Introduction: Conquest Projects

My crime is being an Indian. What’s yours?
—Leonard Peltier, *Prison Writings: My Life Is My Sun Dance*

School: Coming for the Children

Far away from Leonard Peltier, Jacob sat in one state’s prison for “juvenile offenders.” He was seventeen, an enrolled member of his Tribal Nation, and had long since left high school on the Outside.

Jacob—Jakes, as the other incarcerated young men called him—laughed when I asked him about school one day.

We were sitting in the prison school’s computer lab, which at that time was used only for a life skills class. Otherwise, it sat empty for hours, in dutiful observance of the no-internet policy for inmates. On that particular day, we grabbed a couple chairs at the small, round table that occupied the center of the room—a table from which life skills teachers could comfortably surveil the screens of all the computers, which were lined up along two long tables, leaning against two blank walls.

Jakes shifted uneasily in his cushioned chair. He looked down at the wood tabletop and circular coffee mug stains and adjusted his body repeatedly against the faded green office-weave fabric. These were provinces made foreign to him in the prison world of student chairs and tables, of plastic cell bunks, of total rules against crossing restricted territories of furniture.

“Weird, huh,” I said.

“Yeah, man,” and he looked down at either side of his lap, shifting again, until he looked up at me and took a nodding breath in. “OK.”
We both laughed. Jakes was a tall, skinny kid. Approaching gangly, or perhaps departing from it as he moved toward uncertain adulthood. His face was a portrait of lovely contradictions. He looked out from deep-creased eyelids cradled in youthful, padded cheeks. The skin on his nose and forehead was unusually smooth, as unblemished as plain, light brown packaging paper, while acne scars corrugated his chin with the rugged mirage of stubble, and deepened the wells of his dimples, emphasizing his already winsome smile.

Sitting in that life skills room, we talked about video games, fishing, comics, and little brothers. It was a meandering conversation that at one point walked up to the front doors of Jakes’ old school.

I asked him, “If maybe school was different on the Outside, do you think things would have turned out another way?”

“Shoot. Naw,” he said. And he laughed hard—maybe at school, maybe at the futility of a question to which he thought I should or did know the answer. Maybe at the historicity of school as a coauthor of his crime of being an Indian.

The answer to the question of Jakes’ alternate possible futures lies in the conquest colonial U.S. relation to young Native people, expressed in part in the history of U.S. Indian boarding schools. 1 School was the “last great Indian war.”

“My grandfather Edward L. Hatchett was part of the government project to assimilate the Indians into the white man’s society,” writes Alan B. Walker. “They concluded the only way to save the Indians was to destroy them and that the last great Indian war should be waged against children. They were coming for the children.” 2 Come for them they did. And come for them they continue.

We understand schools and prisons as a function of U.S. conquest statecraft—as part of a broad and deep war structure of coming for children. Conquest as a frame insists on observing colonial war as

1. Lomawaima and McCarty, “To Remain an Indian.”
2. Walker, Every Warrior, 103, italics original.
the salient, ongoing shape and practice of state institutional and ideological worldmaking in what is called north america. In this book, we focus on the specifics of coming for Native children. This specificity deepens and complicates an analysis of school–prison relationships and, in so doing, opens up even more possibility—to revolt against common sense and its materialities, to identify common cause across peoples and ideas, and to consider urgent questions in relation to conquest capitalism (alongside others, we know all capitalism to be racial capitalism), Tribal Nation building, trusteeship, justice, sovereignty, self-determination, refusal, and freedom.

The Story of Jakes

This book is centrally the story of Jakes, Jakes’ stories, and the stories they sparked in us. Jakes’ practices of survivance and refusal—his Indigeneity, hilarity, brilliance, resistance—are instructive resurgent knowledge practices. His stories are the heart of our dialectic journey. Jakes’ stories are also ethnographic. We are no strangers to the irony of this fact. As Lakota scholar Vine Deloria Jr. writes, “into each life, it is said, rain must fall. . . . But Indians have been cursed above all other people in history. Indians have anthropologists.” While this book is not an ethnography of, about, or by Jakes, he ignited our thinking, and so we borrowed from ethnography’s method and madness: it is contemporaneous, it is contextual, and it is relational.

Jakes’ relationship with Sabina developed over the course of a long-term ethnographic project that took place largely in the prison school where he was incarcerated. As relationships do, theirs con-

5. Jakes was imprisoned at a facility where state-identified young men, ranging in age from fourteen to twenty-one and (with the exception of a few inmates) categorized by the state as Black, were sentenced to captivity. Part of the state captivity project—and part of the state Division of Juvenile Affairs’ “treatment” across its locked facilities—was compulsory
tinued into ours and became part of the relationships that guided our writing. Jakes inspired us. Made us laugh. Found his way in our daily correspondences. It became clear to us that Jakes was not just a subject through whom we iterated ideas. We were inspired by him to be more imaginative. He felt at times like a family member and a coauthor, and even sometimes like our younger selves. We developed fervent wishes for him: a free future, meaning, a place. In short, a different world. In the face of a crushing system, Jakes was funny as hell. He resisted. He refused. But he was also sad, mean, boring, smart. He lived in all the equally profound and mundane ways one does. And this living grabbed us. It is a kernel of the thinking in the pages that follow. So Jakes’ stories and dialogues shape this book. While he is a protagonist in our thinking, and while we grew to love and appreciate him even in his physical absence, we are careful not to over attribute ideas, intentions, and interpretations. We do not romanticize him as a sage, absent interlocutor but rather seek to honor him as present in our relationships and thinking.

Centering the intimate life of Jakes’ will and relationality in a cluster of systems, we are disinterested in sham platitudes or trite proclamations and instead continually push the tendrils of our inquiry outward, tracing the outlines and rough edges of school–prison relations. In this regard, the pursuits of this book are simple: to attend deeply to Jakes’ stories; in that attention, to invite readers to consider a constellation of legal, historical, and contemporary forces that drive and shape the school–prison relationship for some Native young people, families, communities, and Nations; and to take up these attentions and considerations through a lens of self-determination.

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schooling. Vaught, Compulsory. Captivity and its instruments are removal projects that banish the captive person from relations to people and place, endeavoring to erase their interconnected existence even as their image may be magnificently distorted as a categorizing projection onto the stage of societal order: the criminal and the inmate.
A More Sophisticated Technique

“After the Revolution,” writes Vine Deloria Jr.,

the new United States adopted the doctrine of discovery and continued the process of land acquisition. The official white attitude toward Indian lands was that discovery gave the United States exclusive right to extinguish Indian title of occupancy either by purchase or conquest. It turned out that the United States acquired the land neither by purchase nor by conquest, but by a more sophisticated technique known as trusteeship.⁶

For Native peoples, trusteeship is a complex legal and political relationship, evolving most concretely from the colonial ideologies embedded in U.S. Supreme Court chief justice John Marshall’s proclamation that Tribes are “domestic dependent nations” whose “relation to the United States resembles that of a ward to his guardian.”⁷ This delineation of subjected dependency codified an intractable paternalism of imposed federal Trust over Native sovereignty. The federal Trust “responsibility” grew from the conquest, colonial assertion that Tribal Nations could not completely self-govern—even if their sovereignty was inherent, their governance was and is dependent and subject to federal superintendence. This “responsibility,” inaugurated through the coercive establishment and breaking of treaties that wrested land from peoples, is violently asymmetrical and in keeping with other U.S. conquest responsibilities. For instance, Truman claimed that the atomic bomb was a god-given “responsibility” to be used for “His purposes” by the United States. With Native Nations, the United States defines its “responsibility” as an absolute congressional authority to terminate, modify, or otherwise fulfill the Trust relationship, feeding a system of colonial paternalism that undermines Indigenous sovereignty.

⁶ Deloria, Custer Died, 31, italics added.
⁷ Cherokee Nation v. Georgia, 18.
In our consideration of this more sophisticated technique in the context of schools and prisons, we remain respectful of the ingenuity and imagination of Indigenous peoples in leveraging the Trust relationship for the benefit and survivance of Indigenous Nations. Our focus is on how trusteeship continuously reestablishes colonial conditions through schools and prisons.

Tracing one strand of a genealogy of conquest, carceral state trusteeship, in this book, we situate school as the axial apparatus of the massive Trust project aimed at the temporally and materially rehearsed dispossession of Native peoples’ futures. More specifically, we consider the rise of what we propose as the school–prison trust—and its imaginary ameliorative practices of treatment, restoration, and justice in relation to Native young people across contexts—as linked to broader U.S. trends and as a distinctive function of ongoing trusteeship. The school–prison trust frames the unique legal and historical relationships among schools, prisons, the state, and Native communities and young people who shape the ongoing war against Native children.

**Schools and Prisons**

Our work draws from, is indebted to, and is in conversation with the extraordinary body of scholarship on school–prison relations in the United States. This work helps us consider the complex controlling relationships among schools, prisons, and other carceral apparatuses and institutions.

In particular, we are influenced by the work of two people. Erica Meiners brought sharp attention to the relationships between schools and prisons and also introduced the concept and practice of abolition to the field of education. Damien Sojoyner, whose framing of school–prison relations, enriched by his careful local attentions to the Southern California context and Black Los Angeles, upends absolutist notions of state power that infiltrate some of the work on what was originally called the school-to-prison pipeline. He argues for a relational dynamism that understands the structured
repression of Black people in schools as the shifting expression of a complex history of power contestations, movements, and more. “The structure of public education is responding to the actions taken by Black students that are perceived to threaten the status quo,” writes Sojoyner.

In this regard, the criminalization of Black youth is not only intentional, but it is in response to direct agitation on the part of Black people. . . . The modes of current school discipline (e.g., policing and expulsions) have developed in an attempt to suppress assertions of Black culture, Black autonomy, and Black liberation movements within schools.8

This notion—that the repressive, controlling functions of carcer-al educational institutions are counterinsurgent responses to the will, resistance, and efforts of young people and their communities (and, we suggest, Indigenous culture, Indigenous autonomy, and Indigenous liberation movements, and as intertwined with Black)—governs the grammar of our dialogue into the school–prison trust. As we take notice of state and social structure, action, and contradiction, we are centered in Indigeneity. This does not diminish the unfathomable regularity and unbearably brutal nature of conquest violence; rather, it highlights the viability of sovereignty and self-determination.

For us, incorporating questions of trusteeship into the school–prison relationship conversation is about navigating a confluence of critical influences, through which we engage some contemporary carceral manifestations of conquest colonization as they pronounce cloudy legal technologies to dissemble unqualified state power. And it is about offering greater dimension to the collective understanding through reflections on Jakes’ stories and their illumination of murky corners of our own knowledge. We are not

setting out to assert a new and distinguishing frame or to rename the already existing.

As we journey with Jakes through the stories of his subjection to the school–prison trust, and as we mark those with our reflections on the tangle of conquest colonial statecraft, we hear in, with, and from Jakes the power of reclaimed times and freedom temporalities; the unbreakable joy of life-giving, hilarious, and resistive names; the eager balm of relationships and relationality; and the fearlessness of refusal and survivance.

But first we consider trusteeship.

**War Genealogies**

The origin stories of the school–prison trust have no explicit starting point or beginning, and as such we do not bind our conceptualization of this constellation of historical points to one single framing. We see relevant frames for understanding across many scholarly conversations and traditions, some of which are currently in generative tension with one another. And we find it essential to remain grounded in Black intellectual traditions that offer vigorous analyses of colonialism and conquest. Coming from different scholarly traditions, the three of us share a rejection of the odd and yet chronically reproduced bifurcation that Indigenous reads land and Black reads labor or that Indigenous reads “bodies” for genocide and settlement and Black reads “bodies” for slavery and death; the propertized notion that firstness privileges relationship to land and that diaspora unmoors from land; and the reduction of Black and Indigenous to proprietary and exclusive material, historical, cultural, phenotypic, and ontological categories. Our turns to law, state institutional practice, and warfare are in small part a generative rebuttal, not the least of which is to ourselves.

We begin by tracing the particular genealogy of the school–prison trust through three statecraft codification junctions we demarcate as discovery, property, and trusteeship. Later, we join these canonical, juridical histories with the material and cultural arcs
of colonization that form the moontides of conquest colonialism: accumulation, labor, and production. Our intercession, then, is not only not chronological but also not subsequential. Among our intellectual guides, we take as a north star in our thinking Cedric Robinson’s durable historical guide to racialization, capitalism, and colonization. That is, to start with, that colonialism, racialism, and imperialism were long-standing projects in Europe prior to conquest outside that “continent” and that racial regimes born of European ideology are brutal but flimsy:

Racial regimes are constructed social systems in which race is proposed as a justification for the relations of power. While necessarily articulated with accruals of power, the covering conceit of a racial regime is a makeshift patchwork masquerading as memory and the immutable. . . . But racial regimes are unrelentingly hostile to their exhibition. This antipathy exists because a discoverable history is incompatible with a racial regime and from the realization that, paradoxically, so are its social relations. . . . Employing mythic discourses, racial regimes are commonly masqueraded as natural orderings, inevitable creations of collective anxieties prompted by threatening encounters with difference. Yet they are actual contrivances, designed and delegated by interested cultural and social powers with the wherewithal sufficient to commission their imaginings, manufacture, and maintenance.9

As we go, we will consider some of the specific ways racial regimes’ simultaneously evasive and bold invented memories, false encounters, and mythic origins masquerade as natural orderings through the well-commissioned school–prison trust. And we will consider how social relations and their histories upend this taken-for-granted system.

We take as yet another celestial body in the sextant of our thinking the understanding that the war of conquest is ongoing. In Vizenor’s “Custer on the Slipstream,” one character says to another,

Everywhere else the government restores the nations they defeat in wars. Do you know why the Indian nations, the proudest people in the

whole world, were never restored? . . . The answer is simple. . . . This is the answer, listen now, because we were never defeated, never defeated, that is the answer. . . . We get nothing, nothing, because the white man never defeated us, but he makes his living on us being poor.\textsuperscript{10}

Perhaps defeat requires surrender, or withdrawal of the aggressing armies, or the recognition of the parties involved—or some combination of those. Whatever the markers and flags of defeat might be, nowhere do they exist for Native Nations and people in what is called the United States. The trails of massacre, terror, violence, enslavement, slaughter, containment, subjugation, settlement, termination, removal, repression, and impoverishment are worn deep on the earth. But none arrives at an end point. We understand these as interrelated acts of supreme violence that can result in what might be total annihilation of communities and peoples but do not require and in fact override the relational conditions for surrender and defeat.

The particular form of colonialism practiced in what is called the U.S. today is yet unsettled. Conquest—a colonial form of warcraft—is a salient feature of the dynamic power context we begin to wonder about in these pages. A colonial state is perpetual conquest—warcraft and statecraft occupy the same institution. Without a declared war in progress, and a litany of battles to mark it, the very structure of colonial power remains war. Conquest does not require overt “exploration” or “discovery” as catalysts or features (though they often serve as valorized retrospective justifications that map dominant European moral, epistemic stances). Conquest serves itself. And such plunder has no confusingly virtuous, enlightened, or innocent motives. Extraction, exploitation, and profit are accelerants to war’s inferno. Occupation is a tactic, and occupied territories are an arena of war.

Although we draw also from settler colonialism—Audra Simpson’s work, for instance, is core to large portions of our inquiry—we are

\textsuperscript{10} Vizenor, “Custer,” 21.
not trying to make a settler-colonial argument. Partly because we feel inadequate to the task and partly because conquest and war help us better understand the questions of the school–prison trust with which we struggle here. Much of the scholarship and policy around the Trust relationship center on governance and control over Native land and resources—property rights as defined in colonial law.\textsuperscript{11} Trusteeship describes the state’s mechanized understanding of its coercive, asymmetrical responsibility to all that it understands as Native property. This relationship is transactional and asymmetrical or unidirectional.

In this propertized schema, children have proven to be among the most valuable property. In describing part of the ongoing practice of trusteeship, Fletcher and Singel write, “Indian children . . . remain a primary focus of the federal government’s duty of protection, now known as the federal general Trust relationship.”\textsuperscript{12}

Among many other things, American Indian\textsuperscript{13} children are actual and symbolic purveyors of Indigenous knowledges, future protectors and potential beneficiaries of land and water, and titleholders to dual citizenship. Children are possibility. They may become cooperative, assimilated, disruptive, colonial, revolutionary. Docile, vanishing subject, nothing of note, or trouble. They may become necessary labor, or surplus labor, or inadequate labor. Or revolutionary labor. In some ways, Native children confound colonial properties and so threaten to upend ongoing carceral state projects of possession. What we call the school–prison trust is a decisive weapon in the arsenal of \textit{the last great Indian war . . . waged against children}. Though we are describing here a particular war against Native children through law and policy, we understand these as part

\begin{footnotes}
\item[11.] Newton, “Enforcing.”
\item[12.] Fletcher and Singel, “Indian Children,” 964.
\item[13.] The designations and self-identifications of American Indian, Indian, Native, Native American, Indigenous, and more have meanings that shift with context, purpose, and peoples. We use terms to best align with context and people.
\end{footnotes}
of a system of war that is necessary to establishing and maintaining the colonial state—an active war against children that includes the caging of children at the U.S. borders, assaults on young activists, denial of climate change, state violence, and numerous other manifestations of violence against the future.

And because, as Vizenor’s character explains of ongoing war, “the white man never defeated us, but he makes his living on us being poor,”\(^\text{14}\) we are interested not only in how conquest, with its profit motives, is in dialectic with the labor questions at the heart of carcerality\(^\text{15}\) but also in how the refusal of surrender is a sustained, continuous, and mighty practice of self-determination against a racial capitalist order.

We understand the following schema of three statecraft codification junctions of discovery, property, and trusteeship as elaborated in the interacting, millennia-old, imperial contexts of conquest.

**Discovery**

One of many lineages of the school–prison trust can be found in the European codification of discovery through a fifteenth-century papal bull.\(^\text{16}\) Papal bulls, declarations, or issuances were not uncommon and were frequently mercantile or political in nature and intent. These were holy imprints of the fascist formulations by which the Roman Catholic Church cemented capitalist class relations to the existence of nation-states and sanctified those relations through demonic global dominion over land through human possession and dispossession. Ensuing nation-state legal iterations are in palimpsest relation to these covenant bulls. Bull *Inter Caetera* made discovery doctrinal through key features: making inhabitant coterminous with Christian, such that lands inhabited by non-Christian peoples

were thereby uninhabited and discoverable; establishing discovery as a political-economic relationship among conqueror nations mediated by the Church. It also deepened the ways “discovery” and “exploration” were embedded across broad sectors of European epistemic life, from science (where they are still confused with “curiosity” and valorized through so-called universally beneficial solutions) to art (where the pursuit of individual expression can promote imperialism with impunity).

Discovery is a matter-of-fact precondition for sanctified exploitation and accumulation; an ideology of relations that marches conquest forward in myriad ways; and a conceptual, historical, legal inception point and ongoing ideological device for the school–prison trust. Discovery is both a powerful implement and a weapon of a vulnerable regime.

Discovery iteratively sanctifies the myth of vacancy—of land, resources, people, knowledge—as sustained, solemn truth. In this way, ideological power resides not in the initial conquest claim of vacancy or even in the consecrated rationales for warfare and removal of peoples from lands (although those are deathly necessary to maintaining the myth) but rather in the incessant reenactment and rearticulation of discovery across scale as a feature intrinsic to conquest life. This barbarous dissemblance confesses the feeble infrastructure of conquest and its habituated desperation—discovery is both a real experience and a fictive device of conquest by which the colonial state announces its importance and reassures those in power that the destruction of others is warranted.

Conquest thrives on what Felix Cohen termed “transcendental nonsense”—laws’ manipulative, “trapezing” reliance on narrow, precedent language to iteratively stamp absurd (and violent) judgments with rational legitimacy. Discovery—as a stance and act of

17. Miller, “Doctrine of Discovery.”
conquest war—trapezes as such. Discovery unfolds across multiple planes, tautologically transmuting into commonsense.

Discovery in relation to Native Nations and the United States finds particular legal expression through tautological commonsense in the first two cases of the Marshall Trilogy. The Supreme Court outlines white rights of possession and dominion of the United States over Native lands and peoples through European law prior to the formation of the early republic.19 In Johnson v. M’Intosh, the Court firmly entrenched the “doctrine of discovery” by finding in favor of M’Intosh, who bought the land in question from the United States. Johnson, on the other hand, was one of many land speculators who bought the land directly from the Piankeshaw, not from the British government (“the Crown”), before the United States asserted nationhood and before the Trade and Intercourse Acts of 1795 prohibited such a sale outright.

Chief Justice John Marshall’s opinion in Johnson reified this hierarchy of discovery in ownership, identifying Indigenous peoples as “the conquered”: occupants—first on the land, but never possessors of the land. He writes,

The United States . . . maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest. . . . The title by conquest is acquired and maintained by force. The conqueror prescribes its limits. Humanity, however, acting on public opinion, has established, as a general rule, that the conquered shall not be wantonly oppressed, and that their condition shall remain as eligible as is compatible with the objects of the conquest. . . . This opinion conforms precisely to the principle which has been supposed to be recognized by all European governments, from the first settlement of America. The absolute ultimate title has been considered as acquired by discovery.20

19. The third case in the Marshall Trilogy, Worcester v. Georgia, 31 U.S. 515 (1832), is important to Federal Indian Law in solidifying the exclusivity of the relationship between the federal government and Tribal governments, to the exclusion of state law.

In the discovery-driven logic of absolute conquest, land exchange was only valid between European, or European-derived, colonial governments, which would then grant a patent or property right to the land to a legal individual. Lands under Native guardianship could only be acquired by another government by treaty (between nations) or through warfare.

This Doctrine of Discovery is a cornerstone to the law of property and property rights in the United States—constructing a system of ownership cemented in overlapping, coproducing conquest systems of dispossession, possession, genocide, and carcerality. Discovery gives way to the totalization of individualized, righted, transactional ownership and the decimation of relationship with land. This counterfeit property is then always a profit of war, a plunder relying on white supremacy and property law to obfuscate and naturalize human rights violations: “a matter of imperial policy masquerading as historical fact.”

Moreover, this conquest plunder is invented in relation to extinguishable “Indian title,” legitimating the maintenance of profit “by force” and ascribing Native people to the general subhuman category of the conquered, but also whose condition shall remain as eligible as is compatible with the objects of the conquest, which are at least capitalist and extractive—so, in other words, as discovered and ancillary objects of economy. Discovery demands domination as a principal feature of relationality. And it advances revisionist amnesia as an antidote to barbaric origins. Discovery is an announcement of white colonial divine right of power onto and over Indigeneity: lands, Nations, labor, knowledge, children, and futures. It continuously predicts an attempt either to claim the Indigenous as property or to hold what cannot be owned in a non-correspondence relation of nation-to-nation Trust, to assert dominance and control indefinitely. The extinguishment of Indigenous rights is one threshold and condition of land ownership in the

United States. Extinguishment of Indigenous rights inaugurates one production of property. But what exactly is property?

Property

A profit of conquest war, property in the United States is a system in the tradition of British common law, forged in the ruthless economic, political, and cultural landscapes of Europe and (re)constructed through staggering exercises of power, such as slavery. From the very beginning of the new United States, humanity itself was codified via property; humanity was made through a ruthless and total merger of land control, maleness, whiteness, Protestantism, and more. This codification of property and possession was directly descended from an inveterate European racial hierarchy that violently assembled whiteness, racialism, and racial capitalism through a long tradition of conquest, domination, and racial differentiation via caste and nationality. It began in Europe, by Europeans, on Europeans. This tradition became a form of consciousness.

In the new United States, rights became the form and the proxy for property; so, in that exclusive, narrow humanity was the cornerstone: not only the right to own people, land, and a host of material and immaterial goods—deeds, contracts, and on, ad infinitum—but also the twinned right to own one’s self and never to be owned. Among many functions, these properties of the self embedded the custom and command of the Doctrine of Discovery—the right to ascertain something uninhabited and so to reasonably, accurately, or legally possess it. U.S. rights—prerequisite for and signaling legal humanity—then are organized through the possession–dispossession dyad and constitute American democracy through individual discovery. Conquering is the right to own one’s self. This individual right to conquer is sanctified or denied in an endless, accumulative relationship between the citizen and

23. Robinson, Black Marxism, 66.
the state. The citizen and the conqueror are fused. Because rights in the United States are largely celebrated, asserted, and desired as a moral good, conquest as sustained warfare and statecraft is more than just a central feature of the American state and its allied citizenries; conquest is the shape of U.S. democracy.

White state and citizen possession relies on the discovery and plunder of global Indigenous peoples—dispossession as a practical matter in the expropriation of land and resources, through discovery, and through extraction and accumulation of people to be shuttled into various extraction and accumulation projects. Indigenous possessory interests were fabricated, then rendered imperfect, fraudulent, and irrelevant to discovery, claim, and possession. Unshackled by moral contradiction, conquest dispossession is the production of a convoluted vacancy: for the land to be discovered, it must first be vacant, but the Doctrine of Discovery (and the specific euro-epistemic conventions of humanity it advances) premises vacancy on Indigenous peoples being initially present on the land. The Christian land grab, the interminable drive to establish divine dominion over all life, does not respond to the problem of people present. Rather, as evidenced in U.S. law, discovery (and so conquest) requires and predicts peoples, then codifies the specificities of that presence through the productions of vacancy. In U.S. law, this vacancy is accomplished by the codification of rights that not only permit but definitionally require vacating peoples of possessory rights, which in turn consecrates the conquest project of peoples being vacated of life (through various conquest projects of genocide, removal, and so on). The land is rendered vacant as the peoples present are vacated of nonuniversal, exclusive, possessory rights required for humanity in conquest law. Vacancy absolves deliberate conquest from colonization and eases the way for an insidious enactment and expression of discovery as settlement of emptiness. This discoverable vacancy is a site of acute, perennial contestation against Native life.

Central to our thinking about the school–prison trust is the merger of discovery and property, enacted in the dis/possession of humans. Because children are not actually imbued with the subject rights of citizens, they were and are more easily incorporated into the practice and logic of possession and its inherent dispossession. Linked to discovery-for-accumulation conquest labor and land logics, possession extended to nonwhite children through various slave codes, among others, played on the rare and exclusive rights of self-ownership. One cannot own children without owning one’s self. Therefore, in examining the school–prison trust, we appraise some of the ways possessory rights are axial to carceral praxes and the U.S. colonial conquest dimensions of dispossession, nation building, and citizenship. In the various codifications of nonwhiteness as subhuman or conquest object-subject, nonwhite children were converted as property of both propertied whites and the state. Because property is a status, system, possession, and right as well as a mediator of rights, codification of children as property refers to all these and the subsequent treatment they allow and encourage. In the case of Native children, propertization categorizes them as uninhabited and discoverable and subjects determination of their lives to state superintendence. And, because Indigenous Knowledge Systems actively rebut property, Native children are an uninterrupted and robust threat to conquest.

Trust
Discovery and property merge in total, depraved fidelity in the legal construction of federal trusteeship over Tribal Nations. The Trust relationship is infected by a specific conquest paternalism illustrated in the second case of the Marshall Trilogy, Cherokee Nation v. Georgia. In his opinion, Chief Justice Marshall conceptualizes Indian Nations as “in a state of pupilage.” Furthermore, he writes, “Their relation to the United States resembles that of a ward to his guardian.”

the Cherokees as a ‘dependent domestic nation,’ a definition that has plagued everyone ever since.”  

The particular plague took the shape of trusteeship—vesting control and ownership in the hands of the federal government and conditioning Native possession and sovereignty on federal superintendence. 

Trusteeship relies on the creation of property through colonial domination, extinguishing Indigenous claims “by purchase or conquest” to create possessory rights—and associated individual rights under the law—for certain white males to own, inherit, and bequeath. Individual rights, domination, and possession are the foundational holy trinity of colonial law. This trinity played itself out through specific mechanisms determined against the peoples and contexts to be dominated and the colonial selves to be humanized.

Chief Justice Marshall mechanized a diminished capacity for sovereignty through a federal legal obligation for structured paternalism and, we argue, maternalism. The relegation of entire Nations to a condition of pupilage maps the relationship between state and student and nation-state and Tribal Nation. Tribal Nations are subjected to a federal oversight that carries a moral imperative and legal authority for the regulation, detention, supervision, and reeducation of Native peoples—particularly young people. Strikingly, the guardian–ward relationship of trusteeship is limitless, as Congress holds “plenary power” to define or terminate the Trust responsibility. This responsibility may be used to enforce obligations to Tribal Nations guaranteed by treaty or stat-

26. Deloria, *Indian Declaration of Independence*, 115. Importantly, Deloria’s writing inverts Marshall’s declaration of “domestic dependent” to “dependent domestic.” We are unsure of his intent but think it significant since the order of the words highlights the conditions imposed by the Court—dependence and domesticity are both relative, and subservient to the United States.

27. Johnson, 574.

28. Harris, “Whiteness as Property.”

The United States maintains a superintendence through Trust that centers Congress’s power. Plenary power is power *without limit* or review. It is absolute.

Trust is, then, a form of war powers—active or indolent—that undergirds a carceral state. It is a more sophisticated war technique. And its signal technology is school. It is a war on children.

**War Powers**

The *sophisticated technique* of trusteeship is in part its inextricable embeddedness in federal law and policy: all attempts to end trusteeship are techniques to end federal recognition of sovereignty and self-determination, and so have been “uniformly disastrous” for the Tribal Nations subjected to the Termination era. As trusteeship continues, young Native people are both assets and rightful “beneficiaries” of the trusteeship. And ancillary objects of its conquest market drives. This creates a paradoxical guarantee that trusteeship never ends: it is a paternalistic “protection” from harm yet is itself a conquest harm, one made necessary for its own continuation.

We explore what we term the school–prison trust to highlight the ways in which the web (of carceral state institutions, conquest colonial ideologies and their legal-material expressions, and racial capitalist structures) that ensnares young people into a perpetual system of exploitation, dispossession, and appropriation takes on particular meaning and shape for Native young people, communities, and Nations. Schools and prisons are two central and interrelated institutions through which trusteeship is exercised, even when the movement of young people across them is neither explicitly determined by Trust nor understood by state agents as a distinct process. Across these fastened institutions, Indigenous children are discovered—along the route to white accumulation and salvation—as not properly owned by Native family, mother,

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community, or Nation. They are discovered as familially, culturally, and politically uninhabited and incapable of sovereign inhabitation. In other words, Native young people are predetermined as existing in a context of parental vacancy (the unit relevant to dominant legal ideology) and vacated parental rights.

If discovery is the attempt to possess what must be established as previously unknown, vacant, and without antecedent in western epistemology—but also peopled—then the axiological inauguration of the Native child and so Native schooling is palpable and unstaunched: *terra nullius* in humans accomplished through bodily, social, cultural, ecological, linguistic, and political unknowing of generationality. They are possessed by the school–prison trust, designated a priori as in need of removal, purchase, modification, and/or destruction. They are impossible possessions of a people ideologically and legally marked as incapable of full possession. They are useless capital accumulation and simultaneous threat to the existence of the U.S. empire. Hence the school–prison trust describes the network of discovery, property, and Trust ideological and material systems administered by endemic necessity on young Native people. It is a sophisticated war technique of brute force and frail dynasties.

In the specific context of the school–prison trust, we observe what diabolically charades “as moral humanitarian intervention” acting “without equal regard for . . . ‘sovereignty.’”

*Trusteeship*, an ongoing war power of the Doctrine of Discovery and the codification of racial property, mobilizes a *more sophisticated technique* that makes what should be the extralegal removal of Indigenous children the legal removal into schools and prisons. Moreover, trusteeship—asymmetrical, paternalistic, and proprietary—is always about termination. It ensures contingent, tentative, and terminable sovereignty. Termination-driven trusteeship infuses the purposes and praxes of schooling and incarceration.

And yet all this—discovery, property, Trust, termination, and the seemingly endless arsenal of conquest war—is a sloppy, brutal, and sustained cluster of ideologies, mechanisms, and practices precisely because conquest is cowardly. Conquerors and their agencies and governments, their private systems and capitalist cancers from not-for-profits to transnational corporations, undertake their destruction from a defensive stance. Defensiveness is the nature of greed. Greed is imbued with a raw, warped, unsettling knowledge that the means of dispossession might be available to others. Greed is a dragon living on a hoard of treasure, fashioning fortressed lairs of sedentary self-captivity and venturing out with erratic adrenaline, only to scorch the totality of life around its lair. Conquerors dedicate enormous resources to the bulwark of ideology to protect against the will, the life, and the power of those whose resources they want, whose docility they desire but cannot obtain, and whose existence calls into question their gods and their ghosts.

A Snowy Day
I wasn’t paying too much attention to Jakes. Mostly because I was paying attention to myself and Ace. An hour or so earlier, I had sat in the waiting area at the entrance of the prison, witnessing Ace’s mom be turned away by security staff. It was a snowy day, and she had taken off work, gotten a ride, and come up to the prison to drop off socks and other personal items Ace needed. She was told there was a new policy: because the young men were getting “contraband” during visits, she could not leave the items. (It made no sense and all the sense: capriciousness is a carceral logic.) She was told Ace didn’t really need anything anyway. She told the staff, “Tell Ace I love him,” and she left her mother-gifts on the counter and walked out the heavy metal door into the sodden snow.

In the classroom, I watched Ace, wondering how long I should wait, or should I wait, or what was I waiting to tell him. We know things about other people they don’t, and they us. It is something that binds us to them, and them to us. All we are is our relationships,
as asymmetrical and odd and exquisite as they might be, and the knowledges they form and hide. Or squander.

Between me and Ace, in the muzzled quiet of the prison classroom, was Jakes. The two of them sat on the long side of a table, and I was next to them, at a table with another young man. Class busywork had long since subsided, and chess and conversation were outlawed for the moment. I spent untold minutes considering the sogginess of my socks, the cracks in the seams of my snowboots that yawned widely each time I took a step, and the aggravating cost of replacing them just to live in a city I disliked. I felt fussy, seesawing back and forth between the whole racket of capitalist life and the grief of repudiated mothers.

Between Ace and me, Jakes sat doodling on a quiz he hadn’t turned in simply because this teacher would not give him “free” paper for his doodles. Never mind that in the principal’s office, reams of paper climbed the wall— sloppy white bricks wobbling up from metal shelves, along with a surfeit of other office supplies he exasperatingly amassed. He was required to make a monthly order of office supplies, excessive and unusable. And his office became a cramped warehouse receipt to the state juvenile division’s education fund. Wealth for not sharing. Labor wrought invisible and irrelevant. Accumulation for not distributing. Stuff to hoard. Surplus. A man made into a tiny dragon.

Between me and Ace, Jakes doodled and erased, doodled and erased, while I thought about Ace, his mother, and if I could go one more paycheck with my old boots. No one spoke. Jakes began to move the eraser debris around the surface of the paper, making snowy erased-out images where the side of his fist had gradually smeared the pencil lead during his long doodling. Ace and I stared, in the discreet way one does when the teacher is looking for control opportunities.

Ace and Jakes were born long after prison was done being tied to creating and controlling labor in any lucrative sense. Corporate films and best-seller books do little to explain the forces of their current captivity. They were born into the savage capitalist world
of surplus labor. No less or more violent and brutal. Just different. Their schooling and imprisonment were part of a crude, recklessly systematized, supremacist management of human surplus in a shifting nexus of ongoing accumulations.

Jakes rolled the eraser debris across the gray cloud of smeared number 2 prison-issue pencil lead. His movements formed figures and shapes I couldn’t make out. Once he stopped to scratch his calf. Another time to very slightly arch-stretch his back from his slumped posture. We are always a whole world in ourselves, and simultaneously a person just sitting between two other people.

That just sitting between two other people, that earthly, human doing of quiet relationality, holds in it a whole world of possibility. It is the will and willfulness and willingness of life. As much as this is a story about the school–prison trust, it is a story toward freedom, conceived and sustained in relationality. Freedom is not partial, or for some people, or about my people. It is not a nationalist project, and it is not only a return to the prior.

As Joy Harjo reminds us, this is a journey, and “the heart knows the way though there may be high-rises, interstates, checkpoints, armed soldiers, massacres, wars, and those who will despise you because they despise themselves.”

32. Harjo, Conflict Resolution, 5.