

**Sovereignty and the Cinematic Image:  
Gary Snyder, The Civil Rights Act of 1968,  
and the Witnessing of Jurisdiction**

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Categorizing the purpose and methodology of the interdisciplinary sub-field of “law and literature” with any consistency is a thorny venture. From Jane Baron’s early work on the topic, naming humanism, hermeneutics, and narrative, as the three strands around which law and literature studies were performed, to Julie Stone Peters’ more recent article revisiting these three “projects” of the law and literature “movement,” scholars continue to explore the way disciplinary edifices both respond to each other and resist interactive morphoses. Yet, despite the limits of the cultural studies methodology we have often employed to understand the field of law and literature—a method largely responsible for the prevailing mode of descriptive observation signaled by the way we now begin and litter many of our papers with “the way in which”—studying law and literature alongside one another enables us a glimpse at how discrete textual and discursive forms meet to contribute to our tacit embrace of seemingly fixed and unyielding concepts. Thus, examining legal doctrines alongside literary texts in a sociohistoric context provides us the opportunity to grasp a more coherent, albeit not necessarily uncomplicated look at the ways cultural notions are generated and disseminated within and across localities and nations.

This article will look particularly at three forms of text—literary, legal, and cinematic—to study the way the cultural idea of “sovereignty” has evolved through a mingling of disciplinary narrative images. Examining one particular decade, the 1960s, and one particular anchor, the United States, this essay will examine environmental writer Gary Snyder’s 1960’s literary work *Earth House Hold*, the legal text of the Civil Rights Act of 1968, and the cinema of the 1960s pertaining to the Vietnam War, to ponder how conceptions of sovereignty have been developed

in the cultural imaginary. As this essay will discuss, when read together these discrete disciplinary forms provide an interpretive collage which illuminates how sovereignty became aestheticized as an interconnected process of constant activity—a dynamic subject to continual transformation rather than static being. This dynamic, continually transforming subject influenced not only the 1960s and the United States, but conceptions of sovereign systems, people, and nations across the globe for decades following.

The 1960s—a decade when national identification was so intimately linked with geographical deployment in and beyond the United States—offer us a snapshot of the ontology and operations of jurisdiction and sovereignty. The numerous permutations and rewritings of legality, counter-culture, and geographic identifications makes this decade ripe for exploring the ways texts unearth the complexities of personal and national sovereignty. Given the preoccupation with determining America's geographic and ideological location—where it was and should be in the late 1960s, as well as how and where to find the idea of America and “its enemies”—it is less than accidental that texts that invoked geography became fundamental parts of counter-cultural production. They participated in an ongoing consideration of individual and state relationships to geographic and ideological American space. Both legal discourse, and literary narratives worked in the late 1960s to reformat American legal subjects' relationships to their land, sense of nation, and racial affiliations domestically and globally. Particularly, Gary Snyder's *Earth House Hold* and the Civil Rights Act of 1968 use geography to reveal the complexities of personal and national sovereignty, which still haunt us today. There is perhaps no greater American impulse than that of the negotiation of the contradictory channels of sovereignty. From the construction of the classic liberal subject free to exercise his own volition over himself, to the American denial of “personhood” to slaves until the mid 1800s, to the exercising of First Amendment Rights to speak oneself, to the restrictions on speech designed to limit words designed to incite violence, the United States has been grappling with how to balance acknowledging the ideal “sovereign” individual body with the ideal national “sovereign” since its inception. Still in the contemporary climate,

we see the United States working out our often-untenable understandings of sovereignty on a daily basis.<sup>1</sup> This essay will examine a microcosm of the ongoing negotiation of sovereignty's contradictions, by examining the United States treatment of Native Americans in the 1960s. Pivotal in demonstrating and creating the issues that people, subject to Americanization, confront around personal and national sovereignty today, the 1960s help reveal the technologies of sovereignty still operating within America and throughout the globe in curious ways.

In a recent forum of PMLA, Peter Brooks and Julie Stone Peters comment on the impact legal and literary disciplines might have on each other. To improve the potential outcomes of the law and literature movement, Brooks calls for "setting law in something resembling a transferential relation . . . to other humanistic disciplines," and Stone Peters, nodding to the form of transferential relation she has previously described, replies that this transference takes the form of "each discipline's reenactment of a primal loss and projection of healing power onto the other discipline" (Brooks and Stone Peters 1646, 1647). If it can be said that the struggles for sovereignty take shape both in literary and legal discourse, then examining the ways literature and legality respond to each other's senses of loss and potential healing is a potent mode for thinking both about the ways sovereignty has been shaped and re-shaped, and also how literature and law have been mutually constituted in the process.

### **I. The 1968 Civil Rights Act—Legal Sovereignty**

The 1968 Civil Rights Act, particularly Titles II through VII, reconstructed the U.S. government's jurisdiction over Indians, and Indian land, as part of the United States' ongoing engagement with Indian autonomy. The Act both extended U.S. ideology to Indians, holding them accountable for and subject to the U.S. Bill of Rights, while it also limited U.S. jurisdiction subject to Indian consent. Title II of the Act, Section 202, declared, for instance, that "No Indian tribe in exercising powers of self-government shall make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or freedom of the press . . ." (Docs 250). Other freedoms designated by the Bill of Rights

were similarly reiterated there: the right to be secure against unreasonable search and seizures, the right not to be compelled to be a witness against oneself, the right to a speedy trial, equal protection of the laws, and due process. Section 203 of Title II also provided for the right of habeas corpus, for a U.S. court to test the legality of detention by an Indian tribe. This right of habeas corpus came on the heels of the previously decided 1965 case *Colliflower v. Garland*, where the U.S. Court of Appeals, 9th circuit, held that tribal courts were in effect a part of the federal system, and that the Federal court had jurisdiction to issue a writ of habeas corpus to determine the validity of detention of an Indian by a tribal court. The court there reasoned that “[i]n spite of the theory that for some purposes an Indian tribe is an independent sovereignty, we think that in the light of their history, it is pure fiction to say that the Indian courts functioning in the Fort Belknap Indian community, are not in part, at least, arms of the Federal government. Originally they were created by the Federal Executive and imposed upon the Indian community and to this day the Federal government still maintains a partial control over them” (Docs 247).<sup>2</sup> The implications of the *Colliflower* case are significant. This case created precedent showing that the “name” of sovereignty and the “practice” of sovereignty are distinct, and would be treated differentially by the courts. Because the Federal government still maintained partial “control” over the Indian community, it would not consider the tribal courts at Fort Belknap “entirely” sovereign. Rather, they were neither “sovereign” nor “subservient.” They fell into an uneasy, uncategorizable space. In *Colliflower*, and beyond, sovereignty came to exist on the separate planes of theory and historical practice for the courts. As a category, or mode, sovereignty was not complete or totalizing. It was already divided and inconsistent in nature—and could be parsed into the separate components of idealized and practiced spaces. To be named a sovereign, then, is not necessarily to be treated as, or act, as one. The signifier does not delimit the assumed parameters of the signified. Sovereignty instead depends on an oscillatory space between name and performance.

The boundaries between the Federal Government and the sovereign Indian courts are similarly blurred in Title III of the 1968 Civil Rights

Act. This Act provided that there should be a Model Code developed by the Secretary of the Interior, to “govern the administration of justice by courts of Indian offenses on Indian reservations” (Docs 250). This model code included items like 1) Indians tried for similar offenses on reservations to those which might be tried in federal courts, shall have the same rights as they would in a federal court; and, 2) Indian judges shall have proper qualifications and be properly educated with classes for the training of judges. The American legal system here maps itself onto Indian land and thought.

Yet, even with this ideological umbrella of national rights placed atop Indian reservations, the Civil Rights Act nonetheless also limited jurisdiction by demanding Indian consent to the State assumption of jurisdiction over civil and criminal offenses. Under Title IV, States could assume jurisdiction over offenses committed *by* or *against Indians in Indian country within that state*, only with “[t]he consent of the Indian tribe occupying the particular Indian country or part thereof which could be affected by such assumption” (Docs 251); Section 406 of Title IV claims that state jurisdiction is applicable in Indian country “only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose” (Docs 252). The Secretary of the Interior was deemed to call that election when “requested to do so by the tribal council or other governing body, or by 20 per cent of such enrolled adults” (Docs 252). The complexities of jurisdiction—as an amalgam and evolution of the history of imperialism and expansion—are apparent from this Civil Rights Act. Abstracted systems of rights were applicable to all Indians, while explicit state assumption of rights, or physical jurisdiction over tribal land, was limited.<sup>3</sup> The law, reworking the role of the reservation in the American imaginary, maintains a separation, albeit one which could be renounced, between the space of the autonomous reservation, and the jurisdiction over American rights which applied to all persons on that reservation. This distinction also followed closely on the heels of President Johnson’s message to Congress in 1968, which forged the path for this divide between geographic placement and abstracted citizenship rights. In that “special message to

Congress, in March of 1968 on the problems of the American Indian, the forgotten American" (Docs 248), Johnson claimed that "We must affirm the rights of the first Americans to remain Indians while exercising their rights as Americans" (Docs 249). Johnson thus reiterates an ontological foundation of "being" Indian, while also suggesting that the essence of Indian-ness can co-exist alongside the pragmatic action of performing the exercise of being American. "Underlying this program," Johnson says, "is the assumption that the Federal government can best be a responsible partner in Indian progress by treating the Indian himself as a full citizen, responsible for the pace and direction of his development" (Docs 248). In Johnson's emphasis on self-help and respect for Indian culture, he proposes a coordinated effort from several Secretaries including Interior, Agriculture, and Commerce, to work together in providing federal assistance programs for Indians. To create this united attempt, he divides the Indian into that citizen which is geographically locatable, but who can partake of expansive and diffuse American ideology. This thought process is also replicated in the Civil Rights Act, which further tears at the distinction between local living and national identification.

## II. Gary Snyder, the Environmentalist Writer and Literary Sovereignty

In the case of sovereignty, the complexities of legal jurisdiction mapped onto Indians within national borders through legal codes also served as a site of struggle for literary artists grappling with aesthetic identification. Gary Snyder's *Earth House Hold*, written in the same cultural moment as the Civil Rights Act of 1968, functioned to invoke not only the idea of the Indian but also the land of the reservation as a place for reformulating both the abstracted idea of the "American" and the materialized way Americans lived on the planet. Snyder's counter-cultural narrative inures the reservation with a double power: it uses the land of the reservation to hypothesize a new sense of American identity and action, while it also calls into question the very formation of the legal space of the reservation evolving at the time. Snyder presents us with a jurisdictional paradox, which reverberates in the looming contradictions of the Civil Rights Act itself.

Snyder has been forthright in his foregrounding of the need to consider the role of geography in identity formation. He said, for instance, in a Road Apple Interview of 1969/70, that “[y]ou should really know what the complete natural world of your region is and know what all its interactions are and how you are interacting with it yourself. This is just part of the work of becoming who you are, where you are” (*Real Work* 16). *Earth House Hold* certainly follows this paradigm for living, as it uses the example of the reservation to examine the idea of America. Snyder uses the notion of the reservation to re-envision the way American’s local and national identities are constructed in relation to the land they live on. Yet, even looking to the particular locale of the reservation, Snyder also seeks to redefine the nature of “region” and arguably “identity” altogether. In his “On Earth Geography” interview, he claims that:

establishing the criteria for defining a region . . . a set of criteria . . . in itself is very interesting . . . since, even though we know better, we are accustomed to accepting the political boundaries of counties and states, and then national boundaries, as being some kind of regional definition . . . and although, in some cases, there is some validity to those lines, I think in many cases . . . the lines are often quite arbitrary and serve only to confuse people’s sense of natural associations and relationships. (*Real Work* 24).

Working against the political creation of identity born of passive acceptance of nationally constructed borders, Snyder suggests we should break our minds out of “the molds of political boundaries or any kind of habituated or received notions of regional distinctions. . . . because political entities, and the boundaries drawn by national states and so forth don’t represent any sort of real entity” (*Real Work* 24).

To find an alternative to the sort of dangerously fictionalized nationalism Snyder alludes to, where citizens imagine unreal boundaries between nations, Snyder turns towards the Indian culture subsisting on the reservation. He looks at the formation of cultural units linked to particularities of land affiliations as old, yet importantly revisited sites

for refashioning cultural identity. In “Passage from More to India” and “Why Tribe,” from *Earth House Hold*, Snyder invokes the notion of the tribal unit as a return to a regional core; this return, he suggests, holds the promise of a reinvented relationship to political and geographic boundaries. When he ponders the 1967 San Francisco human be-in, which he refers to as a “Gathering of the tribes” (*Earth* 103), he recalls the posters of South-Asian Indian Sadhus and Native American Indians. Affiliating tribal identity with geographic location, he says, “The tribes were Berkeley, North Beach, Big Sur, Marin County, Los Angeles, and the host, Haight-Ashbury . . .” (*Earth* 103). Claiming that tribalism is based both in a series of practices linked to one’s land, yet divorced from the ownership of that land and contingent in some ways on a nomadic relation to the nation, Snyder presents us with the paradoxical ways in which tribal identification is or is not linked to land mass. In thinking about the tribe he says, “we use the term tribe because it suggests the type of new society now emerging within the industrial nations. In America of course the word has associations with the American Indians, which we like” (*Earth* 113). Emphasizing the nomadic nature of tribalhood, Snyder adds that “This new subculture is in fact more similar to that ancient and successful tribe—the European Gypsies—a group without nation or territory which maintains its own values, its language and religion, no matter what country it may be in” (*Earth* 113). Snyder here appeals to the value of maintaining an indigenous relation to the land, as well as embracing a traveling notion of tribalhood devoid of linkage to one land mass or political entity. Snyder’s further reliance on Zen Buddhism, Hindu mythology, and Native American spirituality in other sections of the text anchors Snyder’s insistence on the importance to tribalhood of identifying with universal forms of nature. Invoking larger natural categories Snyder says, for instance, that “men, women, and children—all of whom together hope to follow the timeless path of love and wisdom, in affectionate company with the sky, winds, clouds, trees, waters, animals, and grasses—this is the tribe” (*Earth* 116). Snyder’s emphasis on communing with the natural components of land functions to idealize geographic elements, which are seen to resist national borders.



This reliance on localized yet nearly transcendent identification with geography correlates with the U.S. presence abroad in Vietnam in the late 1960s. Arguably, part of the counter-cultural movement of which Snyder was a part was necessarily implicated in linked efforts to halt both ongoing violence towards U.S. minorities (and explicitly Native Americans), and the projection and displacement of domestic racial violence onto other nations. Several scholars have stipulated the interrelationships between domestic and international affairs. Amy Kaplan has suggested, for example, that “international relations reciprocally shape a dominant imperial culture at home, and . . . imperial relations are enacted and contested within the nation. . . . Foregrounding imperialism in the study of American cultures shows how putatively domestic conflicts are not simply contained at home but how they . . . spill over national boundaries to be reenacted, challenged, or transformed” (“Left Alone with America” 14, 16).

Indeed, a significant portion of Snyder’s writing evaluates and links both Native American sovereignty battles, and the warfare in Vietnam. Though much of Snyder’s prose uses spirituality to look inwards, rather than cast opinions about the U.S. role in international affairs, Snyder does himself comment on the American ferocity abroad towards the Viet Cong. Despite stating that “nationalism, warfare, heavy industry and consumership are already outdated and useless” (*Earth* 116), Snyder does note in reference to the war in Vietnam that “the American Indian is the vengeful ghost lurking in the back of the troubled American mind. Which is why we lash out with such ferocity and passion, so muddied a heart, at the black-haired young peasants and soldiers who are the Viet Cong. That ghost will claim the next generation as its own. When this has happened, citizens of the USA will at last begin to be Americans, truly at home on the continent, in love with their land” (*Earth* 112). Snyder links national identity (being Americans), with private sensations of comfort and affiliation (feeling home in the geographic locale of the continent). The U.S. response in Vietnam seems, for Snyder, to be at least partially located in its subconscious awareness of the lurking American Indian consciousness, waiting to reclaim both land and ideology for the continent and return the American geography to a right-

ful notion of “being American.” Arguably, the projection of the perceived threat outside of American soil serves to refocus and seemingly quell fears that the Indian “way of life” will overcome American ideology. Moreover, ostensibly, the United States kills the visible threat of the Vietcong to eclipse Americans’ lurking fears of the more hidden threat of Indians within U.S. borders: Indians who challenge the vital intersectionality of our geographic and ideological locations. Snyder’s vision of the haunting Indian, waiting to bring America back to a geographic relationship to the planet, underlines the way in which a potential return to a native sensibility can be seen as both an impetus for and reaction to U.S. war involvement abroad. Philip Deloria has commented on these assumptions, claiming, “when it came to the war, the semantic and semiotic linkages could hardly have been more appropriate. Racially “red” Indians matched up well with the ideologically “red” Vietcong, and both joined “youth” as pure, antimodern primitives. . . . Countercultural rebels became Indians to move their identities away from Americanness altogether, to leap outside national boundaries . . . and offer what seemed a clear-eyed political critique. Yet, if being Indian offered one an identity as a critic of empire, that position was hardly uncomplicated” (Deloria 164, 166).

The complications resulting from this alignment with Indian identification derive in part from the dynamics of empire itself. American citizens, privileged by their relationship to the American nation, had an easy ability to shift identifications to a group who themselves had been at the core of negotiating the nature of sovereign status. As the maintainers of empire, American citizens could choose at discrete moments how they wished to visualize their positions as sovereigns. American Indians lacked that option, yet American citizens opting for Indian identification never willfully surrendered their positions of sovereign choice.

Gary Snyder’s work helps elucidate this complication as he rethinks the notions of jurisdiction and sovereignty inherent in empire—an issue endemic to postcolonial theory but one that arguably has traditionally excluded Indians from its overall purview.<sup>4</sup> Snyder’s resistance to international violence in Vietnam gets envisioned through a return to an alternative geographical matrix—the reservation—one intriguingly linked

to a space existing simultaneously both within and outside U.S. legal jurisdiction, and one which has itself been historically known as a site replete with violence. His work functions to reveal for us the paradoxes created by legal jurisdictional codes, themselves grappling with Snyder's very questions: What are the relationships between material borders and ideological transgressions? Can they be jurisdictionally bounded or even regulated? The very consideration of these troubled categories, as a sort of conflictual montage present in the 1960s, is a presage to the complexities of globalization and postcoloniality in the twenty-first century. Examining the contradictions of jurisdiction and sovereignty enables a better understanding of their deceptively totalizing influences.

In considering the ontology of sovereignty, some scholars have suggested that the notion itself betrays a sense of autonomy and relies instead on mutuality. Elizabeth Heger Boyle and John Meyer have argued, for instance, that notions of national sovereignty depend not on isolated nation states, but global, even universal renderings. They assert, "Sovereignty is a peculiar claim: it is a claim to autonomous decision-making power, but under exterior universal principles and addressed to an exogenous and often universal audience. The idea of sovereignty itself emanates not from each nation independently but from the global recognition of the nation-state form" (Boyle and Meyer 69). Whether sovereignty appeals to a universally available principle or not, the notion that the sovereign body demands to be witnessed within a certain frame of autonomy—that it be perceived by others as presiding over itself—is compelling. And yet even the witnessing of self-declaration is not without complication. For what must be abjured in order to claim or witness sovereignty? As this article will later suggest, peculiar notions of development must be jettisoned for sovereignty to be witnessed.

Examining the nature of sovereignty, in an effort to understand its impacts, leads us to search for its location. But if, as Amy Kaplan has argued for instance, empire is understood not to be the static result of relations between domestic and foreign forces, but rather one emanating from "ambiguities," "contradictions," and "anarchic" networks of disorder (*Anarchy* 1), then searching for the location of tempestuous sovereignty is itself an elusive act. Moreover, if we accept, perhaps as a

key to democracy itself, Hardt and Negri's premise that in our mode of imperial sovereignty, "there is no place of power—it is everywhere and nowhere. . . . It is a non-place" (*Empire* 190), and that consequently "if there is no place outside, then we must be against in every place" (*Empire* 211), then seeking to impact sovereignty is an attempt to impact a non-place, or an interstitial one.

Ironically enough, the reassertion of the import of local and regional studies has been involved in literally insisting on the viability of place as critical to impacting the elusive space of non-place. Such, in part, was Gary Snyder's method in *Earth House Hold*. But even beyond that strategy, Snyder looked into a further query: What is the relation between personhood, or personal sovereignty, to the legal orders which themselves follow the pathways of the contradictions of empire and national sovereignty? Snyder invites us to inquire into how one—in their own personal sovereignty—avoids an affiliation with the deceptive concept of national sovereignty. A partial response to this inquiry is that the concept of national sovereignty, as notion, arguably belies a "thingness" which itself is without place. This "thingness" creates for the individual a distraction of fictional belonging to national boundaries which themselves counteract or complicate personal sovereignty.

Critic Bill Brown, in what he identifies as a fundamentally modernist question of "things" and their "thingness," has asked about the degree to which there are ideas in things that exert pressure on us to engage them as something other than mere surfaces (12). For Brown, modernist art explored the compulsion with turning representation into "thingness" in American culture. He claims that a fundamental strain of modernism was to "imagine the work of art as a different mode of mimesis—not one that serves to represent a thing, but one that seeks to attain the status of a thing" (3). He also observes that after the turn of the century, "the effort to sell things . . . and to accumulate things had an inevitable result . . . Americans now lived life peculiarly possessed" (5). If some tenets of modernism can be seen as extending, or even expanding into the contemporary moment, we can think about how the representation and "thingness" of sovereignty has led to seeing the nation as an artistic form—no longer just representing its citizens

but taking on its own properties—with depth, levels, and contours. This vision of the sovereign as thing leads to an aestheticization of the national body and endows it with properties like affect and beauty. The aestheticized national body arguably in turn masks the ideas which have formed this “thing.” The Civil Rights Act of 1968 is an excellent example of this operation. There, representations of sovereignty are seen in terms of the good and willing body both establishing itself and tacitly, if not explicitly, consenting to national form. Particularly, the Act aestheticizes tribalhood in relation to the nation. Although legal holdings are not generally seen either as representations or as aestheticizing, we can see from the Civil Rights Act that the definition and fulfillment of personhood and tribalhood are indeed represented as bearing certain qualities with aesthetic properties: Section 201 of Title II claims for instance that “Indian tribe means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government” (Docs 250). This suggests then that the notion of “tribe” itself is linked to and dependent on issues of subjection and recognition. Indian tribes are those that are witnessed to be split: they are subject to U.S. national jurisdiction at the same time they are recognized through the lens of possession—possessing powers of self-government. They are a tribe because they are witnessed to possess certain “things” essential to the process of being seen: namely, they can be seen because they are deemed to exist in the realm of having “things”—in this case powers.<sup>5</sup> They can be, and are represented because of the way in which they are aestheticized as containers for these things. And, as such, these containers (“tribes”) are launched necessarily by the Civil Rights Act, and other legal acts, into the realm of the aesthetic, albeit in non-explicitly stated ways. Additionally, individuals who possess rights are similarly positioned as vessels that autonomously secure those rights. The extension of the United States Bill of Rights to Indians in the 1968 Civil Rights Act then leads to posing questions like, “What does sovereignty over personhood mean if personhood is conceived of as a thing? What images does personhood produce if persons are conceived of as artistic forms with levels, surfaces, and contours?”

Personhood's relation to national legal orders has been examined elsewhere in areas like equal protection and slavery. Stephen Best's work on the history of personhood in the United States, for instance, has revealed some of the paradoxes of personhood that get invoked in thinking about jurisdiction. Best argues that historically concepts of personhood have mingled with notions of things. As he suggests, "slavery provides a particular historical form of the ongoing crisis in which persons are treated as things, and things as persons, one that lends historical depth and contour to the subordination (at century's end) of personality to the property relation" (38). Citing this example as one of many metaphoric substitutions occurring in the law, and fundamental to it, Best suggests that, "the relation between persons and things, and conceiving persons as things, becomes a varying pre-occupation of the law in the aftermath of slavery" (39). While his argument underlines how the "thing-person" dichotomy in U.S. law has been central to the formation of legal protections for voice, thoughts, emotions, and sensations in right to privacy cases where the right to personality becomes a piece of self-ownership (Best 50), it also offers a launching point for examining how, in cases not of personal sovereignty, but national sovereignty, the nation as a "fungible" good can be subject to similar problems inherent to the person. If both national and personal sovereignty have resided partly in their status as "things," aestheticized and representational, then the contemporary moment, as well as the nineteenth century about which Best writes, should attend to the ways in which national and personal sovereigns get aestheticized. Such a focus will enable a more comprehensive examination of sovereignty, one that will help reveal the problematic complexities of sovereignty itself.

In the case of American Indians, this aestheticization of the personal and national sovereign body has created images of Indians similar to those of other postcolonial bodies.<sup>6</sup> Yet, U.S. governmental acts concerning Native Americans have largely been treated by critics outside of postcolonial parameters. As Louis Owens has asserted, "surprisingly, it would not take much time spent browsing through contemporary critical/theoretical texts—including especially those

we call postcolonial—to discover an even more complete erasure of Native American voices” (13). Owens lists the numbers of theorists, including Edward Said and Homi Bhabha, who, according to him, dismiss or silence indigenous Native American voices and writing even as they theorize postcoloniality (13). This sentiment is echoed by Kathryn Shanley and John Purdy when they consider how both postcolonial theories and cinematic images of Indians have erased Indians in history (Shanley 26, Purdy 112). As a remediation of this erasure, John Purdy has suggested that filmic renderings like Gerald Vizenor’s *Harold of Orange* are successful in “reversing images [popularly ingrained in his audience] . . . by problematicizing the directional framework inherent in the paradigm—[by] demonstrat[ing] the ideological and thus ethnocentric foundations upon which they are based . . .” (112). Purdy commends Vizenor for forcing a “reimagining” of orientations, frames of reference, and thus representations with which we are all familiar” (112).

These representations that challenge dominant paradigms of sovereignty are especially essential since legal acts and cases themselves are already propelling us into the realm of representation and aesthetics. Thus, cinematic images that reflect back on sovereignty itself by demanding newly conceived inclusions of the Indigenous in history are a natural extension of and response to a legal system that has already tacitly imagined sovereignty within the written text.<sup>7</sup> Cases like *Colliflower v. Garland* and The Civil Rights Act of 1968 formulated conceptions of sovereignty through legal doctrine, and cinema engages with these productive legal notions. The cinematic image in particular reveals whether or how the “thingness” of sovereign personhood and nationhood—in the case of the 1968 Civil Rights Act represented in bodies and tribalhood replete with inalienable rights—operates. It reveals the ambiguities and ambivalences of sovereignty, ambivalences that show “transitional social realities” (Bhabha 1) as inherent to the contradictions of the sovereign image. Through the cinematic image we can start to understand and refine the importance of personal and national sovereignty, by thinking about its relation to bodies and the global interactive flows of personhood in which we participate.

### III. Cinema and the Sovereign Image

In the context of the 1960s, several films were made which directly addressed the ways in which the localized idealization of the U.S. Indian—embattled with issues of sovereignty reflected in the 1968 Civil Rights Act—was used as a canvas to both reflect and create the problems of development and sovereignty fought over in Vietnam. Bruce Baillie's *Quixote* has used, as David James has suggested for example, “. . . recurrent image clusters in which the remnants of the pre-colonial past—its geography, its fauna, and especially the richness of its aboriginal cultures—coalesce, fragments of an Indian summer shored against the ruin of the modern metropolis” (160–61). To envision the dilemmas of development, Baillie's “collision” editing shows “adobe ruins and young Indian girls supplanted by industrial machinery gouging the earth” (160). Likewise, in the film *Mass for the Dakota Sioux*, as James points out, indigenous culture is “presented as a prelapsarian ideal, fall[s] to industrialism . . . and war” (161). There, however, “the utopian alternative is Vietnam, which like the domestic Third World is ravaged by the technology of corporate capital. But whereas the Indians of the West could be known or at least seen directly, Vietnam is knowable only indirectly, through television” (161). James notes that the final shot of the film reminds the viewer that the technologically underdeveloped Indians and Asians are joined through the color red which fuses their connection (162). He contends that the aesthetic qualities of the films allegorize social values by using the representative of counterculture and the emblem of the Third World, the American Indian (163–4). In these particular 1960s films then, cinematic technology is used to show the ways in which American Indian and Third World bodies get similarly aestheticized in the service of demonstrating both the problems of U.S. imperialism, and the projection of U.S. racial tensions abroad.

Aside from overtly highlighting the interconnectivity between domestic and foreign imperial relations, cinema's properties also themselves reveal the instability of sovereign systems, calling into question conditions of being in sovereign things. The cinematic image's movement through time and space inherently questions the qualities of autonomy, static being, and linear progression. DeLueze's philosophy of cinema



has extensively shown how the cinematic image embraces “becoming” rather than fixity (58–9). As critic Brian Flaxman has highlighted about Deleuze’s ideas, cinema has the capacity to “de-territorialize the cogito” which has “dominated Western philosophy,” so that images get seen and experienced anew relative to prior “rituals of representation” (2–3). Cinema creates concepts because it removes us from what we have accepted as familiar. In so doing, it resists our recognizing the same predictable images repeatedly, and creates possibilities for witnessing new forms. Thinking through cinema about sovereignty opens up opportunities for understanding personal and national sovereign states because it can create conditions of possibility for reimagining the aestheticization of global citizens and sovereigns. By reflecting on the cinematic image, we cannot only glimpse how sovereign aesthetics have been created, but can disrupt them as well by destabilizing rigidified representations. We can begin to unpack, or even eschew sovereignty’s often unspoken totalizing influences by overtly visualizing what has previously been implicitly imagined through legal texts. As Flaxman has noted, Deleuze focuses in part on “judicial films” because he is interested in the problem of narration leading to judgment (36–7). Much like the way Gary Snyder’s work interacts with legal doctrines of the 1960s, so too does cinematic narrative imagine the problems and potential new conceptions of our judgments about what constitutes the individual and national sovereign body. Images and texts are in dialogue about the emerging discourses of sovereignty.

Moreover, Deleuze’s philosophy of cinema assists us in processing troubling notions of development attendant with contemporary considerations of sovereignty. Deleuze posits that the essence of a thing appears in the course of its development—rather than in a static quality. This notion of development differs from the same term’s usage in contemporary theories of democracy and globalization. In the exportation of democracy and perpetuation of globalization, development gets deployed as an economic telos rather than embraced as an ontological mode. When considered in light of sovereignty, however, a nation or person can be seen or experienced not solely for its economic progression or ideological alignment, but rather for its ontological development. When

understanding the sovereign image, Deleuze's ideas compel us to imagine that if the 'essence' of a sovereign individual or nation appears in the process of development, that development is one in which the economic telos of development is abandoned. Development entails not linear and systematic progression towards an economic goal, but rather a constant process of interacting and becoming. Sovereignty, then, might be aestheticized not as an embrace of static separate things—distinct vessels possessing qualities—but rather as an interconnected process of constant activity. Such a process would create alternative images of sovereign personhood and nationhood, which could themselves shift our conceptualization of troublesome sovereignty itself. Thinking through cinema as a foundational mode offers this new possibility for uncovering the operations of legal doctrines and orders, which often appear beyond our reach.

#### **IV. Sovereignty: The Interdisciplinary Link Between Law, Literature, and Cinema**

Studying how legal forms like the Civil Rights Act of 1968, literary forms like Gary Snyder's *Earth House Hold*, and cinematic depictions of the Vietnam War are interwoven in their consideration of sovereignty, entails thinking about flows of power and representation, as well as potentially reformatting our notions of representation itself. Critics typically distinguish, however, between the operative power of literary representations and legal doctrines. Legal documents are routinely considered to have immediate effects unlike representations. One is accustomed, for instance, to locating the impacts of the Civil Rights Act more quickly and easily than those of Gary Snyder's idealization of American Indian lifestyles and reservations. However, looking at how legal doctrines instill concepts like sovereignty with representational, aestheticized properties shows the ways in which representational constructs also then function to re-inscribe legal concepts at the level of the image. At the site of the image, these aestheticized constructs are endowed with qualities like affect. Even representation expands beyond its lingual coordinates as literary culture and legal culture engage each other. So, Gary Snyder's imagination of personal, tribal, and national sovereignty

perpetuates, responds to, and creates new images of sovereignty at work in the legal imaginary just as legal doctrines impact literary production. Both contribute to how we imagine and experience the sovereign image. It is through the moving image then, which reflects cross-disciplinary conversations in transit, that we can trace the movements of sovereignty and jurisdiction, noticing where and how these concepts are derived and felt. Moreover, we can think through the moving image as a non-static, continually shifting place where the functions and operations of sovereignty can be tracked. Such a process enables us to resist designating any ultimate veracity to images, so that while we may notice the formation of sovereignty, we need not be resigned to any ultimate form or shape it might take. We can acknowledge the shifting nature of images, and thus find agency to rewrite and re-imagine the legal concepts that form our personal and national affiliations.

## Notes

- 1 In cases of abortion, for example, where the right to privacy has been construed as a claim to personal sovereignty, we find ostensibly conflicting interests in autonomy when we try to decide whose body or personhood should be granted acknowledgement—the mother, the embryo, the fetus, or the unborn child?
- 2 The Bill of Rights was finally explicitly extended three years subsequent to the *Colliflower* decision, extending the right of *habeus corpus* to members of all tribes.
- 3 As this essay will later show, this distinction between ideological and material assumption of jurisdiction is especially intriguing given Snyder's counter-cultural re-imagining of the reservation which invokes similar contradictions between spirit and material geography.
- 4 Much of postcolonial scholarship has been bounded by particular global geographic areas after the “end” of colonizing periods in the 20th century. Native Americans seem largely left out of these discussions, no doubt in part because of their confronting complicated ongoing legal relationship to the Federal government of the United States of America—and their arguable positions as “post” colonial subjects. There has not been a geographic removal of the colonizing forces in the United States in the same ways in which there has been in India, parts of Africa, and the Caribbean, for instance. The work of Bhabha, and Said, while theoretically relevant to the situations of Native Americans, has then often not explicitly included them as subjects of study. There are exceptions to postcolonial theory's general global focus outside the United States, like the anthology *Postcolonial Theory and the United States: Race, Ethnicity, and Literature*.

- Ed. Amrijit Singh and Peter Schmidt. Biloxi: U of Mississippi P, 2000, which considers postcolonial theory's impact on the consideration of race in the United States.
- 5 Definitions of tribalhood have been debated in other arenas as well. See also, for instance, Jack Campisi, "The Mashpee Indians: Tribe on Trial." *Readings in American Law*. Ed. Jo Carillo. Philadelphia: Temple UP, 1998. 32–42. There, Campisi relates court proceedings designed to ascertain the definition of a tribe for purposes of deciding whether the Mashpees constituted one.
- 6 See, for instance, Hamid Naficy. *An Accented Cinema: Exilic and Diasporic Filmmaking*. Princeton: Princeton UP, 2001. In that text Naficy argues about techniques of fragmented, critically juxtaposed narrative structures used to reveal doubled and lost characters and politicized structures of feeling in postcolonial, exilic, and diasporic films.
- 7 For consideration of how legal decisions have impacted people's actual appearances within the U.S. borders, see Ian Haney Lopez. *White by Law*. New York: NYU P, 1996.

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