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"To Preserve This Much-Injured Race": Techniques of Neutralization and Indian Removal, 1829-1831

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I am submitting herewith a dissertation written by Robert Michael Keeton entitled "'To Preserve This Much-Injured Race': Techniques of Neutralization and Indian Removal, 1829-1831." I have examined the final electronic copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy, with a major in Sociology.

Lois Presser, Major Professor

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**“To Preserve This Much-Injured Race”:
Techniques of Neutralization and Indian Removal, 1829-1831**

A Dissertation Presented for
the Doctor of Philosophy
Degree
The University of Tennessee, Knoxville

Robert Michael Keeton
December 2012

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DEDICATION

This dissertation is dedicated to my wife Kathy for her patience and support. I also dedicate this to my son Benjamin who helped with impromptu edits - even when I didn't want them - and kept me smiling when I needed it most. Finally, I dedicate this to my mom and dad, Martha and Lloyd Keeton. Had it not been for their love, support, and encouragement, throughout my life, I would not be where I am today.

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ABSTRACT

The Indian Removal Act of 1830 gave the President of the United States the authority to negotiate treaties with the Native American tribes in the east for their emigration to territory west of the Mississippi River. Although the emigration was technically voluntary, in practice, the Native tribes emigrated under coercion and force, the most infamous instance of which was the Cherokee Trail of Tears in 1838, which resulted in the deaths of at least 4,000 Native people. This dissertation applies Sykes and Matza's (1957) neutralization theory to archival data including the papers of Andrew Jackson and publications documenting the removal debate, to explain how the policy was justified notwithstanding American norms and public opposition. Examples of neutralization techniques, especially *denial of responsibility* and *denial of victim*, were identified within the rhetoric of removal supporters, as were two new categories of neutralization: *reducing the target* and *urgency of the moment*. The research explores possibilities for the application of criminological theory for the study of atrocity crime.

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CHAPTER 1 INTRODUCTION

“I saw helpless Cherokees arrested and dragged from their homes, and driven at the bayonet point into the stockades. And in the chill of a drizzling rain on an October morning, I saw them loaded like cattle or sheep into six hundred and forty-five wagons and started toward the west... when the bugle sounded and the wagons started rolling many of the children rose to their feet and waved their little hands good-by to their mountain homes, knowing they were leaving them forever. Many of these helpless people did not have blankets and many of them had been driven from home barefooted... the sufferings of the Cherokees were awful. The trail of the exiles was a trail of death.” – Private John J. Burnette (December 11, 1890)

“Our conduct toward these people is deeply interesting to our national character. Their present condition, contrasted with what they once were, makes a most powerful appeal to our sympathies... But the people... actuated by feelings of justice and a regard for our national honor, submit to you the interesting question whether something cannot be done, consistently with the rights of the states, to preserve this much injured race.” – President Andrew Jackson, First Annual Message to Congress (December 8, 1829).

The harm sustained by Native tribes since the arrival of Europeans has been massive. According to one estimate, at the time of Christopher Columbus’ arrival in North America, the population of native people was as high as 125 million, but by the start of the 20th century that number had plummeted to only 250,000 (Sale, 1990). Although this drastic decline can be attributed primarily to the unintentional importation of disease from Europe, it can also be traced to governmental policies regarding these indigenous groups. Although many researchers have studied the history of Native Americans in depth, fewer have generated deeper explanations of these events from a theoretical perspective. A particularly troublesome period of American history is the period of time spanning the late 1820s through the 1830s when governmental policy

toward Native Americans took a distinctly harsh and cruel character under the name of Indian Removal.

Historians have examined Indian Removal in great detail, but criminologists have produced little to theoretically explain this case of mass harm. This dissertation will explore the rhetoric of the supporters of the Indian Removal Act of 1830, which authorized the President of the United States to negotiate treaties with Native tribes for their emigration to the West. By applying Sykes and Matza's (1957) neutralization theory to the rhetoric of those who supported the Removal Act, it is possible to systematically understand how the policy was justified notwithstanding a political framework that guarantees the rights of all human beings.

Historical Events

The best-known outcome of the Indian Removal Act was the removal of the Cherokee Nation. In October 1838, approximately 15,000 members of the Cherokee nation began a mass migration to lands west of the Mississippi River. Their journey covered nearly 1,000 miles from their starting point in northwest Georgia to their new homes in what is now the state of Oklahoma. The migration was not voluntary, but was carried out by force through the use of nearly 7,000 US troops led by General Winfield Scott. Scott invaded Cherokee territory in May 1838 with orders to gather up the Cherokee people and hold them in makeshift forts until removal could be implemented. The official estimate of Cherokee loss of life during the migration was placed at 1,600 individuals, but historians have generally accepted an estimate of 4,000, or roughly one quarter of the Cherokee nation. One researcher has put the number of deaths attributable to the march between 8,000 and 10,000 taking into account the overall demographic

decline of the Cherokee in the years following removal (Satz, 1989; Thornton, 1984). To the Cherokee this event became known as *Nunna daul Tsunyo*, “the trail where they cried.” The forced relocation has become more commonly known as the Cherokee Trail of Tears. Cherokee removal was not a singular event in time, but was the culmination of a federal policy that began in 1830 under the Indian Removal Act and resulted in the removal of as many as 100,000 indigenous people from their tribal lands in the eastern United States (Doran, 1975; Thornton, 1984).

Indian Removal was the official name of a series of federal policies undertaken by the administration of President Andrew Jackson beginning with his first year in office in 1829. Andrew Jackson’s policy is the definitive turning point when federal “Indian Policy” became one of “Indian Removal.” To this point, federal administrations had adopted approaches that involved assimilation and “Americanization” of Native people through education, religious teaching, and encouraging tribes to engage in agriculture rather than nomadic hunting and gathering. This process also included the accumulation of Native lands through multiple treaties agreed upon between the federal government and various tribes. Even those who advocated displacement of native tribes believed that this process should be accomplished through voluntary means that acknowledged the legal rights and status of tribal nations. Beginning in the early 19th century, the United States began a period of rapid expansion that drove European settlers and native tribes toward an inevitable conflict over land and resources including gold that was discovered in southeast Tennessee and northwest Georgia in 1828. This placed the Native people in a precarious position between state governments and the federal government that struggled with how to best deal with the “Indian problem.”

The answer came in 1829 when Andrew Jackson was sworn in as the 7th President of the United States. Jackson won the election of 1828 by a large margin backed by voters from Southern states and frontier areas, places where the “Indian problem” was primarily centered. Jackson’s popularity was the result of a military career that included his involvement in various Indian wars and especially his victory over the British at the Battle of New Orleans at the end of the War of 1812. Jackson announced his removal policy during his First Annual Message to Congress delivered in December of 1829. In his address, Jackson laid out a justification of his policy by citing the decline of the Native tribes and the extinction of the Mohegan, the Narragansett, and the Delaware tribes in the northeastern United States. Jackson described his policy as one intended to “to attest the humanity and justice of this Government” in an effort to “preserve this much-injured race.” He outlined a policy of voluntary removal for tribes, noting that forced relocation would be “as cruel as unjust” (para. 65). Those Native people who chose not to move would become citizens of the United States and subject themselves to the laws and jurisdiction of the state that they resided in. Jackson’s words are interesting because he acknowledges a responsibility on the part of the federal government to protect the Native tribes who would relocate, but he does not consider protecting the tribes in place as a viable option.

As Jackson was arguing for removal, other groups argued strongly against it. It was an issue shaped by regional biases, political ideology, and religious beliefs. Political opposition led by Senators Henry Clay of Kentucky and Theodore Frelinghuysen of New Jersey and Tennessee Representative David Crockett provided compelling arguments against removal, citing prior federal precedent and moral duty to protect the Native tribes.

To be sure, Jackson's proposed policy was a dramatic shift in federal strategy in dealing with the indigenous tribes. Even those presidents who had advocated some form of displacement of native tribes emphasized that the process should be accomplished through voluntary means and defended the legal rights and status of tribal nations. For example, although Thomas Jefferson proposed the possibility of removal during his administration, his policy relied specifically on voluntary cessions of land to the US as part of a broader program of assimilation (Wallace, 1999). In 1824, President James Monroe referred to the forceful removal of the Cherokee from Georgia as an option that would be "revolting to humanity, and utterly unjustifiable" (Prucha, 1986, p. 67).

The evangelical movements of the early to mid-19th century played an important role in the evolution of the nation's identity. Many evangelical leaders including Presbyterians Charles Finney and Lyman Beecher adopted a stance against removal and the Quakers had long been supporters of the Native tribes. Members of the Abolitionist movement also opposed the efforts Removal supporters on the same moral grounds as used to oppose slavery (Kerber, 1975). The American Board of Commissioners for Foreign Missions provided the biggest obstacle for Jackson's efforts. The organization was a Boston-based missionary society supported primarily by Presbyterians and Congregationalists. The group also had a long-standing history of supporting Native tribes and engaging in activities intended to "civilize" the tribes. Jeremiah Evarts, an attorney and Corresponding Secretary of the group, spearheaded anti-Removal efforts. Jackson took proactive steps to gain the American Board's support by enlisting the aid of Thomas L. McKenney. McKenney had served as head of the Bureau of Indian Affairs and was known as a humanitarian when it came to matters of Indian policy. McKenney

also organized the New York Board for the Emigration, Preservation, and Improvement of the Aborigines in America, which acted under the “understood invitation of the executive” (Satz, 1975/2002, p. 15).

The Indian Removal Act passed the United States Senate on April 24, 1830 by a vote of 28-19. The Act was debated on the floor of the United States House of Representatives beginning on May 14, 1830 and continued until May 25, 1830. The Act was placed to a vote on May 26, 1830 and passed the House by a vote of 101-97. Andrew Jackson signed the Act into law on May 28, 1830. The first removal treaty was negotiated with the Choctaw Nation and ratified on September 27, 1830 (Prucha, 1986, p. 75). The harm associated with the Indian Removal policy is undeniable and is a case of harm that can be categorized as an atrocity crime, which is discussed in greater detail in chapter 3. Although I apply the term atrocity crime, the Removal Act was a lawful policy, and there is little reason to doubt that removal supporters viewed the policy as anything but a legally just option. Nor were the atrocities, or the magnitude of harms that resulted, evident at the time the Act was debated and first implemented. Thus, the label of atrocity crime owes much to a contemporary interpretation.

However, ambiguity does not eliminate the importance of applying contemporary perspectives to the Indian Removal Act, for the alternative is a kind of cultural relativism. If criminologists shy away from assigning the label of atrocity crime because supporters of Indian Removal didn’t specifically intend to cause such great harm, we risk ignoring the significance of this historical event and become perpetrators of denial in our own right. Indeed, that logic can lead us down a road where no atrocities are crimes because the perpetrators ultimately believed their actions were just and legal based on their own

situated awareness. Clearly, the level of malicious intent on the part of removal supporters does not appear to reach the level displayed by perpetrators of other atrocity crimes such as the Holocaust. Regardless, the ambiguity of motives and intent does not relieve criminologists from examining Indian Removal as a case of atrocity crime. I argue that it is the responsibility of the academic researcher in particular to make these sorts of conceptual distinctions for the purpose of scholarly debate. Indeed, inquiry into the ambiguity behind the motives of powerful actors, and their ability to mask their harm behind the guise of law and policy, is distinctly within the realm of criminology.

About this research

This project uses Sykes and Matza's (1957) neutralization theory to understand how the policy of Indian Removal was rationalized during the political debate surrounding its passage and implementation. Period documents were examined for examples of rhetoric that were used to rationalize and justify removal, and deflect the negative stigma associated with the policy. Neutralization theory is a fitting perspective for rhetorical analysis because it has a well-documented history in social science and has been applied to a multitude of criminal and deviant behaviors including state crime (e.g., Del Rosso, 2011; Ward and Green, 2000) and atrocity crime (e.g., Alvarez, 1997; Hagan and Raymond-Richmond, 2009). Maruna and Copes (2005) also suggest that qualitative methods such as those used for this research are "particularly useful" for applying neutralization theory (p. 269). The primary question examined in this dissertation is one that is important for any democratic society: how was Jackson's policy of Indian Removal passed into law when it was widely recognized as being immoral? In particular,

how was Indian Removal “neutralized” (Sykes and Matza, 1957) – ideologically constructed in a way that facilitated its accomplishment?

This dissertation research is innovative in several ways:

- 1) This is the first application of a criminological theory to the case of Indian Removal.
- 2) This is the first application of neutralization theory to a case of atrocity crime that involves an in-depth analysis of rhetoric used by perpetrators.
- 3) This research uncovers evidence of two previously unpublished techniques of neutralization, urgency of the moment, and reducing the target (Presser, forthcoming).
- 4) It explores how dominant social values are adapted to serve as neutralizations rather than subcultural values, which is a unique application of neutralization theory to the study of crimes of the powerful.
- 5) It provides a foundation for including neutralizations of atrocity crime as part of broader social discourses that guide public policy.

Each of these innovations provides opportunity for future research on a category of crime that has not received adequate attention from criminologists.

Mass Harm: A Criminological Blindspot

Criminology, or the study of crime, tends to focus on so-called conventional crimes, or those that commonly appear in official crime statistics (e.g. homicide, robbery, assault, and theft). The majority of classic criminological theories were developed with an eye towards explaining these conventional crimes, especially those committed by individuals lacking social and economic power. Indeed, Sykes and Matza’s (1957)

neutralization theory was proposed primarily to help explain juvenile delinquency. This limited focus, the result of various factors including the tendency for people to focus attention on social issues that they are most familiar with as well as the ready availability of data on conventional crimes, has been recognized within the discipline and theories have evolved to account for other types of crime.

Although criminologists have devoted more resources to the study of white-collar crime in recent decades, they have generally not paid significant attention to issues of mass harm, such as war, terrorism, animal abuse, environmental degradation, and atrocity crime. This lack of study has resulted in a what I term a criminological blindspot that fails to address criminal acts that cause harm to millions of human beings each year. Laufer (1999) laments that the failure of criminologists to study atrocity crimes is evidence of how a “once dynamic and changing field” has become predictable and overly reliant on “well-worn” theories (p. 80). Savelsberg (2010) reminds us that atrocity crimes are the result of “collective or organizational, especially state, action” and traditional theories of individual criminal behavior are not adequate for explaining this category of crime (p. 51). However, Laufer (1999) suggests it is the state centered aspect of atrocity crime that has had an “immunizing effect” on criminologists that tempers the immorality of atrocity crimes (p. 73). Regardless, it is my position that this failure to engage the worst cases of mass harm and atrocity must change.

Not only has criminology missed opportunities to contribute to a better understanding of atrocity crimes, but the discipline has missed opportunities to better understand aspects of conventional crimes like aggression, violence, and victimization (Laufer, 1999). This dissertation research is a step towards filling this gap by examining

Indian Removal, a case of mass harm that has received virtually no attention from criminologists. Although the discipline has the capability to join the scholarly debate on how to predict and prevent atrocity crime, there are barriers and challenges that criminologists must recognize and overcome.

The Role of Language

For one thing, criminologists must take more seriously the role of language. Van Maanen (1995, p. 14) explains:

Language is now auditioning for an a priori role in the social and material world, a role that carries constitutional force – bringing facts into consciousness and therefore being. No longer then is something like culture or, for that matter, atoms and quarks thought to come first while our understandings, models, or representations of culture, atoms, or quarks come second. Rather, our representations may well come first, allowing us to selectively see what we have described.

Humans think and communicate thought through the use of language. Words drive social action, and thus discursive constructions are key to understanding society. Many social theories explicitly incorporate discursive categories in their formulation including those concerning moral panic (Cohen, 2002; Critcher, 2003; Goode and Ben-Yehuda 1994), Gramsci's concept of cultural hegemony, dramaturgy and presentation of self (Goffman, 1959), and various theories of social learning. The idea is that social actors are influenced by their circumstances, but not as these exist in some pre-social form: rather, the world comes to us socially constructed in a culturally constrained vocabulary. Berger

and Luckmann (1967) explain that what we consider “knowledge” and “reality” are actually constructs shaped by social forces that we typically fail to recognize. Thus, what we consider “reality” is actually an “intersubjective world” shaped by groups with competing values and interests, which are reflected and reinforced in the language used by social actors (p. 23).

Besides, we are all too familiar with the use of propaganda, image control, talking points, and “spin” by powerful actors to shift public opinion in their favor. Drawing inspiration from Gramsci, Saul Alinsky (1971) instructed members of social movements to use rhetoric to achieve social change. Marketing and advertising professionals spare no effort to influence patterns of consumption through the use of catchy jingles and slogans. Language is vital in everyday social life for communicating ideas, shaping attitudes, and reifying cultural beliefs.

The significance of language has not been lost on social scientists or criminologists. Scholars in multiple disciplines including history, political science, psychology, anthropology, and sociology analyze language and rhetoric (Monroe, 2012). Rhetoric and narrative provide insights into individual understandings of the world and are “often highly culturally informed and provide a useful tool for getting at the way in which culture enters into an individual’s behavior” (p. 325). Monroe notes that many researchers prefer oral narrative over written dialog as a source for gaining deeper cultural understandings behind an individual’s behavior. Monroe challenges this assertion and finds that the differences between oral and written narratives made by the same individual are minimal in regards to values/attitudes, categorization schema towards groups, and self-perceptions. She suggests that our values and beliefs are such an

ingrained and fundamental part of an individual's psychology that they manifest themselves the same way regardless of how the ideas are communicated. Narrative is also one of the "most important tools" for understanding the actions of individuals in a political context because language helps uncover how people interpret social reality, conceptualize options, form collective identity, and shape social policy including mass harm (p. 26).

Within the political sphere, discourse drives the actions of voters and politicians alike. In his examination of the role that language plays in a society's decision to engage in warfare, Smith (2005) notes that political agents "relentlessly struggle for the moral and interpretive high ground" and strive for "active persuasion, justification, and proselytism" by framing their argument in terms that can be recognized and understood by members of society (p. 13). To successfully rouse support, and in many cases suppress dissent, social agents utilize rhetorical devices for the persuasive power they possess as being recognized by society. Van Dijk (2006) echoes Smith's logic stating that rhetoric used by powerful actors in society must "be formulated – at least at the macro level of analysis – in terms of group membership, institutional position, profession, material or symbolic resources and other factors that define the power of groups and their members" (p. 362). In short, the rhetoric used to persuade public opinion must fit established patterns of discourse that the audience will understand. Accordingly, Fairclough (1992) notes that the use of discourse analysis is necessary to understand the "struggle and transformation in power relations and the role of language therein" (p. 2).

Enter the transformative work of Sykes and Matza (1957) on “techniques of neutralization.” Their modest article has been the inspiration for dozens of studies since its publication and identifies the importance of rhetoric to misconduct. Building on the work of Mills (1940) and Sutherland (1947), two stalwarts in sociology of the time, Sykes and Matza theorized that social actors typically construct justifications for deviant behavior to neutralize feelings of guilt or shame over their actions. They identified five major categories of neutralizations that can be used to examine the rhetoric of individuals who engage in behavior they recognize as immoral or illegal. This perspective is useful for understanding the motivations of those who commit any variety of crime including mass harm. In the case of Indian Removal, supporters of the policy were engaged in an intense debate to justify a policy that was widely recognized as immoral, unethical, and likely illegal. Led by President Andrew Jackson, supporters of the policy engaged in a rhetorical campaign to rally popular and political support in society and to intimidate the Native tribes into submission. This dissertation research applies the techniques of neutralization to the Removal debate in order to tease out how supporters overcame the cultural restraints placed upon them by law, historical precedent, and religious morality. It will clarify how arguments surrounding the removal debate were framed, with special attention to justifications for committing acts that were recognized as harmful and contradictory to established norms.

Bushman’s (1992) historical analysis of antebellum society describes a world where social status and image were closely associated and extraordinarily important. The necessity of projecting a certain image permeated all aspects of life including the spoken and written word. Hence the particular utility of the use of carefully crafted rhetoric; its

deliberate construction means that it is less likely that words were poorly chosen or ideas were accidentally communicated. Rather, the rhetorics used on all sides of the removal debate were specifically selected for the purpose of communicating ideas and presenting a particular image. This highly constructed presentation of self (Goffman, 1959) through language can be used as a reliable characteristic for study as it relates with the background conditions of society during this period and the actions of those involved.

CHAPTER 2 HISTORICAL BACKGROUND

U.S. policy regarding the Native American tribes, hereafter referred to as Indian policy, a term commonly used in the 19th century, has a history that extends from the very beginning of the United States as an independent nation to its years as a colonial possession of the British crown. This history is important for understanding debate over removal because those arguing for Jackson's policy regularly cited the various policies and key social actors that preceded them. The assortment of policies and treaties that came out of this history directly contributed to the crisis that Andrew Jackson and other stakeholders faced during the 1820s and 1830s regarding the clash between Native tribes and a rapidly expanding American nation. This chapter provides a brief chronology of key events and overview of significant policies related to the Indian Removal Act of 1830 in an effort to provide a clearer historical context for evaluating the removal debate.

Overview of U.S. Indian Policy, 1789-1829

Indian policy was a consistent concern of daily life in the colonies. The lives of the European colonists were interconnected with those of the Native people in colonial America. So significant was the connection between the two groups that most public policy decisions, including those concerning war, diplomacy, and commerce, accounted for the interests of the indigenous tribes (Calloway, 1995). Throughout the colonial history of the nation, the settlers of what was to become the United States saw the Native tribes as an obstacle to colonial expansion and improvement. Tensions over land ran high. The Native tribes struggled to retain their territory and identity as tribal groups and were involved in various armed conflicts with colonists, such as the Pequot War of 1637

and the Yamasee War from 1715-1717 (Cave, 1996; Ramsey, 2008). The Native people also found themselves in the midst of the colonial squabbles between the French and the British that culminated during the French and Indian War from 1754-1766 (Anderson, 2000). The struggle for tribal autonomy continued during the American Revolution.

During the early years of the American Revolution, the Native tribes tried to remain neutral. In a 1775 statement an unidentified representative of the Oneida tribe wrote to British Governor John Trumbull: “We cannot intermeddle in the dispute between two brothers. The quarrel seems unnatural. You are two brothers of one blood....We are unwilling to join on either side in such a contest, for we bear an equal affection to both you Old and New England” (Wunder, 2001/2002: 67). As the war progressed, the majority of tribes sided with the British, the Oneidas and the Tuscaroras being the only major exceptions (Calloway, 1995). Their support was not the result of any particular allegiance to the British; rather, it was based on a pre-existing history of encroachment and fraud at the hands of the colonist population, of which the British took full advantage.

In the two decades leading up to the Revolution, the British actively aided the Native tribes to resist colonist encroachment through a series of policies, including the Royal Proclamation of 1763 that established the Proclamation Line, a boundary between colonial settlements in the east and tribal lands west of the Appalachian Mountains. At the outbreak of the conflict most tribes chose to remain neutral in the conflict for fear of ending up on the losing side of a war in which they had no vested interest (Calloway, 1995). However, as time passed and pressure mounted for the tribes to choose sides, they could remain neutral no longer. A majority of tribes opted to support the British in the

hope that a British victory would continue to favor and protect them from the colonists, who would likely overrun their territory and enslave their people (Taylor, 2006).

Although the involvement of the Native people in military operations during the war was limited and generally ineffective, the war's end left the tribes a conquered people due to their support for the Crown. As allies to the British, the Native tribes were at the mercy of the conquerors (Prucha, 1986; Taylor 2006).

Following the American Revolution, the United States government recognized that establishing peaceful relations with the Indians was essential to the survival of the fledgling nation that did not have the resources to fight a frontier war with hostile tribes. In 1783, George Washington sent a letter to James Duane, head of a Congressional committee on Indian affairs, in which he acknowledged the likelihood of continued hostilities if measures were not "speedily adopted" by the Continental Congress to protect the tribes from "Land Jobbers, Speculators, and Monopolisers" who were poised to move into Indian country.¹ In that same year, the Continental Congress proclaimed that "the maintenance of harmony and friendship with the Indians" required regulations that prohibited the settlement and acquisition of tribal lands without Congressional authority and declared all such transactions null and void.

Between 1784 and 1788 the U.S. government negotiated several treaties and passed legislation that aimed to regulate commerce, settlement, and land transfers with tribes. These treaties, which included the Treaty with the Six Nations (1784) and the Treaty of Hopewell with the Cherokees (1785), established the boundaries of tribal

¹ Throughout this dissertation, quotes have been left in their original format that includes any spelling, punctuation, or grammatical errors.

territory and guaranteed the “execution of humane and liberal views of the United States” with tribal nations. Article V of the Treaty prohibited white settlements on tribal lands and those who violated the treaty “shall forfeit the protection of the United States, and the Indians may punish him or not as they please” (Prucha, 2000, p. 7). The philosophy of “justice and humanity” and “peace and friendship” was reinforced with the passage of the Northwest Ordinance of 1787, which established American policy for westward expansion including accommodating the Native tribes that lived on the western frontier.

Upon the ratification of the United States Constitution in 1789, the new federal government was given the power to “regulate Commerce...with the Indian Tribes,” which led to the passage of Trade and Intercourse Acts of 1790, 1793, 1796, and 1799. These Acts provided protection of tribal boundaries, the establishment of government trading posts within tribal territory, and licensed private traders who aimed to do business with the Native people (Perdue and Green, 2005; Wallace, 1999). The Intercourse Acts also served as the primary mechanism with which President Washington was to implement his policy of “civilization” aimed at gradually assimilating Native people into American culture. He hoped to achieve this end by encouraging the Native people to adopt an agricultural lifestyle and teaching them the ways of American society, including the Christian faith. By encouraging the Native tribes to adopt American economic customs including the ownership of private property, the federal government would gain access to the vast territory held by tribal nations. Washington and his Secretary of War, Henry Knox, agreed that tribes would eventually be required to yield territory to the United States as the nation grew. Yet, Washington and Knox also agreed that the policy should be implemented in a way that respected the rights of the Native people, a process

that Knox described as “expansion with honor” (Perdue and Green, 2005, p. 10). The ultimate stated goal of this policy was to “advance the happiness of the Indians and attach them firmly to the United States” through “the mild principles of religion and philanthropy” to “an unenlightened race of men” (Washington, 1791).

Washington’s successor, John Adams, made no significant changes to federal Indian policy during his term from 1797 to 1801. By the start of Thomas Jefferson’s presidency in 1801, Indian policy had changed very little, but this state of affairs ended with the addition of over 800,000 square miles of land through the Louisiana Purchase in 1803. Initially, Jefferson appeared to carry out the same policies implemented by President Washington, but as time passed, Jefferson considered the possibility of removal for Native tribes. Pursuing removal would open the western boundaries of the United States to additional opportunities for expansion and resources. Whereas the Intercourse laws prohibited white settlers from settling on or obtaining tribal lands, Jefferson was unwilling to enforce the laws or remove those who had illegally settled within tribal territory. Although Jefferson had the authority to call up the militia to enforce the federal policy, he was hesitant to do so based upon his philosophy of limited federal power. Jefferson also recognized that he faced a difficult situation since the local militias were comprised of the same settlers he was trying to control (Wallace, 1999). State militias were comprised of local volunteers under the control of the individual states. Ordering the militias to enforce U.S. Indian policy would force these militia volunteers to use force against their fellow citizens and neighbors.

By 1803, Jefferson had spelled out his Indian policy, which involved the use of the military to maintain peace on the western border with the Native tribes and to

continue the policies of civilization. Jefferson's overall goal was to "establish friendly and commercial relation" with the tribes and to obtain tribal land through voluntary purchases by the federal government (Wallace, 1999, p. 224). These laudable sounding goals were betrayed by the details. If land purchases could not be obtained outright, Jefferson aimed to use the power of the federal government to put pressure on Native tribes to relinquish their territory to the federal government. Wallace (1999) describes Jefferson's Indian policy as a multi-step process that used "the missionary and the plow" to justify the "relentless pursuit of Indian lands" (p. 226). Jefferson's plan involved using federally supported fur traders to conduct business with Native tribes on terms that would drive the latter deeply into debt, hastening their eagerness to sell land in order to settle their debts. As the U.S. government acquires land, the nation would slowly encircle the tribes and cut off access to the hunting lands they needed to survive. Facing dwindling food supplies, the Native people would be willing to adopt an agrarian lifestyle, which the U.S. government would encourage by offering assistance and education. Those Native people who would not assimilate would be offered the opportunity to relocate to land west of the Mississippi in exchange for their land in the east (Wallace, 1999). Jefferson's policy served as the first clear statement that the United States considered removal a viable option for addressing the growing conflict between American expansion and the Native tribes.

It was during Jefferson's presidency that the State of Georgia negotiated what became known as the Compact of 1802, which would become central to the removal debate during the 1820s and 1830s. In the Compact, Georgia agreed to cede the western portion of their colonial charter, lands that would later become the states of Alabama and

Mississippi, to the federal government. In exchange, the United States would extinguish “for the use of Georgia” the titles to tribal lands within the state “as early as the same can be peaceably obtained, on reasonable terms “ (1802, Articles of Agreement and Cession, para. 6). Jefferson’s Compact of 1802 directly contradicted the Washington era Treaty of Holston under which the United States would “solemnly guarantee to the Cherokee nation, all their lands not hereby ceded” and demonstrates the inconsistent nature of U.S. Indian policy (Treaty of Holston, 1791, Article VII). As such, the stage was set for the conflict between Georgia, the Native tribes, and the federal government that would reach its zenith during the administration of Andrew Jackson.

Following Jefferson’s lead, President James Monroe, who held office from 1817 to 1825, also expressed a preference for relocating the Native tribes consensually. In December 1824, Monroe referred to the forceful removal of the Cherokee from Georgia as an option that would be “revolting to humanity, and utterly unjustifiable” (Prucha 1986, p. 67). He also stated that the Cherokee had the right to refuse removal and that the executive did not have the authority to force the tribe to do so (Vipperman, 1978). Monroe suggested a policy of voluntary removal whereby the U.S. government would provide land outside the territory of any state in exchange for the lands currently occupied by the tribes. The federal government would provide support for the removal, help the tribes settle in their new lands, and protect the tribes from invasion or encroachment. Monroe’s policy would provide support for a continuation of the Americanization policies that had existed prior. Monroe established the Bureau of Indian Affairs in 1824 with the explicit purpose of negotiating treaties with tribes in order to secure removal. Monroe also supported efforts by religious leaders, including Baptist

Reverend Isaac McCoy, who proposed to move tribes out of reach of white influences where they would be free to adopt American culture at their own pace and also be taught the Christian faith (Jahoda, 1975).

Monroe's support for removal did not cease with the end of his presidency. During a special address to Congress on January 27, 1825, President Monroe stated that he was "deeply impressed" with the idea of removal. He believed it to be a policy of "very high importance to our Union" due to the federal government's obligations under the Compact of 1802 with the State of Georgia. Monroe also expressed a high level of concern for the declining conditions of the Native population due to conflict with white settlers. On this topic, Monroe's words reflected an urgency that would be repeated in the years to come by supporters of the Indian Removal Act of 1830. Monroe projected that without removal, "degradation and extermination will be inevitable." Again, Monroe reaffirmed the logic of his predecessors and encouraged a "liberal construction" of the Compact of 1802, one that would protect the "just rights" of the Native tribes (Monroe, 1825). Although Monroe clearly favored removal, he had little success in alleviating the growing tensions between the Native tribes and white settlers who were eager to take possession of tribal lands. Monroe's successor, John Quincy Adams, who occupied the White House from 1825-1829, did nothing of significance to alter U.S. Indian policy or to alleviate the conflict between the Southern states and the Indian tribes. That project was ultimately taken up by Andrew Jackson.

During the first years of the 19th century, the United States experienced a period of rapid expansion that drove European settlers and Native tribes into conflict over land and resources. Since the Compact of 1802, Georgia had been eager for the federal

government to extinguish the title to Native territory within the state in accordance to terms laid out in the Compact. In addition to land hunger, Georgia sought to extend transportation routes through Cherokee territory that would connect ports on the Atlantic coast with the Tennessee River. Following Andrew Jackson's victory during the Creek War in 1814 and the subsequent treaty that secured all land held by the Creeks, and other minor treaties with the Cherokee, Georgia anticipated a speedy fulfillment of the terms of the Compact of 1802 (Young, 1990). A speedy outcome was hampered by the influence of mixed blood "pseudo-Indian aristocrats" who stubbornly fought efforts to gain control of Cherokee land (Young, 1990, p. 48). In July 1827, the Cherokee declared themselves an independent sovereign nation and adopted a constitution patterned after the U.S. Constitution (Prucha, 1986). In response to Cherokee resistance and sluggish federal action to extinguish title to tribal lands, in 1827 Georgia began to implement a series of laws extending state authority over tribal nations including the Cherokee. Following the discovery of gold in Cherokee territory and Jackson's election in 1829 the State of Georgia passed legislation extending state control over all individuals residing in tribal territory effective on June 1, 1830; beyond that date, all tribal laws would be considered null and void (Young, 1990). With this historical backdrop, Jackson entered the presidency where he immediately took steps to settle the disputes between the tribal nations and the states once and for all.

The Rise of "Old Hickory"

Andrew Jackson was sworn in as the 7th President of the United States in 1829 and remained in office until 1837. He rode into the White House on a wave of public popularity not seen since the administration of George Washington. In the election of

1828 Jackson defeated his opponent, incumbent John Quincy Adams, with 56 percent of the popular vote and 68 percent of the electoral vote (US Electoral College, n.d.; Watson, 1985). Jackson's support came primarily from Southern states and frontier areas, places where the 'Indian problem' was high on the list of concerns for settlers (Satz, 1975/2002). Jackson garnered popular support due to his humble beginnings on the western frontier of Tennessee, his reputation as a rough-and-tumble frontier gentleman who had been involved in at least three duels one of which left him with a bullet that he carried in his body for the rest of his life, and his military endeavors. His nickname 'Old Hickory' reflected his perceived tenacity and resilience in the face of adversity. Although many found Jackson's common roots appealing, his popularity was largely the result of his military career that included service during the Creek Indian War and the War of 1812.

The checks and balances over excessive political power we associate with the American system of government were not especially effective in controlling Jackson's behavior on the public stage. Jackson's actions regularly violated established laws and clearly delineated powers. Biographer James Parton described Jackson as "a patriot and a traitor... A most law-defying, law-obeying citizen. A stickler for discipline, he never hesitated to disobey his superior. A democratic autocrat. An urbane savage. An atrocious saint" (Parton, 1861, p. vii). In an early biography, William Graham Sumner described Jackson as possessing the "restless and absorbing determination to reach and crush anything that was hostile... It appeared in all his military operations, and he carried it afterwards into his civil activity" (Sumner, 1899, pp. 39-40). For better or worse, Jackson had the skill, cunning, and the reputation to succeed where others would have

given up or failed. Although Jackson's military career began when he was recruited to aid the American effort during the War of 1812, hostilities on the southwestern frontier between members of the Creek nation and white settlers would become "the most decisive eighteen months of Jackson's life" (Rogin, 1975, p.145).

The Creek War was the result of the federal government's failure to fulfill obligations contained in the Treaty of New York of 1790. The Treaty guaranteed protection of Creek territory, but the US government was unwilling or unable to prevent encroachment by white settlers (Davis, 2002). Inspired by the Shawnee Chief Tecumseh, who called upon all North American tribes to resist white expansion, and encouraged by British traders who remained on the continent following the American Revolution, many within the Creek nation responded aggressively to white encroachment. Known as "Red Sticks," these Creek warriors engaged in multiple conflicts with white settlers throughout the southwestern frontier. On August 30, 1813, over 500 white men, women, and children were killed by Creek "Red Stick" warriors at Fort Mims, Alabama (Davis, 2002; Prucha, 1986; Rogin, 1975; Sumner, 1899). Following the Fort Mims Massacre, Jackson was called into action to help regain control of the southwestern frontier.

Jackson appealed to the Tennessee legislature and implored them to approve and fund a military invasion of the Creek territory. In correspondence with Governor Blount, Jackson made it clear that he intended to invade the Creek nation even without the authorization of the legislature "and think myself Justifiable, in laying waste their villages, burning their houses, killing their warriors and leading into Captivity their wives and children..." (Rogin, 1975, p. 147). Once word of the violence at Fort Mims reached Nashville, Jackson carried out his threat and mobilized the Tennessee Militia without the

authorization of the federal government as required by the law. Jackson recruited Cherokees and friendly Creeks to aid him in crushing the Red Sticks. Toward the end of 1813, with the fighting still going on, members of his militia began to question the length of their enlistments and threatened desertion. In response, Jackson ordered his own artillery to turn on his men (Rogin, 1975).

In January of 1814, having received new recruits, Jackson set his sights on the Red Sticks who had gathered in an area called Horseshoe Bend located in east central Alabama. The Battle of Horseshoe Bend became one of the bloodiest in the history of American-Indian warfare, but with the help of the Cherokee and Creek warriors he had recruited, Jackson's army was victorious. Following the victory, Jackson marched his army to Hickory Ground, the most sacred location within the Creek nation, and renamed the fort located there Fort Jackson. The terms of peace were laid out in the Treaty of Fort Jackson, which included the cession of over half the land within the Creek nation. Jackson, however, made no distinction between the hostile Red Sticks and the friendly Creeks who had aided him in his campaign, and ceded the latter no land for their loyalty. As Rogin (1975) notes, "Jackson claimed power to destroy the Indians but not to protect them" (p. 159). These Creeks watched the rights to their lands given to the white soldiers for whom they had helped conquer it.

Although his victory over the Creeks was a significant achievement, it was his unlikely victory over the British at the Battle of New Orleans at the close of the War of 1812 that catapulted Jackson onto the national stage. Following this victory, Jackson was seen as the savior of the young nation and the protector of the Revolutionary legacy passed on by the Founding Fathers. Jackson's actions during the War of 1812 served as

the primary stepping off point for his career, transforming him from an influential Tennessee lawyer into a heroic figure on the national stage (Remini, 1966). He appears to have developed an appreciation of his new prominence and power. As Sumner (1899) notes:

He had become a privileged person, like a great French nobleman of the last century. To offend him was to incur extraordinary penalties... All this he had won by military success. At least it seemed fair to expect that he would observe military discipline and decorum. But he did not do so, and no one dared to call him to account (p. 86).

Jackson's transformation from a man of the people to a new kind of American aristocrat was not lost on the public. A cartoon published in 1832 portrayed Jackson dressed in royal accoutrements with a torn copy of the US Constitution under his feet and the caption "King Andrew the First" (Remini, 1981). It is unclear whether Jackson was aware that he would not be subjected to sanctions for his behavior or was simply too self-assured to care about the ramifications of his decisions. What is clear is his willingness to utilize his power to the utmost to achieve his goals. Before explaining specifically how Jackson used his power, some additional historical background is needed.

Historians including Feller (1995), Rogin (1975), and Schlesinger (1945) paint an interesting picture of antebellum America that was characterized by both progress and conflict, of which the story of Jackson was one part. The federal government under the control of Revolutionary period leaders struggled to establish a new nation based on the ideals of democracy and other Enlightenment principles. At the same time, the people struggled to live autonomous lives and resisted federal authority. This latter movement is

well illustrated by Rogin (1975) in his description of frontier society. Due to the inability of the young federal government to enforce federal authority in these ever expanding frontier areas, local power structures evolved around local interests. While the federal government was establishing treaties with tribal nations, the states were actively subverting federal authority and acting autonomously to seize Indian lands as part of massive land speculation that drove the frontier economy. Land was of utmost importance to frontier residents as it served as the primary form of wealth in the absence of hard currency. Jackson was an active agent in this movement, and ultimately became its leader. The continuing trend of agricultural expansion to the west, supported by ideas of what was later called Manifest Destiny, set the stage for the various harmful policies concerning Native Americans, including Indian Removal and the reservation system that has existed to this day. Indeed, Jackson himself was partly responsible for the boiling crisis between the Native tribes and the Southern states due to his highly public support for Indian Removal (Satz, 1975/2002).

In Jackson's lifetime, fraud associated with obtaining land was a common practice, and much of the fraud involved the purchase of land that was inside Native territory protected by federal treaties. Jackson was complicit in many of these fraudulent activities. Rogin (1975) describes several incidents of fraudulent land speculation that Jackson either actively or implicitly approved of, including one fraud perpetrated by Tennessee Governor John Sevier that involved nearly one quarter of the land in the state. One of the most egregious examples of Jackson's willingness to ignore the law took place following the signing of the Treaty of Fort Jackson in 1814.

As Rogin (1975) notes, during the early 19th century it was generally the case that treaties between the United States and tribal nations did not specifically define the boundaries of lands to be ceded. The reasons for this practice were as practical as they were dubious. Defining the boundaries of tribal lands was difficult because tribes did not maintain official records of territorial boundaries. Once treaties were agreed upon, the federal government would dispatch teams to survey the land and mark the official land boundaries. White settlers and land speculators regularly used this ambiguity to their advantage when surveying the final boundaries in order to grab more land.

Following the Treaty of Fort Jackson in 1814, Andrew Jackson used his power to manipulate the boundaries of Creek territory to his financial benefit and “engaged in falsification of memory, denial, militant self-righteousness, and projection of his own motivations onto others” in order to carry out his plans (Rogin, 1975, p. 171). In order to secure fertile agricultural lands that would increase the value of his land holdings, Jackson attempted to have friend and colleague General John Coffee, also from Tennessee, appointed to the boundary commission that would establish formal boundaries of the questioned territory. Jackson was notified that Coffee had not been approved by Congress to join the commission, but had been approved as a back-up commissioner in the event that a member died or resigned. Jackson advised Coffee that he had been granted a “provisional appointment” and encouraged him to immediately begin surveying the northern boundary of Creek territory without the assistance of the other commissioners. Although Jackson was aware that the survey was not authorized, he calculated that the establishment of the boundary would attract settlers, thus providing a form of leverage against the Creeks and Cherokee who held the disputed land. When

Native residents protested, Jackson ordered Coffee to raise an armed militia to protect the survey team without approval from the US War Department (Rogin, 1975). Following this series of acts, Jackson's efforts paid off as members of the federal government backed down and approved the cessions of land over the protests of Native people in the disputed territory.

Following his victory at the Battle of Horseshoe Bend, General Jackson turned his attention to the Spanish territory in Florida. After the negotiation of the Treaty of Fort Jackson, many of the Red Stick warriors who remained in Creek territory fled to the Florida panhandle with Jackson's blessing. Once in the territory, they joined with Seminole warriors in continuing the fight against white settlement. The Seminoles and exiled Creeks engaged in cross-border raids against white settlers who poured into the region and regularly forced Native people from their land (Remini, 1966). In response to this turn of events, Jackson made the decision to invade the Spanish territory of Florida on November 7, 1814 without authorization from President Monroe (Remini, 2001; Rogin 1975). Jackson "put a legal face on illegal actions" by alleging that the raids were the result of encouragement by British traders and the Spanish government's inability to control the region (Remini, 2001, p. 148). Specifically, Jackson blamed Gonzalez Manrique, the Spanish governor of Pensacola, for the unrest. In communications with Manrique, Jackson warned that retaliation would be "Eye for an Eye, Toothe for Toothe, and Scalp for Scalp" (Rogin, 1975, p. 160).

Upon invading Florida, Jackson first captured two British traders whom Jackson believed had been providing weapons and supplies to the Native people in the area and inciting them to attack Americans. Although the men were not military combatants,

Jackson held a military court martial that found both men guilty and sentenced them to death. One man's sentence was reduced to fifty lashes and imprisonment, but Jackson overturned his own military court and reinstated the death sentence (Remini, 1966). Jackson also ordered the execution of two Indian chiefs who had been lured aboard American warships that were flying the British flag. The executions were not conducted in accordance with any law or military regulation (Sumner, 1899). On his way back to New Orleans, Jackson made the decision to capture the Florida city of Pensacola on May 24, 1818. Jackson installed himself as the military governor of the city (Sumner, 1899). Within a period of five months, Jackson had defeated the Creek nation, invaded the neutral Spanish territory of Florida, executed British citizens who were non-combatants, executed two Native chiefs, and placed the United States government in a very difficult diplomatic position. Although members of the federal government wanted Jackson punished for his actions, political support from President Monroe and popular support derived by his military success ultimately saved him from any sanction (Rogin, 1975).

The Indian Removal Act of 1830

During Jackson's career, the 'Indian question' was not interpreted the same way across American society. Regional biases, political ideology, and most importantly religious beliefs nurtured different standpoints. The evangelical movements of the early to mid 19th century played an important role in the evolution of the nation's identity. Many evangelical leaders including Presbyterians Charles Finney and Lyman Beecher adopted a stance against removal as part of their greater ideology of "Christian humanitarianism" (Wilentz, 2005, p. 490). Quakers had long been supporters of the Native tribes and many members of the Abolitionist movement also viewed federal

efforts to forcefully remove the Native tribes as akin to black slavery (Kerber, 1975). Jackson was sensitive to this opposition and took efforts to appease his opponents by seeking out evangelicals who would support his policy.

Of all religious institutions that stood in defense of the Native tribes, it was perhaps the American Board of Commissioners for Foreign Missions that provided the biggest obstacle to Jackson's efforts. A Boston-based missionary society supported primarily by Presbyterians and Congregationalists, the group had a long-standing history of supporting Native tribes and engaging in activities intended to "civilize" the tribes. Jackson took proactive steps to gain the American Board's support by enlisting the aid of Thomas L. McKenney. McKenney had served as head of the Bureau of Indian Affairs and was known as a humanitarian when it came to matters of Indian policy. McKenney was originally a strong advocate for the Indian policies of Americanization established by George Washington, but upon seeing the declining conditions of the Native people, and what he viewed as a failure of the Native people to adopt advanced culture, he decided that removal was the only viable option for saving the Native tribes from destruction (Prucha, 1986). Jackson tasked McKenney with reaching out to evangelicals and members of the American Board of Commissioners in an effort to gain their support for removal. To further this process, McKenney organized the New York Board for the Emigration, Preservation, and Improvement of the Aborigines in America, which acted under the "understood invitation of the executive" (Satz, 1975/2002, p. 15). The New York Indian Board was comprised of religious leaders who supported the removal policy and set forth to communicate the arguments of the Jackson administration "under the aegis of humanity and justice and Christian concern for the Indian" (Prucha, 1962, p.

637). The Removal debate was carried out by these competing religious groups in speeches published in pamphlets and newspapers throughout the United States.

Politicians, including those who debated the policy in Congress, regularly referenced the content of these documents in order to support their views and vilify their opponents.

Opposition to removal was a partisan political issue as well. Religious leaders who opposed Jackson's policy relied on the political influence of the National Republican Party to support their anti-removal agenda. The "anti-Jacksonians," National Republicans led by John Quincy Adams and Kentucky Representative Henry Clay, opposed Andrew Jackson and other Jacksonian Democrats on virtually every issue, including Indian Removal. Later to become the Whig Party, they were the single biggest political threat to Jackson and the Democrat Party at the time, and Jackson long blamed his loss in the presidential election of 1824 on their political maneuverings. Jackson's nemesis Henry Clay used the Removal issue to portray Jackson as a political tyrant who was engaged in an "unwarranted extension of executive power" (Remini, 1981, p. 259).

Despite the opposition of the anti-Jacksonians, on May 28, 1830, the 21st Congress of the United States passed a law officially titled "An Act to provide for an exchange of lands with the Indians residing in any of the states or territories, and for their removal west of the river Mississippi," more commonly referred to as the Indian Removal Act of 1830. The law permitted the President of the United States to secure treaties with the Native tribes located in the eastern United States and relocate them to designated lands west of the Mississippi River. In exchange for moving to the western U.S., the federal government promised to provide the tribes logistical support and supplies for the relocation, protection upon arrival in their new territory, and

compensation for the value of land and personal assets they left behind. The law indicates that removal was voluntary and would only apply to “tribes or nations of Indians as may choose to exchange the lands where they now reside, and remove there” (Indian Removal Act, 1830, p. 1136).

Following passage of the law, the Jackson administration immediately began to negotiate with tribes in an effort to gain their voluntary relocation. The Choctaw were the first tribe to sign a removal treaty on September 27, 1830. The tribe emigrated in three groups between 1831 and 1833. The Creeks signed a treaty on March 24, 1832 ceding their lands to the United States in exchange for individual allotments that they could sell should they choose to relocate. White settlers in Alabama tried to secure the allotments through fraud and intimidation, and the United States failed to intervene on behalf of the Creeks. In the spring of 1836, the Georgia militia attacked a group of Creeks who had fled Alabama and established a camp in Cherokee territory. In retaliation for Georgia’s aggression, Creek warriors attacked white settlements. Secretary of War Lewis Cass dispatched U.S. troops, and the Creeks were quickly subdued and removed to the west in August 1836. The Chickasaw signed a treaty similar to the one entered into by the Creeks, and they met a similar fate as well. The Chickasaws succumbed to the pressures placed upon them by white settlers and the government officials in Alabama and Mississippi, and peacefully emigrated in 1837 (Prucha, 1986, pp. 80-83).

The Seminole tribe agreed to a removal treaty in 1832 with a stipulation that they would not emigrate until they could inspect and approve the lands designated for their relocation. A Seminole delegation traveled to the west and was persuaded to approve the

land and signed the Treaty of Fort Gibson on March 28, 1833. Many within the tribe did not recognize the treaty and resisted removal efforts. The situation was complicated by the fact that the Seminole nation was actually a conglomeration of people that included displaced Creeks and runaway slaves. The tribe experienced constant raids from northern whites who sought to capture runaway slaves and return them to their masters. In December 1835, the tension erupted into violence when members of the Seminole nation ambushed federal troops and killed Indian Agent Wiley Thompson, thus launching a conflict that came to be known as the Second Seminole War. The fighting continued for nearly a decade, but small bands of Seminole surrendered and were removed to the west along the way. The conflict ended in August 1842, but a segment of the Seminole tribe never left their land in Florida (Prucha, 1986, p. 84-85).

The Cherokee also vigorously resisted removal, but chose to resist via the U.S. courts over armed resistance. Following passage of the Indian Removal Act, Georgia declared that on June 1, 1830 the state would extend its authority over Cherokee territory, and all laws and customs of the Cherokee nation would be considered null and void (Young, 1990). In response, the Cherokee nation sought an injunction from the United States Supreme Court citing tribal sovereignty guaranteed by federal law and treaties. The Supreme Court declined to rule in the case, stating that although the Native tribes “have an unquestionable... right to the lands they occupy,” the Court lacked original jurisdiction because the Cherokee did not qualify as a state or a foreign nation (*Cherokee Nation v. Georgia*, 1831, p. 17). In the Court’s opinion, Chief Justice John Marshall described the relationship between the United States and the Native tribes as “domestic dependent nations... in a state of pupilage... that of a ward to his guardian” (p. 17). The

ruling dealt a blow to the Cherokee, but events would soon give the tribe a second opportunity to petition the Court.

In December 1830, the State of Georgia passed legislation requiring all whites residing in Cherokee territory to swear an oath to support state laws and prohibited others from entering or remaining on tribal lands without license from the government. The law was intended to protect the Cherokees from unscrupulous land deals while simultaneously forcing out white missionaries who encouraged the Cherokee to resist removal (Prucha, 1986; Remini, 2001; Wallace, 1993). On July 15, 1831, eleven missionaries living among the Cherokee were arrested by the State of Georgia for residing on Cherokee lands without a license, Methodist minister Samuel Worcester among them. Worcester refused to accept a pardon offered by the State of Georgia and appealed his arrest and conviction to the United States Supreme Court. In this case, the Court held jurisdiction because it involved the arrest of an American citizen on Cherokee land by the State of Georgia while he was engaged in missionary activities that had been part of long-standing federal policy (Prucha, 1986).

Although not a party to the case, the outcome was crucial to the Cherokee because it would address the question of whether the State of Georgia had the authority to extend its laws over the Cherokee nation. The Supreme Court ruled in favor of Worcester and declared the extension of state law over Native tribes unconstitutional. Again writing the opinion of the Court, Chief Justice Marshall declared that Georgia's actions were carried out "under color of law which is void, as being repugnant to the Constitution, treaties, and laws of the United States" (*Worcester v. Georgia*, 1832, pp. 562-63). Upon hearing the Court's ruling, Jackson has often been credited with saying, "Justice Marshall has

made his ruling. Now let him enforce it.” There is no evidence to prove he uttered this statement; it is most likely a variation of his statement in a letter Jackson wrote to John Coffee where he stated, “the decision of the court has fell stillborn, and they find that they cannot coerce Georgia yield to its mandate” (Satz, 1975/2002, p. 49; Warren, 1999). This statement is not simply an act of defiance by Jackson; it also reflects the circumstances surrounding the decision. The Court’s ruling only demanded that Georgia reverse the conviction and release Worchester. Jackson did not have the authority to send in federal Marshals to free Worchester until Georgia voiced its refusal to comply with the ruling. Georgia simply ignored the Supreme Court case altogether, made no statement of refusal, and the Court’s term ended before any further action could be taken. Jackson then compelled Georgia Governor Wilson Lumpkin to release Worchester, and the governor complied. This act fulfilled the Court’s demands but forestalled any need for further federal intervention.

Although the case did not address the issue of removal, it did seemingly provide the Cherokee with some degree of legal standing in opposition to efforts to be forced to comply with the Removal Act. As history shows, however, the Cherokee were ultimately unsuccessful in their efforts to resist removal. Jackson continued to pressure the Cherokee to move west, and cited the outcome of the Worchester case as proof that efforts to resist state authority were futile. Whites continued to encroach upon Cherokee territory and the condition of the Cherokee people decayed as their property destroyed their means of subsistence was destroyed. A group of Cherokee leaders called the “treaty party” and led by Major Ridge agreed to the Treaty of New Echota on December 29, 1835, which ceded all Cherokee territory in the east to the United States in exchange for

seven million acres in the west and \$5 million. Many within the Cherokee nation were enraged that the Treaty had been signed without their consent, and an “anti-treaty party” led by Cherokee Chief John Ross continued to resist removal efforts. The Cherokee who affiliated themselves with the “treaty party” voluntarily emigrated without difficulty, but the group led by John Ross was relocated by force in 1838 during the administration of Martin Van Buren, who had also served as Jackson’s Vice President (Prucha, 1986; Satz, 1975/2002). This phase of the Cherokee removal became known as the Trail of Tears and is perhaps the single most tragic event of the Indian Removal era.

The Legacy of Indian Removal

Estimates of the total harm inflicted upon indigenous tribes are difficult to obtain and impossible to confirm with absolute certainty. However, evidence gleaned from multiple sources indicates that approximately 100,000 native people were forced from their ancestral lands under Indian Removal and between 10,000 and 20,000 individuals perished among the Five Civilized Tribes alone, which consisted of the Cherokee, Chickasaw, Choctaw, Creek, and Seminole tribes. Most of the deaths occurred during the infamous Cherokee “Trail of Tears” that took place in 1838. The official number of deaths during the Cherokee removal was estimated to be 1,600, but historians have traditionally accepted an estimate of 4,000 (Burnett, 1890/1978; Doran, 1975; Green, 1995; Knight, 1954; Prucha, 1986; Thornton, 1984). Due to the harsh conditions faced by the Cherokee upon arrival in Oklahoma, Thornton (1984) estimated the total loss of life within the Cherokee nation may actually be as high as 10,000. Regardless of the actual death toll, it is clear that the harm caused to America’s indigenous people was significant.

Scholars have generally examined Indian Removal as a set of policies that took place between 1830, when Congress passed the first Indian Removal Act, and 1856 when the final tribes were removed from Florida. In fact, Indian Removal was part of a longer chain of policies that began decades before the Trail of Tears and continue until the present day. Andrew Jackson and other supporters occasionally portrayed the policy as a humanitarian endeavor, but the outcome of the policy was quite the opposite. Native tribes were forced to abandon their ancestral lands, lost much personal wealth, and suffered many hardships including illness, abuse, and death due to conflicts with military personnel, and hardships during the journey. Those who survived the journey faced additional hardships including emotional trauma, hunger, sickness, rape and physical assault at the hands of the military, and attack from hostile tribes that were in close proximity to the lands where eastern tribes were forced to settle (Burnette 1890/1978; Doran, 1975; Green, 1995; Knight, 1954, Prucha, 1986, Thornton, 1984).

Indian Removal was a significant step in a greater process of internal colonialism that targeted the Native tribes within the United States. Following the lead of Bee and Gingerich (1977) and Wilkins (1993), I adopt the oft-cited definition of colonialism used by Blauner (1969):

Colonialism traditionally refers to the establishment of domination over a geographically-external political unit most often inhabited by people of a different race and culture, where this domination is political and economic, and the colony exists subordinated to and dependent upon the mother country (p. 395).

Furnival (1948) describes the relationship between European powers and their colonial acquisitions as a dynamic relationship that changed along with the demands of European industrialism and the transition to the free-market economy. Furnival notes that colonial relationships were originally relatively balanced as European nations only relied on external nations as a source for produce and goods not available at home. However, as nations began to industrialize, the increased need for raw materials and ultimately markets for manufactured goods resulted in changes to the colonial relationship. The result was the subjugation of these nations that included forced adoption of political, economic, and social policies that were beneficial to the colonial power and their interests. Essentially, the relationship changed from one of mutual benefit to one of exploitation.

Furnival's (1948) contribution is applicable to the Native American experience because the pattern he observed between European powers and their colonial possessions is similar to that which can be observed in the United States. As Wallace (1993) explains, the early relationship between the American colonies and the Native Americans was one based on trade for deer skins and fur pelts that were in high demand in Great Britain in exchange for European metal goods, cloth, and – ironically, for they were likely used to fight back against white encroachment – breech loaded muskets. However, as the new nation expanded, access to raw materials and new lands for cultivation were needed, the relationship became more exploitative and favored assimilation. In fact, efforts to coerce Native tribes into adopting a European style of economy resulted in the abandonment of traditional styles of communal property sharing and replaced it with private property and market-based agricultural production. Wallace (1993) explains:

The urge to convert "unused" Indian land into commercially productive cotton fields affected not only the white folks but the Native Americans themselves. Among the Southern Indians particularly, there was a recognized social class called "half-breeds"... For a considerable number of half-breeds, the form this emulation took... was to establish a cotton plantation, complete with mansion house, livestock, and black slaves. (pp. 8-9)

Even in the earliest days of the republic, the transformation of sovereign nations into colonial subjects was well underway.

Thomas (1969) describes two types of colonial structures that characterize two centuries of federal policies regulating Native Americans. The first type of relationship, which he classifies as classical colonialism, is the traditional type of colonialism associated with African nations and early control over indigenous tribes in the United States. As tribal nations became more segregated from one another, policies became more invasive, and agencies like the Bureau of Indian Affairs gained more control over social and economic structures on the reservations; consequently the colonial relationship evolved into a form of internal colonialism. Domination of colonial power over the culture, economy, and political institutions of the colonized group characterizes this second form of colonialism.

Thomas (1969) discusses the implications of this process for the colonized group. First, the group will be isolated, physically and socially, from the dominant power and other colonized cultures. The colonial power also limits the amount of control the colonized group has over their physical environment. Using the example of road building in African colonies, he describes the way that indigenous people are denied any role in

the decision-making process regarding the building of roads that cross their territory. A very similar process took place during the mid-nineteenth century as the railroads spread across the nation in fulfillment of the doctrine of Manifest Destiny. Railroads were routed across reservation territory based upon the needs and wants of politicians and business tycoons with no regard for the Native Americans that were being displaced. Olund (2002) provides a detailed account of the multiple laws and policies that were implemented throughout the 19th and early 20th centuries for the express purpose of “civilizing” Natives by forcing them to “become absorbed into the American polity at some eventuality through an inexorable process of cultural evolution” (p. 130).

The “hidden” power associated with internal colonialism serves to exert full control over the colonized people and assure that the interests of the colonial power are protected. The intent of the colonizer *may* be well intentioned, but inevitably, the colonizing power defines progress. Bee and Gingerich (1977) describe the process of internal colonialism in the United States by tracing the evolution of land lease policies on reservation lands that took place throughout the twentieth century. These scholars also characterized the post-Removal policies of the federal government as internal colonialism citing the full exercise of federal control over reservation policy, which was done in order to fulfill the needs of the United States within its own “national political economy” (p. 72).

As Wallace (1999) notes in his examination of Jefferson’s Indian Policy, the federal government “regarded the Indian tribes as foreign powers, with whom diplomatic relations were to be conducted according to national protocol” (p. 207). As time progressed, economic considerations, expansionist policies, and the purported inability of

the federal government to enforce established treaties and prevent the encroachment of white settlers all resulted in a tension that set the stage for Indian Removal and future subjugation of Native Americans who resisted efforts to assimilate them into American culture. As Indian policy at the federal and state levels continued to evolve, Native tribes, most notably the Cherokee, adapted their traditional informal style of trust-based diplomacy in order to accommodate to the legalistic style of American society (Cumfer, 2003). The influence of this shift in encounters with the United States government can be seen in the use of the federal courts to resist ceding power and relocation.

Silliman (2010) discusses the difficulties associated with studying the North American tribes due to the influence of colonial power. Silliman notes: “When colonial period documents on Native people are few, authored by others, and frequently detailing only a small fraction of lived experiences, the silences about Indigenous people run deeply” (p. 29). As a result, scholars who seek to understand historically oppressed cultures face challenges in finding the true voice of that culture amidst the dominant noise of the colonial power. Silliman refers to this area where native cultures and colonial interests overlap as “entangled spaces” (p. 29). The result of this “entanglement” is the production of colonial “cultures with hybridized identities and practices” that can extend beyond the relationship between the colonizer and the indigenous culture (p. 31). The challenges Silliman (2010) describes apply to the study of Indian Removal, because the experience of Native Americans is closely associated with the colonial influence of European culture. Native American tribes were forced to adopt Western style economic structures and these “spatio-temporal” changes fundamentally altered the cultural identity of future generations (p. 39).

Although my dissertation research primarily focuses on the debate surrounding the Indian Removal Act of 1830 between the years 1829 and 1831, my limited focus is not intended to downplay the lengthier history of subjugation of the Native Americans. Rather, it serves as a case study to examine the overall character of the centuries' long conflict that continues today. As researchers such as Cattelino (2010) and Wilkins (1993) suggest, the character of contemporary relations between the United States and the Native American tribes continues to possess recognizable characteristics that existed in the early 19th century.

CHAPTER 3

CRIMINOLOGISTS AND ATROCITY CRIME: SILENCE AND PROMISE

Chapter 1 established the federal policy of Indian Removal during the 1830s as a case of mass harm we may categorize as an atrocity crime (Scheffer, 2002; Scheffer 2006). It is not surprising that scholars from across the academy, including political scientists, psychologists, historians, and social scientists, have investigated atrocity crimes. What *is* surprising is that *criminologists* have devoted limited attention to atrocity crimes (Hagan & Rymond-Richmond, 2009; Laufer, 1999; Maier-Katkin, Mears, & Bernard, 2009; Savelsberg, 2010; Yacoubian, 2000). Due to criminologists' inattention to atrocity crime, the sorts of theories that criminologists generate and test are limited in respect to this type of mass harm. It is remarkable that criminology has neglected this topic because mass harm results in other types of criminal and deviant behavior, which one presumes would be within the realm of criminological study. Criminologists have extensively examined less expansive forms of collective violence – committed by gangs for example – as well as white-collar crimes perpetrated by powerful actors. More far-reaching actions that implicate large subsets of national or regional populations are rare objects in the discipline. Crimes of the state are relatively uncharted territory for scholars in the discipline, whereas atrocity crimes are often, though not always, organized by the governments of nation-states.

The purpose of this chapter is to provide a brief overview of some exemplary perspectives on atrocity crime, to consider why atrocity crime has largely escaped the attention of criminologists and to discuss what the field of criminology can provide for the study of atrocity crime. I hope that this chapter will serve as a call to criminologists

to bring the full force of the discipline to bear on this egregious form of human harm and violation of fundamental human rights.

Defining Atrocity Crime

In response to the ambiguity, overuse, and politicized nature of the term genocide, Scheffer (2006) proposes the term “atrocity crime” to serve as a “collective definition” that can be used in public discourse and scholarly research. Scheffer suggests that this label can be applied to all crimes of genocide², crimes against humanity³, ethnic

² Per the 1948 U.N. Genocide Convention, genocide is defined as acts committed “with intent to destroy, in whole or in part, a national, ethnical, racial or religious group” including a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group.

³ Article 7 of the Rome Statute of the International Criminal Court defines crimes against humanity as acts “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack” including murder; extermination; enslavement; deportation or forcible population transfer; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any form of sexual violence of comparable gravity; persecution based on political, racial, national, ethnic, cultural, religious, or gender; enforced disappearance of

cleansing⁴, war crimes, and similar atrocities. He suggests the term will clarify the “confusion and garbled terminology” that plagues the discussion of various types of atrocities that are complicated by the uncertainty of the legal terminology of international law as it relates to these criminal events. Scheffer (2006) defines atrocity crimes as any high-impact crimes of severe gravity that are of an orchestrated character, that shock the conscience of humankind, that result in a significant number of victims, and that one would expect the international media and the international community to focus on as meriting an international response holding the lead perpetrators accountable before a competent court of law. (p. 239)

persons; the crime of apartheid; or other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

⁴ Although not specifically defined by international law, the United Nations Security Council defined ethnic cleansing as “rendering an area ethnically homogenous by using force or intimidation to remove persons of given groups from the area” through the use of murder, torture, arbitrary arrest and detention, extra-judicial executions, rape and sexual assaults, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, and wanton destruction of property (United Nations, 1994, p. 33).

Scheffer (2006) also provides a five-point typology, of which all characteristics must apply, to guide the classification of atrocity crimes. The first relates to the harm caused to a “significant number” of victims including death, serious injury, and property destruction to non-combatants, or to a significant number of combatants in violation to recognized rules of war. The second characteristic applies the term atrocity crime to any act that occurs during time of war, peace, or social upheaval whether international or non-international. The crime must be recognized by international law or rules of war as a crime of genocide, violation of the rules of war, the crime of aggression, international terrorism, crimes against humanity, or ethnic cleansing. These crimes must have been orchestrated by “a ruling or otherwise powerful elite in society” to include rebel or terrorist leaders. Finally, the law applicable to such crime is also “regarded under customary international law” to provide for the leaders to be held individually liable for the commission of the crime before a duly constituted court (pp. 238-239).

Scheffer (2006) also suggests that his proposed “unifying term” would clarify the legal jurisdiction of international courts to prosecute atrocity crimes. He notes that current law is unclear and “no term describes precisely what the international and hybrid criminal tribunals have the jurisdiction to prosecute” (p. 244). Acts that would be considered atrocity crimes are currently prosecuted under various categories of international law including humanitarian law, criminal law, human-rights law, customs and rules of war, and military law. As a result, many types of mass harm that would be considered atrocity crimes go unpunished. Scheffer suggests that the atrocity crime concept could be applied to international law to bring focus to the crimes of mass harm it prohibits. I suggest that the use of this term as it relates to international law would also

provide greater clarification for the international community to guide the decision on when and how to intervene in atrocity crimes to preserve human life and property.

Following a similar line of logic, Evans (2008) also suggests that Scheffer's (2006) concept would clarify the "responsibility to protect" victims of atrocity crimes through international intervention, including "military intervention for human protection purpose." These ideas were published in a 90-page report by the International Commission on Intervention and State Sovereignty in December 2001.⁵ While recognizing the importance of state sovereignty, the Commission argued that individual human rights should be the primary focus of nation-states and international law. In cases when the individual state is incapable or unwilling to uphold their "responsibility to protect" individual citizens, the responsibility falls to the international community to fulfill that role using "whatever means is appropriate to the particular situation" (Evans, 2008, p. 42). Under this new logic, military force as intervention is only a part of a broader set of responsibilities that emphasize prevention of atrocity crimes using a variety of means ranging from "persuasive to coercive," and to aid in rebuilding after an atrocity takes place (p. 43). Although the "responsibility to protect" concept has gotten approval from the United Nations, including the Security Council, it continues to be embroiled in political and legal debates about definitions and what sorts of events require the international community to intervene. Evans (2008) suggests that Scheffer's (2006) concept of "atrocity crime" would likely help clarify the political and legal debate surrounding this category of crime and the policies surrounding it.

⁵ The ICISS report, *The Responsibility to Protect*, was the result of input from the international community, including the United States and NATO.

I suggest that atrocity crimes are part of a broader range of options available to dominant social groups for addressing intergroup conflict. Adapting Simpson and Yinger's (1985) typologies of dominant group policies towards minority groups provides a continuum of options that ranges from a pluralist/multicultural society on one end of the spectrum, to a policy of genocide/extermination (see Figure 3.1). In a multicultural society, members of minority groups are welcomed into the social realm of the dominant group and minority members are free to maintain their own cultural characteristics without fear of reprisal or discrimination. The next option, legal protection of the minority, is a policy where these groups are officially recognized and protections are built into the legal code. This policy assumes that minority group members will face discrimination from the dominant group and legal mechanisms must be in place to discourage or punish such victimization. This policy approach can be seen in the US policies related to various anti-discrimination and hate crimes laws. Assimilation in some form is the next option. Permitted assimilation provides a mechanism whereby a minority group can become part of the dominant culture with the assumption that they will adopt the characteristics of the dominant group and perhaps abandon certain characteristics of the minority culture. This approach is reflected in the American concept of the "melting pot" and immigration policy that requires new arrivals to take citizenship classes and pledge allegiance to the United States. This policy approach was also one utilized by the United States towards the Native Americans until the 1830s when Jackson presented his removal policy.

Figure 3.1: Policies of Dominant Groups Toward Minority Groups



The next policy option is one of forced assimilation. This policy approach forces minority members to submit to the cultural norms and values of the dominant culture. I propose that this serves as the transition point for policies that may be categorized as atrocity crime. As the name implies, forced assimilation is likely to involve actions intended to strip a group of their cultural identity and denies individuals their right to live to a cultural standard of their choosing. Subjugation/colonialism is the next option, whereby the minority group is dominated and exploited for resources and labor. This approach has been used throughout human history and some have characterized the Indian policy of the late 19th and early 20th century in the United States as an example of internal colonialism. Population transfer/ethnic cleansing is used to purge the dominant culture of the presence and influence of the minority group. Transfer can be accomplished through indirect means, which typically involves creating conditions that are so unpleasant for the minority that they choose to leave on their own. In contrast, direct transfer of the minority group can be used to remove the group by force. Population transfer, direct and indirect, was the approach used by the Jackson administration during the 1830s and this is the focus of the current research. Finally, extermination/genocide is the most extreme option and one that has been adopted multiple times during human history. This policy is of particular interest to contemporary scholars because this approach is widely seen as a violation of fundamental human rights, which is a relatively modern concept. We would hope that our societies have reached a certain level of social and ethical advancement that we would not see the mass

extermination of social groups simply based upon some arbitrary characteristic, but sadly this is not the case.

Barriers to Studying Atrocity Crime

Criminology's central aim is to predict, explain, and ultimately help to prevent individuals from doing harm to another. Unfortunately, criminologists tend to focus on evidently common types of interpersonal crime and not the actions of powerful institutions that have injured or killed million of human beings during the 20th century. Now into the second decade of the 21st century, the world continues to see atrocity crimes committed in locations such as Sudan and Syria. Faced with the reality of atrocity crimes committed before our very eyes, will criminologists finally begin to turn their attention to this pressing issue? It may seem unlikely. Data on so-called conventional crimes, and funding to collect such data, are readily and regularly furnished by government agencies. It seems that when faced with the most extraordinary incidents of human trauma and suffering *en masse*, criminologists possess what Laufer (1999) describes as an "almost incredible power of collective denial" (p. 72).

As time passes, technological advances are likely to make such denial difficult to maintain. Since the late 20th century, we have seen the prevalence of video and cell phone cameras increase dramatically. Access to Internet and social media outlets provides an opportunity for people to share images across the globe almost instantly. These changes provide better opportunities for people to document atrocity crimes and distribute the evidence to the world. Through the use of blogs and social networking sites like Facebook and Twitter, individuals are not reliant on traditional media outlets to transmit information to their audience. Sociologists have already identified the impact of

social media to furthering social movements and political change (e.g. Fisher, et al., 2005; Langman, 2005; and Schultz, 1998). We are familiar with the images of the prisoner abuses by U.S. military and government personnel at Abu Ghraib prison in Iraq. As of the time of this writing, we are seeing images of potential atrocity crimes taking place in Syria. The Satellite Sentinel Project provides satellite images to document evolving cases of atrocity crime in the Sudan. With the abundance of visual evidence of atrocity crime at our fingertips, the reality of these events is difficult to ignore.

Yet, in the social sciences, the discipline of criminology is well-suited to studying and explaining atrocity crime. Criminologists avail themselves of a vast theoretical knowledge about how social forces contribute to unlawful and/or harmful and/or deviant actions. They have spent over a century working to understand such actions. The result is a multitude of theoretical perspectives ranging from micro level explanations of criminal behavior to macro level explanations of how social forces contribute to crime and deviance, and bridging theories that combine these approaches.

When viewed as broad scale harmful action carried out by individual actors working within a collective framework and typically supported by a powerful social or political entity, atrocity crime is not especially different than other forms of crime, whether they be acts of interpersonal violence or crimes committed by powerful actors. Speaking of genocide, but applicable to the study of atrocity crimes in general, Day and Vandiver (2000) state this argument as follows:

attempts by criminologists to explain the ways in which normal morality may be suspended during the commission of criminal acts, and the efforts of deviance

theorists to examine how intergroup conflict plays out in the political sphere, offer a set of tools which can be readily applied to analyses of genocide. (pp. 43-44)

Criminologists construct and study theories on each apparent component of mass harm, so extending these theories to a “new” category of crime and deviance is logical. Most of the criminological literature on atrocity crime attends to genocide – a shortcoming in its own right – and many of the critiques made in regard to genocide can be applied to the atrocity crime in general.

Yacoubian (2000) discusses various reasons for the lack of genocide research in the criminological literature. Funding agencies have a strong hand in restricting research on crime. Tunnell (1993) also suggests that the lack of attention paid to political crime is the result of a general lack of interest on the topic from society. Atrocity crime is generally considered an isolated and foreign problem, “inconsequential to domestic policy” (p. 14); hence relatively fewer resources are devoted to it. Yacoubian (2000) also notes that criminologists tend to focus on topics that are of immediate interest and within their “sphere of localized influence.” As a result, events of atrocity crime that tend to occur in “remote, often underdeveloped international regions” escape the attention of researchers (p. 14). Criminologists also avoid atrocity crimes due to the traditional methods of research utilized within the discipline. Methods such as field research, survey research, experiments, and unobtrusive measures provide substantial challenges for the study of atrocity crime. Clearly, the amount of violence and social upheaval typically associated with events of atrocity crime makes it very difficult for researchers to observe the phenomenon first-hand or gain access to primary documents for examination.

Semilin (2003) also mentions the difficulty of obtaining access to data, stating “in many cases the existence of documents that would allow for an unambiguous dating and authentication... is rare, if not non-existent. And for good reason: those responsible never want to leave traces of their actions” (p. 200). Add to the barriers the fact that many of the victims of these events have been killed; more generally, the groups subjected to mass harm tend to lack power and thus the voice with which to tell their stories. Finally, academics tend to teach about topics with which they are familiar and have research expertise (Yacoubian, 2000). As atrocity crime has generally remained below the radar of criminological study, it is not discussed in any significant amount to encourage further study by researchers. Maier-Katkin, Mears, and Bernard (2009) summarize the situation: “There have been many structural disincentives to... the study of crimes against humanity. This situation reflects in part issues of institutional and individual self-interest and power” (p. 231).

An additional and very significant obstacle to the construction of a coherent theory of atrocity crime is related to the tendency for criminologists to rely on a legalistic definition of crime to identify topics of study, which Laufer (1999) charges with “setting a boundary for the criminological imagination” (p. 72). “Atrocity crime” has no clear basis in legal discourse or codified statutes, and although legal definitions of genocide and crimes against humanity are contained within international law, there is no universally agreed-upon interpretation of such laws. Many researchers including Chalk and Jonassohn (1990) and Fein (1993) have criticized the genocide statute, issuing “incessant calls to amend the definition” to include a greater number of actions that would be covered by the statute and broaden the scope of how protected groups are

defined (Schabas, 2003, p. 161). Describing this definitional problem, Straus (2001) suggests that the “muddle” surrounding definitions is a source of difficulty in conceptualizing a coherent theory of genocide. Altman (2012) is also critical of those criminologists who adhere to the legalistic framework because the limited scope will continue to delimit their work unnecessarily due to the “conceptual fog” that “hovers over the discussion of this category of mass harm (p. 281). The international legal community, no less than academics, encounters difficulties with this conceptual debate.

Frequently, states sponsor atrocity crimes, and thus they are often technically legal under the color of law (Maier-Katkin, Mears, and Bernard, 2009). However, criminologists routinely study not just crime, but deviant and/or harmful behavior in multiple forms, including acts that are committed by political actors and (therefore) lawful. To suggest that atrocity crime is off limits due to such restricted legalistic definitions of behavior or because political actors perpetrate the harm betrays the true spirit of criminology as a social science. The discipline has devoted a great deal of study towards the sociology of law and how power corrupts and manipulates the political processes that define crimes. As Sykes (1974) states, critical perspectives in criminology force “an inquiry into precisely how the normative content of the criminal law is internalized... and it impels us, once again, to analyze equality before the law as a basic element of a democratic society” (p. 213). In other words, it is most certainly the responsibility of criminologists to examine harmful acts committed by political actors if we are to proclaim support for democratic societies.

Hagan and Rymond-Richmond (2009) and Savelsberg (2010) suggest that a synthesis of theoretical perspectives is necessary to explain events of mass harm. This

fusion of theoretical perspectives is necessary because of the very complex nature of mass harm, which involves collective actions by individual members of society, supported (either actively or passively) by powerful actors within that society. A multitude of historical, political, economic, and cultural factors influence these actions. Further, to understand genocide, one must examine the choice of individual actors to engage in genocidal behavior, while acknowledging that the individual actor is subject to both micro and macro level influences. The ultimate outcome of this approach stands to move criminology in a more sophisticated direction generally.

What Can Criminology Offer to the Study of Atrocity Crime?

With the aforementioned shortcomings in mind, I turn to the topic of what criminology can contribute to the study of atrocity crime. That criminologists have neglected atrocity crime is not to suggest that the discipline does not already possess the theoretical tools to examine this category of mass harm. Criminologists have studied a variety of crimes that are closely related to atrocity crime, such as political crime (e.g. Braithwaite, 2000; Garland, 2000; Rose, 2000; Schwendinger and Schwendinger 1970; Turk, 1969), as well as war (e.g. Cooney, 1997; Hagan, Schoenfeld, and Palloni, 2006; Ruggiero, 2005; and Young, 2003), mass murder (e.g. Fox and Levin, 1998; Haggerty, 2009; Palermo, 1997; Presser, 2012) and terrorism (e.g. Hudson, 2009; McCulloch and Pickering, 2009; Mullins and Young, 2012; Savelsberg, 2006; and Welch, 2007).

Criminologists can offer much more to our understanding of atrocity crime. Scholars from other disciplines have made greater strides and contributions.

Scholars outside of criminology typically approach the issue of mass harm and atrocity crime descriptively. Political scientists devote much of their work to

understanding the political process and how political institutions are organized and exercise power. Anthropologists are able to provide very rich and insightful analysis of cultures, which are central to some highly valuable recent analyses of atrocities (Goldhagen, 1996; Hinton, 1998).

Savelsberg (2010) observes that while historians to date have tended to utilize concepts such as “totalitarian and revolutionary regimes, war and social instability, racist and anti-Semitic ideologies,” criminologists are more inclined to offer theoretical explanations (p. 49). In other words, they tend to focus more on the concrete ‘what’ behind atrocities, such as correlations between events or the existence of specific political structures, while criminologists are more likely to seek to understand their ‘why’ and ‘how’. Maier-Katkin, Mears, and Bernard (2009) similarly observe that most of the literature on genocide and mass harm “does not put forward a theory to explain how these factors come together” (p. 232). This observation in no way minimizes the importance of the “what” in atrocity research. As Semilin (2003) notes, “The importance of a methodology of historical research... describing the how in order to understand the why... is the only pragmatic means of avoiding ideological presuppositions” (p. 200). Criminologists or any other scholars cannot adequately clarify atrocity crime and build useful theoretical models without clear understandings of the fundamental events themselves. However, the gap that is left for theory is also important.

Criminologists can contribute to the study of atrocities by developing typologies that treat these events as kinds of criminal behavior rather than treating each a singular event with a unique explanation. Savelsberg (2010) explains that many scholars focus their efforts on single events in a way that suggests these events have no connections or

shared characteristics. For example, the 20th century Nazi Holocaust, the crimes in Bosnia, and the genocide in Darfur are all treated as distinct social phenomena with little effort made to compare and contrast them and even less to form a single theory to explain or predict atrocities. In contrast, that sort of theoretical study and application is consistent with the work of criminologists.

On this point, Savelsberg (2010) indicates that many historians who have studied atrocities have done so using an inductive approach to understanding the event being examined, while criminologists tend to examine events deductively based on one or more particular theoretical approaches. Rather than examining the individual event as a whole, identifying a variety of conditions and traits that characterize that specific event, and then constructing an event-specific explanation, criminologists examine one or multiple atrocity crimes through the lens of a specific theoretical framework, looking for characteristics that are consistent with the expectations of the theory. This process helps us identify similarities between known cases of atrocity crime and allows us to predict future events.

Finally, criminologists tend to examine crime, including atrocity crimes, with an eye toward the behavior of individuals (Savelsberg, 2010). Rather than treating individual actors as an insignificant part of the historical event in question, criminology seeks to understand how macro and meso level factors influence micro level behavior. Some do this specifically from the micro level, placing particular emphasis on the experience of social or self-control, the learning of values and techniques, and anomie, while others place emphasis on individual behavior as a response to broader macro level influences such as culture, social structure, the influence of power, and so forth.

Regardless, a major accomplishment of criminologists has been that of explaining why some individuals perpetrate harm while others do not, and predicting such behavior in the future.

A Way Forward

Woolford (2006) is somewhat critical of calls for criminology to extend its theoretical analysis to genocide, but his critiques can be extended to atrocity crime in general. In particular, Woolford warns of an “add criminology and stir” approach that tries to apply traditional criminological theories to the study of genocide without consideration of the influence of political, historical, and social factors including imperialism and capitalist exploitation that contribute to atrocities (pp. 97-98). Instead, Woolford calls for a “responsible criminology of genocide” that is a reflexive and interdisciplinary and “undisciplined” approach to the study of atrocity that is open to theories, concepts, and methods pioneered by disciplines outside of criminology. On this point, he warns that criminologists cannot “come late to the field and declare it a territory that rightfully belongs to criminology” (p. 97). Although it is doubtful that the field of criminology would advocate wholly excluding the perspectives and ideas of other disciplines in the study of atrocity crime, Woolford’s caution does merit consideration.

Maier-Katkin, Mears, and Bernard (2009) note that the analyses of atrocity crime that need doing are “squarely within the purview of criminology” (p. 232). In summary, although there are a limited number of examples to cite regarding the value that criminology holds for understanding atrocity crime, those I have discussed here lay out the basis for such an argument. As mentioned previously, atrocity crimes are simply acts by individual actors within a specific set of collectivized conditions that cause harm on a

mass scale. At its most basic level, these are criminal acts not unlike those encountered by criminologists on a daily basis. The fact that they vary in magnitude and frequency during a collective wave of violence is the main characteristic that makes this typology different. Criminology has not shied away from other forms of collective violence, whether it is gang activity, riots, or organized crime. Criminology has also actively engaged the study of crimes committed or facilitated by powerful institutions including governments, corporations, the police, or the military. Each of these specialty areas does more to support the need for applying the tools and perspectives of criminology to the category of harm that has been called the 'crime of crimes' (Schabas, 2003). Perhaps on this point, Day and Vandiver (2000) have captured the spirit of this argument the best. Speaking specifically of genocide, the state, "deviant behavior is a primary object of our field... Criminologists will have only a weak claim to understanding crime until we can address the worst of all crimes" (p. 56). Criminologists need not and should not replace the efforts of other disciplines in their study of atrocities, but should work in tandem with these researchers in order to gain a better understanding of this type of crime.

CHAPTER 4

NEUTRALIZATION THEORY AND RELATED CONCEPTS

Berger and Luckmann (1967) suggest that language is “the most important” means for communicating knowledge and ideas in society (p. 36). Communicated knowledge becomes “objective truth... and subjective reality” that then have “power to shape the individual” (Berger and Luckmann, 1967, p. 67). Sykes and Matza’s (1957) neutralization theory is useful for examining the process by which communicated knowledge influences action.

Neutralization theory

Sykes and Matza’s theory is essentially a typology of “vocabularies of motive” (Mills, 1940) that help justify acts that the actor recognizes as violating the norms and expected behaviors in his/her social environment. The typology consists of five neutralizations techniques, which “blunt the moral force of the law and neutralize the guilt” of offenders who are considering engaging in criminal activity (Maruna and Copes, 2005, p. 230). As originally formulated, the theory was concerned with juvenile delinquency, but it has since been used to examine a multitude of deviant behaviors including predatory sexual activity known as “hogging” (Gailey and Prohaska, 2006), illicit drug use (Shiner and Newburn, 1997), white-collar crime (Kieffer and Sloan, 2009), police corruption (Goldshmidt and Anonymous, 2008), shoplifting (Cromwell and Thurman, 2003), cigarette smoking (Peretti-Watel, and Constance, 2009), topless dancing (Thompson and Harred, 1992; Thompson, et. al., 2003), youth violence (Agnew, 1994), and genocide (Alvarez, 1997; Stewart and Byrne, 2000).

Sykes and Matza attempted to formulate a theory of offending that would augment Edwin Sutherland's (1947) theory of differential association, which explains criminal offending as a function of the learning of motivations, attitudes, rationalizations, and techniques for such behavior. Sykes and Matza noted that Sutherland and subsequent differential association theorists had paid little attention to the content of what is learned. In response to that gap in the literature, they conceived a list of five types of "neutralizations" that offenders use to psychologically prepare themselves to commit criminal behavior.

Denial of responsibility allows the offender to attribute their behavior on forces outside of their control such as social status or family background. Sykes and Matza (1957) suggest that the offender essentially uses a "billiard ball conception of himself" where s/he is "helplessly propelled into new situations" in which deviance is necessary (p. 667). *Denial of injury* justifies the action on the grounds that nobody stands to be harmed. *Denial of the victim* acknowledges injury to a victim but justifies the action by reference to the victim's social status or a perceived wrong committed by the victim. Maruna and Copes (2005) extend this neutralization to include the "absent, unknown, or abstract victim" whose distance fails to trigger the offender's conscience (p. 233). *Condemnation of the condemners* shifts approbation from the offender/offense to those who disapprove of the act. The offender justifies deviant behavior by portraying those who follow conventional morality as corrupt, hypocritical, or oppressive. Finally, with *appeal to higher loyalties* the offender may acknowledge the illegality of his/her behavior, but justify the act by placing the values of a subcultural group above the values of society in general. Examples would include the gang member who engages in

violence to back up a fellow gang member or the police officer who lies on a police report to gain a conviction in court and “get a criminal off the street.” These neutralizations can be used singularly or in combination to provide the offender with a ready-made set of justifications needed to overcome the social controls that would ordinarily prevent criminal behavior.

Sykes and Matza acknowledged that the original typology would likely need refinement and that certain neutralizations would be better suited for specific types of crimes than others. In their impressive review of the evolution of neutralization theory, Maruna and Copes (2005) note that scholars have introduced new neutralizations over time and the theory will likely continue to evolve as it is applied. One of the more commonly cited additions to the original list of neutralizations are Minor’s (1981) *metaphor of the ledger*, with which an offender defends harmful behavior as outweighed by her/his other, pro-social behavior, and *defense of necessity*, which justifies a deviant act as a necessary action based on the situation.

Alvarez (1997) is a unique study that specifically applies techniques of neutralization to the Holocaust, and is the only example I could locate of Sykes and Matza’s (1957) theory specifically applied to atrocity crime. Unfortunately, his research does not provide in-depth examination of rhetoric used by individuals who participated in the Holocaust. Rather, he provides more of an examination of broad contextual conditions that indicate how the Nazi Party used neutralization techniques to justify the extermination of Jews and other targeted groups.

Alvarez (1997) proposed denial of humanity, a new technique of neutralization that is particularly useful for the study of atrocity crime and mass harm. Building on the

work of Kelman (1978) and Kelman and Hamilton (1989) who proposed dehumanization as a key component to genocide, Alvarez (1997) presents denial of humanity as a discursive technique that serves to psychologically “distance” the perpetrator from the victim and also remove the victim “from that universe of shared humanity and thereby absolve themselves of their moral obligations” (p. 167).⁶

Holocaust perpetrators did not rely on neutralization techniques solely as a mechanism for overcoming initial reservations about committing atrocities, but also continued to rely on them to maintain their harmful activity as the magnitude of the atrocities continued to increase. Alvarez (1997) proffers that the use of neutralizations worked in tandem with predominant social norms and values, such as pre-existing anti-Semitism and a culture of respect of official authority described by Goldhagen (1996) and Browning (1998). Alvarez (1997) also notes that the use of neutralization theory does not serve as a substitute explanation for crimes of atrocity, rather it “enhances” and builds upon other research by using theory to create a “comprehensive system of explanation” (p. 171).

Alvarez’s (1997) *denial of humanity* concept would appear to be the sort of refinement of the original theory that fits Sykes and Matza’s (1957) call for identifying neutralizations that are crime-specific. Day and Vandiver (2000) specifically confirm the similarities between Kelman’s original concept of dehumanization and Sykes and

⁶ De la Roche (1996) describes the significance of “relational distance” in cases of collective violence and mass harm. As relational distance increases, so too does the likelihood for collective violence. Denial of humanity and Presser’s (forthcoming) “reducing the target,” are neutralizations that serve to increase relational distance.

Matza's (1957) denial of victim. Other scholars (e.g. Cohen, 2001; Hagan and Rymond Richmond, 2008; Maoz and McCauley, 2008; Seu, 2010) have also noted the prominence of dehumanization in cases of mass harm, but none of these authors cite Sykes and Matza (1957). Seu (2010) discusses the role that dehumanization plays in society for "doing denial" in relation to atrocity crime. Seu suggests that dehumanization of victims can occur to excessive media coverage of atrocities that desensitizes people to the urgency of the human suffering taking place, and thus allows people to deny responsibility for taking action.

The remainder of Seu's (2010) piece is largely a "discursive analysis of denial" that provides a three "interpretive repertoires" of how individuals "do denial" in the face of human suffering (p. 443). The first typology called the *medium is the message*, allows individuals to deny responsibility for assisting human rights groups - Amnesty International being the focus in the study - by writing off appeals for assistance as "clever" marketing campaigns intended to manipulate the audience. The second typology also refers to the message in a critical way, thus allowing the individual to deny responsibility for helping. By denying the authenticity victims' stories or the integrity of the group asking for assistance, one can *shoot the messenger* and deny responsibility for donating time, money, or resources to alleviating atrocity. The third typology is the *babies and bathwater* theme used by individuals who question the effectiveness of the agency's programs and treat their support as an all or nothing proposition. In other words, people can deny responsibility for taking action by claiming that the solution is flawed, even in part, and is not worthy of support. Although Seu (2010) does not cite the work of Sykes and Matza (1957) her contribution is arguably a useful examination of

their neutralization *denial of responsibility* and describes how rhetoric is used to deny responsibility for taking action in addressing cases of mass harm and atrocity.

Maruna and Copes (2005) suggests that rejection of neutralizations should be associated with desistance to crime. In that vein, Copes and Williams (2007) identified five *techniques of affirmation* that were used by individuals who were involved in a pro-social lifestyle. Copes and Williams (2007) examined participants of the “straightedge” movement, which encourages young followers to reinforce their decision to uphold personal moral convictions while “resisting the mainstream” upward trends in such behaviors as substance abuse and promiscuous sexual activity. By adopting these techniques of affirmation, youth are able to “sharpen the moral force of internalized subcultural norms instead of blunting them” and thus providing a foundation to prevent drifting into deviant behavior (p. 259). These techniques of affirmation essentially reverse the techniques of neutralization.

In Copes and Williams’ (2007) study, individuals who took full responsibility for their behavior and were proud that they were able to control their actions in the face of external pressure demonstrated *acknowledgement of responsibility*. Many using this technique suggested that sexual promiscuity or substance use was the result of immaturity or lack of self-control. In using *acknowledgement of injury* they emphasized the harm caused by substance abuse, not just to themselves, but also to family members and friends. Through *acknowledgement of the victim* individuals embraced the notion that harmful behaviors have consequences and that other people are regularly harmed by these behaviors. By bringing this idea to the forefront, denial of the victim is rendered difficult. Straightedgers deal with mainstream individuals who criticize their lifestyle by

discounting condemners; they portrayed their critics as “weak and pathetic” (p. 19). A final category identified by Copes and Williams (2007), and one less tethered to Sykes and Matza’s (1957) original typology than the others, is *reference to priority relationships*. This technique of affirmation emphasizes connection to other individuals who inspire one to maintain a pro-social attitude. Copes and Williams’ (2007) contribution to the literature demonstrates the versatility of neutralization theory and could also open a door to understanding the actions of those who avoid engaging in mass harm when those around them do.

Research has provided some measure of support for neutralization theory, but the findings have been mixed. Citing multiple sources, Maruna and Copes (2005) note that tests of the theory have shown “weak but positive relationships” between the use of neutralizations and later participation in delinquency. Despite its popularity among researchers, Sykes and Matza’s theory has not failed to attract criticism.⁷ Based on a sample of 69 high school age boys, Hindelang (1970) found that delinquents do not have moral inhibitions against crime and as a result, neutralizations are not necessary. In a similar study using a sample of 600 incarcerated delinquent youth, Hindelang (1974) replicated the results of his original study and suggested that his findings support the assertion that juvenile delinquents possess a distinct value system that influences their decision to violate the law.

More recent research has sought to clarify and modify the original theory. Minor (1981) proposed a “reformulation” of the original theory, which posits neutralizations as

⁷ As of July 10, 2012, the Google Scholar database lists 2,440 articles and books that have cited Sykes and Matza (1957).

a key cause of offending among those lacking a strong attitude supportive of delinquency. Presenting his “hardening process thesis,” Minor suggested that neutralizations were part of a continuous process whereby one develops a commitment to unconventional norms (p. 301). According to Minor, in the early stages of their criminal career one needs to use neutralizations to overcome the inhibitions resulting from mechanisms of social control. Over time, as one becomes more committed to the values that facilitate their offending, neutralizations are no longer necessary. Regarding the causality proposed in Sykes and Matza’s original theory, Minor suggests that the use of neutralizations may only be said to cause offending in the early stages of the criminal career. During the hardening process, neutralizations become a reinforcing mechanism for attitudes that follow previous criminal behavior.

Using cross-sectional and longitudinal data from the National Youth Survey, Agnew (1994) tested neutralization theory as it relates to youth violence, particularly fighting with peers. Agnew found that over 90 percent of respondents stated that using violence against another person “for no reason” was wrong. This finding held true for those respondents who had been involved in violent behavior during the previous year. He found that 54 percent of respondents reported use of at least one form of neutralization related to violence. Data also revealed that neutralizations are more likely to be invoked by those who disapprove of violence (neutralizations are necessary to overcome inhibitions to violence) and by those who associate with delinquent peers (neutralizations are communicated and reinforced within peer groups).

As discussed previously, Sykes and Matza (1957) suggest that delinquents recognize the dominant value system in society: they do “not necessarily repudiate the

imperative of the normative system” even though their behavior may run afoul of these norms (p. 669). In order to overcome her/his prior commitment to dominant values, the theory has it that the offender will adopt one or more of the neutralizations. Because the “world of the delinquent is embedded in the larger world of those who conform” individuals must learn to negotiate between the two and adapt accordingly (p. 666). The interplay between competing values described here is especially prominent in the rhetoric used by supporters of removal. In crafting justifications for the Indian Removal Act, Jackson and other supporters used adaptations of mainstream values vis-à-vis Christian doctrine, doctrine of discovery, and other dominant themes. These concepts are subterranean values, which “are in conflict or in competition with other deeply held values but which are still recognized and accepted by many” (Matza and Sykes, 1961, p. 716). By applying the concept of subterranean values, it is possible to overcome a weakness in Sykes and Matza’s (1957) original theory that described neutralizations as separate values from dominant society constructed by subcultural groups. In this particular case, as in many cases of mass harm, the perpetrator group is the dominant group in society.

Related Perspectives on Atrocity Crime

Day and Vandiver (2000) observe that disciplines other than criminology, including political science, history, and psychology, have provided key perspectives on atrocity crime that are “remarkably similar” to criminological theories (p. 44). To illustrate this point, the authors discuss three major theories of state-sponsored mass violence – those by Herbert Kelman (1973), a psychologist, and political scientists Daniel Goldhagen (1996) and R. J. Rummel (1995).

Kelman's (1973) concept of *violence without moral restraint* combines three interrelated processes that contribute to genocide: 1) authorization, 2) routinization, and 3) dehumanization. *Authorization* is related to authority figures who either explicitly or implicitly sanction genocide. People obey authority figures either through belief it is their duty or belief they are involved in a "transcendent mission" of vital importance to society. *Routinization* serves to desensitize individual perpetrators by allowing them to focus on performing small parts of the genocidal act rather than looking at the act as a whole. *Dehumanization* makes it easier to attack without restraint or regret since the target is not seen as an individual human being, but part of an undesirable group lacking human worth.

Day and Vandiver (2000) argue that these concepts are very similar to Sykes and Matza's (1957) neutralization theory, especially their concept of *denial of the victim* and *the appeal to higher loyalties*. Indeed, Kelman's concept of dehumanization is a very important contribution to the understanding of mass harm. The portrayal of targeted individuals and groups as "savages" or "animals" is almost universally observed in events of mass harm. This finding provides a refinement to the concept of "denial of victim" contained in Sykes and Matza's (1957) theory.

Day and Vandiver (2000) also point to the well-known work of Daniel Jonah Goldhagen (1996) who coined the concept *exterminationist anti-Semitism* to explain the Holocaust. Goldhagen explained very convincingly that hatred of Jews in German society was "so deep, so widespread, so pervasive, and so virulent" that people welcomed actions taken against the Jews (p. 47). They further point out how Goldhagen refers to the use of dehumanizing rhetoric by those in power to encourage and justify harmful acts against

the target group. The authors suggest that this characterization is distinctly similar to the ideas presented by Kelman (1973), and thus may be better addressed by Sykes and Matza's work. They also proffer that the work of conflict theorists such as Turk (1969) can provide the theoretical framework necessary to explain *how* anti-Semitism deeply engrained in German culture became transformed into a force powerful enough to result in genocide.

Finally, Day and Vandiver discuss the work of political scientist R.J. Rummel, who has published several studies on genocide and mass harm. Rummel (1995) estimates that between the years 1900 and 1987, approximately 170,000,000 have lost their lives due to *democide*, the intentional actions carried out by government (p. 3). This figure excludes those deaths resulting from armed combat, those indirectly killed by military action, and those executed for murder and treason. Rummel (1995) examines this category of harm using a macro-level study of political organizations to identify the degree of totalitarianism in a society using a *democratic-totalitarian scale* (p. 25). His solution to genocide is to encourage nations to adopt greater democratic openness, political competition, public accountability, and limited government. Day and Vandiver argue that although this perspective is not specifically contained within the criminological literature, the field would benefit from adopting it, especially researchers who examine criminal behaviors between ethnic groups.

Another study that lays out a theory of genocide that is strikingly similar to one already existing in criminological literature is Steiner's (2000) research on the Holocaust using two concepts he terms role margin and moral intelligence. By using the Holocaust as a baseline case, his work strives to understand how people within the same social

framework can adopt different roles of participant, spectator, and protector during a genocidal event. To explain this phenomenon, he introduces his concept of the *role margin*, which is one's area of authority over the range of choices in a social interaction. This is tempered by the individual's discretion margin, which is one's authority-based decision making choice span or latitude; freedom of choice left to the discretion of role player. As Steiner notes, "Two people playing the same role will have the same role margin, but individual discretion margins" (p. 67). In other words, Steiner is saying that an individual in a social situation has a certain level of power and autonomy assigned with their position and status, but they retain some degree of agency to decide how to utilize their power.

This concept is strikingly similar to criminologist Tittle's (1995) control-balance theory and his *control ratio* concept. Tittle explains that the likelihood one will engage in deviant behavior is a product of how much autonomy a person possesses versus the amount of control they are subjected to. The further an individual moves away from so-called control balance they are more likely to commit deviant acts, including crime. Tittle also points out that an individual's control ratio can vary depending on their status within a given social setting since different social interactions can give someone more or less autonomy depending on the setting or with whom they are interacting. Individuals make decisions based on their perception of the situation and this in turn shapes the decisions they choose to make in order to maximize their control over the situation. Tittle's theory has been explored to some degree and has been refined in Tittle (2004) following critiques by Braithwaite (1997) and to a lesser extent Savelsberg (2010). It would seem that control balance could serve as a more useful, perspective than Steiner's

separate concepts of role margins and discretion margins because it is more parsimonious. Steiner's theory might also provide insights for improving Tittle's theory, or vice versa.

The second key component of Steiner's (2000) theory is what he calls *social and moral intelligence*. He defines this as the "manner and degree of accountability an interacting individual assumes for the consequences and well-being of others" (p. 64). Steiner measures this concept by gauging the degree of compassion or charity one is willing to display to another especially if it is in conflict with personal feelings and interests. People with low levels of these characteristics are more likely to fall prey to absolutist ideology because they are less likely to act in an autonomous nature and violate the rules placed upon them by the regime in power. This concept of social and moral intelligence is similar to another criminological theory: Hirschi's (1969) social bond theory. Hirschi suggested that the likelihood of deviance is associated with the nature of the bond that they have with society. This bond consists in the dimensions of 'attachment,' which is essentially the moral component of the social bond whereby an individual has a sense of compassion and "sensitivity to the opinion of others" (p. 16), as well as commitment, involvement and belief. Again, Steiner seems to have inadvertently reinvented the wheel so to speak.

In addition to concepts very similar to those contained in control balance theory and social bonding theory, Steiner (2000) also brings in components of strain theory without making any specific reference to anomie/strain theories. Steiner frames one's perception of their role margin in the following terms: "The nature of a given social structure, its goals, the means to achieve them, and the prevalent ideology in time and

space co-determine the way roles will be played by the individuals who occupy them, and thereby will satisfy or dissatisfy their needs and expectations...” (p. 64). In addition, major events including war, economic distress, and major social upheaval are the most likely to trigger the social response necessary for genocide to erupt. This component of Steiner’s theory is essential because this “strain” is a necessary and sufficient component of his “lock and key” relationship between social factors that will trigger genocide (p. 63). One who is familiar with the criminological literature would be hard pressed to deny the similarity between this statement and the ideas contained in the anomie/strain perspectives, which have been studied and refined for over three-quarters of a century by dozens of criminologists.

Waller (2007) examines the topic of crimes of *extraordinary human evil*, a category that includes atrocity crimes, genocide, mass killing, and collective violence. Waller’s examination is focused at the macro level to understand why “ordinary people” become “willing executioners” and commit acts of “human evil *in extremis*.” Waller’s argument is stark and sobering; all of us are capable of committing acts of collective violence, a charge he supports through historical evidence. The goal is to determine what triggers crimes of *extraordinary human evil* and why certain individuals resist this innate human tendency even when they encounter the same social conditions that drive others to harm. Waller suggests the answer is found in the individual response to a process through which individual actors are changed into perpetrators or bystanders of collective violence. Waller argues that collective movements tend to attract those with shared values or shared grievances. The group becomes the “amplifier” for individual values and reinforces group identity through intimidation, definition, celebration, and resource

sharing. When a unique and extraordinary ideology is injected into the group, Waller cites Goldhagen's (1996) concept of *eliminationist anti-Semitism* as an example, this dominant value also becomes amplified within the group as a dominant ideology. In these cases, the group can "suppress dissent... and provide a moral authority" that justifies acts of collective violence through "abandonment of the individual self" (p. 37). In short, Waller argues "the origin of extraordinary evil is in extraordinary groups" that are influenced by historical, political, economic, and cultural conditions (p. 52). Waller outlines a model of collective violence that identifies three primary factors, which combine to explain collective violence: 1) the cultural construction of worldview, 2) the psychological construction of the other, and 3) the social construction of cruelty.

The first factor, the cultural construction of worldview, is concerned with the dominant values of the perpetrator group. Within this category, Waller *instinctual pushes* to commit criminal acts including violence that are either controlled or encouraged by cultural values. This includes the identification of "in-group" and "out-group" characteristics. The second factor, the *psychological construction of the other*, is a process by which the target group becomes identified and justifications for harm are reinforced. The third factor is the *social construction of cruelty*, which provides a cultural context that initiates and sustains harm while helping the perpetrators cope with their cruelty (p. 139). These factors work in combination to form collective behavior and overcome the individual controls over behavior, which includes the innate tendency to commit evil acts. Waller's theory contains several ideas that are similar to those contained in criminological theories. For example, Waller discusses instinctual "pushes" that drive us to commit harmful acts, but external social forces that shape our behavior

influence these urges. This is comparable to the central concept in Reckless' (1961) containment theory, which explains crime as an outcome of the individual's struggle with pushes and pulls to commit criminal acts by overcoming mechanisms that would otherwise "contain" this behavior. Another example is Waller's discussion of the *psychological construction of the other*, which can just as easily be called the social construction of the other. According to Waller, this is a three-part process of "us-them thinking," victim blaming, and Bandura's (1999; 2002) concept of *moral disengagement* which involves labeling, dehumanization of the victim, and moral justification. This is strikingly similar to the concepts contained within neutralization theory. There are other examples within Waller's framework where criminology has a ready-made theory to fit his conceptual framework.

Another perspective that has been proposed to explain mass harm including atrocity crime is found in the *scope of justice* literature (Opatow, 1990). The concept is used to illustrate how "justice" and the rights associated with justice are socially constructed applied. Opatow suggests that each individual possesses their own unique scope of justice, which identifies the groups that are included and excluded from their idea of justice. This is important to the study of mass harm because it examines how groups within a particular society suffer *moral exclusion* from the legal and social safeguards that would normally protect them from being victimized. Specifically, this process "rationalizes and justifies harm for those outside, viewing them as expendable, undeserving, exploitable, or irrelevant" (Opatow and Weiss, 2000, p. 478). Opatow and Weiss outline a variety of *symptoms of moral exclusion* that include various types of "denials" including denial of injury, dehumanization, victim blaming, diffusing

responsibility, and other similar concepts that all help one justify excluding a person or group from their own individual *scope of justice*. Again, these concepts are very similar to the neutralizations outlined by Sykes and Matza (1957).

Smith (2005) demonstrates that political actors must communicate their claims in a language that can be understood and correctly interpreted by the masses or risk being ignored. Use of the “lingua franca of the public sphere” is essential for gaining support and converting naysayers to the movement. In this case, even if Jackson and his supporters had supported exterminationist policies towards the Native people, the dominant and cultural values were not ready to consider such an extreme approach. Rather, removal advocates had to frame their arguments in a way that American society in general could understand and specifically in a language that would meet the staunchest opponents on their own terms. This explains Jackson’s atypical use of religious organizations to push for removal using the same religious and moral concepts being used by opponents.

Smith (2005) examines the issue of rhetoric in his study of contemporary US foreign policy as it relates to the decision to use military force. Although he is specifically trying to answer the question “why war?” his analysis would seem to be applicable to any public policy. Smith answers his research question by examining the cultural context under which that question is asked and suggests that the decision to utilize military force is based upon the civil discourse of American society. This discourse condenses complex socio-political circumstances into a binary rhetoric of good versus evil that can be used to interpret world events and shape the debate on the correct response. Smith outlines multiple specific examples of how language is used in this

manner (e.g. “sane versus mad,” “straightforward versus calculating,” or “law versus power”) to frame social discourse, rally support for their side of the debate, and provide justification for a particular course of action. A *Discourse of Liberty* serves as a frame of reference to conceptualize the deeply valued and sacred ideologies of American society. In contrast, a *Discourse of Repression* is used to identify enemies and portray them as “profane, polluted, evil, and dangerous” (p. 17). When the *Discourse of Repression* is accompanied by rhetoric of an apocalyptic threat posed by the enemy, military force is more likely to be used. If policy makers are unable to adequately frame the threat in these dire terms, it is much more difficult to gain public support for military action. Once support is gained, policy makers must continue to provide evidence of the threat or they risk losing legitimacy and support. This process of framing and dialogue is not unique to war, but can be seen in the debate over any significant social policy including the debate surrounding the Indian Removal Act of 1830.

In contemplating war, policymakers must weigh the costs and benefits of embarking on such an extreme policy, but are also bound by the legal, moral, ethical, and political constraints that surround such a policy decision. For instance, since World War II, the United States has not deployed nuclear weapons even though they remain in our arsenal of options. Our military is controlled by strict rules of engagement and civilian leadership checks its power. When military force is utilized, it is typically only part of a multi-faceted approach to resolving the conflict that includes diplomatic negotiations, multinational coalitions, and conflicts of limited scope. Although the United States has been involved in multiple military actions since World War II, the option of “total war”

has not been utilized as an option even though the US has the technological power to do so. Why has this option not been utilized?

The same answer that Smith (2005) provides for why war is pursued helps clarify why “total war” is often not an option. Our *Discourse of Liberty* establishes the necessary preconditions that govern our decisions to use military force and limits the manner in how we apply that force. I suggest that rather than understanding why we choose war, Smith’s ideas are useful for answering the question of “why this policy decision and why now?” The dilemma faced by policy-makers upon hearing the impending drumbeats of war is only unique in respect to the outcome. The question of why a president chooses one policy option over another, such as why President John F. Kennedy chose *not* to use military force against the Soviets during the Cuban Missile Crisis, is really the focus of Smith’s inquiry. These decisions take place within the social world using the same process of civil discourse that must be squared with the *Discourse of Liberty* Smith describes in his research. The decision to avoid the use of military force is of equal importance, especially when the dominant civil discourse and public opinion would support the decision to attack an enemy. The same logic must be applied in any instance of policy debate, including that related to the Indian Removal Act of 1830.

As I will present in the following chapters, neutralization techniques became a fundamental part of the rhetoric used in support of the Indian Removal Act of 1830. Neutralizations were framed using Smith’s (2005) Discourses discussed above. During the Removal debate, supporters used neutralizations that fit the Discourse of Liberty, emphasizing the law and ideals of justice, and the Discourses of Repression that described opponents as being irrational, deceitful, and emotive. Following Smith’s

(2005) framework, we can see that Sykes and Matza's techniques of neutralization are not simply constructed by individuals or groups to fit a specific set of needs, but must also fit within a broader accepted social logic. This is particularly true in the case of political discourse and policy debate. Smith (2005) notes that policymaking is a "discursive activity" that includes "claims-making" and the "presentation of 'good reasons'" that provide "moral guidance" for stakeholders (p. 11). Neutralizations are a significant part of this discursive process. Neutralizations provide rationalizations for questionable policies while maintaining the "dominant normative system" by claiming that straying from that system is "'acceptable' if not 'right'" (Sykes and Matza, 1957, p. 667). For Removal supporters, their neutralizations had to fit the dominant Discourses in order to seize the "moral and interpretive high ground" in a way that their audience will understand and support (Smith, 2005, p. 13).

Closing remarks

Neutralization theory seems to hold great promise in clarifying mass harm, including atrocity crimes committed by powerful groups. For all of the harm Jackson's policies inflicted, there is no evidence that he or his followers ever endorsed or planned the systematic extermination of Native people. Although some may have advocated the extreme policy of extermination, it was not a mainstream option during the first half of the 19th century. The lack of evidence for popular support of extermination is significant because it strongly suggests that American society simply was not willing to engage in a policy of genocide. Rather, the visible options were limited to removal and the debate was focused on this option. Even this option was seen as extreme in many circles and the

supporters of removal actively had to engage in a campaign to gather support and implement a policy that was unpopular and seen as unjust.

Maoz and McCauley (2008) suggest that democratic societies that typically demonstrate support for human rights and democratic values possess a “vulnerability” to discourses that emphasize out-group threat and dehumanization (p. 114). When a society is subjected to stress, such as the conflict between the Native people and a growing American nation during the 19th century, political leaders can use rhetoric to legitimize harmful policies against targeted groups. Neutralization techniques served as a dominant discursive mechanism through which the Native tribes and their supporters were viewed as impediments, indeed threats, to the growth of white society. As I describe in the following chapters, the rhetoric used by pro-removal leaders was heavily laden with rhetoric that neutralized the harmful nature of the Removal Act.

CHAPTER 5 RESEARCH METHODS

This research examines the rhetoric used by social actors as they debated the implementation of the policy of Indian Removal in the United States. It will clarify how arguments surrounding the debate were framed, with special attention to neutralizations of acts that were recognized as harmful and contradictory to established laws and policy. Although a historical research project may seem out of place in the field of criminology, the study of historical events can provide valuable insights on contemporary social problems. As Johnson and Williams (2011) remind us, many social problems persist over time and “have a legacy that cannot be ignored” (p. 295). The histories of these social problems, and the public policies conceived in response, serve as a “voice of experience” that prevent contemporary policy makers from repeating flawed policies of the past (p. 294).

The Indian Removal Act of 1830 is one such policy with a legacy that continues to be of significance today. As a historical research project, certain unique challenges and limitations must be taken into account. This chapter considers these while providing an overview of the data and methods used for the analysis to follow.

Data

I analyzed historical documents from the period of January 1, 1829 through December 31, 1831. This time frame includes events that are of greatest significance to the policy of Indian Removal including Andrew Jackson’s entry into the Presidency in 1829 and the U.S. Senate ratification of the Treaty of Dancing Rabbit Creek in 1831, which effectively marked the official implementation of Indian Removal policy. This period also contains the bulk of public and legislative debate that ultimately resulted in

the passage of the Indian Removal Act of 1830 and the implementation of removal policy by the Jackson Administration in 1831.

I examined four main sources of literature from the selected time period: (1) the personal and official correspondence of Andrew Jackson; (2) transcripts of the Congressional debates related to the passage of the Indian Removal Act of 1830; (3) documents published by the New York Indian Board, a religious group formed to rally support for the Indian Removal Act; and (4) two essays written by Lewis Cass, who later became the Secretary of War for Andrew Jackson. Each of these sets of documents offers a unique perspective from different participants in the removal debate. Other perspectives would potentially be of interest, such as the material contained in the news media, the correspondence of political actors at the state level, the opinions of ordinary citizens, or the perspectives of the Native tribes. However, the three groups chosen for this research are most directly involved in the political process of constructing and implementing the removal policy and as such they provide the greatest insight for understanding justification of that policy.

I follow other historians in treating Andrew Jackson as the primary representative of Indian Removal policy. Although he was not the only individual responsible for removal policy, main attention to Jackson is logical because of his clear support for removal as a solution to the “Indian problem.” Jackson’s contribution is also of great importance because he was instrumental in constructing and implementing the policy that later became the Indian Removal Act of 1830. As a result, any historical research on this topic would be seriously lacking without an examination of Jackson’s position. Fortunately, the records of the federal government and of American presidents are

generally available, and Andrew Jackson is no exception. Jackson's papers have been extensively researched, compiled, and published in book form through the *Papers of Andrew Jackson* project, which has compiled approximately 100,000 known documents associated with Jackson's career including official correspondence, personal correspondence, and personal papers.

Because the *Jackson Papers* includes a diverse array of documents relating to Jackson's life and career, the collection provides the material necessary to gain insight into his ideas, attitudes, and most importantly, his rhetoric. As of the time of this writing, the *Jackson Papers* have only published documents through the year 1830. As a result, those documents for the year 1831 were gleaned from source documents collected through the guidance of the managing editor of the *Papers of Andrew Jackson* project, Daniel Feller.

Although the legislative debate surrounding Indian Removal took place in the spring of 1830, Jackson entered the White House with his policy largely complete and began to pursue it shortly after his inauguration in March 1829. The subsequent debates in the public sphere and in Congress were primarily in response to Jackson's policy objectives and they were essentially settled by the time the first removal treaty was ratified and the policy was set into motion. Due to this order of events, I included the year 1829 in the analysis so that the subsequent Congressional debates could be understood in proper context. As mentioned above, study documents dated from 1829 through 1831, which includes Jackson's entrance into the presidency through the ratification of the first removal treaty between the US and the Choctaw Indians in 1831.

The *Jackson Papers* project provides a broad sample of documents from all known documents associated with Andrew Jackson and his career that includes “the most significant papers... those documents that most illuminate Jackson, his presidency, and his times” (Feller, et al., 2010, p. xi). The 1829 volume contains approximately one-fifth of all of Jackson’s papers for that year, and the 1830 volume contains approximately one-third of all known documents. The majority of these documents are pieces of personal correspondence with brief mentions of the Removal Act. Documents written for a public audience tend to contain lengthier discussions of Jackson’s removal policy, and thus provide more examples of neutralization techniques. The speeches given in the United States House of Representatives and Senate provide a substantial amount of data for discerning the use of neutralization techniques because they are lengthy discussions explaining the benefits of and justifications for the Indian Removal Act. All but one of the speeches given in support for the Removal Act came from officials from the State of Georgia, the one exception being a speech by Senator Robert Adams of Mississippi, and each were Jacksonian Democrats.

Ultimately I selected a total of one hundred and one (101) documents for analysis. The focus of this research was the rhetoric used by supporters of the Indian Removal Act, therefore only documents that contained substantive commentary in support of the Indian Removal Act of 1830 or removal of the Native tribes in general were included. I excluded documents from opponents to removal; I also excluded documents that otherwise met my selection criteria but only mention Indian Removal as a point of reference. The *Jackson Papers* collection contains a variety of documents, the majority

of which are written by persons other than Andrew Jackson. The data gathered from the *Jackson Papers* can be divided into four main types:

- 1) Andrew Jackson's official speeches intended for a public audience
- 2) Official correspondence from Andrew Jackson to other public officials including Native tribes.
- 3) Official correspondence from Andrew Jackson's administration and subordinates.
- 4) Personal correspondence between Andrew Jackson and his colleagues or acquaintances.

A complete list of documents used is included in Appendix A.

The Congressional debate surrounding the passage of the Indian Removal Act of 1830 is another important source of data for understanding how the policy was legitimized. The debate took place during the First Session of the 21st Congress that was in session during April and May of 1830, nearly a year after Jackson had taken office. The Indian Removal Act of 1830 is significant because it is the first official acceptance by Congress of Jackson's removal policy and it provided legal legitimacy for its implementation (Remini, 2001). The speeches given on the floor of the U.S. House of Representatives were published in *Gales & Seaton's Register*, a forerunner of today's *Congressional Record*. Speeches given in the U.S. Senate were not published there, but are available through other sources. The speeches given in support of the Removal Act are listed in Table 5.1. I used these speeches because they provide interesting insight into the political process that led to the passage of the Removal Act. The debate outlines the main ethical and legal arguments for and against removal. The political process is important to understand because the American legal system is based on the principle of

“rule of law” and this debate was essentially arguing issues of law, including the legal obligations the United States had in regard to the existing treaties that had been signed and ratified between the federal government and the Native tribes.

Table 5.1: Speeches of Removal Supporters in the U.S. House and Senate

Speaker	Venue	Date
Senator John Forsyth, Jacksonian Democrat (Georgia)	Speech in the U.S. Senate	April 15, 1830
Senator Robert H. Adams, Jacksonian Democrat (Mississippi)	Speech in the U.S. Senate	April 20, 1830
Representative Thomas F. Foster, Jacksonian Democrat (Georgia)	Speech in the U.S. House of Representatives	May 17, 1830
Representative Wilson Lumpkin, Jacksonian Democrat (Georgia)	Speech in the U.S. House of Representatives	May 17, 1830
Representative Richard Henry Wilde, Jacksonian Democrat (Georgia)	Speech in the U.S. House of Representatives	May 19, 1830
Representative Henry G. Lamar, Jacksonian Democrat (Georgia)	Speech in the U.S. House of Representatives	May 19, 1830
Representative James M. Wayne, Jacksonian Democrat (Georgia)	Speech in the U.S. House of Representatives	May 24, 1830

The third set of data that I examined was the collection of documents published by the New York Indian Board.⁸ In August 1829, The New York Indian Board published a series of documents in a 48-page pamphlet entitled *Documents and Proceedings Relating to the Formation and Progress of a Board in the City of New York, for the*

⁸ The New York Indian Board was formed on July 22, 1829 under the official name The New York Board for the Emigration, Preservation, and Improvement of the Aborigines in America.

Preservation, and Improvement, of the Aborigines of America (Prucha, 1962, p. 647).

This literature is significant because religious groups had tremendous influence within American society during the first half of the 19th century. During this time many evangelical groups were experiencing a surge in growth, a period which some historians have labeled the “Second Great Awakening” (Hankins, 2004; Hatch, 1989; Noll, 1992). To counter the efforts of evangelicals who opposed the Removal Act, Andrew Jackson enlisted the help of Thomas L. McKenney, a Quaker known as a humanitarian when it came to matters of Indian policy, who had also served as head of the Bureau of Indian Affairs. Under McKenney’s leadership, the goal of the New York Indian Board was to communicate the position of the Jackson administration “under the aegis of humanity and justice and Christian concern for the Indian” and acted under the “understood invitation of the executive” (Satz, 1975/2002, p. 15; Prucha, 1962, p. 637).

The most notable group in opposition to the removal policy was the American Board of Commissioners for Foreign Missions led by Reverend Jeremiah Evarts. Evarts was a staunch supporter of the Native tribes, especially the Cherokee, and presented his criticism of Jackson’s policy in a series of essays published from August-December 1829 in a newsletter titled *The National Intelligencer*. The *Essays on the Present Crisis in the Condition of the American Indians* were very influential among those who opposed Jackson’s removal policy and became the “bible” for those in the anti-removal camp (Prucha, 1985). Jackson tasked McKenney with reaching out to evangelicals and members of the American Board of Commissioners in an effort to gain their support for removal.

The final sources of data I examined for this research were two essays published in *The North American Review*, an influential magazine during the early 19th century. Authored by Lewis Cass, who was the Territorial Governor of Michigan and later served as Andrew Jackson's Secretary of War, the essays were the first widely distributed pro-removal document published by the public press (Perdue and Green, 2005).⁹ The first document was a 60-page essay that appeared in the January 1830 issue of the *North American Review*. The second essay was 47 pages in length and was published in October 1830. These essays provide perhaps the most comprehensive and detailed pro-removal arguments available.

Finally, I drew upon various historical accounts including Feller (1995), Prucha (1986), Satz (1975/2002), and Wallace (1993) to better understand the context within which the removal debate took place. Jackson and other parties in the removal debate did not act or speak within a vacuum, but were influenced by social realities as they understood them. These realities provide points of reference for actors weighing their discursive options (Agnew and Peters, 1986). According to Sykes and Matza (1957) in their original formulation of the theory, if the social context did not pose a dilemma for the individual, neutralizations would not be necessary: "social rules or norms calling for valued behavior seldom if ever take the form of categorical imperatives. Rather, values or norms appear as qualified guides for action, limited in their applicability in terms of *time, place, persons, and social circumstances*" (p. 666, emphasis added). In other words, if neutralizations are used, it must be assumed that a community of speakers

⁹ The original essays did not provide the author's identity, but historians have credited Cass with authorship (Perdue and Green, 2005; Satz, 1975/2002).

recognizes their reasonableness, and neutralizations must be “extensions of patterns of thought prevalent in society rather than something created *de novo*” (p. 669). The key point here is that context matters for how social actors understand a situation, how they define the acceptable norms and values for that situation, and thus how those who diverge from these norms formulate their neutralizations. Fortunately, a great deal of historical research has been conducted on this period of American history that can be used for reference.

Methods of Analysis

The research involved systematically examining the sources of data to uncover the five neutralizations that were identified by Sykes and Matza (1957). Analysis of documents involved identifying instances of these neutralizations used to justify the use of removal:

- 1) *Denial of responsibility*: Statements indicating that the policy of removal is the result of circumstances or influences beyond the actor’s control.
- 2) *Denial of injury*: Statements indicating that removal itself is not harmful to the Native people.
- 3) *Denial of the victim*: Statements that shifted blame to the Native Americans for harms associated with removal.
- 4) *Condemnation of the condemners*: Statements that portrayed opponents as hypocritical, holding selfish political or economic rather than for humanitarian reasons for opposition.
- 5) *Appeal to higher loyalties*: Statements that justified removal through arguments of humanitarianism, religious mandate, and national goals.

In addition to these original neutralizations, I used two other neutralizations proposed by other researchers: defense of necessity (Minor, 1981) and reduction of the target (Presser, forthcoming).

- 1) *Defense of necessity*: Statements that justified removal as a necessary act, albeit an undesirable one. Although Minor (1981) suggests that this neutralization technique is “conceptually different” than denial of responsibility, he does not elaborate or provide a more detailed explanation for the differences. As a result, I treated this neutralization as a refinement of denial of responsibility.
- 2) *Reduction of the target*: Statements that placed the Native people in a subordinate social status that is reinforced by the prevailing paternalistic and Euro-centric values.

Using neutralization theory to guide my analysis, I examined the selected documents and categorized rhetoric into categories of neutralizations. I then re-grouped the selected rhetoric based on dominant themes identified within each category of neutralization. My McKercher, Weber, and du Cros (2008) followed a similar process to examine the content from Internet blogs to understand how tourists used techniques of neutralization to rationalize deviant behavior while visiting other places.

Coding proved to be a challenge because many examples of rhetoric identified seemed to align with more than one category of neutralization. I overcame these challenges in two ways. The most common method I used was to focus on the statement and examine it within the broader context of the surrounding rhetoric to get a better sense of what message the speaker was trying to convey. By referring to the neutralization framework contained within Sykes and Matza (1957), I was able to determine which

category of neutralization was most appropriate. Second, and in particularly difficult cases, I referred the question to my advisor who provided insight and validated my coding.

Challenges, Limitations, and Assumptions

In addition to the coding challenges noted above, I was mindful of assumptions and limitations that are common with any historical research. First, one must recognize that any historical data source is a sedimentary collection of documents passed down through time that is likely incomplete. As Hill (1993) notes, “the routes by which materials come to repose in archives are neither certain or systematic” (p. 8). As such, it can only be assumed that documents are missing due to accidental destruction, theft, or because they have simply been placed aside and forgotten. Another reason for missing data is through intentional filtering over time for practical or personal reasons, a process that Hill (1993) terms *erosion*. Documents may be purged from a collection due to limitations of space, the belief that the document is not important enough to be preserved or that it contains material that may be embarrassing to the individual or organization that possesses it. As such, the variety of documents available to the researcher, albeit vast, has been selected from a larger universe of documents, and we can only speculate on selection factors.

Second, these documents must be examined and interpreted based upon an imperfect understanding of the intent of the original authors. Historical events take place within a specific temporal moment with its own social reality. This has led Bosworth (2001) to describe the past as “a foreign country” with its own unique characteristics that must be examined within their own context accounting for period knowledge, values, and

norms. Antebellum America was a time when carefully polished gentility was an essential component of acceptable high society, and written dialog was no exception to this rule. Bushman's (1992) historical analysis of antebellum society describes a world where social status and image were closely associated and extraordinarily important. A polished image permeated all aspects of life including the spoken and written word. Indeed, attention to appearances is what makes the use of Jackson's carefully crafted rhetoric useful; its careful construction means that it is very unlikely that his words were poorly chosen. Rather, they were specifically selected for the purpose of communicating ideas and presenting a particular image. By piecing together the historical record, even an incomplete one, the researcher may overcome the limitations of personal perception and identify patterns that help "illuminate the everyday life of the distant past" (Bosworth, 2001, p. 435).

As we know from Goffman (1959), people regularly present different, and many times conflicting, portrayals of self. Each of us projects multiple "fronts," including a public front, a professional front, and a private one. Politicians generally have a very intentionally polished professional presentation which is intimately interwoven with the public image they must present. They are also aware of their highly visible position in society and live rather guarded private lives as well. Presidents of the United States and major political figures are also very well aware that their correspondence, public and private, will be maintained for historical posterity. In the case of Indian Removal, the original authors are not available to provide clarification or insight. In this particular case, it is beneficial to have such a broad collection of documents available for comparison, which is not always the case with similar historical projects. The breadth of

the population of documents means more material for comparison and consistency in findings.

Error in any research is of paramount concern to the researcher, and archival research is no exception. In historical archival research, a major source of methodological error is the delimitation process. As Hill (1993) notes, the researcher must make choices among the documents/collections on which to focus one's inquiry. By choosing to reject a collection of documents as not having relevance to the study at hand when it in fact does have relevance, the researcher has committed the "logical equivalent of a type II error" (Hill, 1993, p. 49). Hill also points out that a researcher must exercise discretion and objectivity in how he or she studies the documents that are selected. Stubbornly reviewing a set of documents that are not beneficial at the expense of another beneficial source or falling victim to selection bias in what details are deemed significant, are other sources of error in the archival research process. I delimited my project with these potential sources of error in mind. I was aware that the record of the Congressional debate was likely to be complete. I was also aware that the Jackson papers had been compiled by a group of scholars, thus improving the validity of the documents selected for the project. In sorting through the documents, I made every effort to objectively select documents based on the selection criteria described above. I also made every effort to objectively analyze each selected document for examples of neutralization techniques.

Hill (1993) suggests that ways to avoid these sources of error are through the use of large established collections of relevance and access to professional archivists who are intimately familiar with the collection and who can assist in the research process. Each

of these is available in connection to the collection of documents used in this study. The *Jackson Papers* collection is managed on site at the University of Tennessee and the project's lead editor generously provided me with guidance with navigating and examining the data. The Jackson collection is also less likely to contain fabricated or counterfeit documents since it has been extensively researched, though clearly the possibility remains and must be considered. The staff of the Special Collections section of the University of Tennessee Library also provided invaluable assistance in locating period documents, many of which did not reside in their collection.

I was mindful of other factors related to the integrity of the historical data I examined. The archival researcher must attempt to determine the genealogy of the document. In other words, is it a true original or a copy that may have been altered? Who produced the document and for what purposes? Were they competent? Were they trying to create an accurate and unbiased record? Were they able to collect a wide variety of perspectives? These are all questions that must be addressed in order to give the information in the document proper weight and consideration. It must also be assumed that any collection of records has undergone some degree of filtering – or sedimentation – that can have significant implications for the researcher. Hill (1993) outlines three types of sedimentation: primary, secondary, and tertiary. Primary sedimentation is related to the processes by which people and institutions create, discard, save, collect, and donate materials. Through these processes, documents of significant value may be withheld or destroyed in order to protect the integrity of previous owner of the records, or items that seemingly hold no value are discarded without their potential value being realized. Erosion is another form of primary sedimentation, which is the loss of records through

flood, fire, unintentional loss, etc. Additional types of sedimentation, are related to how a person's papers or official records are gathered, stored, organized, etc. For example, if an individual does not specify that his or her papers and notes be deposited in some archive, they may be lost or destroyed. Stanfield (1987) discusses the role that "historical awareness" plays in the sedimentation process through which prominent individuals will manipulate their papers in order to assure that the historical record will portray the "appropriate image" for future generations (p. 378). Based on the nature of the documents selected for this research, and the wide variety of documents present, I am confident that the historical record and the associated documents are largely complete and suitable for the purposes of researching the use of neutralizations in justifying the Indian Removal Act.

Possibly the greatest source of potential error in using archival research stems from the mental efforts of the individual researcher, such as how the researcher defines concepts, measures the value of the records available, delineates the time period to be studied, and tackles the pitfalls of interpreting historic information using a contemporary perspective. Stanfield (1987) warns of examining historical data using a "preconceived theoretical hunch" that can limit the researcher's ability to let the data "speak for themselves" and provide new theoretical insights and reducing the external validity of the findings (p. 377). Jacobs (2004) describes a similar ethical dilemma of "double vision" that can limit a researcher's ability to maintain objectivity while examining historical data. "Double vision" refers to the tension experienced by the researcher who must overcome their own sympathy for the victims while also maintaining objectivity as a scientific researcher. Einwohner (2011) describes her own difficulties as a Jewish

woman struggling to maintain objectivity while examining historical records from the Holocaust. Although Jacobs (2004) describes “double vision” as an “ethical dilemma that can’t be resolved,” Einwohner (2011) suggests that the researcher can proceed with careful awareness and perhaps use it to their benefit (p. 426).

When conducting historical research, it is easy to become overwhelmed by the multitude of interconnected events and historical progression of time that characterize all social phenomena. This issue of temporality is a troubling one indeed, and opinions on how to deal with it are as numerous as those who discuss it. Since sociologists tend to agree that social phenomena are a “totality” of interconnected social forces, institutions, and historical events, it is impossible to take any one part of some phenomenon and study it as a single object isolated from other social influences without losing some portion of the complete picture. In the present case, this challenge was mediated by clearly delimiting the analysis to the rhetoric of a specific time frame; factors outside of the rhetoric serve as background reference to put the discourse into social context. In other words, this research does not seek to explain removal policy as an ending point in a progression of events, but only seeks to clarify the rhetoric used to justify the policy.

As with any historical analysis, this project has certain limitations. Although the collection of documents used in this research is vast, any research of historical documents must proceed with the understanding that archival records are a sedimentary collection that is likely to be incomplete. As previously discussed, the filtering process over time can involve intentional purging of items for personal reasons, political reasons, practical reasons such as limited storage space, or by individuals who mean well by “weeding out” documents that are seemingly insignificant. The *Jackson Papers* have been subjected to

this type of filtering by the staff of the project. The filtering process can also be the result of unintentional destruction by fire or flood or through simply being lost or misplaced over time. Evidence suggests that the Jackson Papers are largely complete and the sheer volume of documents that remain would likely mitigate any loss of documents. The Congressional speeches and documents of the New York Board do appear to be complete.

A related limitation in this case is the reality that Jackson was not the only individual who was responsible for the policy of Indian Removal. As described in Chapter 2, Indian Removal policy was the evolution of decades of state and national policy ranging from policies of assimilation of native tribes to their forced removal. Jackson was only one in a long line of those favoring relocation of indigenous tribes in some form including Thomas Jefferson, James Madison, and John Monroe. Nor did his interest in this issue did not begin upon his arrival to public office (Satz, 1975/2002). Jackson was not capable of carrying out this policy single-handedly, but rather required the support of legislators in Congress and supporters in American society. Indeed, some of the most influential players in the implementation of this policy were members of the general public. Using the data selected for this dissertation research, it is not possible to explore the rhetoric and actions of these individual citizens in-depth, but I was able to observe their perspectives as far as their voices appear within the data used for this dissertation research.

In addition to the assumptions and limitations discussed above, Black (2005) also cautions the researcher that in digging up the past, especially as it relates to the actions of the state, one is likely to encounter historical facts that force the researcher, indeed all of

society, to confront and come to terms with our past misdeeds. This point is especially prominent in this research, which lends a critical eye towards a very troubling period of American history. Behind the waving symbol of Old Glory lies a history peppered with official acts that contradict our national rhetoric of equality and justice. The researcher should not allow these potentially troubling revelations to taint objectivity or interfere with uncovering the “truth” as closely as it can be ascertained. Similarly, one should avoid allowing their personal biases to turn the research into revisionist history that reflects one’s own opinions on history.

Although the limitations and assumptions discussed above apply to this research, the particular sources of data used in this project provide a significant advantage over other forms of archival research. Archival researchers commonly encounter collections of documents that are disorganized, incomplete, or difficult to access. In this case, all of the documents utilized have been extensively researched and compiled by historians or are part of the public records held by the Library of Congress and other public agencies. These data also allow the researcher to explore the use of neutralizations before the actual harm was committed, which is central to Sykes and Matza’s (1957) original theory and is a rare opportunity in the study of crime and deviance.

CHAPTER 6

FINDINGS: NEUTRALIZING THE HARM OF REMOVAL

The results of this research indicate that neutralization theory holds promise for examining the rhetoric associated with historical cases of mass harm, including atrocity crimes precipitated by powerful actors and political institutions. Throughout the public debate surrounding the Indian Removal Act of 1830, neutralizations – or codes that suspend the usual norms against behavior – commonly characterized the rhetoric employed by agents of the policy. Supporters of the Removal Act employed a variety of neutralizations, to legitimize the policy in the face of domestic and international opposition.

I examined a total of 101 documents for this research that were selected from the papers of Andrew Jackson, speeches made by Removal supporters during debates in the United States House and Senate, and documents published by the New York Indian Board. I identified neutralization techniques in 79 of these documents and the majority of the documents contained multiple examples each. I discerned all five of the original neutralization techniques (Sykes and Matza, 1957) as well as three additional techniques, *defense of necessity*, *reduction of the target*, and, *urgency of the moment*. Urgency of the moment is presented in this chapter and shows promise for future application to the study of mass harm including atrocity crime.

Denial of Responsibility

Denial of responsibility was described by Sykes and Matza (1957) as a type of neutralization through which one's personal sense of guilt can be reduced if their actions are due to forces outside of their control. Cohen (2001) notes that denial of responsibility is the most common neutralization technique identified by researcher, and the results of

this research confirm this. Denial of responsibility was identified in 38 of the 101 documents examined. Supporters of removal denied responsibility by portraying their policy as an inevitable outcome of policies that predated the Removal Act, of which there were no alternatives. For example, during his Senate speech of April 20, 1830, in which he endorsed removal, Robert H. Adams called the plight of the Native tribes as a bleak “melancholy truth” and related that “the day on which the white man set his foot on these shores, the destiny of the red man was fixed forever” (p. 10). This statement reflects the notion of inevitability that relieves the speaker of any responsibility for the circumstances of the Native people. The destiny of the Native people is fixed; legislators have been thrust into the situation by fate.

Speakers occasionally cited duty as a justification for supporting the Removal Act. For example, concerned that removal would be accomplished by force, General Edmund Pendleton Gaines (1830, March 20) hesitantly offered support for Jackson’s policy, remarking, “I constantly, upon every important point of duty call to mind the oath which I have taken...” (Letter to Andrew Jackson, para. 2). During his Second Annual Message to Congress, Jackson (1830) described his policy as “a duty which this Government owes” to Georgia and other states where Native tribes resided (para. 98).

The Jackson administration also shifted responsibility for the circumstances surrounding Indian Removal onto the State of Georgia and the Native tribes, especially the Cherokee. In several documents, Jackson and his subordinates refers to the “restless sprit of Georgia” and complains that “the course pursued by Georgia is well calculated to involve her & the United States in great difficulty” (Letter to John Coffee, 1829, October 4, para. 1; Letter to John Overton, 1829, June 8, para. 3). In a letter to Jackson dated

March 2, 1830, John Coffee criticizes Georgia who “clamour[s] for the Indian lands, and she alone is entitled to blame if any there be” (para. 2). Jackson’s Secretary of War John Eaton (1829, April 18) declared that the passage of the Cherokee constitution was “the immediate cause, which has induced her [Georgia] to depart from the forbearance she has so long projected” (Letter to Thomas McKenney). Through this rhetoric, Jackson and his Secretary of War are shifting responsibility to residents and officials in the state of Georgia, thus placing them in a “difficult” position, which can only be solved through forcing the Native tribes to relocate to the West. The rhetoric presented here is a good example of what Sykes and Matza (1957) describe as a “billiard ball” conception of self where circumstances are “outside of the individual and beyond his control” (p. 667).

Jackson (1830) denied responsibility in his Second Annual Message to Congress: “Can it be cruel in this Government when, *by events which it can not control*, the Indian is made discontented in his ancient home to purchase his lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year in his new abode?” (para. 95; emphasis added). Thomas McKenney (1829) conveyed a similar message of inevitability, stating, “the Government of the United States will not resist Georgia in this exercise of her sovereignty. *The die, therefore, is cast*” (Letter to Jeremiah Evarts, p. 15, emphasis in the original).

These quotes demonstrate that the Jackson administration and supporters distanced themselves from the conflict between Georgia and the Native tribes by assigning responsibility to Georgia for pressing the issue and on the Native tribes for not yielding to Jackson’s policy of removal. According to this rhetoric, Jackson and his subordinates are victims of a situation that is beyond their control, one for which they are

obligated to intervene. By shifting responsibility to others in addition to invoking an air of inevitability to the situation, Removal supporters were able to deflect criticism and vindicate their own position in relation to those who are deemed responsible for the situation.

Defense of Necessity

Defense of necessity is one of the more common neutralizations utilized by supporters of removal. Proposed by Minor (1981), this neutralization technique allows one to justify a harmful act if it can be portrayed as necessary “even if it is considered morally wrong in the abstract” (p. 298). Although Minor described it as similar to, but “conceptually different” than Sykes and Matza’s (1957) concept of denial of responsibility, he did not elaborate on this point. For the purposes of this research, defense of necessity will be treated as a subcategory of denial of responsibility. As used by its supporters, the Removal Act was justified as being a necessary lesser of evils faced by the Native people and policymakers. Defense of necessity was identified in 27 of the 101 sample documents.

One clear example of the defense of necessity is seen in Jackson’s (1830) Second Annual Message to Congress. In an effort to rouse sympathy for his policy, he warned:

The tribes which occupied the countries now constituting the Eastern States were annihilated or have melted away to make room for the whites. The waves of population and civilization are rolling to the westward, and we now propose... to send them to a land where their existence may be prolonged and perhaps made perpetual. (para. 93)

He continued with such fatalistic language in proclaiming, “[The Indian] is unwilling to submit to the laws of the States and mingle with their population. To save him from this alternative, or perhaps utter annihilation, the General Government kindly offers him a new home...” (para. 96). In his talk to the Creek nation, Jackson (1829) justifies removal as necessary so that “my white and red children may live in peace” (para. 6).

The Congressional speeches offer many examples of this neutralization technique in use. Representative Wilson Lumpkin (1830) proclaimed, “Yes, sir, good and evil are placed before you. The only hope of the salvation of the Indians is in your hands. Their destiny is suspended by a single thread” (p. 1024). Thomas McKenney (1829) referred to the “evil” circumstances surrounding the “fatal connexion” between the Native tribes and white settlers in the South (Letter to Jeremiah Evarts, p. 12). In his address to the New York Board, McKenney (1829) lamented, “The forests... and their game, are gone. The Indian can no longer bury himself in the one, nor subsist on the other... he must labour, or starve” (p. 33).

As applied during the Removal debate, defense of necessity allowed supporters to deny responsibility for the harms associated with the policy by representing it as a solution to a problem lacking any other viable solutions. Removal was portrayed as the lesser of evils and failure to adopt the policy of removal would result in the destruction of the Native people.

Urgency of the Moment

A particular type of denial of responsibility is a neutralization that I call “urgency of the moment.” With this rhetorical device, supporters of removal represented the circumstances as extreme and in need of immediate attention. The message evokes a

distinct air of urgency that goes beyond the language typically employed through defense of necessity, and demands that drastic measures be taken to prevent dire consequences. I discerned this neutralization technique in 11 documents. This technique is reminiscent of the phrase, “desperate times call for desperate measures.” The Indians faced a grave and urgent situation, removal was the only solution, and failure to do so as quickly as possible would lead to the extermination of the Native people.

An especially dramatic example of “urgency of the moment” can be found in a letter from Reverend Thomas McKenney, head of the New York Indian Board, to Reverend Jeremiah Evarts, a leader in the efforts against removal. McKenney (1829) wrote at length of the “fatal issue” at hand, and described resistance to the Removal Act as “unkind, nay, unmerciful,” proclaiming that “the crisis has arrived in which they are to be *saved or lost!*” (pp. 17-19, emphasis in the original). Quoting John Quincy Adams, McKenney invoked urgency during his address to the New York Board declaring that unless removal was pursued, “it will be difficult, if not *impossible*, to control, their *degradation* and *extermination* will be INEVITABLE!” (pp. 37-38; emphasis in original). Later in the same speech, McKenney reminded his audience “unless the Indians can be prevailed on to remove... *they must perish*” (p. 43).

In several other cases, urgency was associated with rhetoric that placed the Native tribes in an even more helpless situation since they lacked the ability to overcome the impending danger without intervention from the federal government and yield to Removal efforts. In a letter to Andrew Jackson on January 8, 1830, Nashville lawyer Alfred Balch highlighted the urgency of the moment: “These untutored sons of the Forest, cannot exist in a state of Independence, in the vicinity of the white man. If they

persist in remaining where they are, they may begin to dig their graves and prepare to die” (para. 12). In his speech to Congress on May 17, 1830, Representative Wilson Lumpkin of Georgia described the Removal Act as being of “vital importance... a measure of life and death” and warned that should Congress reject the bill they “leave them [the Indians] to perish” (p. 1016). He called upon his fellow legislators to “avoid these evil consequences... delay is pregnant with great danger to the Indians; what you do, do quickly, before that evil day approaches” (p. 1016). In concluding his speech Lumpkin again warned, “Yes, sir, good and evil are placed before you. The only hope of the salvation of the Indians is in your hands. Their destiny is suspended by a single thread” (p. 1024). These selections from Lumpkin’s speech illustrate the use of fatalistic language wrapped up in an all-or-nothing proposition. Rather than a complex issue involving multiple interests, the Indian problem was reduced to the binary language of a “life and death struggle between the forces of good and evil.”

Urgency of the moment may be useful for examining other cases of atrocity crime due to the message of extreme duress that the rhetoric contains. By portraying a situation as one demanding immediate drastic action to ward off dire consequences, the opportunity for debate is limited as is the range of viable options. When a particular group can be blamed for troubling social conditions, and the circumstances can be represented as dire, drastic actions can be justified against the target group. It seems likely that the more drastic the proposed actions are, the more important urgency becomes to policy makers.

Appeal to Higher Loyalties

An appeal to higher loyalties was the most common neutralization in the research documents, articulated in 36 of the 101 documents. The doctrine of discovery, the doctrine of conquest, the ‘right to security,’ and states’ rights were main themes identified in the data that were cited as transcendent values for removal supporters. These were legitimized by claims to higher loyalties including Christian doctrine, natural law, patriotic duty, and westward expansion, which would later be called Manifest Destiny. These concepts served as a dominant set of values and social goals through which Indian policy was conceived.

Doctrines of Discovery and Conquest

The doctrines of discovery and conquest were legal concepts cited by supporters of removal as moral justification behind American Indian policy during the 18th and 19th centuries. The question of who possessed the natural right to possession of the land in America was central to the removal debate. The doctrine of discovery was a natural law concept that gave ownership of newly discovered land to the nation under whose flag the territory was discovered. Upon the discovery of the Americas and its indigenous occupants, European powers interpreted the doctrine of discovery to mean that the “civilized” European nations had a natural right to claim title to the lands occupied by “uncivilized” indigenous people. (Fitzpatrick, 2002). For European society, and later American society, it was believed that mankind had a natural right - a Christian duty - to claim, settle, and cultivate vacant lands. Although the doctrine of discovery allowed the Native people to retain their natural rights to occupy the land, the “uncivilized” indigenous people were obligated to yield and adapt to the rights of the superior

European powers. Once European powers laid claim to territory under this doctrine, they also claimed the authority to administer natural law through force if the Native people resisted the efforts to civilize and bring Christianity to the new land (Fitzpatrick, 2002).

By the 19th century, the doctrine of discovery had become part of international law and was endorsed by the United States Supreme Court in the case of *Johnson v. M'Intosh* (1823). In this case, Chief Justice John Marshall described the Native Americans as “in a state of nature, and have never been admitted into the general society of nations” (p. 567). Chief Justice Marshall affirmed the doctrine of discovery stating that “discovery is the foundation of title, in European nations, and this overlooks all proprietary rights in the natives” (p. 567). This decision reinforced the preexisting assumption of right to land title by the United States and the subordinate status of the Native tribes, which was cited by the supporters of Indian Removal in the following years.

Inherent within the doctrines of discovery and conquest is the understood divine mandate that mankind should cultivate and improve the land, which serves as a higher loyalty for Removal supporters. Secretary of State Lewis Cass (1830, January) alluded to this biblical mandate declaring that “the course of Providence” had placed white Europeans in the New World with the decree “that the race of pale men should increase and multiply” (p. 107)¹⁰. The credo can also be observed in references to the story of Jacob the farmer and Esau the hunter that are common during the Removal debate. Genesis chapter 25 recounts the story of Esau who returns from an unsuccessful hunt and

¹⁰ Cass is referring to Genesis 9:7, which says, “And for you, be ye fruitful and multiply; bring forth abundantly in the earth and multiply therein.”

asks his brother Jacob for food; Jacob provides it in exchange for Esau's birthright. Later, Jacob pretends to be Esau in order to receive Esau's blessing from their blind father, Isaac. When the deception is discovered, Isaac tells Esau that "by the sword shalt thou live, and shalt serve thy brother" Jacob. Rogin (1975) suggests that the Jacob and Esau story "enshrined for Bible-reading Americans the right of the farming brother to claim the inheritance of the hunter" (p. 126). For many, Jacob was the symbol of white society and the "red" man represented Esau, who was destined to lose their birthright to those who would fulfill God's mandate to till the soil. Referring to this story, Representative Richard Henry Wilde (1830) proclaimed:

"It's the *order of nature* we exclaim against. Jacob will forever obtain the inheritance of Esau. We cannot alter the *laws of Providence*... the earth was given for labor... not to the red, or to the white, but to the human race -- and the inscription was, to the wisest -- the bravest -- to virtue -- and to industry" (p. 1103, emphasis added)!

The Jacob and Esau story reduced the standing of the Native people and subjected them to the control of white society. Of the possibility that the Cherokee would adopt an agrarian lifestyle, Representative Henry G. Lamar (1830) made his beliefs clear: "They [the Indians] are unfavorably situated to advance one grade above the wandering savage, to the life of a herdsman, which is the natural progress of society... It is incompatible with their inclinations and habits of indolence" (p. 1119). Representative James M. Wayne (1830) channeled similar rhetoric:

God in his providence, had been pleased to reveal himself to the man of another... It was by this providence which gave our fathers the right to plant themselves by the side of the Indian... What though the Indian roved through the forests of America contemporaneously with the wanderings of God's chosen people in their escape from Egyptian bondage -- time could give them no right to more of the soil than he could cultivate; and the decree which denied him to be lord of the domain, was the Almighty's command to his creatures to till the earth. (p. 1125)¹¹

The Cherokee challenged the application of the discovery doctrine in appeals to the federal government during the debate over the Removal Act. In 1824, a delegation of Cherokee met with John C. Calhoun, then Secretary of War to President James Monroe. In response to efforts to force the Cherokee to submit to Georgia's authority, the Cherokee reminded Calhoun that "the Cherokees are not foreigners but original inhabitants of the United States; ... and the states by which they are now surrounded have been created out of land which was once theirs" (Wilkins, 1986, p. 155; Finkelstein,

¹¹ By 1830, John C. Calhoun reported that the Cherokee "were all cultivators, with a representative government, judicial courts, Lancaster schools, and permanent property" (Finkelstein, 1995, p. 36). Representative Wayne and others did not give credibility to the advancements of many Native people, especially the Cherokee, who had adopted an agrarian lifestyle and even owned slaves. In an article published in January 1830, Secretary of War Lewis Cass referred to these advancements as, "exaggerated representations" and "promises never to be kept" (p. 72).

1995). In other communications with federal officials, the Cherokee invoked the claim to “the right of inheritance and immemorial possession” and asked “how then shall we directly confess the right of another people to our land by leaving it forever?” (Finkelstein, 1995, p. 38). The doctrine of conquest soon provided an additional supporting discourse.

In addition to Christian principles to legitimize the doctrine of discovery, Removal supporters also invoked an appeal to Christian morals as justification for supporting Removal. During his address to the New York Indian Board, Thomas McKenney (1829) proposed how Removal supporters:

...with the hope of Christians...have associated and now stand pledged to the world, and to heaven, to exert your best energies for the ‘emigration, preservation, and improvement of the Indians.’ We wish you, in a work so noble, and over which mercy will delight to preside, and on which you may with so much confidence implore the blessings of heaven, the most abundant success (p. 43).

Arguably, there was no higher loyalty recognized in 19th century American society than that owed to God. By representing the Removal Act as a moral imperative mandated and proposed in accordance with Christian mandates, McKenney constructs a highly compelling argument. History has shown time and again how an appeal to religious authority has been used to legitimize harmful acts, so it is not surprising to see its appearance in the removal debate.

Closely related to the doctrine of discovery, the doctrine of conquest also legitimized efforts to extend jurisdiction over the Native tribes. The doctrine of conquest concept is reflected in the common phrase “to the victors go the spoils” a centuries-old

tradition in human history. Channeling this idea, Senator Robert Adams (1830) argued that following the signing of the American Declaration of Independence and subsequent victory over Great Britain in the Revolutionary War, “whatever was gained by conquest belonged to the conqueror; that the United States were the conqueror, and that all acquisitions accrued to them... the Indians within the limits of the States did not form an exception” (p. 13). In effect Adams was arguing that the Native people were residents of the territory held by Great Britain, subjects of the British, and subsequently became allies of the British; being on the losing side of the War, they were subject to the control and authority of the United States. Although there is overlap between appeal to higher loyalties and the neutralization “denial of victim,” in this particular usage, Adams is emphasizing the transcendent value of the doctrine of conquest, which is grounded in the natural law philosophy and early American political thought.

Other supporters of removal cited the doctrines of discovery and conquest as well, including Representative Wilde in his Congressional speech on May 19, 1830: “These Indians joined the British... they were conquered... they admitted they were conquered people” (p. 1093). The argument was not a novel interpretation of law, but rather had precedent in the aforementioned *Johnson v. M’Intosh* (1823) case, which declared the indigenous people residing east of the Mississippi River a conquered population due to the defeat of the British. Adams’ statement also reveals another key point. By employing the phrase “United States were” in the plural, Adams is emphasizing his subscription to a rigid definition of states’ rights and thus the authority of the individual states to govern Indian affairs. This interpretation of the federalist system provides legal justification for Georgia’s extension of state law over the Cherokee.

Secretary of State Lewis Cass invoked an addition appeal to higher loyalties in his January 1830 essay on Indian Removal. Cass presented the concept of “right of security” as a justification for the Removal policy. Although this concept does have some clear overlap with “denial of victim,” like the two previous concepts, right of security is treated as a transcendent value that is unquestionable. Cass invoked right of security as the ultimate fundamental right available to “civilized” nations, even higher than the aforementioned concepts. On this concept applied to Removal, Cass (1830, January) states:

This general right of control is not subject to the artificial rules of construction already referred to, which too often defeat the wholesome operation of municipal law. *It depends on higher principles, and appeals to the moral sense of mankind.*

It is founded in what is termed... ‘the right of security’ (p. 94, emphasis added).

Cass continues and describes the Native people as “a nation of a restless and mischievous disposition” and as such, the United States maintained the right to “put it ever out of its power to injure them” (p. 94).¹²

States’ Rights

¹² Cass is quoting the words of Emmerich de Vattel, an 18th century political philosopher. In *The Law of Nations or the Principles of Natural Law*, Vattel (1758/1797) states if “there is anywhere a nation of a restless and mischievous disposition, ever ready to injure others... it is not to be doubted that all the others have a right... to repress and chastise that nation, and to forever put it out of her power to injure them” (Book 2, Chapter 4, §53, p. 155).

The states' rights philosophy was another oft-mentioned appeal to higher loyalties, which Robert Young Hayne (1831) described as the "highest dictate of patriotism" (Letter to Andrew Jackson, para. 7). This philosophy is central to the separation of powers embodied in the political structure of the United States. Like the right of security and the doctrines of discovery and conquest, states' rights is cited as a transcendent value for Removal supporters. In support of the states' rights argument, Secretary of State Lewis Cass (1830, January) indicated that "writers upon natural law" and "courts of high character" were opposed to allowing Native tribes to establish nations within the boundaries of existing states (p. 102). With the ratification of the U.S. Constitution in 1789, the nation established a federalist system of government involving shared power between the federal and state governments. Reflected in the 10th Amendment to the Constitution, the original conceptualization was to maximize the sovereignty of the states and limit the authority of the federal government. Although this debate continues in contemporary America, it was even more prominent during the 19th century. Jackson was certainly sympathetic to states' rights argument, and was also concerned about the potential for military conflict should the federal government act in a way that strongly challenged Georgia's claim to sovereignty over Native tribes within its jurisdictional boundaries (Prucha, 1986).

A strong example of the states' rights argument is found in a letter written by Andrew Jackson on October 15, 1829 to David W. Haley. In response to Mississippi's extension of state law over the Native tribes, Jackson warns, "so far from the United States having a right to question the authority of any State, to regulate its affairs within their own limits, the General government will be obliged to sustain the States in the

exercise of this right” (Letter to David W. Haley, para. 3). In a draft section of Jackson’s Second Annual Message to Congress, Postmaster General Amos Kendall (1830) included a statement proclaiming that the “privileges” contained in treaties with the Native Americans “must be construed as subordinate to the sovereign right of the states” (para. 4). Although the statement was not included in Jackson’s (1830) final draft of his Annual Message, he echoes it by declaring:

No act of the General Government has ever been deemed necessary to give the States jurisdiction over the persons of the Indians. That they possess by virtue of their sovereign power within their own limits in as full a manner before as after the purchase of the Indian lands; nor can this Government add to or diminish it. (para. 98).

Jackson was not the only person to invoke the states’ rights argument, as a higher loyalty however.

Representative Thomas Foster (1830) called for Congress to not “violate the rights of Georgia as a sovereign member of the Union, nor interfere with her legitimate powers” (p. 1037). Reverend Thomas McKenney (1829) also used the states’ rights argument suggesting that the federal treaties did not recognize the “sovereignty of the Indians, against the sovereignty of the States” (Letter to Jeremiah Evarts, p. 12).

McKenney (1829) revisited this argument in his address to the New York Board stating that efforts to improve the circumstances of the Native tribes, “could never have contemplated the carving out from the members of our confederacy, against their will, portions of their territory, on which to erect separate and independent Indian states” (p. 36). Each of these examples demonstrates how the doctrine of states’ rights was used to

supersede the rights of the Native people, rights which many believed was protected in federal law and treaties. Sykes and Matza (1957) held that “deviation from certain norms may not occur because the norms are rejected but because other norms... are accorded preference” (p. 669). The examples discussed here demonstrate how Removal supporters negotiated between dominant norms in society, particularly those beneficial to white society, and held them to be more important than the rights afforded to Native people.

Condemning the Condemners

Condemning the condemners is a neutralization that Sykes and Matza (1957) describe as a situation where the delinquent “shifts the focus of attention from his own deviant acts to the motives and behavior of those who disapprove of his violations” (p. 668). This neutralization was commonly channeled by supporters of removal and was identifiable within twenty-nine (29) documents examined for this research. The condemnation focused on three specific groups: the religious officials, politicians, and tribal leaders who resisted the removal policy. Each group was targeted with a different sort of criticism in order to discredit their stance in opposition to removal. In discrediting opponents, the supporters of removal, which Senator Robert H. Adams (1830) described as “pretended (sic) philanthropists,” would typically portray themselves as victims of unfair criticism (p. 8). Removal supporters generally targeted religious leaders and missionaries who aided the Native tribes, political opponents, “half-breed” chiefs from the individual tribes who were tribal leaders who had European heritage in addition to their Native heritage. The rhetoric used by Removal supporters to describe these opponents commonly reached the level of “bitter cynicism” described by Sykes and Matza (1957).

Religious Leaders and Missionaries

Removal supporters singled out religious leaders and missionaries who aided the Native people in their resistance to the removal policy. In a letter written to Andrew Jackson, Mississippi state representative Daniel W. Wright (1829) criticized the opposition incited by “a few designing individuals among them (that class of people called Missionaries not being the least conspicuous)” who were impeding implementation of removal in the southern states (para 2).

Representative Wilson Lumpkin (1830) also engaged in lengthy criticism of his opponents whom he described as “intermeddlers and disturbers of the peace and harmony of society” who were “straining every nerve and using every effort to perpetuate on the people whom I represent the evils which they have borne for so many years” (pp. 1020-24). His primary targets were the religious leaders who worked in opposition to the Removal Act, a “christian party in politics, who condemn all their brethren who will not unite with them” (p. 1021)¹³. Against this group of evangelicals, Lumpkin unleashed a torrent of criticism calling them “canting fanatics” who referred to Georgians as “atheists, deists, infidels, and sabbath-breakers, laboring under the curse of slavery” (p. 1020). He also condemns the “intruders, from these philanthropic ranks, flocking upon the poor Cherokees, like the caterpillars and locusts of Egypt” (p. 1022). Senator Robert H. Adams (1830) also invoked this neutralization technique in his criticism of Removal opponents:

¹³ This statement was likely a reference to the words of Presbyterian Reverend Ezra Stiles Ely who in 1827 called for Christians to help build a “new Christian party in politics” (Feller, 1995, p. 116).

...if they really believe that civilized man has lawlessly usurped the territory and dominion of the barbarian, then let them show their sincerity and consistency, by asking for this much injured and almost exterminated race, that ample measure of justice which the magnanimity of their professions purport; let them not only ask, but do justice... But I think it is not difficult to foresee that this work of restoration would not proceed far before the pretended philanthropist would quarrel with his own rule of abstract justice, and content himself with permitting things to remain as they are. (pp. 7-8)

Political Opportunists

Andrew Jackson's various correspondences reveal many examples of condemning the condemners. There, he described opponents as political opportunists seeking to gain economically through their business ties with the Native tribes or politically through their opposition to the Jackson administration. In a letter to William Berkeley Lewis, Jackson (1830, August 31) collectively called removal opponents "the most corrupt & secrete combination that ever existed" (para. 1). In another letter Jackson referred to a group of Pennsylvania legislators and the "secrete plans of this junto" who utilized "very wicked means" to resist the passage of the Indian Removal Act, thus "disregarding the best interests of their country" (Letter to John Coffee, 1831, April 24, para. 2). In an undated note written in August 1830, Andrew Jackson voiced his disapproval of the efforts of William Wirt "& other evil councillors" who aided the Cherokee resist removal (para. 1). As the U.S. Attorney General under President John Quincy Adams, Wirt was a logical target of Jackson's frustration. Wirt was viewed as a political opportunist who was leading the resistance effort as a political ploy described by Georgia Governor George

Rockingham Gilmer described as a “most wicked and selfish attempt to embarrass the [Jackson] Administration (Feller, et al., 2010, p. 471).

Georgia Senator Robert H. Adams (1830) followed a similar strain of logic, describing the South as victims of creeping Congressional power and “tyranny” perpetrated by ungrateful Northern states who are unjustly using “a few miserable dollars of the millions wrung from the cultivators of the soil, judiciously laid out, friends enough will be obtained, even amongst those who are plundered, to preserve this system” (pp. 20-21).

Nor was the US Supreme Court immune to criticism, as evidenced by the content of a letter written by George Rockingham Gilmer and dated June 20, 1831. In the document, Gilmer criticized the tribal leadership and referenced the “extra judicial opinions of the Supreme Court” in the Cherokee Nation v. Georgia decision handed down a few weeks prior (para. 2).

Lumpkin (1830) condemned the actions of those politicians who oppose the Removal Act, describing them as political opportunists who placed anti-Jackson sentiment over the welfare of the Native tribes and the United States. To support his position, he pointed to the lack of any anti-Jackson members of Congress in support of the Removal Act:

God forbid that I should ever be so far infatuated by party prejudice, for or against any man or set of men, as to use my influence to destroy the remnant of the sons of the forest, or jeopardize the best interests, the peace, harmony, and prosperity of any of the states or territories of this Union... I love my friends, but I love my country more (p. 1024).

Senator Forsyth (1830) expressed a similar perspective in suggesting that “many respectable people had been deceived” and were being used as “the unresisting instruments of the artful and designing, and ministered to political malignity while they believed themselves laboring in the cause of justice and humanity” (pp. 5-6).

Opposition to the Removal Act largely came from politicians and religious leaders in the New England states. During the Congressional debate over Removal, Senator John Forsyth and Representative Wilde each pointed to the “tender mercies” these Northern states extended to the indigenous peoples of the United States. Representative Richard Henry Wilde (1830) noted how the Native people of the North had “perished, or removed, or been absorbed into the mass of the population” a trend that “has produced no violent sensation” (p. 1094). Senator John Forsyth addresses this topic more verbosely:

Georgia is the theme of the evening chant and matin song of all the calumniators of the Union, who have taken the Cherokee into their holy keeping. No epithet is too strong, no reproach too foul to cast upon her for having followed the example of ten states in the exercise of jurisdiction over the Indians within their territory...
(p. 8)

Each of these statements discredits the opposition and shifts the focus of the condemnation to the Northern states where opposition was most prevalent.

“Half blood” Chiefs

In a letter to Jackson dated June 4, 1831, Georgia Governor George Rockingham Gilmer lashed out at the “white men half breeds, and wealthy chiefs who reside on the

public roads cultivate rich plantations, own the ferries and bridges and other places of profit, are exempt from the suffering which press upon the mass of the Indian people” (para. 2). Georgia Representative Richard Henry Wilde (1830) described the Cherokee constitution as “the work of white men and half breeds. Its object was to throw the power of the tribe, the lands, the offices, the annuities of the tribe, into their hands” (p. 1094). Senator John Forsyth (1830) criticized those same “half breeds and whitemen” who use “the money which ought to be used to feed and clothe the common Indians, who are represented as half starved and naked wretches, [instead] it is applied to the support of a printing press to the establishment of exchanges of newspapers...” (p. 8).

Representative Wilson Lumpkin (1830) criticized the “lordly chiefs, of the white blood” who fought removal and, in his opinion, prevented an eager Native population from emigrating to the west (p. 1017). He also accused half-blood tribal leaders of conspiring with religious leaders from the North to resist removal for personal profit, thus leaving “the common Indians to struggle with want and misery, without hope of bettering their condition by any change but that of joining their brethren west of the Mississippi” (p. 1022). Similarly, in his Congressional speech, Representative Henry G. Lamar (1830) condemned the “few arrogant chiefs, half breeds, and renegade white men, control the Cherokee nation” who refuse to negotiate removal treaties and refuse to let the tribe relocate (p. 1113). Later in the speech, he blamed those leaders for the Natives’ downtrodden state: “the property of the nation is concentrated in the hands of a few, while nine-tenths of them are proportionably (sic) miserably poor, abject, servile, and degraded... the rapacity of the chiefs has reduced them to this state of poverty and degradation” (pp. 1119-20).

Georgia Representative Wilson Lumpkin suggested that criticism of the Removal Act was not justified because the policy “involves but little that can be considered new principle” and cited the opinions of Presidents Jefferson, Madison, Monroe, Adams, and Jackson to offer evidence that other respected political leaders have considered removal a legitimate policy option, although only Andrew Jackson had given specific endorsement to the policy. A similar logic was presented in the speech given by Representative Richard Henry Wilde on May 19, 1830.

These examples demonstrate that the supporters of removal shifted the focus of the debate to discredit the arguments of opponents and thus legitimize their own actions and motives. By portraying opponents as having questionable motives, supporters of removal purify their own motives and claim the moral high ground. This technique also served another important purpose by reinforcing the other arguments for removal. If those speaking on behalf of the Native people are deceitful, misguided, and self-serving, then guilt and condemnation for supporting the Removal Act could be minimized.

Denial of Injury

Sykes and Matza (1957) suggested that delinquents frequently neutralized guilt for their harmful acts by denying that the victim was actually harmed or by downplaying the harm by describing it as a trivial matter. Denial of injury was identified in 26 of the 101 documents examined. A claim to benevolence was the common means by which speakers denied injury to the Native victims of removal policy.

Supporters of removal denied injury to the Native people by claiming that the policy was pursued for their own benefit. For example, Andrew Jackson (1829, October 12) described his policy as “just and humane” (Letter to John Gadsden, para. 3). Andrew

Jackson (1830) also made a clear statement of denial of injury in his Second Annual Message to Congress:

Doubtless it will be painful to leave the graves of their fathers; but what do they (sic) more than our ancestors did or than our children are now doing? To better their condition in an unknown land our forefathers left all that was dear in earthly objects... And is it supposed that the wandering savage has a stronger attachment to his home than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers than it is to our brothers and children? Rightly considered, the policy of the General Government toward the red man is not only liberal, but generous. (para. 94-96)

In this quote, Jackson is denying injury in two ways. First, he minimizes the harm of his Removal policy by suggesting that it is no different, or any more harmful, than the difficulties encountered by whites who emigrated to the United States. Second, and more clearly, he is denying harm altogether by describing the policy as “generous.”

Other supporters of removal relayed a similar narrative. In his address to the New York Indian Board on August 12, 1829, Reverend Thomas L. McKenney called to the Native people, “Brothers, Be not deluded, nor think us your enemy because we seek to advance your happiness... Do not distrust our object, - it is your welfare only, we seek. (p. 42). He claimed that his warnings were “the language of humanity, dictated by wisdom and experience” (p. 37). Senator John Forsyth (1830) suggested that removal would “secure to the individual Indians the right to consult their own will; the right inherent to every freeman, of choosing the place of his residence, and changing it at its pleasure” (p. 20). Representative Wilson Lumpkin referred to the Indian Removal Act as

a policy of “kindness, benevolence, and good will” that would provide “greater security and benefits to the Indians” (p. 1020). He also suggested that those who had already emigrated to the west were “delighted with their new homes” (p. 1026). Representative Thomas F. Foster (1830) proposed that he “would be the last man to encourage an act of injustice or oppression” against the Cherokees, whom he considered as “friends” (p. 1031). He continued that he had “never heard” complaints from Native people who had already emigrated to the west. Representative Richard Henry Wilde (1830) provided a unique example of denial of injury, pointing out that “The Indians of this continent, like all other men, savage or civilized, must perish... Would gentlemen have them immortal upon the earth?... What is history but the obituary of nations” (p. 1103)? In this example, Wilde is arguing that any harm resulting from the Removal policy is insignificant because all people eventually die and some nations cease to exist.

Jackson also utilized rhetoric of denying injury to the Native people by citing the benefits of removal to American citizens and Natives alike, in a very practical and utilitarian manner. In his Second Annual Message to Congress, Jackson (1830) refers to the “pecuniary benefits” of removal and justifies removal as beneficial to society because it would open large portions of the South to white settlement, improve the nation’s ability to fend off invasion from the west, and enable the southern states to “advance rapidly in population, wealth, and power” (para. 89). Extending the theme of utility, Jackson poses a rhetorical question:

What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms, embellished with all the improvements which art can devise or

industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization, and religion (para. 92)?

Jackson (1830) also suggested that removal would provide benefits for the tribes because it would “separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way and under their own rude institutions; [and] will retard the progress of decay” (para. 89).

James Gadsden (1829) also spoke of removal as posing advantages to the Natives, describing the removal of the Seminole tribe from Florida as a policy that “would greatly advance its interests; & enlarge the sugar growing district” of the territory (Letter to Andrew Jackson, para. 3). By describing the Removal Act as a purely utilitarian solution to the conflict between stakeholders, injury is minimized or eliminated because the overall outcome is actually beneficial for society, even if some are harmed in the process.

Denial of Victim

Sykes and Matza (1957) described denial of victim as a category of neutralization that justifies harmful by portraying the victim as wrongdoer and deserving of the harm. Denial of victim was one of the least common techniques used in this research context, observed in only six of the study documents. In these instances, the speaker conjured Natives as perpetrators – not victims – by emphasizing the violence they perpetrated against white settlers. One of the strongest examples of this neutralization is found in Representative James Wayne’s (1830) response to criticism from opponents to removal:

In what State in this Union was more done than was just enough to guard our people from massacre, and their settlements from desolation? ...as often as the

war cry was raised by the savages, our fathers' hearts turned in kindness to them, before the blood on the tomahawk was dry, and whilst the scalps of the infant and mother were green... we never turned war into desolation, until the barbarities of the savage admonished us that there was no medium between peace and destruction (p. 1131).

Representative Wilson Lumpkin (1830) of Georgia also described the evils of the Native people recalling the memory of "an old fort, which gave protection to the women and children from the tomahawk and the scalping knife of the Indians" (p. 1020). These examples portrayed the targets as deserving of the pains of removal. As Rogin (1975) explains, "the language of self-defense obscured aggressive intentions" (p. 133).

Secretary of State Lewis Cass (1830, January) also utilized denial of victim by portraying the Native people as exceedingly hostile and thus deserving of removal. "The sight of the war-flag, or the sound of the war-drum, operates instantly and intensely upon the warriors, and coinciding with their institutions and opinions, irresistibly impels them to war" (p. 84). Later in the same essay, Cass suggested that the Native people "do not feel the force of... religion nor morality... to check their propensity for war; whose code requires them to murder, and not to subdue; to plunder and devastate, and not to secure" (p. 93). Through this rhetoric, Cass justified the harm of removal in light of the alleged fact that the Native people were a hostile race of people who even believed that "murder" was an acceptable act. Cass' use of denial of victim was closely tied to the "right of security" that he invoked, which was discussed under the category "appeal to higher loyalties."

Although Removal supporters did not utilize denial of victim extensively, its influence is still significant. The portrayal of the Native people as violent savages was a verbalization of an understood stereotype of the Native Americans in 19th century America that was reinforced by events such as the Fort Mims Massacre during the Creek War, which launched Jackson's military career. By invoking this stereotype, these examples of denial of victim served to reinforce the underlying prejudice that influenced Indian policy.

Reducing the target

In his study of the Nazi Holocaust, Alvarez (1997) introduces *denial of humanity* as a neutralization technique, which was discussed in greater detail in Chapter 4. This category of neutralization portrays the target group as less than human and thus less deserving of the protections and privileges that society affords to its human members. This neutralization creates "psychological distance" between the perpetrator and the target group and removes them "from that universe of shared humanity and thereby absolve themselves of their moral obligations" (Alvarez, 1997, p. 167). Although evidence of dehumanization is clear in many cases of mass harm (Presser, forthcoming), this technique is largely absent from the sample of documents selected for my research. Senator John Forsyth (1830) was one of only two notable exceptions; responding to those who believed that removal would accelerate the civilization of the Native people, he proclaimed: "You might as reasonably expect that wild animals, incapable of being tamed in a park, would be domesticated by turning them loose in a forest... Wild nature never was yet tamed but by coercive discipline" (p. 7). Secretary of State Lewis Cass (1830, January) provides the other example of dehumanization describing the Native

people as “wild, and fierce, and irreclaimable, as the animals, their co-tenants of the forests” (p. 79).

In lieu of dehumanization, supporters of Removal used language that portrayed the Native Americans as being childlike “savages” who were fundamentally different than the white European settlers in the United States. The disparaging remarks used by Jackson and his supporters serve the same logic as the rhetoric of dehumanization, which is to treat the target as less deserving of the rights and protections afforded to members of the perpetrator group. As such, it is perhaps more useful to include both in a larger category of rhetorical devices. In her forthcoming book, Presser proposes a new category of rhetoric she calls “reducing the target”:

To reduce a target is (1) to characterize the target in terms of a very few interests or (2) to deny that the target has interests uniquely her own, distinguishable from others including the perpetrator... Compared with dehumanization and othering, reduction of targets is both more accurate and more broadly applicable across harms.

Examples of this technique are found in 22 of the 101 documents examined for this dissertation research. The statements followed a general theme whereby the Natives are portrayed as “uncivilized savages” who refuse to fulfill the Biblical mandate to occupy and till the soil, and are unable to adapt to the advanced state of “civilized” white society. They are constructed as having few interests and lack the intellectual capability to adapt to white society.

In a letter to Andrew Jackson, John Macpherson Berrien (1830) criticized the efforts of the Cherokee to establish a “government (as it is called)” demonstrating that although the Cherokee had adopted many of the trappings of white society, removal supporters did not view these innovations as deserving of respect or being on the same level of civilization as white society (Letter to Andrew Jackson, para. 7). Representative Henry Wilde (1830) launched a similar rebuke to the Cherokee in his speech during the House debate. Regarding the Cherokee he stated:

They are now assumed to be a civilized people... Their constitution has barbarism distinctly stamped upon it. It is not destined to live. It has the Hippocratic countenance. The ancestral likeness evidently appears. The fundamental principle is, that the land is to remain common and inalienable. This, of itself, is barbarism. Separate property in land is the basis of civilized society. (p. 1093)

The “barbarism” to which Wilde refers is a section in the Cherokee constitution that prohibits the sale of tribal land without approval under the penalty of death. Secretary of State Lewis Cass (1830, October) also used the Cherokee constitution as a topic for reducing the Native people, describing the document as “an omen unfavorable to their future prosperity” because it allows the Cherokee government to “sink a tomahawk into the heads of all their people” should they endeavor to sell their land to white settlers (p. 118). During his speech in Congress on May 19, 1830, Representative Richard Henry Wilde verbalized another slight to the Native people:

...the condition of the common Indian is declining, both in the means of subsistence, and the habits necessary to procure them; and that, upon the whole,

the mass of the population of southern Indian tribes are less respectable order of human beings now than they were ten years ago (p. 1096).

Senator John Forsyth (1830) conjured the Natives similarly in his orations to the United States Senate:

I shall vote for [the Removal Act] with a hope of relieving the States from a population useless and burdensome... As individuals they are responsible for crimes... they are little better than the wandering gypsies of the old world, living by beggary or plunder (p. 7).

Each of these comments show how the Native people were collectively described as sharing the same negative characteristics, which are less than ideal according to Removal supporters, thus justifying the harm the Removal Act will cause. These comments perpetuate a negative stereotype that all the Native people as were uncivilized, lazy, and that any effort they make to improve their standing with white society is a failed endeavor.

Senator John Forsyth (1830) defends a Georgia law barring the testimony of an Indian to be introduced into evidence against a white person in court this way:

...by what sign will you require him to call down upon himself the vengeance of Heaven, if he swerves from the truth? *He must be sworn...* Desire the Cherokee to raise his hand before God and affirm – he is unconscious of your meaning... Present him the sacred volume – he does not believe in it. Offer him the cross – he has no veneration for it... Even the oath of the Highlander, upon the naked dirk, has no power over the savage mind (pp. 20-21).

Representative Richard Henry Wilde (1830) endorsed removal by stating, "...the maxim... 'that an Indian cannot work,' has lost none of its universality in the practice of the Indians of the South" (p. 1096). He also criticized the Natives' "imprudence and thirst for spirituous liquors," which stand in the way of their progress (p. 1096). Through this statement, Wilde is collectively characterizing the Native people as drunkards, unable to resist alcoholic beverages, and thus incapable of living a civilized life. Of course, Wilde does not mention that it was the white man who perpetually provided "spirituous liquors" to the Native tribes in violation of federal treaties prohibiting the practice.

There is perhaps no better example of target reduction than the remarks of Reverend Thomas McKenney (1829). He asked, "Who does not see the effect of the intellectual superiority [of whites]...where we see one absolutely superior, and another absolutely inferior, does not the consciousness of that inferiority... depress his energies and paralyze his efforts?" (pp. 13-14). McKenney discussed the "total impracticability" of expecting the Indians to take advantage of the "refinements of the social state, which are the necessary result of the white man's superiority over him in intellectual, moral, and political advantages" (p. 14). McKenney also questioned the ability of the Native people to adopt what he felt was a civilized lifestyle describing the task as "utterly impracticable" and asked "Where is the example of a single transformation in a tribe of this sort? I know of not one" (p. 13). McKenney's statements reduce all Native people to a perpetually inferior state with no hope of change. Finally, in his address to the New York Indian Board, McKenney disparaged the Cherokees' efforts to organize a

government stating that “it may be assumed that whatever system shall not harmonize with the acknowledged principles of our union, *must be defective*” (p. 36, emphasis added). To prevent their destruction, they must submit to removal, even of against their will.

Paternalism

Paternalism was another logic of target reduction observed in the data. During the colonial period of American history, paternalism was engrained in all aspects of American social life including cultural traditions and political authority (Rogin, 1975). It was also a central theme of the rhetoric used by politicians, media, and other social institutions in relation to the Native tribes. According to Prucha (1986), paternalism was seen as “a humane, Christian approach” to the Indian problem (p. x). It was most notable in the correspondence between Andrew Jackson, the “Great Father,” and his “red children” in the Native tribes (1986, p. x). Andrew Jackson cast himself in a parental role over his misguided children, whom he said needed his “protection” and tutelage so that they would “cast off their savage habits and become an interesting, civilized, and Christian community” (1830, Annual Message to Congress, para. 89). In his “talk” with the Creek Indians in 1829 he described himself as a “father and friend.” Because “he feels a father’s love for you” he wanted the Creek to emigrate to the west where “he can protect and foster you” (para. 7). The theme of paternalistic authority also appeared in correspondence from the Native tribes to Jackson, revealing how prevalent the theme was in relations between the federal government and the Native Americans. In a letter to Andrew Jackson, Creek chief Tuskeneah of Cusseta (1831) remarked:

I have always taken the Presidents of the U.S. by the hand with that friendship which is due from a child to his Father. They have always treated me and my people as if though we had been there white children. (para. 1).

The paternalistic relationship left the Native tribes in a position of disadvantage because the federal government maintained authority to dictate policy to the tribes. As in any relationship of this sort, it is assumed that the parental figure retains the authority to make decisions on behalf of his/her ward, and many times must force the child to submit to parental authority against his/her will. Such was the nature of the relationship between the Native tribes and the United States government.

Concluding Remarks

Throughout the Indian Removal debate, supporters commonly used techniques of neutralization to justify their position. This dissertation research has shown that Sykes and Matza's (1957) neutralization theory is applicable to a historical case of harm. The findings show that the theory is adaptable to actions carried out by powerful social actors, which is beyond the original scope of the theory. This dissertation research also reveals that Sykes and Matza's (1957) call for refinement of their original theory continues to be relevant to continued research using neutralization theory. As Sykes and Matza (1957) and Maruna and Copes (2005) note, neutralizations tend to be specific to an individual's particular background, including social status. This point explains why the themes associated with the neutralizations (e.g. Christianity, Rule of Law, and patriotism) tended to focus on dominant norms and values in society typically associated with non-deviant behavior. Recognizing how dominant norms and values can be adapted by social actors

to justify harmful acts is important to understanding and explaining cases of mass harm and atrocity crime.

This dissertation has also presented two unique categories of neutralization, “urgency of the moment” and “reducing the target.” Each of these is inspired by neutralization techniques presented in Sykes and Matza’s (1957) theory, but are specifically tailored to explain mass harms including atrocity crimes. Urgency of the moment is a neutralization that is invoked by social actors to legitimize the use of drastic action and limit public debate over the policy. Just as atrocity crimes are drastic in nature, so too is the rhetoric needed to justify and legitimize them in the public sphere. In the case of the Indian Removal Act of 1830, the condition of the Native people was portrayed as dire and demanding a drastic solution. Urgency of the moment may prove to be an important predictor for future cases of atrocity crime. Presser’s (forthcoming) neutralization “reducing the target” was also utilized by supporters of Removal to reduce the social standing of the Native people and thus justify excluding them from the social and legal protections afforded to members of society with full standing. Reducing the target shows significant promise for predicting mass harm and atrocity, especially if it reaches the level of dehumanization and is tied with other neutralizations such as urgency.

CHAPTER 7

INDIAN REMOVAL: LESSONS LEARNED

The history of Native American relations with the United States government entails many troubling events that have caused tremendous harm to America's indigenous people. In a letter to Reverend Eli Baldwin, Secretary of War John Eaton (1829, August 25) predicted that time would vindicate the actions of Andrew Jackson and prove his Indian Removal policy to be just. Instead, time has shown Indian removal to be one of our nation's most shameful pursuits. Although there is no evidence that the supporters of the Removal Act believed their actions constituted a crime, viewing the policy through a contemporary lens reveals that it constitutes a case of atrocity crime (Scheffer, 2006) and ethnic cleansing, the latter as defined by the United Nations (1994). Supporters of removal most certainly recognized the potential for harm resulting from removal. Had this possibility not been recognized, there would have been no need for neutralizations, especially the *defense of necessity* that portrayed removal as the lesser of evils.

The Indian Removal Act of 1830 resulted in the removal of over 100,000 of Native Americans from the eastern United States, and resulted in as many as 20,000 deaths (Doran, 1975; Green, 1995; Knight, 1954; Prucha, 1986; Thornton, 1984). Nor did the history of federal Indian policy did not end with the Removal Act and the Cherokee Trail of Tears. Rather, during the decades following removal, members of southern tribes who stayed behind found themselves facing poverty, discrimination, isolation, and continued efforts to gain their land through intimidation and fraud. The difficulties associated with Removal persist for today's Native Americans culturally, economically, and legally (e.g. Frickey, 2005; Stannard, 1992; Perdue, 2012).

This dissertation research applied Sykes and Matza's (1957) neutralization theory, drawn from criminology, to primary documents related to the Indian Removal Act of 1830. My goal was to discern how influential actors discursively legitimized the policy of Indian removal, which appears to contradict the norms and values of a democratic society, one that emphasizes individual rights, due process, and equal protection under the law. Sykes and Matza's typology offered a promising framework because it provides a system of for classifying rhetoric used by individuals to neutralize their harmful and/or deviant behavior. Sykes and Matza (1957) recognized the significance of rhetoric for furthering criminal behavior and their ideas have been applied to a wide variety of deviant behaviors. This dissertation proposes to extend the theory to crimes by the powerful, including atrocity crime.

In addition to the original techniques of neutralization, I identified examples of *reducing the target* (Presser, forthcoming) and derived a unique category of neutralization I call *urgency of the moment*, based on the data. I identified the latter neutralization in 11 documents. As the name suggests, removal supporters used urgency to portray the Indian Removal Act as a legitimate and necessary solution to a grave and imminent problem. The discovery of this technique of neutralization could prove to be useful in examining other cases of mass harm, especially atrocity crimes. Urgency is likely to be an effective rhetorical device to sway public opinion in support of a radical policy approach such as ethnic cleansing or genocide. Urgency can reinforce the alleged necessity for targeting a group and provides a plausible justification for limiting debate over taking drastic action. Urgency, like the other neutralizations identified, was not

constructed by removal supporters *de novo*, but was shaped by the social conditions that existed to make neutralizations necessary.

Indian Removal did not become a pressing national issue by happenstance, but was the result of multiple historical, economic, cultural, and political circumstances that convened to bring the “need” for Native lands to the forefront of national policy. Indian Removal was the outcome of historical events that brought European settlers to the Americas with their cultural values emphasizing expansion and superiority of Christian values. These same values also brought the capitalist economic model to a land where it did not previously exist and held the vast resources needed to fuel the growth of a new nation. As white society expanded to the West, they hungered for the lands held by the Native people who resisted the onslaught. The discovery of gold and the explosion of the cotton industry further fueled human greed for Native land. When other efforts to secure Indian lands failed, Removal became the best alternative, and the policy debate ensued. Neutralizations, therefore, were simply a rhetorical response to the broader socio-structural conditions that existed at the time. As such, neutralizations cannot be properly understood without including the broader social context.

Klausen (2007) argues that the US colonial legacy was inevitable due to the Enlightenment concepts that inspired the founding fathers. Klausen examines John Locke’s *Second Treatise of Civil Government*, which had broad influence on philosophical discussions of democracy in the New World after it was published in 1690. Klausen suggests that Locke’s reliance on individual ownership of private property as a fundamental part of securing liberty in a civil society made colonialism in the New World possible. Like the doctrines of discovery and conquest, the concepts of natural law and

natural rights, and the Christian morals that were invoked in pro-removal appeals to higher loyalties, the Enlightenment era ideas of Locke were central to the logic behind the justifications for removal.

The indigenous tribes in America did not generally rely on large-scale agricultural cultivation of land, and prior to the arrival of European settlers, the idea of individual ownership of private property was non-existent. For Locke, communal property ownership, subsistence through hunting and gathering, and the egalitarian nature of social structure and governance were all signs of an undeveloped population that lacked the knowledge to establish modern nation-states. Because the American continent was seen as an open and untamed land devoid of pre-established polities, the door was open for Europeans to settle the vast open territory and bring the promise of Enlightenment self-governance to the 'savage' people of the land. Include the importance of religion during the period, and the result is a divinely inspired opportunity to establish a land of freedom and opportunity on an undeveloped continent. Locke's ideas are important because his Enlightenment ideas regarding private property and civilization permeated the logic Indian Removal supporters during the 1820s and 1830s. These ideas can also be identified in the rhetoric of Removal supporters, which combined with other related concepts to be introduced later, became a higher loyalty for supporters of the Indian Removal policy.

This ideology encompasses the notion that each person has the natural right to seek out the political system that they wish to live under. If a suitable political state cannot be located, people are free to move to new lands and live a free existence or gather with others to establish a new political state. Locke saw America as the perfect place for

this sort of political expansion and on the offhand chance that the Native tribes did have pre-existing political states, there was adequate territory for all people to coexist within their own political state. Based on this perspective, Klausen asks, “So what consequences arise... when there is no longer room enough?” (p. 761). For Klausen the answer is clear: colonialist domination of the indigenous people that forced Euro-centric ideas of civil society on them because those “whose political societies were defined by the inability to mark reference points around which to bound or by which to bind their subjects, will have been absorbed... The historical circumstance of a politically crowded globe would eviscerate” the less powerful group (p. 768). Locke did not view the indigenous people of America as necessarily inferior, but simply lacking the enlightened state of reason needed to establish modern nation-states. A similar viewpoint was held by many founding fathers including George Washington, Thomas Jefferson, and James Monroe, who each pursued policies of assimilation and Americanization if possible, and maintenance of separate polities if necessary.

Dominant groups adopt a range of policies towards minority groups. As mentioned previously, the United States had adopted a policy of assimilation from its infancy through the first quarter of the 19th century. This policy of “Americanization” was established by George Washington during his presidency and was continued until the first days of the Andrew Jackson administration. Americanization involved a series of attempts to bring American culture (a more accurate description would be western European culture), to the Native people through formal education, religious teaching of the Christian faith, and encouragement to adopt western patterns of business and agricultural production. This included abandoning the traditional Native approach

towards communal ownership of the land and the nomadic life of a hunter/gatherer culture in favor of a more “advanced” lifestyle of permanent communities and privately owned farms. The “Americanization” policy achieved some measure of success - at least from the perspective of white society - and many tribes did adopt these practices to a large extent. So successful was the policy of “Americanization,” that many Cherokee were slaveholders and accumulated substantial wealth through their agricultural and business endeavors. Regardless, the majority of Native tribes still tried to maintain many of their traditions and tribal members resisted efforts to fully assimilate into American society.

By the start of Andrew Jackson’s presidency, the US had been struggling to alleviate tensions between a rapidly expanding nation and the Native tribes who resisted the encroachment of whites. Jackson entered the White House ready to implement a policy of direct population transfer, which was to be achieved through coercion cloaked in the rhetoric of voluntary removal. Although Jackson’s shift in policy was a break from existing national policy, it was not wholly a radical idea. The possibility of relocating the Native tribes had been discussed for decades, but it was seen as a last resort option should other policies fail to protect the Native people. In the years leading up to Jackson’s presidency, violent conflicts between Native Americans and white settlers who encroached on tribal lands had become frequent and brought the “Indian problem” to the forefront of national attention. Jackson faced a decision on how to solve the problem: should the pre-existing treaties protecting tribal lands be enforced thus acknowledging Native sovereignty, or should the claims of the states, especially that of Georgia, to have

their rights recognized at the expense of the Native tribes? As history tells us, Jackson chose the latter.

Why did Jackson choose to implement a policy of population transfer rather than use the power of his office to enforce existing treaties to protect the Native tribes? It would be easy to blame the Jackson's decision on Eurocentric racism and a deep hatred for the Native people, but historical evidence does not support this hypothesis. Had this been the case, why did Jackson not opt for a more drastic policy of extermination, which would have provided a permanent solution to the nation's "Indian problem?" The fact that Jackson did not choose this path strongly suggests that the factors shaping federal Indian policy were more complex than simple greed or racism. Rather, it is plausible that Jackson, and his supporters, genuinely believed removal was the right option to pursue.

Indeed, this is the case with any approach to intergroup conflict. Why does any group choose a particular policy toward another social group? I argue that the answer to this question is grounded in the collective social location of the dominant group, which accounts for multiple important factors including cultural traits, political ideology, economic interests, and historical events. These conditions influence individual understandings of social problems, including intergroup conflict, and limit the range of options a social group is willing to consider as a solution. These factors are reflected in the rhetoric used by social actors to frame the scope of the problem, argue for specific solutions, and offer justifications for the policies that appear to be in contrast to popular sentiments.

As discussed in Chapter 2, the United States faced a variety of competing interests related to the Native Americans during the first decades of the 19th century. The Jackson

administration was faced with a growing crisis between white settlers in the South and the Native tribes that occupied lands within the boundaries of Georgia, Alabama, and Mississippi. To solve this crisis, Jackson had to consider options available to him and select a policy that he believed was most appropriate for the situation within the scope of his power, as he perceived it. He faced pressure from Georgia to enforce the provisions of the Compact of 1802, but he also had to deal with political resistance to relocating the Native tribes. The decision also had to pass muster of legal scrutiny and public opinion. Once Jackson had chosen removal as the policy of preference, he had to frame that option within the parameters of dominant public discourse and ideology. Jackson, as well as the other supporters of removal, made their appeals to public opinion through a variety of channels and did so using a *Discourse of Liberty* to justify their position (Smith, 2005).

Jackson had to frame his argument in a manner that allowed him to construct a removal strategy that was convincingly in line with the social values of the day and would satisfy those on both sides of the debate including the Native Americans if possible. The use of neutralizations was a major part of this rhetorical process. Even if supporters of removal had no genuine interest in the humane treatment of the Native people, they at least recognized the necessity of framing their argument in terms that would appeal to those who possess a more suspicious view of Jackson and his supporters. Evidence suggests that these supporters felt some level of sympathy for the Native people and their intent was one genuine belief, even if grossly misguided, that removal was the only viable option to protect and preserve the culture of these people. However, history has shown time and again that it is not unreasonable to question the motives of powerful actors. Regardless of their motives, it was their rhetoric that ultimately justified the

Removal Act. Even if removal supporters had laudable intentions, they still utilized rhetoric that can be classified using Sykes and Matza's (1957) theory. One may question why neutralizations would be necessary if supporters believed their actions were just. The likely answer is that neutralizations were communicated by powerful actors in society for the purpose of swaying public opinion, including the opinions of those who questioned the legitimacy of the Removal Act. In this way, neutralizations become a mechanism for influencing collective action rather than a micro-level explanation of individual behavior as Sykes and Matza originally intended. As a result, this dissertation research suggests that neutralizations can be extended to broader sociological processes including political discourse. By identifying rhetorical themes, it may be possible to discern patterns of discourse that include neutralizations that are precursors to cases of atrocity.

The neutralizations discerned in the data follow a recognizable binary pattern that Smith (2005) describes as either the *Discourse of Liberty* versus the *Discourse of Repression* that were introduced in Chapter 4. Smith suggests that these competing Discourses help explain "how civil discourse is structured in disputes over policy, inclusion, and exclusion" (p. 17). These Discourses serve as a "cultural logic" and frame of reference for members of society during debates over policies such as war, or in this case, the Indian Removal Act. By recognizing how neutralizations and related rhetoric, such as the Smith's (2005) *Discourse of Liberty*, are used to legitimize and mask the harmful policies carried out by social agents, we are likely to put ourselves in a better position to grasp incidents of mass harm.

As discussed in the previous chapter, states' rights and the Doctrine of Discovery and Conquest were "appeals to higher loyalty" commonly referenced as justifications for dominating and removing the Native tribes. The rationale for applying these principles to the debate was based on established tradition and legal precedent. This logic fits with the "civil discourse of social institutions" described by Smith (2005). The *Discourse of Liberty* demands that social institutions are rule regulate, grounded in the law, and emphasize equality among citizens. The doctrine of discovery and conquest was used as a neutralization because it was engrained in the laws of nations and thus a logical and legitimate rationalization for removal. States' rights was also grounded in legal interpretations of the United States Constitution and demanded that the individual states were treated equally as politically recognized sovereign entities. Those who opposed the application of these concepts were portrayed as seeking arbitrary power for their own benefit, characteristics Smith (2005) identifies with the *Discourse of Repression*.

The rhetoric associated with "condemning the condemners" also compares with Smith's Discourses. Supporters of removal consistently portrayed themselves as acting in a calm, realistic, and benevolent manner, and were guided by "truth" and "justice." These characterizations fall in line with the *Discourse of Liberty*. Opponents were described as being irrational, deceitful, calculating, and unrealistic, each of which also fit the *Discourse of Repression*. Although the tone of urgency described above would seemingly be associated with hysterical, excitable, and emotive traits associated with the *Discourse of Repression*, in this case, the supporters of removal used this approach as evidence of their very rational and realistic interpretation of the situation, which demands immediate action.

Although these Discourses are not the immediate focus of this dissertation research, they provide additional insight to better understand how the cultural norms shape how neutralizations are framed and accepted by society. Neutralization theory can also compliment Smith's concepts as being a mechanism whereby the ideas associated with these Discourses are solidified and used by social actors. For the Indian Removal Act to be adopted as a legitimate policy, supporters of removal had to shape their opinions to the dominant Discourses in society. By the same token, opponents to were also obligated to construct their arguments to fit the dominant Discourses in society. For example, during his Senate speech in opposition to the Removal Act, Senator Frelinghuysen spoke of the "sacred obligations" between the United States and the Native tribes that were contained in multiple treaties. Frelinghuysen (1830) accused the Jackson administration of shutting the "door of inquiry" and proceeding without consulting the House or Senate or taking "any opportunity for counsel or concert, discussion or deliberation" about the legal merits of the policy (p. 5). These criticisms are reflected in the *Discourse of Repression* that includes secret, suspicious, and exclusive exercise of power. As Sykes and Matza (1957) noted, neutralizations are "extensions of patterns of thought prevalent in society" and the Discourses described by Smith (2005) provide a useful framework for gaining a clearer understanding of how the themes for the neutralizations were constructed. It is important to note that Smith considered the aforementioned Discourses in the context of western democracies. It is likely that different cultures possess their own unique Discourses that can be used to interpret the rhetoric and neutralizations adopted by individual actors. It is also possible that future

research can identify a *Discourse of Atrocity* that can be used to evaluate rhetoric in the public sphere and predict impending events of atrocity.

Neutralization theory began as a perspective on conventional criminalized behavior by young people, but innovators have applied it to a wide variety of harmful acts in society. A few scholars have applied neutralization theory to cases of mass harm. However, as this dissertation research confirms, neutralization theory by itself is not a sufficient explanation or predictor of mass harm. In fact, so many studies have revealed the presence of neutralization techniques in the rhetoric of offenders, it seems that we have reached a point where it's almost an understood assumption that individuals use neutralization techniques to justify their wrongdoing at some point during the criminal event. Although the theory provides a useful framework for unpacking the rhetoric used by actors and institutions to legitimize their actions, when combined with other theoretical concepts, such as Presser's (forthcoming) *power paradox* or Smith's (2005) *Discourses*, neutralization begins to gain more explanatory power.

Maruna and Copes (2005) note that the predictive value of neutralization theory is "mostly underwhelming" (p. 264). Citing Minor (1981), they suggest that neutralizations only lead to deviance when one has the opportunity, need, and desire to commit the offense, and when the neutralizations they know are applicable to the situation. In other words, just because one has adopted neutralization techniques, this does not automatically presume that deviance will follow. We all encounter opportunities for deviant behavior, and we likely could justify our actions if called upon to do so. However, we may not recognize the opportunity to offend nor do we feel the need or desire to commit crime. In more cases than not, people simply choose not to carry out

deviant acts when faced with the decision. Even the most hardened criminals choose to follow the rules most of the time, and they most certainly have knowledge of neutralization techniques available to justify their actions. Questions of motive, opportunity, and choice are within the purview of other criminological theories.

Mindful of this reality, Maruna and Copes (2005) point out that neutralization theory must be treated as part of wider theoretical explanations of crime and deviance. It would seem logical that neutralizations are a key component of the decision making process when individuals contemplate engaging in deviant behavior. It is also logical to return neutralization theory to its origins as a component of Sutherland's (1947) theory of differential association as a typology of the learned motives, drives, rationalizations, and attitudes favorable to criminal behavior. By viewing neutralization theory in this way, we find that neutralizations serve as a segue between the broader social conditions that contribute to crime and the micro-level individual decisions to engage in criminal behavior. This perspective also clarifies how the dominant themes that characterize neutralizations can vary from group to group. Using the Indian Removal debate as an example, we can understand why such unusual themes dominated the rhetoric because the individuals constructing their neutralizations were doing so within a specific social arena that was common to each of them. We would not expect the same sort of discourse to come from individuals unschooled in Enlightenment philosophy or traditions of European law. As we know from the work of Cloward and Ohlin (1960), individuals possess differential opportunities to engage in criminal activity due to the varied level of access to the knowledge, skills, and environment to carry out certain types of crime. The same logic applies to the content of neutralizations. Maruna and Copes (2005) suggest

that neutralization theory is more effective when the type of offense, offender background, cultural differences, and other environmental factors are considered as influences for deviant and criminal behavior.

Maruna and Copes (2005) suggest that focus should be placed upon discerning the differences between “good and bad” neutralizations and identifying those that are the “most toxic” and thus most likely to be a predictor of criminal behavior (p. 290). I would suggest that this dissertation research is a step in that direction. Maruna and Copes (2005) suggest that dehumanization and “angry neutralizations” that scapegoat other groups are particularly likely to predict criminal behavior. This research demonstrated that the Indian Removal debate was characterized by neutralizations that reduced the Native people, dehumanized them, and scapegoated them as hostile savages who stood in the way of American progress. My review of other scholarly research on atrocity and genocide also emphasize these same features of rhetoric as significant. It would seem that for the study of atrocity crime, rhetoric associated with denial of victim could be viewed as a continuum with reducing the target being a more “toxic” form of neutralization, and dehumanization being the most “toxic” of all. I would also suggest that combining neutralizations, such as appealing to higher loyalties associated with reducing the target or dehumanization, signal a particularly pathological stance when invoked by powerful actors.

In the case of Indian Removal, Jackson was able to legitimize his role in engineering an act of mass harm under varying rubrics including protecting and saving them, denying their status as victims, and denial of responsibility through rhetoric of powerlessness. However, the data reveal that the focus on Andrew Jackson as the

primary malefactor in the Indian removal saga may be misdirected. Clearly, due to Jackson's popularity and influence in the political arena, his support for the Removal Act was highly beneficial and likely essential for the policy to be implemented. It is also true that Jackson entered the presidency with his removal policy largely formulated.

However, he was not the only political actor involved in pushing for the removal of the Native people from the eastern United States. As this research demonstrate, elected officials from Georgia, including Governor George Rockingham Gilmer, Senator John Forsyth, and Representative Wilson Lumpkin, appear to have played as significant a role in the passage of the Removal Act as Andrew Jackson by providing much in the way of fiery rhetoric. While Jackson's neutralization tended to lean towards appeals to higher loyalties, including humanity and benevolence, Georgia's political leaders tended to follow a pattern of angry rhetoric that condemned the condemners and denied the victims.

Limitations of this Research

The results of this dissertation research should be considered with certain limitations in mind. The first limitation is related to the data used. Although the number of documents available for examination was substantial, it was only a portion of the total number of documents that are potentially available for study. The Jackson Papers project contains a sample of documents related to Jackson, thus leaving as much as 2/3 of Jackson's papers available for further scrutiny. This research did not examine the rhetoric associated with other key stakeholders in the removal debate not represented in the four sources of data described in chapter 5, including the key policymakers who supported the Removal Act. There were undoubtedly many supporters in the southern states who likely recorded their views in state and local documents, newspapers, and

political debates, but due to limitations in time and scope, these documents were not included in this research project.

Another limitation of this research is the lack of a coding team for data analysis. As with any content analysis – indeed, any research – decisions on how to interpret the data are subjective. The use of multiple researchers to examine the data and cross-validate coding decisions would help improve the validity of the results. Maruna and Copes (2005) also expressed the need for more systematic testing of neutralization theory rather than illustrative research as was utilized in this project. These researchers suggest that by using a standardized scoring system results can more easily be compared between cases (e.g. Maruna 2004). I hope that the innovation of this dissertation offset these limitations.

Recommendations for Future Research

In addition to the findings presented here, this dissertation research uncovers multiple possibilities for additional research. Whereas my research focused on a selection of documents from the period of 1829-1831, these are only a small portion of all of the documents available for analysis. Maruna and Copes (2005) provide several critiques of neutralization studies, many of which apply to interviews and survey research and are not applicable to a historical content analysis. However, some can be applied to future research projects. Maruna and Copes demonstrate that qualitative methods including interviews and content analysis, which are commonly used in the research of neutralization theory, do not effectively test the theory. They suggest that the lack of a comparison group makes it difficult to determine if neutralizations are unique to the deviant group or if they are generally reflected in society. They suggest that it would be

“theoretically interesting” to test neutralization theory using a comparison group to determine whether they “present themselves in certain ways when those in some comparison sample do not” (p. 270). As a well-documented and widely debated public policy, the voices of various stakeholders are available for study, thus providing comparison groups from the same historical moment.

Future research might examine other period documents in the same manner as those examined here. The papers of other American presidents in the decades leading up to the Jackson administration are one such potential source of data. The Removal Act was the outcome of years of policy debate, though Jackson was the executive who most firmly embraced the policy. The Jefferson and Monroe administrations had significant influence over Indian policy and removal was certainly contemplated by these presidents. Another source are the newspapers of the early 19th century, which were the primary source of information and should prove to be a treasure trove of data on the perspectives of local and state officials and others. Finally, it should prove fruitful to examine the Congressional debates as a stand-alone source of data. The Congressional debates are quite lengthy, and this research did not examine the rhetoric of removal *opponents* in great detail, although I did examine them to gain a clearer understanding of the pro-removal rhetoric. In this source of data, I observed that removal *opponents* invoked examples of techniques of affirmation, but the data reveals a weakness in Copes and Williams’ (2007) theory. Reference to priority relationships, placing emphasis on connections with people one holds high regard, was constructed as a contrast to Sykes and Matza’s (1957) appeal to higher loyalty, but the focus of the former is distinctly different. Reference to priority relationships only emphasizes interpersonal relationships

and does not include an emphasis on dominant social values. Opponents to removal commonly invoked an appeal to dominant loyalties including patriotism, duty, and Rule of Law, as a rationale for their stance on Jackson's policy.

Perhaps one of the most useful and interesting potential research projects would be an examination of the rhetoric of the individuals who actually carried out the Indian removal policy, especially those involved in the forceful removal of the Cherokee in 1838. Following the logic of Alvarez (1997), those individuals who were tasked with implementing government policy are likely to struggle with the harm that is unfolding before their eyes, and of which they are an active part. If the account provided by Private John G. Burnett, whose words were cited at the opening of this dissertation, is any indication of the personal struggles experienced by those dispatched to remove the Cherokee, the accounts promise to be a treasure trove of data for study. These data would likely be in the form of official reports or personal diaries and correspondence from military officers or enlisted personnel.

Many documents associated with Andrew Jackson's presidency were not included as part of this research. One intriguing topic for future study would be an examination of how the Jackson administration responded to the multiple problems encountered during the removal process. During the policy debate, Jackson and his supporters consistently repeated the claim that the removal should be carried out as justly and humanely as possible. Jackson's papers during the period when the removal was carried out would likely provide theoretical insights into how government officials rhetorically handle policies with troubling consequences.

Additional study is also necessary to further develop the new technique of neutralization presented in this dissertation research. Although *urgency of the moment* was used frequently during the Indian Removal debate, further research is necessary to determine whether this technique of neutralization is unique to this particular case. The evidence uncovered in this dissertation research suggests that urgency is especially useful for understanding atrocity crime due to the role it plays in rousing emotion while limiting the opportunity for debate. I thus suspect that this rhetoric has general relevance. The moral panic literature (e.g. Cohen, 2002; Goode and Ben-Yehuda, 1996) and the *culture of fear* literature (e.g. Chomsky, 1996; Glassner, 1999) have examined the significance of using fear to drive public policy. During the Nuremberg War Trials, Herman Goering has been quoted as saying,

Why, of course, the people don't want war... That is understood. But, after all, it is the leaders of the country who determine the policy... the people can always be brought to the bidding of the leaders... All you have to do is tell them they are being attacked and denounce the pacifists... for exposing the country to danger (Gilbert, 1995, pp. 278-279).

Goering's quote illustrates the significance of appeals to urgency to mobilize citizens and thus to drive the direction of public policy. Leaders provide the target for people's fears, provide a possible solution, and condemn those who do not go along with the plan.

Lazar and Lazar (2004) explains that those in "positions of institutional authority do function as key figures in the inauguration of the emergence and development of particular forms of knowledge and truths" (p. 224). Van Dijk (2006) discusses the role of powerful actors in shaping individual action through "manipulation," which involves

manipulating “people’s beliefs, such as the knowledge, opinions and ideologies which in turn control their actions” (p. 365). In extreme cases, powerful actors will attempt to seize control of public discourse to further their goals by exercising “power abuse” (p. 362). Van Dijk points out that any form of manipulation of public discourse by powerful actors is destructive to the democratic process. I argue that the use of neutralizations is a key part of the manipulation process and the theme of urgency helps to establish the leverage needed to further power abuse by limiting or minimizing debate.

Other public speeches reflect the use of urgency of the moment to justify acts of war or policies to limit individual liberty. Following the bombing of Pearl Harbor on December 7, 1941, in addressing Congress to ask for a declaration of war, President Franklin D. Roosevelt (1941) invoked urgency, referring to “the implications to the very life and safety of our nation” and the warning “our people, our territory, and our interests are in grave danger” (p. 2). During the Congressional debate over the USA PATRIOT Act in 2001, Representative Mark Green of Wisconsin proclaimed, “We are still cleaning up the debris of the World Trade Center... We must move quickly... We should debate ideas. But there is also a time and place for action. Today is the time. This is the place...” (2001, p. H6764). With each of these quotes, we see how language is used to rapidly push forward resolution to engage in armed conflict and cut off debate. When we face “grave danger” to the “very life and safety of our nation,” debate must take a back seat to “action” and that action must be taken immediately. It would seem that the more effective job policy makers do in isolating and demonizing the target group, the more dire they can construct the threat posed by the target group, and how effectively they can shut down dissenters, the more likely a drastic policy such as war, or in the most extreme

cases, atrocity crime, can take place. During a public speech on July 30, 1957, General Douglas MacArthur remarked, “Our government has kept us in a perpetual state of fear... with the cry of grave national emergency... Yet, in retrospect, these disasters seem never to have happened, seem never to have been quite real” (p. 230). MacArthur was speaking in response to federal military spending, but his words speak to the decisions made to put those tools of warfare to use. Smith (2005) discusses the importance of fear-based “apocalyptic” rhetoric to limit debate because “when radical evil is afoot... there can be no compromise, no negotiated solution” (p. 27).

Van Dijk (2006) provides another significant point stating that in order for powerful actors to be able to effectively exert control over others, they must “satisfy personal and social criteria that enable them to influence others in the first place” (p. 362). To effectively utilize neutralizations to justify mass harm, social actors must construct and communicate them in a manner that is palatable and easily digestible for members of society. Again, this is where Smith’s (2005) Discourses of Liberty and Repression are useful. For American society to accept the claims to legitimacy and justifications provided by political actors, their rhetoric must fit the culturally accepted rhetorical framework in order to be understood and accepted. War must be framed as noble, just, and essential to preserve democracy, not driven by revenge or economic necessity. Neutralization theory provides a framework for categorizing the justifications, but not for understanding how those justifications function relative to broader social discourses.

Closing Remarks

Indian Removal serves as a useful case study for understanding the social

processes whereby some are excluded from the legal and ethical protections afforded to others – what Opatow (1990) calls “the scope of justice,” which is of paramount importance to criminologists and all others who study both harm and justice. This incident of mass harm took place in a democratic society, where it should be least likely to occur due to the cultural emphasis on individual rights. It is somewhat more difficult to explain how groups become excluded in a democracy as opposed to a totalitarian regime where power is concentrated in the hands of an elite few. However, in much the same way as Smith (2005), Alexander (2007) recognizes that justice, inequality, social inclusion, and the resulting struggles are all “culturally mediated.” As a result, Alexander suggests the role of “meaning construction and contestation... should be central and unavoidable” for understanding injustice in democratic societies (p. 25). While cloaked in the guise of justice and inclusion, the discourse of civil society is actually a “binary discourse” establishing the sacred and the profane, the pure and the polluted (p. 27). Once a group is labeled as possessing polluted qualities, they “must be excluded, repressed, and possibly even eliminated” to protect civil society (p. 27). The Indian Removal debate is an example of how this “binary discourse” was carried out in the public sphere, how the Native American people were excluded through the use of rhetorical devices including neutralizations, and how the underlying democratic values were invoked by removal supporters to simultaneously justify harm and legitimize the values of democratic society by removal supporters.

Three final points should be made as to the contribution of this dissertation research to the understanding of neutralization theory. First is the point that talk does matter. As Presser (2012) notes, spoken or not, words are important for the way they

“link concepts – states of being, events, and actions – to one another within conventional stories;” more importantly, “words move us” (p. 7). Removal supporters did not engage in the debate simply to hear themselves talk. Their lengthy orations were intended to shape policy, change public opinion, and justify their actions for posterity. Maruna and Copes (2005) comment that political actors are particularly masterful at employing neutralizations to justify public policies ranging from day-to-day business to human rights violations. Speaking of war, Smith (2005) notes that in order to legitimize their policy, political leaders work “relentlessly” to establish the justifications of their policy on “cultural grounds” in order to preserve their own status as legitimate leaders and to gain popular support. The themes of neutralization reflect these cultural roots. The words of Removal supporters, especially Jackson the Great Father, were so effective that they were reflected in the rhetoric used by some Native people. One example is found in a letter dated August 27, 1830 from representatives of the Chickasaw Nation,

Your red children, the chiefs and head men... have had under consideration the talk of our father... The decision we this day make... depends our fate as a nation... We have listened, and your words have sunk deep into our hearts... upon sleeping upon the talk you sent us, we are now ready to enter into a [removal] treaty (George Colbert, et al. to Andrew Jackson, para. 1-3).

This quote reveals the power of Jackson’s rhetoric of removal and how his words moved an entire Nation of people.

Black (2009) notes, that while removal supporters were engaging in a rhetoric grounded in the principles of “expansion and the civilizing of so-called savages” that

were “ordained by a higher power” and backed by “divine covenant,” the Native people were engaging in their own discourse of resistance that relied on themes including “moral inheritance” of ancestral lands, the irony of republican values that were rarely upheld by the federal government, and by using the same claims to divine Providence to protect their possession of tribal lands. Black suggests there is evidence that the Native resistance discourse was adopted by anti-removal politicians in Congress and reflected in the 1830 Congressional removal debate.

Second, Maruna and Copes (2005) are careful to remind the reader that neutralizations are socially constructed and sanctioned justifications for harmful behavior rather than individually constructed psychological cognitions. This dissertation research reaffirms their point. The neutralizations used by Removal supporters followed dominant themes in 19th century America and were consistent between individual actors. If neutralizations used by individual supporters of Removal were actually the product of individually cognitive errors or flawed logic as suggested by psychological literature, the consistent use of dominant themes between individuals would likely be absent. As Sykes and Matza (1957) remind us, neutralizations find their origin in society and are channeled through the individual. As such, it’s not the words that are important, but “in the way they are used, by whom, and to what effect” (Collins and Glover, 2002, p. 10). It is the individual speaker and the audience who ultimately interpret the meanings of rhetoric and use it to guide their actions, positively or negatively. These meanings carry more influence when they are backed by a “collective organizational force” that turns these messages into cases of “collective expression” (Hagan and Rymond-Richmond, 2009, p. 116). When the collective expression is one of exclusion justified by neutralizations,

especially “toxic” ones of target reduction and victim denial, atrocity is more likely to follow.

The final point resonates with Woolford’s critique (2006); of genocide in particular, he states that “we should hold some reservations about importing mainstream criminological theories” into the study of atrocity crime due to the tendency to ignore the broader historical, economic, and cultural conditions that contribute to atrocity crime (p. 97). Mahoney (2000) also follows this logic pointing out that “historical sequences in which contingent events set into motion institutional patterns or event chains that have deterministic properties” (p. 507). Although broader social conditions are important, Smith (2005) reminds us that “interests provide proximate motivations for action,” but they require a “cultural pointsman who defines the situation and so signals which action path should be followed” (p. 45). In short, social conditions only take us so far; we also need to look to the rhetoric of social actors who rationalize and justify atrocity crime.

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APPENDICES

APPENDIX A
LIST OF SOURCE DOCUMENTS

Jackson Papers

No	Date	Author	Document
1	February 26, 1829	John Johnston	Letter to Andrew Jackson
2	March 4, 1829	Daniel W. Wright	Letter to Andrew Jackson
3	March 23, 1829	Andrew Jackson	Letter to the Creek Indians
4	March 25, 1829	John Crowell	Letter to Andrew Jackson
5	June 8, 1829	Andrew Jackson	Letter to John Overton
6	June 29, 1829	William Carroll	Letter to Andrew Jackson
7	August 14, 1829	Eli Baldwin	Letter to Andrew Jackson
8	October 4, 1829	Andrew Jackson	Letter to John Coffee
9	October 8, 1829	David W. Haley	Letter to Andrew Jackson
10	October 12, 1829	Andrew Jackson	Letter to John Gadsden
11	October 15, 1829	Andrew Jackson	Letter to David W. Haley
12	October 1829	Willie Blount	Letter to Andrew Jackson
13	November 14, 1829	James Gadsden	Letter to Andrew Jackson
14	November 1829	Andrew Jackson	Draft of First Annual Message to Congress
15	November 1829	John Henry Eaton	Draft on Indian Removal in First Annual Message to Congress
16	December 2, 1829	David McClellan	Letter to Andrew Jackson
17	December 8, 1829	Andrew Jackson	First Annual Message to Congress
18	December 11, 1829	Andrew Jackson	Letter to Robert Johnstone Chester
19	December 29, 1829	George Rockingham Gilmer	Letter to Andrew Jackson
20	January 8, 1830	Alfred Balch	Letter to Andrew Jackson
21	January 8, 1830	James Gadsden	Letter to Andrew Jackson
22	March 2, 1830	John Coffee	Private correspondence to Andrew Jackson
23	March 20, 1830	General Edmund Pendleton Gaines	Letter to Andrew Jackson
24	February 14, 1830	Andrew Jackson	Letter to Robert Johnstone Chester
25	April 6, 1830	Andrew Jackson	Letter to Choctaw Agent John Pitchlynn
26	April 11, 1830	Daniel W. Wright	Letter to Powhatan Ellis
27	April 20, 1830	Andrew Jackson	Endorsement on letter from Eneah Micco et al.
28	May 6, 1830	Andrew Jackson	Message to the United States Senate and draft treaty with the Choctaw

No	Date	Author	Document
29	May 1830	Andrew Jackson	Draft of <i>Treaty of Dancing Rabbit Creek</i> with Choctaw
30	June 16, 1830	Andrew Jackson	Letter to John Macpherson Berrien
31	June 17, 1830	George Rockingham Gilmer	Letter to Andrew Jackson
32	June 25, 1830	John Macpherson Berrien	Letter to Andrew Jackson
33	June 30, 1830	John Crowell	Letter to John Henry Eaton
34	July 7, 1830	William Carroll	Letter to Andrew Jackson
35	July 10, 1830	John Coffee	Letter to Andrew Jackson
36	July 13, 1830	David W. Haley	Letter to Andrew Jackson
37	c. July 21, 1830	Andrew Jackson	Letter to John Henry Eaton
38	July 24, 1830	John Henry Eaton	Letter and Talk to Mushulatubbe et al., and the Choctaw tribe
39	July 26, 1830	Daniel W. Wright, John H. Hand, and De La F. Roysdon	Letter to Andrew Jackson
40	July 31, 1830	Andrew Jackson	Letter to Samuel Delucenna Ingham
41	August 4, 1830	John Henry Eaton	Letter to John Donley
42	August 5, 1830	Andrew Jackson	Letter to Choctaw Agent John Pitchlynn
43	August 5, 1830	John Henry Eaton	Letter to Choctaw Agent John Pitchlynn,
44	August 23, 1830	Andrew Jackson	Address to Chickasaw
45	August 25, 1830	Andrew Jackson	Letter to William Berkeley Lewis
46	August 26, 1830	Andrew Jackson	Letter to the Chickasaw Indians
47	August 26, 1830	Andrew Jackson	Letter to the Choctaw Indians
48	August 31, 1830	Andrew Jackson	Letter to Gerard Chittocque Brandon
49	August 31, 1830	Andrew Jackson	Letter to James Knox Polk
50	August 31, 1830	Andrew Jackson	Letter to William Berkeley Lewis
51	August 1830	Andrew Jackson	Memorandum on the Creek Indians
52	September 1, 1830	John Henry Eaton	Letter to Andrew Jackson
53	October 1830	Willie Blount	Letter to Andrew Jackson
54	October 11, 1830	William Ward	Letter to Andrew Jackson
55	October 16, 1830	Andrew Jackson	Letter to John Coffee
56	November 8, 1830	Robert Butler	Letter to Andrew Jackson
57	November 18, 1830	Andrew Jackson	Letter to John Henry Eaton
58	December 1830	Andrew Jackson	Letter to John Henry Eaton
59	December 1830	Andrew Jackson	Draft on Indian Removal Second Annual Message to Congress

No	Date	Author	Document
60	December 1830	Andrew Jackson Donelson	Draft on Indian Removal, Second Annual Message to Congress
61	December 1830	Amos Kendall	Draft on Indian Removal, Second Annual Message to Congress
62	December 6, 1830	Andrew Jackson	Second Annual Message to Congress
63	December 27, 1830	Andrew Jackson	Letter to John Henry Eaton
64	December 29, 1830	John Coffee	Letter to Andrew Jackson
65	January 3, 1831	Samuel Jackson Hays	Letter to Andrew Jackson
66	January 4, 1831	Andrew Jackson	Letter to John Rhea
67	January 14, 1831	George Washington Campbell	Letter to Andrew Jackson
68	February 14, 1831	Robert Young Hayne	Letter to Andrew Jackson
69	March 18, 1831	Spencer Darwin Pettis	Letter to Andrew Jackson
70	c. March 19, 1831	Andrew Jackson	Memorandum on Cherokee Nation v. Georgia
71	Mar 24, 1831	Samuel T. Bailey	Letter to Andrew Jackson
72	April 1831	Andrew Jackson	Letter to Thomas Hill Williams
73	Apr 15, 1831	David W. Haley	Letter to Andrew Jackson
74	April 24, 1831	Andrew Jackson	Letter to John Coffee (private)
75	June 4, 1831	George Rockingham Gilmer	Letter to Andrew Jackson
76	June 4, 1831	Garland B. Terry, et al. (Columbus, GA)	Enclosure with letter from George Rockingham Gilmer
77	June 9, 1831	Robert Butler	Letter to Andrew Jackson (confidential)
78	June, 20, 1831	George Rockingham Gilmer	Letter to Andrew Jackson
79	June 23, 1831	Rev. John Freeman Schermmerhorn	Letter to Andrew Jackson
80	July 15, 1831	Andrew Jackson	Letter to George Rockingham Gilmer
81	July 16, 1831	Martin Van Buren	Letter to Andrew Jackson
82	August 2, 1831	John Reynolds	Letter to Andrew Jackson
83	August 15, 1831	John Reynolds	Letter to Andrew Jackson
84	September 5, 1831	Caleb Starr	Letter to Andrew Jackson

Congressional Speeches

85	April 15, 1830	Senator John Forsyth, Jacksonian Democrat from the State of Georgia	Speech to the United States Senate
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No	Date	Author	Document
86	April 20, 1830	Senator Robert H. Adams, Jacksonian Democrat from the State of Mississippi	Speech to the United States Senate
87	May 17, 1830	Representative Wilson Lumpkin (Jacksonian Democrat from the State of Georgia)	Speech to the United States House of Representatives
88	May 17, 1830	Representative Thomas F. Foster, Jacksonian Democrat from the State of Georgia	Speech to the United States House of Representatives
89	May 19, 1830	Representative Richard Henry Wilde, Jacksonian Democrat from the State of Georgia	Speech to the United States House of Representatives
90	May 19, 1830	Representative Henry G. Lamar, Jacksonian Democrat from the State of Georgia	Speech to the United States House of Representatives
91	May 24, 1830	Rep. James M. Wayne, Jacksonian Democrat from the State of Georgia	Speech to the United States House of Representatives

New York Indian Board Documents

92	May 21, 1829	Thomas L. McKenney	Letter to Rev. Eli Baldwin
93	April 18, 1829	Secretary of War John H. Eaton	Letter to the Cherokee
94	May 1, 1829	Thomas L. McKenney	Letter to Jeremiah Evarts
95	July 22, 1829	New York Indian Board	Constitution of the New York Indian Board
96	July 30, 1829	Thomas L. McKenney	Letter to Rev. Eli Baldwin
97	August 12, 1829	Thomas L. McKenney	Address to the New York Indian Board
98	August 14, 1829	Rev. Eli Baldwin	Letter to Andrew Jackson
99	August 25, 1829	Secretary of War John H. Eaton	Letter to Rev. Eli Baldwin

North American Review Documents

No	Date	Author	Document
100	January 1830	Lewis Cass	Essay on Indian Removal in the North American Review
93	April 18, 1829	Secretary of War John H. Eaton	Essay on Indian Removal in the North American Review

APPENDIX B

TEXT OF THE INDIAN REMOVAL ACT OF 1830

CHAP. CXLVIII. – *An Act to provide for an exchange of lands with the Indians residing in any of the states or territories, and for their removal west of the river Mississippi.*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall and may be lawful for the President of the United States to cause so much of any territory belonging to the United States, west of the river Mississippi, not included in any state or organized territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as may choose to exchange lands where they now reside, and remove there; and to cause each of said districts to be so described by natural or artificial marks, as to be easily distinguished from every other.

Sec. 2. And be it further enacted, That it shall and may be lawful for the President to exchange any or all of such districts, so to be laid off and described, with any tribe or nation of Indians now residing within the limits of any of the states or territories, and with which the United States have existing treaties, for the whole or any part or portion of the territory claimed and occupied by such tribe or nation, within the bounds of any one or more of the states or territories, where the land claimed and occupied by the Indians, is owned by the United States, or the United States are bound to the state within which it lies to extinguish the Indian claim thereto.

Sec. 3. And be it further enacted, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them, and their heirs or successors, the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always,* That such lands shall revert to the United States, if the Indians become extinct, or abandon the same.

Sec. 4. And be it further enacted, That if, upon any of the lands now occupied by the Indians, and to be exchanged for, there should be such improvements as add value to the land claimed by any individual or individuals of such tribes or nations, it shall and may be lawful for the President to cause such value to be ascertained by appraisement or otherwise, and to cause such ascertained value to be paid to the person or persons rightfully claiming such improvements. And upon the payment of such valuation, the improvements so valued and paid for, shall pass to the United States, and possession shall not afterwards be permitted to any of the same tribe.

Sec. 5. And be it further enacted, That upon the making of any such exchange as is contemplated by this act, it shall and may be lawful for the President to cause such aid and assistance to be furnished to the emigrants as may be necessary and proper to enable them to remove to, and settle in, the country for which they may have exchanged; and also, to give them such aid and assistance as may be necessary for their support and subsistence for the first year after their removal.

Sec. 6. *And be it further enacted*, That it shall and may be lawful for the President to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever.

Sec. 7. *And be it further enacted*, That it shall and may be lawful for the President to have the same superintendence and care over any tribe or nation in the country to which they may remove, as contemplated by this act, that he is now authorized to have over them at their present places of residence: *Provided*, That nothing in this act contained shall be construed as authorizing or directing the violation of any existing treaty between the United States and any of the Indian tribes.

Sec. 8. *And be it further enacted*, That for the purpose of giving effect to the provisions of this act, the sum of five hundred thousand dollars is hereby appropriated, to be paid out of any money in the treasury, not otherwise appropriated.

APPROVED, May 28, 1830

Source: *Gales & Seaton's Register of Debates in Congress (1830)*, Vol. 6, pp. 411-412

VITA

Robert M. Keeton is a native, of Richmond, Kentucky, and earned his Bachelor of Science degree in Police Administration from Eastern Kentucky University in 2001. While pursuing his undergraduate degree, Robert worked as a Police Officer for the Richmond Police Department from 1997-2000. Upon graduation from ECU, Robert moved to Panama City, Florida where he was employed as a Police Officer with the Panama City Police Department from 2001-2007. Robert was also an adjunct instructor in the Criminal Justice Training Academy at Gulf Coast Community College from 2006-2008. While serving in law enforcement, he earned his Master of Science degree in Criminology from Florida State University in 2007. Upon graduation, Robert taught for one year as Assistant Professor of Criminology and Criminal Justice at Gulf Coast Community College in Panama City, Florida. He also began his doctoral studies at Florida State University. In 2008, Robert and his wife Katherine relocated to Knoxville. Robert continued his doctoral studies at the University of Tennessee and accepted a position as a Graduate Teaching Associate in the Sociology department. In addition to his teaching duties at the University of Tennessee, Robert also taught as an adjunct instructor at Lincoln Memorial University, Tusculum College, and ITT Technical Institute. In addition to his academic credentials, Robert possesses a variety of professional law enforcement training certifications.