

## “The Doors of Immorality Were Set Wide Open by State Authority”: Violence Against Indigenous Women in the Jacksonian Southeast, 1830-1840

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### Introduction

Annakee had been walking for weeks. Sometimes, she felt she could not go on and thought to ask her mother or father if she could sit on the wagon, but knowing her younger brothers and sisters needed the space to sit helped her push on. She saw their hollowed eyes peering at her as she trudged behind the cart where they sat, piled together to fit under one blanket, exchanging body heat. Annakee shivered. When she tired, her grandmother would squeeze her hand and remind her of her strong legs and stronger will. She studied her grandmother's lined and weathered face, set hard with determination, and imagined her smiling as she told her the stories that she herself had heard in her childhood. She wished she could be as strong and brave as her grandmother, who trudged steadily through the snow. She wondered if she ever wanted to give up and sit on the wagon, too.

Thinking of her past kept Annakee from dwelling on what might lie ahead in the land the American troops called Indian Territory. Occasionally, her memories would be interrupted by a shout, a baby's cry, the whinny of a horse, or the crack of a whip. Annakee had learned not to look up. She had learned she did not want to see the source of the noise. On this particular day, though, her head shot up at the sound of a shriek. She regretted looking; she saw a girl perhaps two or three years older than her dragged from her family off the path. Annakee's eyes remained glued in horror to the scene as the officer who had done so took the front of the girl's dress in his hands, which seemed so large compared to her body, and began to rip it down the front. The dress, Annakee knew, would likely have been the same one the girl had been wearing when she was driven into the stockades in summer, now thin and worn. Annakee saw her turn and struggle to run back towards her parents and siblings. She fell into the mud and shrieked again. The sound brought Annakee back to her senses, as if from a trance, and she turned away. No matter how hard she tried to lose herself once again in her memories of home, she could not block out the girl's cries.<sup>1</sup>

The 1830s were a treacherous time for Indigenous women and girls of the Choctaw, Chickasaw, Muscogee (Creek), Seminole, and Cherokee nations, who balanced their dignity against their survival as wars, fraudulent treaties, and settler terrorism uprooted their lives and, eventually, forced them westward. While many aspects of southeastern Indian removal have become infamous—the Cherokee *nunna dual tsuny*, or Trail of Tears, is particularly well-known

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<sup>1</sup> Annakee's story is imagined based on oral tradition written in Elizabeth Sullivan, *Indian Legends of the Trail of Tears and Other Creek Stories* (Lincoln, NE: Giant Services, 1974), 2-3. Her actual thoughts and feelings cannot be known, as they were not written, but one can with relative accuracy guess at the feelings of a young girl when faced with this situation. Her interactions with her family are also conjecture based on Creek family structures. This methodology is based on that of scholars such as Camilla Townsend and Saidiya Hartman.

for its cruelty—Indigenous women’s experiences of removal from the Southeast have been largely overlooked. In the process, the forms of gendered violence strategically deployed by agents of the state have been removed from settler histories of Indian removal. These narratives minimize the prevalence of rape, implying the inevitability of certain young, virile men misbehaving around beautiful and helpless women. In otherwise thorough works describing the southeastern removal process, such as John and Mary Lou Missall’s *The Seminole Wars* (2004) or Theda Perdue and Michael D. Green’s *The Cherokee Nation and the Trail of Tears* (2007), a discussion of rape and sexual violence is entirely left out. While surely unintentional, these narratives obscure state complicity in and the widespread nature of this violence and ignores Indigenous women’s experiences and agency in the removal process.<sup>2</sup>

Despite these shortcomings, there has been an explosion of scholarship on Native American women in recent years, and gender itself has become a mainstream method of analysis in Indigenous studies, even if the state’s gendered violence during Indian removal has not been specifically analyzed. As Indigenous scholars have received more attention, the Eurocentric writing of Native history has fallen somewhat out of favor, and Native women have led the way in research on their predecessors. Since the 1990s, the available histories of Native American women of all nations have increased, spanning pre-contact years to the modern day. Works such as Carroll Devens’ *Countering Colonization* (1992), Nancy Shoemaker’s anthology *Negotiators of Change* (1995), Susan Sleeper-Smith’s *Indian Women and French Men* (2001), and Carolyn Johnston’s *Cherokee Women in Crisis* (2003) explore Native women’s unique experiences of settler encroachment across the American continent. These books were some of the first academic works acknowledging that colonization affected Indigenous women differently than Indigenous men, upending their traditional gender roles and, by extension, destabilizing their societies, making them more vulnerable to settler domination. *Cherokee Women in Crisis* even includes some discussion of sexual violence, but does not make it a main point of analysis despite the destruction such violence caused to the Cherokee gender system. Despite these improvements, no scholarly works have been published that analyze individual acts of sexual violence against Native women of the Southeast.<sup>3</sup>

Consistently, gendered violence has accompanied settler-colonialism. In his germinal work *Settler-Colonialism and the Transformation of Anthropology*, Patrick Wolfe writes that “the single most important contradiction to have obstructed the logic of elimination was quintessentially gendered. This was the sexual abuse that male colonizers have visited on Indigenous women everywhere.”<sup>4</sup> To Wolfe, gendered violence was contradictory: sexual assault

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<sup>2</sup> John Missall and Mary Lou Missall, *The Seminole Wars: America’s Longest Indian Conflict* (Gainesville, FL: University Press of Florida, 2004); Theda Perdue and Michael D. Greene, *The Cherokee Nation and the Trail of Tears* (New York, NY: Viking, 2007).

<sup>3</sup> Carolyn Johnston, *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907* (Tuscaloosa, AL: University of Alabama Press, 2003); Susan Sleeper-Smith, *Indian Women and French Men: Rethinking Cultural Encounter in the Western Great Lakes* (Amherst, MA: University of Massachusetts Press, 2001); Nancy Shoemaker, *Negotiators of Change: Historical Perspectives on Native American Women* (New York, NY: Routledge, 1995); Carroll Devens, *Countering Colonization: Native American Women and the Great Lakes Missions, 1630-1900* (Berkeley, CA: University of California Press, 1992).

<sup>4</sup> Patrick Wolfe, *Settler-Colonialism and the Transformation of Anthropology* (New York, NY: Cassell, 1999), 164.

was endemic to the settler-colonial encounter, but the pregnancies it created ran contrary to the eliminationist project of settler-colonialism. Other theorists, particularly Indigenous women scholars, settle this quandary by drawing a connection between Euro-American perceptions of the land and land domination and their treatment of Native women in desired territory. They posit that Native women's bodies have been taken to represent the land that Europeans have been attempting to conquer, while Indigenous people of every gender have been feminized due to their cooperative relationship with the land and nature. At the same time, the abuse of Indigenous women served an additional purpose: it destroyed Indigenous gender systems over time, interrupting Indigenous social structures, damaging political stability, and making it more difficult for Indigenous communities to resist colonization. Meanwhile, in the colonial imagination, the mixed-race products of interracial rape are understood to be white when raised as white and to at least "dilute" Indigenous blood when raised in Indigenous households.<sup>5</sup>

This paper joins a growing body of research, mainly by Indigenous women scholars, on gendered violence in the American colonial encounter and its continued effects to the present day. Devon Mihesuah's (Choctaw) *Indigenous American Women* (2003), Sarah Deer's (Muscogee/Creek) *The Beginning and the End of Rape* (2015), Shannon Speed's (Chickasaw) *Incarcerated Stories* (2019), Katrina Jagodinsky's *Legal Codes and Talking Trees* (2016), Andrea Smith's *Conquest* (2005), and collections such as *Queer Indigenous Studies* (2011) and *Critically Sovereign* (2017) provide critical frameworks for this work and its focus on the ongoing nature of settler-colonial history.<sup>6</sup> These works interrogate settler-colonialism as a "structure, not an event" and the role of gendered violence in destroying Native gender systems, making it an invaluable tool of settler-colonialism. Deer notes the importance of understanding the history of gendered violence and sexual assault in Indigenous communities to justice in the present day:

Imagine living in a world in which almost every woman you know has been raped. Now imagine living in a world in which four generations of women and their ancestors have been raped. Now imagine that not a single rapist has ever been prosecuted for these crimes. That dynamic is a reality for many Native women—and thus for some survivors, it can be difficult to separate the more immediate experience of their assault from the larger experience that their people have endured through a history of forced removal, displacement, and destruction.<sup>7</sup>

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<sup>5</sup> Hence, the United States' obsession with blood quantum—see Katherine Ellinghaus, *Blood Will Tell: Native Americans and Assimilation Policy* (Lincoln, NE: University of Nebraska Press, 2017); Carol Douglas Sparks, "The Land Incarnate: Navajo Women and the Dialogue of Colonialism, 1821-1870," in *Negotiators of Change: Historical Perspectives on Native American Women*, ed. Nancy Shoemaker (New York, NY: Routledge, 1995), 135-156; Sarah Deer, "Toward an Indigenous Jurisprudence of Rape," *Kansas Journal of Law & Public Policy* 14, no. 1 (2004-2005): 128-129, 131; Shannon Speed, *Incarcerated Stories: Indigenous Migrant Women and Violence in the Settler-Capitalist State* (Chapel Hill, NC: University of North Carolina Press, 2019), 34-35; Walter L. Hixson, *American Settler-Colonialism: A History* (London, UK: Palgrave Macmillan, 2013), 10-11; Wolfe, *Settler-Colonialism and the Transformation of Anthropology*, 30-33, 84, 164-165.

<sup>6</sup> Andrea Smith is a controversial figure in Indigenous women's studies, as her proclaimed Cherokee heritage has been denounced by the Cherokee Nation. As such, I treat her as a non-Indigenous author.

<sup>7</sup> Sarah Deer, *The Beginning and the End of Rape: Confronting Sexual Violence in Native America* (Minneapolis, MN: University of Minnesota Press, 2015), 12.

By focusing on law and policy in the early nineteenth century, I argue that the settler state played an explicit role in violence against southeastern Indigenous women, using it as a strategic tool of control and degradation, rather than sexual violence being a spontaneous, individual act. So many agents of the state committed sexual assault on Indigenous women during this period that it became expected, becoming a *de facto* policy.<sup>8</sup>

This research also relies on theoretical frameworks on the role of gender in racialization and gendered symbols in justifying colonization, including Rayna Green's (Cherokee) "The Pocahontas Perplex" (1975), Jennifer L. Morgan's "Some Could Suckle Over Their Shoulder" (1997), and Carol Douglas Sparks' "The Land Incarnate" (1995). These articles document shifting depictions of Black and Indigenous women's bodies over time depending on perceptions of colonized land and the "usefulness" of the people living on that land to the colonial project. This research provides a baseline for this article—due to the work of scholars before me, I understand the symbolic nature of Indigenous women's bodies as foundational.<sup>9</sup>

My place in this historical study requires acknowledgement before I continue. The history of Indigenous studies itself is fraught: work on Native American people within the academy has been, as Mihesuah writes in *Indigenous American Women*, "often at the mercy of author bias, power positions, and personal agendas"—in other words, intended to enforce dominant colonialist ideas about Native people as a disappearing, inferior race. Scholarship has been used to justify colonialism as the way to show a backward people the way forward. While less of this kind of work is produced now, white scholars are often inattentive to actual Indigenous people's needs and desires in their work, using them as subjects of study for personal advancement and sharing sacred secrets with the academy without offering substantive aid to the communities they write about. White women have a particularly bad legacy in Native historiography. As a white femme studying a traumatic history that is not my own, centering theory and previous scholarly work by Indigenous women and women of color who have felt the effects of imperialism and settler-colonialism is critically important. I intend for my work to help dismantle the historical narrative created by white scholars before me that ignores both the incredible violence of the settler-colonial encounter and the ways that it has specifically affected

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<sup>8</sup> Devon Abbott Mihesuah, *Indigenous American Women: Decolonization, Empowerment, Activism* (Lincoln, NE: University of Nebraska Press, 2003); Deer, *The Beginning and the End of Rape*, 12; Jagodinsky, *Legal Codes and Talking Trees*; Qwo-Li Driskill, Chris Finley, Brian Joseph Gilley, and Scott Lauria Maria. (eds.). *Queer Indigenous Studies: Critical Interventions in Theory, Politics, and Literature* (Tucson, AZ: University of Arizona Press, 2011); Joanne Barker, *Critically Sovereign: Indigenous Gender, Sexuality, and Feminist Studies* (Durham, NC: Duke University Press, 2017).

<sup>9</sup> Sparks, "The Land Incarnate: Navajo Women and the Dialogue of Colonialism, 1821-1870," in *Negotiators of Change: Historical Perspectives on Native American Women*, ed. Nancy Shoemaker (New York, NY: Routledge, 1995), 135-156; Jennifer L. Morgan, "'Some Could Suckle Over Their Shoulder': Male Travelers, Female Bodies, and the Gendering of Racial Ideology," *The William and Mary Quarterly* 54, no. 1 (Jan. 1997): 167-192, Accessed September 22, 2021, <https://doi.org/10.2307/2953316>; Rayna Green, "The Pocahontas Perplex: The Image of Indian Women in American Culture," *The Massachusetts Review* 16, no. 4 (1975): 698-714, Accessed August 7, 2020, [www.jstor.org/stable/25088595](http://www.jstor.org/stable/25088595).

women.<sup>10</sup>

Sexual and gender violence played a critical role in the removal process in the American Southeast in the 1830s and early 1840s, helping to break down Indigenous gender systems and, by extension, Indigenous societies, weakening political cohesion and paving the way for American theft of Indigenous lands. Patterns evident along the Trail of Tears (1838-1839) and in the Second Seminole War (1835-1842), two very different removal efforts occurring at the same time and in the same region, laid the groundwork for the persistence of gendered violence in the process of American expansion and indicate that a gendered component is a strategy, rather than a symptom, of settler-colonialism, genocide, and imperial expansion.<sup>11</sup>

### **“The Doors of Immorality [...] Were Set Wide Open by State Authority”: Sexualized Terrorism in Georgia**

“To follow to the tomb the last of his race and to tread on the graves of extinct nations excite melancholy reflections,” mused Andrew Jackson, surveying the floor. Before him sat a joint session of Congress. He saw a number of frowning faces, but also many knowing nods. He recalled the narrow margin by which his Indian Removal Act had passed in the House of Representatives—101 to 97. Perhaps his political enemies, the Whigs, could not have seen then the benefits of removing the savages to the West, but they would thank him for his vision when their constituents flocked from the crowded coasts to inland arable land. After all, what would civilizing the savage, as they proposed, do to their great Republic? In defense of his project, he continued:

[T]rue philanthropy reconciles the mind to these vicissitudes as it does to the extinction of one generation to make room for another [...] Nor is there any thing in this which, upon a comprehensive view of the general interests of the human race, is to be regretted. Philanthropy cannot wish to see this continent restored to the condition in which it was found by our forefathers. What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms, embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization, and religion?<sup>12</sup>

Jackson framed removal as benevolent, even merciful, to the East Coast’s Native peoples—an act mutually beneficial to Indigenous peoples, whom he saw as inevitably disappearing, and settler-colonists, the harbingers of “progress” in the land. Jackson’s 1830 State of the Union address echoes Lockean and Vattellic concepts of land use and right, which define land

<sup>10</sup> Mihesuah, *Indigenous American Women*, 3-5; Rhea, *A Field of Their Own*.

<sup>11</sup> The Seminole Wars have been called, literally, the “rape of Florida,” as in the secondary title to poet Albery A. Whitman’s 1885 narrative poem *Twisinta’s Seminoles, or, the Rape of Florida* (St. Louis, MO: Nixon-Jones Printing Company, 1885).

<sup>12</sup> Andrew Jackson, “December 6, 1830,” in *State of the Union Addresses of Andrew Jackson*, ed. James Linden (Project Gutenberg, 2004), Accessed December 10, 2021, <https://www.gutenberg.org/files/5016/5016-h/5016-h.htm#dec1830>.

ownership by its “proper” use and cultivation in the European tradition. Jackson’s Indian Removal Act endorsed the President’s ability to negotiate removal treaties with southeastern Indigenous nations and provided for the removal of all non-reservation Indigenous people east of the Mississippi to reservations west of it. It would officially open the region between the Appalachian Mountains and the Mississippi still controlled by Indigenous people, putative *terra incognita*, to penetration and cultivation by virile, colonizing men disseminating “liberty, civilization, and religion.”<sup>13</sup>

Settlers saw enforcement of the Indian Removal Act as the responsibility of citizenry as well as the national government. Emboldened by the Act itself and by Jackson’s rhetoric surrounding it, settlers took removal into their own hands. In the absence of the numbers and physical might needed to force Native people from their homes before the dates designated by removal treaties, settlers—civilians, police, and military alike—attempted to terrorize Indigenous peoples off their land instead. Although it also affected Muscogees (Creeks), removal was especially well-documented in the case of the Cherokees, who faced extreme abuse in the years between the discovery of gold on their land in 1829 and the signing of the Treaty of New Echota at the end of 1835. This terrorism served the dual purpose of causing small groups of Cherokee to move west of their own accord and creating the conditions under which some Cherokee believed that signing the Treaty and removing to Indian Country (Oklahoma) was the only viable option for the continued existence of their people and culture. In some cases, settlers moved into Cherokee homes and onto their farms as soon as they departed, or entered their spaces under threat of violence to essentially take over. Americans harassed, beat, and killed Cherokees and Muscogees. The most severe punishments for perpetrators of this violence were mild social consequences. And, of course, much of the terror inflicted upon Cherokees and Muscogees was sexual violence aimed at women and girls.<sup>14</sup>

The *Cherokee Phoenix*, the Cherokee Nation’s newspaper (published in New Echota, Georgia and printed every Saturday throughout the 1830s), detailed many of the most horrendous abuses endured by Cherokee civilians for simply existing on their land.<sup>15</sup> In 1833, the paper ran a series of articles related to the harassment and attempted rape of two Cherokee women that illustrates the process by which such terror occurred. On July 27, the *Phoenix* reported that alleged perpetrator Mr. Dukes, the sheriff, “came to this place, and took lodgings at the tavern of Wm. Tarvin. Next day he proceeded on his journey to look for a lot of land that

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<sup>13</sup> Andrew Jackson, “Address to Joint Session of Congress, December 6, 1830.”; “TO PASS S. 102. (P. 729). — House Vote #149 — May 26, 1830,” GovTrack, Civil Impulse LLC, Accessed October 06, 2018, <https://www.govtrack.us/congress/votes/21-1/h149>.

<sup>14</sup> Rev. Daniel S. Butrick, *Cherokee Removal: The Journal of Rev. Daniel S. Butrick, May 19, 1838-April 1, 1839*, Edited by the Trail of Tears Association (Park Hill, OK: The Trail of Tears Association, Oklahoma Chapter, 1998), x-xi; Perdue and Greene, *The Cherokee Nation and the Trail of Tears* (New York, NY: Viking, 2007), 70, 74, 76-88, 104-105.

<sup>15</sup> The *Phoenix* is still issued today, every two weeks. It can be found at <https://www.cherokeephoenix.org>.

he had drawn.”<sup>16</sup> This detail is significant: by the 1820s and 1830s, Georgia regularly held public lotteries for “unoccupied” land, and after 1827, included “unoccupied” Cherokee land in their lotteries. Of course, “unoccupied” looked to Euro-Americans much different than it did to Cherokees, and the question remains of whether or not the land that Mr. Dukes drew was truly “unoccupied,” or whether it was Georgia’s to distribute at all. New Echota was Cherokee land, and that Dukes traveled there “to look for a lot of land that he had drawn” implies that the land lay within Cherokee territory. Already, it seems that Dukes’ presence in New Echota was the result of a Georgian breach of Cherokee sovereignty; the presence of the rapist was due to a rape of the land.<sup>17</sup>

“On his way,” the article continues, “he called at a house where there were two women, Mrs. Oosunaley and Mrs. Foster, both married women, and called for a drink of water. He alighted, and finding them alone, attempted the monstrous crime of rape on the person of Mrs. Oosunaley, who [was] in a delicate condition.” The *Phoenix* recounts the attempted rape of a woman described as “delicate” (pregnant) by a man who felt so entitled to Indigenous women’s bodies that he took his being alone with two of them as an invitation. Dukes stopped for a drink, and, upon discovering that the house contained women, decided to rape them—as if sex, like the drink, was a small favor.<sup>18</sup>

The *Phoenix* continued to describe the event, stating that after being prevented from raping Mrs. Oosunaley by Mrs. Foster, who “laid hold of his heels [sic] and forced them apart,” Dukes then offered the women money in exchange for sex. When the two women vehemently refused, trying to destroy the pocketbook offered to them, Dukes “held in his hand a heavy horse whip, which he used on these poor women, with all his force, until Algiers itself would sick at the stripes he inflicted.” The imagery invoked by the *Phoenix* here is not an accident. To the Georgian or Cherokee reader of 1833, the scene described would have been a reminder of slavery, including the frequent sexual assaults of enslaved women at the hands of male slaveholders. As both the Cherokee and white Georgia were slaveholding societies, this reference was likely intended to elicit a reaction of disgust from the reader. While white Georgians may not have accepted Cherokees as equal to themselves, they certainly did not assign to them the same racial status as enslaved Blacks. Furthermore, Algiers was one of the Barbary States, which carried out acts of piracy against American and European merchant vessels prompting the Barbary Wars waged by the United States under the Jefferson and Madison administrations. The Muslim pirates were known for their brutality against Christians captured in raids on Europe and sold into slavery in the Ottoman Empire. The *Phoenix* notes

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<sup>16</sup> The *Phoenix* refers to the sheriff as both Dukes and Duke at different points. See “SUFFERINGS OF CHEROKEE LADIES,” *Cherokee Phoenix and Indians’ Advocate*, July 27, 1833, Accessed October 27, 2020, Digital Library of Georgia, Georgia Historic Newspapers, <https://gahistoricnewspapers.galileo.usg.edu/lccn/sn83020874/1833-07-27/ed-1/seq-3/>; “COL. DUKE’S STATEMENT,” *Cherokee Phoenix and Indians’ Advocate*, August 31, 1833, Accessed October 27, 2020, Digital Library of Georgia, Georgia Historic Newspapers, <https://gahistoricnewspapers.galileo.usg.edu/lccn/sn83020874/1833-08-31/ed-1/seq-3/>.

<sup>17</sup> “SUFFERINGS OF CHEROKEE LADIES.”; Perdue and Green, *The Cherokee Nation and the Trail of Tears*, 70.

<sup>18</sup> “SUFFERINGS OF CHEROKEE LADIES.”

here that Dukes' brutality was worse than that of an Ottoman pirate, while aligning the Cherokee (a "civilized" tribe) with the Christian world. The *Phoenix's* coverage of the event was intended not to be simply informative, but also politically useful. The editors hoped to incense white Americans on the issue in addition to their own Cherokee readers. It was successful: the piece was reprinted in many other newspapers on the eastern seaboard.<sup>19</sup>

Finally, the *Phoenix* detailed the outcome of the situation: Mrs. Oosunaley "presented herself to the Magistrate here for redress, and exhibit[ed] to him her wounds. But he [...] told her he was not the person to relieve her, and that no Indian testimony could be received."<sup>20</sup> This is a recurring theme in rape cases brought by Indigenous women against white men: the settler legal system in nearly every state and territory refused to admit Indigenous testimony, making basically all violent crime against Indigenous people *de facto* legal. Without witnesses who could testify in court, it was exceedingly hard for a prosecutor to establish probable cause for an indictment, let alone establish guilt beyond a reasonable doubt in a trial. For Mrs. Oosunaley and Mrs. Foster, it represents the last in a string of details implicating the state in their assaults. The state gave away their land to a sheriff, a direct agent of settler authority. On his way to see it, he used this authority to assault two Indigenous women with complete impunity both because he was a sheriff and because he was white in a state that did not accept Indigenous testimony in court. Police and military agents were frequently the perpetrators of assaults against southeastern Indigenous women before and during removal, a pattern mirrored across the West.<sup>21</sup>

The *Cherokee Phoenix* article is a story of both victimhood and resistance. The Cherokee Phoenix was careful to portray Mrs. Oosunaley and Mrs. Foster in the most favorable light to their audience, in the hope that readers would see the injustice of Sheriff Dukes' assault. Yet, Mrs. Oosunaley's and Mrs. Foster's resistance was visible at every turn. They worked together to prevent Dukes from accomplishing his goals, going so far as to twice separate his legs so that he could not penetrate Mrs. Oosunaley. When that failed to fully discourage him, they tried to destroy his property. And, once he finally left, they went directly to the proper legal channels to pursue redress—only to find that despite being respectable, married women, their Cherokee citizenship invalidated their testimony. While it is easy to portray stories such as this as stories of victimhood alone due to their often-grisly nature, it is more illuminating to think of them as stories of injustice and resistance. Against all of the mechanisms of state power, Indigenous women have continuously defended their right to corporeal and political sovereignty.<sup>22</sup>

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<sup>19</sup> "SUFFERINGS OF CHEROKEE LADIES."

<sup>20</sup> Richard Peters, *Reports of Cases Argued and Adjudged in The Supreme Court of the United States January Term 1831* (Philadelphia, PA: John Grigg, No. 9 North Fourth Street, 1831), 7, Accessed March 7, 2021, [HeinOnline, https://heinonline.org/HOL/P?h=hein.usreports/usrep30&ci=1](https://heinonline.org/HOL/P?h=hein.usreports/usrep30&ci=1). Cherokees lost the right to testify in Georgia in 1829, the same year that Georgia illegally annexed parts of Cherokee territory and forced Cherokees on that land to abide by Georgia law. The Cherokee Nation, led by Chief John Ross, challenged these actions in court. That case made it all the way to the Supreme Court in the now-famous *Cherokee Nation v. Georgia*. Chief Justice John Marshall decided that the Cherokee Nation was a "domestic dependent nation," or a ward of the federal government. A year later, in *Worcester v. Georgia*, the court decided that while being a ward, the Cherokee Nation was still sovereign.

<sup>21</sup> *Ibid.*

<sup>22</sup> Peters, *Reports of Cases Argued and Adjudged in The Supreme Court of the United States January Term 1831*.



The incident described in the *Cherokee Phoenix* is only one of many instances of gendered violence that took place as part of a concerted effort to terrorize Cherokee off their land, particularly after gold was discovered there. Reverend Daniel Butrick, who accompanied Cherokees and Muscogees forced to walk the Trail of Tears, reflects in his diary that in addition to ransacking or simply moving into their homes when Cherokees were away and going out of their way to frighten, beat, and murder Cherokee landowners, white Georgians frequently forced Cherokee women into prostitution (as Dukes unsuccessfully tried to do), sexually humiliated them, or raped them at the point of a knife or gun. On July 18, 1838, Butrick wrote of the period following the Georgia Gold Rush:

Some bought liquor & squandered much of it away in hiring Cherokee women, of the basest kin, to prostitute themselves to their lust. Others brought it to seduce the Indians to drunkenness, in order to cheat and abuse them. At Cassville, it is said, some poor Cherokees were enticed to drink, and when drunk, one of the women was taken out into the public street, and her clothes pulled up, and tied over her head, and thus she was left to the gaze of the multitudes passing by. Again, an aged Cherokee woman went to that vile town in business with her grand daughter, and grand son. On leaving the village, it is said, they were followed by two young men and after they proceeded some distance, the men overtook them, seized the young woman, pulled her from her horse, as she sat behind her younger brother, drawing their knives at the same time to keep the brother and grandmother from them. They drew the young woman some distance from the road, and while one was abusing her in the most shameful manner, the other was fighting away her almost frantic grandmother and brother. After abusing her in this manner as long as they wished, they took her to a vacant house near by and frightened her friends away, and it was not, I believe, till the next day that she was permitted to wander, in shame, to her home.

Sexual terrorism was, according to Butrick's diary, not only a frequent occurrence, but also one of the more common abuses used against Cherokees by white Georgians who wanted their land. Years later, Butrick was able to clearly recall these horrific instances of extralegal removal that took place prior to the legal expulsion of Cherokees and other southeastern Native peoples, and his recollections imply a wider array of similar abuses that either never made it to Butrick's attention or just seemed redundant as he wrote about the issue in 1838.<sup>23</sup>

Butrick is clear about who he believes was ultimately responsible for the events described in his diary. "In one sense the doors of morality and good order, were closed, and the doors of immorality, and every species of iniquity were set wide open by state authority, and the most daring wickedness committed with impunity," he writes, "while the Indians, being considered savages [...] of course must submit to whatever abuse was heaped upon them." Even though Georgians were not legally compelled to remove Cherokees from their land, Butrick holds the state government and its agents on all levels responsible for the terrorism its citizens

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<sup>23</sup> Butrick, *Cherokee Removal*, x-xi, 13-17.

committed against Cherokee people, especially given the state's failure to prosecute any of the heinous crimes committed. Butrick continues, "The Cherokees were not allowed to punish, nor attempt to punish any crime whatever. Therefore some notorious murderers were suffered to pass with impunity." Because Georgia would not prosecute whites' crimes against Cherokee people, nor would it countenance Cherokee prosecution of whites, violent crime often went completely unpunished—like the crimes Sheriff Dukes perpetrated against Mrs. Oosunaley and Mrs. Foster. In explanation of these events, Butrick observes, "Gold mines were found on Cherokee land worth millions of Dollars. These were taken by the sovereignty of Georgia, and any Indian found digging gold was condemned to severe punishments." It is remarkable that, with less than ten years of hindsight, Butrick connected all of these pieces—sexualized violence, state responsibility, and land lust. The history that has unfolded over the many decades since he wrote makes clear that the patterns Butrick observed were not unique to Georgia in the 1830s. Indigenous women's bodies would later be seen as standing in the way of gold rushes and land-grabbing campaigns across the West, and sexual assault on them was used as a strategy of removal.<sup>24</sup>

### **"The Way They Pitch Into the Squaws is a Sin": Soldiers and Indigenous Women Captives**

While state agents weaponized sexual assault before the official removal of Indigenous in the Southeast, the violence escalated once Indigenous people were forced into close contact with American soldiers in detention. Indigenous people were detained in three primary ways in the nineteenth century: as an organizational measure prior to removal, as prisoners of war, and on reservations and *rancherías*. While all three of these forms of detention were part of the removal process for southeastern nations such as the Cherokee, Muscogee, and Seminole, this article focuses on the first two, which predominated in removal's early stages. All three forms of detention involved extreme abuse by soldiers and Indian agents, including gendered forms of violence not limited to sexual assault, as a strategy to destabilize Indigenous societies. This violence was documented by missionaries, soldiers, and other settler witnesses to the events, but we also know about the violence thanks to oral tradition passed down in Indigenous families and communities.<sup>25</sup>

Beginning May 23, 1838, known Cherokee people in Georgia were forcibly rounded up and displaced from their homes often with nothing but the clothes on their backs. Removal of

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<sup>24</sup> Butrick, *Cherokee Removal*, 16-17. See also Damon B. Akins and William J. Bauer, *We Are the Land: A History of Native California* (Berkeley, CA: University of California Press, 2021); Sparks, "The Land Incarnate."; Louis Kraft, *Sand Creek and the Tragic End of a Lifeway* (Norman, OK: University of Oklahoma Press, 2020).

<sup>25</sup> The western/settler academy has traditionally had very little respect for oral tradition and other Indigenous ways of knowing, prioritizing the written word. Indigenous women scholars, along with other women scholars of color, have pushed back against the idea that oral tradition is an illegitimate source for information, as it has meant that the majority of "acceptable" sources for study were written by white men. While most of my sources are, unfortunately, from historical white men, I have incorporated Indigenous women's voices via both oral tradition and reconstructing events from their points of view throughout this article. See Speed, *Incarcerated Stories*, 9-10; Leanne Betasamosake Simpson, "Land As Pedagogy: Nishnaabeg Intelligence and Rebellious Transformation," *Decolonization: Indigeneity, Education, & Society* 3, no. 3 (2014): 1-7.

Muscogees began earlier (in 1836) and included their extrication from Cherokee communities where they had taken refuge.<sup>26</sup> In Butrick's writings and in Cherokee and Muscogee oral tradition, stories abound about the devastating effects of swift removal to badly constructed concentration camps. Poor sanitation in a hot and dry summer led to poisonous water and an epidemic of cholera and dysentery, while scant clothing—whatever people happened to be wearing when the soldiers came to round up a community—led to a high incidence of frostbite, hypothermia, and decreased immunity along the Trail of Tears, walked in the dead of winter from 1838-1839. For Cherokee and Muscogee women and girls, the discomfort, illness, and death associated with their detention were not the only threats: sexual harassment and violence were also daily occurrences.<sup>27</sup>

On June 7, two weeks after U.S. troops began removing Cherokees to the stockades, Reverend Butrick described a troubling conversation he had with a Cherokee minister, Moses, looking to escape detention and removal by staying at Brainerd Mission near present-day Chattanooga, Tennessee. "He says the volunteers go about the camps at night endeavoring to find Cherokee women and girls," Butrick wrote. "Last Friday night, [...] they went to a camp of women, and the women called aloud for help & they went out cursing calling them liars." Three days later, on June 10, he wrote, "The Cherokees [have] been kept on a small spot, surrounded by a strong guard, under such circumstances that it would seem impossible for male or female to secrete from the gaze of the multitudes." Butrick describes two different instances of sexual harassment here: the first, a blatant attempt at gang rape, and the second the more subtle dehumanization of Cherokee men *and* women by depriving them of bodily privacy. While Butrick, a missionary, was clearly more concerned with modesty than with anything else, producing sexual shame among Cherokee prisoners was likely a goal of incessant observation (particularly as dysentery and diarrhea began to spread through the stockades).<sup>28</sup> There are several notable details in Moses' account. Firstly, he mentions that troops "endeavor[ed] to find Cherokee women and girls," specifically separating out female children to make them unprotected targets of harassment and assault. Secondly, he states that the volunteers go to the camps "at night"—by not specifying any particular night, Butrick makes clear that Moses described a routine occurrence in the camps, something that Cherokee women and girls could expect every time night came to the stockades. This conversation between Butrick and Moses occurred on a ride to the nearby Muscogee camps. The conditions there were no different.<sup>29</sup>

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<sup>26</sup> This detail makes it clear that the ultimate goal was genocidal in nature. If simply removing Muscogees from their land was the endgame, their flight to Cherokee land should not have prompted this kind of reaction, at least not until Cherokees were also removed. Many Muscogees did avoid these initial attempts to remove them from the Cherokee Nation and were removed when later with their Cherokee hosts, though segregated from them by the U.S. Army.

<sup>27</sup> Perdue and Green, *The Cherokee Nation and the Trail of Tears*, 123-125; Jeffery Ostler, *Surviving Genocide: Native Nations and the United States from the American Revolution to Bleeding Kansas* (New Haven, CT: Yale University Press, 2019), 257-263, Accessed September 24, 2020, <http://www.jstor.org/stable/j.ctvvc629z.12>.

<sup>28</sup> Privacy deprivation was also common during other genocidal campaigns such as the Holocaust as a method of dehumanization. In his memoir *Night*, Elie Weisel notes it several times. As one example, upon first arriving at Auschwitz, he and his father were told to strip naked to be assessed for strength by SS officers. Elie Weisel, *Night*, translated by Marion Weisel (New York, NY: Hill and Wang, 2006 [1958]), 35.

<sup>29</sup> Butrick, *Cherokee Removal*, 5-6.

Sexual harassment and shaming were not limited to the close quarters inside of the stockades. On July 1, Buttrick wrote:

I met the soldiers and Cherokees who had been to Brainerd; and on arriving found that the women had been in the creek, swimming while the soldiers stood by them on the bank and other young men were in the creek, naked but just below [...] The women who infested the place while going into the creek while the soldiers were standing by, might be some who were seduced by the soldiers.<sup>30</sup>

Buttrick begins his entry by expressing distaste for young Cherokee women's lack of modesty around men, Cherokee included, but in particular the white soldiers watching them bathe. Upon further reflection, however, he notes that to be ogled was likely not a choice on the women's part, and posits that they were likely forced to swim nude in front of the men. What Buttrick may not have considered was that the summer of 1838 was exceptionally hot, and the creek provided an escape from the intense temperatures as well as a space in which the women could bathe and perhaps even enjoy themselves under otherwise bleak circumstances. American soldiers refused to allow them to experience this joy privately, instead taking the opportunity to satisfy their sense of entitlement to Cherokee women's bodies.<sup>31</sup>

Buttrick's reflection on the swimming Cherokee women was prompted by his memories of other women's stories from the previous six weeks of detention. "[Brother] Vail, the other day, on going to the landing, saw six soldiers about two Cherokee women," he wrote. "The women stood by a tree, and the soldiers with a bottle of liquor were endeavoring to entice them to drink though the women, as yet were resisting them. Br. Vail made this known to the Commanding officer, yet we perceive no notice was taken of it, because it was reported afterwards that those soldiers had taken the two women out with them all night." While soldiers perpetrated this violence—forcing the women to drink, and then raping them while they were drunk—their commanding officer facilitated the crimes by declining to intervene. Such incidents were not the work of rogue soldiers misbehaving behind their superiors' backs. The U.S. Army did not discipline the perpetrators and may even have encouraged them because they kept Cherokee and Muscogee women, and by extension their communities at large, in a state of constant, destabilizing terror. Rape at the hands of American soldiers was part of a strategy for weakening the Cherokee and Muscogee nations through fear.<sup>32</sup>

Forcing women to get drunk seemed to be a favorite strategy of American troops overseeing Cherokee removal. Buttrick remembered another instance of this:

A young married woman, a member of the Methodist society, was at the camps with her friends, though her husband was not there, I believe, at the time. The soldiers, it is said, caught her, dragged her about, and at length either through fear or other causes was induced to drink, and yield to their seduction, so that she is now an outcast, even in the

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<sup>30</sup> Buttrick, *Cherokee Removal*, 10.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

view of her own relatives. How many of the poor captive women are thus debauched, that eye which never sleeps alone can tell.<sup>33</sup>

Most notable in this instance is Butrick's assertion that "she is now an outcast, even in the view of her own relatives." The prevalence of rape at the hands of American soldiers suggests that women regularly became outcasts from their communities (Butrick hints this when he writes, "How many of the poor captive women are thus debauched, that eye which never sleeps alone can tell.") In Cherokee culture, as in many other Native North American societies, families were structured by matrilineal clans, and women were primarily responsible for passing down sacred traditions.<sup>34</sup> In *Cherokee Women in Crisis*, historian Carolyn Johnston notes of the Trail of Tears that, "[d]isruption of traditional Cherokee gender roles proved key in destabilizing their culture and dispossessing them of their land." For women, these roles included cultural reproduction as well as participation in traditional spiritual practices, cultivation of the land, and involvement in tribal government, all of which were destroyed by the removal process, and, in particular, by the role that sexual assault played in removal.<sup>35</sup>

The woman Butrick discusses above was also most likely a former mission school student. Southeastern tribe often sent their children to missionary-run residential schools, as they were known as the Five Civilized—read: Christianized—Tribes. Mission schools were especially focused on gendered education, teaching boys how to become good Christian men and girls how to become good Christian women. This education for girls was focused heavily on domestic duties such as sewing, ironing, and cleaning—the skills needed to be good wives, but also the skills they would need to work as domestic servants in white households, settler society's ideal place for Indigenous women outside of the reservation or home. Given the traditional Cherokee gender system, indoctrination into American Christian gender roles was destabilizing for Cherokee culture and society. Furthermore, by preparing Indigenous girls for domestic service, missionaries were preparing them for a life of near-constant sexual harassment

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<sup>33</sup> Butrick, *Cherokee Removal*, 10. Butrick states that this is frequent, though no other sources I could find confirmed this.

<sup>34</sup> In anthropological work, this is called "cultural reproduction." See Pierre Bourdieu and Jean-Claude Passeron, *Reproduction in Education, Society and Culture* (London, UK: SAGE Publications, 1990).

<sup>35</sup> *Ibid*; Johnston, *Cherokee Women in Crisis*, 56-78.

and likely sexual assault.<sup>36</sup>

For Seminoles, the violence of removal was heightened by exceptionally bold land-grabs and the specific politics of colonialism and slavery that defined Floridian history and led to the Seminole Wars. Unlike Cherokees, Muscogeans, Choctaws, and Chickasaws, who were violently removed following the signing of removal treaties with the U.S. government, Seminoles refused to agree to removal. In the view of the United States, which had bought Spanish Florida in 1819, the land belonged to Americans regardless of Seminole agreement. They ordered Seminole treaties with Spain void. Of a conversation with Seminole chief John Jumper on February 3, 1837, General Thomas Sidney Jesup wrote, “[H]e said they considered this their own country—that the Spaniards had assured them that in transferring their rights. To the United States they had sold the country only so far as the white man had cultivated with the plough and hoe—that the whole country beyond that line of cultivation belonged to the Indians.” To the Seminoles, a removal treaty was a moot point—their land was not and had never been under U.S. jurisdiction or control. Unlike other southeastern tribes—most of which had signed treaties with the United States or gained U.S. recognition of treaties signed with England—Seminoles were not living on their land under the grace of the American government. Additionally, Seminoles in Florida were aware of the fate of other southeastern nations removed before them: they knew that removal West frequently meant death on the move or upon settlement in Indian Territory. Jumper told Jesup as much, stating that “the country was too cold for people accustomed to live in Florida [...] the Seminoles would all die if taken there.”<sup>37</sup>

American settlers’ desire for Seminole land was further complicated by the relationship between slavery and Seminole territory. While all removal efforts in the Southeast were tied to a vision of a cotton empire run on slave labor, Seminole territory had become a refuge for runaway slaves far closer to cotton country than the northern states or Canada. By the 1830s, the maroon population of Seminole Florida was quite large, and significant numbers of Black people were themselves members of the Seminole Nation (when Jesup conversed with Jumper, a

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<sup>36</sup> More than half of sex workers in New York City interviewed by William Sanger for his 1858 *History of Prostitution* had been domestic servants prior to turning to sex work. Sanger explicates, “while allowing that many employers treat their servants as human beings gifted with the same sensibilities and feelings as themselves, it must be regretted that there are others who use them in a manner which would bring a blush to the cheek of a southern slave-driver.” While New York sex workers and Cherokee nation women would have lived very different lives, this statistic is telling. So many domestic servants experienced rape and sexual assault at the hands of their employers that former servants made up the largest proportion of prostitutes in New York City in the nineteenth century. Given the more uneven social standing between white male employers and Cherokee domestic servants, Cherokee girls trained for domestic service could likely expect the same or even higher rates of sexual assault. William W. Sanger, *The History of Prostitution: Its Extent, Causes, and Effects Throughout the World* (New York, NY: Harper & Brothers Publishing, 1858), 527, Accessed April 1, 2021, Project Gutenberg, [https://www.gutenberg.org/files/41873/41873-h/41873-h.htm#CHAPTER\\_XXXIV](https://www.gutenberg.org/files/41873/41873-h/41873-h.htm#CHAPTER_XXXIV); Johnston, *Cherokee Women in Crisis*; Carroll Devens, *Countering Colonization: Native American Women and the Great Lakes Mission, 1630-1900* (Berkeley, CA: University of California Press, 1992).

<sup>37</sup> Thomas Sidney Jesup Diary, 1836-1837, 900000\_M86-12, Florida State Archives, Tallahassee, Florida, Accessed November 27, 2020, <https://www.floridamemory.com/items/show/252864>; Michael Gannon, *Florida: A Short History* (Gainesville, FL: University Press of Florida, 1993), 24-28, Accessed February 1, 2021, <https://archive.org/details/floridashorthist00gann/mode/2up>.

Black Seminole named Abraham served as interpreter).<sup>38</sup> Particularly after the Haitian Revolution in 1792, southern planters and other whites were haunted by the specter of a bloody slave revolt, and as tensions sharpened between pro- and anti-slavery forces in the nineteenth century, these fears only grew.<sup>39</sup> By the 1830s, the existence of a haven for runaway slaves and their free Black descendants so close to the Deep South's Cotton Kingdom put many southern whites on edge. For them, obtaining Seminole land in Florida was essential not just in realizing their dreams of an opulent, slavery-fueled, cotton-based southern economy. Acquiring this land would additionally make slavery easier to maintain and reduce the chances of a slave revolt. Conversely, for many Black Seminoles and other maroons in Florida, the choice between removal and war was not a choice at all: ceding land to the United States would ultimately mean a return to slavery.<sup>40</sup>

Southern whites, therefore, had a lot at stake when it came to obtaining and maintaining a hold on land in Florida. To secure possession of the territory, they had to make it attractive to would-be homesteaders—an especially difficult task with regard to southern Florida, which was too marshy for farming, too hot and humid for comfort, infested with alligators and mosquitoes carrying malaria and yellow fever, and home to a large and hostile Indigenous population. The speculators sought to obscure the dangers of settlement with their rhetoric of Florida as a cotton planter's utopia: a balmy environment where the sun always shone and the soil was fertile for a cotton crop. Wealthy cotton planters from elsewhere in the Deep South were especially attracted to this vision, and they needed military assistance to hold the land, particularly with the threat of free Blacks inciting their slaves to revolution. Stationed at Fort Brooke (Tampa Bay) during the Second Seminole War (1835-1842), Private Bartholomew

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<sup>38</sup> Seminoles, as a group, are a relatively new nation composed of three major ethnic and linguistic groups: a mix of Timuquan and Calusan ethnic/language groups with a long history in Florida and Muskogean people who migrated later from further north. As such, they are unique among many other Native nations. Their relationship to escaped slaves (or maroons) and the degree to which they accepted maroons as members of their nation has been debated, with some stating that Black Seminoles were truly that—Black people who were citizens of the Seminole Nation and full participants in Seminole culture—while others state that for maroons, association with the Seminoles was merely a means to an end, and that Seminoles were not as interested in protecting their Black comrades. For more on the complicated history of Black Seminoles/Seminole maroons, see Kevin Mulroy, *Freedom on the Border: The Seminole Maroons in Florida, the Indian Territory, Coahuila, and Texas* (Lubbock, TX: Texas Tech University Press, 1993) and Kenneth W. Porter, *The Black Seminoles: History of a Freedom-Seeking People* (Gainesville, FL: The University Press of Florida, 1996).

<sup>39</sup> For more on the ongoing American terror of a slave insurrection in the early nineteenth century, see Alan Taylor, *The Internal Enemy: Slavery and War in Virginia, 1772-1832* (New York, NY: W. W. Norton & Company, 2014).

<sup>40</sup> Ostler, *Surviving Genocide*, 248-249, 274-278.

Lynch wrote in his diary:<sup>41</sup>

Tampa is too romantic and lovely a place for me to attempt [describing] it. I wish some perfumed cigar smoking[,] novel writing city man[-]monkey was here—he could not describe it[;] he would die of a fit of reality... Tampa is a perfect arcadia... it is impossible to form any idea of the climate of Florida[,] it must be seen and felt. Florida could be made a heaven on earth.

Colorful description of the effeminate urban Romantic novelist aside, Lynch's words here are stunning: the statement "Florida could be made a heaven on earth" envisions the post-war (and, therefore, post-removal) Florida landscape. To make Florida the "perfect arcadia" Lynch envisions, the Army had to rid it of Seminoles.<sup>42</sup>

Visions of an Edenic post-removal Florida, and fears it would not come to pass given the long and expensive nature of the Second Seminole War, prompted an illustrative report from Brigadier Duncan Lamont Clinch (later a U.S. congressman from Georgia). It was printed in the *Boston Globe* and reprinted in the *Niles Weekly Register* (St. Louis) on July 15, 1837:

[Seminole] minds have been so completely perverted by a set of interested and designing men; that no argument or reasoning will have the least influence with them, except the argument of force; and if a sufficient military force to overcome them is not sent into the nation, they will not be removed, and the whole frontier will be laid waste by a combination of Indians, Indian negroes [sic], and the negroes on plantations.<sup>43</sup>

This report brought to a head all fears regarding Florida as contested land: Indigenous ownership and "misuse" of land that could be producing cotton and insurrection by a combination of free Black Seminoles and enslaved Blacks already living on plantations in the

<sup>41</sup> Lynch was a recent Irish immigrant to the United States before joining the U.S. Army. He embarked for the war from New York by ship, docking in South Carolina in December 1836 and making his way with his regiment to Florida from there. In addition to vivid descriptions of life as a soldier in Florida and a detailed look at the famous warrior Osceola, his diaries include laments on the discomfort of war, passages on his love of reading, and a several-pages-long epic rendition of a story in which he badly beats a fellow soldier for kicking and killing a stray puppy. He reported to Lieutenant John Graham while stationed in Florida. Context from Item Description, Bartholomew Lynch Journal, FSU\_MSS0180\_B52A, Florida State University Libraries, Tallahassee, Florida, Accessed October 27, 2020, [http://purl.flvc.org/fsu/fd/FSU\\_MSS0180\\_B152a\\_ORIG](http://purl.flvc.org/fsu/fd/FSU_MSS0180_B152a_ORIG)., and Laurel Clark Shire, *The Threshold of Manifest Destiny: Gender and National Expansion in Florida* (Philadelphia, PA: University of Pennsylvania Press, 2016), 117, Accessed February 1, 2021, <http://www.jstor.org/stable/j.ctt1dfnrws>.

<sup>42</sup> Bartholomew Lynch Journal, FSU\_MSS0180\_B52A, Florida State University Libraries. Lynch's love for Florida seemed not to wane over time. He later wrote, "The more I see of T. Bay the more I like it. It is a romantic and truly picturesque place, no man is able to describe or paint its natural + sublime beauties—then I will not attempt it."

<sup>43</sup> This quote has striking similarities to the rationale for going to war in Vietnam: an unremittingly vicious enemy that cannot be reasoned with, evildoers behind the scenes controlling that enemy, a need for more and more troops to crush that enemy, and dangers of a domino effect if the enemy is not vanquished. The comparison is a reminder that the tactics used to sustain settler-colonial wars in North America were replicated in imperialist wars perpetrated by the United States around the world.



territory. Reports like this display an underlying belief that securing Florida was the key to preserving the southern way of life, particularly for planters and other slaveholders. Anxiety over proper “use” of fertile land justified removal. As Jumper reminded General Jesup, Spain had sold the United States the northern part of Florida only; the land that had already been “cultivated by plough and hoe.”<sup>44</sup>

Under these complex conditions, the United States and Seminoles went to war for Florida in late December 1835. Jesup frequently noted in his journal the women and children taken prisoner in raids and battles. Many of the women became captives at Fort Brooke, where they were in danger of sexual violence in addition to epidemics of yellow fever and dysentery and the other hazards of poor living conditions. Assault and rape, as well as forced prostitution, concubinage, and sex slavery, were all common at Fort Brooke and in the rest of Florida occupied by the U.S. Army. Unlike for the Cherokee, where assaults were more spatially widespread, evidence of sexual violence in Florida is mostly confined to forts where soldiers had the most contact with Seminole women.<sup>45</sup>

Bartholomew Lynch first alluded to the frequent rapes on June 22, 1837, when, lamenting the company he kept while stationed in Florida, he wrote in his diary: “One thing I know, that in the U.S. Army man is his worst mate, hallowed in all the sublime perfection of what is horrible and revolting to virtue[,] religion and civilization.” He went on in smudged writing to mourn the infrequency with which the troops face punishment for bad behavior. More often than not, the bad behavior Lynch described involved assaults on Seminole women. On March 3, 1839, frustrated with the Army’s system of justice, he wrote, “such is the state of morals in the U.S. army. That every crime is overlooked except passing your officer without saluting him and any other contempt is punished with great severity, or if you take any liberties with any squaw [...] or [...] soldier[']s wife or negro girl who is under the protection of an officer.” Assaults on Seminole women prisoners were expected and even encouraged as a method of destroying the morale of imprisoned women, who, when returned to their communities, might experience the same ostracism as Cherokee women who had been raped. One consequence was the destabilization of the matrilineal clan system that structured Seminole society.<sup>46</sup>

Lynch’s discussions of “officer’s squaws,” which frequently appear in this diary, expose forced marriage, concubinage, and sex slavery.<sup>47</sup> While Seminole women’s choices cannot be left out of a discussion of these practices if we are to respect their agency, the choice between concubinage or marriage and death by malnourishment, disease, or other causes was at the very best a choice made under duress. Seminole women likely made whatever decisions they believed

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<sup>44</sup> “Seminole Campaign,” *Niles Weekly Register*, Jul. 15, 1837, Accessed February 1, 2021, Newspapers.com, <https://www.newspapers.com/image/572074913/?terms=%22fort%20brooke%22%2C%20seminole&match=1>.

<sup>45</sup> Thomas Sidney Jesup Diary, 1836-1837, 900000\_M86-12, Florida State Archives.

<sup>46</sup> Bartholomew Lynch Journal, FSU\_MSS0180\_B52A, Florida State University Libraries. Lynch also describes the consequences for assaulting an “officer’s squaw,” writing on June 1, 1838, that a fellow soldier was flogged “in consequence of taking some liberties with a notorious whore who the officer knew to be such.”

<sup>47</sup> Forced marriage was by no means an exclusively Floridian phenomenon. In California, the practice was so common that there was a name for white men who took Indigenous concubines: “squaw men.”

would best allow for the survival of themselves, their families, and their communities. To become a sex worker, as many Seminole women not singled out to become officer's squaws did, was a survival strategy that could not have been an easy choice. In August 1838, Lynch alluded to the treatment Seminole women in the sex trade experienced, writing, "Never were soldiers happier than we Florida warriors. Who would think it. Books to read[,] news and periodicals, fresh beef to eat[,] fish in abundance, whiskey at 50 cents a fill, plenty women in the market absolutely at the disposal of the highest bidder[,] no church or meeting house parson or any thoughts of religion to mar the liberty so universally employed here." By noting the specific absence of religious influence, Lynch suggests that the perpetrators should be ashamed of their violent, drunken sexual encounters with Seminole sex workers. Without religion to keep the men in line, Lynch implies, the troops had their way with whomever they wanted, justifying it by paying them afterwards. This interpretation is confirmed by an entry a few months later, on October 6, 1838, when Lynch writes, "If the officers in Tampa would be half as mad to fight Buck Indians as they are to buck Indian squaws, they would unquestionably be the bravest and gallantest officers in the world. The way they pitch into the squaws is a sin."<sup>48</sup>

Lynch's assessment of the situation on the ground in Florida is consistently laced with disgust and shame. He frequently references sin and religion in his descriptions of his fellow soldiers, and seems to think the whole system of punishment within the army was skewed due to the lack of punishment for "taking liberties" with Seminole women. He does not, however, see Seminole women as fully human. In addition to often referring to Seminole women as "squaws," Lynch stereotypes them as beautiful, young Indian princesses or ugly, old squaw drudges, embracing a dichotomy that has defined the settler vision of Indigenous women since first contact. In the settler imagination, young Indigenous women have embodied the potential of the feminized and fertile New World, and their portrayal as beautiful and inviting became a key part of colonial ideology, particularly when it came to convincing European men to settle in the New World and then keep moving westward.<sup>49</sup> Conversely, Indigenous women also imperiled colonial pursuits in that they were the vessels for both biological and cultural reproduction and, since many nations were matrilineal, often their nations' primary land and property holders.<sup>50</sup> When Indigenous women inevitably got in the way of colonial pursuits, settler writers quickly began to portray them as ugly, old, ostensibly infertile women.<sup>51</sup> On December 8, 1838, Lynch wrote, "Some very good looking women with the troops [at port]—a very uncommon circumstance in the army of Florida. 5/6 of the women I have seen in Florida with the troops are old and ugly [...] notwithstanding I have indeed seen excellent women as soldiers['] wives." Lynch's assertion that nearly all Indigenous women (save for "officers' squaws") were "old and

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<sup>48</sup> Bartholomew Lynch Journal, FSU\_MSS0180\_B52A, Florida State University Libraries; Hixson, *American Settler-Colonialism*, 6-7.

<sup>49</sup> Brown, "The Anglo-Algonquian Gender Frontier."

<sup>50</sup> In settlers' terms, anyway. Most Indigenous cultures did not historically have a concept of land as property to be owned. Johnston, *Cherokee Women in Crisis*, 12.

<sup>51</sup> For further discussion of the Indian princess complex, see Green, "The Pocahontas Perplex: The Image of Indian Women in American Culture." For scholarship on change over time in the depiction of Indigenous women that illustrates the relationship between colonial pursuits and this dichotomy, see Sparks, "The Land Incarnate: Navajo Women and the Dialogue of Colonialism, 1821-1870."

ugly” is unsurprising given the status of Florida as a colonial possession of the United States: Seminole women, the custodians of the land in Seminole matrilineal, clan-based society, stood between American settlers and wealth. Even detained as prisoners of war, Seminole women were a threat.<sup>52</sup>

Women prisoners of war were not the only victims of sexualized violence in detention.<sup>53</sup> In an oral history probably given in the early 1970s, Mrs. H. M. Weiss, a Seminole woman and member of the Bird Clan, told historian Jean Chaudhuri that her grandfather “said the cruelties [white people] practiced on the Indians were beyond description. They would take the breast[s] of women and cut them off and make tobacco pouches out of them [...] Sometimes the white men would get their pleasure from castrating the men [...] The white man had ingenious ways of tormenting and killing their captives.”<sup>54</sup> While the majority of sexual violence targeted women and girls, men also experienced rape, sexual assault, sexual harassment, sexual humiliation, and sexual mutilation across North America. Gendered violence such as this was fully intended to reinforce the racial and patriarchal hierarchy necessary to subdue Native nations. To reinforce their own ideals of masculinity as well as to destroy Native gender systems and impose settler patriarchy, settlers chose to sexually dominate not just Indigenous women, but also Indigenous men.<sup>55</sup> While the majority of the documented instances of sexualized violence involve the brutalization of women and girls—due to its greater prevalence and the fact that the white men who penned most of these accounts likely found sexual violence against men and boys distasteful—Indigenous men were also victims of sexualized violence in war and detention.<sup>56</sup>

At the conclusion of the war, most Seminoles fled to the Everglades.<sup>57</sup> Those who did not, including the prisoners of war at Fort Brooke/Tampa Bay, were detained for a time, like the Cherokees and Muscogees, and then removed to Indian Territory. Betty Mae Tiger Jumper, the

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<sup>52</sup> Bartholomew Lynch Journal, FSU\_MSS0180\_B52A, Florida State University Libraries. Jesup also saw Seminole women in this way, writing of Seminole warrior Alligator’s daughter in 1837, “she is an ugly and disgusting looking Squaw, excessively dirty, and constantly scratching her head, and spitting on the floor.” We can infer here that Jesup felt so strongly at least partially because she was the daughter of a great Seminole leader and warrior, and he may have seen her as an even greater threat to American colonial interests in Florida than the average Seminole woman. Thomas Sidney Jesup Diary, 1836-1837, 900000\_M86-12, Florida State Archives.

<sup>53</sup> Sexualized violence is not limited to assault, but includes other sexualized forms of violence such as mutilation of genitalia and other sex organs before or after death.

<sup>54</sup> Jean Chaudhuri did not include a date on the transcript, but she interviewed several other Seminoles in 1971 and 1972 as part of the southeastern Indian Oral History Project.

<sup>55</sup> For more on Indigenous masculinities and the ongoing struggle to decolonize Native masculinity, see Mark Rifkin, *When Did Indians Become Straight?: Kinship, the History of Sexuality, and Native Sovereignty* (New York, NY: Oxford University Press, 2011); Ty Pua Kāwika Tengan, *Native Men Remade: Gender and Nation in Contemporary Hawaii* (Durham, NC: Duke University Press, 2008); Sam McKegney, *Masculindians: Conversations About Indigenous Manhood* (East Lansing, MI: Michigan State University Press, 2014); Robert Alexander Innes and Kim Anderson (eds.), *Indigenous Men and Masculinities: Legacies, Identities, Regeneration* (Winnipeg, Manitoba: University of Manitoba Press, 2015).

<sup>56</sup> Mrs. H. M. Weiss Oral History Interview with Jean Chaudhuri, Transcript, n.d., 3, southeastern Indian Oral History Project, Samuel Proctor Oral History Program, P. K. Yonge Library, University of Florida, Gainesville, Florida, Accessed February 2, 2021, <https://ufdc.ufl.edu/UF00007916/00001>.

<sup>57</sup> These Seminoles never signed a peace treaty with the United States, and are technically still at war with the U.S. despite active hostilities ceasing in 1842. You can read this history in Seminole words here: <https://www.semtribe.com/stof/history/no-surrender!>.

first and thus far only female Seminole chief (in office 1967-1971), wrote in her memoirs of her tribe's oral histories of sexual violence at Tampa Bay while awaiting removal west. Her own great-great-grandmother, she wrote, grew "more and more worried, because the soldiers had begun using the younger women. She was concerned for her daughters. Then, she and her oldest daughter were raped." Like their neighbors just to the north, Seminole women who became prisoners of war and in pre-removal detention camps were exceptionally vulnerable to assault by whites, especially by soldiers and other agents of the government. Patterns of sexual assault in Cherokee, Muscogee, and Seminole detention were particularly visible due to their proximity to white observers, but they were not specific to their geographic location of the Southeast. Though it has been especially documented in the Southeast, documentation of this pattern of sexualized violence is present for the whole continent, indicating the pattern was replicated everywhere state agents and Indigenous women came into contact.<sup>58</sup> Everywhere that settler men have wielded power over Indigenous women, they have used rape and sexual assault to reinforce their manhood and destroy Indigenous identity and sovereignty.<sup>59</sup>

### **"She Needed, at Least, a Little Rest": Mothers and Children on the Trail of Tears**

Annakee couldn't feel her toes. She wiggled them around, oddly fascinated by her toenails peeking through the hole in her shoe. Her grandmother gently nudged her to continue walking. The wind whipped her hair around her head, and she turned her head down in an attempt to stay warm. Up ahead, a baby began to wail. Annakee shielded her eyes and reached for her grandmother's hand. The white man on the horse rode up to the young mother and shouted at her in English, which Annakee could not understand. She heard the mother cry something in return. Annakee closed her eyes and turned into her grandmother's body. The man on the horse ripped the baby from its mother's arms, rode up to a nearby tree, and took the infant by the legs. Annakee could hear the mother screaming as she ran after the man on the horse, but she was too late. The soldier began to beat the crying baby against the trunk of the tree. Annakee heard the rhythmic thumping of the baby's body as its cries grew faint. She opened one eye and peered out towards the side of the road. She saw the mother kneeling on the snow in front of the tree, sobbing as she held the broken body of her child close to her chest.<sup>60</sup>

Gendered violence against Indigenous people has never been limited to sexual assault and rape against adult women. It has included rape of men, children, and those refusing to conform to European delineations of gender and sex; castration and the removal of breasts and vulva both before and after death; and the brutalization of pregnant women and children. In addition to a strategy for domination, gendered and sexualized violence is a tool of genocide. Targeting women is a deliberate attempt to limit populations, while targeting the sex organs, sexualities, and sexual activity of anyone also meets this end. It is also an expression of anger and

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<sup>58</sup> See Ostler, *Surviving Genocide*; Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven, CT: Yale University Press, 1988).

<sup>59</sup> Betty Mae Tiger Jumper and Patsey West (ed.), *A Seminole Legend: the Life of Betty Mae Tiger Jumper* (Gainesville, FL: University Press of Florida, 2001), 4.

<sup>60</sup> Sullivan, *Indian Legends of the Trail of Tears and Other Creek Stories*, 2. As in the earlier story about Annakee, this story originally comes from Creek oral history, though the details of Annakee's experience have been imagined.

frustration by the settler at the continued existence and resistance of the holders aboriginal land title.<sup>61</sup> Sexual and physical violence against children serves the same purpose. Along the Trail of Tears, pregnant women and children were targeted by soldiers as the objects of both physical abuse and rape. I argue that otherwise not-explicitly-sexual violence constituted a part of a campaign of concerted gendered, genocidal violence against southeastern nations because of the people it targeted: women and children, and its goal: the destruction of the next generation of Indigenous people.<sup>62</sup>

As exemplified by the story of Mrs. Oosunaley and Sheriff Dukes, pregnant Cherokee women faced sexual abuse by white men prior to removal. However, it reached a particularly painful crescendo on the Trail of Tears. Reverend Butrick had recorded multiple stories of violence against pregnant women on the Trail before he embarked with the last of the travelers in winter 1838. On July 11, 1838, he wrote about a conversation with a friend, Mr. Caldwell, who spent the night at Brainerd mission in Tennessee on his way east. Caldwell told Butrick that “a Cherokee woman [...] had been driven, with many others from the Valley Towns [the Tennessee Valley], and on the way, was delivered of a child. She needed, at least, a little rest, but even this was denied by the officer, and she was thrown into a waggon [sic], and hauled on over a rough road, with the company and lived till she reached the bank of the [Tennessee][R]iver, and then expired.” We can only speculate about what happened to this woman’s newborn. Did the infant make it to Oklahoma, or did it succumb to disease, exposure, or hunger? Did members of its extended family or community possess the strength and ability to care for it? Was it, like

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<sup>61</sup> Aboriginal title is the name that the American settler legal institution has given to the inherent right of Indigenous peoples to the land they occupy and consider theirs. It exists in constant tension with the doctrine of discovery, the legal basis under which “discovered” lands became property of the “discoverer’s” royal commissioners/benefactors (inherited from British common law). These two ideas, of course, lie in complete opposition, as it means that both Indigenous people and the European “discoverers” of their land held complete sovereign authority over the same space. Settler law, of course, has a tidy fix for this dilemma: aboriginal title in American legal precedence comes secondary to the power that the doctrine of discovery gave to European sovereigns, who then passed on their power to “extinguish” aboriginal title to their descendants (the United States government). In short, settler law states that settlers have the sovereign right to extinguish aboriginal title by literally any means whatsoever as long as extinguishing that title was “intentional.” This gives settler legal authority a bulletproof defense against nearly every Indigenous land claim.

<sup>62</sup> For the Genocide Convention’s perspective on violence against children and families, see Article II, sections D and E [https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1\\_Convention%20on%20e%20Prevention%20and%20Punishment%20of%20e%20Crime%20of%20Genocide.pdf](https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20e%20Prevention%20and%20Punishment%20of%20e%20Crime%20of%20Genocide.pdf). For scholarship on gendered genocidal campaigns and children around the world and in colonial history, see Wolfe, *Settler-Colonialism and the Transformation of Anthropology*. For other examples of crimes against children and families as acts of genocide, see Antonius C. G. M. Robben and Marcelo M. Suárez-Orozco (eds.), *Cultures Under Siege: Collective Violence and Trauma* (Cambridge, UK: Cambridge University Press, 2000); Taner Akçam, *The Young Turks’ Crime Against Humanity: The Armenian Genocide and Ethnic Cleansing in the Ottoman Empire* (Princeton, NJ: Princeton University Press, 2012), 287-340; Alexandra Stilmayer (ed.), *Mass Rape: The War Against Women in Bosnia-Herzegovina*, translated by Marion Faber (Lincoln, NE: University of Nebraska Press, 1994). For extended discussions of one of the most prolific forms of reproductive violence and genocide, the Indian residential school system, see Grant, *Finding My Talk*; Smith, *Conquest*; Mihesuah, *Indigenous American Women: Decolonization, Empowerment, Activism*; Deer, *The Beginning and the End of Rape*.

other babies on the Trail, murdered by soldiers for crying with hunger or thirst?<sup>63</sup>

Butrick implies brutal treatment of women in childbirth was systemic, and not always limited to refusals to let them rest. On August 20, 1838, he wrote:

[Brother] Parker called a few minutes [today]. He says he was told by a lady who saw a company of Cherokees as they were driven to the agency, that she was informed of a Cherokee woman in the company who was taken with the pains of childbirth, and entreated permission to retire, but this was absolutely forbidden, and she was obliged to fall in the road amidst a company of soldiers, and pass through the pains of a travelling [sic] woman.<sup>64</sup> This lady said she was informed that in another company, six children were born in like circumstances. We also learned that when the last company were taken over the river at Ross' [L]anding, a woman, in the pains of childbirth, stood and walked as long as possible, and then fell on the bank of the [Tennessee] river. A soldier coming up, stabbed her with his bayonet, which, together with other pains, soon caused her death.<sup>65</sup>

From what Butrick wrote, it is clear that it was the general policy of soldiers to force women to give birth on the move as they made their way west. This practice decreased the chances a woman would survive childbirth, as well as the chances of a newborn infant's survival. The horror of this routine mistreatment of pregnant and birthing women was augmented by individual acts of violence, which, seemingly unpunished, can be seen as a logical extension of policy. The frequency with which stories of such atrocities reached Butrick suggests that they were a routine part of the Trail of Tears.<sup>66</sup>

Pregnant and laboring women were not the only objects of the abuse. Soldiers also directly targeted babies and children. Annakee, a Muscogee girl of around seven or eight when she walked the Trail of Tears, passed down stories of the systemic murder and rape of children and teens to her descendants. Her memories, published in 1974 by Creek scholar Elizabeth Sullivan, detail what is described as the routine dashing of noisy infants against trees and include a scene in which one woman, refusing to leave her murdered baby behind, was whipped to death

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<sup>63</sup> Butrick, *Cherokee Removal*, 12.

<sup>64</sup> He probably meant "travailing," another word for the process of giving birth.

<sup>65</sup> Ross' Landing was named for John Ross, Principal Chief of the Cherokees through their removal West, who established the site as a trading post in 1815. In 1838, settlers renamed the town, now city, Chattanooga, from the Muskogean word *cvtto* (pronounced chah-toh) meaning "rock," perhaps referencing Citico Mound (the political center of the Coosa confederacy, a collection of powerful chiefdoms along the Tennessee river whose descendents include Muscogees and who inhabited the land that became Ross' Landing/Chattanooga from about 1400-1600), or more likely referencing the Muscogee Creek word for Lookout Mountain, Chat-to-to-noog-gee (rock rising to a point). Place name evolutions and etymologies like this are a reminder of the rich precolonial history of North America often obscured by the European inability to conceive of or acknowledge economic and political cultures among Indigenous people. While Lookout Mountain is now a tourist attraction, Citico Mound was destroyed in 1915. From [https://en.wikipedia.org/wiki/Chattanooga,\\_Tennessee#Early\\_history](https://en.wikipedia.org/wiki/Chattanooga,_Tennessee#Early_history).

<sup>66</sup> Butrick, *Cherokee Removal*, 32.

by the soldier who had killed it.<sup>67</sup> Annakee also told of soldiers who specifically targeted pre-teen and teenaged girls for sexual abuse, often in front of their families and communities. In her narrative, Annakee connects this practice to the abuse of mothers, noting in the same sentence that soldiers regularly singled out new mothers for rape.<sup>68</sup>

By targeting new mothers, pregnant women, and children for physical and sexual abuse and murder, American soldiers executed a genocidal campaign aimed at preventing births, stopping children from growing to adulthood, and punishing, traumatizing, and in some cases rendering infertile girls who did reach childbearing age.<sup>69</sup> This violence, even when it did not include rape or sexual assault, was thoroughly gendered and sexualized. The ultimate target of the abuse was reproduction itself, in all of its stages. The end goal was, ostensibly, the destruction of the generation of Cherokee, Muscogee, and other Indigenous people who would be born in Oklahoma—Indian Territory. While that land was (for the time being) set aside for East Coast Native peoples, it was clear to Indigenous people and settlers alike that Americans would eventually encroach on that space, particularly as they began to set their eyes on Texas and California in the 1840s. As Andrew Jackson stated in his State of the Union address in 1830, Indigenous people would be sent westward, effectively, to die—with, in his words, the “extinction of one generation to make room for another.”<sup>70</sup>

### Conclusion

When Annakee arrived in Oklahoma, she started the long and difficult process of rebuilding her life, her community, and her nation. For little Annakee and her siblings, it may have been easier to adjust to their new home than the adults in her family. Still, compared to her old home, encompassing parts of Alabama, Florida, Tennessee, and Georgia, the flat, dry, and windy Muscogee reservation must have seemed alien. As she grew older, she held an ever-more important role in helping her nation reestablish itself in Indian Country. As a woman, she was seen by her culture as a holder of traditional values and cultural practices, and she took that responsibility quite seriously—she passed her memories, along with the traditional stories of her community, on to her children.<sup>71</sup>

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<sup>67</sup> Soldiers carried whips to drive Cherokee, Creek, Choctaw, and Chickasaw citizens like animals west. The tools were regularly used as instruments of torture and terror to prevent revolt and maintain speed. Private John G. Burnett, a U.S. Army soldier assigned to Cherokee removal under Captain Abraham McLellan due to his personal history of close relationships with Cherokee people and his fluency in the Cherokee language, described fellow soldiers whipping elders and sick people who had difficulty keeping pace in a letter to his children and grandchildren on his 80th birthday. John G. Burnett, *The Cherokee Removal Through the Eyes of a Private Soldier* (Museum of the Cherokee Indian Press, 1978), Accessed February 21, 2021, Project Gutenberg, <http://self.gutenberg.org/eBooks/WPLBN0100002749-The-Cherokee-Removal-Through-the-Eyes-of-a-Private-Soldier-by-Burnett--John--G-.aspx>.

<sup>68</sup> Sullivan, *Indian Legends of the Trail of Tears and Other Creek Stories*, 2-3.

<sup>69</sup> Widespread sexual abuse caused severe sexual trauma and proliferated venereal disease, which caused reproductive complications and infertility in many Indigenous women. See Hurtado, *Indian Survival on the California Frontier*.

<sup>70</sup> Jackson, “Address to Joint Session of Congress, December 6, 1830.”

<sup>71</sup> Sullivan, *Indian Legends of the Trail of Tears and Other Creek Stories*; Kathryn E. Holland Braund, “Guardians of Tradition and Handmaidens to Change: Women’s Roles in Creek Economic and Social Life during the Eighteenth Century,” *American Indian Quarterly* 14, no. 3 (1990): 240, 242, Accessed December 10, 2021, <https://doi.org/10.2307/1185653>.

Patterns of gendered violence and sexual terror during the southeastern removal process, including on the Trail of Tears, were not unique, and were intrinsically connected to American land lust. Removing Indigenous people from the Southeast, by legal or illegal means, was a necessary step to expanding the American settler and slave empire. Crowded coasts had made land difficult to attain, especially for aspiring yeoman farmers. In addition, crowding in eastern cities had undercut wages and inflated rents, creating political support among urbanites who wanted higher pay and a lower cost of living.<sup>72</sup> Meanwhile, land speculators and plantation owners had a great deal to gain from removing the Indigenous population, who occupied a tenth of Georgia land (Cherokee), a sixth of Alabama (Muscogees), half of Mississippi (Choctaws and Chickasaws), and nearly all of Florida (Seminole). Not only would removal open up these lands to profitable cotton and sugar plantations, but it would also create the dreaded slave markets of the Deep South that separated enslaved families from the middle and upper South.<sup>73</sup> Removing Seminoles removed fears of the slave insurrection many planters believed that Black Seminoles and maroons in Florida would foment if allowed to remain on their land. Sexual violence was directly tied to the quest for land and natural resources, which was at bottom a quest for wealth and political power. The U.S. government and its agents not only allowed this abuse, but tacitly approved of and enshrined it. The ultimate goal was an “Empire of Liberty” that stretched from sea-to-shining-sea, and, ultimately, a sphere of influence that extended across the entire western hemisphere as advanced by James Monroe’s famous doctrine.<sup>74</sup> To American leaders, genocidal actions, hastened along by targeted sexualized violence, were merely the unpleasant collateral damage of a noble endeavor.<sup>75</sup>

Oklahoma, the site of reservations for removed Cherokee, Muscogee, Seminole, Choctaw, and Chickasaw, today has the tenth highest number of missing and murdered Indigenous women and girls in the country. At the same time, the federal government has continued to endorse this practice, albeit less overtly. For Indigenous women, girls, and LGBTQ2S+ people on reservations in the United States, the Georgia government’s restrictions on the Cherokee Nation’s ability to prosecute crimes such as rape and murder sounds eerily familiar: until the 2013 reauthorization of the Violence Against Women Act, interracial rape, even if it occurred on tribal lands, was considered outside the realm of jurisdiction for tribal

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<sup>72</sup> The Democratic Party seized on this during the Panic of 1837, an economic depression that lasted until the mid-1840s, and land distribution to homesteaders became an even more popular cause following the establishment of the Free Soil Party in 1848. See Bruce Laurie, *Artisans Into Workers: Labor in Nineteenth-Century America* (Urbana, IL: University of Illinois Press, 1997), 99-103, and Alexander Saxton, *The Rise and Fall of the White Republic: Class Politics and Mass Culture in Nineteenth-Century America* (London, UK: Verso Books, 1990), 102-103.

<sup>73</sup> These markets were used to threaten enslaved people who stepped out of line, both due to the specter of family separation and the knowledge that the conditions of slavery were somehow even more brutal in the Cotton Kingdom.

<sup>74</sup> The Monroe Doctrine comes from James Monroe’s December 2, 1823 address to Congress stating that the western hemisphere “not be considered as subjects for colonization by any European powers”—and implied that, instead, the United States should be the primary political and economic force in the region (which is exactly how it was interpreted by administrations that followed). For more on the Monroe Doctrine, see Jay Sexton, *The Monroe Doctrine: Empire and Nation in Nineteenth Century America* (New York, NY: Hill and Wang, 2011).

<sup>75</sup> Ostler, *Surviving Genocide*, 248-249.



governments.<sup>76</sup> In 1838, Butrick was convinced that Cherokees' powerlessness to prosecute "any crime whatever" shielded whites from punishment for violent crimes against Indigenous people and placed the responsibility for this state of affairs squarely on the shoulders of the state and federal governments. Indigenous activists such as Sarah Deer who pursue justice for missing and murdered Indigenous women and girls today argue the same. Around thirty percent of cases of missing and murdered Indigenous women and girls identified by the Urban Indian Health Institute in their 2018 study were not even present in law enforcement records, with Oklahoma City having the eighth highest incidence in the country. Twenty percent of law enforcement agencies refused to cooperate with the Institute's study at all, indicating a lack of interest in helping to eradicate incidences of missing and murdered Indigenous women and girls, and twenty-eight percent of perpetrators were either acquitted or had never been prosecuted.<sup>77</sup>

Accounts of sexual violence during removal from the Southeast to Oklahoma and its lasting consequences represent a fraction of the actual gendered violence against Indigenous people during the Removal Era. Patterns identified in this article reproduced themselves across the American continent. Sexual violence as a strategy of colonization continued throughout the nineteenth century in every concerted removal effort and every rapid land acquisition campaign, and endures today as Indigenous people continue to survive and to resist settler domination on and beyond tribal lands.

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<sup>76</sup> As per the Major Crimes Act of 1885, which gave the federal government jurisdiction over rape cases for rapes occurring on Native land, and the 1978 *Oliphant v. Suquamish Indian Tribe* decision, which stated that tribal courts had no jurisdiction whatsoever over non-Natives. For crimes committed by Indigenous people on non-reservation land, jurisdiction over a "major crime" still would go to the state prior to the federal government, barring a crime that crossed state lines. In 2020, the Supreme Court decided in *McGirt v. Oklahoma* that nearly all of eastern Oklahoma was unceded Indigenous territory, meaning that "major crimes" committed by Indigenous people would fall under federal jurisdiction. This was, somewhat ironically, seen as a win for Native American rights because it recognized nearly half of Oklahoma as unceded Indigenous territory, despite relegating "major crimes" like rape to federal instead of tribal jurisdiction.

<sup>77</sup> Deer, *The Beginning and the End of Rape*; Annita Lucchesi and Abigail Echo-Hawk, "Missing and Murdered Indigenous Women and Girls," Urban Indian Health Institute, 2018, <http://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf>; Butrick, *Cherokee Removal*, 16-17.