

Native Resistance and the Carceral State

an interview with Nick Estes

This zine is a transcript from an episode of the podcast Rustbelt Abolition Radio, and 1312 Press publishes it in print-form in conjuncture with that project. 1312 Press is a small zine-distro committed to struggles for decolonization, against fascism, against the police, and for Indigenous land reclamation. We see carceral society as an extension of colonization. For the shared liberation of land and people, systemic imprisonment must come to an end.

Rustbelt Abolition Radio is an abolitionist media and movement-building project based in Detroit, MI. Each episode broadcasts the voices of those impacted by incarceration and explores ongoing work in the movement to abolish the carceral state (that is, prisons, police, courts as well as racial domination and capitalist exploitation).

The show seeks to strengthen community collaboration and undermine the common sense that putting people in cages and shackling them with electronic devices solves the problems produced by racial capitalism. As such, we aim to expand our ability to struggle against the ways in which the carceral state impacts our daily lives and to create a space where we can both imagine and remake our world anew.

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Cover Image: "*Wilding*" *Cops at Standing Rock*, Josh Yoder

movements in ways that are really generative and that deserve a more robust conversation versus always siloing off movements as kind of disparate struggles that don't speak to each other.

Because as we saw, not just on the ground of Standing Rock, but in places like Minneapolis, even in places like Albuquerque where I've organized, the tendency is not to just have only indigenous peoples, the tendency is always: how did these struggles speak across these differences? How are we accounting for different definitions of indigeneity, for example, and how do we not reproduce something in the first world such as the Monroe Doctrine in how we organize, in a hemispheric approach that the U.S.-based and Canadian-based indigenous struggles don't have hegemony on the definitions of what constitutes indigeneity, and just because somebody crosses a border, does it mean that person is either less indigenous or is quote unquote not from the community, but in fact deserves our support and solidarity.

access, to the land. And oftentimes what, for example, what black people in the U.S. face with the carceral system will be distinct because their mode of criminalization is different from the mode of criminalization of indigenous peoples, but nonetheless: they speak to each other across those differences because it's part of the same kind of project.

Some concrete ways in which we have been advocating for non-reformist reforms would be: thinking about indigenous treaties as something that aren't just exclusive to indigenous peoples. For example, at Standing Rock we invited people from all walks of life to essentially uphold treaty law and indigenous governance. That wasn't an exclusive project for indigenous peoples. I think there's a fear that indigenous liberation or sovereignty is somehow an exclusive project that categorically excludes other people and that if indigenous peoples were left in charge that they would do to settlers and settler-society, what was done to their ancestors, you know, genocided, removed from the land, displaced, incarcerated, etc. But I think every sort of iteration of a multinational indigenous struggle has proved otherwise. Right. We didn't kick people off the land at Standing Rock or elsewhere, we invited them in to participate in this particular struggle, you know, for better or worse.

I'm not saying that it's a perfect system, but I think when we think about implementing things such as treaties we're also talking about the upholding of –if we want to get like kind of legal– this approach is that: the first amendment has within its language that treaties are the supreme law of the land and that if people want to hold their government to account, they can say that, “Hey look, our government signed these treaties with these people”, and it's the first amendment right? If people are so constitutionally pure, how come they don't focus on the first amendment and the first agreements that were ever made – the first diplomatic agreements that were ever made were with indigenous peoples. These agreements essentially guaranteed peaceful coexistence.

You know, I'm saying these things, but I'm not saying that these are the perfect modes of understanding what indigenous liberation is. I'm just talking about a baseline approach, but these treaties also guaranteed things, you know, not just access to territory, but things such as healthcare, such as employment, such as food, and education; and you know on the left. Those are things that we would call part of a living social wage. And so we can think of treaties as kind of a model, like a base framework for understanding how these other struggles connect with indigenous struggles: that treaty rights have to be at the forefront of this. They can't be an afterthought. Indigenous liberation has to be at the forefront of this –it can't just always be an afterthought– and that it does speak to these other

Nick Estes: My name is Nick Estes. I am Kul Wicasa from the lower Brule Sioux tribe in South Dakota, and I helped co-found The Red Nation in 2014 in Albuquerque, New Mexico, along with a collective of radical indigenous feminists and non-indigenous organizers. We formed specifically around the issue of police violence and state violence against indigenous peoples. Right now we have organizations in several different locations, primarily in the southwest.

a María: There's a chapter in the book *Policing the Planet* in which Christina Heatherton interviews you and other members of The Red Nation to discuss how the criminalization of Native people, particularly the poor and houseless, represents a colonial strategy of crisis management. Can you talk about the relentless state violence against Native people in urban settings, and the roots of this violence?

Nick Estes: I think to contextualize the issue of criminalization of indigenous peoples off-reservation, we have to think historically about the boundaries that were created between off-reservation and on-reservation on-reservation spaces. Oftentimes we think of indigenous peoples in the U.S. and Canada, for example, as confined only to these designated homeland areas, quote unquote, which are in fact reservations which were intended to be open-air concentration camps. In the 1950s, the era of termination and relocation really set into motion a forced displacement of indigenous peoples off reservation lands in an effort to prioritize those lands and opened them up further for white settlement.

Oftentimes we think of settler colonialism as something that happened primarily in the 19th century, but in fact, as we can see with the criminalization of indigenous peoples off-reservation that really took place in the 20th century as well as you know, the 21st century and today. But what happened in the 1950s

and the 1960s is you had over a quarter million of native people who were sort of lured or displaced from reservation lands in an effort by the state to essentially liquidate its federal responsibilities and treaty rights to tribes. And so what happened is you had a lot of people moving to off-reservation spaces, primarily urban locations such as Minneapolis, you know, Los Angeles, San Francisco, Boston, Cleveland, Denver, etc. With this influx off-reservation, you had sort of the increase of policing of indigenous people off-reservation. And this wasn't a new thing, this isn't like a new sort of tactic that was developed by the settler state, but it had been intensified in this particular period. So for example, in 1968 in Minneapolis, the police department of Minneapolis would go around on the weekends and bust up what were called "Indian bars" in the city and make mass arrests of indigenous people out on the weekend and then imprison them for the weekend in this effort to police this off-reservation presence in the city. And so in effect, you had two things that were happening: you had one that was the criminalization of indigenous peoples for quote unquote drinking. So you have the figure of the drunk Indian, which you know, by definition, being drunk in public is not technically illegal nor is being indigenous. But nonetheless, indigenous peoples have historically been criminalized for being quote unquote, the drunk Indian.

And so in response to the mass criminalization of indigenous peoples in not just Minneapolis, but also in other places, you know, in Gallup, New Mexico for example, or Rapid City, South Dakota, you had the formation of the Red Power Movement essentially to combat police violence. And most people don't realize that Red Power formed initially as an anti-police violence movement and they formed these community patrols, much in the same vein as a Black Panther Party for Self-Defense, founded in Oakland, California, to essentially provide community safety patrols for native people on the weekends who were being profiled and harassed by the police. Eventually that expanded into things such as survival schools, providing an alternative education model for native students in public schools because not only were native students taken away from their communities, but they were also educated in non-indigenous spaces which taught really distorted versions of American history.

The Red Nation, when we were founded, was really founded in that sort of tradition of addressing off-reservation, police violence. But this isn't, you know, when we think of state violence, we often think of the figure of the cop. But what we, not just, we The Red Nation, but historically: the indigenous movement has addressed the figure of the settler as well as carrying out the will of the settler-state to essentially eliminate indigenous peoples. And this happens in a practice called Indian rolling where primarily young men go around on the weekends or

international approach where we try to organize with the base versus trying to organize in so-called civil society and trying to constantly convince the colonial institutions that indigenous people are humans, because that's been a failed project thus far. If they do want to recognize their humanity, that's great, but that's not our ultimate goal. Our ultimate goal is to empower everyday indigenous peoples to take charge of their lives, and so when we think of liberation it's also a process of decolonization that includes non-indigenous people, who may or may not be complicit in the system, but also themselves are disempowered by it.

And so if we think of settler-society which creates minorities out of Indigenous peoples –like, statistical minorities out of indigenous peoples– we have to understand that when we were talking about liberation, we're talking about forms of autonomy and self-determination, but we're also talking about a process that includes the vast majority of society that doesn't hold power in this current system. There's a lot to be said about that, because I think oftentimes people get uncomfortable with this label of settler and settler-colonialism. But it's not that we made up this term, you know, and then it becomes this individual identity that people take on as their own, but it's literally structured in the legal, political, cultural and social systems of this particular colonial government. Right? And so when we're talking about liberation or indigenous self-determination, that means that we're also advocating for the abolition of the systems that grant these particular privileges that are always constructed against indigenous governance as well as indigenous territory or rights to territory. I think some people get uncomfortable with that or they want to reduce it to something they call "identity politics" when in fact we're not talking about individual identities, we're actually talking about structures of power. And identities tend to obscure, you know, the claim of an individual identity tends to obscure those structures of power.

a Maria: How can a better understanding of settler colonialism and its project of elimination shift how we think about abolition and carcerality in the so-called United States, and what are some concrete ways you would like to see the movement to abolish the carceral state engage with an anti-colonial framework?

Nick Estes: That's a really good question. I think for us, because this is a settler-society and its primary function and goal is to erase indigenous peoples, indigenous people always kind of become a tack-on struggle. So it's like: "How are indigenous peoples incarcerated, too?" or "How are they affected by police brutality, too?" And then it becomes this kind of afterthought in this larger conversation, when I think organizers have argued for the last centuries [laugh] that settler-society's primary organizing principle is the elimination of indigenous peoples first and foremost, to essentially secure access, unrestricted

actually talking about the connections between policing what are black-led urban uprisings in Baltimore and Ferguson and elsewhere, in connection with border security, as well as the tactics of crowd control that are used by the IDF in policing Palestinian protests all the way to the policing of indigenous protests in Canada against pipelines crossing through unceded territory.

So the security state already sees all of these things as interconnected, right? So the criminalization of indigenous peoples, it's kind of come full circle because counterinsurgency as a practice by the U.S. military and then taken up by private security firms was literally formed during the Indian Wars at West Point. In the officer's training on international law, they begin with the Indian Wars as the first example of counterinsurgency tactics deployed by the U.S. army. And then they continue on up into the wars in Afghanistan and Iraq and now Syria. The U.S. has cut its teeth on waging wars against civilian populations by waging total war campaigns against indigenous peoples first. And then, you know, in the 21st century it's still waging those campaigns, not just on indigenous peoples in the so-called U.S., but also on people elsewhere throughout the world. We have to think of these things as interconnected and the criminalization of water protectors in particular is just a continuation of an Indian War that literally never ends.

Catalina Rios: Coming from the migrant rights movement, I often think: what can legality even mean in stolen land? Creating those connections between these movements is something I've been reflecting on.

Nick Estes: We have people who work closely with Dreamers and DACA recipients in the New Mexican context, but also within the national context, and one of our main contentions is that this government, the settler-government, has no right to determine who can and cannot come on these lands when it itself an invading occupying force. I think if we understand the U.S. as an invading, occupying force that literally cannot define the parameters of legality because it in and of itself, according to indigenous customary laws, is itself an illegal invading force, brings up this larger question about what does Native Liberation look like.

I think what we have tried to put forward as something that is kind of outside of the formal channels of power, in the sense that nonprofit and NGO organizing tends to organize toward power, to speak to power, whereas we've kind of drawn on a longer tradition of indigenous resistance that isn't just confined to the examples of North America—which I would just call it like the anglosphere or the first world— but ones that draw from a hemispheric as well as a transnational and

at night and murder or harass or mutilate any native people who may be on the street. For example, to young men shot and killed Ronnie Ross, a Navajo man in Albuquerque, New Mexico, thus continuing this longer pattern of upholding this notion of anti-Indian common sense where the settler-state doesn't always need to kill indigenous people when everyday settler-citizens do that for them.

We can see this in places like what is currently called Canada with murdered and missing indigenous women. Thousands of women who have been disappeared or murdered by everyday settlers. And we can see this in the two most recent court cases in Canada—that ironically happened during the truth and reconciliation process— of the murders of Coulten Boushie as well as Tina Fontaine, where white settler-citizens were essentially exonerated by the state of any wrongdoing. So when we were talking about the criminalization of indigenous peoples, it's not just the state itself enacting this violence. It's how settler-citizens uphold that sort of status quo. What we call anti-Indian common sense.

This ranges from anything from just murdering people outright to essentially policing the city as a quote unquote non indigenous space, to upholding certain binaries of authenticity between urban and reservation-based indigenous people. So we were really pushing back on that because we do see this kind of policing of the normative boundaries of indigeneity is upholding binaries that aren't useful. For example, four out of five native people in the United States don't live on reservation land or trust land. So the majority experience of indigenous peoples is one of off-reservation experience, and so how do we confront what is the dominant experience of native people off-reservation? And that's really the core foundation of who we are as The Red Nation.

a María: Along those lines, you write that Indian killing has always been authorized through the law, as Native people are marked as deviant and lawless for transgressing settler dictates. Historically, how do you understand the project of U.S. Settler colonialism and indigenous resistance as they relate to the formation of the carceral state?

Nick Estes: So, I think we have to go back to... I use this example not because I—well— I do agree with Justice Scalia. Justice Scalia, who recently passed away, thank god, he represented this tradition in the supreme court: he was a constitutional purist, right? He believed in the original intent of the constitution, and as somebody who studies american history, I do believe that he was correct in that interpretation that we have to go back to the original intent of the founding fathers and we can look at, you know, the founding documents such as the declaration of independence, primarily written by somebody like Thomas

Jefferson, which essentially criminalizes domestic slave revolts and indigenous resistance. And the codification of the armament of everyday settlers under the second amendment, which was, you know, obviously it was the second –it was the second amendment, right– it was the second thing passed next to the first amendment. And the second amendment was passed in the context of The Battle of Wabash, wherein the Shawnee Confederacy, alongside allied Miamis, essentially wiped out the Continental Army following the so-called Revolutionary War of Independence. So what happened is that the standing army of the so-called the United States was like in shambles. It was almost nonexistent. And so the second amendment was passed to arm everyday settlers and to federally subsidized the armament of those settlers to essentially carry out Indian killing. To continue taking land. Because if we understand historically, as Roxanne Dunbar-Ortiz in her new book, *Loaded*, argues: the second amendment was created to facilitate the taking of indigenous land and territory because the revolutionary war was not fought for, as we were told, as a war of independence from Britain, but it was fought as a war to expand settlement west of the Allegheny and Appalachian mountains and thus expand the institution of slavery.

And so, out of these well-regulated settler militias, you have the formation of the first forms of law enforcement on the frontier, to essentially bring order to a savage land. And so we can see the foundations of the carceral system as we know it today, as being literally codified in the founding documents of this nation; and unlike other so-called republics –capitalists republics– the U.S. Constitution has never been changed, right? It's one of the few documents that exists in the modern world that hasn't changed since it's inception or deviated from what Roxanne Dunbar-Ortiz calls “the cult of the covenant”. So we can kind of see this ideological groundwork being built from the very inception of the United States onwards, and so if we think of modern police departments, but also the arming of everyday settler-citizens, we can think of this society as from the get-go, a carceral society that was –incarceration we tend to think of, as many in the black radical tradition have highlighted in the abolitionist framework, as one that essentially in prisons bodies to steal time from people that are alive, but often missing from that framework is the understanding of the role of indigenous elimination to essentially clear the land so that this capitalist project, the settler project can grow and can continue to expand. And so we have to see incarceration, mass incarceration, as essentially a sort of a logical outcome of the system. Because we don't, when we talk about carceral studies, most people don't consider the reservation system as one of the founding systems of control and containment. So yeah, I think the idea of studying but also in challenging the carceral system we have to actually talk about settler-colonialism as foundational to it.

Catalina Rios: To jump to the recent present... Water protectors faced conspicuous and well-documented police violence for many months at Standing Rock, and only afterwards did the extent of close coordination between police and private security become clear. Tell us about the criminalization of overt Native dissent, and how genocide is not only a project of the state, but of capitalism itself.

Nick Estes: I think many were surprised, first of all, that Morton county was essentially acting as a security firm for a pipeline company, but I think it misses the fact that the state is literally the handmaiden or the foot-soldier of capital and in this case the state and you know, the emergency management assistance compact which was used to bring in 96 different law enforcement agencies from around the country really facilitated a new mode of indigenous expropriation and EMAC, as it's known, was a law that was passed under Clinton to essentially aid states in times of natural disasters such as floods, hurricanes, wildfires, et cetera, to solicit support from other states to deal with those catastrophes.

It also allowed –has a provision that allowed– for so-called “community disorders, enemy attack, or insurrection” I think is the actual language of the thing. And so, the Morton County Sheriff's Department, with the backing of the state of North Dakota, essentially solicited the support of 96 different law enforcement jurisdictions which also included federal jurisdiction such as border patrol, the FBI, federal marshals, etc. This was really kind of like the full-fledged security state on-demand at the behest of this small little tiny sheriff's department. I think we have to kind of take a step back and actually look at: a year prior to this mass mobilization, the governor of Maryland declared a state of emergency during the Baltimore uprising in response to the police killing of Freddie Gray, and he evoked the same powers of EMAC in that situation. So, essentially you have what is natural disaster legislation relief being used to crush black uprising, but also to expropriate indigenous lands, and now combine that with the close coordination with a private security firm which cut its teeth in Iraq and Afghanistan running counterinsurgency campaigns against civilian populations in both countries, and you have sort of the making of this global system of these security regimes.

You know, when we say that, “Oh, these struggles are different”, oftentimes people try to parse out differences in struggles to say that the indigenous movement is unique, the black movement is unique, you know, the immigrants rights movement is unique, and they're all disparate and they need their own autonomy, but what's interesting is that the security state actually sees all of these struggles as connected, and even the private security state –those the private security firms as well– and if you read those FOIA'd emails, they're