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We Are Salmon People: Constructing Yurok Sovereignty in the Klamath Basin

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*We Are Salmon People: Constructing Yurok
Sovereignty in the Klamath Basin*

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Geography
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Senior Thesis

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Abstract

The Yurok Indian Reservation, located in the southern region of the Klamath River Basin, is a product of colonialism and the expansion of American nationalism. Yurok peoples are dependent upon the Klamath River for survival – spiritually and monetarily. As settlers (primarily agriculturists) rapidly increased, so too did the strain on natural resources in the Basin. Though there are many agents and stakeholders in the region, the fight over the most valuable resource in the region – the water that flows through the Klamath and its tributaries – is often perceived as a two-sided battle between farmers and fishermen.

Through utilizing the conflicts over water in the Klamath Basin, this thesis aims to contextualize and understanding the constructions, assertions, and challenges to Yurok sovereignty. Through an examination of Yurok protest fishing in the late 1970s, as well as opposition to tribal fishing right, one can begin to understand the tensions, and the deeper ideological ties, that pervade the region. Given the region's colonial history that has shaped the region, this conflict has been influenced by both race and ideologies of nationalism, in other words – competing visions of what the basin should and ought to be, as well as to whom it should belong.

The Klamath Basin, however, continues to be characterized by conflict. Through an examination of Yurok sovereignty one can begin to understand the power dynamics embedded in resource allocation through the Basin, how they are determined, and how do these rights function within the Basin. This investigation will close with the recent agreements that have been passed, the Klamath Basin Restoration Agreement (KBRA) coupled with the Klamath Hydroelectric Settlement Agreement (KHSA). The agreements will be the world's largest dam removal and river restoration project in history. Thus, the conflicts, repercussions, and solutions found in the Klamath Basin will become an invaluable lesson for regions struggling with resource management around the globe.

Table of Contents

Acknowledgements.....4

Chapter One.....5
Introduction
Waging Water War in the Klamath Basin

Chapter Two.....22
The Stench of Sovereignty
A Colonial Quest for Legitimacy

Chapter Three.....34
The Fish Wars
Salmon and Sovereignty

Chapter Four.....45
A Sovereign's Challenge
Nation, Race, and the Bucket Brigade

Chapter Five.....63
Conclusion
Restoring the Balance

Works Cited.....72

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“In the Klamath Basin, geography is destiny. What nature provides shapes human lives there – and all other lives.”

- Stephen Most

Chapter One

Introduction: Waging Water War in the Klamath Basin

Standing at the top of the hill overlooking the mouth of the Klamath River, right off Requa Road on the Yurok Indian Reservation, one is momentarily severed from the violence and injustice that have shaped northern California's Klamath River Basin. As the Pacific crashes against the rocks and feeds into the river, everything in the world, if only momentarily, seems to be in balance. But that balance is merely an illusion; over a century of Manifest Destiny and exploitation of national resources in the name of capitalism has destroyed the Klamath River that was -- the lifeblood of the Yurok people, the absolute center of Yurok spirituality, the source of balance in this world. The Yuroks' fight to protect their river, therefore, is an act of resistance, a reclaiming of spirituality and culture, and absolutely fundamental to the construction and recognition of Yurok sovereignty.

This work aims to understand how authority over resource allocation, particularly water, is constituted and legitimated. This is what political theorist Karena Shaw has called the 'problem of the political.' Competition between irrigators and fishermen over the water that flows through the Klamath and, more importantly, how that water is ultimately allocated provides an entrance point for understanding how power is distributed, imposed and sanctioned in the Basin. A common indigenous response to frequent lacking of authority has been tribal sovereignty -- a "valued term within

indigenous discourses to signify a multiplicity of legal and social rights to political, economic, and cultural self-determination” (Barker 1). The conflict over the water in the Klamath and the salmon that swim through it embody a much larger set of ideas and aspirations for Native peoples; “perhaps more than any other issue, fishing rights disputes epitomize the tribes’ struggle to revive traditional culture, treaty rights, and sovereignty” (Wilkinson, 2005: 153). Yurok demands for water, therefore, encompass more than protection of an economic resource; salmon and thus water of both quantity and quality is implicitly connected to Yurok identity, culture, spirituality, and sovereignty. And thus, using resource conflict as a point of entry, this work ultimately asks: how is Yurok sovereignty is constructed, asserted, and challenged?

The Klamath Basin, however, has long been, and remains a deeply fragmented space. As Manifest Destiny plowed its way westward, the lives and histories of indigenous peoples were radically altered. Drawn to the Klamath Basin by its abundance of water and fertile valleys, settlers quickly recognized the need to contain indigenous peoples, as most did not take kindly to encroachment on their lands and drastic declines in their food sources. The solution to the 'Indian problem' was the bounding and containing of the Yurok (as well as other indigenous peoples) onto Klamath Indian Reservation in 1855 – extending a mile on each side of the lower twenty miles of the Klamath (Huntsinger 169). Perhaps considered generous by settlers, the forced relocation of Indians (from many different tribes) onto the Klamath Indian Reservation was a serious stab at indigenous sovereignty and self-determination. The new reservation system cut off access sites for gathering and spiritual practice, and greatly reduced access to wild game and fish (Huntsinger 167). The settlers had the same idea for another tribe

in the area, the Hoopa; in 1864, the Hoopa Valley Reservation was established upriver of the Klamath Indian Reservation (Huntsinger 169). In 1891, President Harrison, through executive order, incorporated the twenty mile stretch between the reservations into one, known as the Hoopa Valley Reservation Extension (Huntsinger 169).

A year later, the 1892 Act authorized allotment of the 'Original Klamath River Indian Reservation' wherein “all unallotted properties would be returned to the public domain and disposed of to settlers” (Huntsinger 170). Such efforts to dispossess indigenous peoples of land and resources are connected to a broader project of colonialism and nation-building vis-a-vis Westward expansion and taming the land (Blackhawk 9). These efforts paved the road for permanent settlement projects, like the Reclamation Act of 1902. The federal government sought out irrigation districts to fund and the Klamath Project was one of the first; it was authorized in 1905 and construction began in 1906. “The original plan of the Reclamation Act was simple. Federally owned land to be irrigated by the project would be sold to farmers, the proceeds deposited in a trust fund dedicated to financing the initial irrigation works and later the reclamation of additional lands” (Doremus, 2008: 48). The Klamath Project was completed in the 1960s and its final product are four deadly dams on the Klamath River that diverts over 1.3 million acre-feet of water to irrigate a quarter million acres in both Oregon and California (Doremus, 2008: 50). The Klamath River has influenced and sustained the livelihoods of generations of Anglo settlers; but in turn, Upper Basin farmers have radically altered the Klamath River and thereby forcibly transforming the lives so very dependent on that water.

A century of intense industry, agriculture, logging, mining, and large scale

pollution, in the name of Manifest Destiny, have decimated salmon populations in the Basin (Lichatowich 46), and simultaneously provoked more indigenous determination to rectify the increasing unbalance. Indeed, the late twentieth century, nationwide, has been marked by a surge in tribal sovereignty movements (Wilkinson, 2005: 353). The tribes of the Klamath Basin are no exception. In 1988, through the Yurok-Hoopa Settlement Act, distinct reservations for Yurok and Hoopa Indians were created, as they are distinct groups people (Doremus, 2008: 68). “The act called for the organization of the Yurok Tribe and provided a mechanism to form the first federally recognized Yurok government” (Most, 2006: 127). Five years later, in 1993, the Yurok Nation held its own constitution and government body, placing the tribe in a better position to negotiate with the federal government and exercise legitimate authority over resource allocation.

Sovereign Boundaries

The resource conflict in the Basin, particularly over water and by extension salmon, is ultimately rooted in opposing values and visions of how the landscape ought to be. In addition to ideological divides, the Basin is further demarcated by geological and geopolitical boundaries. Anglo settlers populated the Upper Basin in southern Oregon; their descendents are primarily small family farmers, dependent on reliable irrigation water from the Klamath River, and thus, four dams have been constructed on the river to ensure adequate irrigation supply, the impact of which has been deterioration in water quality (LaDuke, 2005: 58; Doremus, 2008: 50). The Lower Basin in northern California is home to the Yurok (which is Karuk for ‘downriver people’) who depend on the salmon for both sustenance and monetary income. The boundaries that separate these different

groups and different interests, both “administrative and political...correspond to power to affect the land and waters and thereby the future of the entire region” (Most x). The production of such boundaries – whether ideological, political, national, or racial – are symptomatic of sovereignty as a practice and furthermore, these boundaries are sites of political and ideological contestation, particularly in the context of Yurok sovereignty.

One way of understanding such a multiple-faceted concept, such as sovereignty, is through its nuances and analyzing the several spaces in which sovereignty is constructed and asserted. In his book *The Third Space of Sovereignty*, Kevin Bruyneel aims to discover the nature of American-indigenous political relations. He begins his book with comments on tribal sovereignty that very much reflect the American mainstream opinions of tribal sovereignty. These comments, both unsurprisingly and disheartening, were made by an American politician, the former governor of Minnesota, Jesse Ventura. In the context of the Chippewa nation appealing to the US Supreme Court for fishing and treaty rights sanctioned by a treaty in 1837, Ventura stated:

They [Chippewa Nation, and likely indigenous peoples broadly] want to be sovereign and on the other hand they don't. Are you part of the United States or are you a sovereign nation? If you're your own sovereign nation, then take care of yourself, and it shouldn't even fall on us. If those rules [of the 1837 treaty] apply, then they ought to be back in birch-bark canoes instead of 200-horsepower Yamaha engines with fish finders. (Bruyneel xi-xii)

Two key sentiments regarding indigenous sovereignty come out with Bruyneel's analysis of Ventura's remarks. The first of which is that indigenous tribes and nations claim a form of sovereignty that is unclear to many Americans because it is not easily located inside or outside of the United States. Secondly, the treaty rights that have historically been secured for indigenous tribes stem from an archaic political time that cannot assume a modern form (Bruyneel xiii-xiv). In other words, the rights historically granted to

Native people in return for the theft and murder committed by Euroamericans simply do not translate in the world of contemporary politics. Bruyneel argues that “this sort of political discourse represents an effort to constrain tribal sovereignty, treaty rights, indigenous identity, and indigenous political expression through the imposition of the spatial and temporal boundaries of modern American politics” (xiv). This attitude is not a new one; indeed, it can arguably be interpreted within the Marshall Trilogy as well (to be discussed in the next chapter). Tribes can possess rights, providing those rights to not exceed the rights of the federal government; providing tribes maintain the ward like subordination to their guardian, the United States Federal government.

One of the biggest problems with the sovereignty discourse, as Bruyneel points out, is that “one cannot simply classify indigenous tribes as ‘part of or not part of the United States’ -- as inside or outside -- because indigenous tribes straddle the temporal and spatial boundaries of American politics, exposing the incoherence of these boundaries as they seek to secure and expand their tribal sovereign expression” (Bruyneel xv). For tribes occupy what Bruyneel refers to as a third space of sovereignty. Indeed,

In resistance to this colonial rule, indigenous political actors work across American spatial and temporal boundaries, demanding rights and resources from the liberal democratic settler-state while also challenging the imposition of colonial rule on their lives. This resistance engenders what I call a ‘third space of sovereignty’ that resides neither simply inside nor outside the American political system but rather exists on these very boundaries, exposing both the practices and the contingencies of American colonial rule. This is a supplemental space, inassimilable to the institutions and discourse of the modern liberal democratic settler-state and nation.” (xvii)

Through residing within the thirdspace of sovereignty, Native American political actors are able to mobilize the sovereignty discourse as a means of exposing the groundlessness of American legitimacy. And thus, the central question – how Yurok sovereignty is

constructed, asserted, and ultimately challenged – cannot be understood apart from processes of boundary production. Indeed, this thesis aims to demonstrate how Yurok sovereignty is constructed in light of these boundaries, as well as how Yurok assertions of sovereignty are able to transcend imposed borders.

To capture the formation and function of sovereign power in the region and to illustrate the nature of the conflict one must grasp its history, within its social, political and geographical context. Yet, even the very nature of that history must continuously be considered, for history *is* power – the power to shape the past, present and future. Characteristic of many marginalized groups, the histories of indigenous people are often silenced; this can only be rectified by contesting his-story itself. Indeed, “the need to tell our stories remains the powerful imperative of a powerful form of resistance” (Tuhiwai-Smith 35). Beyond resistance, telling the stories of our people is an assertion of sovereignty in and of itself and as a Yurok woman, I hold an obligation to do my part. Consider this my own use of rhetorical sovereignty: an “inherent right and ability of peoples to determine their own communicative needs and desires in this pursuit” (Lyons 449). I begin, then, with a story. Though more than twenty years before the formation of the Yurok Nation, this tale of a few brave fishermen illuminates the importance of Yurok sovereignty and the dedication of Yurok people to ensure the continuation of their river, their salmon, and their livelihoods.

Protest Fishing: Constructing Yurok Sovereignty

August in Yurok country bustles with activity. Right off the estuary, Requa Resort’s parking lot fills up with rigs loading and unloading their boats, preparing their

nets, weighing and cleaning salmon; and a dozen or so few tents are pitched on the sand bar separating the Klamath from the Pacific. This is all in preparation for the fall salmon run -- the biggest and most profitable run of the year. Vigilant fishermen patiently wait for the salmon's journey home from the vast Pacific, for they bring with them the fishermen's annual salary. More significant, however, is the spiritual importance of the returning run of the salmon as it marks a completion of a life cycle. But in late August of 1978, a fishing season never to be forgotten, a series of events, known as Fish Wars, or Salmon Wars, would change the very nature of Yurok fishing.

On Sunday, August 27, 1978 a new fishing moratorium issued by the Interior Department went into effect in response to a century of relentless decline in Pacific salmon. Adding to restrictions established by the Bureau of Indian Affairs a year prior, the moratorium further limited Yurok fishing to specific time slots, without regard to tides or seasons (Most 110). Consequently, the moratorium went into effect at the height of the fall run; ergo, that Monday morning a squad of heavily armed federal agents, backed by sheriff's deputies and the Coast Guard raided and patrolled Yurok gillnetting from the estuary to the bridge over Highway 101, three miles upriver. Boats were rammed, fish confiscated, and Yurok jailed. The next day "about twenty agents with billy clubs grabbed five Indians" and confiscated their nets and salmon (Most 111; Pierce 11).

That Wednesday night marks what Del Norte County's District Attorney Robert Weir called "a miniature naval battle...on the estuary of the Klamath River" (Most 112). Five boatloads of heavily armed federal agents, all donning bulletproof vests, raced down the Klamath to the cheers of sport fishermen along the bank. Twenty boatloads of Yurok Indians were waiting for them and a violent clash ensued. Yurok fisherman, Richard

McCovey, was held under water by an agent repeatedly who then placed a gun to his head before hauling him off to jail. McCovey recalls, “None of us were armed... [and they] never told us what we were charged with” (Most 113). Shortly thereafter, the “secretary of the Interior came to the Klamath Basin... Cecil Andrus unleashed SWAT teams on jet boats to arrest people who were denying the federal moratorium on fishing” (Most 242). Fear and violence will forever mark the summer of 1978.

The federal government’s disregard for Yurok sovereignty in this story is evident; established water and fishing rights were ignored. Though the established water and land rights vary for different tribes (and those established for the Yurok tribe will be discussed in detail in chapter three), tribal lands were forsaken and tribal peoples relocated to reservations on the premise that rights to resources – exercised for time immemorial – would be held intact. Obviously, this has not been the case. The Yurok people, however, were by no means defeated. In living rooms and around campfires, the spark of rebellion began to ignite. McCovey recollects: “Everybody got the idea to use all the....ruined nets...just use lead lines and sometimes no nets at all” (Most 115). And ‘protest fishing’ began. The process of protest fishing, though informal, rebelled against federal and state restrictions on fishing. Such restrictions were put in place due to exploitation of water and fish by Anglo owned, capitalist enterprises (primarily logging along the watershed and off-shore commercial fishing) and the Yurok people were forced to pay the price for American overconsumption (Most, 2006: 111). The protest fishers – many of whom were not even using nets – were asserting indigenous sovereignty and self-determination by reclaiming access to their resources. Legitimization of sovereignty and acceptance by the federal government, however, has been quite a different matter.

Yurok sovereignty was constructed in a new light during the Fish Wars of 1978. In the rejection of federal and state fishing restrictions the Yurok people not only rejected responsibility for the conditions which necessitated a stricter moratorium (Most, 2006: 95), but American authority itself. A long and complicated history of litigation and series of Supreme Court cases, many of which involved water and fishing rights, was to follow culminating in the formation of the Yurok Nation in the early 1990s. Though the Yurok adopted a Western political system in some aspect, the Yurok Nation also represents a renewed faith and vigor in restoring self-determination to Native peoples while constituting as a significant stride toward sovereignty through the creation of self-government. As we will see in subsequent chapters, however, the influence of Western governance structures has not been without its consequences.

While protest fishing engendered an atmosphere of resistance and courage, setting the stage for Yurok people to boldly voice their myriad complaints and injustices, the development of tribal sovereignty in Yurok country has been continually contested. American resistance to Yurok sovereignty -- on a national as well as a community scale - - aims to bound Yurok authority over resource allocation spatially and temporally. And in silencing Yurok claims to sovereignty, American sovereignty must erase other histories, other narratives. And thus, to truly advance the claims of Yurok sovereignty, Yurok stories need to be told; indeed, “telling our stories from the past, reclaiming the past, giving testimony to the injustices of the past are all strategies... [in the] struggl[e] for justice” (Tuhiwai-Smith 35). Undermining the validity and vitality of Yurok sovereignty does not only happen within legislation, it happens when people forget. The histories of Native people are ignored and non-existent. Inequality in the Klamath Basin exists. The

indigenous know this too well. If alternative histories -- and the lived experiences of colonialism, exploitation, and racism -- are left untold, absent from a larger academic discourse, the cycles and conditions that create such inequalities can only be expected to be perpetuated, if not exacerbated.

Salmon and Sovereignty

The biggest martyr of the Klamath Project, in terms of sheer number, has been, by far, Pacific Salmon. Salmon without Rivers, authored by fisheries biologist Jim Lichatowich, traces the geological history of Pacific Northwestern salmon, noting their extreme adaptability. In so doing, he illuminates the magnitude of human destruction. Indeed, “it is precisely because the salmon are such tough, persistent animals that their catastrophic decline...is so tragic...their collapse [is] a clear testimony to [human] failure” (Lichatowich 10). A further analysis of the emergence of industry in the Basin – from the fur trade, mining, timber harvest, and grazing to irrigation and dams – connects the dots between a history of economic development and the current situation: a place in which salmon are now extinct in forty percent of their historic range throughout the Pacific Northwest (Lichatowich 54). Yet history of development in the region, how Anglo settlers came to occupy and tame the Upper Basin is celebrated under the auspices of manifest destiny (Most, 2006: 17). Alternative histories, such the stories of the Yurok people or their sacred salmon, are left in the shadows.

Salmon are keepers of important stories, but they are told quietly and thus rarely heard over the cacophony of discordant disputes. Their decline is a tale of human priorities and the exercise of power in the Basin, yet their vitality keeps the hope of a

better future alive. The importance of the salmon to Yurok people is multifold and will later be explained in depth in chapter three. But it is the continual struggle salmon and Yurok share that unite their causes, a struggle to adapt to a changing world that requires environmental exploitation to function. As Yurok people fight for the very survival of salmon, they too fight for their own right to survival – to live in a world of ecological and spiritual balance, the very essence of tribal sovereignty and self-determination.

Scholars Holly Doremus and A. Dan Tarlock, the most prolific scholars (albeit there are few) writing about the water struggles in the Klamath Basin, argue the water war is a clash of cultures:

The Klamath narrative that we find most compelling goes directly to the source of the problem – the clash of cultures that must be resolved as the arid West confronts its future. Farmers, fishing communities, environmentalists, and Indians are fighting to protect their ideal of the landscape and their relationship to it (Doremus, 2003: 297).

Indeed, a relationship to the land and the life it generates is absolutely fundamental to the Yurok worldview and farmers' ties to the region are deeply felt and possess "a sense of heritage and obligation to preceding and succeeding generations" (Doremus, 2003: 296). But the "struggle for cultural supremacy" in which combatants fight to maintain their livelihood and lifestyle (Doremus, 2003: 297), while useful for understanding the deeply profound commitments the opposing regions of the basin hold in protecting their way of life, does not adequately address assertions of and challenges to Yurok sovereignty, nor the processes of boundary production around Yurok sovereignty. Furthermore, Doremus and Tarlock's assertion that the conflict in the basin is essentially one of cultural supremacy is problematic for, and I would argue resistant to, indigenous cultures broadly, and Yurok autonomy specifically. Supremacy, predicated on a hierarchy, is

fundamentally contradictory to Yurok (as well as indigenous peoples broadly) worldviews. Moreover, Yurok ‘culture’ is, as opposed to individualistic Western notions of private property, is rooted within the land. This fundamentally differs from farmers in the Upper Basin deeply connected to agriculture and a rural way of life – Yurok culture and religion can *only* survive in the homeland.

Yurok demands for the rights and respect of a sovereign nation are inseparable from the conflict. Sovereignty is resistance and a means to end structural systems of inequality in the basin. Joanne Barker, in Sovereignty Matters, has created a preeminent anthology of what tribal sovereignty embodies for myriad indigenous groups, and in doing so investigates the philosophical foundations of tribal sovereignty as well as its political and geographical implications, addressed directly in the next chapter. Other scholars have analyzed constructions of indigenous sovereignties (see Alfred; Shaw), the bounded nature of indigenous sovereignties (Bruyneel), and the multiple spaces in which sovereignty can be constructed (see Biolsi). Connections between the importance of nature for indigenous sovereignties, as well as different conceptions of land, nature, and resources have also been drawn (see LaDuke 1999; LaDuke 2005; Tuhiwai-Smith). These works, however, do not examine how specific resource conflicts produce and reproduce sovereign boundaries -- the intention of my effort here.

The study of resource conflicts of indigenous peoples are studied as a power-laden practice (with scholars examining concepts such as culture, identity, property, political ecology, etc), but typically in isolation of sovereignty. Some scholars analyze the role of nature and resource conflict in Westward expansion and capital accumulation (see McCarthy 1998). Resource conflict is also frequently addressed through frameworks

of political ecology, focusing on themes such as access and control over resources, disenfranchisement and marginality, property rights, local histories, and postcolonial dynamics among others (see McCarthy 2002). Scholars have also examined resource allocation in terms of ecological legitimacy (see Pulido). Other work contextualizes resource conflict within discourses of sovereignty and boundary drawing (see Lindner; Kosek), but do not address indigenous sovereignties explicitly. This work aims to contribute to two distinct literatures -- that of resource conflict and discourses of indigenous sovereignty -- by arguing that the two are deeply, and inherently, interconnected. The central question this study aims to answer, then, is how Yurok sovereignty has been constructed, asserted, and challenged in resource conflicts over the Klamath River.

Decolonizing Methodologies

“Research is probably one of the dirtiest words in the indigenous world’s vocabulary” (Tuhiwai-Smith 1). Indeed, historically research has been inextricably bound to processes of imperialism and colonialism. Moreover, research conducted on indigenous communities is often useless to the indigenous community in question. Yet, this need not be the case. Indigenous theorist Linda Tuhiwai-Smith has provided the indigenous community a brilliant contribution in the form of Decolonizing Methodologies. Her approach disrupts established Western epistemologies and acknowledges the historical implications research has had on indigenous peoples. And it is this methodology that governs my own research. Indeed, this methodology is a critical component of the works intent, consistent with the theoretical framework, and conducive

to the argument it puts forth.

The process of decolonization is not only difficult in practice, but even in conception. Engaging with imperialism and colonialism on multiple levels, decolonization within the realm of research must attain critical understandings of the underlying assumptions, motivations and values which inform Western research practices (Tuhiwai-Smith 20). Such underlying assumptions, motivations, and values that underlie Western research are often overlooked, taken for granted; for our purposes such assumptions included particular conceptualizations of time and space, competing theories of knowledge, and structures of power (Tuhiwai-Smith 42).

For the indigenous world, Western conceptions of space, of arrangements and display, of the relationship between people and the landscape of culture as an object of study, have meant that not only has the indigenous world been represented in particular ways back to the West, but the indigenous world view, the land and the people, have been radically transformed in the spatial image of the West. In other words, indigenous space has been colonized (Tuhiwai-Smith 51).

Therefore, in attempting to understand the construction on an indigenous sovereignty it is increasingly important to understand the ways in which colonial powers have historically (as well as contemporarily) utilize space to bound indigenous authority over resource access among other things.

Another fundamental component of the methodology structuring this research is that of voice. Indigenous voices and histories are marginalized and silenced. In this work, however, indigenous voices – particularly Yurok – will be prioritized. Further, this text aims to capture the alternative and contested histories of the Yurok people. The importance of telling stories is multifold, but their role in the decolonization process is most significant for our purposes.

...questions of imperialism and the effects of colonization may seem to be merely academic; sheer physical survival is far more pressing. The problem is that constant efforts by governments, states, societies and institutions to deny the historical formations of such conditions have simultaneously denied our claims to humanity, to having a history, and all sense of hope...The past, our stories local and global, the present, our communities, cultures, languages and social practices -- all may be spaces of marginalization, but they have also become spaces of resistance and hope. (Tuhiwai-Smith 4)

The significance of this research, therefore, transcends the dilemmas facing the Yurok people; rather, this work aims to position itself within a broader discourse of decolonization. And this methodology of decolonization will guide the research process, designed to shed light on the multiple ways in which spatial, temporal, and epistemological boundaries, among others, are asserted and challenged in the constitution of political space. These boundaries get articulated and materialized within specific landscapes and struggles of resources. I draw from primarily textual sources, including content analysis, academic journals and books, and archival research of local news media; informal interviews have informed my interpretation and analysis of these documents.

With the goal of understanding the constructions, assertions and challenges toward Yurok sovereignty the following chapters aim to contextualize an unfolding of Yurok sovereignty over resource conflict in the Klamath Basin. Beginning with an analysis of tribal sovereignty, the second chapter will explore the philosophical and theoretical foundations of indigenous sovereignty. This analysis also aims to contribute to understandings of the problem of the political within the Basin while simultaneously explaining the multiple spaces in which Yurok sovereignty is constructed. The third chapter aims to utilize established theoretical understandings of indigenous sovereignty

through an analysis of the Fish Wars – the historical context which led to the conflict as well as the long history of litigation following the conflict. Chapter four seeks to address challenges to the construction and assertion of tribal sovereignty. Using the Bucket Brigade as starting point, the farmer led protest for more irrigation water in the summer of 2001, issues of nationalism and racialization of indigenous peoples will be considered. Lastly, chapter five aims to conclude this analysis of Yurok sovereignty through a brief examination of the present day agreements aimed at solving water conflict in the Basin, the Klamath Basin Restoration Agreement and Klamath Hydroelectric Settlement Agreement (KBRA/KHSA).

Chapter Two

The Stench of Sovereignty: A Colonial Quest for Legitimacy

Sovereignty movements within indigenous communities have proven beneficial for many tribes, yet the success of Native political claims remain limited – particularly in the Klamath Basin. Framing resource conflict and constructions of Yurok sovereignty within the problem of the political, this chapter seeks to demonstrate the limitations of a sovereignty discourse for indigenous communities through an exploration of the origins and theoretical foundations of sovereignty. I argue that sovereignty, as an exclusionary process, bounds indigenous sovereignties both historically and epistemologically – with potentially dangerous implications for indigenous communities. However, I also contend that sovereignty discourses can be mobilized and refashioned for indigenous purposes.

Solving the Problem of the Political?: Sovereign Consequences

As noted in chapter one, I frame sovereignty in terms of what political theorist Karena Shaw calls the problem of the political: “the conditions under which and the practices through which authority is constituted and legitimated” (1). Contestation over authority in the Klamath Basin is easily discernible, particularly with respect to the authority to allocate water from the Klamath River for particular interests. The problem of the political is also especially relevant in understanding the construction of Yurok sovereignty broadly. For “it is the discourses and practices of sovereignty that have, since early Modernity, framed the problem of the political, providing the logic and justification for the political spaces we have created and inhabited” (Shaw 17). She draws upon

Hobbes' *Leviathan* for her examination of the construction of modern sovereignty:

an ontological ground that produces an epistemological system that enables authoritative claims. This system rests on a series of exclusions, a rigorous -- and universalized -- production of identity. This identity is neither neutral nor universal...It constructs the space of the state as the space of identity and meaning. It sets up sovereignty as the answer to all that ails, an answer meant to minimize violence and enable men to pursue their desires. (Shaw 37)

Sovereignty, then, is the so-called solution to the problem of the political. Who holds sovereignty over particular resources holds a legitimate authority over how those resources are utilized. This is precisely why so many tribal governments have embraced discourses of sovereignty with desperate urgency; it is the only means in which indigenous peoples can ensure continued access to (let alone authority over) ancestral homelands (Barker 1). The bottom line remains that tribes must negotiate with Western government structures to ensure access to their land and resources (Deloria, 1984: 15). The most effective means of exerting legitimate authority is through the discourse of sovereignty.

Claims to resources, with legitimate authority of course, have historically been associated with claims to sovereignty. This has, however, not been a neutral process. As Shoshone historian Ned Blackhawk argues

From the use of the U.S. Army to combat and confine Indian peoples, to the state-sanctioned theft of Indian lands and resources, violence both predated and became intrinsic to American expansion. Violence enabled the rapid accumulation of new social and racial orders, and provided the preconditions for political formation. From the initial moments of American exploration and conquest, through statehood, and into the stages of territorial formation, violence organized the region's nascent economies, settlements, and polities. Violence and American nationhood, in short, progressed hand in hand. (9)

Through Blackhawk's demonstration of colonial violence as a means to enclose resources, sovereignty as a means to claim authority becomes more transparent,

particularly in regards to its legitimacy. Inherent in American expansion were notions of private property and ownership; for “the history of the United States, is, at a very basic level, a history of conflict over two things: property and sovereignty” (Tsosie 1293). As explorers traveled westward they charted lands and rivers to meet the geographic needs to the empire: colonization and resource extraction (Blackhawk 151). Through the use of private property, the American government was able to dispossess indigenous peoples of the lands and resources, both authoritatively and legitimately.

Herein lie the grave dangers of sovereignty if used blindly. The production of sovereignty rest on processes of exclusion. Exclusion is a fundamental component of sovereignty because “sovereignty is produced by ordering difference spatially to enable identity” (Shaw 30). Sovereignty must ‘other’ those who do not ascribe to Hobbes’ identity centered on Western rationality and particular understandings of time, history, and space – predicated upon notions of private property and justification of conquest. The spatial and temporal restrictions of placed on tribal sovereignty work to stifle the effectiveness of tribal political action, thus serving the colonial agenda aimed at dispossessing Native peoples of both their lands and resources. “The spatial impression is that indigenous tribes can express sovereignty, if at all, only as narrowly conceived internal self-governance, severely bounded as to geographical and demographic reach” (Bruyneel 172). The temporal boundaries placed on tribal sovereignty are just as limiting.

The temporal impression is that tribal sovereignty is out of time, a notion that can be broken down into three forms of temporal displacement: (1) the tribe has run out of time in making its claims; (2) the tribe's claims are based on archaic premises or promises, from another time, which are not applicable in modern American time; and (3) contemporary indigenous economic and political development has outpaced the historical boundaries of tribal sovereignty, and thus It is not an expression of sovereignty at all, but is rather a wild, reckless form of special-interest activity that threatens American civil society and political life. (Bruyneel 172)

Such temporal restrictions on indigenous sovereignties are aligned with the colonial

project and legitimacy in supplanting tribal governments with the United States Federal Government.

It is such exclusion that makes sovereignty dangerous, if not carefully scrutinized and readjusted, for indigenous peoples. Indeed, “the practices of sovereignty shape strategic possibilities for Indigenous peoples, posing the question of what kinds of analytical as well as political practices must be effected in order to enable their situations to be engaged more productively” (Shaw 10). Many indigenous scholars, of course, have asked this question, as well. In shaping the strategic possibilities for indigenous peoples, sovereignty constructs boundaries around particular conceptions of time, history, and space. It will be argued here that the sovereignty discourse bounds indigenous expressions of sovereignty both historically and epistemologically, albeit the two are closely intertwined. Understanding the utilization of sovereignty as a solution to the problem of the political is useful in understanding the historic use of sovereignty as means for the American nation-state to garner authority, legitimately of course.

Barker captures the essence of sovereignties origins in the context of Native Americans when she writes: “sovereignty carries the horrible stench of colonialism” (Barker 26). And yet, ironically, the term is supposed to symbolize, for indigenous peoples, the breaking free of colonial oppression. Vine Deloria Jr. discusses the origins of the word in an essay entitled *Self-Determination and the Concept of Sovereignty*. He writes, “although originally a theological term [sovereignty] was appropriated by European political thinkers in the centuries following the Reformation to characterize the person of the King as head of the state” (Deloria, 1979: 22). Mohawk scholar Taiaiake Alfred articulates the danger of these origins:

Few people have questioned how a European term and idea – sovereignty is certainly not Sioux, Salish, or Iroquoian in origin – came to be so embedded and important to cultures that had their own systems of government since the time before the term *sovereignty* was invented in Europe. Fewer still have questioned the implications of adopting the European notion of power and governance and using it to structure the postcolonial systems that are being negotiated and implemented within indigenous communities today. (Alfred 39)

The implications of Western influence on tribal institutions are real. Indeed, such systems of power can – and have – corrupted tribal societies. The United States Federal Government simultaneously aimed to destroy tribal political and social institutions, while imposing Western influences of governance (Deloria, 1969). The problem with Western influence on governing structures is that it has become increasingly difficult to restore tribal communities and address issues of social justice wherein Western hierarchies have been ingrained in tribal institutions. Notions of hierarchy – systems of organization wherein people are ranked via status and or authority – are widely absent from indigenous worldviews (Walker 529; Tsosie 1306), and “most tribes had never defined power in authoritarian terms” (Deloria, 1969: 205). This is in direct opposition to Western forms of governance and the nation-state structure itself, which is predicated upon “social hierarchy, domination, violence and coercion” (Smith 60). And thus, Native government structures must always be conscious of whether a sovereignty discourse is aiding in the larger process of decolonization, or conversely perpetuating a colonial mentality.

Though it is hardly surprising, sovereignty as a discourse has been utilized as a colonial tool – as a means of repossessing large tracts of land and subordinating groups of Native peoples spanning the continent. Because “the federal government's policies were directed at nation-building and, hence, the acquisition of maximum amounts of territory

and governmental autonomy” (Tsosie 1293), the concept of sovereignty served a colonial agenda, negating indigenous claims to land and resources while justifying conquest (Barker 5). In the United States, this process began with a series of Supreme Court cases referred to as the Marshall Trilogy. “The trilogy provided the first substantive definition of sovereignty for American Indians by the U.S. judiciary and subsequently served to establish precedence for the trust relationship between U.S. Federal government and American Indian tribes” (Barker 6). The first case – *Johnson v. McIntosh (1823)* – established, and thus legalized, the doctrine of discovery, essentially a glorified version of 'finders keepers.' Discovery had prerequisites, however, according to Marshall, such as utilizing the land the 'correct' way, meaning agriculture (which many tribes had already been doing for thousands of years). Thus, Marshall wrote, “even if it should be admitted that the Indians were originally an independent people, they have ceased to be so. A nation that has passed under the domain of another, is no longer a sovereign state” (Barker 8). The Marshall Trilogy constructed a series of boundaries around indigenous sovereignty – temporally through the passage of national domain and spatially through the restrictions of reservation borders. And just like that Native peoples were thrown under the auspices of American authority. Within the assertion of the discovery doctrine, as well as the remaining cases in the Marshall Trilogy, sovereignty is merely a “topological placeholder through which to displace, or contain, the paradox of asserting ‘domestic’ authority over populations whose existence as peoples precedes the existence of the state” (Rifkin 109). If a nation passed under the domain of another forfeits their sovereignty, American sovereignty (legitimately) supplants all indigenous sovereignties – justified through the doctrine of discovery.

The second case of the trilogy – *Cherokee Nation v. State of Georgia (1831)* – marked tribes as “domestic-dependent nations” (Fixico 382). The Cherokee argued that, as a sovereign nation, they were independent of Georgia state law – similarly to a foreign nation. Rather than equating Native tribes to the status of foreign nation, Marshall offered the analogy of a 'ward to a guardian' to characterize the dynamic of 'domestic-dependent.' “These two enumerations – domestic dependent nationhood and the ward/guardian analogy – would set the legal precedence for defining relations between the United States and indigenous peoples” (Barker 10). Further, this paternalistic relationship between American governance and indigenous peoples, arguably established well before any assembly gathered in a courthouse, would influence Indian policy and conflict, particularly over resources, well beyond the years of John Marshall (Bruyneel 15; Deloria, 1969: 34).

The final case of the trilogy – *Worcester v. Georgia (1832)* – also worked to establish hierarchy within tribal, state, and national relationships. Continuing his line of argumentation from the previous case, Marshall argued that by signing treaties with the US Government, the Cherokee Nation was both benefitting from said relationship while simultaneously acknowledging the superiority of the federal government. Thus, “the Cherokee were not a sovereign equal in political status and rights to the United States... Rather, the Cherokee were a sovereign possessing partial or limited powers as dependent wards under the more supreme governing authority that it had recognized and benefitted from in the United States” (Barker 12). Within the context of the dark and dismal history between the federal government and indigenous peoples – a history laced with land seizure and genocide – it may be surprising that John Marshall argued for any type of

tribal rights regardless of how subordinated those rights were within the auspices of the federal government. However, as Joanne Barker argues,

Despite the superficial appearance of conflict in the Supreme Court's opinions in the Marshall trilogy, the decisions were in perfect keeping with the colonial objectives of the U.S. Government at the time, a government that aimed to abrogate the means and abilities of Indian tribes to maintain their jurisdiction and territorial rights (Barker 13).

And thus, despite the seemingly sympathetic nature of Marshall's verdict, the newly recognized 'quasi-sovereigns' would endure genocide and land seizure to an extraordinary degree for the remainder of the century (Churchill 40). Thomas King, a Cherokee author and historian, has also recognized this trend; he writes: "I have to concede that if theft is legally sanctioned, it is no longer theft" (King 97). John Marshall must have figured that out earlier.

And thus "the problem of sovereignty was reduced to the question of who within the political order was invested with certain powers, and the very threshold of the political order itself was never called into question" (Rifkin 94). And because the American political order and thus its claims to sovereignty rest upon conquest and dispossession, its sovereign claims can never be legitimized (Rifkin 94). Indeed, the U.S. government utilizes the topological placeholder of sovereignty to maintain and justify the power attained through conquest. But embedded within discourses of sovereignty is a colonial history with particular conceptions of power, authority, and relationships to land and resources – maintained through resource enclosure and notions of private property. Conceptualizing sovereignty as a historical process of exclusion and resource enclosure, it continually draws boundaries around expressions of tribal sovereignty, whether spatially or temporally. Such boundaries lend themselves to the construction of

epistemological boundaries as well.

Alternative Possibilities: Constructing 'Native Sovereignty'

The problem of the political is also especially relevant in understanding the construction of Yurok sovereignty broadly, and resource conflict in the Klamath Basin more specifically. The concept of sovereignty, when used in an indigenous context, “signif[ies] a multiplicity of legal and social rights to political, economic, and cultural self-determination” (Barker 1). Sovereignty is portrayed by both American and tribal governments as the paved road toward autonomy and self-determination, a means of economic prosperity and the ability to enforce rights over land, water and other resources (Wilkinson, 2005: xiii). Indeed, it is rather indisputable that sovereignty, as a discourse and mode of pressing political claims, has brought tangible and material benefits to tribal communities (Barker 18; Alfred 39). Yurok sovereignty is utilized as means to protect the Klamath River and its salmon; as noted above, sovereignty frames the constitution and exercise of authority, including authority over water.

Often portrayed as a stand-in attempting to represent *all* indigenous rights (Barker 1), “sovereignty as a discourse is unable to capture fully the indigenous meanings, perspectives, and identities about law, governance, and culture, and thus over time it impacts how those epistemologies and perspectives are represented” (19). The continual (re)production of sovereignty holds the potential to permeate indigenous forms of governance and thereby change the very relation indigenous peoples hold with the land. This is particularly pertinent for indigenous communities because relationships with the land and resource stewardship are fundamental components of an indigenous sovereignty

(Tsosie 1302). Native peoples are tied to the land in ways Western thinkers often cannot understand (Champagne 7; Deloria, 1973: 1). The land itself is sacred; Native epistemologies and worldviews are predicated on an ability to live and care for the land they occupy (LaDuke, 2005: 189). And thus, the ability to protect the vitality of natural resources -- understood as gifts from the Creator -- is paramount in the assertion of an indigenous sovereignty (Fenelon 112).

With notions of land in mind, the processes of exclusion and drawing boundaries become evident in discourses of sovereignty. Indeed,

One of the major problems in the indigenous sovereignty movement is that its leaders must qualify and rationalize their goals by modifying the sovereignty concept...[which] itself implies a set of values and objectives that put it in direct opposition to the values and objectives found in most traditional indigenous philosophies. (Alfred 43).

Alfred is articulating constructions of epistemological boundaries wherein indigenous relationships to land and resources are not adequately represented within discourses of sovereignty. What is at stake is not only our connection to the land, the very essence of indigeneity, but the unique tribal identity defining indigenous peoples since time immemorial. Indeed, when “sovereignty [is] treated as unitary, pre-formed universals” (Lindner 13), it aims to standardize hundreds of very diverse groups of indigenous people. Alfred argues that “the actual history of our plural existence has been erased by the narrow fictions of a single sovereignty” (33). And thus, it becomes increasingly important for alternative narratives to be shared. The point, therefore, is that 'Native American' is not a unified body with a common governance structures; nor should individual tribes be expected to conform to structures of Western governance (Tsosie 1307).

Western constructions of sovereignty, however, can be (and have been) resisted and refashioned by indigenous peoples. Indeed,

'Native sovereignty' – is founded on an ideology of indigenous nationalism and a rejection of the models of government rooted in European cultural values. It is an uneven process of reinstating systems that promote the goals and reinforce the values of indigenous cultures, against the constant effort of the Canadian and United States governments to maintain the systems of dominance imposed on indigenous communities during the last century. (Alfred 40)

Indeed, though the 'colonial stench' of sovereignty is problematic, that is not to say it cannot be a useful tool for indigenous peoples. Though the colonial term 'sovereignty' is "incomplete, inaccurate, and troubled...it has...been rearticulated to mean something altogether by indigenous peoples" (Barker 26). And what that something else means must always be tribally specific.

Essentially, sovereignty in and of itself is a colonial tool. But -- like Native writers' use of English in storytelling -- can be reappropriated to represent another reality altogether and utilized to reconstruct meaning. Indigenous scholars have articulated the problematic origins of the term, yet also the benefits it has brought. Simultaneously, however, some scholars disown the concept as an appropriate political objective. And thus, it is helpful to examine Yurok notions of sovereignty in the context of the political. The Yuroks' entrance into a Western political framework, however, must not be read as an abandonment of culture or traditional forms of governance. Rather, the construction and assertion of Yurok sovereignty was in response to the creation of an unbalanced society over the past century -- a society that depends upon environmental exploitation to function. Yurok sovereignty, therefore, will be understood in this context as a means in which to negotiate with larger governing structures; a means in which to legitimize sought after authority; and ultimately, one of the last remaining options available to

protect their ways of life. Ironically, sovereignty will be essential in the larger decolonization project unfolding across the continent.

Chapter Three

The Fish Wars: Salmon and Sovereignty

To build upon the theoretical foundations of sovereignty within the indigenous context and explore the challenges associated with asserting indigenous sovereignty, we will return to Fish Wars -- what led to the conflict, what the conflict inspired, and ultimately, why the Fish Wars have become the ultimate symbol of the Yurok peoples' fight for sovereignty. The Fish Wars are emblematic of constructions and assertions of Yurok sovereignty because they illuminate an indigenous relationship to land and resources, specifically salmon. Part of a larger drama, the Fish Wars, as a moment in time and space, capture the disjunction of worldviews and epistemologies between American and Yurok notions of land and sovereignty.

Stories of the Salmon People

“The stories of the fish and the people are not so different. Environmental destruction threatens the existence of both” (LaDuke, 1999: 1) This connection, this shared experience of all life, is the foundation of indigenous worldviews and constructions of sovereignty. For the Yurok, salmon are central to both subsistence and spiritual life. In this sense they have become a symbol for indigenous peoples. (Salmon are also used as symbols by various other interests, primarily environmental groups, though this symbol, of course, has different connotations.) Indeed, “salmon is the totemic spirit of the region and key to its history” (Most 69). Sue Masten, former tribal chair of the Yurok Tribe and president of the National Congress of American Indians at the turn

of the 21st century declared: “We are salmon people. We couldn’t let anyone take that from us” (Wilkinson 150). And thus, the ability to legally protect the salmon from environmental degradation is paramount.

To adequately explain the importance of resource stewardship for Yurok sovereignty, the cultural and religious ties the Yurok people have with salmon must be highlighted. Lucy Thompson, author of *To the American Indian: Reminiscences of a Yurok Woman* (1916), wrote “salmon was the staple of the Klamath Indians, who prayed for its bounty, feasted on it fresh, and dried it for later use. Their lives revolved around the coming of the salmon; their myths told of its origins” (Thompson 196). Below, reproduced from Stephen Most’s *River of Renewal: Myth and History in the Klamath Basin*, is a condensed version of the Yurok creation story, as told by Geneva Mattz:

In the beginning of time, the Creator came to the mouth of the Klamath. He stood on the beach and thought: “This is a great river. I want to leave my children here. But there’s nothing for them to eat.” So the Creator called to the spirit of the river, Pulekukwerek.... Pulekukwerek answered, “I can feed them. I can send fish”.... Greatest of all, Nepewo entered the river each fall, leading the salmon people. Then the river spirit made human people. (69)

Salmon are truly the essence of Yurok existence and foundational to Yurok identity for they would not exist without them. Salmon are a gift from the creator.

The brilliant Ojibwe scholar, Winona Laduke, has asked the question: “how does a community heal itself from the ravages of the past?” The “answer [lies] in the multifaceted process of recovering that which is sacred” (Laduke, 2005: 11). The spiritual connections indigenous peoples hold with the land and resources are so frequently left out of the conversation within the Western political structures. The significance of salmon is difficult to articulate or categorize in the Western framework of science and

objectivity, and maybe even impossible to those who equate Mother Earth's bounty with numeric values, because salmon are so intricately connected to essentially every facet of Yurok life and a fundamental component to Yurok understandings of the world. Salmon is a fundamental staple to Yurok subsistence. But,

Catching the first salmon of the season had significance beyond the return of a major food source. Traditional Yuroks understood that salmon are somehow responsible for the renewal of life on land as well as in the river. This is a biological fact. Salmon bring nitrogen from the ocean to the forest floor via the intestines of mammals that eat them. But for Yuroks, it was and remains a spiritual reality that their ceremonies are part of the annual cycle of life within their world. (Most, 2006: 73)

Science aside, salmon create balance – a demonstration of harmony between human and Earth. Further, methods of regulation and the ceremonial practices accompanied with fishing for salmon reflect the religious significance salmon have, and continue to hold for Yurok people. The traditional fish dams Yurok fishermen constructed, for example, “reveals how ritual, religion, and fishing technology were all deeply intertwined” (Lichatowich 38). Their seasonal migrations, their very existence, are fundamental to Yurok peoples' sense of origin, place, and identity.

Salmon are at the central, what Deloria has referred to as a “sacred geography,” of the Yurok people, “that is to say, every location within their original homeland has a multitude of stories that recount the migrations, revelations, and particular historical incidents that cumulatively produced the tribe in its current condition” (Deloria, 1973: 122). Yurok spiritual identity is interwoven into every aspect of Yurok life, encompassed under the realm of sacred geography “wherein the meaning, origin, and significance of the land resides in the stories, songs, and prayers of the Native peoples and communities that belong to these lands” (Tsosie 1303). The functions of 'sacred geography' for Native

peoples vary, including fundamental cultural symbols, images of social order and a tangible link between the human and the sacred. And thus, notions of sacred geography are inseparable from constructions and assertions of sovereignty, which are fundamentally connected to the stories that have come to shape the Klamath Basin. This particular construction of sovereignty also reveals a foundational difference to indigenous and Western notions of sovereignty – the secularization of Western modes of governance and constructions of sovereignty cannot encompass indigenous relationships to land or indigenous spiritualities (Deloria, 1973: 3).

A unique spiritual identity is reflected in Yurok governance. The preamble to the Yurok Constitution reads: “From the beginning, we have followed all the laws of the Creator, which became the whole fabric of our tribal sovereignty” (1). The Yurok Constitution also reflects a fundamental relationship to the land. “Our inherent tribal sovereignty still thrives in the hearts and minds of our people as well as in the strong currents, deep canyons, thick forests, and high mountains of our ancestral lands” (3). Troy Fletcher, executive director of the Yurok Tribe, argues, “The River is critical for our cultural survival. We depend on the fishery resources in the basin for ceremonial, subsistence, and commercial purposes. We have since the beginning of time” (quoted in LaDuke, 2005: 59-60). Yurok demands for sovereignty, then, are closely interwoven with their spiritual connection to salmon. But if the salmon are to be saved the Yurok must negotiate with the US federal government through their political framework and understanding of what is sacred. “In the end there is no absence of irony: the integrity of what is sacred to Native Americans will be determined by the government that has been responsible for doing everything in its power to destroy Native American cultures”

(Laduke, 2005: 11). Such a perspective is evident in the Klamath Basin. The federal government continually advocates for the water use of small family farms in the Upper Basin dependent on irrigation (Doremus, 2008: 44; Most, 2006: 52) – at the expense of salmon and Yurok spirituality (Doremus, 2008: 75; LaDuke, 2005: 61).

The legendary Fish Wars, then, was an act of construction and assertion of Yurok sovereignty, but such cases of indigenous groups fighting for resource stewardship is not a singular phenomenon. Indeed, “fishing and hunting, like the land, like the religions and the languages, help define the health and the future promise of Native societies” (Wilkinson 150). And thus, fighting to protect the resources and rights to govern land is perhaps the most fundamental component of what it means for an indigenous group to be sovereign. Vine Deloria Jr., in reference to fights for indigenous fishing rights, has said: “We had to obtain legal protection for the treaties and the sovereignty. That’s why the treaty cases were so important. That was the way to make the breakthrough” (Wilkinson 149). This breakthrough, for the Yurok Tribe, began before the Fish Wars ever began; a brave man, dedicated to his tribe, began to fight the United States Federal Government for Yurok fishing rights. His name is Raymond Mattz and I will now tell part of his story.

Raymond Mattz, Fishing Rights, and Yurok Sovereignty

The Fish Wars, in the summer of 1978, marked a very important moment for Yurok sovereignty, particularly how Yurok sovereignty was constructed, and asserted. Furthermore, the Fish Wars demonstrated some of the very difficult challenges Yurok people would be presented in reclaiming rights to their resources -- for them, the true essence of sovereignty. However, the violence armed federal agents inflicted upon Yurok

fishermen did not come out of nowhere. Indeed, there is a history behind the events that occurred that late August. That history too, remembers violence -- but also hope and an admirable passion to persevere.

That perseverance has manifested itself in a man; his name is Raymond Mattz. He is a Yurok fisherman, who like most Yurok who grow up in the area, has been fishing for salmon on the Klamath River since he was a little kid. From the time he was thirteen, in the summer of 1957, Raymond and his brother Emery were chased all around by Fish and Game wardens for fishing. But eventually, Emery told Raymond: “he was tired of being chased all the time. He’s the one who said ‘I guess we go to jail’” (Most, 2008: 105). That conversation not only changed the lives of two men, but a group of people dangerously close to losing the essence of their existence.

On September 24, 1969, Raymond and a group of friends had spent a typical day fishing. Raymond recalls:

It was before dark and we were sitting around the fire. We went up to look for our nets and it [sic] was gone. And I said “Well, I thought I saw the game wardens go up earlier. I’m going to ride up the river and see if they’re up there.” And they were up around the corner from where we were at, ya know? I went and asked everybody, “Who wants to claim their nets?” Cause you could go to jail, and we didn’t want to go to jail...So Raymond claimed all five nets. This time he went to jail and to the courthouse. (Most 106)

The judge asked Raymond to pay a fine in the amount of one dollar; Raymond responded, “No, I’m not going to, because we need to get our fishing rights back” (Most 106). And that is just what he did – the Supreme Court case, *Mattz vs. Arnett*, ruled in favor of Yurok fishing rights in 1973.

Mattz sued for the return of the five gill nets that had been confiscated by Fish and Game wardens that September evening. He argued that he was an enrolled member

of the Yurok Tribe and the gillnets were seized in Indian Country. The defense, however, was that this was no longer Indian Country -- given the termination of the Klamath Indian Reservation in 1892 (*Mattz v. Arnett*). The judge, however, concluded that because the Yurok have lived on this land for time immemorial, it qualified as Indian Country. This trial was, indeed, a success for Yurok people.

Following the Mattz decisions, Indians who had fished secretly at night started gill netting openly in the light of day. Others who had never lived along the Klamath arrived during fishing season and started gill netting. "A lot of Indians came and fished," said Lavina Bowers [Raymond's sister]. "And I think that's really when people realized they had that right. And people started canning and smoking fish and just being Indians again." (Most, 2006: 108).

This is, in itself, an expression of Yurok sovereignty for Yurok people were able to exercise a sacred relationship with the land under the paradigm of an indigenous world view. However, "the Mattz case confirmed the Yuroks' right to catch salmon, but it did not quantify anything" (Most, 2007: 21). Indeed, it would take much more local conflict and violence for such a quantification.

In the 1970s -- the time of the Mattz Supreme Court case and Fish Wars -- "from the BIA perspective, the absence of a Yurok government meant that tribal members had no authority to regulate the fishery without federal authorization" (Most, 2006: 109). In other words, the federal government did not think Yurok people capable of managing resources -- a means of justifying American authority over resource allocation wherein it is *Western* conceptions of sovereignty that solve the problem of the political. The problem of utilizing a Western conception of sovereignty as a mechanism for resource management lie in the implied relationship to those resources within that framework -- which, as demonstrated in the last chapter, are inconsistent with indigenous

epistemologies. Yurok people, however, realized the need for fishery regulations for the sake of their relationship with the American government (Most, 2006: 108). Herein lies both the great importance and great danger of organizing around the sovereign concept. Because Yurok governing structures -- in the early 1970s -- are not replicas of Western political systems or functioning within a sovereign framework, they are not legitimate, in the eyes of the federal government at least. Indigenous sovereignty, then, is continually undergoing a process of bounding – temporally and spatially, as well as along national and racial lines (to be discussed in the next chapter). The nature of these boundaries – and the impact they have on Yurok people – work to limit Yurok influence on American society broadly (from resource management to environmental pollution); the state and reservation boundaries demarcate the Basin spatially and the conceptualization of Yurok claims to resources as antiquated is temporally bounding. And thus, the formation of the Yurok Nation in the early 1990s was partly in response to their perceived lack of legitimacy, suggesting that Yurok people will only access the legitimate authority to regulate fisheries *once* they have understood, accepted, and implemented a Western political structure. The illegitimacy of Yurok resource management and governance, in the eyes of the federal government, point to the ways in which Yurok sovereignty is bound both spatially and temporally.

Yurok assertions of sovereignty aim to deconstruct, and redraw, these boundaries. In the context of the Fish Wars, the United States federal government did not perceive of the Yurok as a ‘legitimate authority’ wherein they had crossed their boundaries of political jurisdiction (Most, 2006: 113). This boundary deconstruction resulted in violence, as discussed in chapter one. The role of violence, at its most obvious, was

utilized to contest assertions of Yurok sovereignty (Most, 2006: 112). What remains unclear, however, is why assertions of Yurok sovereignty are so threatening as to incite a violent response? In other words, how do assertions of indigenous sovereignty broadly attempt to challenge preconceived notions of what (or who) a sovereign should be and how that authority should be exercised.

Indeed, understandings of sovereignty have not been universal. For Yurok people, sovereignty does not only embody the problem of the political, but also the means through which Yurok people can recover that which is sacred. For Yurok sovereignty is predicated on a unique sense of place, connection to the land through land based worldview and epistemologies, and cultural understanding of the lands, waters, and resources. More important still, Yurok sovereignty requires an acknowledgement of Yuroks' precedence in the Klamath Basin; indeed, Yurok have lived on this land and fished these rivers for time immemorial. The act of protest fishing, then, embodied Yuroks' precedence and fundamental relationships to the Earth. Through the use of broken nets -- or sometimes, no net at all -- in the broad daylight sent a clear message: the visible violation of U.S. law means, to the Yurok, this law does not apply to them. The Yurok people understand themselves to be a sovereign entity with a legitimated authority over Indian Country.

Stephen Most writes, "The Salmon War was an act within a larger drama" (Most, 2006: 121). Indeed, this conflict is not solely over who gets the water flowing through the Klamath River. Rather, this conflict is a manifestation of competing visions of how the landscape ought to be and a reflection and culmination of a broader colonial American history. More specifically, this conflict also illuminates the struggle between

constructions and assertions of Yurok sovereignty and that of outside forces.

But there was more at stake than fish and politics. The 1973 Supreme Court decision created a power vacuum. Who would exercise political control, directly or indirectly, over these newly recognized reservation lands and the never-defeated Indians who lived there? Who had the authority to dispose of the reservation's resources -- the Indians or the federal government? (Most, 2006: 119).

Sovereignty – whether Yurok or American – is a means of solving the problem of the political, a means of claiming legitimate authority over resource allocation. This conflict over resources is emblematic of “the critical points of contention in the U.S. -indigenous relationship... the interwoven temporal and spatial claims to sovereignty, identity, and territory” (Bruyneel xvi). When the interests of the American nation and its citizens and that of indigenous peoples are at odds, as in the case of the Klamath Basin, these competing notions of sovereignty aim to spatially and temporally bound claims to indigenous authority. Yurok sovereignty, then, must continually negotiate these boundaries existing in a liminal thirdspace wherein they must challenge colonial infringement upon their resources while also challenging the political system in which they are engaging.

Furthermore, the competing claims of Yurok sovereignty and the challenges Yurok sovereignty pose to established boundaries must be continually denied and policed. As the Fish Wars demonstrated, the federal government is not afraid to use if (but not only if) necessary. Such violence has a deep seated history in American expansion. Recalling the words of historian Ned Blackhawk, “violence and American nationhood, in short, progressed hand in hand” (9). Conquest across the continent, therefore, necessitated violence as a means to ensure expansion and resource enclosure. The Fish Wars represent a continuation of such processes similarly working to enclose

resource, circumscribe Yurok authority, and redrawn sovereign boundaries.

The Fish Wars highlight the intersectionalities between the multiple boundaries constructed around Yurok sovereignty. Though the conversations are often mediated through the discourse of sovereignty. But that sovereignty itself is shaped by outside forces -- competing nationalistic agendas and the racialization of Native sovereignty. Indeed, within the Klamath Basin, ideologies of nation and race work together to challenge and bound constructions and assertions of Yurok sovereignty over resource conflict. This is the subject of the following chapter.

Chapter Four

A Sovereign's Challenge: Nation, Race, and the Bucket Brigade

This chapter seeks to examine the various challenges facing Yurok sovereignty, wherein emphasis will be placed upon American nationalism and the racialization of Native peoples. It must also be noted that sovereignty is constructed in light of and around these challenges. Indeed, “the objections to Indian rights lie on several levels. Some are philosophical, coming from those opposed to 'special rights' for any group, a belief sharpened when a race is involved” (Wilkinson 265). Moreover, the notion that tribal sovereignty by necessity threatens American sovereignty is also a widely held belief, particularly in the case of fishing rights wherein American “restrictions do not apply to treaty fishers or hunters. Instead, the tribes’ own laws control” (Wilkinson 151). Utilizing the Bucket Brigade, a farmer-led protest, as a point of entry this chapter aims to explore the challenges and opposition toward Yurok sovereignty.

The Bucket Brigade: Contesting Yurok Sovereignty

The scorching summer of 2001 engendered severe drought throughout the Basin, but it was most deeply felt by the many small family farmers that have settled in the Basin’s northern region. In April of 2001, for the first time in history, the Bureau of Reclamation announced that it would be shutting off the headgates of the Klamath Project to avoid violating the Endangered Species Act, blocking irrigation deliveries for nearly fourteen hundred farmers; violence and protest soon followed (Doremus, 2008: 2). On May 7, 2001 thousands came together to join a farmers’ civil disobedience campaign

known as The Bucket Brigade. Initially peaceful, the protest “became increasingly volatile as local frustration mounted and anti-federal government activists from across the West poured into Klamath Falls” (Doremus, 2008: 3). By that July, as the sun continued to blaze and farmers’ blood began to boil, the headgates of the Klamath Project were broken into releasing water from Upper Klamath Lake into the irrigation canals. The local sheriff was on the scene, yet refused to intervene (Doremus, 2008: 3). Yurok, as well as other tribes in the region such as the Klamath, Karuk and Hoopa Tribes, were not absent from such a precarious threat to their sacred salmon. Ron Reed, a Karuk cultural biologist, used tribal legend to explain the importance of salmon to a protesting farmer; the response was: “Screw the tribal legends!” A woman from the crowd then shouted: “You’re dead! Your people are dead!” (Most 241), simultaneously erasing and denying indigenous claims to resources and sovereignty. Shortly after the protest and several farmers’ blatant violation of federal law in releasing water from the headgates (Most, 2006: 232), an accounting error was “found” justifying the continued release of water. (Doremus, 2008: 4).

But such problematic symbolism did not end there. A ten-foot tall metal bucket, to symbolize the Brigade, traveled the country collecting food and clothing for drought stricken famers; “the convoy that rolled into Klamath Falls on August 21 – ‘Freedom Day,’ as Head and others called it – labeled itself the ‘Convoy of Tears,’ a strange echo of the Trail of Tears, as the forcible removal of Cherokees from their land in Georgia is known” (Most, 2006: 236). Though the relief was needed by farmers, the framing of the event served to victimize the colonizer. The echoes of the Trail of Tears serve to temporally bound indigenous claims of abuse – Yurok fishermen are no longer the

victims, this time has passed. Such sentiment is similar to the words of woman quoted above; the expression 'You're dead!' located indigenous peoples (and thus any legitimate claims to authority) in the past, erased from the present. Moreover, the symbolic reference to indigenous peoples through the 'Convoy of Tears' spatially 'blurs' the boundaries of indigeneity, paralleling the erasure of indigenous peoples through the use of temporal boundaries. In other words, references to the Cherokee are as applicable in the Basin as references to the Yurok because sovereignty, as a discourse, actively erases specificity among Native groups; furthermore, such a parallel also evokes a temporal assertion in that the formerly colonized peoples of the Trail of Tears are now cast in the role of colonizer, or at least causing the farmers' 'tears'. Irrigators, in this framing of the conflict, are victimized (perhaps even by tribes themselves) wherein public perception (and particularly that of the federal government) appears to be more sympathetic to the 'plight' of struggling family farmers in that they appeal to a strong national identity. Indeed, the protest is characterized as the pinnacle of 'American' protest, as "its loudspeakers play[ed] patriotic music – 'America,' 'The Star Spangled Banner,' 'Proud to Be an American'" and the protesters donned "jeans and a western shirt... [their] expression[s] bearing the picture of pride" (Most, 2006: xxxii). As if to add the icing to the cake, Jeff Head, a staunchly conservative political activist from southwest Idaho, who had involved himself in the Bucket Brigade, spoke out on behalf of farmers. Though he supposedly instigated much of the illegal activity that occurred that July, Head won a National Leadership Award from the National Republican Congressional Committee followed by The Ronald Reagan Gold Medal Award (Most 242). Head's award is indicative of American priorities. Head was able to receive such an award because

farmers in the Upper Basin were re-inscribing national and racial boundaries central to American sovereignty – the implication of which is a continued and constant process of bounding competing claims or challenges to sovereignty.

Clearly indigenous people do exist in the present, despite attempts to temporally bound their authority, abuse, and very existence. The ambivalence on behalf of protesting farmers (and the American government broadly) vis-a-vis the above statements generated from the protest – 'You're dead,' 'Convoy of Tears' – demonstrate how the boundaries of American sovereignty must be continually reasserted because of this existence. While indigenous claims to authority provoke reassertions of American sovereignty, they simultaneously demonstrate the ambivalence inherent to these processes, wherein indigenous people do not neatly fit into contemporary political space and time. These statements attempt, though in a contradictory and not fully successful fashion, to re-situate Yurok people in the American imaginary.

The terrorist attacks that would soon occur in September quieted the region's local conflict over the Basin's most precious resource, the water that flows through the Klamath. In the summer of 2002, however, a massive fish kill doomed at least 34,000 salmon left to rot on the banks of the lower forty miles of the Klamath River (Laduke, 2005: 61); coincidentally, this is also the Yurok reservation and the smell of rotting salmon was a reminder not only of what Yurok people had already lost, but what still might be lost in the future.

There are critical similarities and differences between the protests that occurred in 1978 – the Fish Wars – and the Bucket Brigade in 2001.

Like the Yurok in 1978, members of the farm community responded with civil disobedience. Instead of 'protest fishing,' they poured Klamath River water by

buckets into an irrigation canal. But the resemblance ended there. The Indians' protest was met with acts of intimidation, violence, and arrests. The federal response to the farmers was to give them what they demanded. (Most, 2006: 130)

We must ask ourselves, then, why were the experiences of Head and McCovey were so divergent and grossly unequal? In other words, what conditions were in place to allow for a correct and incorrect way to violate federal law? I contend one possible explanation lies in the security of the nation-state and the utilization of nationalism as a means of justification. Furthermore, the racialization of indigenous peoples is both connected to conceptions of American nationalism and part of a larger colonial project at dispossessing indigenous peoples from both land and resources. The Bucket Brigade, therefore, demonstrates processes of bounding indigenous claims to resources and even the very boundaries upon which American sovereign authority rests.

Unbounding Tribal Sovereignty: Antitribalism or American Nationalism?

Opposition to tribal rights is by no means a new phenomenon. For “throughout the history of Indian-White relations in North America, there have always been two impulses afoot: extermination and assimilation” (King 101). While evidence of institutionalized oppression of Native Americans (whether it be land theft, abduction, or genocide) has been widely documented (see Churchill; Deloria; LaDuke), individual behaviors that undermine tribal sovereignty often seem to be below the radar. Irrigators in the Upper Basin, after all, are only trying to feed their families through America's favorite pastime, farming. Yet, these actions undermine the rights of the Yurok people through the destruction of an important cultural, ecological and religious resource – salmon. To understand farming and intensive irrigation as inherently oppositional to

assertions of Yurok sovereignty, we must understand the numerous boundaries enacted around constructions of Yurok sovereignty. Indeed, opposition to indigenous sovereignties – deeply connected to the formation of the American nation-state – aims to contain and bound indigenous claims to authority and resource access; the assertion of tribal authority challenges the very boundaries of the nation-state itself, suggesting the instability and malleability of the nation-state and its associated boundaries.

First and foremost, there is an active writing out (vis-a-vis an imposition of temporal boundaries) of indigenous claims with American history wherein Native peoples “figure little or not at all in the nation's vision of its past” (Blackhawk 3). Indeed, “American have accepted a certain mythological belief about the birth of their nation, one which excuses the harsh realities of conquest in favor a view that Indians did not really have property rights or governmental systems that were equivalent to those of the Europeans” (Tsosie 1311). In a documentary of the water conflict in the Klamath Basin, *River of Renewal*, an interview with Upper Basin farmer Bob Anderson is reaffirms this mythological national past; he explains: “that this water was given to us was something we never questioned.” This ambivalence to Native claims to land and resources wherein “we rarely question the right of contemporary citizens to reside on the lands that were forcibly taken from Native people” is unsettled in the face of indigenous assertions of sovereignty, so much so that “citizen outcry is at its strongest when the courts recognize ‘ancient’ property rights stemming from treaties” (Tsosie 1311). Taiiaki Alfred captures such a sentiment by asking: “Not throwing indigenous people in jail for fishing is certainly a mark of progress...But to what extent does that state-regulate ‘right’ to fish represent justice when you consider that indigenous people have been fishing on their

rivers and seas since time began?” (Alfred 43).

Additionally, Bruyneel offers the concept of antitribalism. “Colonialist antitribalism (or antitribalism for short) is the political view that opposes any expression of tribal sovereignty that does not strictly adhere to American political and cultural boundaries” (Bruyneel 171). Many farmers in the Upper Basin would likely be reluctant to publicly identify as an antitribalist; rather, it is far more likely for settlers, these days, to publicly express sympathy for the indigenous plight while reaping in the benefits of their oppression, bounding tribal sovereignty both spatially and temporally. For example, “many private rights’ holders... believe that recognizing ancient tribal rights -- cases involving fishing, land claims, water, and jurisdiction over non-Indians come up most often -- simply affect established interests too much” (Wilkinson 266). The language used is precisely how these boundaries are drawn; indeed, *'ancient tribal rights'* reflect the rigidity of the spatial and temporal boundaries written into tribal sovereignty. Within a nationalized discourse, “U.S. sovereignty is constructed as so rigidly bounded and exclusionary that even a much less powerful expression of tribal sovereignty that expresses itself across American boundaries threatens to shatter the standing and space of American sovereignty” (Bruyneel 200). In other words, the exercise of legitimate authority over resource allocation by tribal governments necessarily delegitimizes American colonial authority in that it unsettles the dominant spatial and temporal boundaries put in place by white Euroamerican institutions. This idea is rather unsettling to many who have claimed and settled in areas based on the morally questionable terms of Manifest Destiny and systems of private property (Most, 2006: 17; Tsosie 1311), and assertions of Native sovereignty further deepen this discomfort.

If Native sovereignty has the potential to challenge, and even unsettle, the American nation-state and ideologies of nationalism, the nature of this relationship – between indigenous peoples and the American nation-state – must be contextualized. Albeit obvious, indigenous people live within the United States and thus a relationship with the American government is unavoidable. The issue at hand is captured by former Governor of Minnesota Jesse Ventura's words, discussed previously: “Are you part of the United States or are you a sovereign nation?” (quoted in Bruyneel xi). Sovereignty provides the ability to define the boundaries of the nation-state; American sovereignty, and by extension American nationalism, bounds Native sovereignties (or nationalisms) spatially within the boundaries of the United States. But this is old news. Marshall started this trend back in 1823 wherein he declared that “a nation that has passed under the domain of another, is no longer a sovereign state” (quoted in Barker 8). American nationalism, by definition, challenges (and thus continuously bounds) expressions of Native sovereignty. This notion, however, is continually challenged by indigenous peoples. The Yuroks' use of protest fishing, for example, demonstrated the belief that US fishing laws did not apply to Yurok people and was thus a rejection of the spatial boundary that places indigenous peoples *inside* the nation-state.

At a very basic level, both concepts -- sovereignty and the nation-state -- are fundamentally about exclusion, through a construction of boundaries. Let us recollect Shaw's argument that “sovereignty is produced by ordering difference spatially to enable identity” (Shaw 30); and thus in practicing sovereignty one must exclude those marked as different – otherwise that notion of sovereignty likely would not be taken seriously. Indeed, it is this notion of sovereignty – a hegemonic spatial ordering of difference – that

supports the ideological foundations of the nation-state (Biolsi 240), which, through logical deduction, must also ultimately be about exclusion. “While national identity is at one level all about ‘belonging,’ it is also about exclusion, about keeping out those you do not like and identifying yourself largely in terms of who you are not” (Mitchell 262). Let us consider an understanding of nationalism as that of an ideology. “That is, nationalism is itself an organizing and energizing force; it is a set of ideologies about what a nation *can* be. Most importantly, nationalism organizes the masses around the idea of a space to be defended, a space that is the very embodiment of national sovereignty” (Mitchell 272). The farmers who formed the Bucket Brigade have particular conceptions of how their land should be used -- agriculture -- and the resources (water) should be utilized in support of this conception. When that resource was no longer accessible to the farmers they identified a reason why – the echoes within the “Convoy of Tears” simultaneously deny the possible marginalization of the Yurok while victimizing the colonizer – and organized for a cause aimed at defending their ordering of difference within space: “you’re dead! Your people are dead!” The extent of ‘national’ support for the cause is also telling (i.e. compliance from local law enforcement, awards received by key protesters). National support for this vision of how the landscape ought to be used (e.g. small Anglo family farms) should not be surprising, for this ‘correct’ use of the land was the basis of conquest dating back to the Marshall Trilogy of the nineteenth century (Barker 8).

Champagne argues that nation-states inherently seek to absolve indigenous rights and identities for two key reasons. First, nation-states seek to develop a unified national community that supports state-sponsored institutions, values, and commitments. A

unified national community is one that is “constituted through the institutionalization of practices of citizenship and socialized reproduction” (Mitchell 270). With the idea of the nation-state as a particular configuration of space (Mitchell 278), it is most useful for our purposes to contrast indigenous conceptions of space, and by extension land and nature, to those conceptions enforced by the nation-state. Duane Champagne argues that,

Attitudes toward land and nature are fundamentally different from Western rationalist views, which often inform the creation of nation-states... People do not own land... The Western emphasis on land as a resource that must be exploited and transformed into cultural and valuable goods is very different... These fundamental differences in cultural epistemology are at the root of conflict between nation-states and native communities. The two different cultural epistemologies indicate two very different views of the order and purpose of nature, and the relation of humans within the cosmic order. (Champagne 7)

Thus the nation-state continually reproduces epistemological boundaries, among others, around Native sovereignty, as discussed in chapter two. And therefore it is the spatial organization of the nation-state, which affects every component of life within the nation-state, that creates contention. How land is organized and utilized within the nation-state -- from notions of private property to zoning regulation to environmental exploitation in the name of capitalism (the nation-state's next of kin) -- is often fundamentally opposed to indigenous worldviews and the vision of spatial organization held within tribal governments.

Second, most nation-states throughout the world (the United States included) are inherently unstable, and therefore are reluctant to recognize groups or rights that challenge the central principles of the nation-states (Champagne 15-16). This is so because the nation-state can never achieve the consensus required to support both the national community and state structures (Champagne 18). Indeed, “the fundamental flaw

of the unified or multicultural nation-state is that it assumes all peoples are in agreement with the consensual principles of nation-state organization and participation” (Champagne 19). Case in point. Native Americans were forcibly given citizenship of the United States in 1924 vis-a-vis the Indian Citizenship Act, and thereby became involuntary members of the nation-state (Biolsi 253). Designed as a policy of assimilation, the legislation hoped to replace Native peoples' tribal affiliations with American citizenship (Bruyneel xxiii). “Nation-states, with their strong policies of assimilation, integration, and sometimes incorporative multicultural diversification and inclusion, have policies and values that run counter to indigenous values and goals. This process is often called nationalism” (Champagne 4). Yet, for many tribal communities the Western notions of nationalism, and likewise sovereignty, are perceived as solutions, rather than the causes of the land and resource scarcity nearly every indigenous group must deal with today; indeed, “the significance of sovereignty and nationalism for formerly -- or still -- colonized people seems obvious” (Biolsi 239). It is important to understand the nature of the relationships indigenous peoples hold with the nation-state and how nationalism is experienced for a variety of reasons, but for our purposes particularly this discussion will aid in contextualizing the larger framework in which sovereignty functions. The argument advocated herein is that American nationalism aims to challenge and subvert Yurok sovereignty, as well as indigenous sovereignties broadly, while simultaneously carving out spaces in which indigenous sovereignties and spaces of political activity can exist -- what Bruyneel refers to as thirdspaces. This is useful because understanding the nation-state as an inherently unstable entity negates the sense of naturalness and inevitability that is often associated with the nation-state. And thus, the

future need not be continued (re)production of the nation-state itself. However, both sovereignty and nationalism, if refashioned for indigenous purposes can be utilized as tools of resistance, rather than the colonial tools they have historically been. Similarly to Rifkin's argument that "the discourse of sovereignty can be mobilized to deconstruct U.S. Rule by illustrating how the settler-state exerts a monopoly on the production of legitimacy," (108) the inherent instability of the nation-state can be utilized to deconstruct, or decolonize, the nation-state itself.

Indeed, nationalism in and of itself is not an inherently evil force. "The point is that nationalism, like national identity or 'the nation' itself, is not inherently *anything*; it is what it is *made*... And so the question is really one of *how* nationalism is made, and how it situates itself in the world at large" (Mitchell 273). Rather than understanding either American nationalism or indigenous sovereignty as the sole legitimate authority we must come to appreciate the multiple spaces in which tribal sovereignty can be exercised. Indeed, "the nation-state, it turns out, is only one among several (perhaps) many political geographies imagined, lived, and even institutionalized under modernity by American Indians" (Biolsi 240). Thomas Biolsi articulates four different indigenous political spaces in which sovereignty is asserted. The first space, and perhaps most apparent, is the tribal space -- a sovereign indigenous-nation on reservation homelands. The second space is created through co-management of off-reservation sites and resources shared between tribal, state, and federal governments. In both of these spaces, however, Native sovereignty is continuously challenged and delegitimized by the nation-state – as discussed earlier. The tribal space and the space created through co-management are significant to the context of Yurok sovereignty. Salmon and the water that flows through

the Klamath River do not adhere to the arbitrary political boundaries imagined by the nation-state. The production of political space on and off the reservation responds to constraining imposition of boundaries and forges a thirdspace of sovereignty. The third space Biolsi evokes is a national indigenous space in which the rights exercised by Native people transcend the boundary of the reservation. Fourthly, the hybrid political space is created when Native Americans exercise dual citizenship -- asserting rights and both tribal citizens and American citizens. The national and hybrid space, while not necessarily aligned with indigenous epistemologies of governance, can be mobilized and reappropriated for indigenous interests. The importance of highlighting the multiple political-geographical spaces in which indigenous sovereignty is asserted is in the demonstration of malleability of the boundaries aimed at constraining Native authority and therein reveals the instability of Western political structures. Indeed, “decolonization for indigenous peoples in settler states means a lot of different things but politically it manifests as a realigning of relationships between governments, indigenous and settler” (Gilio-Whitaker). The transcendence of indigenous sovereignty across imposed spatial and temporal boundaries offers a glimpse of hope in restoring a sustainable ecological relationship with the lands and its resources, restoring the balance.

Race, Racialization, and Racism

The issue of race also plays a role in the contestation of tribal sovereignty. Scholar Charles Wilkinson refers to this as a “moral issue” wherein he asks, “why should one racial group have special privileges?” (Wilkinson 151). Indigenous scholar Jodi Byrd provides analysis on the dual processes of colonization and racialization to help

understand Wilkinson's question that will be outlined in the proceeding pages. For now, it is important to note that the race of Native Americans plays a role in assigning authority over resources; because the group is marginalized -- both numerically and politically -- many Americans perceive of indigenous issues as superfluous to the mainstream discourse of political rights and access to resources (LaDuke, 1999: 3). And of course, this is because efforts of tribal political action have trespassed the spatial and temporal boundaries placed on tribal sovereignty, and such trespassing is a threat to the American nation.

While "outright racism also plays a part" (Wilkinson 266), it is perhaps more useful to consider "the centrality of racialization to American national culture" (Scott 170). The opposing values of irrigators in the Upper Basin and Yurok fishermen in the Lower Basin are often articulated through racial differences. "You're dead! Your people are dead!" The woman that shouted this at Ron Reed obviously had a political implication in this statement, as she was not talking to a corpse. The 'Native American race' has been temporally bounded and their claims to resources are no longer valid. This woman's words also evoke images of conquest, and given the context of the situation (as a justification for more irrigation water), establish a racial hierarchy wherein American settlers have precedence to the conquered Native peoples.

At its racialized core, antitribalism opposes the very idea of tribal sovereignty and of a distinctly indigenous political identity. In this way, it is decidedly anti-Indian. At its political core, antitribalism connects to the wider American public by opposing and seeking to scale back any expression of tribal sovereignty that steps beyond the very narrowly drawn temporal and spatial boundaries, seeing these apparent transgressions as a 'cancerous' threat to the unity, stability, and sovereignty of the American nation (Bruyneel 200).

Regardless, "in every instance, the Native position is fragile because it ultimately

depends on the capacity and willingness of the majority society to explore unfamiliar intellectual terrain” (Wilkinson 267). This unfamiliar terrain in part necessitates a critique, if not abandonment, of Manifest Destiny as America’s calling, justification, and legacy. Tribal sovereignty, therefore, cannot be understood as a gift given to a marginalized racial minority out of the kindness of American hearts. Rather, assertions and constructions of indigenous sovereignty must be recognized as a measure of righting five hundred years of colonial wrongs, a step towards social and ecological justice.

One perspective in which we can begin to understand the complex and dynamic relationships between race and tribal sovereignty comes from scholars Omi and Winant’s *Racial Formation in the United States*. The formation they are referring to is the process in which racial categories are created, inhabited, transformed and destroyed. In their work they explain the concept of a ‘racial dictatorship.’ They argue that “for most of its existence both as a European colony and as an independent nation, the U.S. was a *racial dictatorship*” wherein “most non-whites were firmly eliminated from the sphere of politics” (Omi 65). Many opponents to tribal sovereignty may argue that this is the case no longer, for many tribes do have reservations and established treaty rights. The importance of Omi and Winant’s argument rests upon the three large consequences that centuries of racial dictatorship has had on contemporary society, two of which are particularly applicable to challenges against tribal sovereignty. First, the racial dictatorship defined the ‘American’ identity as white. This is easily identifiable through assimilationist policies aimed at Native peoples as well as minorities from around the globe, not to mention the founding of the nation via the determination of political qualification by property ownership, which was restricted to white males (Harris 278).

Second, the 'color line' was established as a result. Third, and most importantly for our purposes, "racial dictatorship consolidated the oppositional racial consciousness and organization originally framed by marronage and slave revolts, by indigenous resistance, and by nationalisms of various sort" (Omi 66). In other words, the racial dictatorship created 'white' and 'other' wherein marginalized claims to sovereignty were stifled amongst the various groups deemed 'othered.' The organization of the American racial dictatorship – sovereignty – must therefore racialize the 'other' as a means of justifying a spatial ordering of difference.

Joanne Barker's work on sovereignty, as explored in chapter two, provides a crucial theoretical foundation to understand how indigenous sovereignties have developed as well as the challenges posed to assertions and constructions of indigenous sovereignties. Barker writes: "the erasure of the sovereign is the racialization of the 'Indian'" (Barker 17). Indigenous scholar Jodi Byrd picks up on this line of argumentation, asking the question of "what happens to indigenous peoples and the stakes of sovereignty, land, and decolonization when conquest is reframed through the global historicities of race?" (Byrd 39). Herein the critiques Charles Wilkinson laid out on the basis of race come into play. Through the racialization of Native Americans the argument that they should not possess rights other ethnic minorities do not becomes much more feasible. Byrd's argument, then, becomes crucial. The first crux of her argument is that colonization and racialization are two systems of domination that have frequently been conflated, or equated, within critiques of colonialism or empire. While they share commonalities and often work together to abject entire populations, "racialization and colonization should thus be understood as concomitant global systems

that secure white dominance through time, property, and notions of self” (Byrd xxiii). And through these dual processes of oppression, claims to self-governance are delegitimized because distinct groups of indigenous peoples are transformed into an all encompassing racial group, 'Native Americans' – wherein references to the Cherokee (e.g. 'Convoy of Tears') become just as applicable to the Yurok despite the two thousand plus miles that separate them.

The conflation of racialization into colonization and indigeneity into racial categories dependent upon blood logics underwrites the institutions of settler colonialism when they proffer assimilation into the colonizing nation as reparation for genocide and theft of lands and nations. But the larger concern is that this conflation masks the territoriality of conquest by assigning colonization to the racialized body, which is then policed in its degrees from whiteness. Under this paradigm, American Indian national assertions of sovereignty, self-determination, and land rights disappear into U.S. territoriality as Indigenous identity becomes a racial identity and citizens of colonized indigenous nations become internal ethnic minorities within the colonizing nation-states. (Byrd xxiii-xxiv)

The importance of race in this conflict – whether indigenous-white relations or Yurok fishermen and family farmers in the Upper Basin – is ultimately about land and resources, a means to answer the problem of the political. If race can be utilized to justify authority over resource allocation, then so be it. And as long as white people have walked this continent, race has been used just so. It is likely that many of the protesting farmers at the Bucket Brigade would not assert race as a primary issue of contention. Likely, many of those farmers believe they have as much right to the land and resources and the indigenous peoples of the area. Race, however, is critical component in the larger problem of the political, of who has access and rights to what resources. This debate frequently boils down to who owns what; it becomes an issue of property. However,

“rights in property are contingent on, intertwined with, and conflated with race” (Harris 277). Cheryl Harris’s foundational piece, *Whiteness as Property*, is useful in understanding how race ties in not only the problem of the political, but tribal sovereignty broadly. She argues that whiteness is defined in the context of the subjugation of blackness and thus whiteness essentially means access to public and private privileges that grant basic needs and therefore, survival. Harris argues that, in this context, whiteness itself become property and that property rights are contingent upon and conflated with race.

Race and property were thus conflated by establishing a form of property contingent on race... the conquest, removal, and extermination of Native American life and culture were ratified by conferring and acknowledging the property rights of whites in Native American land. Only white possession and occupation of land was validated and therefore privileged as a basis for property rights. (Harris 278)

Essentially, understanding the conflation of race and property demonstrates how the conflict in the Klamath Basin, as well as the Bucket Brigade, is a colonial project. For understanding the racialization of indigenous peoples and colonial project of dispossessing Native Americans from land and resources as concomitant processes intertwined with one another suggests the colonial legacy inherent in the Bucket Brigade. At the Bucket Brigade, antitribalism met with the equally intimidating forces of nationalism and whiteness. For “whiteness was also central to national identity and the republican project” (Harris 285) and thus serves to challenge to legitimacy of Yurok sovereignty. What farmers in the Upper Basin constitute as their rights, their vision of how the landscape ought to be, are rooted to Western notions of property; race and nationalism are inherently bound up in these notions.

Chapter Five

Conclusion: Restoring the Balance

I have come to learn that the drastic loss in salmon populations (as well as lamprey, sturgeon, etc.) are only symptoms of a larger problem. And we are going to reach a tipping point, if we have not already. Centuries of industry – from farming to logging to mining to over harvesting fish in the ocean – have taken its toll. Priorities need to be reconfigured. Because destroying the salmon populations, the land itself, we destroy ourselves.

Sovereignty has been the framework in which Yurok people have fought and continue to fight against environmental degradation and depletion of resources, namely salmon. The construction, and thereby assertions, of Yurok sovereignty are cognizant of historical colonial agendas that contemporary policy and resource allocation reflect today – existing within and outside of the American nation, straddling the temporal and spatial boundaries of American politics. Yurok sovereignty is utilized as a means of accessing resources ultimately governed by the liberal democratic settler state, while simultaneously utilizing sovereignty to challenge colonialism itself. The ultimate goal, of course, is to restore the balance.

The reality of the situation remains that opposing interests must work together. The colonizer and the colonized must collaborate for the health and vitality of the Klamath Basin. In an attempt to be optimistic, it seems the significance of balance is beginning to resonate in the Basin. Yes, there are too many promises to too many people regarding water in the Klamath Basin. But the realization that compromise and balance

are necessary is becoming apparent. Negotiations have been taking place for quite some time in the Basin aimed at striking a balance. The results are Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Settlement Agreement (KHSA).

The Agreements

In the most simplistic of terms, the KBRA sets out to resolve an unbalance of water being used for agricultural purposes and conservation purposes and the KHSA is a proposal to remove four dams on the Klamath River that have drastically decreased the quality of water in the river. The three primary goals of the KBRA include: to restore and to sustain natural production of fish species and provide for full participation in harvest opportunities of fish species through the Klamath Basin; to establish reliable water and power supplies to sustain agricultural uses and National Wildlife Refuges; and to contribute to the public welfare and sustainability of all Klamath Basin communities (KBRA 4).

The KBRA, coupled with the KHSA, aim to assuage the historic tensions between opposing parties that have been built up over the past century regarding resource allocation. The uniqueness of the KBRA stems from its collaborative nature in that it has been negotiated by historically opposing groups (Hansen) – from the state governments of Oregon and California, county governments, and tribal governments of the Klamath, Hoopa, and Yurok tribes (KBRA 2). Other major parties to the KBRA include those parties related to the Klamath Restoration Project, who are primarily irrigators and power suppliers, Upper Klamath Irrigators, represented by the Upper Klamath Water Users Association), and an array of environmental organizations (KBRA 2).

Yurok interests (and thus expressions of sovereignty) are addressed within the fisheries section of the legislation, aimed at improving salmon numbers and habitats. The plan includes three components: a restoration program, a reintroduction program, and a monitoring program (KBRA 34), aimed at the restoration of historic fish habitats, re-establishing sustainable populations of fish, and provide more harvest opportunities. (KBRA 37). Within the geographical scope of the Klamath Basin, the KBRA will utilize collaboration, incentives, and adaptive management that prioritize habitat restoration (KBRA 36). Herein, one can recognize and applaud the visible assertions of Yurok interests and sovereignty whereby, through comprehensive agreements, their influence can be applied to regulation outside the immediate boundaries of the Yurok reservation. This is the largest dam removal in world history, after all.

The ultimate issue at hand is water rights. While plans to restore fish habitats and reintroduce fish species in themselves are laudable goals, many argue that the bottom line, put simply, is that fish need more water. There are plans to permanently increase the amount of water available for fish management through an establishment of diversion limitations from Upper Klamath Lake and the Klamath River for use in the Klamath Reclamation Project. The Klamath Water and Power Agency (KWAPA) has been assigned with developing a long-term plan which will include measures to operate within the permitted diversion limits. However, once the four dams on the Klamath River are removed through the KHSR, the Klamath Reclamation Project will have access to an additional 10,000 acre feet if it is available. The Department of the Interior and the Yurok Tribe estimated a decrease in irrigation availability of 100,000 acre feet, although irrigation availability could increase during wetter years.

The contentious issue for tribes within the KBRA – and danger in regards to assertions of sovereignty – is that of water rights. Though applicable to all tribes that remain parties to the KBRA, the KBRA mandates that all claims against the United States be relinquished and released by the Yurok Tribe in return for guaranteed flows to help protect their sacred salmon – essentially bounding injustices of the American government in the past. Charles Wilkinson, a longtime scholar of tribal sovereignty and a former attorney with the Native American Rights Fund, was also consulted by the Yurok Tribe in regards to the waiver of claims. The Yurok Tribal Council presented him with one fundamental question, which read: “Are the Tribe’s proposed agreements in the KBRA not to assert water rights claims in specified circumstances, and to waive claims for past damages in specified circumstances, reasonable?” (Wilkinson 1). In short, Wilkinson’s answer was yes, these two provisions are reasonable for the Yurok tribe. In regards to the waiver of claims against the United States, past litigations have been relatively unsuccessful and “the waiver has little or no-real-world effect and that it is being agreed to only because it is part of this ambitious restoration effort, which is aimed at preventing further wrongs to the watershed and tribal rights” (Wilkinson 2). In regards to the assertion of tribal water rights the Yurok will not be able to assert tribal water rights that may be established in the future against project users as long as those users stay within the confines of the KBRA. Essentially, then, the agreements actively redraw boundaries around the Yurok's sovereign authority over resource access. In sum, Wilkinson leaves the Yurok Tribe with this:

The waivers to claims against the United States and water rights cannot be viewed in isolation. Instead, they should be seen as necessary and minor aspects of the comprehensive and powerful provisions of the KBRA, which is one of the most

remarkable and promising efforts that I have witnessed in my thirty-eight years of work on natural resources and Indian law and policy (Wilkinson 3)

Implicit within Wilkinson's support of the KBRA legislation is an acknowledgement that past Yurok water claims against the United States are likely unfeasible. Their sovereign authority over the Klamath River is then validated with the signing of the legislation – the boundaries of authority are redrawn.

The agreements, however, have not been free of tribal opposition. Some Native peoples, such as Hoopa tribal member Dania Rose Colgrove, are weary of such boundary construction and the possible prevention of assertion of indigenous rights to resources.

Colgrove writes:

The Klamath, Yurok and Karuk tribes do get some tribal land restored and restoration funding for assurances to not exercise their rights. However, the government as a trustee for all the tribes, also release tribal rights, whether the tribe signed the agreement or not. It is a dangerous modern precedent that the government can give up rights on behalf of objecting tribes. This is important because tribes, unlike other holders of senior water rights, cannot exercise rights without the support of the trustee, the government. (Colgrove)

The Hoopa Tribe does not publicly support the KBRA; their tribal website reads: “the KBRA's failure to provide the water fish need is at the heart of the Hoopa Tribe's opposition to the deal” (Hutt). This rejection can be read as a rejection of the continuous process of constructing boundaries in and around indigenous authority over resources. This dangerous precedent to which Colgrove is referring is the degree of trust which must rest upon the federal government for promises to be delivered; Given the history of 'deals' between Native peoples and the United States, you can hardly blame her. The danger embedded within this message, however, is remarkably similar to the inherent danger embedded within Native peoples' use of sovereignty – how can a tribe negotiate over

resources while simultaneously rejecting the Western notions of governance and the political space in which these negotiations occur?

The negotiations, however, ultimately work toward the restoration of balance in the Klamath Basin. Indeed, the agreements aim to reshape the ecological relationships built up over the course of the last century. In recognizing that the need for compromise and that salmon, too, need water, people of the Klamath Basin are headed in the right direction. Just two short months ago, on February 18, 2014, the largest dam removal and river restoration act the world has ever seen passed. “The agreements, five years in the making, signal a close to decades of bitter struggles between tribal, agricultural, environmental and governmental entities, and more recently dam owner PacifiCorp” (Hansen). But it was not until March 5 that the negotiations regarding water compromise were finally reached – an additional 30,000 acre feet for irrigators and a plan to restore riverside fish habitats (ICTMN). Such negotiations are both admiral and historic, but the hard work must continue if balance is to be restored.

Looking Forward

Mid-July, summer of 2013, I nervously walked into the Yurok Tribal Headquarters, a large and beautiful building made out of redwood trees with an oval door, just like I had read about in Lucy Thompson’s book. I walked around nervously until I asked someone where Troy Fletcher’s office was. I followed the directions politely given to me, all the way at the end of the hall, and I saw his door ‘Troy Fletcher, Executive Director.’ I stood there awkwardly for a moment or two before his receptionist told me it’d be a few minutes.

With an all-weather field notebook in hand I greeted the man that holds so many responsibilities for the Tribe. I wanted to talk about the Klamath Basin Restoration Agreement and Klamath Hydroelectric Settlement Agreement -- two plans aimed to solve water conflict in the Klamath Basin. Sharing my distaste for reading legislation, he kindly shared additional resources to find out about the agreements. And finally we got around to talking about Yurok sovereignty and what it has to do with this conflict between fishermen and irrigators up north. A few days prior to this interview I had read Mr. Fletcher's Testimony on behalf of the Yurok Tribe to the Senate Committee on Energy and Natural Resources, written the month prior. I was particularly intrigued by this excerpt and had asked him to expand on the function of Yurok sovereignty within the agreements.

The Klamath Agreements do not solve all the water and fisheries issues in the Klamath River Basin. They were never intended to do so... What the agreements do is to begin to address some of the most immediate and serious issues in the Klamath Basin... The agreements are an expression of tribal sovereignty and self-determination (Fletcher 7).

He explained to me that expressions of tribal sovereignty can happen in multiple ways. Yurok sovereignty is asserted through the direct exercise of rights, such as our fight for fishing rights at the Fish Wars. Yurok sovereignty is also expressed through solving issues independently of the federal government. He told me that it was the Yurok Tribe after all, not the United States Federal Government, that has negotiated the scheduled dam removal. But also, sovereignty can be expressed through more subtle means, like compromise. Long term solutions require respect of vested interests in the Basin and the independent decision to make compromises over large scale issues is indeed an act of self-determination and an expression of Yurok sovereignty.

The multiple political spaces in which the Yurok Tribe assert influence demonstrates the malleability of the very boundaries constraining Yurok access and authority over resources, and thereby the entirety of the political structure in which authority is constructed. The ultimate goal here, and always has been, decolonization. As a process, decolonization must engage with imperialism and colonialism on multiple levels (Tuhiwai-Smith 20), while realigning (and thus redrawing the boundaries between) indigenous peoples and the liberal democratic settler-state (Gilio-Whitaker) – and thereby reframing the problem of the political to enable temporal and spatial boundary transcendence. Central to this process is a reclaiming of history, “recovering our own stories of the past... inextricably bound to a recovery of our...epistemological foundations” (Tuhiwai-Smith 39), for alternative histories hold alternative knowledges. Decolonization, however, is not a rejection of anything 'Western' (Tuhiwai-Smith 39); rather, colonization creates a 'shared culture' among colonized and colonizer wherein both groups share the same struggle for decolonization (Tuhiwai-Smith 45). This is because the conditions created by colonialism in the Klamath Basin – environmental exploitation to the point of resource scarcity – pose threat to all interest groups; the survival of all depends upon rectifying imbalance.

The agreements can be understood as a directional sign, pointing to the road of decolonization. Navigation remains the tricky part. Indeed, “once viewed as the formal process of handing over the instruments of government, [decolonization] is now recognized as a long-term process involving the bureaucratic... divesting of colonial power” (Tuhiwai Smith 98). The agreements, centered around compromise, certainly work toward evening the playing field in regards to influence over resource allocation – a

step in the right direction – but do not necessarily address the historically colonial relationship between American governance structures and indigenous ones. Similarly, the removal of the dams and an established limit on water diverted from the Klamath River are, no doubt, beneficial to salmon populations as well as ecological relationships in the Basin broadly; but even so, it is important to understand, and even more important to remember, that the agreements still function within a Western conceptualization of sovereignty and thus, possess particular conceptions of time and space (Tuhiwai-Smith 50) and therefore reinforce American notions of sovereignty and boundary drawing. The implication of which, particularly for Yurok people, is the necessity for continued negotiation – and justification – of rights to authority. Such ambivalence on behalf of the federal government, however, still allows for spaces in which Yurok sovereignty can be constructed and asserted. But the problem of the political is ultimately framed by a series of boundaries – which constantly aim to contest the indigenous sovereignty (and vice versa) that transcends those very boundaries. And therefore struggles over sovereignty, resource allocation, and the nature of the problem of the political are likely to continue; and whether the KBRA and KHSA will make a significant contribution to the larger project of decolonization, only time will tell.

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