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## The Boundaries Between: The Politicization of American Indigenous Identities and Gender Based Violence

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**The Boundaries Between:  
The Politicization of American Indigenous Identities  
and Gender Based Violence**

Senior Project Submitted to  
The Division of Social Studies  
of Bard College

by  
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Annandale-on-Hudson, New York  
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## **Acknowledgements**

The way language is used to discuss sexual violence is incredibly important. I recognize that sexual assault, rape, or domestic violence are distinct issues within themselves. Throughout this project, I will however discuss them through the umbrella term gender-based violence. Throughout my project I use the term “victim” however I do not aim to discount those who have experienced these attacks as anything other than “survivors”, instead the term of “victim” here is used to help recognize the forms of systemic oppression that American Indigenous women face. Lastly, while my project focuses on female violence within the indigenous population I do not intend to invalidate the experiences of male or two-spirit individuals.

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# **The Boundaries Between: The Politicization of American Indigenous Identities and Gender Based Violence**

## **Introduction**

American Indigenous Identities have been politicized through various forms of historical, cultural, and media portrayals. The politicization of a social group is reliant on the perceived social construction of their communities and makes it difficult for the social group to argue or dissent against the oppressive groups goals or opportunity. The outside influence of colonial cultural and social identities that pushed against indigenous communities over time played a significant role in the passing of policy and legislation that emphasized a forced assimilation of indigenous population in the United States into American colonial customs National Indigenous Women's Resource Center. (2021). The politicization of indigenous culture and customs through legal precedents relied on the push for economic development of the United States to gain political and social support of the anti-Indian movement. The policies that were passed through this time period aimed to minimize indigenous customs and culture in order to maintain Euro-American superiority over indigenous life. My project will use examples of colonial legal precedents that continue to negatively impact indigenous women and girls in order to showcase the connections between colonial policy and gender based violence. I will also aim to showcase how the use of naive idealism through Euro-American social and

cultural beliefs rely on the changing of colonial experience in order to emphasize the need for colonization. In order to do this, I will showcase how the Disney portrayal of Pocahontas used naive idealism in order to promote a form of political propaganda that emphasizes the otherness or “savageness” of indigenous communities as well as promotes a false narrative for the need of colonization. For instance, Disney's film portrayal of Pocahontas relies on naive idealism that aims to characterize solutions or beliefs through an idealistic version of reality and works to remove real life consequences from these situations in order to showcase an ideal version of what colonization looked like (Ebert, 1995). By using the examples of colonial federal policies in conjunction to the Americanized version of Pocahontas, my project aims to stress how social stigmas and racial stereotypes play a role in the promotion of policy that minimizes marginalized groups autonomy from the U.S. government as well as works to dehumanize those found within these social groups. I aim to use this theoretical framework to also showcase the role whiteness has in regards to redefining indigenous history and how this affects Westerners' social values they have towards Indigenous women.

My project also aims to explore how this systematic policy approach could have subsequently led to the high rates of violence against indigenous women due to the interference of the U.S. government to indigenous communities through federal legal precedents. In order to do this I will later rely on Patricia Hill Collins' *Black Feminist*



*Thought: Knowledge, Consciousness, and the Politics of Empowerment*. Collins' book relies on the social paradigm of the matrix of domination or matrix of oppression of black women in order to showcase what plays a role in social demographics that become oppressed or dominated through social variances.

### **What Does Gender Based Violence and the Story of Pocahontas Have in Common?**

Patricia Hill Collins the “matrix of oppression or matrix of dominations” uses sociological features that affect an individual position in society such as race, class, gender as well as sexual orientation, religion, and age in comparison to sociological features that can cause a social demographic to be oppressed such as geography, socioeconomic status, or historically over time (Collins, 1990). By defining these social demographics that become oppressed due to sociological variances helps to showcase those who fit into the matrix of domination because their social privilege allows them to interact and establish networks without social pressure that could negatively affect them. By expressing social variances that can oppress a social group Collins is able to showcase that under the matrix of domination different categories of sociological features should be separated from one another. Yet, because of the societal hierarchy that is reinforced by the colonial era these characteristics that fall into the category of the matrix of the oppressed are often seen as a combination of identity rather than individual distinctions of a person (Collins, 1990). Being placed into the matrix of oppression places social and institutional pressures that act as a form of social control

because these notions and stigmas are adopted into policies that restrain individual aspects of a person's identity. While Collins focuses on the black feminist perspective the social control faced by indigenous women intersect with Collin's matrix of domination to explain a different form of oppression that indigenous women and girls face through this social and institutional factors.

Patricia Hill Collins' work showcases the reliance that society has on colonial era beliefs which when combined with Disney's version of Pocahontas helps bridge a connection to social understanding of indigenous communities as well showcases the reconstitution of colonial belief through media portrayal. Disney's portrayal of Pocahontas minimizes the reality of the colonial violence that the Powhatan tribe endured during the colonial arrival in Jamestown, Virginia by European Settlers (Schilling, 2018). For instance, Walt Disney's production of Pocahontas relies on the fictionalized account of the historical encounter between European colonizers and indigenous populations found near Jamestown Virginia. This production of Pocahontas became the romanticized version of colonization seen within American history (Pak, 2020). While this story's production aimed to promote inclusivity, many critique that this 1995 version does more harm than good. In fact, critiques against this film argue that this adaption of Pocahontas allows for European Americans to portray indigenous communities with their Americanized interpretation of what is "indian" and "serves here more as a simplified symbol, an indian maid who falls in love with a dashing blond

hero, saves his life, and brings about a peace between her people and the European visitors" (Ebert, 1995).

The whitewashing of American history is something that has continuously occurred even in the 21st century and has a crucial role in defining the social and cultural values that American society is willing to accept. Institutional systems allow whitewashing such as covering up or altering the portrayal of past records in order to maintain their Euro-American superiority (Webster, 2019). Reworking history to justify the treatment of marginalized social groups or perpetuating the misrepresentation of nonwhite people reconstituted this tie to colonial beliefs of white superiority. The alteration of history produces a form of censorship from Americans onto indigenous communities that has built up over time. This mindset is reliant on stereotypes or tropes that negatively impact people of color. We can see this through the portrayal of nonwhites throughout history textbooks, media, and even through politicians use this false narrative when it comes to history and historical depictions like Pocahontas in order to promote a sense of normalcy when it comes to perpetuating these ideals (National Indigenous Women's Resource Center, 2021). This method acts as indoctrination into a form of white supremacy culture because it shifts reality away from the true interaction that occurred between European colonizers and indigenous tribes. By shifting the historical reality through the colonial perspective of a forbidden love story the viewer or reader subconsciously transforms the violence of colonization with a

sensual approach of it (Bell, 1994). Having a love story that is placed within a colonial backstory perpetuates a romance that is dedicated to both surrender and conquest of a dominant culture (Bell, 1994). This love story narrative that has been pushed through media or historical portrayal of Pocahontas works to dismiss the violence nature of colonization as well as the ties of sexual violence of indigenous women to colonization. Having a main character fall in love with a man she was forbidden from perpetuates a fantasy that has been forged through a patriarchal narrative (Bell, 1994). This narrative relies on the beautification and simplification of the female character. The connecting framework between John Smith and Pocahontas was the aspect of otherness that showcased that John Smith was nothing like the rest European colonizers and that Pocahontas was nothing like her “savage” tribe. For example at one point throughout the film John Smith states to Pocahontas regarding colonizing the land “You think that because you don’t know any better.. There is so much we can teach you, we have improved the life of savages all over the world...Savage is just a word and term for people who are uncivilized”(Goldberg, & Gabriel, 2015). While at the same time he condemns her tribe he makes it obvious that when he refers to the tribe or her people as savages its excluding her in the context. This type of othering puts Pocahontas on a pedestal and her character is used to express colonized ideals throughout the film. While the majority of this film is false compared to the character the film is based upon, the film does capture the reality that both real life and media portrayal versions of Pocahontas were used for colonial propaganda. Specifically, the real life version of

Pocahontas accounts for the dark history that Disney failed to mention, ultimately changing the understanding or extent colonization had on the indigenous population.

Oral storytelling or historical documents show a drastic shift in perspective. The person Pocahontas was based on throughout the Disney film was originally 10 or 11 years old and the main male character John Smith was about 27 years old at the time of the arrival in Virginia. John Smith became Pocahontas's teacher while he was captured by indigenous tribes and was eventually released. The love story narrative was contrived in order to create an exciting narrative to keep kids attention during the film (Ebert, 1995). The disney version also does not account for the sexual violence in which indigenous women and children faced by European Colonizers when they first arrived to Virginia. For instance, Pocahontas is considered a symbol to indigenous women as the first stolen women. Specifically, the Missing and Murdered Coalition which aims to showcase the perpetual acts of violence against indigenous women and the connection that gender based violence has to colonization relies on Pocahontas as the first historical account of colonial abuse (National Indigenous Women's Resource Center, 2021). The sad reality that emerges through oral storytelling and certain historical documents showcases evidence that Pocahontas was sexually abused by European colonizers. In the beginning of European arrival Pocahontas worked as a translator between European colonizers and the indigenous tribes (Eweaver,2008). While John Smith was president of Jamestown peace between tribal and Europeans remained stable yet, once John

Smith was forced to return to England to treat a fire injury indigenous and European relationships began to become more hostile. During this time Pocahontas was married to a tribal member Kocoum, who in the movie Pocahontas rejected. Her and Kocoum had a child and remain on the tribal land. The Jamestown colony began suffering from hunger and disease and began using violence against indigenous tribes to force them to give them food. The reliance on indigenous tribes for survival drove the European colonizers into kidnapping Pocahontas and kept her hidden in one of the European colonies ( Working, 2020). During the kidnapping European colonizers murdered her tribe husband Kocoum and forced her to leave her son behind (Eweaver,2008). While she was forced to live in the European colonies her sister was able to visit and Pocahontas expressed being sexually abused during her capture (Eweaver,2008). During her captivity Pocahontas became pregnant and was believed that this was a child that was a result of her sexual abuse. She was then forced by John Rolfe to adopt christianity and marry him in order to maintain peace. Soon after they got married John Rolfe made Pocahontas move to England where she became a symbol of indigenous women ( Working, 2020). Unfortunately in her time in england she became very sick and died at the age of 20. Ultimately, leaving behind a history for her husband and other Europeans to change and distort over time.

The removal of customs and culture such as language and history of American Indigenous tribes through colonial perspective and imagination places indigenous

identity in a fixed image (Bell,1994). Showcasing Pocahontas as the ideal American “Indian” who is willing to assimilate into colonial belief rather than the strong and highly intelligent Women who spoke multiple languages to a reduced identity works to distort the success of indigenous tribes without European advancement. By using Pocahontas as the cultural example of what indigenous women should look and act like created an unattainable image to other indigenous women. The combinations of patriarchal views and the now unrealistic beauty standards of indigenous women intertwined to create a social system that found value in physical beauty. Those who were found outside the beauty standard from the image of Pocahontas were seen with less value compared to white counterparts. This combination made indigenous women vulnerable to violent crimes and attacks because of the stereotypes and tropes that have been reinforced through the colonial perspective and erasure of historical reality (Mansky, 2017).

While the intent of the film aimed for inclusivity it acted as a means for the minimization of reality. The unintended consequences act as a form of white supremacy because these now accepted beliefs are passed from generation to generation because these ideas are never questioned (Jones & Okun, 2001). The way the Pocahontas was portrayed gave positive attributes and interactions between colonizers and negatively portrayed the role of indigenous community outside of Pocahontas. The role reversal emphasizes this false narrative that Native Americans as “savage”. This form of media

portrayal that relies on this stereotype played a role in creating what we can define as cultural racism. Cultural racism is where one culture redefines reality to its advantage by using cultural differences to both overtly and covertly allocate higher social values to the “dominant culture” in order to normalize and rationalize the unequal treatment and status of anyone deemed outside of this “dominant culture” (Jones & Okun, 2001). Since Culture is a systemic relationship, meaning individual parts connect to a whole, this belief strays from individualized beliefs to systemic characteristics that are associated to Native Americans.

By looking at the connections between the Disney portrayal of Pocahontas and the relationship of collective identity that emerges through Collins’ *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* will help to showcase how easily societal expectations and conventions are easily reimaged through political and historical contents. Specifically, by relying on colonial era policies I aim to showcase how interconnected social and political ideologies are and how easily these biases work to enforce unjust and biased social and legal conceptions of indigenous identity. Relying on Collins’ piece will allow me to showcase the social and physical effects that these policies have had regarding indigenous women's rights and protections as well as finding the connection that these policies have to the gender based violence that indigenous women and girls are facing.



## Literature Review

The American colonization and Manifestation relied on this role reversal to emphasize their need to overtake the indigenous community because of their own ethnocentric approach to the world. The single goal in terms of history is this underlying white supremacy culture that is often masked with the concept of ethnocentrism. This ethnocentric approach is dangerous because it relies on this “we vs other” approach. The “other” in this instance is often seen below or against the “we”(Carignan, Sanders, & Pourdavood, 2005). This false narrative and stereotypes were easily accepted due to ethnocentrism's dependency on collective identity making this mindset dangerous to the “other” (Carignan, Sanders, & Pourdavood, 2005).

These ethnocentric ideals established a society that believed in individualistic and exclusionary practices. We can connect the biases within history textbooks, media, and policies to a more modern phenomenon of Eurocentrism. Eurocentrism is a combination of ethnocentrism, however, in Eurocentric beliefs, you are essentially forcing western concerns, values, customs, and culture onto other groups; ultimately ostracizing their beliefs (Alatas, 2016). Eurocentric or western view of the world was caused by the emergence of the cultural, political, and economic domination of Europe that later led to the colonial domination of the United States (Alatas,2016). The continuation of Eurocentric biases helps maintain this political and social superiority complex of European beliefs (Joseph, Reddy, & Searle-Chatterjee, 1990). These

eurocentric values then bleed into academic structures perpetuating the biased production, distribution, and evaluation of historical and social knowledge (Joseph, Reddy, & Searle-Chatterjee, 1990). We can see examples throughout Western history textbooks of different depictions of different cultures and races that have been represented as inferior or uncivilized based on claims that have been proven to be stereotypes generated by prejudice (Carignan, Sanders, & Pourdavood, 2005). Rewriting the history of these social groups that are seen as “other” with values that are inferior marginalizes these social groups, a history constructed through ethnocentrically biased beliefs produces a structure that becomes dependent on hierarchical values.

During the 19th and 20th century both Britain and the United States became interested in human biological studies (Tallbear, 2013). Scientific racism was another form of “science” that emerged through Eurocentric beliefs in order to help prove racial differences exist (Tucker, n.d.). Rather than using traditional scientific observation, scientific racism used subjective “knowledge” to showcase both physical and behavioral trait differences compared to Europeans Americans (Tucker, n.d.). While race is a western social construct it still had to be reliant on “biological” characteristics in order to classify individuals into different racial categories even if this concept was not relevant to human biology ( Graves, 2001.) This became justification to legitimize and maintain the existing social order between Europeans, Americans and other racial makeups (Castagna & Sefa Dei, 2000). This belief linked human behavior and ability to

different racial categories through “science”. This ideology became systemically adopted promoting white supremacy to emerge within legal processes that were aimed at maintaining the power structure. Ultimately connecting racism and white supremacy to America's central democratic process in order to use oppressive policies to constitute what a “just” society looks like under white supremacy (Dennis, 1995). Forcing genetic politics onto marginalized and oppressed groups as a means to justify European American’s agenda of cultural and racial superiority (Dennis, 1995).

Human biological studies produced “scientific” support of racial discrimination because it declared that certain groups are systemically inferior regarding cognitive or behavioral attributes ( Tucker, n.d.). This helped promote negative policies that directly affected different racial makeups besides European descent. This study gives the "scientific" reasoning to mistreat other races and cultures and uphold white supremacy which is done by the “science” relying on both racial and behavioral differences to use race distinction as social and physiological otherness (Tallbear, 2013). This creates a distinction of exclusion between those who are defined by this otherness and those who now define themselves against the other (Tallbear, 2013). The social construct that emerged from Eurocentric applied sciences became the reality for English society. The scientific classification between physical race differences gave permanence and austerity when it came to understanding human differences, enabling a racial worldview that became set in these hierarchical structures (Schmidt, 2011).

Racialized science plays a significant role in helping to promote administrative policies and regulations that work against marginalized groups social and economic status. Perpetually done causes systemic inequality. The effects of these policies continuously act as a form of racialized social control because policymakers rely on targeting specific social groups in order to maintain social status. Racialized science and these administrative practices all follow this western ideology as a guideline to control and manipulate social systems to benefit Euro-Americans while simultaneously ostracizing and othering other racial groups.

## **Section 1: Racialized Social Control and Violence Against Indigenous Women**

The policies that I'll later mention throughout this paper establish a timeline where the dichotomy between federal and tribal relations depend on one another. Specifically, the autonomy of indigenous tribes depends on the partisan vs bipartisan beliefs upheld through federal levels. The decision to promote policies that are directly aimed at a specific social group that minimizes their ability to establish their own cultural, social, and sovereign rights within the boundaries placed on them by federal policy acts as a form of racialized social control. In other words racialized social control in this instance targets a specific racial identity in order to promote policies that are systemically tied to colonial beliefs of white superiority. In this instance, the targeted group would be anyone who is legally considered indigenous through these

governmental boundaries set up like the blood quantum and ultimately the establishment of reservations. These policies established the acceptable treatment of indigenous members through these social constraints creating social norms that established a standard of behavior for members federally and institutionally that relied on components of shame, force, restraint, persuasion and coercion to meet the government's economic goals (Carmichael, 2012). The distinction between racialized social control and racialized social constraint is racialized social control is systemically supported through legal precedents whereas social constraint is the repercussions of these policies. For example, the push to actively assimilate indigenous tribes by disenfranchising them, murdering them, or removing their sovereign powers through the U.S. congress relies on a systemic abuse of power. While racialized social constraint accounts for the negative social and cultural impacts these policies have had to indigenous tribes such as economic immobility, poor health conditions, loss of cultural or social traditions, high suicide rates, and gender based violence (Riggio, 2021). While racialized social control and racialized social constraints are ultimately dependent on one another they have different levels of structural effects on a social group. For instance, when a social order is reconstituted by policy and law, humans within these established institutions are subjected to these beliefs consciously or unconsciously. Meaning, that the socialization and peer influence can rejustify what is just or unjust within society. However, the continual establishment of white supremacy within our institution on state, federal, religious, economic, and legality levels makes it difficult to

view anything without biases. The eurocentric values that reinforce these notions of white supremacy have ultimately led to the passing of these policies that directly target indigenous livelihood for the exchange of land and money. The political issues have been centered around America's economic needs and is built on the land that they stole from indigenous members, making it entirely the responsibility for the U.S. government to establish better policy and protection of indigenous members. However, the federal government still ignores treaties they established between different tribal members which again reestablishes that it's socially acceptable to ignore the autonomy of indigenous members and their rights.

The combination of law being used to reduce social, cultural, and economic activities within tribal nations and new social norms that accepted the mistreatment of indigenous treaties made it easier for domestic crimes against indigenous members to occur with few repercussions. This pattern of abuse which maintains persistence, acts as a form of structural violence that is a direct result from these white supremacy ideals that have been upheld through law, policy, and social institutions. In fact, the perpetual violence against indigenous women are linked to the lack of involvement from jurisdictional authority through state, federal, county, private, and tribal levels, which include the lack of emergency services such as amber alerts, counseling, and family services, as well as a lack of FBI, Tribal, and State communication and governing relationships (Coalition to Stop Violence Against Native Women, n.d.). This inability to

decide who is responsible for the protection of indigenous women through either federal or tribal governing entities has created a criminal loophole where there is a lack of persecution of violent attacks or murders of indigenous women. The consequences of these policies had significant impacts on indigenous women because they faced both racial and gender discrimination that was supported through this loophole. For instance, within the United States those who identify as Native American or Alaska natives take up about 2% of the total population yet, more than 4 in 5 Native American and Alaska native women experience violence and more than 1 in 2 have experienced sexual violence within their lifetime (Indigenous world 2020: United states of America. (2020)(Indian Law Resource Center, n.d.). In fact, Alaska native women suffer the highest rate of forcible sexual assaults and high rates of domestic violence up to 10 times higher than the rest of the United States and on some reservations indigenous women are murdered more than 10 times the national average (Indian Law Resource Center, n.d.). Federal and state officials remain authority over the protection of indigenous women and girls yet, between 2005 and 2009 U.S. attorneys declined the prosecution of 67% of indian country matters that involved sexual abuse or violence (Indian Law Resource Center, n.d.). The statistics of violence against indigenous women showcase an alarming pattern of continual abuse that is allowed by the lack of prosecution.

Under previous federal policy indigenous tribes were denied the ability to prosecute violent crimes against women and children from non-indigenous members.

This type of law works as a discriminatory justice system because it allows for non-indigenous members to act with impunity in or against indigenous countries (Indigenous world 2020: United states of America, 2020). For instance 96% of sexual violence and attacks against indigenous women are done by non-indigenous members. Many indigenous women marry non-indigenous men meaning there are an increasing number of community members who do not identify as indigenous members. This becomes an issue considering 76% of the population on tribal land and 68% of the population of Alaska native villages are comprised of non-indigenous members. That means that under federal law members who reside in tribal counties that do not identify as indigenous who commit an act of crime or violence against indigenous members cannot be prosecuted under tribal law. Yet, with the lack of prosecution itself showcases the inability for the U.S. to provide adequate support for these crimes. This works as another form of social control because it is forcing indigenous women to fear their safety and their ability to receive protection from a federal level as well as perpetuates this cycle of violence against indigenous communities. The discrepancy between who can protect and prosecute for violence against indigenous women has perpetrated this violence that is often ignored or not investigated due to the lack of law enforcements near tribal land. The inability for the government to provide federal, state, or tribal support in regards to ceasing these attacks through prosecution means more opportunity for these violent offenders to attack more women or children as well as goes against the United Nations Declaration on the Rights of Indigenous Peoples which



recognizes under international law that the right to be free of violence (The United Nations General Assembly, 2007). The main question that emerges is where does this discrepancy come from and who is responsible for establishing the protection and prosecution of violence against indigenous women?

## **Section 2: Administrative Regulations**

These issues appear as a result of the federal government's continued abuse of power over indigenous communities. The government has systematically removed power from tribal nations for hundreds of years through these biased policies which made indigenous tribal nations dependent on American bureaucratic laws and systems. Resulting in the inability for tribal nations to protect indigenous women from American "politics". Since the American government sees the push to protect indigenous women from violence done by non-indigenous members as an attack against the morals of Americans the issue of violence gets minimized in the definitions of what is or is not indigenous. Meaning that Indigenous identities and behaviors that have been stigmatized against them are then used to contradict the cause of violence. Which is perpetuated by the lack of prosecution and institutional support against it. This itself slows down the process of finding legal and institutional protections for indigenous women. Tribal nations want to protect their people from these attacks yet the push back and lack of legal focus means that the tribes themselves have to wait for American politics to care about these issues.

Indigenous identities became redefined through this colonial conception of race. This conception was formalized through racialized science which began to perpetuate this institutionalized belief that the American worldview of different races was valid (Smedley, 2007). In addition to this new accepted belief, it also gave the agency to the American government to commodify and expropriate land, natural resources, and indigenous identity (Castile, 1996). Indigenous identities shifted from territorial, social, and cultural definitions to legal race-based definitions that became popular through congressional laws and administrative regulations (Wilkins, 2007.) Specifically meaning the American government relied on the social construction of race to regulate indigenous affairs through bureaucratic procedures creating more red tape issues which made it difficult for indigenous communities to define their own identity as well as transition back into the original self government they had (Wilkins, 2007).

The federalized policies emerged through the reliance of racialized science to help push this Euro- American agenda. This created a narrative that allowed for government interference on indigenous communities to continue their own sovereign government. Making any policy based off of this subjective reality that Euro-Americans believed as a form of racialized social control. These policies aimed to delegitimize indigenous rights, marginalizing these members through legal practices solely because of their racial identity. These congressional laws and administrative regulations aimed to control who and how long (generationally) indigenous members could have legal race status as

indigenous in order to use their identity as a reason to implement policies like the blood quantum to determine their civil rights. These administrative regulations and laws conflated racial identity to political identity. Making indigenous culture and indigenous civil rights a political issue for the government rather than a human rights issue.

## **Blood Quantum**

The shift of focus to biological sciences led to the governmental implementation of policies that relied on the bio physical differences of American indigenous communities to enforce their scientific racism. This gave the rhetoric for the U.S. government to use policy to determine political and individual identities of indigenous people. The most influential policy that can still be seen in modern indigneous affairs relied on biological influences to determine status, rights, and identity was the blood quantum. This policy was first introduced in Virginia in 1705 but was not federally adopted until 1934 under the Indian Reorganization Act. The blood quantum policy was implemented to limit Native American's civil rights through "verifiable" biological authenticity of the blood percentage ( Forbes, 2008). Here it was used as a means to measure the "indian-ness" of the indigenous community through the construction of racialized blood (Forbes, 2008). The amount of Indian blood was used by the United States government to determine an individual's tribal legal rights and status. The blood quantum or blood percentage is based off of the original enrollees of the tribe which would be documented through census roles (Chow, 2018). The original tribe member

would be automatically assumed full blooded by the U.S. government which simultaneously guaranteed their indian status and disenfranchised them from basic civil rights, like the ability to vote or secure ownership of their indigenous territories. The blood quantum is the measure of indian blood expressed as a fraction such as full blood, one-half, one-fourth ect. which begins from the first legally documented tribe member (Chow, 2018). The blood percentage was used to control the indigneous population. For instance, the indigenous members could not raise the blood quantum; it was meant to limit the amount of years generationally that indigenous members could exist within this system. The only way for indigenous members to maintain the next generations required percentage would be to marry someone from the same tribe. Otherwise, the blood percentage would go down each generation by a fraction meaning at a certain generation they would no longer be allowed government reparations regardless of their association with the tribe members itself. Even if an indigenous woman who was half “blood” married another indigenous person from another tribe with half “blood” and they had children under the blood quantum, those children would still only be considered half because the parents did not belong to the same tribe. Meaning, that unless these members married within their own tribe their children would potentially lose their indigenous status simply because of the government's implementation of the blood percentage.

The blood quantum policy represents the politicization of indigenous people and culture through the racialization of blood. The blood quantum became the foundation for indigenous identity by tying kinship and physical stereotypes to the representation that the U.S. government had of tribal members. This policy completely ignored how indigenous people defined themselves, their community, and those who were allowed to join their tribe. The blood quantum remains historically significant in understanding the racialized construction of blood and the conflation of personal identity of the indigenous community to the political one. This policy has since been integrated by the tribal identification system of the Bureau of Indian Affairs, yet continues to constitute the boundaries that determine both racial and political identity (Villazor & Cuison, 2008). The recognition of the construction of racial and political lines of indigenous members through the integration of tribal systems reinforced the rigid frameworks that were aimed at indigenous communities to eventually force indigenous people to “breed themselves out” and would eventually rid the federal government of their legal responsibilities and duties to uphold treaties made with American Indians because this community would eventually be fully integrated into mainstream society through forced assimilation. (Chow, 2018).

The Bureau of Indian Affairs was created in 1824 by the U.S. Government. It was initially implemented in order to help the federal government negotiate treaties and trade between tribal communities and the government (Smith, 2017). However, under

the Bureau of Indian Affairs the U.S. government maintained power over federally registered tribes. This meant the government could decide the rights, status, and social values placed on indigenous lives. Under the Bureau of Indian Affairs federal policies were designed to subjugate and assimilate federally recognized tribes found within the Bureau of Indian Affairs into dominate white society and culture (U.S. Department of the Interior Indian Affairs, n.d.). The governmental goal to assimilate indigenous tribes into mainstream society was federally pushed until the Indian Reorganization Act of 1934, which aimed to decrease federal control of Indian affairs and to increase indigenous tribes self-government (Britannica, T. Editors of Encyclopaedia, 2020). However, the time period between the creation of the BIA in 1824 and the Indian Reorganization Act of 1934 was filled with forced assimilation and mass genocide of indigenous tribes that was implemented by the U.S. government that challenge the autonomy and independence of indigenous members once had from the U.S. government for the expansion westward for white settlers. While the construction of the Bureau of Indian Affairs gave federal control over indigenous tribal affairs the federal government still recognized American indigenous tribes as sovereign powers. The Bureau of Indian Affairs worked together with indigenous nations to administer treaties that were upheld through nation to nation diplomacy under congress.

## **Westward Expansion**

The expansion west allowed for the U.S. government to directly target indigenous land, culture, and traditions which negatively impacted indigenous autonomy and self-governance. This ultimately led to policies that relied on the diminishing autonomy in order to force indigenous members to confined areas in an attempt to control and minimize conflict between settlers and indigenous tribes as well as encourage them to adopt the ways of the “white man” ( Wakeling, Jorgensen, Michaelson, & Begay, 2001). The mindset of anti-Indian movement was achieved through the negative representation of indigenous members through cultural, legal, and social constraints from Euro-Americans which helped to emphasize the notion of “us” vs “them.” Specifically, the negative representation worked to keep indigenous tribes alienated from legal and political decisions that decided what civil rights they deserved. This was achieved through the cultural distinctions between indigenous tribes and Euro-Americans at the time. For instance, Euro-Americans held onto the notion that they were more civilized compared to indigenous tribes in the United States and believed that Indigenous tribes “lived an inferior lifestyle” ( Pine, n.d.). This approach of Euro-American Superiority made it so that U.S. citizens believed that the expansion west and eventually assimilation of indigenous tribes into American christianity would improve their quality of life. When indigenous tribes push back against the adoption of christianity and the removal of their cultural and social values Euro-American citizens became hostile and

over their Native sovereignty, treaty rights, and cultural and economic autonomy (Grossman, 2021) This eventually resulted in U.S. citizens to begin challenging tribal jurisdiction, Native treaty rights, and ultimately viewing tribal sovereignty as an obstacle to profit and development (Grossman, 2021). The hostility between U.S. citizens and indigenous tribes made it easier for the government to support the anti-Indian movement through policy that later became a large portion of the expansion westward.

During the expansion west several states passed laws to limit indigenous sovereignty and rights in the south in order to gain access to their tribal land and resources. This mindset was spread mainstream when Andrew Jackson was elected president in 1829 and later on under his successor Martin Van Buren. Under Jackson's presidency the U.S. The Supreme Court objected to Georgia's laws that aimed to remove sovereignty from indigenous tribes and aimed to limit the regulation against Euro-Americans interference on native land. Under *Worcester V. Georgia* (1832) the U.S. The Supreme Court reaffirmed native nations' sovereignty and expressed that Georgia's law had no precedence over indigenous tribes (Britannica, T. Editors of Encyclopaedia, 2021). However, throughout the court process of *Worcester V. Georgia* Jackson had already convinced congress to vote on the Indian removal Act that granted unsettled western prairie land to indigenous tribes if they agreed to relocate from their territories within state borders (Britannica, T. Editors of Encyclopaedia, 2019). With congress already supporting the anti-Indian notion that Jackson put forth Jackson was



able to argue against the supreme court's decision on that limited indigenous rights and sovereignty and reallocated the decision back to Georgia lawmakers ( Beyond The Southeast, 2018). This policy relied on incentives such as indian financial and material assistance for relocation as well as guaranteeing protection of their new property from the U.S. Government (U.S. department of state Department of Historians, n.d.) .

While the Indian Removal Act required the U.S. government to put negotiation efforts regarding getting treaties signed by indigenous tribes in the south, Jackson and his government often ignored the law by using threats, bribes, and persuasion in order to get the remaining indian tribes into signing removal treaties off their own land. (Wakeling, Jorgensen, Michaelson, & Begay, 2001). Though there were push back from the five tribes Choctaw, Chickasaw, Cherokee, Creek, and Seminole the white settlers were content in removing these tribes from the south. By 1838 the implementation of the Indian Removal Act led to the forced removal of these indigenous tribes by gun point, which was later named the Trail of Tears, due to the amount of pain, suffering, and death experienced by these tribes. Previous to the Jackson administration the U.S. The Supreme Court upheld the notion that indigenous tribes were sovereign nations and were allowed to hold their own court and government systems within the United States. (Beyond The Southeast, 2018). However, Jackson's abuse of Presidential power by ignoring the U.S. Supreme Court decision of Worcester V. Georgia (1832) that ruled in favor of indigenous sovereignty resulted in a social and political whirlwind that adopted

the Anti-Indian approach that Jackson put forth. Overruling the Supreme Court meant that the political figures that supported Jackson's Indian removal plan were left unchecked from power balances because the Supreme Court lost credibility. Thus, ultimately giving the power in favor of Jackson to push forth his Euro-American Superiority mentality.

The decision against Georgia should have given indigenous tribes in the south an advantage regarding negotiation with the federal government yet, because both the president of the United States and the state of Georgia refused to acknowledge the court's decision the ruling had almost no effects during Jackson's presidency (Beyond The Southeast, 2018). By the end of his term, Jackson was able to establish over seventy different treaties which deduced sovereignty as well as minimized tribal land and indigenous civil rights which negatively affected tribes ability to survive without the help of the U.S. government. Thus, the decision to dissent against the U.S. The Supreme Court played a role in the erosion of our government's structure which resulted in an uncheck balance of power. This imbalance of power allowed for the violation of treaties and unjust policies to be upheld that aimed to deduce indigenous rights through a systematic approach through the basis of legal precedents and violence (Beyond The Southeast, 2018).

## **Indian Appropriations Act**

The Indian Appropriations Act of 1851 was another legalized strategy to eradicate indigenous ideologies and traditions through the limitation of traditional life through the creation of Indian Reserve System which was determined by those who were legally recognized as indigenous by the government through the blood quantum as well as census data and then were forced to relocate from their tribal land to the reservation system. The Bureau of Indian Affairs was created in 1824 by the U.S. Government. It was initially implemented in order to help the federal government negotiate treaties and trade between tribal communities and the government (Smith, 2017). However, under the Bureau of Indian Affairs the U.S. government maintained power over federally registered tribes. This meant the government could decide the rights, status, and social values placed on indigenous lives. Under the Bureau of Indian Affairs federal policies were designed to subjugate and assimilate federally recognized tribes found within the Bureau of Indian Affairs into dominate white society and culture (U.S. Department of the Interior Indian Affairs, n.d.). The governmental goal to assimilate indigenous tribes into mainstream society was federally pushed until the Indian Reorganization Act of 1934, which aimed to decrease federal control of Indian affairs and to increase indigenous tribes self-government (Britannica, T. Editors of Encyclopaedia, 2020). However, the time period between the creation of the BIA in 1824 and the Indian Reorganization Act of 1934 was filled with forced assimilation and mass genocide of

indigenous tribes that was implemented by the U.S. government that challenge the autonomy and independence of indigenous members once had from the U.S. government for the expansion westward for white settlers.

This gave the government the federal jurisdiction to begin controlling tribal affairs which was later upheld through the Bureau of Indian Affairs. While the purpose of moving tribes to reservations claimed to protect them from european settlers who still wanted to acquire their land, these reservations aimed to force assimilate indigenous tribes into adopting european american traditions. For instance, the Bureau of Indian Affairs restricted tribes from engaging in traditional food gathering, hunting, fishing as well as leaving the reservation systems without permission (Khan Academy, n.d.). This was done in order to promote a more agricultural community rather the traditional nomadic lifestyle these tribes used to participate in. However, the inability to grow food on the land provided as well as being restricted from finding food meant many indigenous members died from malinition and diseases. The Bureau of Indian Affairs also determined that indigenous members could not profit off of their agriculture which caused indigenous tribes to suffer from economic underdevelopment and to live in poor rates of living (Investing in Native Communities: A joint project of Native Americans in Philanthropy and Candid, 2021).

## **Public Law 208 (PL280)**

In 1953 Congress enacted Public Law 83-208 (PL 280) which helped to shift federal jurisdiction over criminal offenses that took place in Indian countries. This decision was mandatory for six states, those of which included Alaska, California, Minnesota, Nebraska, Oregon, Wisconsin and optional for Arizona, Florida, Idaho, Iowa, Montana, Nevada, Utah, Washington, and lastly North and South Dakota (Gonzales, Schofield & Schmitt, 2005). Though this law was mandatory no financial support was put into place to help patrol or enforce law within Indian territory. While this policy was put in place to help correct the “lawlessness” of Indian countries through state, civil and criminal courts the inability for states to fund these task forces made it difficult to implement cooperations from tribal members and police officers (Deer, 2004). This also made it difficult for tribes to allocate federal need to combat the violence against indigenous women children because the lack of funding perpetuated an absence of effective law enforcement, tribal sovereignty infringement, and conflicting decisions as to where the criminal jurisdiction lays in turn for the criminal activity that has emerged around Indian Country (Gonzales, Schofield, & Schmitt, 2005). The passing of the Indian Appropriations Act of 1851 as well as the passing of Public Law 280 resulted in the weakening of tribal jurisdiction and autonomy away from the U.S. government due to the active attempt to remove their sovereign powers.

## Indian Civil Rights Act (IRC)

The congressional passing of the Indian Civil Rights Act of 1968 was another attempt to limit indigenous sovereign powers regarding the process of prosecution through tribal judicial systems. The IRC required tribal justice systems to mirror mainstream American courts and legal procedures by extending the bill of rights over tribal governments. Though tribal courts often imposed other alternative methods of punishment besides incarceration to keep offenders accountable such as banishment, community service, counseling, prohibition and public apology however with the implementation of federal punishment the U.S. government felt as if tribal court systems lacked the power to decrease violent crimes (Deer, 2004) . The federal judicial system believed that tribal court systems would be better off if they relied on incarceration or monetary sanctions like the anglo-American judicial system rather than the tribes alternative methods of accountability. However, the imposition of the bill of rights onto tribal courts made it difficult for tribal courts to simultaneously respond to violent crimes as well as hold offenders accountable without the federal support of the government due to their unfamiliarity of American law and customs. For instance, this policy worked to restrict tribal judicial systems by implementing anglo-American Constitution of Civil Rights onto indigenous tribes which imposed limitations on the ability for tribal courts to either incarcerate or fine criminals within the tribal court system. Promoting an inability of tribal courts to keep offenders accountable legally

without the support of federal powers. This combined with the lack of federal support gave opportunity to non-tribal members to commit heinous offenses to those found within the federal reservation system.

### **Appropriation Act (1871)**

This forced attempt of assimilation continued with the passing of the Appropriation Act of 1871, which declared that indigenous people were no longer considered members of “sovereign nations” (Yongli, 2020). This ruling denouncing indigenous tribes as sovereign nations immediately resulted in indigenous tribes being reclassified as wards of the U.S. government which meant that the government no longer had to establish treaties between indigenous tribes. While the Indian Appropriations Act of 1871 no longer recognized tribes as independent nations this decision ultimately increased federal power over indigenous lives and land. This became a serious issue because this meant the federal government could disregard previous treaties that were signed that allocated protections to tribal nations. Since they were no longer considered sovereign powers, tribes were no longer to practice their traditional government system of tribal courts and agency meant that these tribes were then forced to rely on the federal government and ultimately states to determine prosecution and protection of crimes done against the tribes. By not recognizing indigenous tribes as sovereign and limiting their tribal governmental powers the U.S. government enabled a systemic need for tribes to rely on the federal government to help establish protection

boundaries for their communities. Yet, the social values between indigenous tribes and the U.S. judicial system differed due to their biased views. This resulted in American judicial systems to not take crimes against indigenous as well as the increased amount of sexual violence or murder regarding indigenous women and children because the U.S. judicial system did not designate enough resources into properly investigating these acts of violence (Deer, 2004).

### **Major Crimes Act**

The interference of law and policies perpetuate the high rates of victimization due to the federal government inhibiting tribes to direct judicial powers that would have addressed and counter these culturally focused violence (Bigfoot, 2000). For instance, the passing of the Major crime Act of 1885 marked the first federal intrusion on tribal justice systems. This policy was implemented after the U.S. Supreme Court Case *Ex Parte Crow Dog* that originated after a Lakota murder case. Under the federal law the U.S. Supreme Court still recognized indigenous tribes as independent sovereign nations but only gave authority to tribal court systems to be able to prosecute murder committed by another tribe member (Deer,2004). This decision caused public outcry and resulted in the passing of the Major Crime Act (18 U.S.C. 1153) which allows for federal prosecution of Native defendants in serious felony cases including the crime of rape.



### **Section 3: Analysis on the Effects of Tribal Justice System and Interference of American Policies**

Before the intrusion of federal policies on indigenous tribal systems, indigenous tribes had a powerful and effective justice system that had a strong deterrence against violence against women and children. In fact, historical evidence showcases that their system relied on jurisprudence that supported a system of social checks and balances in order to hold the offender accountable (Poupart, 2002). Indigenous justice systems also relied heavily on a victim centered process that enabled the victim to have a voice against their offenders in order to help assist in emotional and spiritual healing as well as restitution for the victim (Lee, 1996). The denial by the federal government to give indigenous tribes sovereign power meant the inability to use their own traditional tribal justice systems to protect against violence against their tribe members. For indigenous tribes to be recognized by the federal government they would have to meet the criteria that these communities were sovereign through belief, ability, and recognition. (Porter, 2002). Without the recognition from the federal government that an indigenous tribe was sovereign meant indigenous human rights had less of a focus from independent governmental support. For instance, tribes who were considered sovereign were treated and given governmental support and respect as if they were a foreign power (Deer, 2004). The deduction of sovereignty from tribal members meant that the U.S. government no longer had to maintain and establish protection treaties with these

tribes. Without federal aid and support from federal powers to determine whether or not these cases of sexual or domestic cases met federal criteria meant a limitation on what tribal members could do legally for the women and girls affected. This resulted in tribal nations becoming vulnerable to the decision and influence of the U.S. congress to decide whether the violence against indigenous women was a human rights issue.

However, even if these case met the federal criteria the structures that were implemented by the U.S. Governments that were aimed at helping indigenous communities from this violence are often found to be underfunded, understaffed and unable to meet the needs required by indigenous communities which often results in the social justice issues of violence against indigenous women and girls often neglected (Deer, 2004).

The minimization of indigenous rights resulted in the reduction of protections which ultimately perpetuated the violence against indigenous women and children. The way the social and legal precedents bleed into each other mirror this reduction of individuality to a specific demographic because law normally does not separate an individual's characteristics and places them within a certain umbrella of intersectionality (Collins, 1990). Placing legal precedents over a social group in order to maintain status and power creates a dynamic that relies on this cycle of jurisdictional standards which systematically oppress those found within these boundaries. The systematic reduction of individuality, culture, and rights of indigenous communities

through legal precedents enables the oppressor to remain in control over the oppressed making the power structure dependent on the oppressor through the politicization of indigenous Identities. The politicization of indigenous identities rely on the objectification of a collective group identity in order to categorize these social groups through either political analysis and action that determines their social, cultural, and legal rights within those colonial ideologies.

The lack of protection for indigenous women and children result in systemic abuse of power and perpetuation of violence against this demographic, ultimately creating a power dynamic that is founded and established upon a form of governmental social control. Social control occurs when society expects an individual to live within predefined regulations of colonial ideology such as gender, race, sexual orientation and those who are outside this expected norm face social and institutional oppression (Collins, 1990). For example, the United Nations Declaration on the Elimination of Violence Against Women states that “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (The United Nations Inter-Agency Support Group (IASG) on Indigenous Peoples’ Issues, 2014). The sexual violence as well as domestic abuse that indigenous women face deprives their ability to live a life without fear and ultimately works as a form of social control because the politicization of indigenous communities

allow for this perpetual violence to occur. The conflation of indigenous culture and customs belonging to a certain racial makeup isolates these violent offences between indigenous women and white women. In other words, the violence against indigenous women relies on the distinction between these predefined definitions of what indigenous is or even looks like compared to white colonial expectations. These distinctions allowed for the creation of restrictive policies that limit the entirety of a social group which does not account for the individual effects these policies would have on differing identities such as gender or sexuality depending within the social demographics of indigenous communities members.

The exposure to sexual violence or domestic abuse that Indigenous women and girls face is tied to the history of colonization and disposition of land (The United Nations Inter-Agency Support Group (IASG) on Indigenous Peoples' Issues, 2014). Particularly, the lack of adequate compensation to indigenous tribes from the federal government from the erosion of civil, political, and land rights works as a form of displacement which makes it difficult for indigenous tribes to maintain economic, social and cultural values (Deer, 2004). For instance, the forced migration and relocation increases the likelihood of sex trafficking or sexual exploitation of indigenous women and girls (The United Nations Inter-Agency Support Group (IASG) on Indigenous Peoples' Issues, 2014). This occurs because the once protective environments from both family and community break down under force displacements. The combination of the lack of

family and communal protects as well as the deeply rooted patriarchal system that where systemically put in place by colonial beliefs reinforced the practices of regulating and subordinating indigenous women's role in the family and community (Deer, 2004). The multiple identities that indigenous women and girls have through custom, culture, and environmental factors results in them suffering a higher rate of discrimination and exclusionary practices because they lack the same benefits and protection of non-indigenous women (The United Nations Inter-Agency Support Group (IASG) on Indigenous Peoples' Issues, 2014).

The passing of these policies indigenous women had to face the repercussions of gender discrimination as well as racial discrimination, whereas indigenous men only faced racial discrimination from these policies. Indigenous women then had to rely heavily on indigenous men due to their legal limitations through the U.S. government's policies. Indigenous men could decide to assimilate into mainstream society which would determine their wives Indian Status as well as their childrens. Indigenous men were also encouraged to become educated and work Americanized jobs where indigenous women were not allowed to leave the reservations extended time periods. This forced them to not be able to search for jobs, as well as educate themselves due to the restraints placed on them by the government which forced them in a further economic disadvantage than other indigenous members. The colonial ideology that encompasses the legal precedents the federal government placed on this community

reduced the ability to protect indigenous women and children due to their social and political identities that were formed by social stigmas that the government reinforced through white eurocentric values.

The responsibility for correcting the gender discrimination and violence against indigenous women and children relies on the U.S. government to intervene because an already established power structure that acts as the oppressor to indigenous communities. The U.S. government is also responsible for the continued biases and stigmas that allow for this violence to continue. There needs to be more transparency on the treatment of indigenous communities throughout history as well as the violations of treaties the government has done to this community through a more institutionalized route. Providing education and platforms for these marginalized groups to have their voices heard and experiences shared and supported by political figures continuously over time could help alleviate some biases and stigmas relating to these social demographics. The main form of marginalization that has taken place against indigenous communities has been through federal and state jurisdictional rules. In fact, each branch of the federal government has played a hand in the complication of tribal government by relying on persistent attempts to remove tribal sovereignty (Mendoza, Gao, Mundh, Xiong, & Harmon, 2020). State and federal laws which depended on a lack of jurisdictional transparency regarding tribal treaties and the end goal of assimilation of indigenous tribes into Euro-American society. Specifically, the lack of jurisdictional

transparency regarding tribal criminal jurisdiction allows for procedural rules that are unclear under U.S. law and often resulting in the lack of ability to allocate evidence regarding substantive rights for tribe related crimes (Mendoza, Gao, Mundh, Xiong, & Harmon, 2020). The opaqueness of these laws regarding the protection of indigenous women and children make it difficult to ensure safety and security because the uncertainty of rules make it difficult for support workers, government employees, and law enforcement to enforce protections of victims (Indian Law and Order Commission, 2013). The issue with unclear jurisdictional results in a lack of predictability regarding cases of gender based violence because a lack of clarity means there is a lack of judicial efficiency which makes it difficult for the public to find resources that would help them get the justice and safety they deserve. When this happens courts of law turn to the Supreme Court for this clarity yet, due to the previous supreme court cases that have occurred that minimized tribal sovereignty regarding the prosecution of violent offenders on tribal land under tribal judicial system makes it difficult for cases of gender based violence that happens on tribal land by non-indigenous members to be handled properly due to the reliance of state law enforcement and anglo-saxon judicial system.

The inability for indigenous women and children to find sources of protection due to government interference and the combination of negative encounters such as police violence has a significant impact regarding reaching out to resources outside of the tribe for protections. The Supreme court ruling of *Oliphant v. The Suquamish Indian*

Tribe (1978) determined that indigenous tribes did not hold criminal jurisdiction over non-Indians that have been accused of crimes on Indian land (American Law and Legal Information, 2021). As well as the supreme court case *Duro V. Reina* (1990) determined that tribes did not have the jurisdiction to charge or prosecute indigenous members who did not belong to the tribe in which the crimes were committed (American Law and Legal Information, 2021). The decision of both these cases shifted the traditional tribal justice system from “territory based” to consent based sovereignty from the U.S. government (American Law and Legal Information, 2021). The combination of these decisions by the supreme court created state and federal restrictions that tribal governments had to uphold even if it meant a lack of protection for indigenous women. For instance, the U.S. Department of Justice estimates that indigenous women and girls experience sexual violence two and a half times more likely than other social demographics and fifty four percent of the rapes occur before the age of twelve and are five to ten times more likely to be killed between the ages of ten and twenty-four years of age (American Law and Legal Information, 2021). These crimes would have to be turned over to federal government or state authorities yet, because of unclear jurisdiction the criminal prosecution undergoes a long process of reporting which often means the perpetrator remains unprosecuted. This delay has a repercussion of less reports being made as well as makes it easier for non-indigenous members to commit violent acts against indigenous women and girls within tribal territory because of the lack of legal consequences.



The lack of awareness around violence against indigenous women from present and past media enables public dismissiveness of these attacks and causes a systemic normalization of mistreatment of indigenous women (Young, 2019). The normalization of violence against indigenous women and children are perpetuated because of the negative implicit biases that are emphasized through the media as well as other social and political institutions. These implicit biases end up dehumanizing indigenous women because society ends up viewing them with these negative stereotypes which allows perpetrators to place blame on these women for the violence they receive (Young, 2019). By placing the blame on victims for the violence they face removes the general public's responsibility to face these issues as well as reinforces the dissociation of value from indigenous women and children because of their physical characteristics. For instance, indigenous women and girls have historically been predisposed to sexual violence and murder due to homelessness, poverty, medical conditions (Farley, Matthews, Deer, Lopez, Stark & Hudon, 2011). However modern studies suggest that indigenous women and girls remain targets regardless of their socioeconomic status or class because they hold society's stereotypes of what indigenous women's physical identifying characteristics would be (Young, 2015).

The treatment of indigenous women and girls create a response surrounding feminist based actions in order to bring awareness and action to the perpetual violence this social group holds. Very similar to the black feminist movement in which Collins

analyzes showcase the influence social struggle has in regards to forming group-based collective as well as how reliant these movements are on POC women who are found within domestic labor that make these movements possible (Collins, 1990). For instance the Missing and Murdered Indigenous Women Movement (MMWI) is a social justice movement that works to educate individuals as well as government officials that the high rates of violence against indigenous women is a human rights crisis because these acts are no longer effects individual persons but rather large population of indigenous members (National Indigenous Women's Resource Center, 2021). In fact, the U.S. MMWI movement aims to showcase that even though these acts are done by certain perpetrators it was the federal colonial policies and laws that allowed for a type of social setting that enabled crimes against this population (National Indigenous Women's Resource Center, 2021). As well as how reliant the federal policies relied on the reinforcement of these established racial stereotypes that worked to promote differences between european settlers and American Indigenous tribes (National Indigenous Women's Resource Center, 2021). The promotion of this led to legal based policies that influenced distinctions between different social and cultural norms that were adopted by European-Americans which made it easier for Euro-Americans to feel threatened by different social groups.

The way in which American history “captures” non-european cultures and societies made it easier and more digestible to remove the rights of other people who

were distinct in their otherness. Even in the 21st century these stereotypical depictions of indigenous cultures and women found in media or movies almost always portray the otherness between white American's and Indigenous tribes with the distinction that indigenous tribes are "savage" compared to Americans. This emphasis of otherness is rooted in white supremacy because it always works in the favor of white American men. Specifically, this movie was supposed to work as an inclusive media portrayal of indigenous culture and society, yet, what is portrayed in the film reimagines Pocahontas to be a simplified version of a young indigenous woman who could not help but lust after the stereotypical European man and chose to turn away from her own customs and culture.

The story of Pocahontas tragic tale of a young Native girl who was kidnapped, sexually assaulted and allegedly murdered by those who were supposed to keep her safe. She has become the symbol of missing and murdered indigenous women and girls because she herself was stolen from her family and culture and forced to live in Europe with a man who kidnapped her from her husband and child and murdered them. The film version of this historical person diminishes the harsh reality that indigenous populations had encountered with the arrival of European settlers. Colonization has a relationship with sexual violence which is why it has become so detrimental to diminish the story of pocahontas to a forbidden relationship from the realities her and her tribe faced by european settles in Jamestown. The community based violence has influenced

social justice movements under the *Missing and Murdered Indigenous Coalition* due to the collective influence created through the perpetual violence that indigenous women face.

Since the federal judicial system currently holds primary control and power of cases of indigenous women and children that have been victimized within Indian countries the MMIW coalition aims to bring awareness to these crimes and push for the support of the federal government to reestablish indigenous sovereign power of victims of violent crimes. The staggering amount of evidence of lack of both state and federal support against these victims showcase the need for a major change within state and federal processes in order to give adequate and efficient accountability. Distinctly, the response that occurs or does not occur to help manage or elevate crimes against indigenous women or girls are ultimately linked to the removal of sovereignty and the restrictions placed on tribal governmental power. The best way for indigenous tribes to gain more agency and independence from the U.S. federal system would have to be a combination of policy that restored indigenous sovereignty regarding the prosecution of felony crimes as well as implementing federal financial support for indigenous tribes to help reconstitute past tribal justice systems functions. This would help deburden the U.S. judicial system and would mean that there would be more resources towards combating violent offenders.

## **Conclusion:**

The 500 hundred years of violence, maltreatment, and neglect that indigenous members faced by the U.S. Government and U.S. citizens showcase a complicated story of a system abuse of power. While the U.S. government has issued apologies since the passing of these federal laws, policies, and regulations that have been placed on indigenous communities it does not go far enough in addressing the systemic violence against tribal women and children. The cultural racism and gender discrimination that has been normalized through media, education, and religion of colonial ideology can still be found within our institutional structures. The reliance on U.S. policy to remove and minimize indigenous tribal agency has resulted in a perpetual state of violence for indigenous women and children. The outdated federal policies that remain as underlying legal foundations for indigenous rights and sovereignty ultimately plays a role in the undermining of tribal protections for indigenous women.

While the history of colonization of indigenous nations is not specific to the United States, U.S. colonizers often fail to understand and reconcile the colonial laws and practices that have created a systemic role throughout federal laws that limited tribal protections of women (Deer, 2004) The structural approach of gaining public and political interest in the forced assimilation of indigenous community can still be seen today. These policies that once gave legal justification for land seizures and assimilation of tribes through violence in order to gain control over indigenous territories are still in

place and unconsciously uphold past colonial beliefs (Deer, 2004). The perpetual violence against indigenous women remains tied to the colonial beliefs that have been systemically supported through institution factors. Analyzing the relationship between colonial laws and violence faced by indigenous women and girls helps to illuminate how these legal structures work against the safety and protection of this community (Deer, 2004).

The violence that indigenous women face without the support of state or federal agents results in both physical and psychological consequences that the victims are left with. The lack of support from federal agents as well as the inability for tribes to prosecute violent crimes works to set back social developments, individual and collective rights. Indigenous women and girls are fundamental to the maintenance of their communities' cultural and traditional identities, the violation of their human rights constitutes a violation of cultural and traditional identities because it affects the entirety of indigenous community. (The United Nations Inter-Agency Support Group (IASG) on Indigenous Peoples' Issues, 2014).

The politicization of indigenous culture and customs through legal precedents relied on the push for economic development of the United States to gain political and social support of the anti-Indian movement. This was done through the legal precedents that continue to negatively impact indigenous women and girls. Analyzing the relationship between Patricia Hill Collins' *Black Feminist Thought: Knowledge,*

*Consciousness, and the Politics of Empowerment* in combination of Disney's portray of Pocahontas showcase how the use of naive idealism through Euro-American social and cultural beliefs rely on the changing of colonial experience in order to emphasize the need for colonization. Collins' connection to the story of Pocahontas exposes how easily systemic beliefs are established within social and cultural ideologies. The false narratives that have been created by social and political stereotypes depend on the ethnocentric Euro-American ideology that aims to uphold colonial era beliefs. The examples of colonial federal policies stress how social stigmas and racial stereotypes play a role in the promotion of policy that minimizes marginalized groups autonomy from the U.S. government as well as works to dehumanize those found within these social groups. This systematic policy approach has subsequently led to the high rates of violence against indigenous women due to the social variances that were placed on them by social and institutional pressures. These types of structural policies create a system that benefits those in power while making those oppressed dependent on them. Policies that limit the ability for indigenous communities to determine their own cultural, social, and sovereign rights within the boundaries placed on them by federal policy acts as a form of racialized social control.

The federal intrusion onto the authority of Indian Nation through policies such as Indian Appropriations Act, Public Law 280, Major Crimes Act, and Indian Civil Rights Act resulted in a weakened tribal system that has been replaced with an Anglo-American

model (Porter, 1997). The forced implementation of Anglo-American model of the justice system impedes tribal communities to approach crimes in a culturally appropriate way thus increasing the high rates of victimization of indigenous women under U.S. state and federal jurisdiction (Bigfoot, 2000). The operation of federal legislation that relies on customary laws or religion make it difficult to create a system where the rights of indigenous women and girls are protected (The United Nations Inter-Agency Support Group (IASG) on Indigenous Peoples' Issues, 2014). Challenging the colonial beliefs that have been put in place showcases the importance of changing the collective notion of who gets to claim indigenous status and what that even means. With social movements such as *Missing and Murdered Indigenous Women Coalition* that aims to bring awareness to the ties colonization has to gender based violence of indigenous women there is hope that attitudes regarding improving indigenous women's civil and human rights might change. By providing knowledge and resources about the effects colonization has had socially and politically on the indigenous community as a whole through these collective movements allows for patterns of systemic abuse to emerge.



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