

**BRAIDING STRENGTH,  
HOPE, AND HEALING  
FOR THE PATH  
FORWARD: TELLING  
OUR STORIES THROUGH  
VARIOUS MEDIUMS**

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**PALM SPRINGS, CA  
2018**

**WOMEN: THE FOUNDATION OF  
SOVEREIGNTY**

*The Nation shall be strong so long as the hearts of  
the women are not on the ground.*

**TSISTSISTAS (CHEYENNE)**



## SOVEREIGNTY IN OUR FAMILIES

- My grandfather, John Ridge, served as Clerk to our Cherokee Nation Tribal Council and was the first Native attorney in the history of the United States



*New Town, Cherokee Nation, November 10th 1825.*

*Resolved by the National Committee and Council, That*

LLMC DIGITAL

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any person or persons, whatsoever, who shall lay violent hands upon any female, by forcibly attempting to ravish her chastity contrary to her consent, abusing her person and committing a rape upon such female, he or they, so offending, upon conviction before any of the district or circuit Judges, for the first offence, shall be punished with fifty lashes upon the bare back, and the left ear cropped off close to the head; for the second offence, one hundred lashes and the other ear cut off; for the third offence, death.

*Be it further resolved,* That any woman or women, making evidence against any man, and falsely accusing him of having laid violent hands upon any woman, with intent of committing a rape upon her person, and sufficient proof having been adduced before any of the district or circuit Judges to refute the testimony of such woman or women, she or they, so offending, shall be punished with twenty-five stripes upon her or their bare back, to be inflicted by any of the Marshals, Sheriffs or Constables.

JNO. ROSS, Pres't N. Com.

MAJOR RIDGE, Speaker.

his

Approved—PATH  $\times$  KILLER,  
mark.

CH. R. HICKS.

A. McCOY, clerk of Com.

## WORCESTER V. GEORGIA

- Georgia passed a law making it illegal for any non-Indian to move onto and live on Cherokee lands without taking an oath of allegiance to the Governor of Georgia.
- Reverend Samuel Worcester was arrested and placed in a Georgia jail.
- The Supreme Court considered whether Georgia could exercise criminal jurisdiction over crimes committed on Cherokee lands, or whether Cherokee Nation was the only sovereign that could exercise such jurisdiction.
- “The only inference to be drawn from them is, that the United States considered the Cherokees as a nation.” *Worcester v. State of Ga.*, 31 U.S. 515, 518 (1832).
- The treaties the United States signed with Cherokee Nation “treat the Cherokees as a nation capable of maintaining the relations of peace and war; and ascertain the boundaries between them and the United States.” *Worcester v. State of Ga.*, 31 U.S. 515, 519(1832).

*They have neither the intelligence, the industry, the moral habits, nor the desire of improvement which are essential to any favorable change in their condition. Established in the midst of another and a superior race, and without appreciating the causes of their inferiority or seeking to control them, they must necessarily yield to the force of circumstances and ere long disappear.*

President Andrew Jackson, 1833

Photo credit to Cameron Whiteman



## ANDREW JACKSON REACTS TO *WORCESTER V. GEORGIA*

- Andrew Jackson is the only President in United States history to openly defy a Supreme Court decision.
- To my grandfather, John Ridge, he stated: “John Marshall has made his decision, let him enforce it.” Andrew Jackson, 1832.
- ”They have neither the intelligence, the industry, nor the moral habits, nor the desire of improvement which are essential to any favorable change in their condition. Established in the midst of another and a superior race and without appreciating the causes of their inferiority or seeking to control them, they must necessarily yield to the force of circumstances and ere long disappear.” Andrew Jackson, 1833.
- Andrew Jackson proceeded to stack the Supreme Court with Justices that vowed to disregard Justice Marshall’s ruling in *Worcester* and instead support the constitutionality of Jackson’s Indian Removal Act.
- In 1835 Andrew Jackson appointed Roger B. Taney (eventual author of *Dred Scott*) as John Marshall’s successor.
- The rest is history.

## SOVEREIGNTY AT ARENA STAGE

- Photo Credit to Cameron Whitman



### *Oliphant v. Suquamish Indian Tribe* (1978)

- 180 years after my grandfather worked with Cherokee Nation's Council to pass a law criminalizing non-Indian and Indian rape of women on Cherokee lands, the Supreme Court declared that Indian Nations could no longer exercise their criminal jurisdiction over non-Indians on tribal lands.
- This decision is known as *Oliphant v. Suquamish Indian Tribe*.
- "The effort by Indian tribal courts to exercise criminal jurisdiction over non-Indians, however, is a relatively new phenomenon." *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 196–97 (1978).
- "[T]heir rights to complete sovereignty, as independent nations, [are] necessarily diminished." *Johnson v. M'ntosh*, 8 Wheat. 543, 574, 5 L.Ed. 681 (1823)." *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 209 (1978).

## NATIVE WOMEN FACE HIGHEST RATES OF SEXUAL ASSAULT AND DV IN THE U.S.



## VAWA 2013: A PARTIAL OVERTURN OF *OLIPHANT*-

- In 2013, Congress re-authorized the Violence Against Women Act with a tribal jurisdiction provisions (section 904) that restores a portion of the tribal jurisdiction that *Oliphant* erased.
- Specifically, VAWA 2013 restores tribal criminal jurisdiction over: (1) domestic violence; (2) dating violence; and (3) violation of protection orders.
- Because of *Oliphant*, Tribes are without jurisdiction to prosecute all other non-Indian crimes.



## SOVEREIGNTY: ORAL ARGUMENT IN THE SUPREME COURT



Photo Credit: Cameron Whitman

Today Native women face rates of domestic violence and sexual assault higher than any other population in the United States. It took 140 years to fully come into effect, but Andrew Jackson's campaign to eliminate tribal jurisdiction has reaped devastating, life-and death consequences for Native women.

Like the arguments Georgia and President Jackson used to support the forced removal of Cherokee Nation, Petitioner's arguments are based on a prejudicial view that Tribal Governments, Tribal Courts, Tribal Constitutions, and the entirety of tribal law must be inferior to the law created and enforced by the States and the Federal Government.

But we're not. Nothing about us, or our governments, is inferior. Petitioner's arguments that Indian Nations cannot exercise jurisdiction over non-Indians finds no support in the Constitution. Tribal jurisdiction over non-Indians pre-dates the United States Constitution. So tribal jurisdiction isn't unconstitutional. It's preconstitutional.

And no sovereign, not even the United States, can strip my Nation of its inherent right to protect me and my fellow Cherokee women. Thank you. Wado.

## ART AS LEGAL REMEDY: *SLIVER OF A FULL MOON*

- [www.sliverofafullmoon.org](http://www.sliverofafullmoon.org)
- From Harvard November 2015 performance: play 19:09-20:00 from youtube recording:
- <https://www.youtube.com/watch?v=YhTqY7PAZ0I>



## ART AS LEGAL REMEDY: *MANAHATTA* AT OSF



Securities trader Jane Snake is torn between worlds. Her return to Wall Street in 2008 brings her to Manahatta (“island of many hills” in Lenape), the homeland her Native American ancestors were violently forced to leave in the 1600s. Meanwhile, her family in Oklahoma struggles to save their language, their culture and their over-mortgaged home. In Mary Kathryn Nagle’s spellbinding world-premiere drama, past and present intertwine to illuminate the tragic consequences of the commercial exploits that gave rise to the America we know today—and that marginalized and erased Native American people and history. But Jane Snake’s return to Manahatta defiantly demonstrates that the Lenape are still here. Directed by Laurie Woolery (*The River Bride*).

## *MANAHATTA* AT OSF



*Manahatta* (2018): Sheila Tousey, Rainbow Dickerson, Tanis Parenteau, Jeffrey King. Photo: Jenny Graham.  
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# MANAHATTA AT OSF



*Manahatta* (2018): Ensemble. Photo: Jenny Graham.  
© Oregon Shakespeare Festival.

# MANAHATTA AT OSF



*Manahatta* (2018): Tanis Parenteau, Rainbow Dickerson. Photo: Jenny Graham.  
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# MANAHATTA AT OSF



# MANAHATTA AT OSF



## THE POWER OF OUR STORIES!



## WADO



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