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The above comment is not so much to criticize Young's work as to say that we need to get beyond group by group, "tribe" by "tribe," historiography that is painstakingly politically correct, but able to be used in many ways for various political agendas. If Young were at the center of the field of American Indian Studies, he would know the types of critical questioning being engaged in by Native and non-Native scholars, and the directional as well as theoretical differences being debated. Works such as Deloria's, Morrison's, Detwiler's, Irwin's, Tinker's, and Pflüg's take scholars to a much greater plain of understanding of American Indian peoples' answers to the many issues they continue to face. This is not to diminish Young's work, for he has offered us a pleasant base upon which to continue future historical research and contemporary dialogue.

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Wild Justice: The People of Geronimo vs. the United States.
By Michael Lieder and Jake Page. New York: Random House, 1997. 318 pages. \$25.95 cloth.

Never in the annals of federal government-Native American relations has there been inflicted upon an American Indian tribal entity a more egregious episode of injustice than that experienced by those Chiricahuas who, for an unconscionable period of twenty-seven years—of which the latter twenty were spent at Fort Sill, Oklahoma—were held as prisoners of war. At the close of the final Geronimo hostilities in September 1886, approximately four hundred noncombatant Chiricahuas, innocent of any belligerencies against Arizona's populace, were, for reasons of political, military, and economic expediency, uprooted from the San Carlos Reservation and exiled to St. Augustine, Florida, where they were held at Fort Marion. They were subsequently relocated in April 1887 to Mount Vernon Barracks, Alabama—though not before many of their number succumbed to disease. One measure of an ungrateful government's perfidy in this affair is that those Chiricahua scouts, without whose aid Geronimo would never have been induced to surrender, suffered the same fate as their noncombatant confreres.

Too, there is the sordid matter of the Fort Sill years of con-

finement, made especially malicious because, as Colonel Hugh Lenox Scott observed in 1911, promises earlier "made to the ear" were eventually "broken to the hope." In this respect, after the Chiricahuas were removed to Fort Sill in 1894, they were given assurances that this military post would eventually become their reservation and hence permanent home. Meanwhile, so as to foster their assimilation into the economic mainstream, they were trained as cattle raisers, at which occupation they proved quite successful. Even so, in 1910 the War Department implemented its plan to establish there the Field Artillery School of Fire and thus retain Fort Sill for military purposes, the execution of which resulted in their eventual removal from this post. Subsequently, the Chiricahuas were forced to sell their cattle herd, amounting to 10,500 head, at a loss. Their financial basis of support thus destroyed, they soon experienced severe impoverishment. Under the circumstances, therefore, what price justice? More to the point, what price false imprisonment, wrongful death, and economic deprivation—not to mention the eventual near extinction of political, cultural, and religious cohesion? Indeed, could such a profound loss ever be appropriately compensated for, monetarily or otherwise?

Wild Justice: The People of Geronimo vs. the United States, authored by Michael Lieder and Jake Page, is a groundbreaking work that attempts to address the question of whether such a rank miscarriage of justice could ever be adequately atoned for. Regarding the contributions made by the respective authors, throughout the course of this essay, only Lieder will be referred to because, as an attorney apparently specializing in federal Indian law, his role was one of both conducting the requisite legal research and formulating the intellectual constructs upon which this opus is based. A novelist, Page's task—and one which he fulfills admirably—was doubtless to make intelligible for lay people the points of law and their implications, as raised and analyzed by Lieder, concerning not only the Chiricahuas, but also other tribal groups' relationships with the federal government. In this respect, as his *raison d'être* for this tome, Lieder seeks to explicate the legal reasoning behind the decisions arrived at by the Indian Claims Commission for the purpose of determining, in terms of actual justice rendered, to what extent it truly was an agency of restitution. Lieder's principal purpose in taking this approach is that of testing the conventional wisdom that, of all the world's governments having

dominion over indigenous peoples, only the United States attempted to fully compensate tribal entities for past wrongs. Lieder uses the Chiricahua experience as a benchmark to ascertain just how munificent the federal government was in this regard. He could not have selected a more appropriate tribal group for illustrative purposes. Indeed, as also stated in his recently published book, *The Chiricahua Apache Prisoners of War: Fort Sill, 1894-1914*, this reviewer has long maintained that the wrongs perpetrated against the Chiricahuas by the United States constituted a most unparalleled case of injustice.

Regarding the depth of congressional commitment concerning a meaningful redress of and compensation for injuries suffered by tribal entities, *Wild Justice* well describes in terms of actual beneficence rendered the degree to which the Indian Claims Commission—which, Lieder notes, functioned primarily as a court as opposed to simply a fact-finding body—was a vehicle for reparations. As defined by Lieder, “wild justice”—intentionally applied as a pejorative respecting not only its adjudicative procedures, but also the legal reasoning and the decisions arrived at by this forum—connotes, in terms of rulings handed down, an exceedingly rough justice, woefully wanting in judicial consistency and exactitude that, when grudgingly dispensed in favor of tribal peoples, fell within the parameters of the trite bromide, “close enough for government work.” In this wise, Lieder stands the customary view of the Indian Claims Commission on its head. That the Indian Claims Commission was not the benign instrument of federal magnanimity as generally thought is well illustrated by Lieder in his discussion of the Indian Claims Commission genesis, its mandate, and the degree to which it succeeded in carrying out its mission.

Long denied access to the United States Court of Claims as a result of congressional pique arising from aid given to the Confederacy by some southern tribal groups during the Civil War era, tribes seeking remedies for federal violations of treaties as well as other wrongs, found themselves constrained to petition Congress for special jurisdictional acts to obtain relief. In this respect, sentiment sufficiently shifted to the extent that, by 1946, Congress—to eliminate any further need for special jurisdictional acts, as well as apparently in the hope to extricate the federal government from the Indian business—devised the Indian Claims Commission Act, legislation formulated whereby all tribal claims might be settled for all time. In

view of Lieder's discussion of termination, this begs the question of to what extent the Indian Claims Commission spearheaded this policy change, a matter which certainly merits investigation in its own right. Even so, of potential benefit to tribes initiating claims against the federal government was the jurisdiction granted by Congress to the Indian Claims Commission to decide claims based on moral as well as purely legal issues such as property considerations—a statutory provision that should have accorded but, in the end, failed to so lend especial significance to the Indian Claims Commission Act.

Regarding the former, tribal groups for the first time could now contend, for example, that treaties and other transactions that later proved to have been negotiated at their expense by a federal government acting duplicitously never would have been agreed to had the affected tribes been aware of the United States' covert intentions beforehand. Consequently, relative to the matter of raising moral claims, the Indian Claims Commission Act provided that compensation concerning these and other considerations—including wrongful incarceration—could be awarded by the Indian Claims Commission on the basis of fair and honorable dealings, even though the legal system failed to acknowledge the intellectual constructs, such as that pertaining to the problem of false imprisonment resulting in the near cultural extinction of a tribal entity. Because the fair and honorable dealings clause, vis-à-vis the initiation of moral claims, most definitely applied to the matter of unjust confinement, it should have redounded to the Chiricahuas' benefit. Yet the hurdles erected against tribes raising moral claims belied the highly touted benevolence with which the Indian Claims Commission was supposedly infused. Issues such as whether the basis for raising moral claims was individual or tribal, what constituted a tribe, whether a tribe advancing a moral claim could be identified as such, and whether a claimant tribe actually had a trust relationship with the federal government constituted obstacles that for the Chiricahuas not only were severe, but in some instances, as with the improper internment issue, also proved insurmountable. Moral claims may have been authorized, but through legal legerdemain the Indian Claims Commission and, subsequently, through the appellate process, the Court of Claims and the United States Supreme Court alternately defeated the intent behind the jurisdiction granted the Indian Claims Commission to so decide. What compounded the felony in this regard was, Lieder notes, a litigious dichotomy

whereby in a glaring conflict of interest the Justice Department, as the federal government's counsel, managed to override the United States' fiduciary duty as tribal trustee. Money talks. Hence, when it came to such issues as false imprisonment, economic deprivation, and cultural disintegration, a terrified Justice Department, under the guise of safeguarding taxpayer dollars, zealously and successfully defended against what it perceived to be a likely bankruptcy of the federal treasury. Consequently, wild justice became wildly schizophrenic respecting the outrageously rough justice rendered by the Indian Claims Commission.

As Lieder well demonstrates, nowhere in the entirety of the Indian Claims Commission's deliberations was this more evident than in the Chiricahuas' efforts to obtain compensation for wrongful incarceration, the discussion of which constitutes the core theme of *Wild Justice*, and hence alone makes this work a unique contribution to the genre. Raised under the fair and honorable dealings clause of the Indian Claims Commission Act, the false imprisonment claim soon encountered barriers of a catch-22 nature. Although the Indian Claims Commission Act stipulated that a tribe, band, or other American Indian entities that were identifiable as such could initiate litigation, this legislation never specified the manner in which the Indian Claims Commission was to determine whether a claim was tribal or individual. Concerning the issue of identity, long designated the Fort Sill Apaches before those Chiricahuas remaining in Oklahoma initiated the false imprisonment claim, the United States insisted that, if such a tribe indeed existed, it had no standing in the matter. Taking this disingenuousness one step further, Lieder notes that, by way of attempting to circumvent the fair and honorable dealings clause, the United States then moved for dismissal on the basis that false imprisonment involved wrongs only committed against individuals rather than a particular tribal entity. Here the federal government cited as precedent the United States Supreme Court case of *Blackfeather v. United States*, wherein the court held that special jurisdictional acts only permitted tribal claims as opposed to those raised by individuals. Yet it never specified what made a claim individual. Ignoring its mandate to decide cases on the basis of fair and honorable dealings, Lieder suggests that, failing to take advantage of an opportunity to make new law, the Indian Claims Commission permitted its predilection for precedent to prevail over any potential proclamation of moral

principles that might possibly stray from established case law—not to mention his cogent observation that, by refusing to so rule, the Indian Claims Commission conveniently removed any liability that might otherwise exist on the federal government's part for such reprehensible conduct under the Indian Claims Commission Act.

Although the Indian Claims Commission upheld the federal government's dismissal motion, the Chiricahuas later reasserted their false imprisonment claim. This time their attorneys sought redress for injuries sustained as a result of such incarceration, which prevented their functioning as a tribal entity, thus effectuating the bands' ruination. Utilizing *res judicata* as its defense, the United States again moved for dismissal. Denying the government's motion, the Indian Claims Commission proffered the Chiricahuas the opportunity to claim, under the fair and honorable dealings clause, recovery for false imprisonment by proving that the United States was definitely liable for "thwarting tribal purposes by imprisoning tribal members."

Yet, as detailed by Lieder, relying on *Gila River Pima-Maricopa Indian Community v. United States* as its next line of defense, the federal government once again defeated the Chiricahuas' false imprisonment claim. Simply, the doctrine enunciated under *Gila River* held that tribes could not recover under the fair and honorable dealings clause unless the United States specifically violated any inherent duty required by the special relationship created with particular tribal entities as entered into by treaty, agreement, order, or statute. In this respect, the Indian Claims Commission ruled that the Chiricahuas failed to make any representation regarding the manner in which a special relationship was created, such that it was subsequently violated. Ironically enough, why the Chiricahuas' attorneys failed to seize on the matter of those orders that, among others, variously created the Chiricahua Reservation, removed its residents to San Carlos, forcibly removed them therefrom, and caused the Chiricahuas to endure a twenty-seven-year period of false imprisonment as the basis on which such a Chiricahua-federal government special relationship was indeed established, is a question which, for some unfathomable reason, is not explored by Lieder. Surely the Chiricahuas should have won on this issue alone; that they did not makes their case all the more unprecedented.

Even so, undaunted, the Chiricahuas pursued their false

imprisonment claim by means of the appeals process. Arguing first before the Court of Claims, they contended that, under the fair and honorable dealings clause, remedies could indeed be obtained without a special relationship. Under the American system of jurisprudence, the Chiricahuas maintained that the United States could be held liable for an act of commission for which any private citizen might be held accountable. Hence the federal government was legally and morally obliged not to imprison them unjustly. Rejecting this line of thinking, the Court of Claims, emphasizing the special relationship doctrine, ruled against the Chiricahuas, holding that the Indian Claims Commission's jurisdiction was "limited to claims for specific deprivation of land or property or rights protected by treaty, statute or then existing law"—a decision appealed to the United States Supreme Court. Subsequently, despite the Chiricahuas' attorneys' argument that by focusing on the special relationship doctrine formulated in *Gila River* the Court of Claims nullified the fair and honorable dealings clause of the Indian Claims Commission Act, the United States Supreme Court denied *certiorari*. This execrable situation raises the crucial question—one tantalizingly hinted at by Lieder, but never directly asked—of whether the federal government deliberately set out to make a cautionary example of the Chiricahuas, in spite of the airtight evidence that should have caused its case to crumble. Intriguingly enough, albeit implicitly, Lieder resoundingly answers in the affirmative. For Lieder, the Supreme Court's response was an especially significant development vis-à-vis the Indian Claims Commission's decision-making process because, by refusing to hear the Chiricahuas' case, it essentially precluded the possibility that—respecting, for instance, a moral claim based on wrongful confinement—other American Indian entities might obtain recompense under the fair and honorable dealings clause for damage done to both tribal culture and social structure. This circumstance alone affords ample justification for Lieder's utilization of the Chiricahuas' case as the measuring rod by which to ascertain the level of justice dispensed by the Indian Claims Commissions through the decisions it rendered.

Given this appalling state of affairs, that Lieder would even consider devising *The People of Geronimo* as a partial subtitle for his work, inasmuch as it fails to distinguish the nonbelligerent Chiricahuas from the small number of combatants who gave Geronimo their allegiance, causes no small degree of bemuse-

ment. In doing so, Lieder inadvertently perpetuates a myth of legendary proportions, the very stigma—that of being tarred with the same Geronimo brush—which the majority of Chiricahuas not involved in the final hostilities and who, Lieder well notes, deeply resented Geronimo, desperately hoped to avoid. That they were incessantly styled as “Geronimo’s Apaches” is without a doubt one of the principle reasons why Chiricahuas entirely innocent of any wrongdoing endured a twenty-seven-year period of captivity. Hence, responding to repeated War Department importunations in the matter—which agency actually had no desire to retain custody over the Chiricahuas any longer than necessary—a craven-hearted Interior Department, buckling under political pressure, continuously rebuffed its overtures respecting the suggestion that the Indian Office resume its trust duties toward them, thus reestablishing the federal government’s special relationship with this tribal entity—a critical factor which the Chiricahuas’ attorneys apparently failed to seize upon. Only Geronimo’s demise would permit the civilian sector to contemplate releasing the Chiricahuas from a prisoner-of-war status unjustly imposed. But, as discussed in this reviewer’s earlier cited tome, after the passing of Geronimo on February 17, 1909, any hope of salvaging Fort Sill as their reservation such that they could sustain themselves economically vis-à-vis their cattle-raising venture quickly evaporated. Because they could now be safely relocated elsewhere, the War Department took advantage of every opportunity to remove what it deemed an impediment to the establishment at Fort Sill of the Field Artillery School of Fire.

Equally troubling is Lieder’s assertion that the Fort Sill military reserve contained 50,000 acres at the time the Chiricahuas arrived there in October 1894. This is incorrect. As noted in this reviewer’s aforementioned work, Fort Sill then comprised 23,040 acres. Three years later, because he discerned the need to enlarge Fort Sill such that the Chiricahuas might continue to conduct successfully their cattle-raising enterprise, Captain Hugh Lenox Scott, their officer-in-charge, found himself constrained to approach the Kiowas and Comanches for a 26,987-acre land cession, which constituted the Eastern and Western Additions to this military post. True enough, Scott concluded this concord with the Kiowas and Comanches on February 17, 1897. Yet consummation of this agreement would not transpire without President Grover Cleveland’s approbation, which

approval he granted by means of Executive Order on February 26, 1897. Of no mean import, it also specifically stipulated that the Chiricahuas were to be permanently settled on the additions thus acquired. In view of *Gila River's* requirement that moral claims invoking the Indian Claims Commission Act's fair and honorable dealings clause could only be entertained provided that the creation of a special relationship with the United States could be definitively proved, there can be no question that this was the singular event which most assuredly placed the Chiricahuas under the aegis of the federal government's trust responsibility, thus creating for it a fiduciary duty toward them. Therefore, this Executive Order, effectively employed in their Fort Sill land claim, should have formed a crucial basis for the successful litigation of the Chiricahuas' contention that they were wrongly confined. That Lieder neglected to discuss why, vis-à-vis the unjust incarceration issue, their attorneys failed to pursue this critical point is most definitely beyond comprehension.

Even so, such concerns are somewhat mitigated in light of Lieder's overarching arguments and irrefutable conclusions, which bear up well under intense evidential scrutiny. Respecting the quality of justice meted out to Native peoples, Lieder well delineates the reasons why the Indian Claims Commission failed to fulfill its mandate. Hampered by a legal system oriented to individualism, the Indian Claims Commission lacked the capacity to resolve such claims because the legal tools with which to do so simply did not, then or now, exist. Consequently, there was, and is, sorely wanting in the American system of jurisprudence a legal mechanism by which the issues relating to the destruction of tribal identity and culture might be satisfactorily addressed. But, Lieder notes, in order for this to occur, a complete reworking of American legal philosophy would first be required such that the matter of whether there was indeed a compensable right to tribal identity and cultural integrity could finally be determined.

Under the circumstances, therefore, as particularly reflected by its egregiously ill-considered proceedings respecting the Chiricahuas' claim that the act of false imprisonment nearly extinguished their cultural and social integrity as a tribal entity, Lieder reveals the Indian Claims Commission for the narrowly legalistic operation that it actually was. Hence, as especially epitomized by the Chiricahuas' case, "wild justice" is not merely a capriciously rough variation of the real thing. Rather, it is

not only both a denial and abominable miscarriage of justice, but also a hollow mockery of historical evidence, judicial probity, and national honor. For these reasons alone, Lieder's analysis—along with Page's able literary assistance—of the Indian Claims Commission's jurisprudential workings is an exceedingly important and major addition to the areas of federal Indian law and policy, and American Indian history—not to mention those of anthropology, sociology, political science, and economics. Accordingly, it merits the rapt attention of every professional who labors these fields of academic endeavor. All things considered, *Wild Justice* is a masterful, scholarly achievement of truly monumental proportions.

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