Fantasia Painter

Summer 2019

Key words

The Imperatives/Spaces of Sovereignty

The recent collection, *Native Studies Keywords* (Teves et al. 2015), begins with sovereignty. Not only is it the first and most extensively discussed term,[1] but also, even before the entry, the opening paragraph of the "Introduction and Acknowledgements" begins with a quote from Laura Harjo, "Sovereignty! Sovereignty! Sovereignty!" (vii).[2] Sovereignty's overbearing and primary presence in the text and its initial appearance as a multiple imperative are indicative of the presence of sovereignty in Native American Studies (NAS) as a whole. We must always begin with, acknowledge, foreground, and privilege sovereignty! But which one?

If the tri-partite structure of Harjo's quote can be said to imply the multiplicity of the term, the presence of *sovereignties* and not just a singular sovereignty of vital importance, it does so true to the absolute lack of clarity surrounding them. Sovereignty, in an NAS context, can signify various degrees of legislative and jurisdictional power (the ability to make laws and enforce them), an ontological and epistemological alterity (separate from those of Europeans or Westerners), or the term and discourse through which local settler-Indigenous battles are waged. While relative definitions of sovereignty fall somewhat along disciplinary lines (lawyers, for example, usually conceive of it as a narrow, legal status), these understandings are often tacit, and in the interdisciplinary field of NAS they constantly interact. Unpredictable interactions are only exacerbated by the sometimes-synonyms of sovereignty: nation(hood), self-determination, and decolonization.[3] In sum, sovereignty discourse is opaque/vague/amorphous/imprecise and yet, foundational.

This paper, at its most basic level, seeks to address sovereignty-confusions in NAS by presenting a rhizomatic genealogy of the term as it has been used in Native American Studies[4]. It begins with sovereignty's arrival to the field following US Termination policy of the mid 1950's, and it proceeds through time as the concept multiplied, frayed, developed, and, to add confusion, identified its origins further and further back in time.[5] This paper goes beyond elucidation, however; there is more at stake than passing confusion. Sovereignty! and its homonyms represent separate understandings *and* imperatives; while all of its iterations are wielded by NAS against elimination (and its pseudonyms: assimilation and incorporation), the multiplicity of sovereignty indicates nothing less than distinct normative

visions of *how* to ensure/enable Native futurity. Thus, this paper, while tracing when and how the discourse developed also divides the field into three *types* of sovereignty! That is, it renders Sovereignty! Sovereignty! Sovereignty! into Sovereignty1, Sovereignty2, and Sovereingty3, where Sovereignty1 is defined through and calls for action in US law, Sovereingty2 through/in alterity, and Sovereignty3 through/in local settler-indigenous politics. While any broad strokes division is doomed to overwrite certain nuance, when placed into this architecture the field reveals three large themes currently front and center in the field: the incommensurability of Native peoples and US racial politics, the meta-struggle between Native people(s) and the State, and the relatively separate disciplinary contributions to NAS (in order, from 1 to 3: History/law, literature, and anthropology).[6]

Native American Studies (NAS) emerged in the mid twentieth century, and it did so wielding a legal understanding of sovereignty. In the late 19th and early 20th centuries, the US sought to eliminate Native peoples through assimilation,[7] specifically through allotment policy (which resulted in the loss of 2/3 of the remaining Indian land base) and the boarding school system (which infamously sought to "kill the Indian…save the man"). Although assimilation efforts took a brief hiatus during the era of Indian self-rule, which included the Indian Reorganization Act of 1934, in 1953 they culminated, or resurged, in House Concurrent Resolution 108, which pronounced that "as rapidly as possible" the US ought to "make Indians… subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States" (HCR 108). Starting what is today referred to as the "termination era" of Federal Indian policy, HCR108 sought to extricate the US from the "special" or unique legal relationship it had forged with tribes through treaties and in the courts (i.e. the Marshall Trilogy).[8] Responding to the assault on Native [legal] existence and building off of the momentum from the civil rights movement and the Vietnam War protests, Native communities and individuals fought back (see Wilkinson 2005).

As part of anti-termination efforts, "sovereignty" famously made its debut during the fishing rights protests/civil disobedience of the Pacific Northwest tribes from the 1950's through the 1970's.[9] Tribal individuals refused to get permits for fishing in Puget Sound citing their guaranteed right to fish under the *Point No Point* treaty. As Vine Deloria Jr. writes,

> Sovereignty in my experience comes from the little fishing rights groups in the Pacific Northwest who always cited treaties when they were arrested by fish and game officers, forcing the courts to begin to deal with the treaty provisions. Their slogan

> was 'if you act like your sovereign, eventually you will be treated as one.' *US v Washington* [1974] proved they were right. (1998; p26)

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

As a result, with the backdrop of Termination, early NAS scholars, including Deloria, traced the US legal landscape that positioned Native peoples historically and in the present. Working from technical classics such as Felix Cohen's *Handbook of Federal Indian Law* (1942) and populating the field with histories on the politics, ideologies, and individuals who engendered, contributed to, and challenged US Federal Indian Policy and Supreme Court case decisions, these scholars argued that "sovereignty"—the unique position of Native peoples in US law—provided the bulwark that protected Native peoples and their continuing cultures. Thus, the initial goal of NAS and of sovereignty broadly was uncompromised self-determination and autonomy *within* the US law.[10] As Deloria in *Custer Died for your Sins* (1969), asserts, "What we need is a cultural leave-us-alone agreement, in spirit and in fact" (27). It is this combination, of legal definition—tied to the US—and imperative, that I call **Sovereignty1**.

Nearing the turn of the century a new discourse and imperative emerged, one that focused on the irreducible epistemological, ontological, and political exteriority of Native peoples. In "Who Stole Native American Studies" (1997), Elizabeth Cook-Lynn identified "indigenousness (culture, place, and philosophy) and sovereignty (history and law)" (11) as the two ideal centers around which NAS cohered at the *First Convocation of American Indian Scholars* at Princeton University (1970). While Cook-Lynn used the term "sovereignty" to designate a legal-historical positionality, ostensibly like Deloria, importantly, for her, the legal and historical reality of Native peoples transcended US law. While Supreme Court decisions and US policy bore down on Native material existences in the present, Native precarity, for Cook-Lynn, could not be remedied by navigating the US Courts alone. Instead, she asserted that the US had no legal jurisdiction over Native Nations (despite what it told itself). Native Nations, she held, were exactly that: sovereign Nations *outside* of the United States. Whereas Deloria saw treaties as originary documents from which Native rights in the US sometimes stemmed, (and in *Behind the Trail of Broken Treaties* he advocated for the reinstitution of the treaty process (249)), for Cook-Lynn,

treaties acted as nothing less than evidence that Native people were beyond the legal jurisdiction of the US. Moreover, for her, sovereignty was only a piece of a larger alterity. "Indigenousness"—the ontological and epistemological existence of Native peoples—also separated the US and Indigenous peoples. Thus, the purpose of Native American Studies was, above all, to defend "Indigenous nationhood" (11), both the sovereign and ontological difference of Native peoples. It is this combination of holistic alterity and the imperative to support it that I call **Sovereignty2**, aka Native nationalism.[11] (While Cook-Lynn was careful to provincialize her use of the term "sovereignty" to history and the law in keeping with Deloria and other Soveriegnty1-ists, those that developed her arguments justify overwriting that terminology, through Sovereignty2, for the sake of continuity.)

Craig Womack's *Red on Red* and Taiaiake Alfred's *Peace, Power and Righteousness,* both published in 1999, extended Sovereignty2 by enumerating *how* Indigenous alterity might be cultivated from the past and in the present. They also drew hard divisions between Indigenous Nations and the US legal structure in ways that reverberated throughout the field. Craig Womack's *Red on Red* (1999) centered Indigenous epistemologies in Native nation-building.[12] He wrote, "definitions of sovereignty, which come from the oral tradition, might be used as a model for building nations in a way that revises, modifies or rejects, rather than accepts as a model, the European and American nation" (60). Womack, as an English PhD, not surprisingly imagined that literature had the potential to articulate and propel Indigenous Nation(hood)s.[13] He wrote,

> [A] key component of nationhood is a people's idea of themselves, their imaginings of who they are. The ongoing expression of a tribal voice, through imagination, language, and literature, contributes to keeping sovereignty alive in the citizens of a nation and gives sovereignty a meaning that is defined within the tribe rather than by external sources. (14)

Womack implored the field to look inward to discover Indigenous nation(hood)s, which for Womack was a synonym for Sovereignty. Indigenous Nationhood in Womack's mind must move away from US law and ought to rely upon indigenous identity, cultures, and literatures.[14]

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

> Sovereignty is inappropriate as a political objective for Indigenous peoples…Most of the attention and energy thus far has been directed at the process of decolonization - the mechanics of escaping from direct state control and the legal and political struggle to gain recognition of an indigenous governing authority. There has been a fundamental ignorance of the end values of this struggle (Alfred, 2002 464,467).

Native nations as cultural, spiritual, and communal entities were not, in Alfred's framing, reducible to the kinds of absolute Westphalian authority, power, and self-government that the sign "sovereignty" necessarily invoked. He called for a return to traditional governments and governance.[15]

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

The history herein is not teleological. Sovereignty1 did not disappear with the arrival of Sovereignty2; it was still walking the earth. For example, also published in 1999, was John Wunder's collection *Native American Sovereignty.* This collection included essays by a handful of historical and legal scholars including Vine Deloria Jr, Sidney Harring, Glen T Morris, and David E. Wilkins, with the stated purpose of "defining Native American sovereignty in today's world" (v). It did so by looking at Native-US legal entanglements in the courts, in the law, and in the ideologies perpetuated by both.[1]

Deloria, Cook-Lynn, Womack, and Alfred are still the most commonly cited, earliest, and most influential authors on sovereignty.[16] In 2000 and 2001 two more foundational pieces entered the scene, and they attempted to bridge the gap between Sovereignty1 (in the US legal system) and Soveriegnty2 (Indigenous alterity). In 2000, Scott Lyons's article "Rhetorical Sovereignty" (2000) insisted that Sovereignty "denotes the right of a people to conduct its own affairs, in its own place and its own way." The article continued, "The twin

pillars of sovereignty [are] the power to self govern and the affirmation of peoplehood" (456)—notice how the structure resonates with Elizabeth Cook-Lynn if we replace "sovereignty" with "Native American Studies"—. While Lyons's article sought to introduce "rhetorical sovereignty" as a self-determined community writing, teaching, and learning project, Lyons argued that peoplehood, which could be articulated through writing, was just as important as legal status. He wrote, "Our claims to sovereignty entail much more than arguments for tax-exempts status or the right to build and operate casinos; there are nothing less than our attempt to survive and flourish as a people" (449). Lyons sought a middle ground between defensive US legal advocacy, for which Deloria wrote, and the productive literary Native Nationalism of Womack. Together, Lyons asserted, they constituted a whole sovereignty and the grounds for Native survival.[17]

A year after Lyons's article, David E Wilkins' published his now ubiquitous primer, *American Indian Politics and the American Political System* (2001).[18] The text sought to expound upon a technical and legal-sovereignty of Deloria, however, it *also* made inroads for the legal alterity of Cook-Lynn.[19] In the first chapter of the book, Wilkins stated that Native American individuals were "triple citizens;" they were subject to three sovereignties or law-making entities: the state, the nation, and the tribe. However, he also asserts a Native political timeline that begins with "original," moves to "transitional constitutional," and ends with "contemporary constitutional" (Deloria was only concerned with the last). The relationship between Native nations and the United States, Wilkins averred, "can best be characterized as nation to nation" (51). Thus Wilkins draws a connecting line between Sovereignty1, which asserts that legal realities in the US manufacture the difference of Indigenous polities, *and* Soveriegnty2, which posits these differences as innate. [20] Taking a historical step back, Wilkins shows that Indigenous people *were* legally outside of the US and are *now* inside of it, a temporal trajectory that presages a desire for return to whole/complete/ideal Sovereignty2.

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

In response, moving away from these meta-questions, in the first decade of the 21st century social scientists in particular began to investigate the local, the material, and the everyday realities of Native politics/governance. In 2006, Joanne Barker gave a name to this

incipient movement through her collection, *Sovereignty Matters.* In it she writes, "sovereignty has become notoriously generalized to stand in for all of the inherent rights of indigenous peoples. Certainly many take for granted what sovereignty means and how it is important" (1). "Sovereignty," she concluded, "is historically contingent…"and, "the challenge, then, is to understand how and for whom sovereignty matters." (Barker 2006, 21).[21] Barker, like Deloria, believed that Indigenous sovereignty was dictated through the US, but she held that scholars had forgone the most important part of that legal positioning: the Native peoples themselves (their lived reality, their struggles etc). After a lengthy introduction to the historical positioning of Native peoples in international and US law—specifically through the attenuation of sovereignty via the Marshall Trilogy—Barker connects these structural histories to the everyday,

> The erasure of the sovereign is the racialization of the 'Indian.' These practices have had important consequences in shaping cultural perspectives about the relationship between indigenous identity and sovereignty, not only from the viewpoint of some dominant privileged position but within indigenous communities as well. (17)

While Barker's collection was not the first to do this kind of work it officially announced that sovereignty was limited and situational. It was not, Barker held, an unqualified ideal or an amorphous alterity but a [legal] mode and means for struggle and oppression, not just between indigenous peoples and the US broadly but also on a local level, within tribal communities, in conversation with states, and between individuals etc. The task of NAS, then, was to adumbrate the ways Indigenous lives and polities were affected by their legal positions, to identify where, how, and by whom Native political and individual existences were defined and negotiated. It is this understanding and imperative that I call **Sovereignty3** (aka Sovereignty Matters).[22]

Sovereignty3 is not only a huge and sweeping movement but also many of its texts take a local rather than a pan-Indian approach, a composition that makes the movement hard to summarize. However, it has made some key interventions in the field that are worth noting. Sovereignty3 texts have illuminated the parameters of tribal legal power (Biolsi 2005), the conflicts that power engenders with local non-native communities (Biolsi 2001; Bruyneel 2007[23]; Simpson 2008[24]), and the constrained economic and cultural opportunities it enables (Catellino 2008; Goodyear-Ka'opua 2013).[25] Soveriegnty3 has also taken special care to examine internalized structures of [legal] authenticity that predetermine Native possibility i.e. race (Sturm 2002), identity (Garroutte 2003), and culture (Barker 2011). Overall, Sovereignty3 is unconcerned with whether tribes ought to pursue a reality within or

without the US. It holds that here and now tribes are both, and it seeks to enumerate what contemporary US-Native entanglements entail.

While Vine Deloria Jr. passed away in 2005, Soveriegnty1 visions were still alive and well when Soveriegnty3 emerged. In *Like a Loaded Weapon* (2005) Robert Williams Jr., revealed the ways "tribal sovereignty" adumbrated by the US courts was articulated through race, racism, and racists going back to the Marshall trilogy and continued in the Rehnquist court.[26] In 2006, Charles Wilkinson, a professor of law, sought to give a history of the "sovereignty movement" in his book, *Blood Struggle*. Building off of Deloria's preoccupation with Termination, Wilkinson began with the Termination "abyss" of the mid 20th century, and he demonstrated the ways Native individuals and tribes wrought certain measures of self-determination (xv). Wilkinson combined a legal-centric positioning of Native polities with the ideal of complete legal control. He wrote of sovereignty, "one of the noblest ideals that has ever touched my mind—every bit as mush so as the ideals of freedom or justice, to which tribal sovereignty is closely related" (xvi). Later he elaborated, sovereignty is, "true self-rule not a false-front version where the BIA or the state had the final say" (271).

Also in 2006, Dale Turner's *This is not a Peace Pipe* (2006) sought to renew ties to activism. In the text, Turner advocated for a rise in what he called (borrowing from Gerald Vizenor) "word warriors," or Native individuals and allies adept at maneuvering within the complex legal field and charged with defending and expanding legal sovereignty. He believed that these word warriors would and could support indigenousness. Though writing in a Canadian context (against white paper liberalism), Turner's call resonated with and drew from Deloria. He wrote, "Aboriginal conceptions of political sovereignty must be included in political liberalism's justification of Aboriginal rights so that the racist and oppressive public policies that have held Aboriginal peoples captive for more than one hundred thirty years can be changed" (59).[27] Turner and Wilkinson, in the continued spirit of Soveriegnty1, sought to increase the power of Native Nations within settler-colonial legal systems and to move the "Nations within" toward an ideal sovereignty, a cultural *and* political "leave us alone agreement."

Sovereignty2 was also still around; however, it had begun to walk back its claim to radical alterity. Alfred wrote in the forward to the second edition of *Peace, Power, and Righteousness*, "Just as I recognized the problems with the native nationalist approach, I have come to see that there is a fundamental problem with this traditionalist approach as well" (2009; 5).[28] He went on to argue that NAS had to *reclaim* Indigenous epistemologies and

ontologies with the recognition that Indigenous alterities had been damaged through colonialism. It was this thread that Sovereignty2 followed in the second decade of the 21st century.

Sovereignty2 scholars in the late 2010's sought to "decolonize." Native queer and feminist scholars in particular interrogated the problematic local, communal, and material manifestations of indigenous [hetero-patriarchical] sovereignty.[29] Building off of Soveriegnty3's concern for the local and the embodied, they argued that Indigenous power was not enough if it failed to support Indigenous liberation. They asserted, Indigenous communities ought not settle for the same hetero-normative and patriarchal nation-state dressed up in "Indian" garb.

Daniel Heath Justice's piece, "'Go Away, Water!': Kinship Criticism and the Decolonization Imperative" in the collection *Reasoning Together* (2008) located Indigenous sovereignty not in the law but in a politics of responsibility, community, and kinship. One year later, Mishauna Goeman turned this assertion into critique, "Indigenous sovereignties must account for the legacy of settler-colonial spatial restructuring of our lands, bodies, and communities in order to build healthy nations" (12, 2009). Mark Rifkin's *The Erotics of Sovereignty* (2012) too questioned the Indigenous nation. Rifkin articulated this query through the queer body. Engaging with Qwo Li Driskill, Deborah Miranda and others, and building off of Sturm (2002) and Barker (2011), Rifkin interrogated the weight of "self-determination" and "nationalism" on same-sex desire and non-reproductive sex. Ultimately, Rifkin proffered Indigenous relationships to land as a sovereignty that moves beyond the legal-hetero-nationalism. Sovereignty2 scholars sought to reconcile a material and cultural embodied reality, but they were very much still invested in an alterity/Indigenous nationhood ideal.[30]

While Sovereignty2 turned to processes of healing, the suspicion of the US Nation-state and the discourse of sovereignty it had once cultivated continued to amplify. In 2009, Mark Rifkin turned to examine the ways that the position of Native polities within the US legal structure, a position that Sovereignty1 jockeyed to better, was actually a construction imbedded in settler-logics of elimination. Rifkin theorized the insider/outside status of Native nations through Agamben's state of exception (he coins the term *bare habitance*). According to Rifkin, by claiming Native Nations were exceptional populations in the US, the US moves to construct Native Nations within the jurisdiction of the US. Sovereignty, Rifkin argued, "functions as a placeholder that has no determinate content" (91); it is rhetorically foundationalizing for the US (97); and it is a structuring force of domination (106).

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

At the heart of the sovereignty-debates is a singular set of questions: how are Native peoples tied to the US? Are they inside or outside? When did it happen? Is the process complete (it isn't), and what do we do about it? How do we move forward? As Kirby Brown (2018) writes, responsibly navigating the tensions and relations of sovereignty (and I would add sovereignties) "is one of the central challenges facing contemporary Native studies scholarship" (84). In service of those responsibilities, this paper has adumbrated the major voices and developments of NAS with respect to sovereignty. Importantly, Sovereignty1, 2, and 3 were never separate. While they emerged in order, they did so in direct conversation with each other. What's more, the three sovereignties have continued to develop, mix, and diverge in whole or in part. However, the basic assumptions of Sovereignty 1, 2, and 3 along with their incumbent visions for the field are still alive and well; scholars continue to envision paths forward through the US law,[31] through alterity, or through local Indigenous politics.

Works Cited

Alfred, Taiaiake. *Peace, Power, Righteousness: An Indigenous Manifesto*. 2nd edition. Don Mills, Ont. ; New York: Oxford University Press, 2009 (original in 1999).
------ *Heeding the Voices of our Ancestor: Kahnawake Mowhawk Politics and the Rise fo Native Nationalism.* Oxford Univeristy Press. 1995
------*Wasáse: Indingeous Pathways of Action and Freedom.* Broadview press 2005
Barker, Joanne ed. *Sovereignty Matters.* University of Nebraska Press. 2005
-------*Native Acts.* Duke Univeristy Press. 2011
--------"Looking for Warrior Women (Beyond Pocahontas)," In G.Anzaldua & A. Keating (Eds) *This Bridge We Call Home. Routledge* P 314-325. (2001).
--------"Indian™ USA" *Wicazo Sa Review* 18(1). Spring 2003: 25-79 (2003)
Banner, Stuart. *How the Indians Lost Their Land: Law and Power on the Frontier*. Cambridge, Mass.: Belknap Press, 2007.
Biolsi, Thomas. "Imagined Geographies: Sovereignty, Indigenous Space, and American Indian Struggle." *American Ethnologist* 32, no. 2 (May 1, 2005): 239–59.
------ *Deadliest Enemies: Law and the Making of Race Relations on and off Rosebud Reservation*. First Edition edition. Berkeley: University of California Press, 2001.
Blackhawk, Ned. *Violence over the Land: Indians and Empires in the Early American West*. Harvard University Press, 2009.
Bruyneel, Kevin. *The Third Space of Sovereignty: The Postcolonial Politics of US–Indigenous Relations*. 1 edition. Minneapolis: Univ Of Minnesota Press, 2007.
Brooks, Lisa. "At the Gathering Place" in *American Indian Literary* by Jace Weaver et al. *Nationalism.*
Brown, Kirby *"*Sovereignty.*" Western American Literature* 53(1):81-89 2018
Cattelino, Jessica. *High Stakes: Florida Seminole Gaming and Sovereignty*. Duke University Press, 2008.
Cobb, Amanda "Understanding Tribal Sovereignty: Definitions, Conceptualizations, and Interpretations" *American Studies* 46, nos. ¾ (2005)
Cohen, Felix. *Handbook of Federal Indian Law.* (1942)
Cook-Lynn, Elizabeth. *A Separate Country: Postcoloniality and American Indian Nations*. 1 edition. Lubbock: Texas Tech University Press, 2011.
-------"Who Stole Native American Studies" *Wicazo Sa Review* 12(1). Spring 1997: 9-28
------- *Anti Indianism in Native America: A voice from Tatekeya's Earth.* 2001
Coulthard, Glen Sean. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. University of Minnesota Press, 2014.
Deer, Sarah Decolonizing Rape Law: A Native Feminist Synthesis of Safety and Sovereignty." *Wicazo Sa Review* 24(2). January 2009: 149-167
Deloria, Philip J. *Indians in Unexpected Places*. Paper edition. Lawrence, Kan: Univ Pr of Kansas, 2004.
Deloria, Philip J., and Neal Salisbury, eds. *A Companion to American Indian History*. Malden, Mass.: Wiley-Blackwell, 2004.
Deloria, Vine "Intellectual Self-Determination and Sovereignty: Looking at the Windmill in our Minds" *Wicazo Sa Review* 13(1). Spring 1998: 24-31
----------*Custer Died for Your Sins: An Indian Manifesto*. University of Oklahoma Press, 2014.
----------*Behind the Trail of Broken Treaties: An Indians Declaration of Independence.* University of Texas Press. (1974)
Deloria, Vine, and Clifford M. Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. University of Texas Press, 1984.
Dunbar-Ortiz, Roxanne. *An Indigenous Peoples' History of the United States*. Beacon Press, 2015.

Duthu, Bruce. *Shadow Nations: Tribal Sovereignty and the Limits of Legal Pluralism.* Oxford University Press. 2013

Echo-Hawk, Walter R. *In the Courts of the Conqueror: The 10 Worst Indian Law Cases Ever Decided*. Reprint edition. Golden, Colo: Fulcrum Publishing, 2012.

Erdrich, Louise. *The Round House*. Harper Collins, 2012.

Garroutte, Eva. *Real Indians: Identity and the Survival of Native America*. University of California Press, 2003.

Goeman, Mishuana. *Mark My Words: Native Women Mapping Our Nations*, 2013.

Goodyear-Ka'opua, Noelani. *The Seeds We Planted: Portraits of a Native Hawaiian Chater School.* Minnesota Press. 2013.

Gover, Kevin, Philip J. Deloria, Hank Adams, and N. Scott Momaday. *Nation to Nation: Treaties Between the United States and American Indian Nations*. Edited by Suzan Shown Harjo. 1st Edition. Washington, DC: Smithsonian Books, 2014.

Hamalainen, Pekka. *The Comanche Empire*. New Haven: Yale University Press, 2009.

Justice, Daniel Heath. "'Go Away, Water!': Kinship Criticism and the Decolonization Imperative." *Reasoning Together: The Native Critics Collection.* Norman, OK: University of Oklahoma Press, 2008. 147-168.

LaDuke, Winona. "Don't Cheapen Sovereignty." In *The Winona LaDuke Reader: A Collection of Essential Writings*. Voyageur Press, 2002.

Lyons, Scott Richard. *X-Marks: Native Signatures of Assent*. 1 edition. Minneapolis: Univ Of Minnesota Press, 2010.

---------"Rhetorical Sovereignty: What do American Indians Want from Writing?" *Communication* 51(3). Feb 2000: pp447-468

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Abridged edition. Lincoln: University of Nebraska Press, 1986.

Foucault, Michele. Ed Paul Rabinow *The Foucault Reader*. Pantheon Press 1984

Rifkin, Mark. *The Erotics of Soverignty*: *Queer Native Writing the Era of Self-Determination.* Minnesota Press 2012

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

Simpson, Audra *Mohawk Interruptus*. Duke University Press, 2014.

---------"Subjects of Sovereignty: Indigeneity, The Revenue Rule and Juridics of Failed Consent." *Law and Contemrpoary Problems.* June 22, 2008.

Speed, Shannon. "States of Violence: Indigenous Women Migrants in the Era of Neoliberal Multicriminalism." *Critique of Anthropology* 36, no. 3 (September 1, 2016): 280–301.

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

Teves, Stephanie Nohelani, Andrea Smith, and Michelle Raheja. *Native Studies Keywords*. University of Arizona Press, 2015.

Turner, Dale. *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. 1 edition. Toronto: University of Toronto Press, Scholarly Publishing Division, 2006.

Warrior, Robert. *Tribal Secrets: Recovering American Indian Intellectual Traditions*. Minnesota Press. 1994

Weaver, Jace. *That the People Might live: Native Ameriacn Literatures and Native American Community.* Oxford University Press. 1997

Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md: Rowman & Littlefield Publishers, 2002.

----- *American Indian Sovereignty and the US Supreme Court the Maskign of Jusitc.* University fo Texas Press. 1997

Wilkinson, Charles F. *Blood Struggle: The Rise of Modern Indian Nations*. W. W. Norton &

Company, 2005.
Williams, Robert A. *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America*. 1 edition. Minneapolis, MN: Univ Of Minnesota Press, 2005.
Womack, Craig S. *Red On Red: Native American Literary Separatism*. 1st edition. Minneapolis: Univ Of Minnesota Press, 1999.
Wunder, John ed. *Native American Sovereignty (Native Americans and the Law)* Routledge. 1999

Primary Sources

NPR. *A Few Things to Know About Why Treaties Matter | NPR*. Accessed February 27, 2018. https://www.youtube.com/watch?v=bexvE4lZRGo. (2017)

[1] *Native Studies Keywords* (2015) features eight keywords: Sovereignty, Land, Indigeneity, Nation, Blood,
[2] As cited in Teves et al 2015 (vii); Laura Harjo, "Muscogee (Creek) Nation: Blueprint for a Seven Generation Plan" (PhD Dissertation, University of Southern California, 2011) 18.
[3] To again turn to *Native Studies Keywords* (2015), the section on Nation features a block quote on sovereignty from Craig Womack's *Red on Red*, while the chapter on sovereignty begins with a quote on nationhood from Elizabeth Cook-Lynn. *Keywords* (2015) did not bring this conflation into being. At least since Vine Deloria Jr. and Clifford Lytle's book, *The Nations Within: The Past and Future of American Indian Sovereignty* (1998), a text that mentions the word sovereignty twice, nations a few more, but primarily takes up the terms peoplehood (as a perfect past and a past perfect, "we were sovereignty-ing before contact"), self-determination (as a future goal), and self-government (to describe the unhappy present), these vocabularies have been hard to tease out and yet, conspicuous. If as Benedict Anderson famously wrote, "Nation, nationality, nationalism— all have proved notoriously difficult to define, let alone analyze" (1991, 3), then the sometimes-synonyms: sovereignty, self-determination, and decolonization have only intensified the difficulty.
[4] The project of this paper is distinct from an etymology of the word or a historical accounting of tribal placement under US law, which became popular engagements at particular times and places in the field. Instead this paper attempts a Foucauldian genealogy, distinguished by the assertion that truth is "linked in a circular relation with systems of power which produce and sustain it, and to effects of power which it induces and which extends it"'(Foucault Reader p74).
[5] My claim that sovereignty discourse has only become prominent since the 70's is surprising and it requires clarification. It is surprising because scholars increasingly cite historical people, roping past figures into sovereignty discourse. For example, Robert Warrior (1994) made claims on Vine Deloria Jr, and John Joseph Mathews; Jace Weaver (1997) made claims on Leslie Marmon Silko, Gerald Vizenor, and Vine Deloria Jr., and while Charles Wilkinson (2006) reserved the word sovereignty for the law, he cited Charles Eastman, Black Elk and D'Arcy McNickle as early advocates for self-determination, who "uplifted Indian people and engaged non-Indians with the power of their ideas" (91). It is also surprising because scholars increasingly locate and recognize sovereignty further and further back. In the recent NPR video, sovereignty is described as a reserved right of Native Nations from time immemorial, preserved throughout US intervention. Importantly, however, Deloria one of the founders of the field located the origin of sovereignty discourse in the aftermath of Termination and he further believed that sovereignty was made possible by the 1964 Indian Reorganization Act (Deloria and Lytle 1984). The **clarification** that I must make here is also two-fold. Sovereignty was not invented in the late 70's; it just took a new form. Legal scholars had long used the term in a technical manner to describe the law-making power of tribes within the US. For example, see Felix Cohen's *Handbook of Federal Indian Law* (1941). After Termination, NAS scholars had begun to explore the ways the articulation of sovereignty through the courts was inimical to justice and self-determination, or *true*/*ideal* sovereignty. This moment, when the term became normative, and opened up to the entire field (when it was no longer exclusively a quantitative and technical legal term), is where I begin. See Wilkins (1997), Lyons (1992) Wilkinson (1987).
[6] While this paper attempts to touch upon the key texts of Sovereignty in NAS, it is important to note that it does so from the present. The texts I cite are those that contemporary scholars continue to cite. Along these lines, it is also important to note that these texts did not happen in a vacuum, more often than not they codified but did not invent the concepts they today serve as flagships for. Where I am able, I include in the notes, tendrils of other texts being published and the intellectual traditions being expounded upon.
[7] Assimilation efforts were nothing short of genocide (Echohawk 2015; Dunbar-Ortiz 2015)
[8] "The Marshall Trilogy" is short hand for three major Supreme Court decisions that established the status of Native Nations within the US as "domestic dependent nations." Marshall refers to John Marshall, the fourth chief justice from 1801-1835. *Johnson v McIntosh* (1823) determined that that tribes had no right to sell lands to

anyone without the approval of the federal government, because of European right of discovery. *Cherokee Nation V Georgia* (1831) established that Native Nations were dependent nations with a relationship to the U.S "as wards to its guardian." One year later, *Worchester v Georgia* (1832) determined that States had no jurisdiction in Indian Country.

[9] In the article, Deloria Jr. also identified the birth of self-determination. Self-determination, he wrote, entered into the scene in 1966 and was "deliberately chosen … to be able to compare the status of American Indian nations to those African and Middle Eastern nations who had been given self-determination after WWI" (26)

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

[11] While this argument is a little thin, it is representative of Cook-Lynn's work. Cook Lynn emphasizes tribal nations as "legal entities, rather than merely cultural ones." For more on this see *Anti-Indianism in Modern America: A voice from Tatekeya's Earth* (79; 2001) and reviews.

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

[13] What makes good Native art in this worldview? What about literature that doesn't support Native nationalism? We may be suspicious of the nation-centric definition of peoplehood It is along these lines that literary nationalism, a movement that was developing in this moment, stakes its claim in cultural identity and integrity (this is not a static or monolithic identity, an important caveat considering this issue divided the field momentarily into tribal nationalists and cosmopolitanists).

[14] Literary nationalism is well described after the fact by Lisa Brooks in her piece and afterward to the 2006 *„American Indian Literary Nationalism, "*At the Gathering Place"

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

[16] That same year Gerald Vizenor's *Manifest Manners: Narrative of Post Indian Survivance* (1999) leveled a critique at internalized and static notions of Native existence and identity. While *Manifest Manners* did not engage with sovereignty as such, Vizenor's theorization of adaptable Native presences and futures was developed throughout the 90's by Vizenor and others and would later be picked up by sovereignty discourse. Similarly, in 1997 Joy Harjo and Gloria Bird implored the field to "reinvent the Enemy's language" in their collection of the same name. This discourse was invoked to speak directly to the opponents of Sovereignty

[17] While Lyons does not site them, his argument is reminiscent of Gloria Byrd and Harjo's collection, *Reinventing the Enemies Language* (1998)

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

[19] Importantly, Wilkins's text is still in use today, and as of 2017 it is in its fourth edition.

[20] Wilkins posits the distance between race and Indigeneity not as contingent but as categorical, a move that is somewhat contentious. Deloria imagined that Sovereignty as a model might work for other communities of color. He argued that Sovereignty was historical and not innate. Something of interest to me, is that way sovereignty1 as described by Wilkins is used to divorce Indigeneity from race, it also divorces the US and Canada, where indigenous peoples are recognized in settler-courts, from the rest of the world (see Speed 2017). It is because of this insidious rallying call – in some ways sovereignty itself-- that I can get away with talking about Indigeneity in the US and Canada exclusively. I also suspect that this articulation is at least partially responsible for the ubiquitous exclusion in NAS of Alaska Native peoples and Hawaiian Sovereignty as their legal situation is distinct.

[21] Barker redoubles on her argument that "The making ethnic or ethnicization of indigenous peoples had been a political strategy of the nation-state to erase the sovereign from the indigenous." See "Looking for Warrior Women Beyond Pocahontas" (2001) and "Indian™ USA" (2003)

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

[23] Kevin Bruyneel in his book *The Third Space of Sovereignty* (2007), identifies and advocated for "the third space of sovereignty" a sovereignty engendered by indigenous resistance to colonial impositions that attempt to pin down Native tribes in an either/or construction. Indigenous sovereignty, according to Bruyneel was not neither/nor, it was both/and. Native polities maneuvered inside *and* outside of the US political system (xvii).

[24] Audra Simpson's text, "Subjects of Sovereignty" (2008) argued, "Indigeneity and sovereignty have been conflated with savagery, lawlessness, and 'smuggling'" (191). Caught on an international border, the Kanawake's legal and physical exteriority engenders not just settler discourses of ambiguity but a physical and jurisdictional threat to the settler-state; settler-discourses of ambiguity quickly turn on the border—you can see the machinations of national incorporation, a fact particularly relevant to my own work.

[25] Likewise, in 2008, Jessica Cattelino, in her manuscript *High Stakes,* investigated Florida Seminole gaming. She posited sovereignty away from the either/or construction of ideal/incorporation and instead focused on the ways Seminole sovereignty was constituted by relational interdependency that took material form. In her 2009 article, "Fungibility: Florida Seminole Casino Dividends and the Fiscal Politics of Indigeneity," she elaborated by arguing that per capita payments from gaming allowed a freedom that funds funneled through the BIA or tribal programs didn't.

[26] Robert Williams was building off of Philip Frickey, who literally wrote the books on the Federal Indian Law. Frickey's immense body of work explored US courts' articulation and attenuation of tribal sovereignty—sovereignty here is a technical legal term -- going back to US courts in *Worchester v Georgia* (1832). See Frickey's "Domesticatign Federal Indian law (1996) "Congressional Intent, Practical Reasoning, and the Dynamic Nature of Federal Indian Law" (1990) "Marshaling Past and Present: Colonialism, Constitionalism and Interpretation in Federal Indian Law" (1993)

[27] While these projects are easily defined through US law and seek to make the most out of a bad situation, as Robert William notes in *Like a Loaded Weapon* (2005), this type of Native futurity sustains a central irony: namely, Native legal activism depends upon the continuation of settler constructions of Native peoples. William's is a loving critique as he also looks to engage with US law; said differently by Circe Strurm, "it is a form of political independence conditioned by interdependency," (592)

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

[29] One of these earlier iterations can be found in the short article, "Don't Cheapen Sovereignty" (1996) In it author Winona LaDuke writes, "There is an immense amount of talk about rights. But what of our responsibilities? How do the actions of today's alleged leaders and *ogitchidaag* stack up against tradition?" (2002; 192-193) Specifically LaDuke takes aim at the use of sovereignty by tribal leaders and members to get out of child support and to escape embezzlement and money laundering charges.

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

[31] Further, in the *Courts of the Conqueror* (2010) by Walter Echo-Hawk, in support of what he called the "sovereignty movement," sought a deeper interrogation of specific court cases (the 10 worst) and ultimately called for the courts to "repeal Oliphant" a call first canonized by Robert Williams (2005).[31] Similar to Echo-Hawk, Bruce Duthu in his (2013) book *Shadow Nations* investigated tribal (legal) and called for a more robust and meaningful form of territorial sovereignty for Indian tribes.