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## Lawful Injustice: Novel Readings of Racialized Temporality and Legal Instabilities

Danielle N. Mercier  
*University of South Florida*

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Lawful Injustice: Novel Readings of Racialized Temporality and Legal Instabilities

by

Danielle N. Mercier

A dissertation submitted in partial fulfillment  
of the requirements for the degree of  
Doctor of Philosophy  
Department of English  
College of Arts and Sciences  
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Major Professor: Quynh Nhu Le, Ph.D.  
Cynthia Patterson, Ph.D.  
Gary Lemons, Ph.D.  
Aisha Durham, Ph.D.

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## ABSTRACT

This project, “Lawful Injustice: Novel Readings of Racialized Temporality and Legal Instabilities,” examines three specific BIPOC communities across literature—Native American, African American, and Asian American—to understand the influence of U.S. legal frameworks and temporalities upon both the collective and the individual. I assess how legal frameworks create and protect their own instabilities as well as understand how they are produced by the uneven temporal structures of the law. I examine how such legal and settler colonial temporalities are at odds with Native American, African American, and Asian American temporalities. These temporalities—a legal/juridical temporality which reinscribes settler colonial oppression and the temporalities of each BIPOC community which resist the legal temporalities— demonstrate a linkage between time, justice, and the law. Taken together, these cultural texts demonstrate how time offers no resolution nor progress from these traumas because the violences are perpetuated throughout history at varying intervals. Additionally, the historical narrativization of violences committed against BIPOC communities indicates that the settler colonial system attempts to utilize temporal control through such narrativization to perpetuate domination. This dissertation explores how authors and creators use textual and cinematic approaches to portray the depth and limits of legal instabilities/temporalities as well as how Native American, African American, and Asian American communities utilize their own temporalities to highlight the capacities of legal injustices.

## INTRODUCTION

In 1846, Dred Scott, an enslaved Black man, sued for his freedom in a St. Louis Circuit Court under the claim he had a prolonged visit in a free territory where slavery was prohibited. Due to the nature of his profession, Dred Scott's enslaver brought him on travels, thus moving Scott between free and slave states. It was the movement across geographic boundaries, between freedom and slavery, which made Scott question the validity of his bondage. Scott and his enslaver were in a free territory in Wisconsin and he "had been held in bondage for extended periods in a free territory and was then returned to a slave state" (Dred Scott v. Sandford). Because of the Missouri Compromise and Missouri's juridical statement of "once free, always free," Scott was entitled to sue for freedom because he had been moved across geographies which outlawed enslavement ("Missouri's Dred Scott Case, 1846-1857"). Therefore, time and space became entangled with the law.

As the case continued through varying levels of the court system, time continued to progress, leaving Scott enslaved and further complicating the interconnection between time and the law. By 1857, the case made it to the U.S. Supreme Court (SCOTUS) to determine if Scott could be freed; however, SCOTUS ruled against Scott. The decision in Dred Scott v. Sandford set a precedent in the United States that the rights held by white Americans under the protection of the Constitution would not be offered to African Americans who were free or enslaved. In fact, this decision demonstrates the larger legal attitude toward African Americans in the U.S. during the 1800s and well beyond to the present moment: that certain people are afforded rights under the Constitution but not all people. In such cases where enslaved people sought legal

recourse for their experiences, the settler system of law refused to acknowledge their experiences as worthy of receiving recompense. Scott's previous experience in a free state held no impact on his present state as a slave. If the legal and governing entities recognized the impact of the past upon the present, they would have come to a different decision regarding the Dred Scott decision. The Court would have been required to see that all experiences temporally influence individuals and so the past, present, and future become interconnected. In Scott's case, to acknowledge this means to admit that the law functions differently in different times and spaces. Because the goal of the law is to be perceived as whole, unfractured, and infallible, it is incapable of such admittance. The impact of settler colonial and legal temporality cannot be understated in court cases such as Dred Scott v. Sandford because there are multitudinous cases which follow a similar trajectory for BIPOC people at large which demonstrate such legal instabilities.

The spatiotemporal inconsistencies of the law are exemplified here as legal jurisdiction enabling enslavement and are applied in specific geographical locations and specific timeframes. Similarly, legal jurisdiction enabling emancipation are applied in specific geographical locations and timeframes. Therefore, the law according to the U.S. Constitution cannot be applied to all people in the entire United States because time and space operate under differing laws. Settler colonial ideologies of time, such as the progression of time, are linear and geographic boundaries enforcing free states versus slave states cause the law to become inequitable. This is due to the fact it cannot be applied across all territories and all temporalities without special attention to the differentials across those spatiotemporal boundaries. By existing both inside and outside of the temporal constructions of settler colonialism, communities which functioned on the margins were threatened with erasure. To have a valid existence in the United States meant to exist within

the boundaries of what the law calls legitimate. Such existences are the only ones perceived as worthy of receiving legal justice through the court system. Scott's case portrays that justice for enslaved African Americans does not exist within the juridical system. U.S. settler colonial frameworks for time were reinforced through legal means; therefore, time and the law were entangled. *Dred Scott v. Sandford* demonstrates such entanglements prior to emancipation. Chief Justice Roger B. Taney asserted, through reading the opinion of the court, "enslaved people were not citizens of the United States and, therefore, could not expect protection from the federal government or the courts. The opinion also stated that Congress has not authority to ban slavery from a federal territory" (*Dred Scott v. Sandford*). This decision by SCOTUS effectively fortified the idea that their interpretation of the present moment—rather than understanding of previous time or space—was law. Therefore, the law and subsequent iterations of justice are open to interpretation.

SCOTUS ignored the time Scott had been in a free space as enslaved people and simply assessed the case upon his return to a slave state. His emancipation was predicated upon interpretation of linear temporality. SCOTUS' decision demonstrates the law and its representatives perceive time as linear with no proper connection to the contemporary moment. Once the moment in which Scott was located on free territory was over, so were his chances of freedom. The decision and outcome might have been quite different if the U.S. foundations were not focused on settler colonial linear temporality. More specifically, colonial and legal temporalities rely upon the fact time is viewed as always progressing and the fleetingness of time causes an inability to return to former temporalities. According to this court decision, Scott being enslaved in a free state was the only moment in which he could have rightfully pursued freedom. The time and the location of freedom passed as he moved states and Scott was no longer eligible



to pursue freedom because the experience of being an enslaved person in a free state was a previous experience rather than a current one. In her discussion on emancipation, Saidiya Hartman writes, “[Emancipation] also leads us to question whether the rights of man and citizen are realizable or whether the appellation ‘human’ can be borne equally by all” (6). In the issue of *Dred Scott v. Sandford*, it becomes clear the Supreme Court would answer the question posed by Hartman in the negative because of the settler colonial impositions which frame legal structures. Decisions such as *Dred Scott v. Sandford* are vital to understanding the role of time in legal decisions. Time can either lead to freedom or bondage, both literally and metaphorically, and the law can manipulate how time is perceived to achieve a certain outcome. These led to legal instabilities within the U.S. which have continued throughout time. Historically, we see these instabilities exist within enslavement, or in the reservations which limit and control Native American nations, or in the internment camps which incarcerated Japanese Americans; however, they continue through to the present through mass incarceration, refusal of justice for Native Americans, and contemporary Asian American hate crimes. This project seeks to uncover these inconsistencies to assess how the law, time, and justice operate against BIPOC communities.

This project, “Lawful Injustice: Novel Readings of Racialized Temporality and Legal Instabilities,” examines three specific BIPOC communities across literature—Native American, African American, and Asian American—to understand the influence of U.S. legal frameworks and temporalities upon both the collective and the individual. I assess how legal frameworks create and protect their own instabilities as well as understand how they are produced by the uneven temporal structures of the law. I examine how such legal and settler colonial temporalities are at odds with Native American, African American, and Asian American temporalities. These temporalities—a legal/juridical temporality which reinscribes settler

colonial oppression and the temporalities of each BIPOC community which resist the legal temporalities— demonstrate a linkage between time, justice, and the law. Taken together, these cultural texts demonstrate how time offers no resolution nor progress from these traumas because the violences are perpetuated throughout history at varying intervals. Additionally, the historical narrativization of violences committed against BIPOC communities indicates that the settler colonial system attempts to utilize temporal control through such narrativization to perpetuate domination. This dissertation explores how authors and creators use textual and cinematic approaches to portray the depth and limits of legal instabilities/temporalities as well as how Native American, African American, and Asian American communities utilize their own temporalities to highlight the capacities of legal injustices.

Within modern portrayals of the United States' legal system, we often see depictions of an infallible system where legal matters are easily assessed. Defendants are given the designation of “guilty” or “not guilty” within the binaristic legal system as there is no room for other such categorizations.<sup>1</sup> Consequently, such depictions ignore the more sinister aspect of the law and the purpose of its earliest forms which served to oppress, dominate, and control BIPOC individuals and communities since the formation and origination of the U.S. More specifically, during the early years of the United States, the law was determined and created to disseminate settler colonial rule for those the government sought to control. Therefore, the legal system's foundations upon such oppressive tactics highlight the need to address the ways the law currently functions for BIPOC communities.

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<sup>1</sup> Even with the implementation of plea deals, defendants must still plead guilty to a lesser crime. While considerations of plea deals are not central to this project, it is important to note the binary stills exists between guilty and not guilty in such cases.

Legal scholar Maimon Schwarzschild's use of the term "legal stability" refers to a "predictability [which would] mean that the citizen can know what the law requires, without which autonomy would be difficult or impossible" (681).<sup>2</sup> Consequently, with the existence of "legal stability" the inverse must exist thus creating "legal instability." In such cases then legal instability would address uneven and inequitable applications of the law while also addressing the ways these applications are purposeful to achieve a certain outcome by the structures which rely on such domination. This project seeks to understand the ways legal instabilities create systematized oppression which encourages and maintains settler colonial imposition as well as the racialization of others reinforced by such systems. Race and the law are interconnected because of their creation by and through settler colonial systems of domination.

The U.S. legal system and concepts of temporality are linked through their reliance upon settler colonialism. The legal system, through judicial rulings and formations of law, establishes what is referred to as "legal temporality" which, due to the legal systems entanglements with settler colonial systematized oppression, removes alternate temporalities of BIPOC communities. It places the "othered" temporalities on the margins while centralizing the unstable legal temporality of the settler state. This project's goal is to interrogate these issues within literature and film while also examining the ways such issues of domination impact Native American, African American, and Asian American temporalities and considerations of justice.

### **Theories of Settler Colonialism, Critical Race, Law and Temporality**

The fields this dissertation relies on are theories on settler colonialism, as well as its subsequent creation of the law; critical race theory (CRT); and time and temporality, including temporal control by the settler state. Each of these fields are central to my research of addressing

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<sup>2</sup> Legal scholar Tamar Frankel also examines legal stability but focuses on the United States.

how cultural productions represent and critique U.S. law, as well as its self-serving instabilities, through an analysis of legal temporalities and legal instabilities.

Settler colonialism is foundational to the U.S., as well as many other colonized countries. This specific form of colonialism is imperative to examine because it provided a unique environment from which the current iterations of U.S. law grew. Settler colonialism is also vital to racial formation theories which examine the critical role of race within settler colonialist nations like the U.S. and the hierarchy that settler colonialism and the law have created. Out of these discussions of race and the law in the U.S., CRT comes to the forefront. It is vital to highlight CRT within my dissertation because of its goal to examine instabilities of the law as well as inequitable application to BIPOC communities. This is central to understanding the law as it functions in the past and present as well as its representations in the cultural productions discussed in subsequent chapters. Time and temporality flow out of discussions of the law as well as settler colonialism because of the way time operates within settler states and within the law and legal decisions. Consequently, time and temporality are dominated by settler colonialism to dominate those laboring under the law and under time.

Theories of settler colonialism and subsequent theories of racial formation in settler states are vital because Native American,<sup>3</sup> African American, and Asian American encounters with settler colonialism demonstrate both consistencies in the attempt to dominate as well as inconsistencies in the treatment of humans in respect to the law. The construct of human versus non-human as a binary was a cornerstone of early settler colonialist foundations to define to

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<sup>3</sup> In this project, I use “Native American” to refer to the Indigenous people currently living in America who are part of tribal nations within U.S. boundaries. I use the term “Indigenous” as an adjective; for example, I might say “Indigenous nations” to refer to Native American nations rather than the Indigenous people of the world because this project is specific in location and time. Other usages of Indigenous can also be included depending on if the scholar included in the conversation uses the term Indigenous.

whom the law could be applied. According to settler colonial ideologies, humanity could only be granted to those protected by the law, while others would be dominated by it. Laws and concepts of legality have continued to evolve concerning notions of humanity. Capitalism, the economic system of settler colonialism, became formative in such a construction. Capitalistic notions relegated certain humans as “non-human” to both coerce them into enslavement and to deem them as unfit to have sovereignty. In correlation with capitalism, racialization theories justified violent dispossession of nonwhite communities during early settler colonialist and imperialist enterprises. These key sections of settler colonialist methodologies of control, capitalism, and racialization are formative as settler colonialism continues to evolve.

The economic aspects of capitalism and the rationalization of concepts of humanity continues to grow through settler colonial efforts globally. According to Lisa Lowe in *The Intimacies of Four Continents*, “This economy civilizes and develops freedoms for ‘man’ in modern Europe and North America, while relegating others to geographical and temporal spaces that are constituted as backward, uncivilized, and unfree” (3). While this idea is applied to the enslavement of African Americans during colonial days, it also impacts the circumstances of the Indigenous nations of North America. Furthermore, during World War II, we find the same rhetoric applied to Japanese American communities. The (re)movement of those deemed “other” works to solidify white spaces and remind BIPOC people of their social, economic, and political positioning within the United States’ early creation. Lowe, similarly to Jodi A. Byrd, determines “racialization and colonization have worked simultaneously to other and abject entire peoples so that they can be enslaved, excluded, removed and killed in the name of progress and capitalism” (ctd. 11). Lowe’s and Byrd’s assertions posit a connection between the methodologies of domination that function as a foundation to the legal system. The categorization of the Native

American, African American, or Asian American person to the status or implied status of “non-man” or “less human” renders them easily forced out of their own spaces, temporalities, and identities and into new ones. The categorization of humans inevitably begets racial hierarchies that run the gamut between enslaved people to free people. Additionally in her earlier work, *Immigrant Acts*, Lowe asserts that the law “powerfully shapes who the citizenry is, where they dwell, what they remember, and what they forget” (2). In settler colonial states, this assists in creating what Lowe calls “the myth of national identity” (9). Such myths further separate whiteness from otherness and human from non-human. Settler colonial law is bound to manufactured ideologies of humanity and works to maintain that balance. Citizenship creates ideas surrounding terms such as “alien” and “non-alien” which furthers contemporary notions of belonging and validity. The very usage of the term “alien” implicates a non-human quality onto othered communities, further separating the chasm of belonging.

Considerations of humanity are interconnected with racial formations to better denote what is human versus non-human. In their foundational text, *Racial Formation in the United States*, Michael Omi and Howard Winant study the various paradigms of race—ethnicity, class, and nation—as well as analyze the boundaries of such paradigms in our understanding of race. While they focus on racial formation theory, they also are focused within the context of settler colonial societies thus furthering the discussion on the intersections of settler colonialism, the law, and race. In this project, understanding the paradigms of race is vital to constructing a narrative on how race continues to impact the lives of BIPOC people. In their chapter “The Theory of Racial Formation” Omi and Winant assert “race is a way of ‘making up people’” (105). They continue that definitions of race are unstable as they often slip/shift depending on context. Similar to scholars like Lowe, Omi and Winant argue race-making also becomes “a

process of ‘othering’” (105). Race-making within this dissertation helps to understand how structures began in the earliest experiences of settler colonialism and the ways evolution is still occurring within the narratives, both literary and cinematic. The process of othering interconnects with the structures of the law due to the way the law requires the presence of an “other” in order to have someone to exercise the law against or upon. Without a perpetrator, and a crime, the law has no reason to exist. Consequently, those who have been historically othered are more likely to be perceived as perpetrators and criminals. Therefore the “other” is established through racism and the law. According to Kimberlé Crenshaw,

Racism helps to create an illusion of unity through the oppositional force of a symbolic “other.” The establishment of an Other creates a bond, a burgeoning common identity of all nonstigmatized parties—whose identity and interests are defined in opposition to the other. (“Race, Reform, and Retrenchment” 1372)

Lowe also calls for remembering and critically engaging the forgotten connections between the intimacies of settler colonial enterprises. This compels of scholars to explore the connections between the colonized groups and their own respects to freedom and disrupt the linear master narrative of history through a “past conditional temporality” to understand our present (*The Intimacies of Four Continents* 41). The current systems of oppression operate on historical systems which have adapted to fit with today’s politics and legal structures. Lowe also points to the archive’s omission of violent and “forcible encounters” upon communities under the control of or simply in contact with imperial/settler colonialist ideals (2). These “forcible encounters” are early examples of legal instabilities flowing from settler colonialist foundations upon BIPOC communities. More specifically, the violent experiences of communities under settler control are expressions of legal instabilities because there is no protection by and through the law.

Therefore, the law becomes unstable because it cannot be applied to all people in all situations: it is only for those who maintain the status quo.

The United States' reliance on settler colonial methods of control also underscores issues of race and racial binaries as understood by those representing the law. Race as a construct was hierarchized to create tensions and prevent cross-racial solidarities from forming. Therefore, the nation's very formative foundation was dependent upon hierarchies and particularly upon the sentiments of anti-Blackness. One such construction was the Black/White binary of race. Shu-Mei Shih notes, "We must recognize the conjuncture of time and place in each instance of racialization without losing sight of the totality produced by the colonial turn that heralded race as a structuring principle" (1349). This insistence allows for both structure as well as flexibility in addressing other communities which have been racialized by settler colonialism and empire. While colonialism maintained racism and oppression follow similar tactics in different spaces, the communal reactions to those tactics vary. She continues, "To think comparatively therefore is to think about the world where the colonial turn has left indelible marks—that is, to think the worldliness of race" (1349). Shih draws on Claire Jean Kim's term "racial triangulation" to show the ways critical theories about race go beyond the black/white binary. "Racial triangulation, in this usage, is an effective heuristic device to bring into view relationalities that conventional binary models obscure or displace." (1351). Racial triangulation allows for a removal of binaries which maintain white supremacist values and create space for solidarity to occur. By showing the relationalities, as well as convergences and divergences of BIPOC experiences and lives, whiteness is decentered and what exists on the margins is moved to the center.

Expanding the conversation of racial binary toward incorporating Asian American formations, Long Le-Khac argues that Asian Americans exist in a liminal space to the black-



white binary of racial tensions in America. He also addresses the racial myths about Asian Americans as exemplifying the model minority within U.S. culture. This myth pushes forward the idea that there is a racialized hierarchy within which there is a sliding scale from “illegal immigrant” to “model minority” (13). This model minority myth exists to relegate and control the existence of Asian Americans while preventing cross-racial solidarities due to tensions between racial comparisons. Also focusing on Asian American experiences in the settler state, Iyko Day draws connections between Asian Americans/Canadians with capitalistic and economic mobility as well as the labor related to capital. Day writes,

In the nineteenth-century context of Chinese railroad building in North America... the connection between the Chinese and abstract domination of capitalism evolved through their identification with a mode of efficiency that was aligned with a perverse temporality of domestic and social reproduction” (16).

Within this context, Asian American temporalities were forced to embody a laborer’s temporality within the settler state as it relies on large numbers of migrant workers (46). As Asian Americans were forced to become laborers, so too they were forced to adhere to settler colonial, linear, normative temporalities. For example, a laboring body within the capitalistic economy of the settler state must function on the linear temporality to accomplish the work needed to support the settler state. Because those in power do not function as laborers, BIPOC communities are relegated to this function as a commodity and its temporality.

These intersections and instabilities of settler colonialism are crucial to critical race theory (CRT) as these forcible encounters experienced throughout history continue to have influence today through the legal structures and legal decisions. Major conversations within CRT examine the ways race and racism function within the legal structures of today. They also note

the importance of interrogating other social constructions of identity which cause an imbalance in the law and its function. CRT also argues enslavement and its residual impact continue today, influencing areas within the U.S. This dissertation is specifically interested in the ways inequitable applications of the law, as it flows from settler colonial foundations, impacts BIPOC communities across space and time from the past to the present moment. By focusing on inequitable applications of the law, I am underscoring the ways legal instabilities have and continue to have impact on BIPOC communities and individuals. The legal system as represented in the cultural productions examined here similarly highlight the perspective of the law as experienced by BIPOC communities.

CRT scholars Richard Delgado and Jean Stefancic assert that CRT hosts “a concern for redressing historical wrongs, as well as the insistence that legal and social theory lead to practical consequences” (5-6). Delgado and Stefancic maintain a central theme to CRT which “holds that race and races are products of social thought and relations” (9). Theories of racial formation and critical race theory connect where the colonial enterprise and its racial hierarchies rely upon the law to actively exclude and oppress entire communities. Such discussions on identity politics are important to Kimberlé Crenshaw because of the ways the intersectionality of identities impacts an individual’s positionality within the United States. Crenshaw specifically addresses the ways violence against women of color is perpetuated within the social world but her concept of “intersectional disempowerment” can be applied beyond violence and into other categories as well. Crenshaw asserts it is not only racism and sexism individually which creates oppression but “the intersection of racism and sexism factors into Black women’s lives in ways that cannot be captured wholly by looking at the race or gender dimensions of those experiences separately” (“Mapping the Margins” 1244). For Crenshaw, race, gender, and other categories of identity,

shape “structural, political, and representational aspects of violence against women of color” (1244). Consequently, it is through understanding the intersections of constructed identity categories such as race, class, gender, sexuality, and ability that we are better able to understand the way in which violence against women of color is perpetuated through legal and social systems.

Conceptualization of legal temporalities has been particularly prevalent within critical race theory. The progression of time and the impact of the law upon time are important within these conversations. For example, Renisa Mawani explores how time is impacted through legal maneuvers and structures. Mawani writes, “time is often assumed to exist as though it were a natural phenomenon, unfolding effortlessly and inconspicuously as the backdrop to social and political life” (70). While scholars such as Emily Grabham and Sian M. Beynon-Jones assert law is “shaped by dominant temporal assumptions” (3), I follow Mawani’s argument that the law creates those temporal assumptions. Mawani argues few legal historians “have asked how law produces time, how it orders the norms through its own temporalities, aspiring to assimilate and absorb other temporalities in the process” (71). I also echo Mawani’s assertion that law produces time and temporality rather than time producing the law. This is because the law creates these temporalities which support linear narratives. As Mawani stated, this settler colonial temporality “assimilate[s] and absorb[s]” the temporalities of the communities through the process of being colonized. Settler colonial temporalities thus colonized time just as it colonized people—violently. As Mawani continues,

Here, I contend law’s times cannot be conceived solely in terms of history or historicity. Rather, the temporalities of law demand a critical engagement with law’s role in the production and organization of time as past, present, and future; law’s imposition of time

on colonial-legal subjects; and the tensions and disjunctures between law's time and lived time. (69)

Mawani's assessment of the law and temporality is in application to Indian settlers in South Africa and argues the processes of how law and temporality are created is "especially evident in the racial subjection and subjectification of Indian settlers" (69). Mawani does not assert that Indian settlers in other parts of the empire should be treated with the same severity as other British colonizers at the same time because of the distinct differences in treatment within the colonial space due to racialized practices. Mawani's main idea of the ways the law has shaped and continues to shape temporality is key to applying it in other areas.<sup>4</sup>

While I rely on Mawani's crucial discussions of law and temporality,<sup>5</sup> I am seeking to explore it through literary and cinematic cultural productions and the subsequent ways these productions portray legal and BIPOC temporalities. Furthermore, my dissertation will examine how CRT and its focus on constructions of identity through settler law provide a unique view of the self-serving aspects of U.S. law when applied to BIPOC communities and individuals. By

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<sup>4</sup> It is important here to note that Saidiya Hartman and Christina Sharpe similarly focus on the continual oppression through systems and structures left over from enslavement and the past but regarding African Americans. Hartman asserts that the documents and fragments of life she assesses in her book "remain entangled with the violence of racial slavery and its afterlife" (13). It is the afterlife of slavery which positions the continuation of such domination and oppression in the present. Sharpe addresses the afterlife of slavery through the metaphor and theoretical framework of the "wake" in its multitude of definitions; however, the one I feel most aptly connects to my dissertation is "In the wake, the past that is not past reappears, always, to rupture the present" (9). Sharpe's assertion of the past as rupturing the present is the wake of enslavement rupturing the present moment through its reiterations or afterlife. It temporally disrupts the present moment because of its constant intrusion. In each cultural production in this dissertation, the racially motivated and constructed history of the United States must be disrupted because of the afterlife of enslavement, internment, and removal. Native Americans, African Americans, and Asian Americans and concepts of temporality are represented through cultural productions which assess the temporalities enforced upon them through the settler state and offer modes of resistance against such temporalities while also allowing nonlinear, cyclical, nonnormative temporalities to play within conceptualization of the communities.

<sup>5</sup> Mawani's assessment of the law and temporality in application to Indian settlers in South African argues the processes of how law and temporality are created is "especially evident in the racial subjection and subjectification of Indian settlers" (69). Mawani does not assert that Indian settlers in other parts of the empire should be treated with the same severity as other British colonizers at the same time because of the distinct differences in treatment within the colonial space due to racialized practices. Mawani's main idea of the ways the law has shaped and continues to shape temporality is key to applying it in other areas.

critiquing the existence of the law, we can better assess how the reimagining and remembering of cultural productions demonstrate how race, law, and time interconnect.

Time and temporality is interconnected with settler conceptualizations of the law and racial formations yet functions in different ways. In this dissertation, I use the terms time and temporality. Similarly to Mark Rifkin, who relies on considerations of time from V.F. Cordova, I view time as motion and progression of experiences (2). Temporality is the experience or interpretation of time through the collective or individual. Therefore, time and temporality are separate terms but interlinked through interpretation. The temporalities which exist within BIPOC communities offer multiple relations to the world and its processes while also situating each community at its own center, which decentralizes the white, settler colonial experience. The dispossession which secures the system of colonialism requires analysis of colonialism's impact upon Indigenous identity, sovereignty, and history. Understanding such dispossession allows us to identify the relations of power which have adapted to create oppressive structures for Native peoples.

Linear temporality flows from a white heteropatriarchal conceptualization of time rather than one that privileges the existence of multiple temporalities. J. Jack Halberstam asserted reproductive temporality comes out of heteronormative experiences which subsequently bolster patriarchal values and “queer uses of time and space develop, at least in part, in opposition to the institutions of family, heterosexuality, and reproduction” (12). Consequently, reproductive time is “adjusted to the schedule of normativity” (23). This schedule of normativity is intrinsically linked to capitalism through patriarchal and white settler foundations within the United States. Western ideas of temporality “work to justify and rationalize a patently brutal and unjust system” (24). Halberstam also writes “queer subcultures produce alternative temporalities by allowing

their participants to believe that their futures can be imagined according to logics that lie outside of those paradigmatic markers of life experience—namely, birth, marriage, reproduction, and death” (14). To function outside of these “markers of life” is to function outside of the other systems which are supported by white settler temporality as well. Therefore, white settlers and the governments which are created by settler colonialism cannot allow the existence of alternative temporalities because it threatens the efforts of capitalism and heteropatriarchy to maintain the status quo.

Marginalized communities construct their own temporalities outside of the existence of state and legal temporalities. In *Beyond Settler Time: Temporal Sovereignty and Indigenous Self-Determination*, Mark Rifkin writes, “Rather than approaching time as an abstract homogenous measure of universal movement along a singular axis, we can think of it as plural, less as a temporality than *temporalities*” (emphasis original, 2). Additionally, Rifkin also notes, “Noting the existence of multiple temporalities that cannot be unified into a singular time, then, means acknowledging the diversity of processes of becoming and the variety of potential interrelations among those processes” (17). Cultural productions, such as the ones discussed in this project, reveal the existence of multiple temporalities without forcing them to “be unified” and create space for these multiplicities to exist. For Indigenous people in the Americas, the state refused to acknowledge their continual existence as they were relegated to the past. Native Americans were considered as pre-Modern relics who were unable to exist and adapt in a modern society. The issues surrounding land and sovereignty would no longer exist should the Native Americans disappear from the public sphere. Ideologies of *terra nullius* and legitimacy of the theft of land could continue without legal threat. Like Native Americans, enslaved African Americans were considered “nonhuman” because of the racialized hierarchy. However, enslaved people were not

placed on reservations, rather they were placed on plantations. Their existence as both labor and capital was legitimized through legal structures. The categorization of African Americans as object rather than human forced the community to adhere to the linear conceptualization of time. Being viewed as inhuman removes the autonomy and decision to function according to their own temporalities so they are therefore oppressed by linear, colonial temporalities. These temporalities are economically bound. Refusal to adhere would result in a loss of crops for enslavers and loss of finances overall. Therefore, the linear and normative temporality created by the settler state and enforced by the enslaver further supported the objectification of African Americans during enslavement.

Other contemporary considerations of Black temporality explore the ways crisis and trauma influences temporality. Habiba Ibrahim and Badia Ahad argue, “The traumatic suggests that devastation has already happened, that it exists in the past tense. Yet, the prolonged state of crisis creates a sense of liminality that is neither past nor present; instead, the time of crisis feels more like flight rather than arrival” (2). Therefore, notions of African American temporality posit traumatic experiences do not become history but remain as part of the present thus diverting from linear temporality. Society, however, relegates Black experiences of trauma and temporality as previously existing with no connection to the present moment. Saidiya Hartman and Christina Sharpe similarly focus on the continual oppression through systems and structures left over from enslavement and the past but regarding African Americans. Hartman asserts that the documents and fragments of life she assesses in her book “remain entangled with the violence of racial slavery and its afterlife” (13). It is the afterlife of slavery which positions the continuation of such domination and oppression in the present. Sharpe addresses the afterlife of slavery through the metaphor and theoretical framework of the “wake” in its multitude of definitions; however,

the one I feel most aptly connects to my dissertation is “In the wake, the past that is not past reappears, always, to rupture the present” (9). Sharpe’s assertion of the past as rupturing the present is the wake of enslavement rupturing the present moment through its reiterations or afterlife. It temporally disrupts the present moment because of its constant intrusion. In each cultural production in this dissertation, the racially motivated and constructed history of the United States must be disrupted because of the afterlife of enslavement, internment, and removal. Native Americans, African Americans, and Asian Americans and concepts of temporality are represented through cultural productions which assess the temporalities enforced upon them through the settler state and offer modes of resistance against such temporalities while also allowing nonlinear, cyclical, nonnormative temporalities to play within conceptualization of the communities.

The connections between the three temporalities of Native American, African American, and Asian American communities echo the cross-racial solidarities exhibited in major civil rights movements across space and time as well as the literature emerging from those communities. Consequently, these are important because of the ways they provide insight into resistance against domination and erasure as well as how they initiate new considerations of justice as outside of the legal system. This forces scholars to consider how legal temporalities, as they attempt to colonize BIPOC temporalities, function in the real and the imaginary. Cultural productions create spaces for that to occur. Furthermore, Mark Rifkin writes Euro-American temporal formations limit “possibilities for (Indigenous) self-determination by presuming the necessity of transitioning to particular forms of self-organization, narration and governance” (12). The function of legal temporalities which stem from a settler colonial enterprise is to



delegitimize not just a community's temporality but their entire existence and sovereignty.

Temporality and sovereignty thus go hand-in-hand.

Justice cannot exist within legal temporalities because of the legal temporalities' refusal to offer full and unrestricted recognition of Native Americans, African Americans, and Asian Americans. This is also due to the ways those in power refuse to self-correct juridical outcomes for BIPOC communities and the legal temporalities which flow from them. Therefore, these cultural productions offer sites, spaces, and time to create iterations of justice which cannot be afforded to them through the legal system and temporality. My intervention within the scholarship offered here is to further explore the ways these cultural productions, and the temporalities represented in them, function as modes of resistance against the settler state, the legal system, and legal temporalities. By analyzing the three communities and their points of intersection, I can demonstrate the necessity for cross-racial solidarity through examining the intersecting temporal structures of injustice.

As I've suggested CRT, theories of settler colonialism, and theories of time all merge to help create a framework through which I begin my dissertation. My assessment of temporalities becomes particularly important to understanding Native American, as well as other BIPOC, positionalities within the settler colonial framework of the U.S. In this vein, we can consider how critical race theories and formations of race, with their interconnections to the settler colonial enterprise, become important in our understanding of multitudinous temporalities and non-linear temporalities. Consequently, Rifkin's assessment of the limits of his own work is where I find my work beginning. Rifkin states, "To be clear, my questions are not about whether to emphasize the extent of ongoing settler violence, to highlight its intensive continuing effects on Native peoples, or to explore the significance of settlement for all aspects of non-native life" (9). In my

project, I do explore the ways settler violence continues across BIPOC communities, not just Native communities, and interrogate the ways settler violence (as perpetuated by the law) affects such temporalities continually. Lowe's *The Intimacies of Four Continents* addresses cross-racial experiences and temporality in similar ways but I expand on them by applying them to specific texts Lowe does not include. Omi and Winant assess the larger scope of racial formation in the United States without addressing the need for cross-racial solidarity or the impact of settler colonial violence upon BIPOC communities. By focusing on cross-racial responses and experiences of settler colonial oppression, I can address the ways BIPOC people's nonlinear temporalities, as demonstrated through the literary and cinematic cultural productions, relate to the legal frameworks and temporalities of the U.S.

### **Overview of Project and Methodology**

This dissertation's focus on cultural productions by Native American, African American, and Asian American creators demonstrates the depths to which the law attempts to control the spaces, bodies, and time of the respective communities. Additionally, these works highlight the continued resistance through maintaining BIPOC temporalities despite the overreach of the law. I engage with the texts to reveal connections between legal temporalities with re-memories of BIPOC temporalities. These temporalities are produced through social and political processes and the cultural productions create space to analyze the movement and progression of time within the communities. Legal temporalities and legal instabilities—due to the foundations of the U.S.—exist within these cultural productions but do not restrict the movement or fluidity of time within them. In fact, these literary and cinematic productions refuse linearity and maintain cyclical or disrupted temporal narratives.

It is in the intersections of settler colonialism, race, and time I find my work intervening. In my analysis of cultural productions by BIPOC individuals, I apply the theoretical concepts central to settler colonialism and racial formation. I intend to demonstrate how the forcible encounters, a term by Lisa Lowe, as remembered and reimagined by BIPOC creators, portray the extent to which the settler colonial law functions still today through inconsistent legal measures and applications. I continue such analysis through articulating how critical race theory functions within the legal maneuverings of the texts. Additionally, theories of time and temporality are crucial to understanding the control by those in power through oppression of time. Consequently, the cultural productions each rely on such methodologies to highlight the impact of time and law upon their communities.

Through analysis of these works, readers can see the application of the law is uneven and inequitable at best. Such examples upend the narrative the law is infallible and effective and also explore the ways justice functions both inside and outside of the law. By choosing cultural productions by BIPOC creators, we can decenter narratives which focus on whiteness and bring to the front texts which have been historically marginalized. Additionally, they portray the ways history, through its myriad of experiences with the settler colonial, does not allow for the voices of those who experienced the violence to be accounted for. Saidiya Hartman asserts that history and its documents are “not free from barbarism,” a phrase she attributes to Gayatri Spivak (12). Therefore, these texts narrativize history in ways that cannot be forgotten, and neither are the violence and forcible encounters which met their creators and their ancestors.

This project approaches multiple genres which emphasize the impact of settler colonial violences perpetuated by the law. My selection of cultural productions includes historical fiction, historically based and fictional films, and hybrid/mixed media narratives such as the graphic

novel. In selecting these, I am addressing the ways frameworks of law are portrayed through print and film. These productions highlight the expansiveness of the cultural productions available and how (re)imaginings of history and settler violence through the perspective of the marginalized are examined by scholars. Each cultural production underscores different types of legal instabilities while also identifying how each one functions to colonize and oppress different communities. Consequently, these cultural productions remind audiences of the ways the past continued to affect the present; thus, shifting normative ideas of temporality and moving from temporalities which are only chronological and linear. These literary and cinematic productions refuse to shift their temporality based on the law because they are recentering the narrative from whiteness to BIPOC experiences. Therefore, they maintain temporal disruptions and shifts as resistance to the linear, hegemonic temporal structures of the law. These cultural productions work as representations of BIPOC temporalities; imaginings of what could happen if settler colonial and legal temporalities had not colonized their people, space, and time; exemplifications of how iterations of justice function for BIPOC individuals; and representations of resistance against these legal temporalities.

This project particularly focuses on cultural productions created since the 1940s while the plots and settings for such productions include content from as early as the mid-1800s. The historical reflections within the texts demonstrate such imaginaries within BIPOC communities and the resistance to legal temporalities.<sup>6</sup> Additionally, the texts assist in understanding the impact of settler colonial violences perpetuated by the law and the impact of the past upon the present. This shifts normative ideas of temporality as chronological and linear.

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<sup>6</sup> I rely on the term “text” for both cinematic and print cultural productions because of the practice of “reading” both alongside considerations of BIPOC temporalities and legal temporalities.

## Chapter Overview

This dissertation's project consists of three body chapters which treat the three communities separate from one another to fully understand the impact of settler colonialism's legacy upon them and to engage conversation between these differentially formed communities. The selection of cultural productions from multiple different genres demonstrates the depth of the types of texts which are available to study BIPOC experiences through and within the law. These multiple viewpoints and genres allow for stronger analysis of the texts themselves, the history they represent, and the extent of legality upon the communities.

In chapter one, "Black Hills and Uranium Mines: Instabilities of Justice, Legality, and Criminality in *Skins* and *Almanac of the Dead*," I examine Chris Eyre's *Skins* and Leslie Marmon Silko's *Almanac of the Dead* to highlight the malleable nature of legality by providing examples of how justice, as a term and action, is not applied to Native Americans due to the foundation of settler colonialism within the law. I argue *Skins* demonstrates how three separate acts of vigilantism disclose the impasse between tribal and U.S. policing law as well as how main character Rudy's vigilantism portrays the inability of Native peoples to navigate such impasses. I assert that *Almanac of the Dead* portrays through the memories of Sterling the temporal expansiveness and geographical impacts of U.S. settler colonial violence and the legal violence which accompanies it. These actions of dispossession rely upon legal instabilities because the instabilities create conditions in which the law favors settler colonial endeavors which fail to bring justice to fruition.

In chapter two, "'Just Another Way to Lynch a Black Man': The Evolution of Enslavement into Mass Incarceration in *Beloved* and *Just Mercy*," I argue that analysis of *Just Mercy* alongside Toni Morrison's novel *Beloved* allows us to trace how legal instabilities,

reinforced by settler colonialism, still maintain control over Black bodies and Black lives within settler capitalist systems through pre- and post-emancipation, offering a continuous thread of domination. Such analysis demonstrates how historically settler colonial temporalities—from enslavement to mass incarceration—work to erase Black temporalities; First, I attend to Toni Morrison’s novel, *Beloved*, which focuses on the lives of Sethe, her daughter Denver, and her seemingly back-from-the-dead daughter Beloved through a temporally disjointed narrative. I then argue *Just Mercy*, produced by Destin Daniel Cretton, provides a distinct opportunity to not only understand the evolution of enslavement into mass incarceration but also the way that legal instabilities contributed directly to this evolution. This portrays how the bodies and lives of Black inmates and attorneys are regulated and controlled by settler capitalist systems of power by using corporal threats, punishment, and temporal control.

In “‘I was an American Citizen’: The Movement from Citizen to Enemy Alien in Miné Okubo’s *Citizen 13660* during World War II and its recurrence during COVID-19, I argue the legal frameworks which made Executive Order 9066 possible, as explored in Miné Okubo’s *Citizen 13660*, represent temporal entanglements as defined by Saidiya Hartman. Firstly, I argue while *Citizen 13660* focuses on experiences of Japanese Americans during World War II, we can see how past and future moments are temporally entangled with the legal instabilities which made Japanese internment camps possible. Next, I will bring the discussion to a more contemporary experience by focusing on a *Time Magazine* article entitled “I Will Not Stand Silent” by Anna Purna Kambhampaty. This article examines racial abuses experienced by Asian Americans during the pandemic. This chapter asserts that the language toward Asian Americans in WWII and the COVID-19 pandemic are intimately linked through temporal entanglement and the lack of resolution to the problems of the past and legal instabilities. Thus, these issues are

cyclical and remain forever looped into the fabric of American society because of the continued prevalence of language and laws.

### **Project Origins and Purpose**

This project began as an effort to gain better critical consciousness. In Fall 2013, I took a foundational course in British Literature for my minor in English during my bachelor's degree at Palm Beach Atlantic University. At this point in time, I had not begun the hard work of developing what bell hooks would term "critical consciousness" and so I attempted to write a paper about "reverse racism" in Joseph Conrad's *The Heart of Darkness*. I was fortunate enough to have a professor, Dr. Samuel Joeckel, who kindly but firmly called out the issues with my paper topic. He relied on historical evidence and logical reasoning to help me understand the problematic nature of such a paper topic. I had not been taught that reverse racism did not exist or that racial prejudices which upheld the institutions of slavery still existed today; in fact, my education in Florida public and private schools had primarily taught me the opposite. From that day forward, I aimed to learn as much as I could so that I would not make the same mistakes again. In Fall 2015, I began a master's degree at Florida State University where I was privileged to take a course by Dr. Trinyan Mariano entitled "Law and American Literature." It was in this class I began to focus on the law's impact on African American enslavement and the cultural productions which came from it. In this class, my critical consciousness grew in understanding how our legal systems function to uphold current systems of oppression just as they have for centuries. In Fall 2019, I began my doctorate at the University of South Florida, here I encountered new theoretical frameworks which broadened my understanding of the literary from primarily African American focused to more multi-ethnic literatures including Indigenous literature and Asian American Literatures. What had started out as a call out about my own

privilege during my undergraduate degree— and the inaccuracies of falsities like reverse racism— had grown into a desire and a need to learn more and be a better ally. When I began a minor in English years ago, I jumped into a world which does not allow for ignorance to last or for the privileged to remain unaware. I chose to remain in this field because in today’s political climate, to be silent is to be complicit. We all talk about what we would have done had we been alive during the days of the Underground Railroad and enslavement. We create grand imaginations of how we would have been on the right side of history; yet we remain silent when George Floyd called out for his mom or we excuse the murder of Ahmaud Arbery ignoring the ways the institutions, which fortified enslavement, are the driving force behind such terror. This project became my attempt at solidarity and allyship through education, self-awareness, and critical consciousness. My hope is that I continue to grow in knowledge, empathy, and understanding through such research.



## **CHAPTER ONE: BLACK HILLS AND URANIUM MINES: INSTABILITIES OF JUSTICE, LEGALITY, AND CRIMINALITY IN *SKINS* AND *ALMANAC OF THE DEAD***

Four white faces stare out of the rocks of the Black Hills of South Dakota. The stony gazes of Mount Rushmore, built during the years 1927-1941, look hauntingly over Pine Ridge Indian Reservation. As a tourist site, the National Parks Service asserts that in 2010 the site brought in \$77.1 million to the park and surrounding communities (McGee-Ballinger). The United States now profits off the stolen lands while simultaneously preventing local reservations and Native communities from accessing resources which have been historically promised to them. Before its violation, the Treaty of Fort Laramie (1868) offered protection of the Black Hills, and the surrounding land Mount Rushmore occupies, on behalf of the Lakota people which would have made any breaking of the treaty illegal and unjust. Thus, the tribe began a lawsuit against the American government in the 1920s, making its way to the Supreme Court in the 1980s. The Supreme Court's decision upheld prior rulings entitling the Sioux Nation to \$17.1 million plus interest from 1877 when the land was originally stolen (Scherer). In response, the tribe refused monetary compensation because "the land was never for sale" and so only the complete return of those lands would equal restitution (Cutlip). The Supreme Court's ruling reaffirms what is already known: these lands are stolen. According to Christine Gish Hill, "What happened with the Black Hills is so clearly theft in relation to the U.S.'s own laws" (qtd. McKeever). Yet, the ruling did not and will not reinstate the lands into tribal control once more, suggesting that the continuation of Native American dispossession is enacted even within the legal parameters of the settler state.

Before moving forward in my discussion of the texts, it is necessary to examine terms applicable to this chapter as well as some primary contexts of such terms. When discussing “settler colonialist expansions,” I will use that as an interchangeable term with “dispossession.” More specifically, dispossession is due to settler colonial expansion, whether it be for territory or economic power, and is mutually constitutive with the dispossession of Native communities. Concepts of legality and criminality are used in dominant discourse as opposing concepts; however, within the context of settler colonial expansion via dispossession, legality is often the means through which the crimes of sovereign governments are enacted. Yet, the punitive measures of law (and its designation of criminality) are more often applied to individual citizens and not to larger governments—especially the U.S. government—and as such the acts of dispossession by the government are not considered criminal acts because legality cannot and does not apply. Giorgio Agamben’s theories of sovereignty and states of exception center on this tenet. This, Agamben states, is the existence of derogation which “creates a space between fundamental rights and the rule of law’, wherein states can remain lawful while transgressing individual rights—effectively creating, in the works of Tom Hickman, a ‘double-layered constitutional system’” (ctd. Humphreys 678).

I also choose to use the terms “property” and “land” as distinct yet interconnected terms to show the connection of how land becomes commodified through the settler colonial state and capitalism and turns into property. As Grace Kyungwon Hong argues, a primary reason for this distinction is that

Such scholars have argued that the settler colonial conversion of land, which is the territorial foundation of Indigenous societies, into property is an inherently unstable process. In order to appropriate Indigenous lands within the rule of law, settler states must

legitimate its authority to take lands that are not property and thus obviously not under its authority (since the colonial state's relationship to territory is only as property).

The centrality of the settler colonial state in setting the frameworks of legality/criminality, land/property, is key to understanding the current and historical treatment of Native people as well as how to move forward and how to redefine justice. The interrogation of such frameworks can be seen in Indigenous epistemologies that this paper seeks to engage.

Here, I posit that the refusal to return the lands invites critique over concepts of legality, criminality, and, as a consequence, justice within the history of the formation and maintenance of the United States. Gish's assertion shows the extent to which the U.S. government works both outside and *within* its laws to enact injustice for others in its desire for expansion and control. For the Lakota nation, one of the many tribes from whom the land was stolen, this memorial tells a story of betrayal, violence, and oppression but through a whitewashed lens. It does not glorify Native people's history but once again reminds Native Americans of the extent to which the U.S. government and its legal apparatus will go to control the land and its resources.<sup>7</sup>

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<sup>7</sup> The choice of which faces irreparably damage the landscape is intertwined with the logic and act of dispossession. Discussing how he chose which presidents to include in the Mount Rushmore monument, sculptor Gutzon Borlum states, "The purpose of the memorial is to communicate the founding, expansion, preservation, and unification of the United States with colossal statues of Washington, Jefferson, Lincoln, and Theodore Roosevelt" ("Why These Four Presidents"). Thus, the decision of who would be commemorated on the stolen land are those who worked actively to secure and expand on such stolen land during their time as president, preserve the stolen land under the control of the United States, and unify the United States government upon that stolen land. While the focus of the monument is to glorify the actions of such men, it is no mistake the faces are only of White men whose own history is one of conquest and dispossession. The gaze of the stony eyes poses policies of surveillance and control. When Borlum spoke about his involvement in the creation of Mt. Rushmore, he explains, "I couldn't and wouldn't have started to drill on that mountain if I hadn't known that the portrait of Washington had been there for forty million years and I had to find it. And that of Jefferson and Lincoln, who saved our country, and finally Teddy Roosevelt" (Tichi). This assertion that these colonizers' faces were located within the rock from the beginning of the earth's formations, highlights the Eurocentric view of terra nullius and removes the sovereignty of Native tribes over the territory. It makes this land destined to be America despite any former civilizations which lived on and depended on the land. The battle for the mountains, known as the Black Hills, featuring the historic figures of Washington, Roosevelt, Jefferson, and Lincoln, began when the Treaty of Fort Laramie (1868). This provided exclusive use of the Black Hills to the Lakota people but was violated in 1877 after gold was discovered in the region (McKeever). The extensive nature of violations that occurred during the creation of Mount Rushmore is inherently tied to the poverty and violence enforced upon neighboring communities such as Pine Ridge Indian Reservation.

Through analysis of Native American film and literature, this chapter assesses the role that settler conceptualization of legality/illegality has in reproducing the ongoing dispossession of Indigenous nations in the United States. I examine two cultural texts, Chris Eyre's (member of the Cheyenne and Arapaho tribes of Oklahoma) *Skins* and Leslie Marmon Silko's (member of the Laguna Pueblo tribe of New Mexico) *Almanac of the Dead*, as critical works that interrogate concepts of legality and illegality under settler colonial rule in the United States. I argue that these works reveal and engage how settler imposition relies on the production and instability of notions of legality, criminality, and justice. *Skins* and *Almanac of the Dead* highlight the malleable nature of legality by providing examples of how justice, as a term and action, can never be applied to Indigenous nations through the eyes of settler colonialism. This is because of the way settler colonial laws and constructions of justice only apply to the oppressor instead of the oppressed to conserve the systems of power. This focus suggests that an alternative language is needed to allow the fruition of justice; that language is currently engaged through fictional mediums such as literature and by Indigenous nations but not by the United States as a whole.

I begin with a reading of Chris Eyre's 2002 film *Skins*. I argue that the film demonstrates how three separate acts of vigilantism disclose the impasse between tribal and U.S. policing law as well as how main character Rudy's vigilantism portrays the inability of Native peoples to navigate such impasses. Ultimately, *Skins* argues for a collective versus individual dialogue of moving through such instabilities of law. *Skins* displays fictionalized narratives on a Native reservation located around Mount Rushmore and the site of the Wounded Knee Massacre. The film's setting of dispossessed land directs attention to an impoverished reservation adjacent to Mount Rushmore on the South Dakota/ Nebraska Line and focuses on the lives of Rudy and Mogie—two brothers. This juxtaposition between locations highlights the connection between

the dispossession of land and economic resources by the U.S. government and the ways such dispossession has created deep and continual poverty on Native reservations which continues today. Native reservations, such as Pine Ridge Indian Reservation and the film's fictional Beaver Creek Indian Reservation, provide examples of how expansion through white settler colonialism is interconnected with both violence and injustice. While Beaver Creek Indian Reservation does not hold any historical consequence, its existence within the film offers us a unique lens through which to critique such expansion and its consequences on Indigenous life. For reservations like Beaver Creek and Pine Ridge to even exist, violence of Native dispossession of land must occur.<sup>8</sup> The film allows for a historical recollection of these violations as well as a contemporary read on the residual effects upon Indigenous nations by highlighting efforts of vigilantism, control of the liquor stores, and the construction of Mount Rushmore. The film's protagonist, however, works to identify the instabilities among these sites to underscore the similar instabilities of law and legality.

I then turn to a reading of Leslie Marmon Silko's *Almanac of the Dead*. I argue that the novel portrays three different moments of Laguna Pueblo dispossession by the U.S. government as remembered by Sterling, a Laguna Pueblo man who has been exiled from his community. Through these memories, the novel reveals the temporal expansiveness and geographical impacts of U.S. settler colonial violence and the legal violence which accompanies it. As such, these memories in *Almanac of the Dead* reveal the impossibility of the U.S. government and federal law to redress the dispossession experienced by Indigenous people. Sterling's obsession with the law began from an early age during his time in U.S. boarding schools because the cruelty and violence inflicted upon him as a child was "required by law" (Silko 26). This first interaction

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<sup>8</sup> In *Custer Died for Your Sins*, Vine Deloria Jr. writes, "In transplanting Europe to these peaceful shores, the colonists violated the most basic principle of man's history: certain lands are given to certain peoples" (177).

with the law as a child subject to it formed a need within Sterling to conceptualize how the law both forced itself upon him but did not protect him. As a Native person, he understands such dispossession produces generational traumas from the usage of the land beyond repair during World War II, to the mining of uranium and stealing of sacred tribal artifacts, to the removal of children who are sent to U.S. boarding schools. These actions of dispossession rely upon legal instabilities because the instabilities create conditions in which the law favors settler colonial endeavors which fail to defend Native people. Some of these conditions can be seen in the refusal to return artifacts to Indigenous tribes and the failure to respect previous treaties which entitled them to land. Sterling's need to understand how the law develops to preserve those instabilities, rather than protect people, forms his obsession with the law which continues throughout his life.

Reading *Almanac of the Dead* and *Skins* together allows for a multimodal approach to the issues of legal instabilities as experienced by different tribes throughout the history of the United States. Because of the two genres, a novel and a film, we can examine different facets of the impact of settler colonialism and temporality upon two Indigenous nations. More specifically, the novel and film rely on different conventions which are unique to their genres to provide audiences with images and scenes to explore. The differences in the form of the narrative provide nuance and complexity to the close readings. Furthermore, while these two tribes should be considered independent nations with customs, traditions, and histories separate from one another, the goal of this project is to identify the points of intersection between the histories of Indigenous people in the United States and the way settler colonialism similarly impacted them all through dispossession, displacement, and the guise of legal protection by the federal law. Understanding these places of intersection reveals the ways concepts of law and justice are unevenly applied to

Indigenous people across the U.S. Consequently, reading these works together allows methodologies of control and oppression to be fleshed out thoroughly and analyzed to understand the impact historically and contemporarily upon Indigenous people. It is only through understanding where these issues are unstable that we can begin to address how to move forward by relying on Indigenous definitions of justice and law which can accommodate equitable application of the law.

### **Legality, Criminality, and Justice in *Skins***

*Skins* offers considerations of the impasse between tribal law and U.S. federal law in addition to how those concepts of legality impact Indigenous nations. Iterations of legality and the law exist in the film's setting, plot, and characters. The characters must exist within a specific layering of U.S. law upon their Indigenous nation and find ways around it as well. Issues of legality and the law become apparent from the beginning when viewers are introduced to Rudy, one of the protagonists, who is a tribal officer. Tribal officers are both separate and a part of the larger police system as they have jurisdiction over reservation areas only and not outside of them. Tribal officers cannot act in official capacities off the reservation while state and federal officers have larger jurisdiction and can act officially in a location within the United States.<sup>9</sup> As a tribal officer, Rudy is beholden to state regulations instead of representing and upholding tribal law on the reservation. Rudy's positionality as a "tribal officer" function more as a bridge between the crimes which occur on reservations and the state authorities which would be

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<sup>9</sup> Native American people experience higher rates of crime than any other group as, according to the Bureau of Justice Statistics, "the annual average violent crime rate among AI/AN" is two times as high as African Americans, two and a half times higher than that for white people, and four and a half times as high as for Asian Americans (Perry 5). As Martín and Danner note, despite the alarmingly high rates of violent crime against Native American people, "tribal communities are limited in terms of addressing problems surrounding crime and violence within Indian Country" (175). The Bureau of Justice Statistics describes the jurisdiction of tribal officers as follows: "Tribes have inherent authority to exercise criminal jurisdiction over tribal members and to arrest and detain non-Indians for delivery to state or federal authorities for prosecution. These tribal police powers are generally limited to the reservation" ("Tribal Law Enforcement").

involved should the crime necessitate state and federal involvement.<sup>10</sup> Ultimately, the state and federal law enforcement entities have jurisdiction and control over matters on the reservations and it is Rudy's job to uphold that state and federal control over tribal control. *Skins* uses Rudy and his relation to the tribal community to explore the tensions and instabilities created by settler colonial control as well as the ways sovereignty functions upon the reservation through legal measures. More specifically, Rudy portrays the ways the injustices impact Indigenous people decades and centuries after the first forcible encounters with settler colonialism and colonizers. In this section, I close read three separate acts of vigilantism by Rudy to demonstrate the relationship between tribal and U.S. policing law which reveal the ways U.S. policing law overrules tribal law and jurisdiction thereby reducing tribal sovereignty. Rudy's vigilantism also portrays the ways the Native community is unable to also negotiate through the systems of law imposed upon them and, as such, *Skins* puts forward the call for a collective versus individual dialogue of moving through such instabilities of law.

When Corky, a young man on the reservation, is found murdered in an abandoned house, the uneven power relationship between tribal and state/federal laws is revealed as working directly against solving the crime and actualizing justice. In his investigation of Corky's murder,

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<sup>10</sup> Indigenous tribes prior to settler colonial contact often implemented restorative processes when crimes were committed; this type of justice originally was perceived as non-existent or "inadequate" (Meyer 46). As a part of colonization, Native people were forced to abandon their own practices of justice and adopt "a supposedly well-designed, rational justice systems that dealt with wrongdoers through heavy reliance upon incarceration and other punishments" (46). Consequently, through the forcible adoption of this new system, Native people lost their sovereignty to sort through tribal matters within their community. Should a crime occur on tribal lands, the jurisdiction rests with state and federal courts because of issues of sovereignty. For example, in *Oliphant v. Suquamish Indian Tribe*, 1978, the U.S. Supreme Court ruled that a non-Native could not be tried in tribal courts even if the crime he committed occurred on tribal land. Twelve years later in *Duro v. Reina*, it was ruled "that tribal courts only had jurisdiction over members of their individual tribes, and therefore, could not try members of other Native American tribes for crimes committed within their geographical jurisdiction" (46). Consequently, the fact that Indigenous people were not allowed to try, convict, or make rulings regarding crimes upon their own land and that the U.S. Supreme Court created laws regarding such jurisdiction exists as a reminder of the violation of sovereignty for Indigenous people in the United States. Even if they are given jurisdiction in matters and allowed to use the tribal court, their rulings can be overturned by federal processes.



Rudy receives little to no support from his fellow tribal and state police officers in solving the murder and bringing the murderers to justice. This becomes a motivating factor for his decision to become a vigilante. When he speaks with two other men at the station, one a tribal officer like Rudy and one a police officer, he realizes the instabilities of the law impact his job as well. These two men are his superiors within the police hierarchy; one immediately jumps to the conclusion that Corky must have been a troublemaker and had a reason to be killed, but Rudy immediately rebuts this assumption (Eyre 11:49-11:56). Within the public perception of U.S. law, non-white victims and survivors are stigmatized as criminal even without evidence or a conviction. If they are stigmatized, the violence morphs into assertions that it was simply retribution for their resistance or criminal activity. Rudy's refusal to allow this narrative to be forced onto Corky exemplifies his understanding of the way such narratives can and do change the purpose and intensity of investigation. The other police officer says to Rudy, "Let's not be too optimistic about solving this when we talk to the family alright?" (11:58-12:01). This warning is not for the sake of the victim's family but is for Rudy—it reminds him of his positionality not as an officer but as a Native person. This is because of the historical inability of law enforcement to effect restorative change for Indigenous people.<sup>11</sup> Examined another way, this statement reveals that if Corky is cast as a victim who deserved his fate, the investigation will never produce any justice or recompense on his behalf and the police department will not work to find justice.

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<sup>11</sup> Restorative justice "returns to the concept of crime as a violation of another person's rights. Instead of punishing criminals, the intent is to restore both victims and offenders through restitution in the form of money or service (Meyer 43). This type of restorative justice seeks a balance between victim and offender wherein meetings and mediations take place. In these mediations, both parties receive actionable restorative plans which aid in healing. The movement away from restorative justice is two-fold. It, first, removes sovereignty from the individuals who have been wronged or victimized to claim justice for themselves and their community. Secondly, it also attempts to erase the wrongdoing in the first place because the punishment does not bring restoration. More specifically, regarding the lack of restorative justice for Indigenous people and tribes within the United States, the current justice system removes sovereignty from the tribes and erases the wrongdoing by the government in the dispossession of Native people. Therefore, because the crimes are not considered crimes to begin with, they are not worth receiving restorative justice.

Consequently, the tribal officers are also bound by the decision of the state and federal officers not to pursue the case because of the hierarchy of power which exists within the policing system.

When Rudy comes face to face with the murderers of Corky and he does not arrest them, his positionality as a tribal officer allows him to once again acknowledge the inability to navigate the legal system. After Corky is found murdered, Rudy tries to capture the men who killed him but they escape. All he is left with is a quick glimpse of the murderer's shoes. In a key scene later, he looks down, pausing while recognizing the shoes. He recalls these as the shoes of the man who murdered Corky (25:53). Rudy then begins to operate beyond the jurisdiction placed upon him as a tribal officer. The other man wears cowboy boots, recalling an earlier police officer's statement that Corky's body exemplified marks consistent with being kicked with the steel toe of a cowboy boot. The symbolism of the cowboy boots also carries historical significance. Cowboy boots are a symbol of Western expansion—reminiscent of experiences such as the Trail of Tears—and the ever-existing dominance of whiteness upon Native people. The legal reach of the federal government determined when, where, and how Indigenous people would exist within the United States during this time and into the contemporary moment. Although the wearer of the boots is not white, it is the use of the shoes to murder another Native man which reminds watchers of the pervasiveness of American culture and violence. As Rudy walks away from the two men, a noticeable shift occurs in his demeanor as he processes the fact that he now knows who Corky's murderer is. Rudy's decision to walk away from the men is not because he does not want to arrest them but because he knows even if he brings them to the police station, justice for Corky is very unlikely to happen.

Ultimately, the unequal power dynamic between tribal and federal legal systems, creates the circumstances in which Rudy's vigilante actions become necessary and warranted. This is a

result of both the conversation with his superiors at the police department but also because of historical examples of injustices and lack of justice for Indigenous people. Rudy's knowledge of who are the murderers is not singularly based on the shoes the teens are wearing but as he sneaks up on them in a field at night, he hears them conversing about the murder of Corky. One says, "I thought I told you to get rid of those boots, man. At least clean them. If someone gets suspicious, they could trace that shit back to Corky's punk ass, man" (27:25-27:32). The confirmation is all Rudy needs to finalize his transformation into knowing vigilantism is the only method for justice. Rudy then sneaks back to his car, covers his face with dark paint, and puts a pair of hose over his face to distort his features before returning to the field where the teens are (28:21). Behind the two teens, you see Rudy approaching from the dark with a baseball bat slowly towards them. After busting their kneecaps with the bat, Rudy says to the two boys, "I'm the ghost of murdered Corky" (29:12). The idea of Corky's ghost returning to haunt those who murdered him is reminiscent of the ways violence and justice are not temporally fixed. As such, Corky's ghost, and the violence his body endured in the last moments, can continue beyond the moment of his death and into the future. Thus, the need for justice regarding his murder similarly continues into the future and forces viewers to acknowledge the ways temporalities of violence and justice are not relegated to a previous moment but are a part of any moment after. Rudy's decision to not enact violence in silence and to call out the boys' own violence against another reveals the ways Indigenous violence can no longer go without acknowledgment. Rudy is instilling fear into the boys while also reclaiming justice for Corky by spelling out whom these actions are for. Rudy's decision to hide his face during this assault primarily rests upon the desire to evade recognition but also because it keeps his acts of vigilantism secret and allows him to continue seeking justice for others besides Corky. In his decision to ultimately function during

the day and at night as two different characters, Rudy shows there are two stories within this one narrative. There is the story of Rudy, the tribal officer, which is the primary focus of the film. This story is one that viewers can easily identify through its plot, setting, and characters. The secondary story is less obvious and functions more symbolically. It represents the lengths to which Rudy must go to achieve his understanding of justice because of the failing of the legal system.

While the primary and literal story does not focus its attention on legal matters, the symbolic story—the story of Rudy’s vigilantism—does by allowing Rudy to function outside legal recourse. Rudy’s necessity to avenge Corky only occurred because the current systems of law and justice failed to do so. Rudy, as a representative of the police force, exists in a liminal sphere between the tribe and justice and his actions work as a bridge, bringing the two together as so rarely happens. While Rudy’s actions are considered illegal and would land him also in jail alongside Corky’s murderers, his actions seem justified due to the lack of response by the proper authorities. Thus, it becomes clear that not only can Rudy identify and bring vengeance upon the murderers, but he also can illuminate the ineptitude of the tribal officers and police department. The inability of the police to solve the murder further extends dichotomies of legality and criminality as they do not see this case as worth pursuing despite the ideologies that justice is always served by members of the police force. This destabilizes the frameworks of justice to thus apply only to those who truly deserve justice in the eyes of those who are investigating rather than justice for all.

The violence within Rudy’s vigilante acts can also be considered an extension of state and federal definitions of justice. More specifically, Rudy’s actions against the murderers of Corky signify settler colonial manifestations of justice because of the violence embedded within

these actions. Historically, settler colonial iterations of justice often included violent and brutal public consequences for perpetrators to dissuade others from acting similarly. While Rudy's actions are not publicly displayed, there is an underlying connection between his sense of justice and the state's. Rudy's desire seems to stem from two places: firstly, his own understanding of the ways the state has historically ignored murders of Indigenous people which fails to be actualized justice for his community and, secondly, from his job as a tribal officer where his training likely reinforced the state's version of justice within his mind as including violence against perpetrators. This reading of Rudy's desire and actions toward justice serves as a reminder of the overextended arm of settler colonial notions of law and legality which impacts other considerations of justice.

Rudy's first act as a vigilante propels him towards a second act which focuses the attention not on individual justice for Corky but on communal justice. That is, he sets his sights on the liquor store which his brother and so many others are dependent upon. At the beginning of the film, Rudy drives into town after being unable to locate his brother at home (06:15). When he finally locates Mogie, he finds him outside the local liquor store, inebriated. This sets the audience up to make the connections of the impact of alcoholism upon the Native community. When Rudy approaches his brother, he is dressed in his police uniform, exemplifying his legal power under the U.S. framework of the law. Mogie's friend tells Rudy "You're the official ass-sniffer of the police department. You all think you're too good for us grassroots Indians (07:11-07:15). In this exchange, there is a clear delineation between Rudy as a member of the police force against Mogie as an alcoholic Indigenous person as well as other members of the community. The usage of the term "grassroots Indians" by Mogie signifies that Rudy has separated himself from those who are seeking to improve the issues which impact Indigenous

people such as police brutality and poverty as was seen in the American Indian Movement. Additionally, this separation between Rudy and Mogie exemplifies the separation between the unequal distribution of the law and grassroots movements which sought to correct this imbalance. Rudy is not included in the “grassroots” Indians because he is not operating in the same way others are in correcting injustices. Instead, he is operating on behalf of the settler colonial government which causes these imbalances and injustices in the first place. These two areas are not meant to coexist and that divide highlights the depth of not only Rudy’s frustrations with liquor but also its impact on his community. As an official member of the police, Rudy is unable in broad daylight to enact vengeance upon the liquor store because it would remove him fully from the legal system which he relies upon to bring about his version of justice.

The destruction of the liquor store becomes Rudy’s next target because of the way it functions as a method of economic control and the capitalistic system as well as its connection to Mogie and the rest of the community. In *Skins*, a reporter is giving an exposé on the liquor industry on this specific reservation. She says, “Tonight’s subject, the multi-million dollar liquor business generated in this small town of Whiteclay, Nebraska, population of only twenty people. Some accuse these white liquor store owners of being bloodsuckers who make a living off Indian misery” (33:27-33:40). The economic advancement of white capitalists through the selling of alcohol to Native peoples echoes how historically, alcohol was introduced to Native Americans as a bargaining and trading item by colonists and European tradesmen (Beauvais). However, as time went on, alcohol was often used in negotiations and colonists found it offered “them a distinct advantage in their negotiations” (Beauvais). The colonists made Native people drunk to gain more land and resources during treaty signings and deals. Similarly, these white liquor store owners capitalize significantly from Native people and gain even more of an advantage over

them. Rudy's understanding of the control the alcohol has over his community is personal as it happens to his father first and then to his brother. The connection between Native people and liquor often feeds the stereotype that Natives are addicted to alcohol and their communities are ravaged by the disease. In his introduction to *Why Indigenous Literature Matters*, Daniel Heath Justice writes,

This story presumes that we're all broken by addiction, or dangerously promiscuous according to pleasure-hating, Puritanical concepts of bodily propriety. It insists that we have a lack of responsibility, lack of self-control, lack of dignity; it claims we can't take care of our children or families or selves because of constitutional absences in our character, or biology, or intellect. (2-3)

The liquor store embodies all these stereotypes while also capitalizing off it. After seeing his brother drunk during an interview on television, Rudy decides to seek justice for the community against this capitalistic enterprise that so deeply connects within his reservation. Rudy once again paints his face black and places the hose over his face and readies himself for vengeance. This time, instead of driving a police vehicle, he drives his own truck to the site which exemplifies the distancing Rudy is now placing between himself and his identity as a police officer. Rudy looks around the liquor store's exterior and begins dousing it in gasoline; he then lights a cigarette and uses it to ignite the gasoline trail to the liquor store (Eyre 35:50-36:20). Rudy later returns after running into a fellow officer who receives news of the liquor store's fire, flashing a smile at the burning building before putting on his officer's jacket and stepping out of his vehicle (37:45). Rudy's returns to the scene of the crime in an official capacity this time. This helps to keep his identity as the fire starter hidden. His ability to transit across the boundaries of vigilantism and policing underscores the instability of those boundaries—particularly when it comes to law and

order. Rudy's criminality is hidden in this situation because of his status as a police officer and fellow officers do not suspect him as the fire starter.

Through burning the liquor store, Rudy sees exactly how deeply entrenched injustice, settler colonialism, and capitalism are within his community when his brother is caught in the fire he began, and he soon realizes the inescapability of the system. While he is still sitting in his truck, Rudy sees a figure, engulfed in flames on the top of the roof (38:00). He hears the person yelling for help and realizes it is his older brother Mogie just as an explosion knocks Mogie off the roof (38:01-38:10). Horrified, Rudy comes face to face with his brother who rolls over, revealing half of Mogie's face and body are seared from the fire (38:23). In Rudy's attempt to bring justice and vengeance to and for his community, he injures the person to whom he is closest, nearly killing him. Rudy's decision to ruin the business directly evokes violence upon his community and, more importantly, his family rather than just upon the business or the capitalist system. Furthermore, the action of escaping and breaking down the settler colonial and capitalist enterprise is always met with resistance, but it also results in claiming and harming someone else because of the enterprise's necessity of possessing an "other." The film suggests that Rudy's choice to act individually against a larger system is met with ambivalence as the actions of burning one store cannot create change in a system designed to make Native Americans fail as well as to erase them. Mogie cries out to Rudy, "Rudy, help me" (38:36). However, Rudy is unable to help Mogie because he was the direct cause of the fire in the first place.

Rudy's motivating factor for choosing vigilantism in Corky's murder and action against the liquor store rather than moving through the state and federal legal system discloses the impasse between the reservation, its rules and laws, and U.S. law imposed upon all who live within the United States. Consequently, Rudy's vigilantism also reveals the way the Native



community as a whole is unable to navigate those laws both historically and contemporarily. When the film begins, it focuses on Rudy when he is driving a police car and zooms in on his face which is masked and painted and he is wearing all black; once he arrives home, he immediately begins washing the dark paint from his face (02:40-03:00). This immediate foreshadowing of Rudy's vigilantism is foundational to the undercurrent of the film itself as Rudy functions both inside and outside of the traditional forms of justice. He drives the official car, representative of U.S. law, while committing acts of vigilantism to gain some semblance of justice for his community. His profession as an officer is the literal and metaphorical vehicle for his vigilantism which moves him into action for the community.

The temporal impact of the violence experienced by the Lakota nation is explained throughout the film via oral history and flashbacks. For example, Rudy experiences a series of flashbacks that remind the audience that despite police presence and, often, directly because of that presence, Native people have endured and suffered violence without ever experiencing justice. The night Rudy finds Corky murdered, he calls for backup before deciding to enter the house on his own, his flashlight scans the room before landing on the bloodied face and body of Corky (09:30). After catching a glimpse of the murderer, Rudy runs after him but is unable to see an obstacle and trips, hitting his head on a rock (09:53-10:11). Once Rudy hits his head, he experiences a sort of historical flashback in which images of violence flashes across the screen: a woman with a bloodied face, presumably from domestic violence; the dead body of Corky; white men in historical outfits holding guns; and the arrest of Native men by white men in suits (10:16-10:36). These flashbacks represent the ways violence against Indigenous men, women, and children continue to impact the present moment through both legality and justice. It reminds viewers that historically Native communities were unable to navigate the impasse of tribal law

and federal law because of the ways settler colonialism creates a hierarchy of federal law over tribal law and tribal sovereignty.

The historical memories of Indigenous people are kept alive through those who pass these stories on by retelling the traumatic and forcible encounters with the U.S. government and its cavalries. While sitting watching a show, Mogie tells his son, Herbie, “That’s Joe Thunderboots. . . He’s supposed to be a direct descendant of American Horse” (50:19-50:27). Herbie follows up by asking who American Horse was and the adults around the dinner table listen as Rudy recounts their people’s history and survivance against the brutalities inflicted by settler colonialism. Rudy recalls how the Lakota people moved to Pine Ridge to protect themselves against the U.S. military forces which had killed Sitting Bull. Mogie interrupts Rudy and states, “Seventh Cavalry was called in to escort them to the reservation and the soldiers disarmed them. Knee was nothing but a damn massacre of women and children. American Horse testified before Congress” (51:23-51:42). Mogie follows up by mentioning the men in Custer’s cavalry who slaughtered the Lakota people “were all given a Congressional Medal of Honor” (51:44). By reminding Herbie of the story of their people and the crimes committed against them, Mogie and Rudy are keeping the memory alive of those who were killed and also reminding Herbie how the law is unstable when applied to those within his community. More specifically, those who murdered Lakota women and children at Wounded Knee were called heroes by the government and so justice was never served. Beyond the murder of Indigenous people, the government also dispossessed them of their land, refusing to acknowledge the Native Americans’ prior existence and reliance upon that land. The Wounded Knee Massacre is one example in a long line of such acts which highlight these instabilities.

Prior to his decision to paint Mount Rushmore, Rudy transforms in his understanding of the role of the individual versus the collective when seeking justice against the instabilities of the law. When Rudy confesses to his brother that he is a vigilante, his brother laughs thinking it is a joke. But he asks Rudy what exactly he does and Rudy replies, "... I just do little things to help our people" (53:31-36). Mogie inquires who "our people" are and Rudy confirms it is the Lakota people he is acting for (53:36-40). Mogie then asks Rudy to "help me blow the nose off George Washington at Mount Rushmore. You know, for our people. Just give them a good laugh. Maybe that's all we need" (54:41-48). At first, Rudy finds Mogie's desire to blow Washington's nose off outrageous and the conversation seems to only be a moment of him admitting his wrongdoings to his brother and admitting to being the reason Mogie's body is scarred irreparably. He leaves the room and does not agree to climb Mount Rushmore for his brother. However, later scenes show the transformation of Rudy's decision to include Mount Rushmore in his list of vigilante acts. Mogie is admitted to the hospital due to pneumonia and other issues related to alcoholism. He asks Rudy to get him some supplies from the local store when Rudy comes across a grey t-shirt with a printed rendition of Mount Rushmore on it but instead of the faces of four presidents, it holds the faces of four Indigenous men (1:09:35). Knowing his brother's disdain for Mount Rushmore, he buys the shirt and supplies and heads back to the hospital. As he enters the room, he finds that Mogie has passed while he was gone to the store and he breaks down knowing his brother's life was cut short and impacted by alcoholism and the capitalistic system (1:10:36). At Mogie's funeral, the community comes together. Rudy is handed a note that Mogie had written him before he passed. Here is where we see the shift in Rudy's awareness that the systemic issues facing his community are much larger than what one single vigilante can address. He drives to the liquor store he previously set on fire, and the young clerk explains the plans for

expansion since the fire. He says, “The owner’s making a killing from the insurance. New store’s gonna be twice as big as the old and with two drive-thru windows” (1:14:21-30). This interaction reignites Rudy’s fire for justice despite the grief of losing his brother.

Rudy’s last act of vigilantism, one which addresses the very foundations of the country, works to reclaim what has been stolen while also reminding the audience how things that have been dispossessed can never be restored. The historical criminality of the United States against Native communities created the current economic and sociological difficulties on reservations today; consequently, the criminality has never stopped, just changed forms. Because of his connection with his brother and his community, Rudy can see the evolution of the criminality against Native people and identify the larger system which upholds those criminal acts. The four faces which look out from Mount Rushmore are one small example of that evolution. Rudy purchases several gallons of red paint and drives just outside of Mount Rushmore where he hikes to the top in the dark (1:16:09-1:18:11). Just before dawn, he reaches the top of George Washington’s head (1:18:24). Before unloading his red paint over the stone face, he says to his now deceased brother, “All our ancestors are waiting for you up there, ciye” (1:18:28). He then tosses the bucket of paint over the edge, soaking Washington’s face. The act of using red paint and dumping it on the face of the monument is a physical reminder of the violated treaty. The semi-permanence of the paint, due to the difficulty in removing the paint and the years it would take for the paint to be worn down, reclaims the land and mimics the permanence of the carving of faces into the sacred stone. The color connects to the people murdered at the hands of the government and the amount of blood spilled to access the resources within the Black Hills. As the faces of four U.S. presidents cannot be uncarved and the land put back in full restoration to its original form, the action of vandalism works to reclaim it in as much form as one individual

can do. This act of so-called vandalism on the face of George Washington, the first president of the Nation who stole Indigenous peoples' land, heralds all the violences which have occurred since the origination of the United States and its frameworks of legality, criminality, and justice.

Although Rudy's actions do not directly impact his community or bring about stability within the legal system, his vigilantism pushes against the systemic injustices brought about by the federal system and fights against the impasse between it and the tribal system. This vigilantism and Rudy and Mogie's conversation about their people's history call forward the need for a collective dialogue rather than individual action. Rudy's actions can only bring individual satisfaction while collective movement can create change for their tribe and Indigenous peoples at large. Consequently, the instabilities of justice continue to abound within the film and despite Rudy's actions. It was their whole community that endured and survived the atrocities forced upon them by settler colonial violence and control and so it must be the whole community that moves toward a new understanding of justice.

### **Law and Injustices in *Almanac of the Dead***

*Almanac of the Dead* uses the character of Sterling to reveal and destabilize concepts of legality, criminality, and justice for Indigenous people. While other characters in the text can be connected to these notions, it is Sterling who provides the most substantial connection between Indigeneity and U.S. concepts of law while also identifying the instabilities within it. Sterling is an older Laguna man who is introduced as the gardener of Ferro, the son of Lecha who is a well-known psychic and major character in the novel. Sterling encounters Ferro while in search of a job and as he was previously kicked out of his tribe. While the reasons for his exile are largely unknown to most of the other characters, Sterling begins to open up to one person in particular and detail his account and life story. Unlike Rudy in *Skins* who seemed initially mired by the

possibilities for justice within the law, Sterling sees the brutal and encompassing ways that U.S. law was enacted against Indigenous peoples. In this section, I discuss how *Almanac of the Dead* presents different memories by Sterling which represent Laguna Pueblo displacement by the U.S. legal system. I use three moments remembered by Sterling to portray the impacts of U.S. settler and legal violence upon the temporality and geography of Indigenous nations. I subsequently argue that these memories reveal the impossibility of the U.S. government and federal law to redress the dispossession experienced by Indigenous people. Ultimately, *Almanac of the Dead* demonstrates how inaccessible justice is to Indigenous nations and the importance of decolonization efforts within the contemporary moment.

The first of these memories Sterling has of the legal system reveals a major moment of displacement by the U.S. legal system as well as the way it created a lasting temporal impact upon children like Sterling and for future generations: Indian boarding schools. Prior to being exiled, Sterling lived as many young Indigenous children did. Sterling could recall the experience as a Native American child being torn from his reservation and forced to boarding school. Sterling recalls, “[He] had been interested in the law since he was a kid in Indian boarding school. Because everything the white teachers had said and done to the Indian children has been ‘required by law’” (Silko 26). In modern considerations of legality and law, it would be illegal for the government to enter a home and take not just one child but an entire community of children; however, such concepts become unstable when applied to Native people because of beliefs in their incapability and incivility.<sup>12</sup> Thus the removal becomes a necessity because of

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<sup>12</sup> In response to such removal of children from Indigenous families and communities, the Indian Child Welfare Act was created in 1978. This act granted tribal jurisdiction “exclusive as to any State over custody proceedings involving an Indian child who resides within the reservation of such tribe or is a ward of a tribal court except where jurisdiction is vested in the State by existing Federal law” (United States Congress). This reinstated the jurisdiction of the tribe to protect and maintain control over where Indigenous children would go in the event of necessary removal. In cases such as Indian Boarding Schools, this act would prevent the removal of children because the tribe would have held power to determine where they would go.

these beliefs. Native people, particularly Native children, are under the guise of protection by the law. Matthew Gregg writes that Indian boarding schools were, “As explained by General Richard H. Pratt, ... aimed at ‘bringing the Indian to civilization and keeping him there’” (19). Pratt also said, of assimilation, “Kill the Indian in him, and save the man” (Adams 52). This integration into “civilization” also meant integration into the legal system and properly adjusting to its control. Therefore, Sterling’s childhood and schooling exemplify the formative experience of how the law relates to the Native.

The removal of children to boarding schools resulted in cultural genocide which would impact generations to come, thus impacting the way Indigenous people related to their cultures and, also, to the law. The narrator of *Almanac of the Dead* asserts,

Sterling knew that sending the children away to boarding schools was the main problem. He and the other children had to learn what they could about the kachinas and the ways to pray or greet the deer, other animals, and plants during summer vacations, which were too short. (Silko 87-88)

The physical separation from their culture and family meant that as the children grew, they would subsequently grow apart from their cultures. This would result in the removal of Indigenous cultures from the United States leaving little to no resistance to the settler state. Upon arriving at the school, children were forced to cut their hair, change their clothing, and adopt a new name and new language. This was the shift from their tribal culture into the settler colonial culture: they were assimilated. Sterling, through his personal history with boarding schools, became interested in the law because of how the law required extensive brutal and violent actions against Native children. For Sterling, the law ripped him from his home, the law stole his Native language, the law forced him to assimilate, and the law mandated that failure to comply

would result in physically violent consequences. Therefore, children learned from an early age the law of the school and the land was to be followed.

The second memory which Sterling uses to explore temporal disruptions as well as the dispossession of his community by the settler state was the theft of “the little grandparents.” The Laguna peoples’ little grandparents were both sacred and spiritual. These stone figures were “old as the earth herself” and prized by the community as they were a reminder of the great journey the tribe had embarked upon from the North (31). The “Great Journey” evokes the sense of a massive movement from a homeland and is an allusion to the Spanish Reconquest of 1699. These early examples of settler colonialism connect the little grandparents to the land through their materiality and their origination. These stone figures exemplified a taking from the earth to remember the history and the home of the tribe. The little grandparents provide a sense of preserving history in the present time for the tribe in *Almanac of the Dead*. When the little grandparents were stolen from the community, the tribe collectively remembers the event with anguish. No sense of time would or could create a resolution for the tribe. Here, *Almanac of the Dead* offers a destabilizing place in traditional notions of law and justice. Because the Laguna people cannot receive protection through the law regarding the little grandparents and their return home, neither can they have justice. Sterling remembers, “Then a message came from the Pueblos up north. Go to Santa Fe, in a museum there. A small museum outside town” and they would find the little grandparents in the museum (32). Upon arriving, the Laguna people realize their sacred items were not the only ones stolen to entertain the white gaze-- it was merely one theft of many. The tribal members “reported seeing sacred kachina masks belonging to the Hopis and the Zunis as well as prayer sticks and sacred bundles” (33). They continue to count the found items, “the poor shriveled skin and bones of some ancestor taken from her grave” (33). The



tensions between the tribal members in the museum seeing the results of stolen artifacts along with an ancestor literally unearthed for the public's view and the museum curators and employees are palpable. The museum employees "had suddenly looked around at all of them as if he were afraid they had come to take back everything that had been stolen." (33). When the museum workers were forced to come face to face with the people from whom these artifacts were stolen, they were less concerned with true justice than preserving the theft which allowed their possession of the artifacts. The Laguna people are bound to follow U.S. laws upon reservation land, as even tribal laws are subsumed under U.S. laws, yet they receive inequitable protection by the same legal system as the treatment of criminal action upon reservation land are taken less seriously. Consequently, this theft from Indigenous people becomes legal and will never be corrected, which leads to an imbalance on the scales of justice.

The imbalance of power and its subsequent illegal actions do not lose their intensity as time passes; rather, time reveals the large scale of the impact as well as the depth of the trauma. "As near as Sterling could tell, injustice had been going on for a long time" and the effects of such injustice would continue to impact the Native community for just as long (26). This Indigenous way of knowing of injustice can only occur because of generational and national trauma experienced at the hand of settler colonial methods of control; therefore, the law becomes a means of making dispossession legal. The novel suggests that law has nothing to do with making justice come to fruition but everything to do with making legal the actions of the U.S. settler government. Legality and criminality then merge into one and the same. Consequently, within legal frameworks, the temporality of the dispossession is highlighted because time does not actionably correct such violences. The action required to rectify the situation does not decrease with time. The stealing of the little grandparents is as large of a violation when it first

happened as when they finally locate the artifacts, and, therefore, the action of restoring them to their community is still as needed as it was when the crime first occurred. The repatriation of the little grandparents would be seen as unnecessary to correct for the U.S. government as they saw the progression of time away from the day the theft as all the corrective action that was needed. More specifically, time creates restitution because of its natural progression which becomes problematic because progress in time does not equate to progress in rights and restitution.

The theft of the little grandparents also reveals the depths to which criminal acts against Native communities continue to have rippling effects today both temporally and geographically. In contemplating the tensions between criminality and Indigenous reservations, Sterling “couldn’t help thinking about the law, and what the law means. About people who get away with murder because of who they are, and whom they know” (26). While the theft of the little grandparents is not a literal genocide of the Native people, unlike other historical events, it is representative of the overall attitude toward Natives. When the statues are found in the museum, the testimony of theft and accusations of criminal acts against Native people are quickly ignored and put to rest. The narrator states, “The assistant curator stood his ground. The ‘lithic’ objects had been donated to the Laboratory by a distinguished patron whose reputation was beyond reproach” (33). The disbelief of Native people regarding claims of wrongdoings reoccurs multitudinous times throughout history and this situation was no different. Because the objects would not be returned to the Laguna people, that criminal act remains as fresh as the day it happened. “All of that had happened seventy years before, but Sterling knew that seventy years was nothing—a mere heartbeat in Laguna” (34). When trauma impacts time, the violation can feel as if it happened an instant prior because time will no longer elapse normally. For the number of traumas inflicted upon Native people, the addition of time cannot and does not change

the impact of the trauma or the pain it causes. Nor does that time bring restitution. This, coupled with a continual refusal of justice, means all the violations of the past are, ultimately, also violations of the present and will continue. Because the current scope of U.S. law is unable to acknowledge the criminal acts by the government, so too is it unable to offer any iterations of justice to Native communities.

Sterling's third memory reveals the impossibility of the U.S. government to redress the wrongs experienced by Indigenous nations across history: that is, the impact of uranium mining on Laguna lands. Sterling's childhood memory of removal was one instance of a lifetime of interactions with legal measures which began before him and continued after him. Furthermore, each instance inflicted oppression upon him and his community. With his return to the reservation, Sterling reflects, "There were hundreds of years of blame that needed to be taken by somebody" (34). In the time of the Cold War (1950-1980), the Laguna reservation was rich in uranium which the government needed to build weapons against potential invaders. Sterling remembers, "That was the reason given by the federal government as it overruled the concerns and objections the Laguna Pueblo people had expressed" (34). We once again see Native sovereignty overruled in favor of the U.S. government and so tribal law/sovereignty is subsumed within U.S. law. The overruling of Native sovereignty represents resource control that relies upon lawful illegality. Sterling recalls the uranium mining debates, ". . . The old-timers had been dead set against ripping open Mother Earth so near to the holy place of the emergence" (34). The U.S. government not only had to receive access to the uranium to build weapons for a potential war, but they also had to reassert control over the Native tribes. Sterling claims they accomplished this by overruling Native laws and violating their sovereignty in making decisions about land in their possession.

Imbalances of power, denial of sovereignty, and Native dispossession are unable to be rectified for the Laguna people and result in the loss of community for Sterling himself. The narrator states, “The mine had destroyed Sterling’s life without Sterling’s ever setting foot near the acres of ruined earth at the open pit” (35). Despite Sterling’s physical separation from the mine, he still is punished for the injustices its creation caused. During the mining of the reservation, an ancient relic is uncovered: a giant stone snake. “If there hadn’t been the mine, the giant stone snake would not have appeared, and the Hollywood movie crew would never have seen it or filmed it” (35). This stone snake functions as “spirit messengers . . . come from the gods with dire warnings of more suffering and bloodshed to come” (Van Dyke 39). The attraction of the giant stone snake to film crews is what gives Sterling the job of looking after the crew to ensure they do not steal any sacred objects. However, it is this same job that becomes his downfall. When the film crew photographs the giant stone snake and, later, federal drug enforcement officers bust the crew for using drugs, Tribal Council calls a meeting to determine responsibility and punishment for Sterling rather than where the responsibility truly exists—the film crew. It was not the drug usage which was the main offense, but the filming of the giant stone snake and the way other white people would now know of its existence and try, once again, to steal sacred objects from the Laguna people. However, toward the end of the narrative, “Sterling knew why the giant snake had returned now; he knew what the snake’s message was to the people. The snake was looking south, in the direction from which the twin brothers and the people would come” (Silko 763). The snake’s appearance offers a warning of a time coming when the earth would experience a catastrophic event “which humans may not survive” (Van Dyke 44). Therefore, protecting the snake, its message, the earth, and its resources become all the more important with its appearance. These events and actions of the film crew Sterling had

no control to change the outcome. In this instance, fear becomes the main factor for the Tribal Council's extreme discretion when it comes to the sacred object; history has proved they will not be protected against the dispossession of that object nor from the wrath coming in the future. Furthermore, the uranium mines also had very real environmental impacts which cannot be justified: "A 1981 study in Navajo babies showed that congenital anomalies, developmental disorders, and other adverse birth outcomes were associated with maternal proximity to uranium mining operations, tailings, or mine dumps" (ctd. Lewis). The effects of open uranium mines upon the bodies of Native people, past and present, make it difficult to comprehend the extent to which justice, if it were to occur, would look like. Justice can never appropriately recompense Native tribes for their violations.

The fictional world of *Almanac of the Dead* has a real-world counterpart that contemporarily impacts the land and the health of Indigenous people in such catastrophic proportions that redress becomes nearly impossible. This example can be seen in the Jackpile Mine in New Mexico, located just off the reservation of the Laguna Pueblo people. This mine was one of the world's largest open-pit uranium mines from 1952-1982 and produced about 25 million tons of ore (Thomson). The opening of this mine created numerous jobs and considerable income for the local tribes' members, enticing them to accept the offer of opening a mine from the Anaconda Mining Company, later Atlantic Richfield. In 1982, Atlantic Richfield decided to close mining operations because of a lack of continued profit (Lorenzo 8). Overnight, this caused extreme economic distress to the Laguna community due to an unemployment rate of nearly 80% (Lorenzo 8). Because of the economic benefits and necessary reliance upon the employment provided by the uranium mine, the Laguna Pueblo tribe was left with no choice but to accept the terms outlined by Atlantic Richfield. Capitalistic notions assume this transaction to

be of free will and voluntary choice, however, economic restrictions of Indigenous people by colonialist governments are left to accept such offers despite any hesitancy to do so. In such cases, uranium is the coveted resource, and the U.S. had no prior rights to it since the land was under the possession of the Native Laguna people. This transaction is assumed legal only because the coercion is economic rather than physical. The U.S. needed to have an economic system that allowed them to dispossess the Native people through legal methods to avoid responsibility. The United States cannot be considered a criminal in this sense because of its establishment over hundreds of years through settler rule. Consequently, the land is mined for uranium and, like Mount Rushmore, physically destroyed beyond hope of restoration.

Ultimately, *Almanac* argues that the law, and justice for dispossession against Native people, cannot be relied upon to bring justice for Indigenous nations because it does not recognize their sovereignty as independent nations. More specifically, the law imposed upon Native communities is not their own; rather, it is the law created by a settler system. If Native peoples' sovereignty were recognized, U.S. law would not infringe upon their communities and their rights. For sovereignty to be recognized, there would be a truly reciprocal relationship rather than a dominating one between the United States and the many Indigenous nations located within the U.S. For example, in the decision of whether to use the uranium mines for U.S. advancement, the tribe's sovereignty could not be recognized because it would block the U.S. from achieving its goal. Sterling says, "So the Tribal Council had gone along with the mine because the government gave them no choice, and the mine gave them jobs. They became the first of the Pueblos to realize wealth from something terrible done to the earth" (Silko 34). Consequently, the Laguna people agreed to the mining but only because their refusal would be ignored, and they would lose the opportunity to benefit economically. Therefore, the Laguna's

agreement was economically coerced and their sovereignty was ignored and diminished. The way “the government gave them no choice” forced the Tribal Council into an agreement. Had the Tribal Council said no to the uranium mines, their voice would have been silenced and the government could have maneuvered to take the land anyway. Sovereignty would imply the Tribal Council’s decision would be one without coercion and fear of the government retaliating against that decision. Consequently, their sovereignty is removed because the voice and choice they ought to have were taken by the federal government and law. Ignoring the sovereignty of a nation leads to effects upon the community which extended far beyond the moment of violation. If Native laws and treaties were valued by the government, the issue of sovereignty would never have been breached because it would have been considered illegal to infringe upon another nation’s sovereignty. Because Native nations are not considered fully sovereign in this case—as their sovereignty is subsumed within U.S. laws—it is fully permissible to violate Native treaties and laws. This level of intrusion, then, can only be recognized if Native nations are fully recognized, as without such recognition the injustice does not exist.

### **Conclusion: Justice Redefined**

If we begin to reconsider the histories surrounding legal practices and our national current definitions of justice and injustice, the trends of control as methods of determining (in)justices become clear. In her book, *The New Jim Crow*, Michelle Alexander asks “But what have we learned about the true meaning of justice?” (xxxvii). While Alexander posits this question about mass incarceration of nonviolent Black men, I suggest we pose this question toward the reservation and toward the injustices done to Native Americans. The answer lies in the history we teach and repeat to our future generations. The desire to control the narrative, erase the historic atrocities from the story, and manipulate the current understandings of such

histories underscores the fact that justice cannot come to fruition. Consequently, justice also must become action. Justice has been so often misrepresented that it is hard to know what it, in its truest form, looks like.<sup>13</sup> Therefore, we must pose the question: is justice possible within the legal forms which currently exist? Are alternate forms of the law required to create justice?

For both communities within *Almanac of the Dead* and *Skins*, we not only see a fight against settler colonialist oppression but also the striving for correcting the injustices against Native peoples. Sterling's community's reconnection with the artifacts reminds them how these injustices ought to be corrected and, as was quoted previously, "The Laguna delegation later recounted how the white man had suddenly looked around at all of them as if he were afraid they had come to take back everything that had been stolen. In that instant white man and Indian both caught a glimpse of what was yet to come" (Silko 33). The white fear of Native people taking back what is theirs is not just about the little grandparents and sacred idols—it, instead, is about the entire history of dispossession and injustices done to Native Americans. It hinges on their sovereign rights to "take back everything that had been stolen." Doing so would cause a major upheaval of everything America has been built upon—stolen land, stolen bodies, stolen histories. Toward the end of the novel, Sterling returns home, lives in a shed on his family's property, and seems to slowly reintegrate into the society which cast him out. This, however, is not justice as he is not accepted fully nor exonerated of the crimes he was originally accused of. However, the novel also seeks to extend another point of view when imagining justice for their people. There is a portrayal of reclaiming of land stolen from them during the time of Columbus to the present moment. There is a uniting against "the Destroyers," as the novel calls them who have left earth

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<sup>13</sup> There are many scholars and writers who have suggested that justice needs to be centered around Indigenous voices. Some of whom are: Jodi Byrd, Vine Deloria Jr., Daniel Justice Heath, Mark Rifkin, Stephanie Woodard, and Cecelia Rose LaPointe.



ruined, through tribes from both North and the South coming together.<sup>14</sup> Thus, justice takes the form of a mobilization by Northern and Southern tribes across borders instituted by settler systems of power. In some ways, justice comes together through the unity of the tribes.

In *Skins*, Rudy's violent reclamation of justice, through vengeance for Corky's murder and the liquor store, negatively impacts his community and family; however, with his final action of dumping red paint upon the face of George Washington at Mount Rushmore, he symbolically avenges his community in a way that does not inflict harm upon them. The unrestorable land, forever ruined by grandiose gestures to the white faces of colonialism, represents hundreds of years of legal theft. Within this film, symbolic gestures of justice become paramount because of the inaccessibility of the justice system to receive reparation and restoration. As previously stated, the justice system and concepts of legality and illegality which framed it, merely promoted white profitization off the colonial exploitation of Native and Indigenous people. The overbearing nature of colonial legal structures makes it impossible to experience justice outside of other means. Therefore, symbolic gestures of justice are the only available methods to Rudy within his position as an Indigenous man. This symbolic justice does not achieve systemic change for Rudy or his family; however, it does provide a brief glimpse of how justice can feel when actualized.

Between *Skins* and *Almanac of the Dead*, we see a continued theme throughout time: dispossession of justice and sovereignty through (il)legal means. Just as the white faces of Washington, Jefferson, Lincoln, and Roosevelt still loom over the sacred Black Hills and sacred objects are still held hostage in museums after being stolen from Indigenous tribes, the violence of settler colonialism continues. The concepts of law and justice are ambiguous and unstable at

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<sup>14</sup> Jane Olmsted suggests that "the Destroyers" are "linked regardless of 'race' or 'nation'" (465).

best for individuals who exist on the margins and iterations of the law simply reify that instability. The novel and the film assert that justice can be realized but only beyond the current U.S. legal system and only through a system which can implement Indigenous forms of justice rather than settler notions.

**CHAPTER TWO: “JUST ANOTHER WAY TO LYNCH A BLACK MAN”: THE  
EVOLUTION OF ENSLAVEMENT INTO MASS INCARCERATION IN *BELOVED* AND  
*JUST MERCY***

Outside of Morganton, North Carolina at the Burke County Courthouse stands a statue of a Confederate soldier. The statue faces north, toward the threat of the Union and the threat of emancipation (NC Campaign to Remove Confederate Monuments). The Confederate soldier, a signifier of racial oppression through enslavement, outside of a courthouse, functions as a reminder of the ways the legal system functions against those who are from Black, Indigenous, People of Color (BIPOC) communities. This statue’s location offers a clear message about the impact of white supremacist values and ideals upon the legal structures and legal decisions (“Correcting History: Confederate Monuments, Rituals, and the Lost Cause”). This one statue is not alone in its positionality outside a courthouse; it is simply one example of a plethora of statues situated in the same way. Similarly, it reveals how time and space function together particularly in relation to the law. Another well-known image in correlation to courthouses are the “scales of justice” as represented in relation to Lady Justice, or Justitia. These are intended to represent justice as blind and as equal measure to crimes committed. However, these scales are also reminiscent of the scales of economics and measurability of worth in which the weight of a criminal action is stripped down to something one can weigh and find an exact value in. However, it is not what is found on the scales which constitutes “justice,” as Wai Chee Dimock argues rather justice is “haunted always by what it fails to encompass” (9). Furthermore, Dimock asserts there is an “uneven primacy’ of justice” as “a phenomenon analyzable not only

across time but also across the cultural landscape at any given moment; for the differentiation among cultural domains must bring into play, I think, a significant unevenness among their languages of justice” (8). Consequently then, justice is not blind, nor is it sorted through the scales which Justitia holds; rather, justice is uneven in its application and should be aware of the temporal, racial, and cultural differences within each case presented. Additionally, justice varies across the differing cultures and contexts in its understanding and application. When a community portrays lingering signifiers from the Civil War which upheld the structure which deemed African Americans as less or even inhuman, it becomes clear that justice will not be even in its application nor will it offer any awareness of racial, cultural, or temporal differences. The methodologies of control implemented through the legal system, similarly to the scales of justice, are all founded upon settler colonial enterprises and economic systems. These systems have continued to evolve with the expansion and continuation of the United States and this statue reinforces what many scholars have argued for years: enslavement did not end with emancipation, it simply changed forms. Just as the statue exists today, so too do the forms of oppression which made enslavement possible. Thus, with the evolution of the juridical processes, legal instabilities begin to occur due to the way settler colonialist and capitalistic endeavors perceive race as a hierarchy rather than socially constructed. Legal instabilities speak to the uneven application of the law where those who do not fit within a dominant white, heteronormative culture are systematically oppressed through the law and receive less protection by the law. In such cases, we see the African American community harmed by laws which increase, shift, and sustain domination in order to achieve settler goals.

I begin with this example to highlight how justice is not a core part of the legal system because the way the legal system still relies on such methodologies of control.<sup>15</sup> In this chapter, I analyze Destin Daniel Cretton's *Just Mercy* alongside Toni Morrison's novel *Beloved* to trace how legal instabilities, reinforced by settler colonialism, still seek to maintain control over Black bodies and Black lives within settler capitalist systems through pre- and post-emancipation, offering a continuous thread of domination. Taken together, these cultural productions portray how historically settler colonial temporalities—from enslavement to mass incarceration—seek to erase Black temporalities; additionally, these productions also demonstrate how the law and its legal instabilities still impact the temporal beings of the characters' current lives post-emancipation.

First, I attend to Toni Morrison's novel, *Beloved*, which focuses on the lives of Sethe, her daughter Denver, and her seemingly back-from-the-dead daughter Beloved. Using temporally disjointed narration, the novel tells the story of Sethe and how she killed Beloved out of desperation to escape enslavement and to protect her young daughter from the fate which awaited her as an enslaved person. *Beloved's* reliance on flashbacks allows readers to experience the ways enslavement disrupts the temporality of these characters in ways strong enough to impact their contemporary moment. Even more so, *Beloved* functions differently than many other novels because, as Maureen Ruprecht Fadem argues, "It is a historical novel in which the tie to political history is inseverable and its status as historical representation undeniable" (42). Through *Beloved*, historical representations of enslavement are not relegated to the past but

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<sup>15</sup> These methodologies of control are primarily systematized actions by and for the government or settler state which imposes inequitable situations upon communities or individuals in order to preserve the status quo which primarily benefits White, heteronormative people. Methodologies of control are systems which impact identity such as race, class, gender, and ability which function to create a hierarchy of humanity. Within the legal system, methodologies of control are seen in increased sentences and prison time for men and women of color as well as increased policing of BIPOC communities.

impact the present. Therefore, this temporal disruption recenters the lives and experiences of previously enslaved figures while the settler history works to decenter them. I argue *Beloved* portrays how legal frameworks, as well as their inconsistencies, function to control the temporalities of Paul D, Baby Suggs, and Sethe both pre- and post-emancipation. Furthermore, the narrative employs both temporal control, as well as temporal disruption which functions as extension of that control, to demonstrate the continual impact of enslavement upon the temporalities of the characters.

Next, I focus on the film, *Just Mercy*, produced by Destin Daniel Cretton. This film was based on the book written by civil rights defense attorney, Bryan Stevenson, and presents the life of Walter McMillian and several other inmates wrongfully convicted on Alabama's death row, whom Stevenson worked to free. This film, like the memoir, "reveals a system driven more by vengeance than fairness, political opportunism than due process, one where scapegoating by race and class routinely violates truth and justice" (Ramsey 324). These inmates had been falsely accused and found guilty because of the racial prejudices which plague the legal system in both the South and beyond. The film also utilizes flashbacks to demonstrate the ways Jim Crow era policies and laws—which evolved out of enslavement—impact the temporality of imprisoned African American men through traumatic encounters with the law and its representatives because of the ways those traumatic encounters are imbedded in the psyche of the imprisoned. I argue *Just Mercy* provides a distinct opportunity to not only understand the evolution of enslavement into mass incarceration but also the way that legal instabilities contributed directly to this evolution. *Just Mercy* identifies how the bodies and lives of Black inmates and attorneys are regulated and controlled by settler capitalist systems of power by using corporal threats,

punishment, and temporal control;<sup>16</sup> as such, the film reveals a connection between enslavement and contemporary policing through mass incarceration.

By reading these two cultural productions together, novel and film, we can see the historical movement from enslavement to mass incarceration within the African American community but simultaneously understand the impact it has on the individuals represented through characters. While both narratives demonstrate the use of temporal disruption via flashbacks, the cultural productions similarly create space to consider the impact of settler imposition, legal instabilities, and injustices upon the temporality of the plot. However, their different forms also allow for variations in experience between reading and viewing such disruptions. *Beloved*, a historical fiction novel, allows us access to inner dialogue and to know the characters' thoughts and feelings—both because the author shows us and the narrator tells us. The disjointed narrative sprawls across pages without chapter titles or formal organization which relates to life pre- and post-emancipation where the lives of Black men, women, and children were disjointed and function differently than the experiences of White-centered novels and lives. *Just Mercy* is also historically based and follows a disjointed narrative approach but through cinematic features. Film allows us to see the physical expressions of characters and their interactions with the world around them but we are left to pick up on clues of mood, tone, and feelings based on contextual clues left to the audience. Viewers must process not only their own interpretation but also the interpretations of those who created the film while understanding the historical intersections of the film. By examining both historically based texts together, we can better understand the lived experiences of those the narratives are based upon. Both *Beloved* and *Just Mercy* are based upon real stories and real people who lived through the traumatic and

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<sup>16</sup> Temporal control within prisons in America often look like the literal control of the inmate's day and its progression. However, it can also refer to the sentence received for perceived crimes and guilt.

abusive experiences of the narrative; therefore, readers can process the temporal impact of enslavement and incarceration upon the characters as the narrative unfolds.

Additionally, the different flashbacks within *Beloved* present how within the economics of enslavement, the temporality of the enslaved must be disrupted to attend to the economic needs of the enslaver. More specifically, the crops and laboring requirements in an agricultural and plantation setting must be done during specific seasons, times, and days. The labor of the enslaved must function within that temporality to achieve the highest economic success for the enslaver. Megan Sweeney's assessment of *Beloved*, as well as other novels by Morrison, implies that U.S. law is unable to create justice because of the ways the justice system relies on commensurability-based logics which reify slavery (441).<sup>17</sup> These commensurability-based systems allow for the evolution of enslavement into the modern-day mass incarceration system. Sweeney writes,

The need to theorize this interrelation takes on added urgency in light of the exponential increase in incarceration rates in the U.S., and in light of the continuity between prisoners' commodification in the convict lease system that substituted for slavery, and their ongoing commodification through the flourishing of private prisons and low-wage prison labor. (442)

I contend that *Beloved* and *Just Mercy* allow for an examination of this continuity and the ways justice is inadequate to address repatriation and restitution for enslavement and mass incarceration. It is because of the idea of commensurability within justice that "*Beloved*

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<sup>17</sup> Sweeney writes "Although the scales of justice and the slave market would seem to be utterly opposed as images of equality and inequality, Morrison's later fiction increasingly illustrates how the logic of commensurability that undergirds dominant conceptions of justice actually replicates the logic of commodification that undergirds slavery" (442).



illustrates the impossibility of commensurability in the context of slavery, given all that cannot be accounted for in a system of justice that allows for the commodification of people” (441). This thought can also be applied to *Just Mercy* because of the evolution from enslavement to mass incarceration and the reliance upon the same central tenets of control which led to their success.

There are specific scholars who have addressed the connections during and after enslavement which correlate with this dissertation, and particularly this chapter. Saidiya Hartman’s *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* focuses on the continued afterlife of slavery beyond emancipation. Hartman calls this afterlife of enslavement “temporal entanglement” which begets the idea that enslavement has not yet been fully resolved and still functions today, bringing history to the present moment through history considered previously resolved through legal emancipation (xix). Furthermore, the economic, racial, and cultural issues connected with enslavement similarly function today creating the “afterlife.” Hartman’s project examines the extent to which slaves were viewed as property and “a subject who is socially dead and legally recognized as human only to the degree that he or she is criminally culpable” (33). Thus, it is in the sole recognition of African American men and women as “criminally culpable” the afterlife of slavery also continues into mass incarceration today. As this chapter explores, *Beloved* particularly focuses on this experience of the enslaved person as only recognized as human once they are legally responsible for a crime. The narrative of Sethe and her family post-emancipation represents the afterlife of slavery both immediately and in the decades after.

Following Hartman’s assessment of the afterlife of slavery, Sharpe described in her book, *In the Wake: On Blackness and Being*, how “U.S. racism cut through my family’s ambitions and

desires” and continues to demonstrate the extent to which racism and the afterlife functions today. She argues that the “wake” as a metaphor of racial experiences in America can be related to its multiple definitions. She asserts,

If, as I have so far suggested, we think of the metaphor of the wake in the entirety of its meanings (the keeping watch with the dead, the path of a ship, a consequence of something, in the light of flight and/or sight, awakening, and consciousness) and we join the wake with work in order that we might make the wake and *wake work* our analytic, we might continue to imagine new ways to live in the wake of slavery, in slavery’s afterlives, to survive (and more) the afterlife of property” (17-18).

Subsequently, the wake portrays how “our individual lives are always swept up in the wake produced and determined, though not absolutely, by the afterlives of slavery” (5). Sharpe asserts that “racism, the engine that drives the ship of state’s national and imperial projects... cuts through all of our lives and deaths inside and outside the nation, in the wake of its purposeful flow” (3). The purposeful flow of enslavement, I assert, mirrors the purposeful flow of colonialism which sweeps up subjects in its movement leaving destruction behind.

### **Representations of Legal Instabilities<sup>18</sup> in *Beloved***

Toni Morrison’s *Beloved* offers a site to recognize, remember, and address the ways psychological and physical scars are representative of the violences experienced through

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<sup>18</sup> When referring to legal instabilities regarding African Americans, I am referring broadly to the ways the law, and its refusal to protect enslaved Africans from its conception, works on a sliding-scale regarding to whom it affords protection. These legal instabilities began at the outset of the Transatlantic Slave Trade in which over 10.7 million Black men, women, and children were kidnapped and sold into enslavement in South, Central, and North America (Equal Justice Initiative, “Slavery in America”). While kidnapping and trafficking is prohibited in United States, the legal ramifications for breaking this law was not extended to enslaved Africans. In fact, the U.S. government specifically added new laws and clauses to the Constitution which allows for enslavement of African Americans. The U.S. created the “Three-Fifth Compromise, the ban on Congress ending the slave trade for twenty years, the fugitive slave clause, and the slave insurrection” which related to enslavement and kept the institution flourishing (Bill of Rights Institute). Consequently, I assert that the uneven application of the law and the Constitution to all

enslavement. The forced labor held violent and brutal experiences behind it as well and these violences left physical scars upon the body as reminders of the threat and the violence of white supremacy. In addition, *Beloved* demonstrates what items are left out of the measurements of justice such as psychological traumas and violences. It is through understanding the physical and psychological remnants of enslavement upon the bodies and psyche of Sethe, Paul D, and Baby Suggs that we can understand the extent to which enslavement still impacts their past, present, and future. In this sense, *Beloved* demonstrates what Habiba Ibrahim and Badia Ahad state as “the traumatic.” They write, “The traumatic suggests that devastation has already happened, that it exists in the past tense. Yet, the prolonged state of crisis creates a sense of liminality that is neither past nor present” (2). The opening of the novel focuses on the crises which arise regarding emancipation, which occurs within a decade of the start of the novel. In 1863, the Emancipation Proclamation was issued by President Lincoln during the height of the Civil War. While this proclamation did not formally free the enslaved people of America, it was the beginning of movement toward freedom.<sup>19</sup> The legal abolition of slavery through Congress occurred in 1865, which highlights the newness of freedom for Sethe and her family. Consequently, *Beloved* highlights these landmark decisions regarding freedom because of its impact upon characters like Sethe. Scholar Ruprecht Fadem asserts that “within the immersion of memory, *Beloved* self-reflexively alludes to America’s failure as a nation to remember, and

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humans within the United States are legal instabilities which are purposefully used and created by those who wish to maintain the white, normative status quo of America.

<sup>19</sup> The conceptualization of freedom, according to scholars, is not just “the opposite of bondage” (Hartman xvii). It is more because it is “a right to move through life with genuine self-possession that can only be rooted in the satisfaction of basic human needs and desires” (xvii). The overused idea that freedom is simply removal of bondage allows for the evolution of systems such as enslavement because it rationalizes the movement to mass incarceration for African Americans in particular. Consequently, “the freedpeople enjoyed an ever-brief moment in the sun only to return to a condition as near to slavery as slavery itself” (xvii). Hartman asserts that “American freedom, liberty, justice, and ultimately democracy came into being through slavery, genocide, rape, dispossession, murder, and terror” (xviii). It is through the traumatic abuse and oppression of BIPOC individuals that America as we know it was born.

discern, to address and redress, a critical criminal legacy: its history of slavery, both in terms of those brutalized and impoverished under its auspices and those simultaneously secured and made prosperous” (Fadem 41). In addition, the violences enshrined in the “critical criminal legacy” of the United States create temporal disruptions which are interlinked with methodologies of control and oppression relied upon by settler colonial systems of power. These violences continue with emancipation due to the legal instabilities within U.S. frameworks of law just as they did with enslavement.

I argue that *Beloved* illustrates how legal frameworks, and their legal instabilities oppress the temporalities of Paul D, Baby Suggs, and Sethe both pre- and post-emancipation. The narrative is disjointed as it fluctuates between the past and the present of the characters through flashbacks. Such disjointedness can also be considered temporal control, as well as temporal disruption which functions as extension of that control, to demonstrate the continual impact of enslavement upon the temporalities of the characters. I wish to employ Saidiya Hartman’s term “temporal entanglements” to describe the experience of Sethe because it “best articulates the still open question of abolition and the long-awaited but not yet actualized freedom declared over a century and a half ago” (xxix). In this chapter, I first establish the scope of temporal control as experienced within *Beloved* as well as its impact upon the characters during the time of enslavement. Next, I identify how temporal control and temporal disruption continue to perpetuate control in an emancipation era despite the legal ending of enslavement and the ending of an appearance of physical control over African Americans. Lastly, I explore how temporal control relates to notions of the law and justice through the characters’ lives.

Temporal control is pivotal to the system of enslavement in order to dominate the lives of enslaved people while providing success to the enslaver. When I refer to the term “temporal

control” I am referring to the ways in which time is manipulated to become an oppressive tactic by individuals in power. More specifically, during the time of enslavement, temporal control was exerted over enslaved African Americans by white enslavers to produce economic profit for the enslavers. Temporal control would be experienced by enslaved people as the times during which they were required to labor for the enslaver. This time would be inflexible often not even allowing for moments of reprieve from the weather conditions or from the exhaustion continual labor would bring. Their days and, subsequently, their nights were all held in the power of the enslaver. Furthermore, temporal control also can relate to the ways enslavers held control over when an enslaved person became free or, more sinisterly, when they would die. Enslavers had the power to grant freedom to enslaved people, as seen in *Beloved*; however, that decision would only come about if the enslaver felt they had been justified in the amount of time and labor they had received from the enslaved or received monetary compensation on behalf of the labor lost. Consequently, the date and time of freedom was held entirely in the power of the enslaver. The threat of return to enslavement or revocation of freedom would also threaten the temporality of the enslaved because enslavers held the power to coerce them into positions of forced labor once again. The brutalities which faced enslaved people could lead to a lynching of a member of the community or a beating by the enslaver which could be so violent it led to the death of the enslaved. The temporal control of life and death held by enslavers was ensured by violent actions toward enslaved people to achieve maximum compliance, economic gain, and continued oppression of African Americans.

Enslavers, as exemplified within *Beloved* but also throughout history, require temporal control of enslaved African Americans to achieve the results of labor desired for economic success. This is displayed through Paul D’s remembrance of how time functioned on the Sweet

Home plantation owned by Mr. Garner. While lying next to Sethe, Paul D recollects their life at Sweet Home and the other men there; he also remembers this alongside the beauty and the trauma Sweet Home held. He recalls the way time impacted him and the other enslaved people at Sweet Home, especially Sixo. Paul D states, “Time never worked the way Sixo thought, so of course he never got it right” referring to a time Sixo planned a thirty-mile trip to visit a woman as Sixo miscalculated his time and did not make it back to the plantation in time to rest up before the week’s work began (25). Paul D recalls, “Halle and the Pauls spent the whole day covering Sixo’s fatigue from Mr. Garner” (25). In this instance, Sixo’s time functions under the time of the enslaver rather than his own temporality. He plans an outing on the day he is off but finds that his time, no matter how he plans it, does not align with settler time which privileges his enslaver rather than him. The statement “he never got it right” reminds readers that he would never get it right as long as he worked at the plantation. His inability to align with settler time must be hidden from Mr. Garner to prevent punishment. The Pauls and Halle understood the importance of pretending Sixo’s labor was never missing even though he was unable to participate in the work.

Temporal control was exerted through the control of when an enslaved person could or would become free. Baby Suggs eventually received freedom from her enslaver, but it is not out of an act of moral repentance by Mr. Garner, her enslaver, rather it is an economic exchange centered around time and labor of Baby Suggs and her son, Halle. Halle agrees to give up “five years of sabbaths just to see her sit down for a change” while he is just twenty years old (13). Age affects the laboring ability of Baby Suggs, while Halle’s body is not yet broken down by the system of enslavement. Compared to the few years Baby Suggs had left, Halle’s many years of future labor gives more economic advancement to Mr. Garner especially considering he works

weekends or can be rented out by Mr. Garner for weekend labor at other farms. Upon receiving freedom, Mr. Garner's friends, the Bodwins, gave Baby Suggs her own place to live provided she would do some work for them in exchange. Baby Suggs agrees but when she is dropped off there by Mr. Garner, he takes a moment to talk about how his version of slavery is not as bad as other versions. Mr. Garner proceeds to ask her if she ever went cold or hungry, or if anyone ever hit her while she lived on his farm and she replies favorably. He also asks, "Did I let Halle buy you or not?" (172). This assertion by Garner makes it clear he possesses the power to control if she receives freedom and if she does, then when she receives freedom. Baby Suggs replies, "'Yes, sir, you did,' she said, thinking, But you got my boy and I'm all broke down. You be renting him out to pay for me way after I'm gone to Glory" (172). Baby Suggs is aware of the dynamics between her freedom and her enslaver and that all the power remains in his hands. She responds in agreement with him to keep her freedom from jeopardy. In her internal dialogue, she also states that she is aware that Halle's body is capable of different and longer labor than hers and that Mr. Garner will be able to capitalize off his labor even when she's dead. She is not as valuable as Halle is to Mr. Garner so his ability to keep her son is paramount to his economic success.

By understanding the ability of Mr. Garner to wield this level of control, we recognize the way U.S. structures of law supports his positionality as an enslaver while leaving Black Americans to suffer at the hands of this control. Additionally, enslavement, as a core piece of capitalism, implements temporal control via brutality to maintain and produce the labor needed for economic success which enslavers like Mr. Garner rely upon. Edward Baptist writes, "The idea that the commodification and suffering and forced labor of African Americans is what made the United States powerful and rich is not an idea that people are necessarily happy to hear. Yet it

is the truth” (19-20). A fundamental tenet to capitalism is the laboring body, so, therefore, the enslaved African became the laborer as their forcibly free labor created more economic increase for their enslavers, as was temporal control. As such, “Before the Civil War, people could buy, sell, and mortgage property in humans, generating massive profits for enslavers, bankers, and others” (Kleintop 561). This system would shape “every crucial aspect of the economy and politics of the new nation” (Baptist 20). Therefore, we can assert that the new nation’s legal frameworks were shaped by capitalism’s need for a large laboring force. This key requirement for capitalism made Mr. Garner’s possession of enslaved people not only necessary but legal. Enslavers like Mr. Garner utilized this to their advantage by implementing temporal control. Thus, his temporal control was inevitably an extension of the legal control given to him by the settler state. Additionally, while Mr. Garner and others might have seen the humanity within those enslaved, they did not allow that humanity to influence their desire for full control. More specifically, Hartman asserts that in such cases “declarations of slave humanity intensified the brutal exercise of power upon the captive body rather than ameliorating the chattel condition” (5). Thus, by acknowledging the humanity of those enslaved, the human condition must be controlled even more because of the labor required.

The methodologies of control through temporality extended not only beyond the control of day and night of enslaved people and their freedom from their enslaver, but also through the time at which death could come for them at the hands of their enslavers or other white people. The life of Baby Suggs mirrors such experiences while also highlighting how temporality, through life and death, was shaped by settler law and settler violence. According to the narrative, Baby Suggs’ life is marked by the life and death of those around her; especially the life and death of her children who were born into slavery while her life is marked by enslavement and then



freedom. Sethe explains to Paul D "... but to listen to her, all her children is dead. Claimed she felt each one go the very day and hour" (9). Baby Suggs is aware that her children died not because she was with them when they passed but because of the knowledge that the brutality of enslavement would eventually kill most of the enslaved African Americans due to either lynching, death from violent assaults by an enslaver, or death from overworking. Baby Suggs tells Sethe "I had eight. Every one of them gone away from me" (6). The lives of Baby Suggs' children were robbed through the institution of enslavement just as the life of Sethe's mother was robbed from her. Upon remembering her mother, Sethe says,

She picked me up and carried me behind the smokehouse. Back there she opened up her dress front and lifted her breast and pointed under it. Right on her rib was a circle and a cross burnt right in the skin. She said, "This is your ma'am. This," and she pointed. "I am the only one got this mark now. The rest dead. If something happens to me and you can't tell me by my face, you can know me by this mark." (72).

Sethe recalls very little about her mother beyond this moment because of how little she saw her due to the temporal control of enslavers upon the enslaved. Sethe's mother would often be up working very early or working very late to meet the demands of the overseers. Time and memory intersect here because Sethe, through the act of remembering what had been forgotten, is transported back to a moment with her mother. Sethe remembers her mother was later lynched. She says, "By the time they cut her down nobody could tell whether she had a circle and a cross or not, least of all me and I did look" (73). Sethe's mother lacked control over time while she was alive and even in death. She was forced to adhere to enslaved temporality in life and in death her body remained an example of the way time could be cut short by lynching. The extralegal process of lynching and time intersect here because of the way the White community could and

would brutally murder Black individuals without violating human rights or facing conviction. Time and the law worked differently for enslavers versus the enslaved. Because there was no legal recourse for lynching on behalf of African Americans, the law functioned to underpin the existence of white supremacy by not reinforcing laws against lynching. This temporal control remained underpinned by legal frameworks supporting the decisions of the enslavers rather than the lives of the enslaved.

Within *Beloved*, temporal control and temporal disruption continue to perpetuate oppression in the post-enslavement era despite emancipation blurring the lines of progress for African Americans pre- and post-emancipation. Temporal disruption functions as an extension of temporal control in that temporal disruption can disseminate control over the lives of enslaved people in a post-emancipation time. Temporal disruption is a residue of the temporal control implemented by enslavers or the settler state while temporal control was maintained by enslavers directly. Temporal disruptions are pivotal to *Beloved* because they illustrate how enslavement continued to evolve and oppress African Americans. Temporal control thus remains in the hands of the settler state after emancipation and the legal end of enslavement.

Temporal disruptions in the narrative are represented through flashbacks for the characters during their emancipative state; this exemplifies the way the lines between freedom and enslavement are blurred allowing for control methodologies to be implemented. For example, the life of Paul D during both enslavement and during his incarceration are similar due to the ways temporality is manipulated, disrupted, and controlled. After being arrested for attempted murder of a man, Paul D finds himself in a prison in Georgia, a situation which echoes reminders of the life of enslaved people (125). Paul D and other African American men are chained together and are forced to labor for the economic advancement of a settler system. He

remembers, "All forty-six men woke to rifle shot. All forty-six" (126). Paul D continues, "When all forty-six men were standing in a line in the trench, another rifle shot signaled the climb out and up to the ground above, where one thousand feet of the best hand-forged chain in Georgia stretched" (126). The rifle shot in this passage functions as a representative of both time and the law as the rifle is held by those who represent the law and have the legal authority to end the life of those who are imprisoned. The rifle also tells time in a sense as it tells the incarcerated men when to get up, when to move, when to sleep and, as such, it represents temporal control. This temporal control later shifts into temporal disruption for Paul D. More specifically, Paul D experiences flashbacks to his time in prison. In speaking with Sethe, Paul D is cautious not to talk too much about her own time in prison because "jail talk put him back in Alfred, Georgia" (51). Paul D's reality shifts due to these temporal disruptions via flashbacks. The way his temporality shifts between enslavement and imprisonment illustrates the way both enslavement and imprisonment function closely and cannot be easily separated because of the ways their methodologies of control are interconnected. This interconnection is purposeful so the control of the settler state can be maintained through the loss of enslavement.<sup>20</sup>

Sethe's flashbacks, as temporal disruptions, exemplify how her life post-emancipation still experiences temporal control as residual impacts from enslavement. Early in the novel, Sethe experiences flashbacks which transport her from being planted firmly in the here and now to a time far behind her. Introducing Sethe's flashbacks Morrison writes,

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<sup>20</sup> While my analysis might closely align with trauma theory, and indeed benefit from its inclusion, this dissertation's focus on settler theory and critical race theory also incorporates violent and forcible encounters with the law and its representatives which, in turn, create trauma. Paul D's experiences could be interconnected with trauma theories here but the focus on how his race and identity as a Black man are interlinked with that trauma. More specifically, the flashbacks represent trauma and the ways time is colonized by capitalistic systems.

Then something. The plash <sup>21</sup> of water, the sight of her shoes and stockings awry on the path where she had flung them; or Here Boy lapping in the puddle near her feed, and suddenly there was Sweet Home rolling, rolling, rolling out before her eyes, and although there was not a leaf on that farm that did not make her want to scream, it rolled itself out before her in shameless beauty. (7)

The trauma which Sethe experienced in life on the plantation called Sweet Home left her with deep physical, emotional, and psychological scars which would last a lifetime and continually recur to remind her of the trauma she experienced. These flashbacks function as a reminder of the settler capitalist economics of enslavement. In such cases, the temporality of the enslaved is disrupted so the economic success of the enslaver is met through the labor of the enslaved based upon the agricultural production seasons on plantations such as Sweet Home. She finds herself moved from her reality in a post-emancipation society into the past where she lived as an enslaved woman at Sweet Home. The ways enslavement creates temporal control post-emancipation of previously enslaved people is also illustrated in the way Sethe's mind shifts back to the past seamlessly from the present. Morrison writes, "But her brain was not interested in the future. Loaded with the past and hungry for more, it left her no room to imagine, let alone plan for more, the next day" (83). Sethe's focus on the past continues to be a reminder of how temporalities post-emancipation lives are impacted by the lingering impact of enslavement.

Temporal control and the disruptions relate to notions of the law and justice within the lives of the characters and demonstrate how ideologies of justice are incompatible with the history of enslavement. The psychological impact of enslavement and the legal upholding of enslavement for African Americans is highlighted through the subsequent actions of Sethe when

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<sup>21</sup> Morrison uses the term "plash" in this reading which functions as an onomatopoeia to create water sounds.

she is threatened with the return of her and her children to enslavement under the schoolteacher's rule. During her attempt to escape enslavement and while she was separated from her children she sent ahead of her to Baby Suggs, Sethe experiences the traumatic assault which led to the tree, a scar from a brutal beating, on her back. Sethe tells Paul D "'After I left you, those boys came in there and took my milk. That's what they came in there for. Held me down and took it'" (19). Sethe told the widow of her enslaver Mrs. Garner who was unable to speak but cried at the description of the assault. Sethe continues, "'Them boys found out I told on em. Schoolteacher made one open up my back, and when it closed it made a tree. It grows there still'" (19-20). The tree which grows on her back "still" after many years demonstrates how the traumas and abuses of enslavement still grow years after emancipation. Christina Sharpe asserts that "Sethe wants to protect Denver from memory and from more than memory, from the experience, made material, of people and places that now circulate like weather" and that, as she borrows Hartman's term, "What Sethe describes is the afterlife of slavery" (105). Enslavement may have ended, but the roots it set deep through temporal control have continued. The justice Sethe and other enslaved women deserve as reparations for the brutality of enslavement upon their bodies, minds, and time cannot be encompassed in the current justice system because of its reliance upon the settler state.

### **The Evolution of Mass Incarceration in *Just Mercy***

Destin Daniel Cretton's *Just Mercy* portrays the law's interactions with African American men to demonstrate that although the law is uneven and inequitable, it functions the way it was designed to. Michelle Alexander, a legal scholar, states mass incarceration is a failure if its main purpose is to "prevent and control crime," but, she continues, "... If mass incarceration is understood as a system of social control—specifically, racial control—then the system is a fantastic success" (295). Therefore, the law's application upon Black men

specifically is proof the system is functioning the way it was designed. This is because the mass incarceration system stems from the enslavement system and treatment of African Americans under the law post-emancipation mirror the treatment pre-emancipation. As Saidiya Hartman addresses in her close reading of the court case *Missouri v. Celia*,<sup>22</sup>

the enslaved could neither refuse consent, nor offer reasonable resistance; yet they were criminally responsible and liable. The slave was recognized as a reasoning subject who possessed intent and rationality solely in the context of criminal liability. (143)

This case demonstrates the consistent treatment of African American men and women pre- and post-emancipation. There is little protection by the law while they are still subject to it. *Just Mercy* provides a glimpse into the treatment of African Americans in a more contemporary setting yet portrays the treatment as similar to that discussed in Hartman's analysis as the characters are only considered a "reasoning subject" in the "context of criminal liability." Cultural productions like *Just Mercy* upend the narrative that the law is infallible and explore the ways justice functions, as an extension of the law, within these communities. This text highlights how Black bodies of both inmates and attorneys are regulated and controlled by settler capitalist systems of power through corporal threats, punishment, and temporal control. Therefore, this film emphasizes the connection between enslavement and contemporary policing through mass incarceration. To demonstrate this, I close read key scenes to examine the corporal threats and punishments used to maintain white supremacist control against African Americans. I then discuss how the controlling and policing of Black male bodies mirror the connection between

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<sup>22</sup> In *Missouri v. Celia* an enslaved woman was charged with the murder of Robert Newsome, her enslaver. Newsome had continually raped Celia while he owned her and "only stopped four years later when she killed him" (142). She was sentenced to death by hanging. This case, according to Hartman, "raises critical questions about sexuality, agency, consent, and subjectivity" (142). Additionally, this case was never reported or published and was found in an old drawer 145 years after. Such cases involving brutal punishment for enslaved men and women when they were only trying protecting themselves often had such outcomes.

treatment of Black men both pre- and post-emancipation and function as examples of legal instabilities.

The form of *Just Mercy* underscores a disrupted narrative similar to Morrison's *Beloved* because of the way it relies on flashbacks between the past and the present to convey the story. *Just Mercy* also literally brings the past to the present as it focuses on the experiences of Bryan Stevenson from 1989 to the early 1990s and the film's primary audience are those in 2019 and beyond. The disruption of the narrative functions to demonstrate the ways the law has broken up the time and lives of those both inside and outside the legal system. Additionally, this narrative disruption highlights the resistance to linear temporalities or experiences of time because it still creates a whole narrative but through different methods than a simple linear plot. The film offers audience members the historical experiences of multiple men and, despite not having access to inner thoughts and feelings like in *Beloved*, the film still evokes emotion and knowledge of the anguish of the characters. This film re-centers the narrative of those incarcerated because of the continued silencing of the men throughout history by the removal of their rights.

The Jim Crow era treatment of African Americans was an evolution and continuation of enslavement. In *Just Mercy* (2019), a film based on a true story, we meet Bryan Stevenson, played by Michael B. Jordan, a recent Harvard law graduate, who is working to provide legal counsel to those who have been wrongfully convicted. We also meet Jamie Foxx's character, Walter McMillian, also known as Johnny D. by friends and family, who is an inmate on death row at Holman State Prison in Alabama for a crime he maintains he never committed. Also on death row is Herbert Richardson, played by Rob Morgan, a Vietnam War veteran with severe PTSD. Anthony Ray Hinton, played by O'Shea Jackson Jr., is also serving time on death row for a crime which he also insists he did not commit. He was sentenced to capital punishment because

of the allegation that a revolver was taken from his mother's home and used in two murders as well as a third crime (Equal Justice Initiative, "Anthony Ray Hinton"). Each man on death row represents a consistent theme in the U.S. judicial system: there is no innocence until proven guilty for those who are not wealthy and white. In the film and reality, Walter and Anthony were exonerated with the help of Bryan; Herbert, however, was executed via electric chair on August 18, 1989. The film follows the story of these men who find themselves at the mercy of a corrupt juridical system which imposes punishments upon people who did not commit the crimes they are charged with. The film's focus on the treatment of attorneys and inmates alike by the judicial system in the United States allows us to see how the settler enterprise uses racial profiling to maintain the status quo and legal instabilities.

Legal instabilities through corporal threats were not limited to the inmates or those presumed guilty, rather they were also applied to those, like the attorneys, who threaten the status quo by overturning convictions which were wrongfully applied. We see this in a key scene when one night, after driving home from visiting his clients, Bryan is on a dark road when he is suddenly pursued by a cop car with their lights on. Bryan pulls over and places his hands where the officers can clearly see them, as the officers already have their hands on their guns as though Bryan has already threatened them. When Bryan inquires if something is wrong, the officer on his side of the car replies, "Step out of the vehicle" (56:49-57:30). When Bryan repeats the request to know why he has been pulled over, the officer pulls his gun from his holster and begins screaming, "Get out of the goddamn car!" and Bryan quickly complies but he is slammed against his car and has a gun placed to his temple despite the officers having no reason to arrest him (57:30-58:19). The other officer, who is searching the car, tells Bryan, "Hey brother, you ought to be careful with your words when you got a gun at your head. Let's go, John" (57:30-



58:19). The officers leave Bryan on the dark road alone without ever telling him why they pulled him over. This assault by the officers leaves Bryan visibly shaken from the encounter as the officers hold so much power within their community and within the legal system. They needed no reason to threaten and instill fear into Bryan because of the control they possess as representatives of the legal system. Even a lawyer experiences the same brutality as an inmate. This scene demonstrates that racially motivated brutality exists across the board for both attorneys and inmates who seek to disrupt the system which has profited off of their oppression and domination since emancipation. Those in power of the system are aware that corporal threats and control are imperative to maintaining success in their positions and the legal instabilities which ensure their positions.

*Just Mercy* demonstrates how treatment of inmates pre-arrest and conviction already positions them as guilty to whatever crime they have allegedly committed. Before his wrongful conviction, Walter is pulled over the night of his arrest and he finds himself surrounded by police officers who have their guns drawn, pointed at him. The main police officer asks him, as the cops are circling in around him, “You wanna make a break for it?” (3:00-26). When Walter states he does not intend to run, the officer continues while acknowledging the guns pointed at Walter, “Cause after what you done, I’m looking for any excuse to get this over with right here right now” (3:00-26). Walter replies, “Sir I ain’t did nothing and I think y’all got the wrong person here” before he is yanked out of his truck and taken into custody (3:00-26). Walter was first presumed guilty before any evidence could be found and was treated with a threat and action of violence against his body because of his presumed guilt. This scene is reminiscent of lynchings as described in Morrison’s *Beloved* as it demonstrates the people taking the law into their own hands. The main difference here is that these men are representatives of the law as police

officers. Additionally, while they are not actively murdering him through lynching, they do participate in his potential murder by placing him on death row pre-trial. They weaponize the law to justify their own racism. There could and would be no recourse for the treatment by the police officers because of the continued inequitable application of the law where the officers are above it and African American men are always under it. The treatment of Walter by the officers is reminiscent of the days of enslavement when due process was only offered to those granted humanity by the state and it did not apply to those who were enslaved due to settler colonial ideals regarding enslaved people. Additionally, Walter is not offered due process under his rights which are stated within the constitution because of the beliefs of the state and local officials in charge of his arrest. This highlights how Walter is already designated as criminal and stripped of rights which should have been legally offered to him, further portraying how the legal instabilities function in this narrative. These ideas cause deeper temporal entanglement, to use Hartman's term, between enslavement to mass incarceration because the issues of enslavement are still unresolved in the continued treatment of African American men. Consequently, for both Walter, men like him, and attorneys like Bryan there is little recourse which can occur in systems where the racism is so deeply entrenched into every facet of society. The abuse Walter and Bryan endured underscore such legal instabilities.

*Just Mercy* allows viewers to see a direct connection between the enslavement system of the past where white enslavers held all the power over the lives and existences of enslaved people to the contemporary system of mass incarceration where the state functions as the enslaver and wields the same control. When Bryan first arrives at Holman State Prison, the scene which unfolds portrays inmates working in a field under the supervision of a white prison guard. The scene becomes eerily suggestive of earlier times on the plantation. As Bryan drives up, he

must stop his car because of some inmates crossing the road. All of them are dressed in white and some of them are chained together. The guard sits atop a horse holding a rifle in his hands, offering the obvious threat; Bryan watches these men work in the field for a moment (Cretton 14:41-15:00). The scene echoes earlier visions of enslaved people working in the fields with their enslavers sitting atop horses holding whips and revolvers. Additionally, this scene echoes the experience Paul D experiences in Morrison's *Beloved*. In both experiences, they offered the obvious threat which says if you run or step out of line you will be stopped by a bullet or a whip or both. This creates a clear link that we see Michelle Alexander making as well between our systems of oppression and the way they operate against individuals who fall into the bracket of "other"; whether that be because of economics, race and ethnicity, or other factors. There are methodologies of control within those systems of oppression which remain consistent and one of those methodologies is the control of temporality and time for the inmate.

Inside the prison, we view prejudices based on socioeconomic status take place as well, which also yield temporal control and these prejudices are also evidence of legal instabilities. When Walter is first arrested, he is placed on death row before he even receives a trial or hearing before the judge. Bryan finds this out when Walter tells him, "If they can put be on the row for a year without no trial, they can do whatever they wanna do" (Cretton 59:06-37). There is no course of action against the sheriffs and police officers or other legal representatives because their word will always be valued over the word of those who are imprisoned. Within this system, a year on death row is about the power the representatives of the law hold and the temporal control they wield over inmates. Walter, and other inmates, experience the power of the law's temporal control through instances such as these when they are placed on death row prior to a conviction. Walter continues, "Sheriff drove me himself. Said 'I'm gonna give you a little taste

of what it's like unless you confess'" (59:06-37). Walter knows that because of his skin color and economic positionality within the community, any actions toward him which are outside of traditional processes will not receive any ramifications, thus further highlighting the legal instabilities of the legal system.

The decision to place Walter on death row before his trial even begins serves as a reminder that the law is unstable and inequitably applied to people of color. Because of those legal and temporal instabilities, Walter's time, the time he lives in the prison and the time they could choose to execute him, are in the hands of the state despite his innocence. The threat of living on death row becomes a method of temporal control because of the way the state controls when the inmate dies and how they die. The end of life is not natural and becomes a way to keep inmates subservient. The sheriff telling Walter that death row will "give [him] a little taste of what it's like" is also threatening because, unless he confesses to a crime he did not commit, he will live on death row. Ultimately, though, the confession to the murder of Ronda Morrison will also likely lead to his placement upon death row. Walter's decisions all lead to the same place: death at the hands of the state. This temporal control by the state through the lives of inmates is reminiscent of how enslavers previously controlled his ancestors' lives. His life on death row will end in a certain way on a day decided by the government, just as his ancestors' lives could have been ended by their enslavers or an angry mob seeking to lynch someone. Walter's temporal control of life has been stripped from him. He is unable to control his daytime experiences, his interactions with others, his nighttime rituals. He is forced to adhere to the strict time constraints of mass incarceration where officers decide when you eat, when you sleep, when you see your family, and when you live in solitary confinement. This type of time control severely oppresses the individuals in ways that enslavers did previously.

Herbert Richardson's experience on death row demonstrates further legal instabilities regarding mental illness in veterans in particular echoing the previously discussed assumption of humanity as based on race. Richardson's treatment post-service in the U.S. military demonstrates the belief that he is entitled to less assistance because of his race. During his service, he serves in the Vietnam War and survives an attack that killed the rest of his platoon (Equal Justice Initiative, "Herbert Richardson"). Herbert experiences severe post-traumatic stress disorder (PTSD) attacks due to his time in the military. After he is discharged, Herbert murdered a young girl. Yet this moment defines who he is and cancels out all the other moments of his life as soon as the legal system deems him guilty. Herbert, despite his need for mental illness support and help, is left to the wayside of society despite living in a country that prioritizes patriotism. When Herbert receives his execution date, he tells the other guys on death row, "I ain't like you guys. I deserve what's coming" (45:30-46:00). Herbert is aware that his punishment fits the parameters the U.S. legal system. Herbert's life will now forever be controlled, as will his death, by the settler state, much like enslaved people's during pre-emancipation. Sharpe writes, "The ongoing state sanctioned legal and extralegal murders of Black people are normative and, for this so-called democracy, necessary; it is the ground we walk on" (7). These murders continue to demonstrate the extent to which legal instabilities impact incarcerated Black men. While Sharpe is referring to the murder of Black men, women, and children in the public sphere, Herbert's death fits within these categorizations of murder because the state failed to protect him while he was free. Now that he is incarcerated, the state uses his death under the guise of protecting the public, adhering to justice, and preserving order. Herbert's fellow death row inmates become aware that Herbert's execution is not an action of justice but rather just an exercise of control to maintain the legal right to execute who they want. The other inmate, Anthony Ray Hinton, tells

him, “All right, now, see. Herb, there you go talking out your ass. Now, you fought for this country. And they threw you in the bag like the trash. That war made you sick in your head man. You supposed to be in a hospital. Not here.” (Cretton 45:30-46:00). The characters in the film are fully aware that Herbert’s mental illness and his conviction of murder are linked to his race and his class in America; whether he lived or died was one more reminder of the legal instabilities which dictate the existence of many BIPOC communities.

Just as Herbert’s time and body were controlled by the state because of its uneven application of the law, so were other Black men who worked against the system such as Bryan. While this experience similarly echoes Bryan’s experience when the police pulled him over, this particularly scene highlights corporal control and humiliation as integral to the process of legal instability. In this scene, Bryan is unfamiliar to the officers because he is just starting his business in Alabama. The officer looks at him suspiciously and asked, “Are you really a lawyer?” (15:50-16:00). This questioning by the officer is key because it relates to the officer’s belief that an African American man could not be entering the prison as a lawyer but only as an inmate. When Bryan replies that he is, the officer states, “Well, we’ll have to search you. Just go on in that room over there and take everything off” (16:00-17:11). Bryan questions the request because he is aware lawyers are not required to be searched for visits to clients and the officer replies, “Well you ain’t gonna visit shit unless you get in that room and strip” (16:00-17:11). In this moment, Bryan is dehumanized by the officer who has all the power to deny Bryan a visit to those he is legally representing. The officer asserts his authority over Bryan knowing that Bryan is unable to do anything to prevent such experiences from occurring thus highlighting the legal instabilities of the functioning of the prison itself.

Through the lives of Herbert, Walter, and Bryan we see that the state's control post-emancipation strongly resembles that within enslavement through corporal and temporal control. Consequently, when considering the time gap of more than one hundred years between the settings of the cultural productions of *Beloved* and *Just Mercy* there is little improvement considering the condition of the laborers of enslavement and imprisonment. *Just Mercy* demonstrates the difference between the existence of pre- and post-emancipation for African Americans should be significantly changed and yet these existences possess blurred lines with no definite boundaries. The choice of the settler state and the law to control the temporality of African Americans both past and present demonstrates the near impossibility for obtaining justice.

### **Justice, Mercy, and Freedom in the Afterlives and Wake of Slavery**

*Beloved* and *Just Mercy* both identify the ways settler methods of control through both enslavement and mass incarceration impact the past, present, and future of individuals within those systems. These issues of legal instabilities stem from a desire to maintain the status quo which protects white supremacist capitalist ideals. Furthermore, time offers no resolution nor progress from or for these traumas because these violences are perpetuated throughout history at varying intervals. These cultural productions demonstrate, through the usage of temporal disruptions, the way violences also interrupt the daily lives of those who survive them. To refer back to Saidiya Hartman and Christina Sharpe, these cultural productions examined in this chapter demonstrate life in the wake where the colonialist project produces temporal entanglements as well as relies on racism to propel the nation forward especially in legal matters. At the end of the film, Bryan Stevenson addresses the court, acknowledging the fallibility of the legal system and the way the justice is not created through legal verdicts. He states, "If the

people standing in the back of this courtroom are all presumed guilty when accused, if they have to leave here and live in fear of when this very thing will happen to them, if we're just gonna accept the system that treats you better if you're rich and guilty than if you're poor and innocent, then we can't claim to be just" (2:00:20-2:01:15). This assessment of the legal system functions as a reminder that without a massive shift within the structure, justice cannot exist and, in fact, something else entirely takes its place. Ultimately, as Ramsey assesses of *Just Mercy*, which can be applied to *Beloved* as well, this text reminds "us of the collective responsibility that society bears for the wounding and neglect that almost always seems to form the backstory for the spectacular violence that grabs headlines and steals lives" (329). Both *Beloved* and *Just Mercy* contemplate the position of justice within enslavement and its contemporary counterpart, mass incarceration. Reparations for enslavement might lead to economic justice, but other forms of justice remain elusive to the African American community due to the still-intact structures of settler capitalism. The application of justice for individuals such as McMillian who have been wrongly accused and convicted of crimes they did not commit are fraught with difficulties due to settler systematic policies and procedures. Justice, indeed, is not blind nor can it be applied blindly to a community who has experienced the levels of racialize oppression as the African American community has. Reading these two cultural productions together we can understand the larger impact that the evolution of enslavement and mass incarceration have had on the African American community today and the ways justice can only be achieved through new juridical modes which take societal and individual history into account when sentencing.



**CHAPTER THREE: “I WAS AN AMERICAN CITIZEN”: THE MOVEMENT FROM  
CITIZEN TO ENEMY ALIEN IN MINÉ OKUBO’S *CITIZEN 13660* DURING WORLD  
WAR II AND ITS RECURRENCE DURING COVID-19**

On January 18, 2020, the United States received its first confirmed case of SARS-CoV-2 (COVID-19) as reported by the Center for Disease Control (CDC) in Washington State, beginning the pandemic for the U.S. As of October 2023, COVID-19 caused over 6.9 million deaths globally and over 1.1 million deaths in the United States (WHO COVID-19 Dashboard). The pandemic’s extensive impact cannot be understated; consequently, with the rise of the pandemic came the rise of anti-Asian sentiments and actions. Throughout the pandemic, former president Donald Trump tweeted numerous times regarding the “China Virus” or “Wuhan Virus” creating ethnic and racial attributes to a virus. While Trump is not solely responsible for anti-Asian sentiment across the United States in response to COVID-19’s outbreak, his consistent disregard for the impact his Tweets have on his nearly 87.4 million followers demonstrates the overall attitude toward the racial hatred which came about due to his language. Such anti-Asian attitudes and reactions are not new in the United States as it is embedded in the fabric of the nation.<sup>23</sup> This chapter’s focus on anti-Asian sentiment focuses on two such examples: Japanese internment camps during World War II and the COVID-19 outbreak. The response toward Chinese Americans, and indeed those of Asian descent at large, during COVID-19, similarly

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<sup>23</sup> Scholars who have made such assertions about the ways anti-Asian racism and attitudes are entrenched in the nation through issues of settler colonialism, legal systems, or history are Lisa Lowe’s *Immigrant Acts*, Iyko Day’s *Alien Capital: Asian Racialization and the Logic of Settler Colonial Capitalism*, Quynh Nhu Le’s *Unsettled Solidarities: Asian and Indigenous Cross-Representations in the Americas*, Juliana Hu Pegues’s *Space-Time Colonialism: Alaska’s Indigenous and Asian Entanglements* as well as many others.

echoes the treatment of Japanese Americans during the months and years after the Pearl Harbor bombing. While the government did not enact Chinese internment camps during the COVID-19 outbreak deeming them enemy aliens, the public reaction and treatment of Asian Americans carries the same residual hatred and violence.

Miné Okubo's *Citizen 13660*, is a hybrid novel which incorporates graphic drawn by the author alongside the narrative, considers the governmental and societal responses to Japanese Americans on the West coast during the days that followed Pearl Harbor as well as the reactions during the remainder of World War II and her internment at Topaz, a war relocation camp located in Utah. Okubo structures her writing through tracking which public proclamations, civilian exclusion orders, and executive orders lead to her forcible removal to an internment camp. Reading Okubo's text while contemplating the treatment of Asian Americans during COVID-19 allows for readers to draw parallels and comparisons across time and space. In June 2020, an article titled "'I Will Not Stand Silent.' 10 Asian Americans Reflect on Racism During the Pandemic and the Need for Equality" was published by *Time Magazine*. This article tells the story of ten individuals who experienced anti-Asian sentiment or violence during the pandemic. The article's narrative portrays the extent to which such violence and attitudes deeply affected those during one of the most isolating and devastating times in U.S. history. When considering this article alongside Okubo's text, there are considerable connections to be made. *Citizen 13660* chronicles Okubo's personal and communal experiences in internment camps thus highlighting the ways Executive Order 9066 influenced Japanese American lives across time and space. I argue that such control through the law, as well as its fluctuations based on racial discrimination, highlight the instabilities which exist in U.S. legislation and, in turn, impact the experiences of Japanese Americans from 1941-1946; consequently, this control leaves a residue on the

inequitable application of the law contemporarily as well creating temporal entanglements, a term by Saidiya Hartman.<sup>24</sup> We can see the temporal entanglement evolving in real-time through the COVID-19 pandemic and the treatment of Asian Americans by former President Trump, the U.S. government, and individual Americans who support Trump's rhetoric. More specifically, we examine these entanglements through both the pandemic and Japanese internment camps as the public attitudes shift toward anti-Asian sentiments making public access and existence either dangerous or forbidden by either the law or fear. Therefore, containment,<sup>25</sup> in both instances, becomes crucial. While the containment in the form of Japanese internment camps was legalized, containment during COVID-19 was primarily due to extralegal violence and fear from the public. These temporal entanglements operate through such containment as both part of and external to the law.

First, I attend to Okubo's novel, *Citizen 13660*, which focuses on the lives of Okubo and her brother as they enter an internment camp just after the Japanese bombing of Pearl Harbor at the beginning of World War II. This chapter examines the function of the law in the physical removal of Japanese descended people and the subsequent impact on public perception because of the language used in such laws. Therefore, the influence of the oppressive tactics and domination—relied upon to make containment through internment camps successful—are still in play today, creating an invisible string from the past to the present to expand the sentiments of Hartman's temporal entanglement. *Citizen 13660* thus portrays these impacts in narrative form accompanied by drawings by the author herself which allows us to not only read the experiences

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<sup>24</sup> Hartman refers to temporal entanglements as connected to the afterlife of slavery thus positioning the argument that because enslavement was never fully rectified, it still impacts the existence and experiences of African Americans today. Therefore, it entangles the past with the present moment (xix).

<sup>25</sup> Containment refers to the removal or separation from the public sphere by force or fear for Asian Americans. This can be seen in the actions surrounding Japanese Internment camps during World War II and, more recently, in the physical separation during COVID-19 based on fear of anti-Asian sentiments and hate crimes.

but to visually access them as well. Consequently, since these images are not exact photos, we must remember artist interpretation when discussing them. Through close readings of *Citizen 13660* and Executive Order 9066, as well as subsequent legal and military proclamations, we identify how the history of internment camps impacts moments beyond its existence through continued legal instabilities. This continued thread of connection throughout history to the present through racial discrimination and oppression is best described by Saidiya Hartman's term "afterlife." Hartman uses this term specifically in response to enslavement and its continued influence on the lives of African Americans even post-emancipation. I am aware that borrowing this phrase in one application of BIPOC experiences toward another could be problematic; however, I wish to focus on the terminological exchange as a way to gesture toward cross-racial connections all while recognizing and addressing their differences within settler colonialism.

Next, I focus on a *Time Magazine* article which examines racial abuses experienced by Asian Americans in the wake of COVID-19 and the pandemic. This article, quite literally referring to time through the publishers name, exemplifies such temporal entanglements through the continued problematics of anti-Asian sentiments throughout the public sphere. I argue that while COVID-19 did not experience a widespread separation of Asian Americans through internment camps, the hatred, violence, and abuse experienced by Asian Americans created a metaphorical separation from Asian Americans as "Americans" to enemies. This separation can be examined through the language relied upon by two presidents, Franklin Delano Roosevelt and Donald Trump, as well as those put in power by them, thus providing a continuation of the perpetuation of hate crimes against Asian Americans in both WWII and the pandemic,

respectively.<sup>26</sup> These hate crimes perpetuated containment for Asian Americans during COVID-19 out of fear for their safety while existing in the public sphere.

### **Citizenship, Belonging, and Legitimacy for Asian Americans**

On December 7, 1941, America's naval base Pearl Harbor was attacked by Japanese military forces, rekindling anti-Asian sentiments and hatred of Japanese descendants regardless of citizenship. Anti-Asian sentiments are interlinked with American ideologies of immigration and citizenship. The 1790 Nationality Act, for example, created boundaries around whom could receive citizenship by restricting it to "any free white person," "creating the legal category of aliens ineligible for citizenship" (Marinari 273). Such categories were reaffirmed in the 1922 case *Ozawa v. United States* wherein the Supreme Court upheld this view of citizenship. Cases such as *Ozawa v. United States* exemplify the earliest example of legal instabilities and subsequent court cases portray its temporal entanglements with the future. This national view of immigration and citizenship began to affect laborers and workers coming to the country. In 1850, the Foreign Miners License Tax was enacted in California which targeted Chinese miners by charging them \$20 a month for working as non-U.S. citizens during the Gold Rush ("*From Gold Rush to Golden State*"). This tax was repealed but later reinstated with a revised amount of \$4 per month. Because of the large influx of nearly 20,000 Chinese miners to the area, anti-Asian sentiments began to grow because of competing labor and costs. Therefore, the law and legislature worked to decrease the success and the interest of Chinese miners. Lisa Lowe asserts that U.S. anxieties portrayed "Asian countries as exotic, barbaric, and alien, and Asian laborers

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<sup>26</sup> It is important to note that during WWII, not all Asian Americans were seen as enemy aliens. Chinese Americans were viewed more positively by the general population than Japanese Americans. My argument in particular does not fully underscore this difference despite its existence. My focus on the general attitude toward Japanese Americans is relied upon to demonstrate a recent fluctuation in anti-Asian sentiments during WWII. While Chinese Americans were not included in that particular experience of anti-Asian attitudes, it was only a matter of time before they were because of the constant fluctuation of public sentiments.

immigrating to the United States from the nineteenth century onward as a ‘yellow peril’ threatening to displace white European immigrants” (4). The competition invigorated the need for racial hierarchization with European immigrants at the top to secure the best paying labor jobs to maintain the status quo of the United States. Not only was the labor and economics of Chinese immigrants affected, but they were also not allowed to testify in court which limited their access to legal representation. *People v. Hall* (1854) determined that just as the 394<sup>th</sup> section of the Act Concerning Civil Cases provided that "No black or mulatto person, or Indian, shall be allowed to give evidence in favor or, or against a white man," so too it would be applied to Chinese immigrants (Buff 157).

Anti-Asian feelings continued to grow when the Chinese Exclusion Act was signed by President Chester A. Arthur in 1882. This act suspended immigration for Chinese individuals for a decade while also determining current Chinese immigrants as ineligible for naturalization and citizenship. Upon the dissolution of this act in 1892, The Geary Act was created in California which extended the policies of the Exclusion Act for another decade. It also included a new requirement for Chinese residents to always carry special documentation provided by the Internal Revenue Services. Refusal to comply would be punished with imprisonment and hard labor before deportation (Johnson 46). According to Maddalena Marinari, “these Chinese exclusion laws were part of a global trend among white settler societies to restrict the movement of migrants of color” (274). The 1917 Immigration Act, passed a little over a year before the end of World War I, implemented further conditions for immigration such as a literacy test and excluded immigrants from what has been termed the Asiatic barred zone. This expanded earlier immigration laws against Chinese individuals specifically to Asian communities at large. The 1917 Immigration Act offered a structure for the subsequent quotas utilized in 1921 and 1924.

The Immigration Act of 1924 increased bans on immigrants from Asia by excluding those who would be considered ineligible for citizenship and introduced a yearly cap of 165,000 on those immigrating from outside of the Americas (277). Marinari continues,

As a result, the 1924 Immigration Act meant that even Asian immigrants previously allowed into the country—the Japanese in particular—would no longer be admitted to the United States and that immigrants from northern and western Europe would receive priority. The quota system promised to reduce immigration to the United States by 80 percent when compared to immigration before World War I. The peak year had been 1907, when 1.2 million migrants had arrived.” (277)

The legal parameters which enforced and controlled immigration remained in place mostly until 1965 when Congress passed the Immigration and Nationality Act of 1965. This act dramatically shifted the demographics of the nation which still impacts contemporary arguments on immigration policies. Due to continued legislative efforts by the U.S. government toward Asian immigration, citizenship, and labor, Asian immigrants are central to the economic evolution of the nation. Lowe asserts that despite Asian states being “prominent” rivals against the U.S., “Asian immigrants are still a necessary racialized labor force within the domestic national economy” (*Immigrant Acts* 5). She continues Asian immigrants “have played absolutely crucial roles in the building and sustaining of America” and “have been fundamental to the construction of the nation” (5). Yet, despite the integral role Asian immigrants and Asian descended people have had in the U.S., they have been designated “as ‘foreign’ and ‘outside’ the national polity” (8).

Shifts in definitions and understandings of what is legal versus illegal are dependent upon settler colonial juridical systems and structures of power. These settler colonial systems rely

upon the dehumanization of individuals who are not white. Just as the 1790 Nationality Act described those eligible for citizenship as “any free white person,” individuals who were considered safe by the protection of the law are classically understood to be white individuals supporting the settler colonial enterprise. Consequently, these white governmental leadership relied upon disproved ideologies of race as a biological fact impacting one’s hierarchical position within the structure. Such ideologies are not just experienced in the public perception but at an institutional-level as

the state (i.e. the federal and state governments) has often implicitly/explicitly reinforced, encouraged, and perpetuated this violence through racist and xenophobic discriminatory rhetoric and exclusion policies. (Gover 649)

Such ideas of citizenship, who deserves rights of citizenship, and overall senses of belonging within the United States recurs throughout time as we see within Japanese Internment during World War II and anti-Asian hatred and sentiment during COVID-19. Lowe argues, “If the law is the apparatus that binds and seals the universality of the political body of the nation, then the ‘immigrant,’ produced by the law as margin and threat to that symbolic whole, is precisely a generative site for the critique of that universality” (8-9). Consequently, while Lowe, a literary and historical analysis scholar, is working to trace the legal and historical genealogy of citizenship and roles within America by Asian immigrants and citizens, I am expanding the conversation by relying on the historical analysis by her and other scholars by placing it in conversation with Okubo’s *Citizen 13660* and more contemporary issues, like anti-Asian sentiments in the wake of COVID-19, regarding belonging, legitimacy, and citizenship in America.



## **Legalization of Illegal Removals of U.S. Citizens**

In the attack on Pearl Harbor in 1941, America reinvigorated fear and hatred of Japanese descended people regardless of citizenship and naturalization. On February 19, 1942, President Roosevelt signed Executive Order 9066 beginning the internment of Japanese descended people living on the West Coast as a response to the attack and those in power calling for such internment. This order took action “against espionage and against sabotage” by declaring that the Secretary of War, or any subsequent military leadership under his direction, can impose any “restrictions” upon any individuals (Roosevelt). The belief of espionage against the United States government by Japanese descended people was unsubstantiated; nevertheless, over 100,000 people were relocated with two-thirds of those being American citizens (Roosevelt). On March 24, 1942, General John L. DeWitt issued the Civilian Exclusion Orders, which fit under the provisions of Public Proclamations 1 and 2. These began to shift the public sentiment of Japanese Americans living on the West Coast even further by beginning to separate them as though they were already guilty convicts and containing them. Just a few days prior to this, on March 21, Congress passed Public Law 503 which made any resistance of or violation of Executive Order 9066 a misdemeanor. This crime was then punishable by one year in prison and up to a \$5,000 fine. The legal parameters placed around the internment of Japanese Americans made what would previously be considered illegal removal of individuals from their homes lawful under these new provisions (Executive Order 9066). Lowe writes that internment camps and the legal structures supporting them demonstrated the continuation of the contradictions of immigration and citizenship for Asian Americans. She asserts U.S. citizens of Japanese descendance were “nominally recognized as citizens and hence recruited into the U.S. military” but they were simultaneously “dispossessed of freedoms and properties explicitly granted to

citizens” while also being “officially condemned as ‘racial enemies’” (*Immigrant Acts* 8). The condemnation of Japanese Americans as “racial enemies” shifts the public perception of their friends, neighbors, and fellow Americans highlighting the ways citizenship is in flux both legally and culturally.

To portray the temporal entanglements throughout time, space, and community, I first address how *Citizen 13660* portrays the shift in public perception from citizen to enemy alien. I accomplish this by examining Okubo’s text alongside archived legal documents which enforced containment through Japanese internments. Additionally, I assert that the temporal entanglements continue to occur because there is no legal recourse for the removal of Japanese Americans from their homes and into internment camps and the spaces in between. Lastly, I examine that despite reparations, which occurred decades later, there is no restorative justice for Japanese Americans in light of continued anti-Asian sentiments.

Okubo’s *Citizen 13660*<sup>27</sup> demonstrates, through mixed-media, the temporal entanglement with the past, present, and the future caused by legal instabilities focusing on citizenship and belonging of Japanese Americans. The mixed-media of sketches alongside narrativization of Okubo’s life underscores the importance of maintaining a record during this time from the perspective of someone inside the gates. Okubo, aware of the fluctuation of immigration and citizenship for Asian Americans at large, underscores the impact of the law upon herself, her family, and her community. This shifts the historical narrative which focuses on the fears of the American public in the wake of WWII to the (il)legal removal of Japanese Americans and the

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<sup>27</sup> Shortly after the beginning of her internment, Okubo began documenting through drawings the life occurrences within the camp. Photographs, except on a strict and approval only basis, were prohibited so Okubo’s sketches are still extremely important to depict life of those interned. All her sketches she later put together with a narrative to form her novel *Citizen 13660*.

disruption of their lives as well as the aftermath of internment camps. In the Preface to her 1983 edition of *Citizen 13660*, Okubo writes,

Time mellows the harsh and the grim. I remember the ridiculous, the insane, and the humorous incidents and aspects of camp life. I was an American citizen, and because of the injustices and contradictions nothing made much sense, making things comical in spite of the misery. Crazy things were constantly happening in the camp, with close to ten thousand people confined in an area a mile square. (ix)

Okubo's claim of time mellowing the memories but not removing the memories demonstrates temporal entanglements due to the lack of resolution from Japanese internment camps. Despite later reparations for such treatment of Japanese Americans, there was no true resolution or restitution. Okubo does not claim there has been progress or improvement but that merely the memory of all the harshness is less poignant than it was in the beginning. Settler colonial temporal structures focus on the ways in which time is linear and "progress" follows suit in the movement of time. Both time and progress become synonymous because of the ways they are assumed to work in tandem with one another and as time moves, so we assume progress does. The trauma of internment camps created cyclical processes of remembering where the afterlife of internment camps would forever haunt them. However, through an analysis of these cultural productions we can see how they represent and critique U.S. law as well as its self-serving instabilities by focusing on the temporal entanglements across time, space, and community.

Settler colonial ideologies of time are often best exemplified within the construction of history books and historical accounts of major events. Within these accounts, time is portrayed as singular, of one voice, without much variation and with marked improvement within society by the end of the narrative itself. For example, historical accounts of the Civil War are marked by

main plot points of the following: slavery, a war, no slavery, and a subsequent end to racism because of the dissolution of slavery. Racism can no longer exist because enslavement no longer exists and so progress of civil rights has been achieved in this mode of thought. However, through re-examining history through the eyes of cultural productions such as Okubo's text, it is clear the past is unresolved, and time does not equal progress. Therefore, temporal entanglements occur from Japanese internment camps to the present moment. Okubo's narrative addresses such settler temporal structures as it freezes the moment of history, capturing the memory of internment and WWII.

Okubo's novel begins September 3, 1939, when England and France declare war, sparking the beginning of World War II. Okubo herself has been traveling Europe on an art fellowship from the University of California when she finds herself "stranded in Switzerland with nothing but a toothbrush" (3). This statement makes it clear Okubo experienced widespread spatial movement prior to the start of her internment in America. After she makes it home, Okubo and her family can live normally while war rages abroad until Pearl Harbor is bombed on December 7, 1941. She highlights the seriousness of the moment by writing, "We wondered what this would mean to us and the other people of Japanese descent in the United States" (8). This quote also foreshadows the coming traumas for Japanese Americans through settler legal frameworks. Okubo discusses how on December 11, the U.S. declared war on Germany and Italy further implementing fear into the public. With the days of the Pearl Harbor attacks barely in the rearview mirror of history, the United States government quickly enacted measures to quell the abundance of fear sweeping the nation due, in part, to the propaganda being spread painting Japanese Americans as traitors and active participants in the bombing rather than citizens also reeling in the aftermath. Okubo states, "On the West Coast there was talk of possible sabotage

and invasion by the enemy. It was ‘Jap’ this and ‘Jap’ that. Restricted areas were prescribed and many arrests and detentions of enemy aliens took place” (10). This exemplifies the beginning of the shift in public perception. While the public proclamations and executive orders are the legal system which formally moves Japanese Americans to internment camps, public perception does not resist such movement because of the incitement of fear. Okubo continues to write, “The people looked at all of us, both citizens and aliens, with suspicion and mistrust” to solidify the shift for her, her family, and her community over the timeframe of days and weeks (12). The attitudes expressed toward those of Japanese ancestry were reinforced and the mistrust was legitimized because of the actions taken by the President as well as the rest of the United States government against the community.

The U.S. government did not immediately jump into the construction of internment camps, instead they relied on bureaucratic and legal measures which paved the way to making the illegal legal. Okubo asserts this began on February 19, 1942, with Executive Order 9066 wherein “the enemy alien problem was transferred from the Department of Justice to the War Department” (12). In such passages, it is clear in the eyes of the government Japanese Americans are “problems” rather than citizens. Executive Order 9066 authorized “the forced removal of all persons deemed a threat to national security from the West Coast to ‘relocation centers’ further inland— resulting in the incarceration of Japanese Americans” (Executive Order 9066).<sup>28</sup> Just a short month later in March 1942, “voluntary evacuation halted and the army took over, to bring about a forced and orderly evacuation” (Okubo 13). This legalized the illegal removal of citizens from their homes with no due process afforded to them. In just a few months, American began

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<sup>28</sup> Historical narratives of Executive Order 9066 assert that issues regarding the forcible removal of Japanese Americans were raised by the Department of Justice on grounds of “constitutional and ethical objections to the proposal” which led to the U.S. military and Department of War carrying out the orders instead (Executive Order 9066).

implementing internment camps for a large population of its citizens despite clear statements in the constitution which assures citizens of rights. Okubo writes, “Public Proclamations Nos 1 and 2 appeared in the newspapers” (12). These proclamations established military areas and began creating areas of exclusions for specific people.

Legal measures, such as public proclamations, and public sentiment toward Japanese Americans and Japanese descendants worked in tandem with one another making such large-scale removal possible and widely accepted by the American public. Forced evacuations soon followed voluntary ones because, as Okubo writes, the “growing suspicion and general public antagonism” which arose during evacuations made things difficult and so the army stepped in on March 27, 1942, to implement more control (12-13). Therefore, the reinforcing presence of the military frames Japanese descendants as criminals of war regardless of their innocence and current citizenship similar to the experience of the characters in Destin Daniel Cretton’s *Just Mercy*. Prior to her forced removal, Okubo also experienced the ways Public Proclamation No. 3 affected the lives of those outside internment camps. She writes, “On March 24, Public Proclamation No. 3 established the curfew. All American citizens and aliens of Japanese ancestry and other enemy aliens had to be home between the hours of 8 p.m. and 6 a.m.” (14). Within the language of Executive Order 9066, the language “did not specify any ethnic group;” however, “Lieutenant General John L. DeWitt of the Western Defense Command proceeded to announce curfews that included only Japanese Americans” (Executive Order 9066). Once again, the framing of Japanese descendants as “enemy aliens” or someone other than a United States’ citizen feeds into the idea that legal procedures as outlined in the Constitution do not apply to them. It also already deems them as criminals despite not having any convictions against them as

“violation of any of the regulations meant fines and imprisonment” (Okubo 14). Thus, the state began to make legal the illegal removal, further implicating temporal entanglements.

The settler state took great measures to ensure their illegal actions against American citizens were at least perceived by the public as legal through additional orders such as Civilian Exclusion Order No. 19 which was issued April 24, 1942.<sup>29</sup> This order was the one which affected Berkeley and the Okubo family leading to her forcible removal. It was not just property which the state removed but also the surnames of those being removed. Like the identity of convicts and prisoners, those of Japanese ancestry also had their names stripped of them in place of a number. Okubo claims, “As a result of the interview, my family name was reduced to No. 13660. I was given several tags bearing the family number, and was then dismissed” (19). This moment marks the shift in the government’s eyes of Okubo’s identity from citizen to enemy alien. Once her identity shifts, Okubo was moved to Tanforan, a local racetrack converted in practically name only to living quarters for those who are being detained. The rate of those arriving at internment camps demonstrates the temporal urgency with which the U.S. government desired to have Japanese Americans removed from the public sphere to confined quarters. Okubo writes, “Evacuees were coming into the center at the rate of three hundred a day” (53). The rate of three hundred people a day arriving at Tanforan for several months means the camp became crowded very quickly. The removal of so many evacuees underscores the temporal urgency because it mimics the idea that the government is solution minded; however, this also symbolizes how the state viewed its own citizens as the problem and as enemy aliens.

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<sup>29</sup> A total of 108 Civilian Exclusion Orders were issued for California effectively spreading the “militarized” spaces in which Japanese descendants were not permitted. With each subsequent issue, the space accessible to those of Japanese ancestry shrank.

Okubo's and other Japanese Americans' lives were uprooted through (il)legal methods which could and would not have been applied to White communities in the same way. Upon removal from her home and then from Tanforan, Okubo becomes aware that her body, space, and time are all in flux due to settler control and that she lacks autonomy for her own movement. Ultimately, Okubo's novel functions to understand the overall impact of the legal issues, policies, and proclamations experienced by Japanese descendants through WWII. From the first radio sounds that Pearl Harbor had been bombed, to the moment Okubo finally experiences freedom through her release from Topaz, the permanent internment camp she finds herself in, there is a layering of legal structures which further excluded and imprisoned her. When it comes to the perpetuation of anti-Asian attitudes as reinforced by the law as well as illegal actions such as interned American citizens being made legal through government policies, *Citizen 13660* portrays how the daily life and experiences of Japanese Americans were interrupted and forever impacted temporally through the law and by the law.

In 1988, President Reagan signed the Civil Liberties Act, also called Public Law 100-383, which acknowledged the injustices of the internment and incarceration of individuals of Japanese ancestry. This act declared the following:

Declares that: (1) a grave injustice was done to citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II; (2) these actions were without security reasons and without any acts of espionage or sabotage documented by the Commission on Wartime Relocation and Internment of Civilians, and were motivated by racial prejudice, wartime hysteria, and a failure of political leadership; (3) the excluded individuals suffered enormous damages for which



appropriate compensation has not been made; and (4) the Congress apologizes on behalf of the Nation. (United States, House “Summary”)

As a part of the reparations for such injustices, \$20,000 were given to each Japanese American who had been incarcerated as a result of Executive Order 9066. Such reparations, however, do not create recompense for the horrors experienced within Japanese internment camps nor for the massive economic loss experienced as a direct result of it. Researchers at the National Archives estimate the total property loss to be around \$1.3 billion dollars and the net income loss to be around \$2.7 billion dollars (these estimations were based on the 1983 value of a dollar). A total of \$1.6 billion dollars was dispersed to 80,000 survivors which comes nowhere close to the summative amount of money lost due to internment.

The goal of the Civil Liberties Act was, in part, to “discourage the occurrence of similar injustices and violations of civil liberties in the future” (United States, House 903). However, such laws did not impact or remove public sentiments or discourage the action of hate crimes toward Asian Americans. As Gover argues,

Asian Americans have been historically viewed as a monolith, othered by the myth of the model minority in times of peace and economic security and othered as a scapegoat in times of economic adversity, wars, or pandemics. (653)

The double othering of Asian Americans through the model minority and as a scapegoat demonstrates the ways they have been continuously separated and excluded from society through the fluctuations of history. Furthermore, the same legal system which perpetuated crimes against American citizens of Japanese descent is the same government which created acts and reparations for such histories thus highlighting temporal entanglements. It is the same legal system which functions inconsistently across BIPOC communities when it needs to preserve the

status quo. It becomes clear that anti-Asian sentiments and public perceptions were never corrected because of the way these sentiments rise again whenever the U.S. needs to unite in the face of unstable times—whether due to a world war or a pandemic—and how it immediately leads to containment. This is clearly seen in the nearly immediate rise of public distrust and anti-Asian sentiment in the wake of COVID-19 in 2020, nearly eighty years after the beginnings of Japanese internment camps.<sup>30</sup>

### **Continued Perpetuation of Anti-Asian Sentiments in COVID-19**

Public sentiment for Asian Americans since WWII and Japanese internment camps are in constant fluctuation depending on major world events, language used by politicians, and public reactions. The major world event of COVID-19 demonstrates the most recent reinforcement of hate crimes and speech today toward Asian Americans. On January 20, 2020, the first confirmed case of COVID-19 in Washington State makes headlines which marked the beginning of the emerging pandemic in the U.S. During the height of the pandemic, President Donald Trump posted numerous Tweets calling COVID-19 the “Chinese Virus,” “KungFlu,” and other names which carried racist and xenophobic tones. Just a few short months later, on March 16, 2020, Jose Gomez, a 19-year-old from Texas, attacked an Asian American family in a local Sam’s Club. He stabbed and cut four people in what has now been deemed a hate crime against the family. The same day four people were attacked due to anti-Asian sentiments, Trump tweeted, “The United States will be powerfully supporting those industries, like Airlines and others, that are particularly affected by the Chinese Virus. We will be stronger than ever before!” (Donald

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<sup>30</sup> It should be noted that both time periods, WWII and the pandemic of 2020, registered containment in different ways. For WWII, it was experienced through Japanese internment camps but during the pandemic it was registered through home quarantines and physical removal from public spaces. It became imperative for people to maintain proper spacing and distance in the public sphere to keep from spreading COVID-19 and for individuals who might be infected to stay home. Therefore, both time periods experienced physical separation, albeit in different forms and for different reasons.

Trump). As Angela Gover asserts, "... minority groups have often found themselves erroneously blamed for spreading germs, as insiders perceived them to be 'dirty' or 'sickly'" (ctd. 653). The effect of using such rhetoric on a public-facing platform the same day anti-Asian hate crimes were carried out created an atmosphere where such actions were not just permissible but the attitudes which lead to such acts were shared by the most powerful person in the United States—the president. Such examinations demonstrate how such hate crimes as enacted by individuals like Gomez and rhetorically encouraged by Trump function as forms of vigilantism or extralegal justice for America(ns). More specifically, this ideology believes by enforcing violence upon those assumed to be the cause of the outbreak of a deadly virus, the threat is neutralized, and America becomes safer for Americans. This type of thinking is interlinked with settler attitudes of belonging, citizenship, and authority. Individuals like Gomez would then view themselves as heroic and restoring harmony to their country rather than viewing themselves as violent perpetrators who violated the rights of other American citizens. The rhetoric of those in office, such as Trump, makes such ideologies acceptable to the public and heightens their own anti-Asian thoughts and racism leading to issues of extralegal containment.<sup>31</sup>

The connections between Anti-Asian sentiments and the calling of COVID-19 the "Chinese Virus" prompted a response from the World Health Organization who stated, "Don't attach locations or ethnicity to the disease, this is not a 'Wuhan Virus,' 'Chinese Virus' or 'Asian Virus'" (Hswen 956). The Federal Bureau of Investigations found reports of hate crimes significantly increased by approximately 70% during the COVID-19 pandemic (*Raising*

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<sup>31</sup> I rely on the term "extralegal containment" to refer to the non-legalized form of containment experienced during COVID-19. This is considered extralegal because it operates outside of the law yet is not disapproved by those who are representatives of the law, including the former president. It becomes what many conservative Americans consider vigilantism and is reminiscent of attitudes toward other BIPOC groups which led to other forms of extralegal violence.

*Awareness of Hate Crimes* 11). In a study on the connections between hashtags used on Twitter, particularly by Trump, and their correlations with Anti-Asian rhetoric, Yulin Hswen and others found that

“Chinese virus” was related to more than twice as many hate expressions compared with “COVID-19.” However, we caution that even the more neutral term of COVID-19 was associated with anti-Asian sentiment in a fifth of the hashtags. Thus, scientific language alone is not enough to erase prejudicial sentiments. Rather, we need to focus on the broader social determinants that perpetuate structural racism. (962)

Such research is vital to understanding the connections between language and violence due to the ways language is often considered innocuous. According to the study, the language used by Trump in his Tweets evokes Anti-Asian sentiments which could lead to violent outbursts against Asian American communities and individuals simply because the perpetrator felt supported and encouraged in their feelings. On March 16, 2021, eight people were killed in an Atlanta spa shooting, six of whom were Asian women. The same day as the shooting, Trump defended his choice of using the term “China Virus” on Fox News (Reja). Similarly to the ways Executive Order 9066 worked to solidify the public’s feelings of “suspicion and mistrust” of Japanese Americans Okubo wrote about in *Citizen 13660* in the wake of Pearl Harbor, Trump’s rhetoric, both digital and literal, solidified the anti-Asian sentiments coming about during COVID-19. The usage of derogatory name calling by predominantly White people came about during both catastrophic events against Asian Americans. Thus, the language used in relation to Asian American individuals and communities during the COVID-19 pandemic is oddly resonant of the language used against Japanese Americans during World War II and the bombing of Pearl Harbor. As Gover describes, “Unfortunately, eruptions of xenophobia have historically followed

close on the heels of pandemics” (652), and, as this chapter posits, it also follows closely on the heels of wars and attacks which lead to high levels of fear within the public. It should be similarly noted that a large majority of White Americans do not recognize, whether purposefully or due to ignorance, the many Asian countries which are distinct and separate from one another. As experienced in the wake of COVID-19, a majority of hate crimes against Asian Americans exemplify the refusal to recognize the distinctions between different Asian countries from the most well-known ones such as China or Japan.

On June 25, 2020, *Time Magazine* published an article, “I Will Not Stand Silent.’ 10 Asian Americans Reflect on Racism During the Pandemic and the Need for Equality,” written by Anna Purna Kambhampaty. This article chronicles the stories of Asian Americans who have experienced Asian American hatred and anti-Asian sentiments in the wake of COVID-19. I argue “I Will Not Stand Silent” exemplifies the reinvigorated hate speech and crimes against Asian Americans across the United States and connects the public reaction to the historical experiences where racialized minorities were blamed for issues which were not related to them.<sup>32</sup> This underscores how the reinvigoration of anti-Asian sentiments exemplifies the temporal entanglements which started from the foundation of the United States when it began changing immigration and labor laws regarding Asian immigrants. Additionally, this article represents the way extralegal containment functions as a response to the hate crimes experienced by Asian Americans wherein they become fearful of leaving their houses in case of another violent or aggressive experience.

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<sup>32</sup> The *Time Magazine* article asserts “Diseases and outbreaks have long been used to rationalize xenophobia: HIV was blamed on Haitian Americans, the 1918 influenza pandemic on German Americans, the swine flu in 2009 on Mexican Americans. The racist belief that Asians carry disease goes back centuries” (Kambhampaty).

This article demonstrates how the temporal entanglements of the unresolved past influence our present, highlighting the way public perception of racialized minorities are constantly fluctuating. The very name of the publisher—*Time Magazine*—evokes the idea that this experience is marked on the continuum of time; yet, the contents of the article itself remind us that time does not equal progress. The genre of this article fits with human interest stories as it chronicles the narratives of several interviewees and includes their photo. This creates a connection between the audience, the author, and the interviewees which is more personal. When considering the impact of racism upon Asian Americans, this article relies on empathy to connect to the audience and to try to strengthen allyship for Asian Americans in the wake of COVID-19. Each narrative demonstrates yet another facet of the way temporal entanglements from legal instabilities in the past impact our present and our future.

While the United States government did not create Chinese Internment camps during COVID-19, the larger public perception of citizenship and attitudes toward Asian descendants functioned to accomplish the similar things it did during WWII. This reaction caused a containment of sorts for Chinese Americans and people of Chinese descent because of fear for their safety from public backlash. More specifically, the public attitudes and violences perpetuated by such anti-Asian rhetoric as demonstrated by Trump created an atmosphere where those with Asian ancestry found themselves fearful of the treatment they would receive or experience during their daily life. The hate crimes experienced by Asian Americans during COVID-19 falls into the belief that “’other’ minority racial/ethnic groups who are perceived as dangerous (i.e. the belief that people of Asian descent are solely responsible for causing and spreading COVID-19) and outside their place of belonging” (ctd. Gover 648). Consequently, such othering “involves a process whereby the group at the top of the racial hierarchy and/or

individuals who believe that Asian Americans do not rightly belong in the U.S., seek to maintain the status quo by defining which members of society do and do not fully belong” (648). These larger attitudes shared by most Americans because of the fear-based tactics of othering minority groups, ultimately leads to the acceptance of anti-Asian sentiments and hate crimes against Asian Americans during pandemics and wars.

One such narrative demonstrates the linkage between Asian Americans to COVID-19 within public perception. Justin Tsui, a registered nurse, was harassed by a man at the subway in New York City. The article details the following:

The man asked, “You’re Chinese, right?” Tsui responded that he was Chinese American, the man told Tsui he should go back to his country, citing the 2003 SARS outbreak as another example of “all these sicknesses” spread by “chinks.”

The man kept coming closer and closer to Tsui, who was forced to step toward the edge of the platform. (Kambhampaty)

When Tsui boarded his train, the man followed him and sat across from him. He mouthed “I’m watching you” the whole ride causing Tsui to fear for his safety even more (Kambhampaty). This interview demonstrates that despite working long shifts saving lives during the pandemic as a nurse, Tsui was immediately perceived as part of the COVID-19 problem by the stranger shifting the focus from the pandemic from health related to human related. Not only does Tsui’s citizenship not matter to the aggressor, but it can also easily be overridden by the assumption of the aggressor that Tsui is the cause of the widespread pandemic. This echoes the sentiments shared by Trump and conservative news channels which disperse the propaganda of the virus being connected to race and nationality. The language of “going back” to a country where Tsui is not a citizen also echoes ideas of containment, albeit in a different way than containment in one’s

home during the pandemic. It refers to the idea that Tsui and other Asian Americans should be removed and/or contained from the larger public sphere in America whether that is through deportation or separation. Containment thus becomes a method, as perpetuated by conservative news media, of dealing with the problem of the pandemic, which they view as immigrants rather than disease.

Interviewees demonstrate how their lives have been shifted by White American perceptions and anti-Asian sentiments much like Okubo's novel demonstrates occurred for Japanese Americans in the wake of WWII. Jilleen Liao was picking up groceries when she paused to fix her mask when another man, close enough for Liao to see "the lines and wrinkles on his face," told her, "Next time, don't bring your diseases back from your country" (Kambhampaty). Liao promptly expressed she is "an American" to the aggressor; however, she now "makes multiple grocery trips a week out of fear that carrying too many bags could put her in a position where she couldn't defend herself" (Kambhampaty). Liao's experience of being told to go back to her country despite being a multigenerational American is an experience many minority individuals have had, which demonstrates that the sense of identity and belonging fluctuates based on sentiments of the public. The treatment Tsui, Liao, and others experienced follows this same ideology of vigilantism that we see in the Gomez case and in the treatment of Japanese Americans during WWII. Okubo's novel similarly detailed such shifts in attitudes toward Japanese Americans after the bombing of Pearl Harbor where anti-Japanese sentiments caused a fluctuation from an American citizen to an enemy alien. More specifically, the exact phrasings which underscore belonging and citizenship are still in use today to remind Asian Americans of their perceived "foreignness" in America by others, due to the racialized hierarchy. Just as Japanese Americans were categorized as enemy aliens, so Asian Americans during



COVID-19 are considered enemies because of the pandemic occurring. Ideologies of vigilantism and the securing of America for “Americans” recurs time and time again for those who do not fit the settler colonial ideals of belonging. It is within the issues of legal instabilities which perpetuated stereotypes for Asian Americans across space and time that we see temporal entanglement occur.

Jay Koo’s narrativization of anti-Asian sentiment draws a direct line from public perception to the language relied upon by politicians in the highest office—the president. After dropping his brother off at the hospital, he was approached by two men who said, “You got the virus. We have to kill you” (Kambhampaty). Koo states, “The men acted out of reflex in quoting President Donald Trump and stated that I have ‘the Chinese virus,’ which propped up the Chinese as a scapegoat” ((Kambhampaty). Such language exhibited by the aggressors continues to maintain the idea of containment, although they frame it as murder, which still connects to the idea of removing Asian Americans from the public sphere. This move of linking a disease to a nationality or ethnicity is dangerous because it directly impacts the safety and well-being of Asian Americans across the United States and globally as well leading to a rise in anti-Asian sentiments. The refusal of large news networks and the President to see that connection merely reinforces the public sentiments which impacts the day-to-day lives of those living through the experiences. Settler colonialism, and its legal instabilities, have created the space and place for such anti-Asian sentiments and hatred to occur because of the very foundations of the country itself. From Asian immigration acts, to WWII, to the pandemic, we see the temporal entanglements recurring time and time again.

The language of the law and of the public becomes interconnected through temporal entanglements. For example, during WWII, Roosevelt’s language in the creation of Executive

Order 9066 as well as the Public Proclamations disseminated by Lieutenant General John L. DeWitt targeted Japanese Americans and shifted public perspective of them as “enemy aliens.” While Executive Order 9066 never specifically refers to Japanese Americans, the time it was published, and the later confirmation by DeWitt, made it clear there was a specific ethnic group on which the order was focused. Consequently, by appointing DeWitt and leaving most decisions up to his discretion alone, Roosevelt demonstrated that his administrative position echoed the same beliefs DeWitt espoused. DeWitt later stated as his reasoning for enforcing the internment camps was, “A Jap is a Jap, and it makes no difference if he is an American citizen” (Stanley 181). DeWitt’s refusal to allow citizenship or status to create the necessity of due process reflects a larger, widespread societal belief system which has continued today. By literally separating the words “Japanese” from “American” and making them separate categories, DeWitt removed the Americanness and sense of belonging from Japanese descended people who were born citizens or naturalized. Trump became another plot point on the continuum of history when he reinforced the belief that Asian descended people, specifically Chinese descendants, were to blame for the COVID-19 pandemic. More specifically, Trump used his rhetoric to shift responsibility for any spreading of COVID-19 in the United States onto the back of Asian Americans and Asians at large. He also relied on the ideology of foreignness which has been continually applied to Asian Americans. This speaks to the nonlinear and practically non-existent progression of American society’s attitudes and treatments of Asian Americans from internment camps to the present moment. Thus, through such analysis issues are cyclical and remain forever looped into the fabric of American society because of the continued prevalence of language and laws.

## **Compensation and Reparations for Losses During WWII and Laws for Asian American Protection**

Just as reparations came about after Japanese internment, in May 20, 2021, U.S. Congress passed Public Law 117-13, also known as the COVID-19 Hate Crimes Act, into effect with the purpose “To facilitate the expedited review of COVID-19 hate crimes, and for other purposes” (United States, Congress 265). The act stated the following:

- (1) Following the spread of COVID-19 in 2020, there has been a dramatic increase in hate crimes and violence against Asian-Americans and Pacific Islanders.
- (2) According to a recent report there were nearly 3,800 reported cases of anti-Asian discrimination and incidents related to COVID-19 between March 19, 2020, and February 28, 2021, in all 50 States and the District of Columbia.

The act continues to cite more statistics which back the creation of the law, including the greater discrimination regarding challenges in the aftermath of COVID-19 and the fact that 36% of incidents occurred at a business. It reifies the fact that “more than 2,000,000 Asian-American businesses have contributed to the diverse fabric of American life” and states the United States “stand(s) in solidarity with those affected” (265). However, such laws as the Civil Liberties Act and the COVID-19 Hate Crimes Act merely absolve the government of its sins rather than systemically correcting the public attitudes and sentiments which have been a part of the nation since its founding against BIPOC communities. These redresses become another form of legal containment which is temporarily enacted. More specifically, containment through redress occurs because of multiple reasons such as Asian American communities must wait (sometimes decades) for the U.S. government to acknowledge the crimes against them, and the formal redress limits the ways in which those in the community can legally oppose those crimes.

Therefore, containment through these redresses operates as a way of holding back Asian Americans from pursuing justice. It creates a liminal sphere in which they can operate while awaiting whatever the U.S. government believes to be justice.

Despite the COVID-19 Hate Crimes Act firmly in place since March 2021, hate crimes against Asian Americans have continued to increase. Stop AAPI Hate published a report in July 2022 which states they have received reports of “11,467 incidents” in the United States from March 2020 through March 2022 (3)— dates that are one year prior to and one year post the COVID-19 Hate Crimes Act. It becomes clear throughout the report that this act has done nothing to provide correction to the anti-Asian sentiments which have become as much a part of the fabric of the nation as Public Law 117-13 claims Asian American businesses are. Stop AAPI Hate asserts the “most effective” ways to address anti-Asian racism are through “education equity, community solutions, and civil rights” (7). Interestingly, The COVID-19 Hate Crimes Act does not posit these solutions within the law and instead focus on ensuring the law functions protectively for Asian Americans and Pacific Islanders against hate crimes which, while a noble cause, should already have been at the forefront of the legal discourse and law makers minds instead of an afterthought over a year after the beginning of the pandemic. Therefore, acts such as Public Law 117-13 demonstrate the containment which occurs through such redress. Consequently, multiple layers of containment occur through legal and extralegal containment, public acknowledgements and redress which occurs in the aftermath of Japanese internment and COVID-19. Temporal entanglement through containment continues as public laws function as cleaning up issues which should have never arisen in the first place.

Throughout this chapter, Okubo’s *Citizen 13660*, Trump’s Tweets, laws and policies, and *Time’s* “‘I Will Not Stand Silent.’ 10 Asian Americans Reflect on Racism During the Pandemic

and the Need for Equality,” demonstrate the historical movement but lack of social progress in the treatment and attitudes against Asian Americans. Time has not healed, but rather allowed anti-Asian sentiments to wound, again and again, physically and emotionally, temporally entangling the past with the present through containment during COVID-19. Through an analysis of such cultural productions and artifacts of the time periods explored, it becomes clear that through settler colonial frameworks, the United States is bound to make the same mistakes rather than learn from them.

Roosevelt’s language in the creation of Executive Order 9066 as well as the Public Proclamations disseminated by Lieutenant General John L. DeWitt targeted Japanese Americans and shifted public perspective of them as “enemy aliens.” While Executive Order 9066 never specifically refers to Japanese Americans, the time it was published, and the later confirmation by DeWitt, made it clear there was a specific ethnic group on which the order was focused. Consequently, by appointing DeWitt and leaving most decisions up to his discretion alone, Roosevelt demonstrated that his administrative position echoed the same beliefs DeWitt espoused. DeWitt later stated as his reasoning for enforcing the internment camps was, “A Jap is a Jap, and it makes no difference if he is an American citizen” (Stanley 181). DeWitt’s refusal to allow citizenship or status to create the necessity of due process reflects a larger, widespread societal belief system which has continued today. By literally separating the words “Japanese” from “American” and making them separate categories, DeWitt removed the Americanness and sense of belonging from Japanese descended people who were born citizens or naturalized. Trump became another plot point on the continuum of history when he reinforced the belief that Asian descended people, specifically Chinese descendants, were to blame for the COVID-19 pandemic leading to extralegal containment through separation from the public sphere. More

specifically, Trump used his rhetoric to shift responsibility for any spreading of COVID-19 in the United States onto the back of Asian Americans and Asians at large. He also relied on the ideology of foreignness which has been continually applied to Asian Americans. This speaks to the nonlinear and practically non-existent progression of American society's attitudes and treatments of Asian Americans from internment camps to more present containment during COVID-19. Thus, through such analysis issues are cyclical and remain forever looped into the fabric of American society because of the continued prevalence of language and laws.

## CHAPTER FOUR: CONCLUSION

This project examines how cultural productions by Native American, African American, and Asian American communities represent and critique U.S. law. Each cultural production highlights the way the law relies on time and temporality to oppress Black, Indigenous, People of Color (BIPOC) communities. This dissertation addresses the way time and progress are non-linear, despite settler colonial and linear considerations of time causing temporal entanglements. Each chapter addresses two temporalities: a legal/judicial temporality which reinscribes settler colonial oppression and the temporalities of each BIPOC community which resist the legal temporalities. Relying on theories of settler colonialism, critical race, and law and temporality, this dissertation argues the cultural productions provide sites for understanding the impact of the law and its temporality upon BIPOC communities. By conducting analysis upon text and film from each community, we can uncover the role of settler colonialism in the cultivation and maintenance of a linear temporality which reinforces the legal decisions and public perceptions made today. The analysis of time, law, and literature in this project is necessary for scholars to continue to connect and to shift the narratives of justice and injustice.

Violence has become woven into the fabric of the U.S. because of its reliance upon settler colonial systems of power as well as its creations of legal and judicial system which empowers inequity. These atrocities are perpetuated by the government and its legal authorities as we see from Indigenous removal and continual denial of access to resources, from enslavement through the present in the form of mass incarceration, to Japanese Internment camps and anti-Asian sentiments in the wake of COVID-19. In *Unsettled Solidarities: Asian and Indigenous*

*Cross-Representations in the Americas*, Quynh Nhu Le writes how settlement and empire create the “processes of land seizures and genocidal warfare” which “are critical to the sustenance of U.S. settler and imperial dominance and capitalist accumulation” (27). What functions as “sustenance” for the settler colonial government and system works to actively diminish the BIPOC communities of the U.S. While this dissertation focuses on the cultural productions and rememories (as Toni Morrison calls it) or re-narrativization of such events, it is important to note the historical and real experiences which bolster such narratives or retellings for future generations to understand the importance of such actions. In Lisa Lowe’s *Immigration Acts*, she writes that law “most literally governs citizenship” and “powerfully shapes who the citizenry is, where they dwell, what they remember, and what they forget” (2). The laws of today reinscribe temporal entanglements, ensuring the afterlife of colonialism continues.

### **Analysis of Cultural Productions**

In chapter one, I explored the ways settler colonial treaties and laws, such as the Treaty of Fort Laramie, shaped Indigenous experiences of body, space, and time in Chris Eyre’s *Skins* and Leslie Marmon Silko’s *Almanac of the Dead*. Subsequently, I discussed how those laws and treaties cyclically impacted Native American lives and perspectives beyond the time in which they were created; for example, how the Treaty of Fort Laramie, through its original intention, continues to hold power over the Lakota nation and how it impacts their present moment rather than the treaty being relegated to the past. This chapter asserted these cultural productions by Silko and Eyre reveal how the settler colonial systems continues to exist because of the production and instability of definitions of legality, criminality, and justice. More specifically, the productions highlight the continually shifting nature of legality and the legal structures by demonstrating that justice is unable to be applied to Indigenous nations due to the structures



implemented by settler colonialism. Consequently, the chapter ends with the assertion that another language of law is required to make room for justice for Native Americans by expanding the question posed by Michelle Alexander, “But what have we learned about the true meaning of justice?” (xxxvi). A close reading of both cultural productions demonstrates there is a need to fight against settler colonialist oppression while simultaneously demanding correction of injustices which occurred through (il)legal means both in the past and the present.

Chapter two highlights Toni Morrison’s *Beloved* and Destin Daniel Cretton’s *Just Mercy* while allowing for an examination of the evolution and continual impact of enslavement and the criminal justice system. This chapter finds that spatial reminders of the juridical system upon extralegal justice forced upon enslaved and oppressed African Americans continue in the form of Confederate statues outside of court houses. These reminders are a clear indication that justice cannot and will not be even in its application toward African Americans, thus furthering the gap of legal instabilities. I assert that through analysis of Morrison’s and Cretton’s texts we can trace how these legal instabilities continue to oppress and dominate Black bodies and lives through settler colonialism both pre- and post-emancipation. *Beloved* and *Just Mercy* portray how settler methods of control demonstrate what Saidiya Hartman calls “the afterlife of slavery” which allows the past to continue to impact the present due to the systems of settler colonialism. This chapter contemplates the positionality of justice within enslavement and mass incarceration. In such cases of the law, justice, then, is not blind and is not applied equitably. Current systems of mass incarceration cannot continue to exist if justice is the goal of the law because of its evolution from enslavement.

In chapter three, I assessed how Miné Okubo’s *Citizen 13660* presented the ways Executive Order 9066 influenced Japanese American lives based on prior legal decisions which

temporally entangled the past with the present. Consequently, this chapter also underscores the ways the perpetuation of Asian American hatred was reinvigorated throughout history, most recently during the outbreak of COVID-19. *Citizen 13660* portrays how temporal entanglements are part and parcel of the legal instabilities of a settler system. Furthermore, the impact of Executive Order 9066, like the other legal instabilities which made Indigenous forcible removal and African American enslavement possible, continues to impact our present moment due to anti-Asian sentiments. Chapter three concludes that through language and law, justice and progress are nonexistent within American society for Asian Americans despite the movement by previous presidents to offer reparations for internment camps during WWII. Reparations through the Civil Liberties Act of 1988 formally apologized for the treatment of Japanese Americans yet did nothing to provide the fundamental changes needed to ensure equitable measures under the law in the future.

### **Future Recommendations for Research**

In the work completed for this dissertation, there are many limitations to its research. By focusing on individual community responses and experiences of settler colonial oppression, I address the ways BIPOC people's nonlinear temporalities, as demonstrated through the literary and cinematic cultural productions, relate to the legal frameworks of the United States. While expanding the theoretical frameworks of scholars such as Lowe, Byrd, Mawani, Rifkin, and many others, this project must narrow its scope upon only three specific communities within the U.S. and subsequently treat only two examples of cultural productions from each. Future works which consider this same or similar topics should explore legal disruptions experienced by other marginalized groups not limited to race but also class, sexuality, ability, etc. Additionally, future research could attend to more global considerations of settler colonialism and its function of the

law upon temporalities in other nations. For example, future scholars should also consider a more in-depth consideration of individual Indigenous nations across, particularly in Florida.

Additionally, they should pay special attention to the legal and spatiotemporal movements throughout history and consider the impacts of current legislation upon the reception of the history of those Indigenous peoples. Additionally, future research should be conducted on the impact of Florida's House Bill 7<sup>33</sup> in the years to come upon knowledge and learning in the Florida Public Education System regarding BIPOC histories and their erasure.<sup>34</sup> Lastly, further work should be done focusing on the cross-racial solidarities between each of the communities discussed in this dissertation in order to address the nuances and complexities of their individual and communal realities.

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<sup>33</sup> By enacting such legislation, Governor DeSantis and others like him are quite literally deciding what is remembered and what is forgotten for future generations thus further strengthening the colonialist fabric.

<sup>34</sup> House Bill 7 was entitled the "Individual Freedom" bill and attempts to characterize instructors as purposefully attacking students for their personal ideologies and indoctrinating them with liberal agendas through teaching theoretical frameworks such as Critical Race Theory. Furthermore, House Bill 7 also has a portion on "required" instruction which states "The bill defines individuals freedoms based on the fundamental truth that all individuals are equal before the law and have inalienable rights" (The Florida Senate). This House Bill also bans the teaching of the concept that "Such virtues as merit, excellence, hard work, fairness, neutrality, objectivity, and racial colorblindness are racist or sexist, or were created by members of a particular race, color, national origin, or sex to oppress members of another race, floor, national origin, or sex" (The Florida Senate). The goal of such bills is to create an entire generation which is ignorant of the greatest tragedies in American history as well as their current bearings on our present moment.

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