phone under the age of about 40 is doing with their phones." United States v. Scott Daniel

Kristian were not in need of aid. Addressing the jury at the opening statement the prosecutor insisted, “You will see various selfies that they took of themselves while at the Barn, and you will get to decide based on those selfies if those two men looked like they are in such medical distress that they need to be sheltered and harbored by the defendant for three days or more.”²⁶⁶ The prosecution held that Scott Warren hoped to provide²⁶⁷ *help* getting North, passage into the interior.

The prosecution employed a trick of scope/scale to divorce itself from state-curated violence on a massive scale, to say nothing of the socio-political contexts and disparities that the United States also has a hand in and that compel border crossers cross in the first place. O’odham jeved is being mobilized by the United States to disappear undocumented border crossers. Quite literally the prosecuting attorneys represented the United States government, and their stratagem reveals an important element of the elusive state violence at hand. Eschewing the policies and practices aimed at border crosser death and the multitude of deaths, the United States counsel zoomed in to look at two undocumented border crossers who had not perished. Doubling down on their insidious tunnel vision, the prosecution went as far as to ask the judge to forbid any mention of Trump or the administration, a request the presiding judge granted.²⁶⁸ Employing a strategic myopia, looking to Jose and Kristian, the United States asserted the desert was not *that* deadly.

Trying to prove Warren’s intent one way or the other, both sides located, read, mapped, marked, and evaluated border crosser bodies. These inquiries implicated O’odham jeved as an agent of violence against border crossers. Both sides attempted to qualify and quantify the threat the land posed, and thereby discern Warren’s intentions. The question of the case implicitly became how effective O’odham jeved had been weaponized by the state. Death at the hands of the desert acted as subtext, context, and setting. But, pointing to the living, the prosecution obfuscated the dead.

O’odham Jeved, a No Man’s Land

Crafting O’odham jeved into a weapon of the state relies upon *deserting*, appearing it as empty. In relation to the undocumented border crossers, O’odham jeved appeared only as a space and conduit of transit. The features of the land marked the passage of undocumented border crossers. Both prosecution and defense presented O’odham jeved as a no man’s land. Focusing on the northbound trajectories of undocumented border crossers, the border enforcers who track

Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 384, 27 (Gregory John Kuykendall, Defense Attorney)

²⁶⁶ (Walters, United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 285, 34).

²⁶⁷ Once Jose and Kristian made it to the Barn, the prosecution has two pieces that evidenced Warren’s interaction with them: the interaction outside and the SOAP notes. SOAP is an acronym for subjective, objective, assessment, plan. It is a documentation system employed by healthcare providers. At the Barn, investigators found the SOAP notes for the two patients initiated by Warren.

²⁶⁸ Anita Snow and Astrid Galvan, “Judge Bans Border Activist from Mentioning Trump in Trial” *AZ Family.com* November 12, 2019, https://www.azfamily.com/news/judge-bans-border-activist-from-mentioning-trump-in-trial/article_6ef9b722-0581-11ea-baeb-c731ffd095b0.html

them, and the humanitarian aid workers who try to keep border crossers alive, both prosecution and defense overwrite O’odham who call the land home, who live in and return to the land, and who remain in community with it. The elision of O’odham space and place is foundational to settler colonial occupation in the borderlands, neither arbitrary nor innocent.

The undocumented border crossers were moving north; the prosecution and defense debated what role Warren hoped to play in their trajectories. Border Patrol officers observed Warren through a spotting scope as they covertly surveilled the Barn from public land about a tenth of a mile away. Officers could not hear Warren, but they saw him standing outside of the Barn, speaking with Jose and Kristian, and gesturing to the landscape. The silent points and gestures of spawned a debate worthy of Clifford Geertz—an anthropologist who famously remarked on the need for cultural context in deciphering between winks, blinks, and winces—the two sides asked whether Warren was trying to orient Jose and Kristian to the landscape in order to save their lives *or* trying to help them, to give them directions, so that they could get from a here to a there, to avoid the Border Patrol checkpoint and journey further into the interior.

Crucial to the trial was articulating what about the land Warren tried to convey to the border crossers. To Border Patrol, Warren appeared to be describing the landscape; how Warren described or demonstrated the landscape. The Border Patrol agents who were surveilling the Barn were the first on the stand. They described for the jury an assemblage of landmarks important to Border Patrol because they were important to undocumented border crossers. “In my experience” Agent Burns said, “... there are a lot of significant and unique-looking landmarks across the desert from south to north, from east to west, and migrant groups will kind of go one landmarks to the next travelling northbound.”²⁶⁹ Warren appeared to be orienting the undocumented border crossers to those landmarks. Border Patrol agent John Marquez described the scene he witnessed,

The defendant had both of them next to him, and he was what appeared to be pointing out the different terrain features in the area. He was making different hand gestures, like, lots of pointing and then, like, this motion to the two other subjects.²⁷⁰

Describing the motion, Agent Marquez moved his hand up and down like a wave, tracing an imagined landscape with his hand, “like rolling hills with washes in-between them.”²⁷¹ Brendan Burns, the second on the stand, elaborated. Agent Burns described Scott’s gesture as a waive, “a hand up to the north and moving to the left and to the right.”²⁷²

²⁶⁹ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 132 (Brendan Burns, Witness for the Prosecution)

²⁷⁰ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 285, 78-80 (John Marquez, Witness for the Prosecution)

²⁷¹ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 285, 80-81 (John Marquez, Witness for the Prosecution)

²⁷² United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 60 (Brendan Burns, Witness for the Prosecution)

For the Border Patrol agents, O’odham jeved enabled illicit transit. Both Agent Marquez and Agent Burns believed that Warren was pointing out Child’s Mountain, a mountain Marquez described as,

a large mountain with an antenna on top. The antenna looks like a golf ball. It has red lights at night, so at night you would be able to pick it out through most of the desert on that side... a lot of times the alien smugglers or narcotic smugglers will use Childs Mountain to guide off of...²⁷³

In addition to Child’s Mountain, Burns identifies other features of the land. He said, “In that area where his hand was passing are what we call Crater Range... To the east of that, on the east side of State Route 85 are the Batamote Mountains and Batamote Peak... To the northeast would be Hat Mountain.”²⁷⁴ Describing the significance of the landscape to Border Patrol, Burns asserted,

Childs Mountain has traditionally been a point of reference that aliens use to navigate while they’re walking through the desert, because the antennae on the top are visible during the day, and the light is visible at night ...Crater Range, especially the west side of Crater Range... is often used as kind of a resting place for aliens transiting the desert.²⁷⁵

Burns described the landmarks “used as navigational aid by aliens transiting the desert.”

Marquez identified those transients as “alien smugglers or narcotic smugglers.” Burns also went on to identify two Border Patrol checkpoints on State Route 85, a road which runs from the border in Lukeville to the interstate in Buckeye. “One” he said, “is located south of Ajo at mile marker 58, and one is located north of Ajo at mile marker 18.”²⁷⁶ The latter, Burns revealed was “approximately 20 miles north of the Barn.”²⁷⁷ Agent Burns implied that if undocumented border crossers could avoid the checkpoint north of Ajo, they could follow the road to the interstate.

The prosecution’s vision of O’odham jeved aligned with Border Patrol. To them, the landscape appeared as a veritable how-to guide for undermining the sovereignty of the United States. To them, Warren’s points and gestures to the landscape could only mean one thing: he wanted to help them continue north. Belaboring the point, the U.S. attorney asked, “would people reach these landmarks and then navigate further north from there... they wouldn’t, you

²⁷³ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 285, 82 (John Marquez, Witness for the Prosecution)

²⁷⁴ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 61 (Brendan Burns, Witness for the Prosecution)

²⁷⁵ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 62 (Brendan Burns, Witness for the Prosecution)

²⁷⁶ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 64 (Brendan Burns, Witness for the Prosecution)

²⁷⁷ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 65 (Brendan Burns, Witness for the Prosecution)

know, build a house and live right at those landmarks; correct?”²⁷⁸ The Sonoran Desert appeared as a place of northern transit, as a setting for the peripatetic and not a place to stay or live.

To the defense, the desert was lethal and empty. Indeed, it was supposedly lethal *because* it is empty, exceptionally so. It was this vast emptiness that the defense argued Warren sought to convey and orient the border crossers to. Warren’s actions, they held, acted as a lifeline in the wilderness. The defense attorney asserted,

[Scott Warren] helps [undocumented border crossers] in the most lethal desert environment imaginable... What surrounds Ajo is no ordinary desert. It’s a multimillion-acre desert, bigger than some states, owned by, almost exclusively, almost entirely, by the Federal Government, with virtually nothing, no towns, no farmhouses, no help, anywhere except Ajo.... There’s one paved road. You see the paved road running up from Sonoita to Gila Bend. That’s the one paved road surrounded by lethal empty desert.²⁷⁹

The road was the only lifeline. There were “no towns, no farmhouses, no help.” It was here that Warren offered something unique. The defense attorney argued, “in this gigantic desert... when he gives them water, when he gives them food, when he gives them a place to recuperate, that predictable sequence of not keeping up, being abandoned, dying, that’s precisely what Scott is trying to prevent...”²⁸⁰ Revisited the landmarks that Border Patrol identified but posited them not as benchmarks of transit, but as signposts that meant the difference between life and death, signposts that Warren appeared and translated for them. The attorney continues,

He pointed to this mountain. It’s called Childs Mountain. And he pointed to this mountain... called Hat Mountain... Scott knew that on that side of Childs Mountain is what’s known as the trail of death. That’s where Scott retrieves the bodies... And Scott knew that on the east side of Hat Mountain, is the Barry M Goldwater bombing range, and active bombing range. And that’s what he pointed out to the two migrants. There’s one road, one paved road, in all of that wilderness that runs between the active bombing range and the trail of death. If you stay between Childs Mountain, if you keep Childs Mountain to your west, and you keep Hat Mountain to your east, if you’re facing north, then you’ve got a chance. If you get on that side of Hat Mountain or you get on that side of Childs Mountain, you’re lost. It’s basic orientation.... That highway 85, is the only way out. It’s orientation. It’s not directions. It’s a basic survival tool.

In the courtroom, O’odham jewed mediated the difference between *direction* and *orientation*. Warren told Jose and Kristian about the road. He told them about Child’s Mountain and Hat Mountain. He told them about the highway and the bombing range. It wasn’t clear if he told them about the Border Patrol checkpoint; the Agents couldn’t hear. Connecting the desert to the lost and dying migrants, the defense insisted on Warren’s role as a humanitarian aid worker. Referencing the same landmarks that the prosecution had, Warren’s attorney held, simply *oriented* Jose and Kristian to a deadly landscape with nothing else in it. It was about survival, not

²⁷⁸ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 286, 132-133 Anna Roberta Wright, United States Attorney, Prosecution)

²⁷⁹ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 384, 15 (Gregory John Kuykendall, Defense Attorney)

²⁸⁰ United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 384, 15 (Gregory John Kuykendall, Defense Attorney)

about *helping* them get further into the interior. The prosecution invited the jury to once again to imagine, what if Jose and Kristian had never made it out of the void. What, they asked, might O’odham jeved have had in store for them?

The prosecution asserts there is “virtually nothing,”—theirs represents the way this space has been incorporated within a settler ideology as empty, as a wilderness. All that is left in the defense’s estimation, the only semblance of life and civilization, is the road. The road is important not only because it highlights the ways O’odham jeved has been constructed as empty, but also because it speaks to permissible, impermissible, and pertinent movements or avenues on O’odham jeved. Kristian and Jose made their way from Honduras and El Salvador, through Guatemala, across the length of Mexico to end up in Ajo, Arizona, a journey over 2000 miles long. Throughout the case the attorneys presented the two men as either static dots or potential vectors headed north from the borderline, but without a recognition of their trajectories, indeed of them as trajectories, having traveled between multiple nations, across countless Indigenous territories—nearly all of that motion—all but the last 40 miles—is immaterial to the courts. Jose and Kristian’s crime, which rendered them means by which to try Warren, was moving from one region of O’odham jeved that they call Mexico to another region of O’odham jeved that they call the United States. Their movements, migrations from south to north have been going on since time immemorial. And here their trajectories are cut short.

Impacts on O’odham People and Relations

In *U.S. v. Warren*, O’odham jeved comprised the connective tissue between the border crossers, border enforcement, and humanitarian aid workers. Border enforcement renders O’odham jeved into a weapon of the state (one that blisters, cuts and bruises undocumented border crossers), and appears it as a no-man’s land (a space exclusively of [illicit] transit to be policed). It also has direct consequences for O’odham people and their relations.²⁸¹

²⁸¹ Interestingly, Warren described his commitment to humanitarian work through a tie to place which he described as “rootedness.” On rootedness, he said, “Even when we aren’t from a place or have a long family connection or multigeneration or since time immemorial or something, through our experiences there, just like the experiences with people, where you might develop, like, deep love or something for another person, I can also develop really just a sort of spiritual connection to the place and the people who have come through that place before.” (Warren *United States v. Scott Daniel Warren*, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 289; 191 (Scott Daniel Warren, Defendant))

Warren described his love for the land as a spiritual connection *as legitimate* as Indigenous ties. He invoked the O’odham without naming them when he asserted, “Even when we aren’t from a place... since time immemorial.” Of course, O’odham have been here since time immemorial. Warren also ruminated on his respect for nature, “I’ve always wanted the land to be preserved. I’ve always been someone who finds a lot of solace in wilderness places and wild places and in mountains and forests and deserts things like that, and I’ve always recreated in those places too” (Warren; *United States v. Scott Daniel Warren*, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 289; 185 (Scott Daniel Warren, Defendant)).

. With cinematic flair, Warren employed pathos to describe for the jury his love and deep respect for the land and at the same time he asked them to empathize with the mythological undertaking of the border crosser.

For Warren deceased undocumented border crossers were intertwined symbolically as well as materially with the land. He described for jury the ritual that he performs when encountering remains in the desert. In a thoughtful tone he recalled, “the finding of people who have died in the desert is a very spiritual thing, and it’s not just those who have died in the desert, but really all who have passed through there and suffered in various ways...” (Warren 91

Logistically, O’odham people and peoples navigate these interactions as relative outsiders. Undocumented border crossers are being pushed to cross on recognized and unrecognized O’odham land. Their presence and subsequent endangerment draw border enforcement technology and personnel to O’odham jeved and invites (rightly) humanitarian aid efforts. O’odham people encounter undocumented border crossers, and they encounter border patrol as bystanders.

However, just as Indigenous land is caught up in border enforcement, *deserting* impacts O’odham relationships to O’odham jeved. O’odham *himdag* (life, or way of walking) is incidentally criminalized by Border Patrol officers. During a talk at the University of California Berkeley, Gabriella Cazares Kelly an O’odham ‘uvi (woman) and founding member of *Indivisible Tohono* shared a story that illustrates. She was driving on the Tohono O’odham Nation when she saw *komkic’ed* (a desert tortoise), crossing the road. Komkic’ed is a threatened species (some are considered endangered), and they are also sacred in O’odham stories. “What you’re supposed to do” she said “is help the tortoise cross the road. You note the direction it’s traveling, carefully pick it up, and walk it into the desert in the direction that it’s already moving.” Seeing komkic’ed, she pulled off the road, and at the same time another O’odham a short distance behind her did so too. The passenger of the other vehicle ran, got the tortoise, and carried it far into the desert. She watched “to make sure they knew what they were doing.” They did, and when they were done, they exchanged a wave and thanked each other. She got back in her car and started driving. 10 minutes later she arrived at a border patrol checkpoint.²⁸²

Border Patrol checkpoints sit at every entrance and exit from the Tohono O’odham reservation. Usually when someone arrives at a checkpoint, they stop and the Border Patrol agent inquires into the citizenship status of the occupants. There are a lot of different O’odham

United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 289, 177). He went on to explain the ritual that he performs when he encounters remains in the desert, “ I will acknowledge that person by facing them, and then I will turn away and look out onto the desert, onto the land, and the significance of that, for me, is seeing with my own eyes what this person saw right before they died or what I imagine they would have seen from that particular place...the other piece of that is I’ll sit down or kneel down and grab a handful of the desert, of dirt, of sand, whatever is there, and slowly sort of release that from my hands, breathe deeply, offer kind of a moment of meditation for this person and acknowledgement of what they felt, in addition to what they saw, but what they felt as well. And the significance of that to me is, when I’ve let go of the desert from my hands, that that’s sort of the moment of completion and a way of bringing some rest to that person” United States v. Scott Daniel Warren, Erica R. McQuillen, United States District Court, District of Arizona (2019) Document 289, 194-195 (Scott Warren, Defendant)

In his ritual, Warren moves to, in his own words, acknowledge the deceased. He moves to see what they saw, feel what they felt, touch what they touched. Warren looks out on the features of the land. He grabs a handful of the sand, dirt, and desert and slowly releases it. In doing so he imagines himself bringing rest to the deceased. Warren painted a sensory rich picture for the jury. He invoked the tangible desert is a grounding point. Holding space and place, literally, for a moment, he then slowly releases both the border crosser and the land. Warren shared his ritual with the court one, because the defense initially sought a Religious Freedom Act, but the testimony also, as the attorneys and the judge discussed in a sidebar, got at intent. Warren lets go of both the land and the border crosser. As a witness or a narrator, he can do that. He finds closure. The jury found Warren “not guilty” just hours after arguments had ended. Warren appeared alongside his partner and his attorney outside of the courthouse. His attorney announced the decision as a victory for human rights in the face of the Trump administration.

²⁸² Fieldnotes, October 18, 2018

approaches to answering that question, approaches that vary between individuals, days, and moments, but during this encounter with the checkpoint, that didn't happen.

Behind the woman appeared a Border Patrol SUV, the agent within hit the siren; the lights were flashing. He gestured and yelled at her to go, but she wasn't quite to the checkpoint stop sign. She was unsure what to do. As she rolled closer to the stop sign, the agent in front gestured for her to stop and the one behind her yelled at her to go. The agent in front of her moved his hand toward his holster, reaching for his gun, before he realized what was happening. Things calmed down as they waved her over to secondary (shorthand for secondary inspection).

The officer who was behind her came over and asked her why she was stopped "in the middle of nowhere..." Of course, she knew, that this was not the middle of nowhere. In fact, it's been less than a hundred years since the U.S. thought to incorporate this land as a reservation, wilderness, and bombing range to create a desert—a nowhere--out of O'odham jeved. She narrated the following exchange:

The agent asked. "Do you know those people?"

"No," she replied.

The agent in disbelief prodded, "You don't know those people. Why were you stopped on the side of the road with those people?"

She explained, "We stopped for a tortoise."

"I didn't see a turtle," the agent replied.

The agent went to the other car. The woman told me that she thought he was going to feel foolish because the other driver was going to confirm her story. Instead, the agent came back even more indignant.

He said, "So you just come out here and stop for turtles, is that what you do?"

She said at this point she was shaking. She was wondering how to explain. She found herself wondering if komkic'ed would corroborate her story. She said, "I didn't know what to say."²⁸³

O'odham land, people, and relations appear suspect when viewed through border enforcement practices and regimes in the borderlands. The road endangered komkic'ed. It cut across komkic'ed's path, and the woman stopped to help. Unable to fathom these relations and responsibilities, the Border Patrol officer, even as the woman explained she was helping a tortoise, continued to question the woman in disbelief. The officer asks the woman if she just comes out here to stop for turtles (how ridiculous a thought)? She worked in Sells and lived in Tucson. Recall from Chapter 2 that the O'odham name for Sells remains Komkic'ed 'E Vaa'osidk, which translates to "Place Where the [big Desert] Tortoise Got Itself Stuck."²⁸⁴ Both O'odham land. Rendered into a weapon that is wielded against border crossers and appeared as a

²⁸³ Because who does? How do you explain to someone who doesn't already understand, that out here we need to be mindful of one another? How do you explain that when you find someone who is in danger in this place, you help them? Because this is what O'odham have always, and I really mean always, done. How do you explain that komkic'ed's path wasn't really crossing the highway at all, but really the other way around: thinking through Indigenous time and motion from the wrong side of a gun—if it can be said that there's a right side. You can't.

²⁸⁴ Harry J. Winters, Jr. *O'odham Place Names: Meanings, Origins, and Histories, Arizona and Sonora* (Tucson: SRI Press, 2020), 86

no-man's land, O'odham jeved—O'odham presence, place, and peregrinations—are illegible and suspect. Their lives and relations fall outside of the realm of possibility.

Conclusion

Ostensibly all about discerning the intent a white humanitarian aid worker, *United States v Warren* reveals much more about O'odham jeved. O'odham jeved appeared as the true villain and culprit in the case. Vacuous, disorienting, dangerous, and arid, it posed, the defense insisted, a palpable and mortal threat to undocumented border crossers. As a map, a network of landmarks conducive to transiting the desert north, according to the prosecution, it aided in undermining the sovereignty of the United States. O'odham jeved helped the border crossers journey north and it nearly condemned them.

Under the auspices of border security, O'odham jeved is rendered into a weapon of the state and it is simultaneously crafted into a no-man's land, one where nobody has any legal business/right to be. It is this phenomenon that I name *deserting*, a process and technique by which Indigenous land is variously made, imagined, negotiated, and experienced as empty. Here O'odham jeved appears as a "desert" in keeping with the desert in the western imaginary, as a place without life (or even a place that takes life). It's easy to see how such an endeavor benefits even realizes a settler colonial desire. Border enforcement serves as both an impetus and alibi in the material and symbolic occupation of Indigenous land, and at the same time O'odham jeved has been conscripted into a familiar mechanism whereby the settler colonial nation-state seeks to obscure the violence that it is enacting against both border crossers and Indigenous people and peoples.²⁸⁵

Of course, O'odham jeved isn't empty. O'odham understanding of the desert comes via the instruction and observation of a community of humans and nonhumans across millennia (including Komkic'ed). O'odham know that is not the desert that kills, it is not blisters, or even exactly dehydration; it is the lack of community. And this is where *incorporation* comes in. *Incorporation* enables and bolsters *deserting* in the borderlands. In places like Organ Pipe National Monument, like the bombing range, like the asphalt road, officials have been enabled by the law to clear out people and life-protecting resources to desert the land. Incorporation, which appears O'odham jeved as fixed administrative locations rather than as home and kin, and home for kin-- empowers Border Enforcement to repurpose, continuously craft, and police the desert on O'odham jeved.

²⁸⁵ Lorenzo Veracini *Settler Colonialism: A Theoretical Overview* (Palgrave Macmillan, 2010), 14

Chapter 5

The Saguaro: Triangulating Border Crossers and O’odham

We kept guiding ourselves by the compass. I also would guide myself by the stars. Between the two of us we made a good team. We made a good team. We supported each other mutually.

—Kristian Gerardo Perez-Villanueva, *United States v Scott Warren*

We stayed in a cave... Those *pinches* vampires [referring to bats] wouldn’t let me sleep. [laughing] They kept flying all around my head. We got up at 6 A.M. and started walking.

—Lucho, *Land of Open Graves*

Although it often fails, U.S. border policy attempts to ensure that border crossers don’t get the chance to share their stories. The U.S. not only attempts to guarantee that border crossers will die *en route*, but also that they leave behind little more than a name, a case number, and a set of fingerprints if they manage to survive. When border crossers are apprehended, officials work to process and deport them as quickly as possible. Most who end up in custody encounter a well-oiled deportation machine under Operation Streamline and are adjudicated in as little as seven minutes.²⁸⁶ In the deportation proceedings I observed in Autumn of 2019, individuals had crossed the border at most three days earlier. In those minutes border crossers share few words. Some seventy border crossers enter the courtroom at a time.²⁸⁷

They are called up in groups of seven or eight. The judge asks of each, “is it true that you are not a citizen of the United States?” or, “is it true that you are a citizen of El Salvador?” The judge then establishes when and where the defendants entered the United States by asking “is it true that you entered the United States unlawfully on November 15 near Sasabe, Arizona?” On November 19, the people entering a plea had crossed on the 15th, 16th, 17th of the same month.

²⁸⁶ Operation Streamline is a 2005 Bush-era policy. It names a collaboration between the Department of Justice (DOJ) and the Department of Homeland Security (DHS) that, at its most basic level, requires the criminal prosecution of all undocumented border crossers. Before 2005, the U.S. Attorney’s Office exercised prosecutorial discretion and typically reserved criminal prosecution for undocumented border crossers to those with a criminal history or who had repeatedly crossed the border illegally. Proponents of the policy hoped to discourage and deter illegal crossings. The policy has at the very least failed to do that. Studies from the Pew Research Center and the University of Arizona have concluded that the policy has failed to deter would be border crossers as intended, and instead, precipitated sharp increases in cost to taxpayers and Latino imprisonment. Also, as Jason De Leon points out, every detained border crosser does not actually end up in Operation Streamline Proceedings. The American Civil Liberties Union (ACLU) has reported a 58% increase in federal prosecutions as a result of the policy. The only thing that the policy has been effective at doing, critics point out, is shoring up business for federal courts and private prisons. Two prominent ethnographic descriptions of Operation Streamline in Tucson, Arizona deserve mention here: Francisco Cantú’s *the Line Becomes a River: Dispatches from the Border* (2018) and De Leon’s *Land of Open Graves* (2015). The latter describes the proceedings as a Kangaroo Court.

²⁸⁷ Operation Streamline proceedings occur Monday through Friday at 1:30 P.M. on the second floor of the Di Concini federal courthouse in Tucson, Arizona

The judge then asks the defendant, “are you thinking clearly and pleading guilty voluntarily and of your own free will?” The last question, “how do you plead?” The answers are overwhelmingly the same, “si, si, si, si, culpable.” Occasionally an asynchronous or misplaced “si” reveals the unstable foundation of consent the performance relies upon.

Not only are border crossers processed as quickly as possible, but also the DeConcini courthouse posts in pdf form the names of those that go through Operation Streamline. Audience members print these out and on any given day they can be seen writing on the sheets as the proceedings happen. The next day those proceedings are gone. A fellow researcher tells me that the courts keep no record of any given day’s PDFs. Ultimately, the archives disappear

Despite state efforts, border crossers and their stories survive. They make it across O’odham jeved, and their narratives do surface. I open this chapter with excerpts from two border crosser accounts of traversing through O’odham jeved that I encountered during my research. The first is from the testimony of Kristian Gerardo Perez-Villanueva, one of two undocumented border crossers (the other was Jose Arnaldo Sacaria-Goday).who served as government witnesses in *United State v Warren*. In exchange for their testimony, the United States attorneys dropped all charges related to their crossing. On the stand the two revealed that they were two young central American men who had made their way well over 2000 miles to jump the line, Kristian from El Salvador and Jose from Colón, Honduras. Jose had crossed the border before, in Texas, five years earlier, and on that trip, he was reunited with his mother. Jose and Kristian jumped the line with three others. Walking through O’odham jeved at night and resting during the day, the group of five journeyed north. Jose and Kristian were on the stand for 90 minutes each. The stories of Jose and Kristian are typical, but the fact that their stories told in their own words over 90 minutes appeared in court is extraordinary. The second excerpt is from an interview between Lucho and anthropologist Jason De Leon. Lucho is a pseudonym. Lucho’s account alongside his companion Memo’s (also a pseudonym) is printed in De Leon’s monograph, *Land of Open Graves* (2015).²⁸⁸ Both were repeat border crossers whom De Leon met at a migrant shelter in Nogales, Arizona.

Analyzing border crosser narratives from an O’odham vantage reveals a relationship between O’odham jeved and undocumented border crossers that isn’t supposed to exist. When put into conversation with O’odham understandings about the land, a profoundly different desert appears. For border crossers the borderlands are a place to be moved through. For Indigenous people it is a place to stay. The difference between how border crossers and Indigenous people relate to the land cannot be overstated. For both though, there is a categorical beginning in the desert. For border crossers it is the space where they become “undocumented immigrants” or “asylum seekers.” For O’odham people it is the place where they became O’odham and continues to be O’odham, and where the new year begins.

Storying O’odham jeved

²⁸⁸ De Leon publishes 1) his interview with Lucho and Memo, two men who crossed the U.S.-Mexico border on O’odham jeved on foot, and 2) the photos they took along the way with a disposable camera that De Leon provided them. The first photo that appears in book, “Puro Monte!” was taken just after they had crossed the border. In the distance two peaks. “Lucho explains “We crossed in only the most difficult areas. There were no roads or trails. That is why I think we didn’t get caught. Puro Monte. Giant rocks and mountains where Border Patrol doesn’t really go” De Leon Jason. *Land of Open Graves: Living and Dying on the Migrant Trail*. (Berkeley: University of California Press, 2015), 195.

In this chapter, I analyze two poems in conversation: “Saguaros” by Javier Zamora—narrated from the point of view of a border crosser—and “Pulling Down the Clouds” by Ofelia Zepeda—from that of an O’odham woman engaging in a traditional harvest. I specifically read these as literary testimonies about O’odham jeved. Both poems center the Saguaro and its fruit, revealing the narrators to be not only in the same place (O’odham jeved), but also the same time (the fruiting season of early summer). While the relationship between O’odham and the saguaro is simply not analogous to any other relationship, it is curious that Zamora’s poem engages so centrally with this one plant. Informed by an O’odham lens, I discover that the narrator of Zamora’s poem enters a community on O’odham jeved, develops an understanding of the land and its inhabitants, and locates the violence of border crossing not in federally *incorporated* and *deserted* O’odham jeved, but in the state itself. I conclude that these poems, triangulated through the saguaro, reveal simultaneous, intersecting, and resonant relationships with the land, longstanding and newfound, which come into focus when we examine them alongside one another. While two poems are not representative of the positionalities “border crosser” and “O’odham,” they constitute an important and, importantly, *self-determined* archive. Examining their respective relationship with the saguaro and the saguaro fruit. I sort through not only the divergences, but also the temporal, geographical, and interspecies overlaps between these respective works about the Sonoran Desert (O’odham jeved).

Ofelia Zepeda and Javier Zamora write from very different perspectives. They are from different nations, different generations, and today they live in different states. Zepeda is a Tohono O’odham poet and linguist born and raised in Stanfield, Arizona. Her parents, originally from an O’odham village in Sonora, Mexico, relocated to the U.S. side of O’odham jeved in the 1940s and 1950s. Currently, she is a Regent’s Professor of Linguistics at the University of Arizona in Tucson, Arizona. Zamora, a Salvadoran American poet, migrated to the United States at the age of nine as an unaccompanied minor. His parents migrated years before him, driven out of El Salvador by the violence and chaos of the U.S.-funded Salvadoran Civil War (1980-1992). He currently works and resides in New York City. Zamora writes as an undocumented border crosser, Zepeda as an Indigenous woman whose community has been crossed by the border.

Yet, despite these important biographical differences, both Zepeda and Zamora write about their experiences on O’odham jeved. Zepeda’s collections—*Ocean Power* (1995); *Jewed’l-hoi/Earth Movements, O’odham Poems* (1996); and *Where Clouds are Formed* (2008)—center, reveal, and recall her life as an Indigenous woman in her homelands.²⁸⁹ While she writes both in O’odham and English, her works are unapologetically O’odham. Zamora’s debut collection, *Unaccompanied* (2017), describes and recalls his memories of crossing the U.S.-Mexico border in the Sonoran Desert, what we know to be O’odham jeved. He also writes about his grandmother’s home in El Salvador and his life as an undocumented person living in the United States. Written in both Spanish and English, his work explores diaspora, migration, and political (un)belonging. Indeed, both Zepeda and Zamora write bilingual poetry. They both occupy positions simultaneously inside and outside of the United States’ political and hegemonic center (as Indigenous and as undocumented), and they both—relevant to this project—write extensively about O’odham jeved.

²⁸⁹ Zepeda uses the Tohono O’odham form “jewed,” where I use the Akimel O’odham “jeved.” These subtle differences notwithstanding, O’odham dialects are generally mutually intelligible.

The two poems this chapter analyzes—Ofelia Zepeda’s “Pulling Down the Clouds,” and Javier Zamora’s “Saguaros”—don’t center O’odham jeved as a whole but the saguaro cactus in particular. The saguaro, which is indigenous to the Sonoran Desert like O’odham, places these poems on O’odham jeved. Indeed, O’odham, as I will show, recognize longstanding relationships to this cactus as kin. That is, O’odham recognize the personhood of the saguaro, a personhood, I contend, Zamora’s poem comes to understand as well, albeit through a very different lens.

Ha:sañ (Saguaro).

The saguaro, *sauwo* in Yaqui (from which the word “saguaro” is believed to derive); *Carnegiea gigantea* in binomial nomenclature; “great thistle” to Spanish conquistadors and missionaries; or Ha:sañ in O’odham is a slow growing plant. The saguaro gains about two inches in height every year and can reach up to sixty feet. It begins and spends the first fifty to seventy-five years of its life as a single “spear.” It then begins to grow its first arm. At around thirty-five years of age, the saguaro begins to flower and produce fruit (See Figure 5.1 and 5.2). The saguaro fruit, purplish-red, appears on the saguaro annually around June or July. The ripe fruit is remarkable for the thousands of tiny black seeds it contains. Each seed can grow a new saguaro, though they generally require the shade of a nearby “nurse plant”—as such, these long-lived, durable denizens of O’odham jeved remind us of our collective interdependence. Even the iconic saguaro, metonym of the desert itself, requires another plant to shelter and protect it as it takes root. Saguaros can live to be over 200 years old. It is not an exaggeration, therefore, to say that there are saguaros who are older than the United States’ claim to O’odham jeved.



Figure 5.1: Saguaro Flowers; Photo by National Park Service



Figure 5.2: Saguaro Fruits; Photo by National Park Service

In O’odham stories, the Ha:sañ is a person. In the first issue of *Arizona Quarterly* (1945), Susie Ignacio Enos shares one story (there are many) of the first ha:sañ. In the story, a ten-year-old O’odham girl wanders through the desert looking for her mother who worked in a nearby village. The girl, after asking various animals for directions and giving them her water in exchange, finally reaches her destination. But, just before being reunited with her mother, the girl sinks into the ground. Enos writes, “No amount of tears could bring the little girl to the surface of the earth.” The girl’s mother cares for the spot where the child sinks. She brings it food and water. One year later, a “queer plant” grows. It is the first ha:sañ. As she had done with the spot

where her daughter sunk, the girl's mother cares for the ha:šań and eventually the ha:šań produces fruits. Enos writes,

One day when the flowers had gone to seed and the desert began to swell with the summer heat, the fruit of the stately plant burst showing forth a scarlet red. When it had fallen to the ground [the girl's] mother ate some of it after she had seen the birds eat it when it was still on the plant. She tasted that the fruit was delicious and so she gave some to the other people.²⁹⁰

While the story is much longer—the ha:šań disappears from the village, is found by eagle and identifies itself as the girl—in the story, the girl who became a ha:šań is said to provide for the people and the animals of the O'odham jeved, saving generations of O'odham from starvation. We recognize interspecies community and the understanding of the personhood of the more than human here. The ha:šań, despite this transmogrification, remains a person, and the people are shown that Ha:šań fruit is edible by the birds. O'odham observe and gather scientific knowledge bound in this interspecies community of mutual sustenance.

In the Anglo world, the saguaro was first documented by settlers during Francisco Vazquez de Coronado's expedition through the southwest (1540-1542). Referring to the people of the northern Sonoran Desert, the chronicles of the Coronado expedition reads, "They drink wine made of the pitahaya, which is the fruit of a great thistle which opens like the pomegranate. The wine makes them stupid."²⁹¹ As time went on and the land changed imperial hands, onslaught of academics (anthropologists and ethnologists) and travelers were intrigued by not only the plant itself which was unique to the Sonoran Desert, but also by the relationship between it and the Indigenous people of the region. This intrigue resulted in thousands and thousands of published pages on the topic.

Today the Saguaro is considered by many to be iconic and emblematic of the charisma of the Sonoran Desert. In 1901 the saguaro flower was adopted as the official flower of the territory of Arizona. In 1931 it was confirmed the State flower. Today it is a class four felony in the state of Arizona to damage, remove, or destroy a saguaro cactus. And the fallen saguaro acts as a potent symbol for the destruction caused by the border wall.²⁹²

The appearance of the Saguaro cactus in Ofelia Zepeda's "Pulling Down the Clouds," (right) and Javier Zamora's "Saguaros" (left) place both in the Sonoran Desert, what we know to be O'odham jeved at the time of the fruiting that Enos's version of the origin of ha:šań relates.

²⁹⁰ Susie Enos, "Papago Legend of the Sahuaro," *The Arizona Quarterly*, 1(1) (1945).

²⁹¹ As quoted in George Parker Winship, "The Coronado expedition, 1540-1542" *Bot Amer. Ethnol. Rpt.* 14 for 1892-93, pt. 1 (1896):516. The pitahaya mentioned is believed by both scholars to refer to the fruit of the *Carnegiea gigantea*.

²⁹² Molly Hennessy-Fiske, "Protected cactuses felled to construct border wall," *Los Angeles Times*, A1, February 27, 2020.

Saguaros

It was dusk for kilometers and bats in the lavender sky,
like spiders when a fly is caught, began to appear.
And there, not the promised land but barbwire and barbwire

with nothing growing under it. I tried to fly that dusk
after a bat said *la sangre del saguaro nos seduce*. Sometimes
I wake and my throat is dry, so I drive to botanical gardens

to search for red fruits at the top of saguaros, the ones
at dusk I threw rocks at for the sake of hunger.

But I never find them here. These bats *speak English only*.
Sometimes in my car, that viscous red syrup
clings to my throat and I have to pull over—

I also scraped needles first, then carved
those tall torsos for water, then spotlights drove me
and thirty others dashing into paloverdes;

green-striped trucks surrounded us and our empty bottles
rattled. When the trucks left, a cold cell swallowed us.

Pulling Down the Clouds

Ñ-ku'ibadkaj 'ant 'an ols g cewagī.
With my harvesting stick I will hook the clouds.
'Ant o 'i-wañ'io k o 'i-hudñ g cewagī.
With my harvesting stick I will pull down the clouds.
Ñ-ku'ibadkaj 'ant o 'i-siho g cewagī.
With my harvesting stick I will stir the clouds.

With dreams of distant noise disturbing his sleep,
the smell of dirt, wet, for the first time in what seems like months.
The change in the molecules is sudden,
they enter the nasal cavity.

He contemplates that smell.
What is that smell?
It is rain.

Rain somewhere out in the desert.
Comforted in this knowledge he turns over
and continues his sleep,
dreams of women with harvesting sticks
raised toward the sky.

The narrators of each of these poems harvest and consume the saguaro fruit (ha:sañ bahidag). By including the saguaro fruit, the respective authors of these poems manifest not just the same place (the Sonoran Desert), triangulated through the same species (the Saguaro), but also the same time: the summer, or more specifically, the fruiting season of the Saguaro. For the narrator of Zamora's poem, the fruit is tied to the memory of crossing the U.S.-Mexico border. For the narrator of Zepeda's, it is tied to an Indigenous ceremony that fixes the world. The saguaro emerges as community to both O'odham and border crosser, identified by community.

In "Saguaros" the narrator recalls crossing the U.S.-Mexico border. Of the poem, Zamora elsewhere writes,

Two months I'd traveled through three different countries to be reunited with my parents...for two weeks we'd tried to successfully cross three different times, with three different coyotes, with three different groups of 30, with three different outcomes.

'Saguaros' deals with the first try, but our groups ran out of food and water every time.²⁹³ Zamora crossed three countries to cross the U.S.-Mexico border multiple times. We note, as we did with komkic'ed, Kristian, and Jose in the last chapter, Zamora's long trajectory here. This scene of his journey is set in O'odham jewed, but that journey is in truth multinational. Moreover, while he describes his three attempts to cross with different groups and with different results, we

²⁹³ Javier Zamora, "Cutting Saguaros," *Poetry Magazine*, (2016).

can also read those attempts as part of the same journey, grand in scales of both space and time. Across the entirety of this journey, the final leg repeats in the same place and with one result remaining the same: the shortage of food and water. Within O’odham jeved, ha:şañ provides both.

The Saguaro fruit appears central to the piece. In the body of the poem, the narrator, compelled by thirst, drives to botanical gardens to look for the “red fruits at the top of saguaros,” the ones he “threw rocks at for the sake of hunger” (because “saguaros” is based on Zamora’s experience, I gender the narrator as male). The reader assumes, based on his return that his initial attempts were successful. Moreover, he has clearly developed a taste for these fruits. Even though he doesn’t find them in botanical gardens, he nonetheless experiences the sudden sensation of “that viscous red syrup” at the back of his throat. In the poem, the narrator finds the saguaro fruit that he previously harvested missing, but it materializes as a sensation, in an embodied memory of O’odham jeved.

In “Pulling Down the Clouds,” the narrator also harvests the saguaro fruits, though it is not obvious to the un-inducted reader. The poem begins in O’odham. The first line, “Ñ-ku’ibadkaj ’ant ’an ols g cewagi,” is translated in the second as, “with my harvesting stick I will hook the clouds.”²⁹⁴ The subject of the sentence, the harvesting stick—or in O’odham the “ku’idbad”—is specifically and exclusively for harvesting saguaro fruits.²⁹⁵ The poem slyly tells us to what ends this harvest exists. The title of the poem, “Pulling Down the Clouds,” refers to an O’odham ceremony. The ceremony for “pulling down the clouds” has been described in various places. At a basic level it marks the new year and brings the monsoon rains.²⁹⁶ The ceremony is best known in the literature for the ritual drinking of Nawait, a ceremonial substance made from fermented saguaro fruit. Recall that in Chapter Two, I explore BIA liquor suppression efforts aimed at eradicating the substance (and the ceremony). The superintendent reported to his superiors that the head men of the reservation told him, “If they gave up the making of [Nawait], it would mean starvation for their wives and children, as it would never rain again.” He explained “They claim that when the Creator put them here he told them to make this drink in order to have rain, and the old timers firmly believe in this.”²⁹⁷ Zepeda’s poem invokes this ceremony in the title, but it does so only for those who already know about it; Zepeda refuses to explain. O’odham, however, understand that her poem deals with the very first step in pulling down the clouds: the saguaro fruit harvest, which will be made into Nawait, and will enable O’odham to pull down the clouds, to bring the rains to O’odham jeved and to all their kin, human and otherwise.

²⁹⁴ Ophelia Zepeda, “Pulling Down the Clouds,” *Ocean Power*, (Tucson: University of Arizona Press, 1995).

²⁹⁵ Frank Crosswhite, “The Annual Saguaro Harvest and Crop Cycle of the Papago, with Reference to Ecology and Symbolism.” *Desert Plants*, 2(1), 1–61, (1980): 22 <https://repository.arizona.edu/handle/10150/550735>

²⁹⁶ Frank Crosswhite gives perhaps the most thorough survey of the various accounts of the ceremony for pulling down the clouds. Frank Crosswhite, “The Annual Saguaro Harvest and Crop Cycle of the Papago, with Reference to Ecology and Symbolism.” *Desert Plants*, 2(1), 1–61, (1980): 22 <https://repository.arizona.edu/handle/10150/550735>

²⁹⁷ Superintendent to Commissioner of Indian Affairs Washington D.C. Feb 28, 1923; “Commissioner of Indian Affairs 1923 1/3”; Sells Indian Agency (Papago); Subject Files of Superintendent 1900-1928, Box 14; BIA, RG 75; NA Riverside, CA

Ha:saiñ Bahidag Masad (The Saguaro Fruit Month)

While involved in the same act: harvesting and consuming the saguaro fruit, the narrators present very different relationships to it. One (Zamora) posits it as constitutive of a traumatic memory, and the other (Zepeda) of an ongoing Indigenous present and future.

In Zamora's poem, the present is nested within, interrupts, and gives way to the past, to the narrator's account of crossing O'odham jевed. The first words of the poem, "It was dusk for kilometers," bring the reader into a time (dusk) and a place distant in both space and time. The narrator describes bats appearing and notes that at the border there was no "promised land," only "barbwire." A few lines later, the poem flashes to the present, mid-line. The narrator wakes, as if from a dream instead of a memory. His throat is dry, so he drives to botanical gardens to seek out the saguaro fruits he encountered during his crossing. Yet, he doesn't find them. Back in his car, the sensation of the fruit forces him to pull over, and the poem re-enters the past. The narrator completes the memory of crossing. He recalls extracting and drinking water from the saguaro, being chased by spotlights, surrounded by border patrol, and being swallowed by a cold cell.

For the narrator of "Saguaros" the saguaro fruit serves as the conduit and catalyst of a memory that haunts him. The past and present are connected by the desire for and consumption of the saguaro fruit. The saguaro fruit is invoked three times in the poem: it seduces the bats (I read the "blood of the saguaro" as the juice of the red fruit—see below); the narrator searches for them; and its syrup clings to the narrator's throat. The fruit facilitates the transitions from past to present and from present to past. When the bat from the narrator's memory refers to the fruit, telling him "*la sangre del saguaro nos seduce*" (the blood of the saguaro seduces us), the narrator wakes in the present. After he is forced to pull over by the syrup clinging to the back of his throat (perhaps he has found these fruits somehow; perhaps his memory of the syrup manifests with physical symptoms), the poem flashes back to the past and the memory continues. In the layout of the poem, the present is bracketed, defined, maybe even trapped by the past; the fruit facilitates its capture.

The nature of the relationship between the past and present remains ambiguous. It is clear that boundaries between the two are blurred (as, of course, they are in all of our narratives), and that the past informs, gives way to, and interrupts the present. It is not clear however, how much or what that influence amounts to. In the poem, the narrator describes the present as a vague repetition by employing the word "sometimes." The narrator *sometimes* wakes to a dry throat, which causes him to drive to botanical gardens, to search for saguaro fruits. *Sometimes* in his car the fruit appears as a sensation suddenly without warning. The fruit appears not where the narrator was looking for it (botanical gardens), but in his personal space, and it forces him to pull over. The sensation of the saguaro fruit syrup consumed and clinging to the narrator's throat interrupts his journey, travel, and trajectory. An earlier version of the poem reveals that the narrator (and perhaps the author) feels conflicted about impact of the memory in the present. In a version published in 2016, instead of, "Sometimes in my car, that viscous red syrup/ clings to my throat and I have to pull over—" Zamora writes, "sometimes in my car, that viscous red syrup/clings to my throat and it's a tender seed toward my survival." While the earlier version suggest that saguaro offers a literal seeded fruit and a metaphorical seed, beginning, and zygote that would become his survival, in the later that same fruit interrupts his journey unexpectedly,

like a flashback, forcing him to yield.²⁹⁸ At the same time, the seed (recall saguaro fruits carry hundreds) itself marks potential for the long-lived saguaro/person as well as a rootedness, a being-in-place that belies administrative attempts to disallow border crossers' dwellings in the United States. The memory of crossing both compels the narrator to search for objects of the past and stops the narrator from moving forward in the present, but without it, there is no present.

Though the narrator has long since crossed the border, his journey continues—he remains composed of his crossing, which in this version, stalls. In some ways, the narrator has left O'odham jeved. The memory of O'odham jeved and the narrator's present is distinct in terms of tense and in the narrator's identification of a past "there" and a present "here." But even though the narrator simply passed through O'odham jeved, he, in truth, never leaves. He does not so much return to O'odham jeved in these memories of the saguaro fruit. Rather, in many ways, he *remains* there.

The connection between the narrator and the saguaro acts as a metaphor (and metonym) for his (and Zamora's) relationship with the trauma of crossing. Elsewhere, Zamora makes the connection between the poem and his trauma explicit. Drawing a parallel between carving the Saguaro and shaping and reshaping and controlling the memory of trauma through poetry, Zamora writes,

Remembering is a transgression because I do not want to relive the trauma, but shaping it, redrafting it, moves me away from it; I can *control* it. This process is not much different than cutting a saguaro in the desert because you do not want to scrape needles, to hack at the beautiful cactus, but you must. Shaping a hole, not too small and not too big, moves you away from death; you can drink the green water and live.²⁹⁹

The saguaro and the narrator leave scars on each other. The saguaro's scar is physical; the narrator's psychological (though these, of course, are not as distinct as we are sometimes led to believe). This metaphor also plays out in terms of the botanical gardens. In the poem, the botanical gardens are a place far away from the Saguaro's homeland, physically and temporally distanced from the moment of crossing. Moreover, they are pristine, controlled, and contained arenas where things might live and be studied out of place (and time). That the narrator looks for Saguaros there, long after he has passed through O'odham jeved, mirrors the ways that Zamora revisits and perhaps attempts to contain the memory in this poem. Each of these marks a controlled return.

²⁹⁸ Zamora doesn't overstate the life that the United States offers him, and while the passage is pregnant with meaning, it is important to realize that that pregnancy doesn't come to term in the text. The viscous red syrup may be as he says "a tender seed" toward Zamora's survival, but seeds don't always become seedlings, and seedlings don't always become plants. A seed, an embryo out of the womb, must find outside of the fruit the exact right conditions. The National Parks Service (NPS) estimates that a single saguaro plant can produce over 40 million seeds during its lifetime. Seeds like people, to survive require water and sunlight, safety.

²⁹⁹ Similarly, at one point, toward the end of the interview, De Leon asks Memo and Lucho, "After these experiences, how do you feel about the desert?" Lucho answers, "Well, some are traumatized, and later you have dreams about it at night. Yeah, you dream about walking in the desert or dreams that you are being chased." Memo adds, "Yeah, those first days back... In the middle of the day it will sometimes feel like you are still living the crossing" De Leon Jason. *Land of Open Graves: Living and Dying on the Migrant Trail*. (Berkeley: University of California Press, 2015), 145. To reiterate, the trauma of the desert is manufactured by U.S. federal polity and policing. These crossers are "being chased" by border patrol agents; they are compelled to the desert by Prevention Through Deterrence, and hospitality or humanitarian aid is criminalized.

When reading “Saguaros” from an O’odham perspective, we know why the narrator cannot locate the fruit, why his present search must be literally fruitless: it is the wrong time of year. The narrator found but finds no fruit because when he crossed it was Ha:šaň Bahidag Mašad, “The Saguaro Cactus Fruit Month.” Wherever and whenever he is now, it is clearly the wrong month for finding saguaro fruit. The presence of the ha:šaň bahidag in the story of Zamora’s crossing places that crossing precisely in both space and time. He crossed in the summer, before the monsoon rains, and before the O’odham new year.

In Ofelia Zepeda’s “Pulling Down the Clouds,” the narrator also harvests the saguaro fruit but for the narrator of that poem, the saguaro fruit harvest and consumption for the ceremony to pull down the clouds symbolizes an ongoing covenant, promise, and responsibility, it is not an unsettling *sometimes* as it is for Zamora, but perhaps instead an always. For O’odham people, the saguaro fruit does not only connote time, but also community. Every year, when the *Ha:šaň o Bak*, (the saguaro is ready), O’odham folks gather in Ha:šaň Bahidag (saguaro fruit) camps to harvest the fruit. There they cook and eat and teach. They sing and tell stories.

Zepeda’s poem centers the pulling down clouds ceremony, and it invokes various parts of it. To pull down the clouds, O’odham harvest the saguaro fruit, cook, and strain the fruit to prepare a syrup, ferment the syrup over days. After everything has been prepared, O’odham perform the activities that more typically get labelled as ceremonial during which they drink the Nawait. The ceremony repairs the world. The monsoon rains come, and the new year begins. The fruit of the saguaro in covenant with O’odham fixes the earth, or better said rights the earth, keeps it going by bringing the rain. Every element represents a part of the ceremony, beginning with the harvest. The first of two stanzas of “Pulling Down the Clouds” consist of three phrases that appear first in O’odham and then in English. The poem begins,

Ñ-ku’ibađkaj ’ant ’an ols g cewagĩ.

With my harvesting stick I will hook the clouds.

’Ant o ’i-waññ’io k o ’i-huđiñ g cewagĩ

With my harvesting stick I will pull down the clouds.

Ñ-ku’ibađkaj ’ant o ’i-siho g cewagĩ

With my harvesting stick I will stir the clouds.³⁰⁰

The narrator, later gendered female, asserts that with her harvesting stick she will hook, pull down, and stir the clouds. With these lines she blends and obscures the events of the “pulling down the clouds” ceremony. The narrator will hook the clouds where we would expect her to hook the fruit; she will pull down the clouds, where we would expect the community to gather and complete the ceremony that brings the rains; she will stir the clouds, where we would expect her to stir the syrup. Thus, at the heart of the poem is the deep connection and trajectory between O’odham, the fruit, and the rain. Since the monsoon rains of July and August provide nearly one-third of the region’s annual precipitation, this trajectory serves as the source of the veritable lifeblood of all beings on O’odham jewed.

Like Zamora’s poem, Zepeda’s changes verb tense and temporality. The poem begins wielding the future tense and moves to the present. In the first stanza, the first-person narrator asserts that she *will* perform the ceremony. “‘Ant ‘o” or “I will” appears three times in O’odham and three times in English. The stanza amounts to an assertion, a commitment, and a promise. It is also an act. After these lines, the poem adopts the third person present, and the reader is

³⁰⁰ Zepeda, Ophelia, “Pulling Down the Clouds.” *Ocean Power*. (Tucson: University of Arizona Press, 1995).

introduced to an un-named “he” who is awakened by the smell of rain, “dirt, wet, for the first time in what seems like months.” While the poem leaves it ambiguous, I read the man who is awakened by the smell of rain as I’ittoi or Elder Brother, who has been described by some as a creator-god and ancestor, and who gave the ceremony to O’odham to make it rain.³⁰¹ I’ittoi has many residences on O’odham jewed. In the poem, I’ittoi awakens from his sleep, he contemplates the smell and confirms that it is rain. Comforted in this knowledge he continues his sleep and dreams of “women with harvesting sticks.” He knows (and we know) that the rain arrives because O’odham have fixed the world by harvesting the fruit, making, and consuming Nawait, and completing the ceremonies as they were taught.

Through her use of tense, Zepeda is again playing with time, process, and trajectory. In the poem, not only are the harvest of the saguaro fruit, the making of Nawait, and the pulling down clouds ceremony blended into a single action and moment, but the ceremony also doesn’t take place in the poem. The ceremony *will* be done in the first stanza and it *was* already done by the second. This temporal arrangement gives the impression that the woman’s knowledge, promise, and commitment to pull down the clouds in the future brings the rain in the present. It is this perpetuity that brings comfort to I’ittoi. In the final lines, when I’ittoi dreams of the women with harvest sticks, he dreams the process at the beginning again. The harvest acts as the first step and the last. It, too, always will happen, has always happened, and is always happening, even as it is maintained by the poetic “I.” Indigenous ceremony and the interspecies ties and relations become timeless here; the narrator remains in perpetuity, committed to a certain future without end. The moment of pulling down the clouds is singular (the act), cyclical (the annual repetition and continuance), and constant (as long as there is life in O’odham jewed). It is because of this community and continuity that the rain arrives every year, making possible O’odham lives and the lives of countless other beings that exist in, above, below, beyond, through and across O’odham jewed.

From seemingly parallel universes, these poems center the same time, the same place, the same matter, and the same act, but one offers a reading of it as a past that haunts, the other as an Indigenous past/ present/ future. Regardless of their different timescales, both narrator’s harvest the saguaro fruit to survive in the Sonoran Desert. For O’odham, it is a matter of fixing the world, bringing the monsoon rains in the coming weeks. For the border crosser, survival is more immediate, measured in hours or days as well as in miles to go.

The clearest moment of comparison between these two poems is the means with which the two narrators harvest the saguaro fruit. The difference between the two harvests, manifests (or doesn’t) depending on the presence (or absence) of Indigenous knowledge, continuity, and community. In “Pulling Down the Clouds,” the narrator uses her harvesting stick, a tool specifically made to harvest the fruit of the saguaro, long enough to reach them. Constructed from saguaro ribs and creosote, harvesting sticks not only represent generations of O’odham (who pass this knowledge and technology down) but also generations of saguaro: past saguaros, which constitute the narrator’s harvesting stick; present saguaros, which produce the fruit to be harvested; and future saguaros in the seeds that the fruit contains. The harvesting stick, thus, represents an extension of the life cycle of the saguaro beyond its lifetime as a part of the continuation of generations of O’odham (among others, including birds and bats). In “Saguaros,”

³⁰¹ Ruth Underhill, *Singing for Power* (Berkeley: University of California Press 1938), 22

the narrator harvests the fruits by throwing rocks at them.³⁰² He launches a piece of the Earth in the immediate vicinity, a tool convenient and crude (though one requiring skill to use for this task successfully). And while the rock predates both O’odham and the border (which *creates* the undocumented border crosser), it is imprecise and blunt. The different tools available to the narrators reflect the respective transience or permanence in O’odham jeved.

But the narrator of “saguaros” is not without community on O’odham jeved. Despite state efforts to *desert* O’odham jeved—to curate a place without community to the detriment of undocumented border crossers—Zamora’s poem traces a budding community between the narrator and those on O’odham jeved. At the start of the poem, the narrator describes the scene as menacing, the land as barren. The poem opens,

It was dusk for kilometers and bats in the lavender sky
Like spiders when a fly is caught, began to appear.
And there, not the promised land but barbwire and barbwire
with nothing growing under it. I tried to fly that dusk³⁰³

The poem opens with an image of dusk, a dusk that extends “for kilometers.” Dusk is the darkest part of twilight before night. In the sky bats begin to appear, and in the second line the narrator positions the bats as predators. He asserts, they appeared “like spiders when a fly is caught.” Later when the narrator asserts that he himself “tried to fly that dusk,” the reader imagines that the bats are there to consume him, that he is the fly, caught. Of course, the bat doesn’t consume the narrator (even if the narrator is ensnared) but instead shows him how to survive. The bat says, “*la sangre del saguaro nos seduce*,” in English: the blood of the saguaro seduces us. Even as it speaks in metaphor—the bats seduction by the saguaro fruit mirrors a thinly veiled desire of the narrator for the United States, the so-called (but absent and likely fictional) promised land—the bat is also referencing the blood-colored fruit, which it and the narrator consume. When the bat says that the blood “seduces us,” it’s unclear if “us” means the bat and the narrator, or the bat and other bats. Later in the poem and in the present, the narrator encounters bats once again in botanical gardens. However, the narrator notes, “These bats *speak English only*.” The bats of O’odham jeved inform the narrator, while those beyond it “*speak English only*.” We note immediately that while all the bats’ conversation with the narrator are italicized, there exists a stark difference in tone from the poetic and metaphoric bats we encounter first to the terse and commanding ones here. These latter bats, in fact, are not even quoted, yet mirror the xenophobic English-only rhetoric of those who likewise often seek to vilify border crossers. These bats seem to offer no guidance.

In the Sonoran Desert, bats truly eat the saguaro fruit. The lesser long-nosed bat (*Leptonycteris yerbabuena*) is an important part of the life cycle of the saguaro; indeed, scholars posit that the two likely co-evolved. Lesser long-nosed bats migrate north from their winter

³⁰² In Paul Nabhan’s “The Desert Smells Like Rain” (1982), a “young city boy” asks an O’odham elder, Marquita, if would be possible to harvest the fruit by knocking it from the saguaro with rocks. The horrified reply comes, “No! Saguaros... they are Indians too. You don’t *ever* throw *anything* at them. If you hit them in the head with rocks you could kill them... You don’t do anything to hurt them. They are Indians” Gary Paul Nabhan, *The Desert Smells Like Rain: A Naturalist in O’odham Country*. (Tucson: University of Arizona Press, 2016), 27.

³⁰³ Javier Zamora, “Saguaros,” *Unaccompanied*, (Port Townsend: Copper Canyon Press, 2017).

homes in central Mexico to the Sonoran Desert. Saguaro flowers bloom well after dusk and remain open for less than twenty-four hours. When the flowers bloom, lesser long-nosed bats feed on the nectar within. In the process of flying from flower to flower, they pollinate the saguaro. Weeks later, between mid-June and early July, the ripe fruit splits open and the bats (along with many other desert dwellers, including O’odham) eat the fruit; they proceed to drop and spread the seeds, the potential next generation of ha:šaṅ. This relationship that the narrator witnesses presumably gave him the idea to consume the fruit himself. The narrator reads the land, listens, and studies the beings in it, and lives with and because of them. His story resonates with the Susie Ignacio Enos’ story of the ha:šaṅ, where the woman observes birds eating the fruit and tries it herself.³⁰⁴

The bat in connection and in relation to the saguaro fruit further triangulates these two poems and worlds. Placed within the context of their co-evolution with the Saguaro, the bats—creatures often vilified in Western tradition—become part of pulling down the clouds, critical members of the community of O’odham jeved.³⁰⁵ Without bats to pollinate the saguaro, O’odham could not pull down the clouds, and it would never rain again. The fact that these bats migrate from south to north to participate in this yearly ceremony parallels the temporality *and* directionality of the border crosser. Perhaps the bats that speak to the narrator in Zamora’s poem learned Spanish in their travels. While border crossers may not themselves bring the rain, they certainly travel with the ones that do. Moreover, when the monsoon rains do arrive (after the pulling down clouds ceremony is complete), the rain clouds move in from the south. The rains thus multiply migrate north to O’odham jeved, with the bats and with the clouds, and in this case with the border crosser. Fittingly, the O’odham word for people from the south of O’odham jeved (what is currently called Mexico but is not traditionally limited by nation-state boundaries) is *jukum*: people from where the rain (*jukī*) comes.

While Zamora wields personification/anthropomorphism to draw the reader into the borderlands—Saguaro don’t actually have blood, and bats don’t typically speak Spanish (or, at least, they never have with me)—when we read “Saguaro” through an O’odham lens, the narrator not only is taught by the bats to eat the saguaro fruit, but he also comes to acknowledge the personhood of the other than human on O’odham jeved. As we’ve seen, the ha:šaṅ was and is a person in O’odham understandings, and in the penultimate stanza of Zamora’s piece, the poetic voice adopts a similar recognition of the Ha:šaṅ as person. The narrator recalls,

I also scraped needles first, then carved
Those tall torsos for water,

Breaking, into the saguaro for water the narrator uses the word “torso” and not “trunk,” the latter a more common term for the vertical section of species from Kingdom Plantae.

Returning to the passage discussed above, we understand that Zamora doesn’t carve the saguaro out of malice; in many ways his hand is forced. Zamora touches on this when drawing a parallel between dealing with trauma and cutting saguaros. With resignation he asserts, “you do

³⁰⁴ Similarly, like the girl in Enos’s story, Zamora is seeking his parents.

³⁰⁵ The imagery of border crossing narratives often invokes a descent beyond the worldly; it is a descent into hell. When it comes to crossings, the desert is often depicted as a hellscape in cultural productions, popular imaginings, and academic depictions. See Yuri Herrera, *Signs Preceding the End of the World*, (Sheffield: & Other Stories, 2015). Luis Alberto Urrea, *The Devil’s Highway: A True Story*. (New York City: Little, Brown, and Company, 2008). Francis Cantú’s *the Line Becomes a River* (New York: Penguin, 2018).

not want to scrape needles, to hack at the beautiful cactus, but you must. Shaping a hole...moves you away from death; you can drink the green water and live.”³⁰⁶ There is something like regret here for the narrator’s need to harm this being, which he describes not in terms of its needles that might pierce, but by its beauty. Nonetheless, this transgression is required in the face of the challenges he faces in this inhospitable place to which he has been brought. As I discuss in the last chapter, the state has specifically designed a national border that pushes border crossers to the desert, a space specially curated to all but ensure that crossers will run out of food and water, which Zamora’s groups do, every time.

As he recognizes the personhood of the other than human in O’odham jewed, the narrator of “Saguaros” tellingly and importantly also names new and other beings in the borderlands, the perpetrators of violence: state equipment. The narrator names these actors in multiple places in the poem. First, where the narrator sought the promised land, he finds only barbwire with “nothing growing under it.” Zamora’s use of “barbwire,” rather than “barbed wire,” serves as more than a shift in pronunciation; rather, the combination renders the wire itself, the material of territorial demarcation, a weapon in and of itself. This is not wire that has been barbed, an addition to an otherwise innocuous apparatus. The tool itself is meant to harm. Where the land appears barren and empty under it, the only lifeless place in the desert is in the shadow of this linear trajectory of wounding metal. The would-be promised land is empty, metaphorically without promise, and physically *deserted* (emptied). The narrator recognizes that the state enacts violence and appears the land as empty. Moreover, the poem creates a contrast between the barbwire and the haṣañ, replete with its “needles.” Unlike the barbwire, these needles are seemingly easily scraped away (the narrator describes this scraping with no detail nor mention of difficulty), and this scraping yields the very stuff of terrestrial life: water. The haṣañ, a living being ironically often wielded as an emblem of a lifeless place, provides water as well as food for bats and humans.

For the narrator, the desert doesn’t enact violence; the tools of the state do. While at the start of the poem, the land appears menacing, by the end of the poem, the narrator casts the instruments of the state as the aggressors. The poem begins with bats like spiders “when a fly is caught,” but at the end of the poem, the narrator is *actually* hunted, captured and consumed by a community of state equipment. Spotlights drive, trucks surround, and the cold cell swallows. The spotlight, possibly from a border patrol helicopter, drives the border crosser into the paloverde, a passive but sharp feature of the land. The trucks, marked by a green stripe—border patrol trucks—surround them. The cold cell, a holding cell, consumes them. The narrator is hunted, corralled, and consumed by a pack made up of the instruments of the state. By poem’s end, the narrator has entered into a community with the Ha:ṣañ and the bats. He identifies other actors in the borderlands, who desert O’odham jewed.

Conclusion

³⁰⁶ Of course, crossing is not only about death. For border crossers, moving through hell, the Sonoran Desert, is also about futurity. Border crossers make the trek for many reasons such as family, refuge, economy, and many make successful crossings. It is, as Zamora suggests, about survival. Along this line, during my fieldwork, one man, speaking about his efforts to live and survive in the United States, said, “I did not come here for the American dream. Fuck the American Dream, I came here to live. I only wanted to live.”

As both poems show, O’odham jeved is not merely a singular physical space, but a series of interactions as well as vectors on, in, through, and beyond it, *and* moving toward, dwelling in, and moving away from it. Just as O’odham ties to place are relational, O’odham jeved itself is best understood in terms of the relationship to all the beings that interact with it. O’odham, the saguaros, and those passing through are not new to the landscape. There has always been traffic through O’odham land. What is new is the thick landscape of militarization in Southern Arizona that multiply connects and coordinates border crossers and Indigenous people.

Zamora survived his crossing. As did Memo and Kristian, whose testimonies open this chapter. Looking at these border crosser narratives from an O’odham vantage, a deeply O’odham landscape appears. During his journey, Kristian guided himself by the huhu’u (stars). It is likely that Kristian identified ursa major in the night sky, in O’odham this constellation is called ku’ipad (harvesting stick). Memo complained of nanakmel (bats), which places his crossing sometime in the summer months. Lucho and Memo, discuss their encounters with many living things, which in English we call animals and plants but which O’odham call doakam (living things) and ha’icu ‘e’es (something that grows from seeds): hahawañ (cows) kokji (javelinas), and judum (bear). On their journey they stayed in a ciho (cave) filled with nanakmel (bats). They dodged kui (mesquite tress) and ate i:bhai, fruit from the prickly pear plant and which Lucho tells De Leon was familiar, “We found some plants that were OK to eat. They were plants that my grandmother used to eat in Mexico” (182). And after they had walked for days, they encountered juki (rain) that filled the ‘a’akī (arroyo) which brought them physical and emotional relief. More than nouns that can be translated from English into O’odham, each of these things and beings that the border crossers encounter is part of a storied O’odham landscape. These narratives complicate the picture of unilateral death and violence at the hands of the desert and devised by the state. There is more life here than the state seems capable of understanding, but which border crossers begin to recognize.

Works Cited

- Acuña, Rodolfo F. *Occupied America: A History of Chicanos*. 8th edition. Boston: Pearson, 2014.
- The Story of Mexican Americans: The Men and the Land*. American Book Company. 1969
- Adelman, Jeremy, and Stephen Aron. "From Borderlands to Borders: Empires, Nation-States, and the Peoples in between in North American History." *The American Historical Review* 104, no. 3 (1999): 814–41.
- Alfred, Taiaiake. *Peace, Power, Righteousness: An Indigenous Manifesto*. 2nd edition. Don Mills, Ont. ; New York: Oxford University Press, 2009 (original in 1999).
- *Heeding the Voices of our Ancestor: Kahnawake Mohawk Politics and the Rise of Native Nationalism*. Oxford University Press. 1995
- Wasáse: Indigenous Pathways of Action and Freedom*. Broadview press 2005
- Allen, Michael. "The 'New' Western History Stillborn." *The Historian* 57, no. 1 (1994): 201–8.
- Almaguer, Tomás. *Racial Fault Lines: The Historical Origins of White Supremacy in California*. University of California Press, 1994.
- "Ideological Distortions in Recent Chicano Historiography: The Internal Model and Chicano Historical Interpretation," *Aztlan* 18 (Spring 1987), 7-28.
- Alonso, Ana Maria *Thread of Blood: Colonialism Revolution, and Gender on Mexico's Northern Frontier*. University of Arizona Press. 1997.
- Alvarez, Robert R. "The Mexican-U.S. Border: The Making of an Anthropology of Borderlands." *Annual Review of Anthropology* 24, no. 1 (1995): 447–70.
<https://doi.org/10.1146/annurev.an.24.100195.002311>.
- Anderson. Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 1983.
- Anzaldúa, Gloria. *Borderlands/La Frontera: The New Mestiza*. San Francisco: Aunt Lute, 1987.
- Aron, Stephen. "Lessons in Conquest: Towards a New Western History," *Pacific Historical Review* 63 (May 1994): 125-47.
- Banner, Stuart. *How the Indians Lost Their Land: Law and Power on the Frontier*. Cambridge, Mass.: Belknap Press, 2007.
- Barker, Joanne ed. *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination*. Lincoln: University of Nebraska Press. 2005
- Native Acts: Law, Recognition, and Cultural Authenticity*. Durham: Duke University Press, 2011.
- "Looking for Warrior Women (Beyond Pocahontas)," In G. Anzaldúa & A. Keating (Eds) *This Bridge We Call Home*. Routledge P 314-325. (2001).
- "Indian™ U.S.A" *Wicazo Sa Review* 18(1). Spring 2003: 25-79 (2003)
- Barr, Juliana *Peace Came in the Form of a Woman: Indians and Spaniards in the Texas Borderlands*. University of North Carolina Press. 2007
- Bassett, Jenna, Donald Fixico, Katherine Osburn, Melanie Sturgeon, Janelle Warren-Findley, and Arizona State University. "Restricted Citizenship: The Struggle for Native American Voting Rights in Arizona." In *ASU Electronic Theses and Dissertations*. Arizona State University, 2011. <http://hdl.handle.net/2286/R.I.14391>.
- Baud, Michiel, and Willem Van Schendel. "Toward a Comparative History of Borderlands."

- Journal of World History* 8, no. 2 (1997): 211–42.
- Benton-Cohen, Katherine. *Borderline Americans: Racial Division and Labor War in the Arizona Borderlands*. Harvard, 2011.
- Basso, Keith H. 1996. *Wisdom Sits in Places: Landscape and Language Among the Western Apache*. 1st edition. Albuquerque: University of New Mexico Press.
- Berkhofer, Robert. *Salvation and the Savage: An Analysis of Protestant Missions and American Indian Response, 1787--1862*. University Press of Kentucky, 2015.
- Biolsi, Thomas. "Imagined Geographies: Sovereignty, Indigenous Space, and American Indian Struggle." *American Ethnologist* 32, no. 2 (May 1, 2005): 239–59.
- *Deadliest Enemies: Law and the Making of Race Relations on and off Rosebud Reservation*. First Edition. Berkeley: University of California Press, 2001.
- Blackhawk, Ned. *Violence over the Land: Indians and Empires in the Early American West*. Harvard University Press, 2009.
- Blackwell, Maylei and Florida Alma Boj Lopex, and Luis Urrieta Jr, "Introduction Special Issue: Critical Latinx Indigenities" *Lat Stud* 15:126-137 (2017)
- Blomeley 1994; *Law, Space and the Geographies of Power*. The Guilford Press
- Bolton, Herbert Eugene. *Bolton and the Spanish Borderlands*. Edited by John Francis Bannon. Norman: University of Oklahoma Press, 1974.
- Booth, Peter MacMillan. "Creation of a Nation: The Development of the Tohono O'odham Political Culture, 1900--1937." *Theses and Dissertations Available from ProQuest*, January 1, 2000, 1–460.
- Bourdieu, P. 1987. "The Force of the Law: Toward a sociology of the juridical field." *The Hastings Law Journal* 38:814-53
- Brooks, James. *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands*. Univ. of North Carolina Press. 2002
- Brooks, Lisa. "At the Gathering Place" in *American Indian Literary by Jace Weaver et al. Nationalism*.
- Brown, Kirby "Sovereignty." *Western American Literature* 53(1):81-89 2018
- Brown, Wendy. *Walled States, Waning Sovereignty*. Boston: MIT Press, 2010.
- Bruyneel, Kevin. *The Third Space of Sovereignty: The Postcolonial Politics of U.S.–Indigenous Relations*. 1 edition. Minneapolis: Univ Of Minnesota Press, 2007.
- Buffington, Robert. "Prohibition in the Borderlands: National Government– Border Community Relations." *Pacific Historical Review* 43, no. 1 (February 1994)
- Cadava, Geraldo L. *Standing on Common Ground: The Making of a Sunbelt Borderland*. Reprint edition. Harvard University Press, 2013.
- Campbell, Robert A. "Making Sober Citizens: The Legacy of Indigenous Alcohol Regulation in Canada, 1777–1985." *Journal of Canadian Studies/Revue D'études Canadiennes* 42, no. 1 (May 22, 2008): 105–26.
- Cattellino, Jessica. "Fungibility: Florida Seminole Casino Dividends and the Fiscal Politics of Indigeneity" *American Anthropologist* 111.2 (2009): 190-200.
- *High Stakes: Florida Seminole Gaming and Sovereignty*. Durham: Duke University Press, 2008.

- Castillo Guadalupe and Margo Cowan, eds. *It's Not Our Fault: The Case for Amending Present Nationality Law to Make All Members of the Tohono O'odham Nation United States Citizens, Now and Forever*. Sells, AZ: Tohono O'odham Nation, 2001.
- Child, Brenda J. *Boarding School Seasons: American Indian Families, 1900-1940*. U of Nebraska Press, 1998.
- Cobb, Amanda "Understanding Tribal Sovereignty: Definitions, Conceptualizations, and Interpretations" *American Studies* 46, nos. ¾ (2005)
- Cohen, Felix. *Handbook of Federal Indian Law*. (1942)
- Cook-Lynn, Elizabeth. *A Separate Country: Postcoloniality and American Indian Nations*. 1 edition. Lubbock: Texas Tech University Press, 2011.
- "Who Stole Native American Studies" *Wicazo Sa Review* 12(1). Spring 1997: 9-28
- *Anti Indianism in Native America: A voice from Tatekeya's Earth*. Urbana: University of Illinois Press, 2001.
- Coulthard, Glen Sean. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. University of Minnesota Press, 2014.
- Cronon William 1995 "The Trouble with Wilderness; or, Getting Back to the Wrong Nature" *Reinventing Nature*, New York: W. W. Norton & Co., 1995, 69-90
- Cronon, William George Miles, and Jay Gitlin, "Becoming West: Toward a New Meaning for Western History," in Cronon, Miles, and Gitlin, eds., *Under an Open Sky: Rethinking America's Western Past* (New York, 1992), 3-27.
- Crosby, Alfred 1973 *The Columbian Exchange: Biological and Cultural Consequences of 1492*
- Castillo, Guadalupe and Margo Cowan, eds. 2001 *It is Not Our Fault: The Case for Amending Present Nationality Law To Make All Members of the Tohono O'odham Nation United States Citizens, Now and Forever*. Tohono O'odham Nation, Executive Branch.
- Deer, Sarah Decolonizing Rape Law: A Native Feminist Synthesis of Safety and Sovereignty." *Wicazo Sa Review* 24(2). January 2009: 149-167
- De La Cadena, Marisol. *Earth Beings: Ecology Practices Across Andean Worlds*. Durham: Duke University Press, 2015.
- Delaney, David. *Race, Place, and the Law, 1836-1948*. First Edition. Austin: University of Texas Press
- . 2008. *Territory: A Short Introduction*. John Wiley and Sons.
- . 2010. *The Spatial, the legal and the Pragmatics of World-Making: Nomospheric Investigations*. Routledge.
- De Leon Jason. *Land of Open Graves: Living and Dying on the Migrant Trail*. Berkeley: University of California Press, 2015.
- DeLay, Brian. *War of a Thousand Deserts: Indian Raids and the U. S. -Mexican War*. Yale University Press, 2008.
- Delgado, Grace. *Making the Chinese Mexican: Global Migration, Localism, and Exclusion in the U.S.-Mexico Borderlands*. Stanford, 2013.
- Deloria, Philip J. *Indians in Unexpected Places*. Lawrence: University of Kansas, 2004.
- Deloria, Philip J., and Neal Salisbury, eds. *A Companion to American Indian History*. Malden, Mass.: Wiley-Blackwell, 2004.
- Deloria, Vine "Intellectual Self-Determination and Sovereignty: Looking at the Windmill in our Minds" *Wicazo Sa Review* 13(1). Spring 1998: 24-31

- Custer Died for Your Sins: An Indian Manifesto*. Norman: University of Oklahoma Press, 2014.
- Behind the Trail of Broken Treaties: An Indians Declaration of Independence*. University of Texas Press. (1974)
- Deloria, Vine, Jr. and Clifford M. Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. Austin: University of Texas Press, 1984.
- Dunbar-Ortiz, Roxanne. *An Indigenous Peoples' History of the United States*. Beacon Press, 2015.
- . "The Corn Mothers Never Went Away." *Latin American Perspectives* 23, no. 2 (1996): 143–49.
- Duthu, Bruce. *Shadow Nations: Tribal Sovereignty and the Limits of Legal Pluralism*. Oxford: Oxford University Press. 2013
- Echo-Hawk, Walter R. *In the Courts of the Conqueror: The 10 Worst Indian Law Cases Ever Decided*. Reprint edition. Golden, Colo: Fulcrum Publishing, 2012.
- Endres, Danielle. 2009. "From Wasteland to Waste Site: The Role of Discourse in Nuclear Power's Environmental Injustices" *Local Environment* 14.10: 917-937
- Erdrich, Louise. *The Round House*. New York: Harper Collins, 2012.
- Ethridge, David "Indian Law Enforcement History" Bureau of Indian Affairs. 1975.
- Faragher, John Mack. "Afterword: The Significance of the Frontier in American Historiography," in Faragher, *Rereading Frederick Jackson Turner: The Significance of the Frontier in American History and Other Essays* (New York, 1994): 237-41.
- Fear-Segal, Jacqueline. *White Man's Club: Schools, Race, and the Struggle of Indian Acculturation*. Lincoln: University of Nebraska Press, 2007.
- Fisher, A. D. "Alcoholism and Race: The Misapplication of Both Concepts to North American Indians." *Canadian Review of Sociology/Revue Canadienne de Sociologie* 24, no. 1 (n.d.): 81–98. <https://doi.org/10.1111/j.1755-618X.1987.tb01072.x>.
- Forbes, Jack D., and Derrick Jensen. *Columbus and Other Cannibals: The Wetiko Disease of Exploitation, Imperialism, and Terrorism*. Revised edition. New York: Seven Stories Press, 2008.
- Ford R. 2001 "Laws Territory (A History of Jurisdiction)" in *Legal Geographies Reader* Blomely et al (eds) pp 200-218
- Foucault, Michel. Ed Paul Rabinow *The Foucault Reader*. New York: Pantheon, 1984.
- Garrouette, Eva Marie. *Real Indians: Identity and the Survival of Native America*. Berkeley: University of California Press, 2003.
- Goeman, Mishuana. 2014. "Disrupting a Settler Colonial Grammar of Place: The Visual Memoir of Hulleah Tsinhnahjinnie" in Simpson and Smith eds. *Theorizing Native Studies*, pp 235-265.
- *Mark My Words: Native Women Mapping Our Nations*, 2013.
- Goeman, Mishuana and Jennifer Nez Denetdale. "Guest Editors' Introduction, Native Feminisms: Legacies, Interventions, and Indigenous Sovereignities." *Wicazo Sa Review*, 24.2 (Fall 2009): 9-13.
- Gómez, Laura E. *Manifest Destinies: The Making of the Mexican-American Race*. New York: NYU Press 2008

- Goodyear-Ka'opua, Noelani. *The Seeds We Planted: Portraits of a Native Hawaiian Charter School*. Minneapolis: University Minnesota Press, 2013.
- Gover, Kevin, Philip J. Deloria, Hank Adams, and N. Scott Momaday. *Nation to Nation: Treaties Between the United States and American Indian Nations*. Edited by Suzan Shown Harjo. Washington, DC: Smithsonian Books, 2014.
- Guidotti-Hernandez, Nicole *Unspeakable Violence: Remapping U.S. and Mexican National Imaginaries*. Durham: Duke University Press, 2011.
- Gutiérrez, Ramón *When Jesus Came the Corn Mother Went Away*. Palo Alto: Stanford University Press, 1991.
- Hämäläinen, Pekka. *The Comanche Empire*. New Haven: Yale University Press, 2009.
- Harris Cole. "How did Colonialism Dispossess? Comments from an Edge of Empire." *Annals of the Association of American Geographers* 94.1 (2004): 165-182.
- Making Native Space: Colonialism, Resistance, and Reserves in British Columbia*. Vancouver: University of British Columbia Press, 2002.
- Jacoby, Karl. *Shadows at Dawn: An Apache Massacre and the Violence of History*. Penguin, 2009
- The Strange Career of William Ellis: The Texas Slave who Became a Mexican Millionaire*. Norton & Co. 2017
- Justice, Daniel Heath. "'Go Away, Water!': Kinship Criticism and the Decolonization Imperative." *Reasoning Together: The Native Critics Collection*. Norman, OK: University of Oklahoma Press, 2008. 147-168.
- Klein, Kerwin Lee. "Reclaiming the 'F' Word, or Being and Becoming Postwestern." *Pacific Historical Review* 65, no. 2 (1996): 179–215. <https://doi.org/10.2307/3639983>.
- Kuletz, Valerie. *The Tainted Desert: Environmental and Social Ruin in the American West*. Routledge, 1998.
- LaDuke, Winona. "Don't Cheapen Sovereignty." In *The Winona LaDuke Reader: A Collection of Essential Writings*. Voyageur Press, 2002.
- Lamar, Howard and Leonard Thompson, eds., *The Frontier in History: North America and Southern Africa Compared*. New Haven: Yale University Press, 1981.
- Leon, Malinda. "Ñ-lu'u" in Zepeda *When It Rains*. 20-21 1982.
- Leza, Christina. "Divided Nations: Policy, Activism and Indigenous Identity on the U.S. Mexico Border." Anthropology Dissertation. Tucson: University of Arizona, 2009.
- Limerick, Patricia. *Desert Passages: Encounters with the American Deserts*. Albuquerque: University of New Mexico Press, 1985.
- *The Legacy of Conquest: The Unbroken Past of the American West*. New York: Norton, 1987.
- Lyons, Scott Richard. *X-Marks: Native Signatures of Assent*. 1 edition. Minneapolis: Univ Of Minnesota Press, 2010.
- "Rhetorical Sovereignty: What do American Indians Want from Writing?" *Communication* 51(3). Feb 2000: 447-468
- Lytle-Hernandez, Kelly. *Migra! A History of the U.S. Border Patrol*. Berkeley, University of California Press, 2010.
- Madsen, Kenneth D. Barriers of the U.S.-Mexico border as landscapes of domestic political compromise. *cultural geographies*. 18.4 (2011): 547-556.

- Soto-Berelov, Mariela and Kenneth Madsen. Continuity and distinction in land cover across a rural stretch of the U.S.-Mexico border. *Human Ecology*. 39.4 (2011): 509-526.
- Mancall, Peter C. *Deadly Medicine: Indians and Alcohol in Early America*. Ithaca, NY: Cornell University Press, 1997.
- Marak, Andrae Micheal, and Laura Tuennerman. *At the Border of Empires: The Tohono O'odham, Gender, and Assimilation, 1880-1934*. University of Arizona Press, 2013.
- Masco, Joseph. 2006. *The Nuclear Borderlands: The Manhattan Project in Post-Cold War New Mexico*. Princeton University Press.
- Meeks, Eric V. *Border Citizens: The Making of Indians, Mexicans, and Anglos in Arizona*. University of Texas Press, 2010.
- Menchaca, Martha. *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans*. Univ. of Texas Press, 2010.
- Montejano, David. *Anglos and Mexicans in the Making of Texas, 1836-1986*. Austin: University of Texas Press, 1987.
- Moore, Stephen T. *Bootleggers and Borders: The Paradox of Prohibition on a Canada-U.S. Borderland*. Lincoln: University of Nebraska Press, 2014.
- Ngai, Mae M. 2004. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton University Press, 2014.
- NPR. *A Few Things to Know About Why Treaties Matter* | NPR. Accessed February 27, 2018. <https://www.youtube.com/watch?v=bexvE4lZRG0>. (2017)
- No More Border Wall, 2019. "The Opposition: Resolutions/Legislation Against the order Wall" <https://noborderwalls.org/opposition/> Accessed October 10, 2019.
- O'Brien, Jean M. *Firsting and Lasting: Writing Indians out of Existence in New England*. University of Minnesota, 2010.
- Piatote, Beth H. *Domestic Subjects: Gender, Citizenship, and Law in Native American Literature*. New Haven: Yale University Press, 2013.
- "Indian-Agent Aporia"
- Pomeroy, Earl. "Toward a Reorientation of Western History: Continuity and Environment." *The Mississippi Valley Historical Review* 41, no. 4 (1955): 579-600.
- Pratt, Mary Louise. "Arts of the Contact Zone." *Profession*, 1991, 33-40.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1986.
- Radding Cynthia *Wandering Peoples: Colonialism, Ethnic Spaces, and Ecological Frontiers in Northwestern Mexico, 1700-1850*. Duke University Press. 1997
- Rifkin, Mark. *The Erotics of Sovereignty: Queer Native Writing the Era of Self-Determination*. Minnesota Press 2012
- Rifkin, Mark. "Indigenizing Agamben: Rethinking Sovereignty in Light of the 'Peculiar' Status of Native Peoples." *Cultural Critique* 73, no. 1 (November 19, 2009): 88-124
- Sack, Robert. 1986. *Human Territoriality--Its Theory and History*. Cambridge: Cambridge University Press.
- Saggers, Sherry. "Dry Damp and Wet Revisited: Alcohol Control Policies in Indigenous Australia and Canada." *Australian-Canadian Studies : An Interdisciplinary Social Science Review* 19, no. 1 (2001): 83.

- Sakiestewa Gilbert, Matthew. "Dark Days: American Presidents and Native Sovereignty, 1880-1930." *American Indians / American Presidents: A History* . . New York: HarperCollins Publishers, 2009. 109-143.
- Saldaña, María Josefina. *Indian Given: Racial Geographies across Mexico and the United States 2016*
- Schulze, Jeffrey M. *Are We Not Foreigners Here?: Indigenous Nationalism in the U.S.-Mexico Borderlands*. The University of North Carolina Press, 2018.
- Simons, Nicholas J. S. *Liquor Control and the Native Peoples of Western Canada*. Thesis (M.A.)--Simon Fraser University, 1992.
- Simpson, Audra. 2014. *Mohawk Interruptus: Political Life Across the Borders of Settler States*. Duke University Press, 2014.
- "Subjects of Sovereignty: Indigeneity, The Revenue Rule and Juridics of Failed Consent." *Law and Contemporary Problems*. June 22, 2008.
- Simpson, Leanne Betasamosake. *As We Have Always Done: Indigenous Freedom through Radical Resistance*. 1 edition. Minneapolis: Univ Of Minnesota Press, 2017.
- Schulze J. 2018 *Are we Not Foreigners Here? Indigenous Nationalism in the U.S.-Mexico Borderlands*. University of North Carolina Press.
- St. John, Rachel. 2011 *Line in the Sand: A History of the Western U.S.-Mexico Border*. Princeton; Oxford England: Princeton University Press.
- Slotkin, Richard. *Regeneration Through Violence: The Mythology of the American Frontier. 1973*
- Smith, Henry Nash. *Virgin Land: The American West as Symbol and Myth*. Harvard. 1950
- Speed, Shannon. "States of Violence: Indigenous Women Migrants in the Era of Neoliberal Multicriminalism." *Critique of Anthropology* 36, no. 3 (September 1, 2016): 280–301.
- Spicer, Edward H. *Cycles of Conquest: The Impact of Spain, Mexico, and the United States on Indians of the Southwest, 1533-1960*. Univ. of Arizona, 1967.
- Spivak, Gayatri Chakravorty. *Reason: Toward a History of the Vanishing Present*. Harvard University Press. 1999
- Stoler, Ann. *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense*. Princeton University Press. 2010.
- Sturm, Circe Dawn. *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma*. Berkeley: University of California Press, 2002.
- TallBear 2013 "Genomic Articulations of Indigeneity" *Social Studies of Science*.43(4): 509-553
- Teves, Stephanie Nohelani, Andrea Smith, and Michelle Raheja. *Native Studies Keywords*. University of Arizona Press, 2015.
- Trouillot, Michel-Rolph. *Silencing the Past: Power and the Production of History*. Beacon Press, 1995.
- Truett, Samuel. *Fugitive Landscapes: The Forgotten History of the U.S.-Mexico Borderlands*. New Haven, Conn.; London: Yale University Press, 2008.
- Trump 2016, January 4, 2016. As featured in "Donald Trump Releases First TV Ad" *YouTube*. Uploaded by Wall Street Journal. Accessed Oct. 10, 2019.
<https://www.youtube.com/watch?v=qa3edsMzHkA>
- Tuan, Yi Fu 1974"Space and Place: Humanistic Perspectives" *Progress in Geography* 6:211-252
- Turner, Dale. *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. 1 edition. Toronto: University of Toronto Press, Scholarly Publishing Division, 2006.

- Turner, Frederick Jackson, "The Significance of the Frontier in American History," in Martin Ridge, ed., *Frederick Jackson Turner: Wisconsin's Historian of the Frontier*. Madison: State Historical Society of Wisconsin. 1986
- USA v. Daniel J. Millis v United States (2008)*; U.S. District Court of AZ, 9th Circuit Court of Appeals] 4:08-cr-01211-CKJ
- USA v. Scott Daniel Warren (2018)*; U.S. District Court of AZ
- USA v. Shanti A. Sellz and Daniel M. Strauss (2005)*; U.S. District Court of AZ 4:05 cr 01499-Rcc-BPV
- Vigil, James Diego. *From Indians to Chicanos: A Sociocultural History*. New York: Waverland, 1984.
- Volpp, Leti. 2013. "Imaginings of Space in Immigration Law." *Law, Culture and the Humanities* 9, no. 3 (October 1, 2013): 456–74.
- 2015. "The Indigenous As Alien." *UC Irvine Law Review* 5, no. 2 (June 1, 2015): 289.
- Voyles, Traci Brynne. 2015. *Wastelanding: Legacies of Uranium Mining in Navajo Country*. 1 edition. Minneapolis: Univ Of Minnesota Press.
- Warrior, Robert. *Tribal Secrets: Recovering American Indian Intellectual Traditions*. Minnesota Press. 1994
- Weaver, Jace. *That the People Might live: Native American Literatures and Native American Community*. Oxford University Press. 1997
- Weber, David. *The Spanish Frontier in North America: The Brief Edition*. Yale 2009
- Weber, David. *Bárbaros: Spaniards and Their Savages in the Age of Enlightenment*. Yale, 2005
- Weber, David J. ed. *Foreigners in their Native Land: Historical Roots of the Mexican American*. University of New Mexico Press. 1973
- White, Richard. "It's Your Misfortune and None of My Own": *A New History of the American West*. 1991
- Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md: Rowman & Littlefield Publishers, 2002.
- *American Indian Sovereignty and the U.S. Supreme Court the Masking of Justice*. University of Texas Press. 1997
- Wilkinson, Charles F. *Blood Struggle: The Rise of Modern Indian Nations*. W. W. Norton & Company, 2005.
- Williams, Robert A. *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America*. 1 edition. Minneapolis, MN: Univ Of Minnesota Press, 2005.
- Winters, Harry J., Jr. *O'odham Place Names: Meanings, Origins, and Histories, Arizona and Sonora*. Tucson: SRI Press, 2020.
- Wolfe, Patrick 2006 "Settler Colonialism and the Elimination of the Native." *Journal of Genocide Research* 8 (4): 387-409
- Womack, Craig S. *Red On Red: Native American Literary Separatism*. 1st edition. Minneapolis: Univ Of Minnesota Press, 1999.
- Wunder, John ed. *Native American Sovereignty (Native Americans and the Law)* Routledge. 1999
- Zepeda, Ophelia, "Pulling Down the Clouds." *Ocean Power*. Tucson: University of Arizona Press, 1995.
- Zamora, Javier. "Saguáros." *Unaccompanied*. Port Townsend, WA: Copper Canyon Press, 2017.

Archives

National Archives, Riverside, CA [Pima Agency 1888-1954; Papago Agency 1871-1980; Salt River Agency 1930-1991]

National Archives at Washington DC; New Mexico Superintendency 1849-1864; Arizona Superintendency 1863-1873

National Archives Washington DC; Old Army; 393.2 Division of the Pacific 1865-1866; 1869-1891

National Archives Baltimore, MD; *ibid.*

Himdag Ki, Tohono O'odham Nation

Arizona Historical Society

Bancroft, UC Berkeley; "Reports on Arizona Indians, 1874"

Heard Museum