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Sovereignty of the Soul

LET'S TALK ABOUT EPIDEMICS.

Accounts from the *New York Times*, *Washington Post*, National Public Radio, and other sources have used the adjective “epidemic” to describe the extremely high rates of violence perpetrated against Native women.¹ To make sense of the statistical data that consistently show that Native women experience the highest per capita rate of rape in the nation, journalists and activists have adopted a word we are accustomed to seeing within the context of disease outbreaks such as HIV or Ebola.

I think we've been using the wrong word. It's understandable: the word *epidemic* is used to attract attention to a particular problem that affects a growing number of people the longer it remains ignored or untreated. But this word doesn't quite fit. *Merriam-Webster* defines “epidemic” as a “sudden quickly spreading occurrence of something harmful or unwanted.” It is an attention-grabbing word (and one I admit I have used in some contexts), but on reflection it can be misleading. The connotations of the word allow society to absolve itself of blame. The word suggests that the problem is biological, that the problem originated independent of long-standing oppression, that it has infected our society, twisting human relations. A biological epidemic is not a crisis of human origin; it is the result of the unchecked spread of microscopic viruses and bacteria. The word *epidemic* also suggests a short-term, isolated problem. We reflect on last year's flu epidemic, for example, and

work toward ending the Ebola epidemic. Using the word *epidemic* deflects responsibility because it fails to acknowledge the agency of perpetrators and those who allow the problem to continue. The word also utterly fails to account for the crisis's roots in history and law. Using the word *epidemic* to talk about violence in Indian country is to depoliticize rape. It is a fundamental misstatement of the problem. If this book does nothing else, I hope to demonstrate why rape in the lives of Native women is not an epidemic of recent, mysterious origin. Instead, rape is a fundamental result of colonialism, a history of violence reaching back centuries. An epidemic is a contagious disease; rape is a crime against humanity.

Over the past twenty years, I have spoken to hundreds of Native women who have survived rape or domestic violence (usually both) throughout Indian country, from remote Alaska villages to Indian communities in dense urban areas. Most of my scholarship and activism has been directed toward the needs and rights of those survivors. I first began working with Native survivors of rape when I was an undergraduate at the University of Kansas in the early 1990s. I started volunteering at the local rape crisis center, called at that time the Douglas County Rape Victim Survivor Service (RVSS). I was twenty and eventually became a part-time employee. As a volunteer, I was trained to provide direct advocacy for victims who called us for assistance. Advocacy in this sense refers to a wide range of supportive services, which are offered at the request of a survivor, including accompanying survivors to the hospital, police station, or courthouse. We also offered private, confidential counseling over the telephone, and facilitated support groups for women who had experienced rape. In all things, we sought to provide compassionate emotional support. The women I met with and talked to during my first six years as an advocate served as the foundation for my life's passion. I answered desperate calls in the middle of the night from women besieged by nightmares and insomnia. I met women in the local emergency room and stood nearby as they made the agonizing decision of whether to report their husband/boyfriend/girlfriend/cousin/friend to the police for sexual assault. I sat in the waiting room reserved for witnesses at the local courthouse for hours, sometimes days. I walked in Take Back the Night marches and rallies and facilitated support groups for women. I

talked to mothers, sisters, friends, lovers who had to watch amazing, beautiful women in their lives fall into very dark places as a result of the unspeakable trauma they were burdened with. If these women were fortunate, sometimes they called me months or years later to tell me, “Today I laughed for the first time since it happened.” In all these memories, I remember most clearly the resilience of the women I met. Their stories and voices are today my most supportive and critical teachers. They taught me that, above all things, people who are violently assaulted should be the central focus of our criminal justice system.

The faces and voices of the women from Haskell Indian Nations University are what I remember most. Haskell is a federally funded university in Lawrence, Kansas, that is home to about eight hundred Native students from around the nation. Throughout both undergraduate and law school, I was privileged to work with Haskell students who called RVSS under a variety of circumstances (although I was never affiliated with Haskell in any formal way). For example, some students (both women and men) who had been assaulted as children called the crisis line when they arrived at Haskell because there was no crisis line back home on the reservation. They had suffered in silence for years. Just talking to someone who believed them was helpful. In other cases, I went to the emergency room or police station (usually in the middle of the night) after a victim was assaulted and requested an advocate. Some women were assaulted on campus; others off-campus, but almost always the assault triggered memories long suppressed about childhood sexual abuse. I listened to women as they realized they represented the fifth generation of women in their family to be victims of sexual assault—a realization that slowly emerged in a woman’s eyes, casting a shadow across her face. *This happened to my grandma when she was my age. No one helped her. She was always sad and she never talked about it. Now I know the source of her sadness.* The eyes of these women then looked into the future, emptying out into a hollow vacancy as they considered the next generation, still girls or babies. *My niece. My baby sister. My daughter.* Native women experience the trauma of rape as an enduring violence that spans generations.²

I continued to work at the crisis center when I entered law school in 1996. I initially intended to become a prosecutor—in my work

with RVSS I had attended at least a dozen jury trials, and I saw myself as joining the legal field in the courtroom. However, while in law school, I became attracted to Indian law as I thought about how achieving social justice for oppressed people was a question much larger than a single rape trial. Although I am a tribal citizen, I was not raised on or near reservation land, so I had the good fortune and privilege to be ignorant about the myriad legal obstacles and resulting day-to-day tragedies experienced by reservation residents as a result of the *law*. My naïveté and privilege led me to assume that most Indian law was confined to issues of contemporary civil law—for example, oil and gas law, tax law, gaming, and natural resources. Because I was focused almost exclusively on criminal law, I didn't think Indian law would provide me with skills I needed. I credit Robert Odawi Porter, a Seneca scholar and my Indian law professor, with challenging my assumptions and opening my eyes not only to the state of criminal law in Indian country but also the rich, textured universe of tribal jurisprudence. As a result of Porter's guidance, I began to see linkages between my interest in justice for victims of crime and my interest in enhancing tribal self-determination. I also began to think more about what it would mean to become a Mvskoke lawyer and my obligations to the Native women who had inspired my journey.

After law school, I worked for the federal government as a grant specialist, managing funds distributed as a result of the Violence Against Women Act (VAWA). As I traveled to various tribal nations and learned more about the high rates of violence committed against Native women, I began to confirm that the legal system, as far as Native women were concerned, was broken. Jurisdiction rules that I had critiqued in a law school classroom were suddenly more than just theories. I talked with tribal police officers who explained how rapists walked free on a regular basis—even taunting their victims and tribal officials because of legal loopholes. Some Native women told me that they tell their daughters never to report rape. *It only makes things worse*, they explained. I learned that, in some locations, federal and state officials who had obligations to respond to crime in tribal communities simply ignored calls for help or put in little effort to follow through with investigations. One location where I encountered numerous examples of such indifference was Alaska, the state with the highest rate of violence against Native women.

The response to crime in Alaska tribal communities is certainly complicated by the state's sheer vastness and the isolation of tribal villages—many are accessible only by air. In villages with populations ranging from one hundred to three hundred, nearly everyone is related by way of extended family relations. In one village in Alaska, it took state troopers three days to respond to a domestic homicide because the weather conditions were too poor to fly, and there is no other way to reach the village. The small community of two hundred residents and no law enforcement officials had to leave a woman's body in the home where she was killed so as not to disturb the crime scene. Meanwhile, her perpetrator freely roamed the village, terrorizing and traumatizing the whole community. In this vacuum of justice, sometimes women committed suicide after being ignored by officials for months after reporting a rape.

Despite the tremendous trauma I witnessed during my tenure with the federal government (1999–2002), I was also deeply moved and inspired by the activism and advocacy seeking to change a seemingly hopeless reality. In 1999, I first met Tillie Black Bear (Sicangu Lakota) and Lenora Hootch (Yup'ik), two Native women who started shelter programs for Native women in their communities in the mid-1970s. Tillie Black Bear, often affectionately referred to as a “grandmother of the domestic violence movement,” established the White Buffalo Calf Woman Society (WBCWS) program on the Rosebud Reservation in southern South Dakota in 1977. The organization provides confidential advocacy services for women who are victims of domestic violence and sexual assault, including a twenty-four-hour crisis shelter, court accompaniment, and liaison with law enforcement. When WBCWS was established, it was the first formal contemporary organization on an Indian reservation that focused on gendered violence. Since that time, WBCWS has served as one of the most respected indigenous gender violence programs in the world. After her passing in the summer of 2014, Tillie Black Bear was memorialized by numerous organizations, including the National Network to End Domestic Violence, which released a statement reminding us that “Tillie taught us all to employ every option to advance women's safety.”³ Her broad-ranging approach to gender violence, informed by her own expertise as a survivor of battering, challenged and inspired many Native women to begin parallel programs in their own communities.

Lenora Hootch's understated revolutionary actions in Emmonak Village (Alaska) included the establishment of the first (and to this date, only) shelter for victims of domestic violence in an Alaska Native village. Ms. Hootch and her team of local women in Emmonak have sustained the shelter program even in times of financial uncertainty. Along with other Alaska Native organizations, the Emmonak Shelter program and its sister organization, the Yup'ik Women's Coalition, have taken their unique Alaska story to national and international audiences, always pressing for social change in Alaska that will include restoration of village sovereignty. Tillie, Lenora, and hundreds of other Native women have established a truth in their organizing; namely, that Native women who experience rape need and deserve a tribal-centric response to their experiences. By "tribal-centric" I do not mean a pan-Indian, romanticized response to trauma, but rather a response that centers a contemporary Native woman in her unique place and time, empowering her to access the collective strength and insight that have helped her people survive. What these and other women have taught me is that the origin of this human rights crisis can be tied to the very foundation of the United States as a legal and political structure. Indeed, the crisis of rape in tribal communities is inextricably linked to the way in which the United States developed and sustained a legal system that has usurped the sovereign authority of tribal nations. This colonial legal system has failed Native women by supplanting women-centered societies with patriarchal, oppressive structures that condone and thrive on violence as a way to control and oppress members of marginalized communities. These oppressive structures are predicated on hundreds of policies, regulations, and philosophies that underpin American justice.

Federal Indian law is the quintessential example of an oppressive America legal structure. Analyzing sexual violence against Native women requires a full exploration of the federal legal system as it applies to tribal nations. Indigenous people across the world share a common experience—namely, intrusion on their lands and culture by an exterior, hostile outsider. Rape victims experience the same dynamic, but it is played out on their bodies and souls rather than on the land. My intent in this book is to explore the interconnectiveness of surviving colonization and surviving rape.

Sovereignty, Both Political and Personal

As indicated in my discussion of uses and misuses of the word *epidemic*, I am interested in the words we choose, what they mean, and the effects they have on the way we conceive of patriarchal power and control. In this book, I use the term *sovereignty* in two senses, referring to both political sovereignty and personal sovereignty. I conceive of sovereignty as a description of self-determination. However, it is a critically important word in today's political arena and even more so, I think, for the anti-violence movement. Self-governance or self-determination necessarily implies the development of concrete solutions to problems. Understanding the nature of the problem and developing solutions are straightforward manifestations of sovereignty. I attempt here to determine how tribal nations dealt with rape prior to colonization, to see if there are some creative ways that contemporary tribal nations can address sexual violence even within the limitations of the precarious position of Indian communities. The most important sources for the process of recuperation are oral traditions, stories, and traditional belief systems, as well as statutes and contemporary tribal appellate case law that sometimes encompass the traditional belief system.⁴ History and anthropology can be helpful in a limited sense, but these disciplines have often failed to describe tribal justice systems accurately, so I refer to those kinds of materials with caution.

Rape is only one of a multitude of social and legal issues faced by tribal governments today, but it is deserving of the highest priority. Over the past five hundred years American Indians have experienced war, conquest, rape, and genocide, and all of these depredations have disconnected them from both their land and their own bodies. Alienation from one's homeland provides a strong foundation upon which sexual victimization can take place. Indigenous scholar Jack D. Forbes explains the connection by asserting that colonial forces found it easy to shift "from the raping of a woman to the raping of a country to the raping of the world."⁵ Perhaps Athabaskan scholar Dian Million says it most succinctly: "Gender violence . . . marks the evisceration of Indigenous nations."⁶ In this book, I take the position that rape should be the number one priority for tribal nations. All other challenges faced by tribal nations are linked to the history and trauma of rape.

Self-determination for individual survivors and self-determination for tribal nations are closely connected.⁷ It is impossible to have a truly self-determining nation when its members have been denied self-determination over their own bodies. One of my mentors, Ho-Chunk anti-rape activist Bonnie Clairmont, writes, “Women’s sovereignty is central to Indian sovereignty because nations cannot be free if their Indian women are not free.”⁸ Other social problems cannot be resolved unless psychological trauma is addressed in a systemic way.⁹ Because rape played such a significant role in past attempts to destroy indigenous nations, it is critical that tribal nations develop and strengthen their responses to rape as part of broader political work toward achieving sovereignty. Without a system in place to respond to violence, it can only proliferate. I argue that for tribal nations, defining and adjudicating gendered crimes is the purest form of sovereignty. But reclaiming this authority must be more than an aspiration. As Congress restores inherent jurisdiction (never relinquished) to Native communities, tribal nations must prepare to use that restored jurisdiction in a way that does not replicate the worst flaws of the American legal system.

A Legal Framework of the Soul

In later chapters, I explore a legal framework for addressing rape from a Native survivor’s perspective—the “sovereignty of the soul.” The English word *soul* has spiritual connotations, but I do not mean to prescribe a static set of spiritual beliefs to all Native people. I use *soul* almost agnostically to refer to deep, fundamental aspects of identity, aspects that will be described differently depending on cultural beliefs. In some languages, the more appropriate word might translate to *heart* or *spirit*. Worldwide, victims of rape often describe their deep, psychic wounds as harming the very foundation of their identity.¹⁰ This harm is almost always described as more profound and long lasting than physical or even emotional injuries. If our sexuality is part of that which defines who and what each of us is, then it is at the very core of our self-identity. I think this is because the very nature of sexuality represents the best of humanity—the creation of new life, or the sharing of deep mutual affection and attraction. When this manifestation of our humanity is violated, it has life-changing ramifications for one’s feelings about self, others,

justice, and trust. In consequence, rape damages something critical to our being and personhood. Sexual assault often leads to feelings of great shame, humiliation, and guilt for victims. In Indian country, violence is not always experienced as an individual; some forms of violence manifest as systemic yet invisible structures that accomplish the trauma of violence on a large scale. This is, not coincidentally, a great description of colonization in the United States. In fact, rape can be employed as a metaphor for the entire concept of colonialism. The damage to self and spirit that rapists cause has some of the same features that colonial governments perpetrate against entire nations.

People who have not experienced rape may not understand how this works, but rape is different from other types of violent assault. Hollywood often portrays rape as a one-time, relatively short-term, violent event. In reality, sexual abuse can last for days, months, or sometimes years. Perpetrators are sometimes woven into a kinship circle such that they have access to dozens of young relatives and carry out their crimes for decades. Men purporting to be spiritual leaders use power and privilege to facilitate and justify their behavior. Victims may behave in unexpected ways; sometimes in ways that make it hard to believe they are in pain. Some survivors, for example, may appear to be madly in love with their perpetrators. This is a survival technique—*if we're in love, this terrible thing couldn't have happened.*

Distinguishing Rape from Domestic Violence

The phrases “domestic violence” and “rape” are often conflated in the national discourse on gendered crime, leading to confusion about how the legal system responds to violence against Native women. Sexual assault and domestic violence are often overlapping crimes, but they are not entirely interchangeable. I distinguish the two categories of crime in this book for several reasons but certainly not to suggest that the movements to end violence against women be separated into different categories or that the movement to end violence be bifurcated. I make this distinction for several specific reasons.

First, domestic violence and sexual assault have different jurisdictional legal rules in Indian country. I discuss this in more detail

in chapter 7, but because domestic violence and rape are often used interchangeably, there has been some confusion about the full extent of the reform in the Violence Against Women Reauthorization Act of 2013. The 2013 reauthorization restored tribal criminal jurisdiction over non-Indians, a population that has been exempt from tribal criminal authority since 1978. The 2013 jurisdiction reform is explicitly limited, however, to violence committed by spouses, former spouses, or dating partners. Consequently, women who are raped by persons within other relationships (e.g., acquaintances, relatives, or strangers) are not covered by the recent legislative change, and authority over such crimes will require Congress to enact additional reforms to federal law.

The distinction between domestic violence and rape has to do with the relationship between the perpetrator and the victim. Domestic violence typically refers to violence and abuse perpetrated in the context of an “intimate partner” relationship. The perpetrator may be a spouse, a partner, a co-parent, boyfriend, or husband, among others. Any relationship marked by domestic violence is almost guaranteed to involve sexual coercion. Rape, however, often happens outside the context of an intimate partner relationship. Most rapists attack women they know well, certainly those who are in spousal or dating relationships, but the circle casts much wider than domestic violence. Native women are sexually assaulted by friends, neighbors, relatives, friends of friends, and strangers. The needs of survivors of domestic violence and survivors of rape may be quite different. We cannot assume that the legal remedies for survivors of domestic violence will always be appropriate or applicable to survivors of sexual assault.¹¹ A woman who is raped by a person who is not an intimate partner may experience many of the same emotions and challenges as a woman who is a survivor of domestic violence, but there are also some significant differences that warrant separate examination. For example, a survivor of domestic violence may need representation to file for legal separation, divorce, or child custody. A sexual assault survivor may have other kinds of civil legal needs, including housing (if she was assaulted in her home), employment, or education.

Rape as a Political Construct

I have made a conscious choice to use the word *rape* in this book, even though the word is falling out of favor in the legal field in favor of more clinical terms such as *sexual assault*, *sexual abuse*, *sexual violence*, and even *nonconsensual sex*. The word rape in the legal sense is admittedly reductive; it collapses a wide range of events into a single descriptor. By rape I mean to encompass a constellation of crimes that involves the abuse of sexual power, including child sexual abuse and adult rape, one-time incidents and ongoing abuse, even when not overtly physically violent. All forms of rape can cause tremendous trauma to victims. I object to a burden of proof that requires physical violence for there to be psychic harm. There are some legitimate reasons, from a government's perspective, to make legal distinctions between types of rape. But my intent here is to approach rape as a phenomenon with profound psychological and spiritual ramifications. Some legal scholars advocate for a legal distinction between violent rape and nonconsensual sex because the offenders in nonconsensual sex presumably do not truly intend to harm their victims. This has not been my experience as an advocate. Predation sometimes takes place over weeks and months; it is intentional and sadistic but may appear from the outside to be nonviolent. Psychologist David Lisak has provided a helpful critique of the myth of the "nice guy" who accidentally has nonconsensual sex. In his research, he has discovered that most men who rape have multiple victims. Lack of physical violence does not make these criminals any less dangerous.¹² Acquaintance rape, for example, is often facilitated by alcohol or drugs, and offenders are known to engage in planning and preparation in anticipation of the victim's intoxication.

There is no such thing as nonviolent rape. As I will explore later in the book, all rape is a form of intimate violation of the highest order. We must eliminate a legal distinction between the rapist who hits his victim and the rapist who waits, paying sinister attention, for his victim to pass out. In the latter case, a victim may not actively resist with her body, but she resists with her mind or her spirit.

There are many parallels between this experience and the larger efforts of colonization. Colonizers and colonizing institutions use

tactics that are no different from those of sexual perpetrators, including deceit, manipulation, humiliation, and physical force. Because I hope to position rape in a sociopolitical context, I choose to use the word rape to describe all forms of sexual predation as experienced by Native people.

THE CHAPTERS IN THIS BOOK reflect a decade's worth of writing and thinking, from roughly 2004 to 2014. This was a decade that will go down in history as one of the most important eras for contemporary federal Indian law—not just for Native women but for tribal sovereignty more generally. Documenting this time period will help us assess what aspects of reform have been most successful from the vantage point of victims and advocates. My observations fall into two categories that form the basic framework for this book: chapters 1 through 6 explore how rape has harmed Native women and tribal governments, and chapters 7 through 10 focus on reform efforts, both tribal and nontribal.

Chapter 1 defines and describes the problem of rape in the lives of Native women. The oft-repeated statistics reflect a grim reality that rape has become the “norm” in tribal communities. Yet skepticism about the accuracy and reliability of hard numbers has at times threatened to eclipse the larger concern about the harm rape does to tribal societies. I argue that too much emphasis has been placed on “proving” a human rights crisis that Native women have been documenting and explaining for generations.

Chapter 2 explores precolonial responses to gender and rape, and in doing so responds to feminist theory's lack of a clear consideration of colonialism. This lacuna means that contemporary American feminist theory fails to fully address the problem of rape because it is the intersection of the two that allows and sustains gendered violence.

Chapter 3 describes the complicated matrix of criminal jurisdiction in Indian country. From a perspective that privileges tribal sovereignty, I explain how mechanical intrusions into the realm of tribal authority and the resulting jurisdictional complexity has created real, practical gaps in the formal systems of justice, gaps that have allowed perpetrators to assault Native women with impunity. In chapter 4, I move a step further, building on these mechanical

and legalistic intrusions to view rape as encouraged and cultivated by colonialism. I examine the continued culpability of the federal government vis-à-vis specific federal officials who themselves commit individual acts of rape while serving in positions of trust and authority in tribal nations.

Chapter 5 explains how sex trafficking and prostitution in the lives of contemporary Native women are almost indistinguishable from the colonial tactics of enslavement, exploitation, exportation, and relocation. The chapter elucidates how some contemporary efforts to stop sex trafficking in the United States are disingenuous because they fail to account for the widespread sexual slavery of Native women throughout the past five hundred years. Recent reports of “man camps” at fracking sites make this issue even more salient today, as these camps repeat earlier histories of the rape of Native women during the Gold Rush and other moments in American economic booms.

Chapter 6 is a recent addition to my portfolio. It tells the story of a woman named Dana Deegan, whose life story as a survivor of rape and her subsequent prosecution and imprisonment demonstrates how colonial criminalization leads to tremendous revictimization for Native women today. Most incarcerated women are survivors of violence, and I end this first group of chapters with an account of how the American legal system punishes the people it purports to protect.

Starting with chapter 7 I shift to a discussion of contemporary policy and potential reform. In chapter 7 I provide detailed information about recent federal reform in the Tribal Law and Order Act of 2010 and the reauthorization in 2013 of the Violence Against Women Act. These reforms, largely spearheaded by grassroots Native women activists, present a new era in federal-tribal relations and provide a starting point for full reform. I have been fortunate to play a role in the federal reform efforts through my work with Amnesty International, congressional testimony, and direct communication with lawmakers. While many tribal-sovereignty activists may reject engagement with the federal systems that created the problems they seek to address, I make the case for working with the federal government to reform a system that has been deeply damaged by the failure to include tribal perspectives. Chapter 8 brings reform from the federal level back to the scale of individual

tribal nations. I explore indigenous philosophical foundations for responding to rape. As contemporary tribal nations continue to strengthen their own response to rape, I suggest specific philosophical frameworks for tribal nations to consider in an effort to avoid some of the flaws of the Anglo-American criminal justice system. After examining the potential foundation for indigenous theories of rape, I critique some purported “indigenous” responses to rape in chapter 9, noting that an oversimplistic and potentially dangerous response to rape can emerge from a male-dominated approach to peacemaking and other restorative practices.

Chapter 10 is purposely forward-looking. In it I lay out a series of potential tribal legal remedies that can put the control over effectively responding to rape back in the hands of tribal nations. I describe these proposed remedies in detail and provide ideas for how such systems can be crafted to meet the unique needs of Native women.

THE JOURNEY OF A RAPE SURVIVOR to regain a sense of self-worth and self-determination often presents as a microcosm of the journey of a tribal nation to revitalize its own self-worth and self-determination. Each survivor has a different path in this journey, much like individual tribal nations. Survivors and tribal nations may experience dysfunction, despair, and obstacles. I hope to establish that the mission of tribal sovereignty advocates and anti-rape advocates are closely aligned—in both theory and practice.

I believe this mission can be successful only if it links conversations from the past to the present and into the future. We know that Native women have the knowledge and wisdom to reframe the way in which the dominant system responds to rape, and therefore our tribal nations need to turn to the wisdom of these women in an effort to end this human rights crisis.

For tribal governments, defining and adjudicating crimes such as sexual assault can be the purest exercise of sovereignty. What crime, other than murder, strikes at the hearts of its citizens more deeply than rape? Sexual violence impinges on our spiritual selves, creating emotional wounds that fester and infect larger wells of community trauma. For sovereign tribal nations, the question is not just about

protecting and responding to individual women who are raped but also about addressing the foundational wellness of the community where it occurs.

THERE ARE MORE THAN 560 federally recognized tribal governments in the United States, each with a separate and distinct judicial system. My intent is not to provide a definitive plan of action for every tribal nation but to raise ideas, questions, and concerns about the contemporary legal response to rape. Certainly other powerful ceremonial and spiritual entities bear in this struggle—a struggle that focuses on social change. This book is not intended to provide all the answers or even the definitive review of the work done thus far but rather endeavors to add thoughts about tribal legal reform to the movement. National policy changes that will benefit all tribal nations are hard to come by because individual tribal nations may have conflicting strategies. The same can be said of rape survivors. Some rape survivors seek justice through the legal system, but that is not and should not be the only option available for solace and healing. Justice takes many forms and trauma does not resolve in the same way for everyone. Unfortunately, American culture emphasizes merely two modes of survival: legal and psychological. In the legal framework, victims in the American system are often told that they should report the crime to authorities if they truly want to end sexual violence—a terrible burden to place on a woman who has experienced a life-altering crisis. Simultaneously victims are often diagnosed with mental health problems for behaviors that are natural outgrowths of the trauma they have experienced. In this book, I explore how lessons from the survival of colonization and lessons from survival of rape can inform and reinforce one another, with the aim of directing this synergy to strengthen the international movement to end rape.

The Beginning and End of Rape focuses almost exclusively on indigenous women in the American context—an admittedly arbitrary and colonial distinction, largely as a result of my legal training in American law. I often consult literature describing the First Nation experience in Canada because of the parallel sociolegal history with the American experience. My legal training and focus have been on the

American legal system and tribal legal systems in the United States. I have concentrated here on law and legal remedies, understanding that such intervention is only part of the puzzle. This book is intended to offer one Native woman lawyer's perspectives on tribal rape law. In no way do I mean to speak for all Native women or all Native women lawyers.

The Relevance of This Book to Global Anti-Rape Activism

If we are to make true progress toward safe societies, the core experiences and realities of Native women must be central to the global movement to end rape. Rape is a political issue with settler colonial foundations, and an honest analysis of rape in America requires telling some difficult truths, including the fact that the U.S. government has cultivated the “epidemic” it now seeks to remedy. Any honest anti-rape movement must wrestle with the dark truths of colonial violence, because the movement will remain stagnant unless we can centralize the context in which Native women experience rape. We must enlarge the mainstream dialogue about rape to include the issues of tribal sovereignty and self-determination, not only because of the high rate of rape perpetrated against Native women but also because the very system on which the United States bases its claim to this land is shrouded in the trauma of rape. Avoiding that truth is what will keep us from true reform. Thus we must explore both the “beginning” of rape as well as the “end” of rape as experienced by Native women.

The efforts to address the humanitarian crisis in the lives of Native women are now at a critical stage; there is national momentum, largely fueled by the passion and advocacy of Native anti-violence advocates. I hope this book will be one of many tools that activists and tribal leaders will consult as the work continues. While I have advocated for most of the changes during this time period, I am cautious in concluding that all the changes will guarantee an improvement in the lives of Native women without sustained efforts and additional reform. What is most important is the conversations that have developed along the way and the continued dialogue centered by and for Native women.