# 1NC

## 1

### 1NC – K

#### Settler colonialism is a structure, not an event – the aff’s call to protect workers’ strikes is premised upon Indigenous erasure. Their protection of the laborer structurally excludes Natives and furthers the colonial marketplace. Workers are still settlers – concepts of “workers’ rights” are only coherent by making Native genocide the norm.

Baker ‘17 [W. Oliver Baker; Assistant Professor of English and African American Studies @ PennState; “Democracy, Class, and White Settler Colonialism”; Public, Volume 28, Number 55, June 2017, pp. 144-153(10); https://doi.org/10.1386/public.28.55.144\_1; Accessed 10-16-2021] AK

In recent years, settler state policies have shifted away from a strategy of direct violence and forced assimilation—mostly in response to the political threat posed by the anticolonial nationalisms of the mid-twentieth century—and toward what Glen Coulthard describes as a politics of “colonial recognition,” in which settler societies promise greater accommodation and recognition of Indigenous groups but only to the extent that claims of sovereignty or demands for decolonization go unheard and remain disavowed.7 A politics of colonial recognition also calls for reconciliation and healing between settlers and Indigenous peoples as a way to mend what is believed to be a racial or cultural conflict rather than a struggle over land and sovereignty. While settler societies might affirm the diversity of Indigenous cultures or even lament past incidents of colonial violence, centuries-old structures and institutions of dispossession remain in place. These can be witnessed today in the underdevelopment of tribal economies that encourages the privatization of (or the attempt to dissolve) tribally-held land and resources; neoliberal policies that slash public services and deregulate predatory credit and loan industries, while funding entrepreneurial “self-help” initiatives in Indian country; the use of state and police violence to brutalize, incarcerate, and murder unsheltered and working poor Indigenous peoples whose presence “off the reservation” in border towns is seen as a threat and danger to the property and flows of capital of settler society; extraction industries that destructively seek to unearth and/or transport fossil fuels on or through tribal lands; and the ongoing refusal of federal governments to honour the treaties, land claims, and rights to self-determination of the Indigenous nations of North America.

A second key analytic of settler colonial studies and Indigenous critical theory is the concept of Indigeneity. Although defined in various ways, for this essay’s purposes Indigeneity can be described as the social category of persons whose ways of life, forms of knowing, and modes of being depend upon originary relationships to land bases that Euro-American settlers have enclosed and continue to occupy. Because Indigenous peoples claim originary ties to these land bases, their presence or attempt to live on and through them challenges the legitimacy of settler society. As a social category constituted through elimination and genocide, Indigeneity should be understood as distinct from, for example, the category of the wage labourer that is structured by proletarianization and hegemony. If wage labourers, whether employed or unemployed, are structurally included in the marketplace where their labour power is exploited, the marketplace itself and the liberal state form that upholds it are nonetheless premised on the elimination of Indigenous peoples altogether.

The ideological framework that mediates, legitimates, and reproduces Indigenous dispossession and its category of Indigeneity is the colonial and racial grammar of what Jodi Byrd calls “Indianness.”8 The Indian came to be a social ontology in which Indigenous peoples were understood as savage, ancient, living fossils of early humanity, stuck outside of time and space in a state of nature. The Indian was and continues to be both abjected and romanticized in settler culture as a person who exists in a state of natural warfare, instability, and conflict, while also appearing liberated from the constraints and alienation of modern life. In this state of nature, the Indian is understood to lack the capacity to labour productively, possess property, or enter into social contracts. Through such meanings, the Indian emerges as the outside or Other to Euro-American forms of liberal democracy, selfhood, and civil society.9 As Byrd emphasizes, “European modernity hinges upon Indians as the necessary antinomy through which the New World—along with civilization, freedom, sovereignty, and humanity—comes to have meaning, structure, and presence.”10 The Indian, in short, became the figure of the un-sovereign through which it was understood that the Indian might occupy but could never possess the ability or right to own lands or possess selfhood.11 The dispossession of Indigenous lands, resources, and bodies thus came to be seen less as a form of theft than the natural transition from “savage” communalism to civilized market society.

Today, Indianness continues, as Byrd puts it, to “transit U.S. empire,” or put into motion, facilitate, and cohere the United States' settler imperial project that reaches around the world.12 It is through Indianness that settlers come to view the lands, resources, and bodies of the earth as spaces and objects of a barren wilderness (terra nullius) freely available for expropriation. The current and future populations living in spaces of the lands and controlling the resources that US settler imperialism attempts to seize or control are, as Byrd explains, made “Indian” or abjected as mindless terrorist-savages whose confrontation with the agents of enclosure is understood not as an attempt to resist and survive colonization, occupation, and genocide, but an irrational attack against society, civilization, humanity, and the forces of modern progress. In short, Indianness is what legitimates the process of primitive accumulation or what David Harvey calls "accumulation by dispossession," which is central to the formation, expansion, and dominance of global finance capitalism.13

What an understanding, then, of settler colonialism, Indigeneity, and Indianness demonstrates concerning the question of alliance-building among oppressed groups today is that political organizing through the spaces of the democratic commons or the identity of the settler wage labourer supports rather than disrupts the colonization of Indigenous peoples of North America. In the case of the democratic commons, calls for preserving and expanding the public institutions and spaces of liberal democracy in order to cultivate more radical and progressive forms of democracy is a demand not to undo or transform but to uphold the settler colonial state. As Byrd argues, “one reason why a ‘post racial’ and just democratic society is a lost cause in the United States is that it is always already conceived through the prior disavowed and misremembered colonization of Indigenous lands that cannot be ended by further inclusion or more participation.”14 Coulthard echoes this point, showing that “in liberal settler states...the ‘commons’ not only belong to somebody...they also deeply inform and sustain Indigenous modes of thought and behavior.”15 While it should be acknowledged that the democratic commons historically has served an important role in cultivating and producing emancipatory modes of analysis and forms of social belonging, such gains have nonetheless always depended upon the colonization of Indigenous peoples. Any defence, then, of the democratic commons today must at the same time defend Indigenous sovereignty. This means rethinking how groups relate in the spaces of the commons in ways that do not perpetuate liberal democracy's colonial project of building public institutions and democratic spaces through the seizure, theft, and colonization of Indigenous lands, bodies, and resources.

Class-first models of a renewed workers’ movement also risk reproducing colonial dispossession when they fail to recognize that the Indian and the settler wage labourer are structurally distinct categories of oppression. The former is constituted by dispossession through elimination, while the latter is structured by exploitation through hegemony. Even though exploited, settler wage labourers nonetheless come to experience their status in settler colonialism as a place of refuge and protection from dispossession and abjection. The role of the settler state is to ensure and safeguard the settler wage labourer’s right not only to possess but not to be dispossessed of property, even if the only property the wage labourer possesses is labour power. In fact, possessing labour power as a commodity to sell on the market indexes the settler wage labourer’s right and ability to enter the social contract and find security from the forms of structural exclusion naturalized in the position of the Indian. Such a status explains why, when neoliberal forms of precarious labour and exclusions from waged life increasingly target settler wage labourers, they are felt and represented as abnormal, undeserving, and, more importantly, grievable occurrences. The dispossession of settlers challenges the symbolic and material consistency of settler societies that are premised on dispossessing colonial peoples in order to reward and advantage settlers of all classes. Settler society retains and reproduces its coherence as the promised site of settler sovereignty, possession, and rights by figuring the neoliberal dispossession of settlers as the exception to be overcome if only because Indigenous dispossession remains the norm to be reproduced and repeated. The grievability of neoliberal dispossession, heard today in the refrain that globalization has “abandoned the white working class,” depends upon the ungrievability and normalization of Indigenous dispossession that, in the narratives not only of manifest destiny but also the democratic commons and normative socialist futures, is depicted and accepted as a natural, inevitable, and necessary process. One of the limits, then, of calling for solidarity through the political identity of the wage labourer is that, in settler colonialism, what organized settler wage labourers demand is not necessarily an end to exploitation but the freedom, protection, and refuge from structural dispossession and exclusion that are normalized and naturalized in the social and racial ontologies of the Indian. Movements on behalf of settler labourers risk ending in reform rather than revolution precisely because they do not so much seek to confront capital as they seek refuge and protection within and through it.

#### The failure of the settler subject to come to grips with the death drive dooms their politics to totalitarianism. Force them to confront the reliance of workers’ strikes on indigenous genocide. They don’t make society more equitable. They make it more equitable for settlers.

Young ’17 [Bryanne; Ph.D Student, College of Arts and Sciences, Department of Communication, University of North Carolina at Chapel Hill; “Killing the Indian in the Child: Materialities of Death and Political Formations of Life in the Canadian Indian Residential School System”; Last Modified 3/22/19; Published August 2017; University of North Carolina Digital Repository; <https://doi.org/10.17615/zkyc-q417>; Accessed 7/24/20; NT]

This racist ideology disguised as Darwinism id driven to a homeostasis that contains difference within it is, to a very large extent, a more viable state project than the attempt to holistically eradicate the difference of the other. In nineteenth and twentieth-century Canada—an epoch shaped by colonial politics and emerging forms of nation-building centered on a collective futurity—the chronopolitical we/other opposition was fundamentally racialized: we indicated whiteness, while other indicated racial difference. Racial difference is here understood as “a class of people” (Scott 55) unified through their morphological similarities and perceived shared traits, and who, together, presumably were unable to stand “outside the body politic” (ibid, emph. added). The metaphor of standing “outside” the body politic is, I point out, as inherently temporal as it is spatial. The temporality of the body politic here convoked is a temporality of the here/now that also claims linear progress towards the future. The temporality of the Indian—whose position is distinctly outside the here/now—is a circular time that, in the colonial imagination, repeats itself in a closed loop. Not only is Indigenous time perceived to be circular and outside the body politic, it is outside of history. The interpellative call to die with which the Canadian Indian Residential School System legitimizes its objectives and ethos, therefore, recapitulates a subjectivity that has been trapped, already, temporally, within the field of signification, and the dense network of intersubjective relations these ideological structures suture and render legible. As a way of elaborating upon this, perhaps abstract, argument, pointing both to the materializing force of language, as well as the structural mechanism(s) whose circularity produces the effect of subject as ideological misrecognition, I offer the following story:

In 1942 government researchers visiting a number of remote reserve communities in northern Manitoba, found people who were hungry, “beggared by a combination of the collapsing fur trade and declining government support” (Mosby 147). They also found a demoralized population marked by, in the words of the researchers, “shiftlessness, indolence, improvidence and inertia” (ibid). In a potentially paradigm shifting moment that must have come close to epiphany, the researchers suggested those problems—“so long regarded as inherent or hereditary traits in the Indian race” (ibid, emph. added)—were in fact the results of malnutrition.”53 Importantly, and vividly illustrative of my argument in this chapter, and the project overall, instead of recommending an immediate increase in support, the researchers determined that isolated, dependent, already malnourished people would be ideal subjects for tests on the effects of different diets and nutritional interventions. Plans were developed for a longitudinal study to be conducted “on a limited number of Indians” (ibid) including Aboriginal children in residential schools in British Columbia, Ontario, Nova Scotia, and Alberta—tests which, through large-scale and coordinated efforts, greatly exacerbated already existing conditions of starvation and malnourishment by further withholding much-needed nutrition. Thus, “hereditary traits” in the “Indian race” were, through mechanisms of biopolitics, further inscribed in both bodily and discursive practices—concretized more immutably into Indian-ness with every rotation of the circular reasoning that characterizes ideological misrecognition.

This kind of strategic, repeated exposure to prolonged conditions of near or actual physical death marks the indigenous body for inevitable decline and erasure. Cultural theorist Lauren Berlant describes this as a condition of “slow death,” which she defines as, “the physical wearing out of a population and the deterioration of people in that population that is very nearly a defining condition of their experience and historical existence” (754). Thus, through material and signifying practices, Indianness is laminated more concretely onto death and finality. Correspondingly, the Indigenous body is marked as anachronistic, a relic, an embodiment out of time whose configuration of experience is slow death. Simultaneously, Indianness is renewed continually in the field of signification, performatively reproduced as “shiftless”, “indolent”, and “inert.” Through biopolitical techniques of control and regulation, the socalled Indian race was trapped simultaneously in two temporalities: slow death and circularity, neither of which afforded it a future—through a strategy of control that is fundamentally chronopolitical.

Whiteness, the Child, and the Logics of Futurity

Against the politicized topographies and temporalities of indigeneity and race, I now move into a consideration of the contributions of psychoanalytic theory to the questions of politics and time presented thus far. The kinds of questions psychoanalysis is interested in asking, the registers upon which it performs analysis, and its unique emphasis on temporality, language, and difference provide an excellent conceptual apparatus through which we might begin to trouble/problematize stable, taken-for-granted oppositions between psychic and social, personal and political, self and other. Freud’s interest in time is evident in his work on the uncanny, and in his inaugural work on what we might now call trauma studies and conditions we now call post-traumatic stress disorder (PTSD). For Freud, this theory of hysteria introduces a provocative temporality in which traumatic events reoccur, flashing up in perfect replication of themselves, as though happening again and again. In his diagnosis of so-called shell-shocked soldiers returning from World War I, Freud was keenly aware that time did not always progress along an even plane. Though Freud’s analysis of trauma is captivating and critically rich, it is not within my purview here to take on the full extent of this scholarship. Instead, what is most salient to my analysis are the capacities of psychoanalytic theory to move critique outside and beyond prevailing notions of time and narratives of progress that only mean moving forward. This chapter writes from a stance that views it as imperative that scholarship reaches beyond, and thinks outside, the paradigms that invented it. Psychoanalytic theory, with its idiosyncratic temporal logics—particularly in conjunction with Foucauldian theory—offers a productive and robust way to critique the continuing primacy of normative disciplines whose chronologics have historically warranted a politics that kills in the name of life. Such an approach allows us to hold in productive tension any definition of “the political” as stable and finite, with—as in the case of liberal political philosophy—the legally constructed “person” as its primary epistemological unit. This conceptual capacity of psychoanalysis, in turn, allows us to politicize a form of life and modality of corporeal personhood hitherto constructed as what, in Bataillean parlance, we might call colonialism’s accursed share—colonialism’s pure waste. Additionally, psychoanalytic notions of the death drive, whose proper movement is explicitly circular, allows us to begin to locate the child within logics of futurity, onto which is laminated a kind of indelible whiteness. For the purpose of my analysis I engage Lacanian psychoanalysis, limiting myself to a consideration of the structure of the drives and to a Lacanian conceptualization of language, and its role in the formation of self and the suturing of the psyche to sociality.

Freud, as Teresa De Lauretis (2008) emphasizes, elaborated the death drive between the First and Second World Wars, in a Europe living “under the shadow of death and the threat of biological and cultural genocide” (1). Situating her analysis of the death drive in the contemporary moment, De Lauretis points to this contextual, historical darkening, writing: “I wonder whether our epistemologies can sustain the impact of the real … If I return to Freud’s notion of an unconscious death drive, it is because it conveys the sense and the force of something in human reality that resists discursive articulation as well as political diplomacy, an otherness that haunts the dream of a common world” (9). Using psychoanalysis as reading practice, Freud’s suspicion that human life, both individual and social, is compromised from the beginning by something that undermines it, works against it, is (darkly?) generative. The death drive indicates a tension bordering psychic and libidinal relations, which marks Freud’s radical break with Cartesian rationality and points to a negativity that counteracts the optimistic affirmations of human perfectability. This dimension of radical negativity cannot be reduced to an expression of alienated social conditions, nor is it entirely something the body does on its own. Theorized as the destruction drive, the antagonism drive, or sometimes, simply “the drive,” it is impossible to escape. In psychoanalytic theory, therefore, particularly in the clinical setting, the objective is not to overcome the drive, but rather to come to terms with it, in what Slovenian Lacanian psychoanalytic theorist Slavoj Žižek (1989) calls “its terrifying dimension” (4). It is a fundamental axiom of Lacanian psychoanalytic theory that attempts to abolish the drive antagonism are precisely the source of totalitarian temptation. Žižek writes: “The greatest mass murders and holocausts have always been perpetrated in the name of man as harmonious being, of a New Man without antagonistic tension” (5). So it is that one of Canada’s greatest atrocities— the genocide of its First Peoples—took place in the name of Canada itself, that sought progress and unification as a single body politic with claims on a shared futurity. The fulfillment of this destiny relied upon the negation of the other, the bad race, the dangerous race, the race that stood outside the purview of the norm and had no share in its time-zone, the ones called to live in the between space—as nobody. As the relatively more benign civilization policies failed to convert Aboriginal forms of life into separate but civilized, Christian communities on reserves, the federal government intensified its tactics. Policies became more aggressive. As these more aggressive policies (such as enfranchisement) also failed, the federal government intensified its tactics once again, escalating the stakes and the strategies towards the horizon of assimilation. This ‘doubling down’ in the face of failure is a primary trace effect of the death drive, and indeed, it is not unreasonable to argue that the federal government Indian policy has, since confederation, been death driven. Because the aim of fully eradicating the otherness of the other can only fail—in Freudian parlance, it cannot be mastered—the trajectory of the aiming turns in a circularity, orbiting around that which can never be had: perfection. Caught in death drive circularity, the aiming towards the objective (i.e. a unified body politic) authorizes, and indeed recruits, escalating violence in the interest of—finally—closing the open. For Žižek, this compulsive ‘doubling-down’ in the face of failure to arrive at the impossible horizon of perfection tips towards totalitarian temptation, which, he tells us, is implicated in the drive to unify a singular body politic, a new man without antagonistic tension.

The drive aims for the return to a moment of unity before the intrusion of language and the entrance of the subject into what Lacan calls the Symbolic—the universe of symbols in which all human subjects share. Because this economy of signifiers operates through a modality of difference by association, on the premise that language does not reflect or carry within it universal a priori meaning, spirit, or Truth, signifiers are always and already sliding along a chain of signification that is never truly fixed. Rather, for Lacan, meaning is constructed through quilting points, durable concepts that affix ideas to their signifiers and which, in their durability, structure entire fields of meaning. For Lacan, subjects are formed by their entrance into this system of sliding difference from a pre-linguistic state retroactively constructed through nostalgic affective associations with unity, perfection, and completion. The loss or lack occurs in the imaginary, the order of presence and absence, and is formalized in the symbolic. This is experienced by the subject as a loss of that to which she/he can never again return, but for which she/he perpetually yearns, and toward which she/he perpetually moves. The circularity of movement toward this impossible horizon is precisely the movement of the drive. It is my argument that the concept of “the Indian” is a quilting point through which the field of politics in Canada is sutured into signification, a durable concept that organizes the meaning of nation, citizen, sovereignty, and subjecthood. Further, the hypoxic vision of national unity and a harmonious white(ned) citizenry is a movement propelled by the drive, a circularity impelled by the belief that what is lacking in the present can be made good in the future—an imaginary that activates/harnesses a kind of libidinal energy that is, by its very nature, inexhaustible.

It matters, in the instance of the Canadian Indian Residential Schools and their mandate, that before child subjects enter into the structuration of language/the Symbolic, their bodies are already marked as disprized, abject, inscribed into the signification for, and, I argue, as, loss itself. As I have argued above, reading through psychoanalytic theory facilitates a conceptualization of subject-formation that includes the role of signification in the contouring of subject/ivities. This analytic rubric is importantly brought to bear in my analysis of “the child” the Canadian Indian Residential School System announces into presence: a child fundamentally and constitutively tied to a death whose temporal structure is always deferred, always impartial, always unfolding, and yet always still to be. Indeed, even in circumstances in which her/his mode of being in the world is not a deliberate practice of making spectral, “the child” remains a notoriously ambivalent, slippery signifier. This plasticity—differently stated, this over-abundant availability of “the child” as concept—takes on an interesting significance within political thought, functioning not as that which is politicized, but as the signifier in whose name the political mobilizes itself. In this way, the child functions as the absolute outside to political thought and the logics of its temporality, functioning instead to condition its possibilities and organize, from beyond its borders, its spatial and temporal limits. An example of this conceptualization of the child as signifier—and certainly one of the more provocative articulations of this phenomena in the contemporary neoliberal moment—is the polemic Lee develops in his monograph No Future: Queer Theory and the Death Drive. For Edelman, the Child—in its conflation with the kind of futurity toward which the teleology of (neo)liberal discourse is mobilized—is not simply important to contemporary politics, but is that which “serves to regulate political discourse [itself]” (ii). Indeed, as Edelman points out, “the figural Child alone embodies the citizen as ideal, entitled to claim full rights to its future share in the nation’s good, though always at the cost of limiting the rights ‘real’ citizens are allowed. For the social exists to preserve for this universalized subject, this fantasmatic Child, a national freedom more highly valued than the actuality of freedom itself” (ii).

#### Ideal theory is a form of abstraction away from the material violence of settler colonialism – their view from nowhere is not only useless but actively props up settlerism.

Nichols 13 Nichols, R. (2013). Indigeneity and the Settler Contract today. Philosophy & Social Criticism, 39(2), 165–186. doi:10.1177/0191453712470359 SM

Throughout the 20th century, of course, these ‘high theories’ of human development have come under considerable attack. Although anti-imperial leaders and thinkers from those subject to European colonization had always offered trenchant critiques of the European discourse of progress, and counter-narratives were always available from within European thought, it was not until the 20th century that this counter-discourse began to take hold within Europe itself in any significant way. For instance, one of the first demands of the former colonies in the United Nations was to insist on the removal of references from UN documents to members in terms of ‘civilized’ versus ‘uncivilized’. The reason they gave was that this discourse was a prevailing justification for western imperialism in both its colonial and neo-colonial forms and, by the end of the two world wars – themselves major blows to European pretensions to be the standard of civilization – thousands of people in the West were reading these criticisms and taking them more seriously. And so, combined with various other factors (including the rise of Anglo-American analytic philosophy generally), the historical-anthropology language has largely been displaced by other modes of philosophical reflection – namely, more ‘ideal’ theory. As we also all know, in the early 1970s a particular variant of this formal or ideal theory came to predominate in the western academy. The publication of John Rawls’ A Theory of Justice (1971) and Robert Nozick’s Anarchy, State and Utopia (1974) revived and reactivated the intellectual tradition of social contract theory.3 Political 166 Philosophy and Social Criticism 39(2) Downloaded from psc.sagepub.com at NORTH CAROLINA STATE UNIV on March 18, 2015 philosophers after Rawls and Nozick have been generally reluctant to engage in the grand, complex historical and anthropological narratives that characterized the work of, for instance, Hegel and Marx. Instead, they argued that guiding principles for the organization of a just society (and a just relationship between societies) can be generated by abstracting away from the specific historical and cultural conditions of the present. By imagining oneself in (to use Rawls’ parlance) an ‘original position’, behind a ‘veil of ignorance’ (i.e. without knowledge of one’s race, gender, culture, social location, etc.), it is possible to determine what first principles would be generally acceptable to all (regardless of the above qualifiers). The notion of an original ‘contract’ between such individuals is thus used as a device of representation to generate a normative theory which can then be used to critically examine actually existing practices. This tradition and mode of philosophical reflection have come to replace the 19th-century historical-anthropological discourse as the prevailing manner in which philosophers and political theorists in the western academy (but especially in Anglo-American countries) analyse the possibility of a just relationship to non-western societies. The purpose of this article is to reflect not only upon the limitations, but more importantly upon the political function of this approach, particularly when it is deployed as a resource for reflection on the political struggles and normative claims of the indigenous peoples in the settler-colonial societies of the Anglo-American world (e.g. Australia, Canada, New Zealand, the United States). In so doing, I hope to present a small slice of a much larger project comprising a genealogy of what I will refer to here asthe ‘Settler Contract’.4 In usingthe term ‘Settler Contract’ I am deliberately playing off of previous work by philosophers and political theorists who have been concerned to show the historical function and development of social contract theory in relation to specific axes of oppression and domination. Two of the most important contributions to this literature are Carole Pateman’s The Sexual Contract and CharlesMills’TheRacialContract.In Pateman’s 1988 work, she rereadthe canon of western social contract theory in an attempt to demonstrate that the presumptively neutral and ideal accounts of the origins of civil society as presented in the works of, for instance, Hobbes, Locke and Rousseau, were in fact always (implicitly or explicitly) sexual-patriarchal narratives that legitimized the subordination of women. In 1995, Charles Mills deliberately borrowed from Pateman in his project of unmasking the racial (or, more precisely, whitesupremacist) nature of the contract. There, Mills defined the ‘Racial Contract’ as ... that set of formal or informal agreements or meta-agreements ... between the members of one subset of humans, henceforth designated by (shifting) ‘racial’ (phenotypical/genealogical/cultural) criteria C1, C2, C3 ... as ‘white,’ and coextensive (making due allowance for gender differentiation) with the class of full persons, to categorize the remaining subset of humans as ‘nonwhite’ and of a different and inferior moral status, subpersons, so that they have a subordinate civil standing in the white or white-ruled polities the whites either already inhabit or establish or in transactions as aligns with these polities, and the moral and juridical rules normally regulating the behaviour of whites in their dealings with one another either do not apply at all in dealings with nonwhites or apply only in a qualified form.5 Although they have not necessarily used the specific term of art ‘Settler Contract’, for some time now various thinkers have attempted to contribute to an expansion on these Nichols 167 Downloaded from psc.sagepub.com at NORTH CAROLINA STATE UNIV on March 18, 2015 themes by demonstrating the ways in which social contract theory has served as a primary justificatory device for the establishment of another axis of oppression and domination: an expropriation and usurpation contract whereby the constitution of the ideal civil society is premised upon the extermination of indigenous peoples and/or the displacement of them from their lands. I will use the term ‘Settler Contract’ to refer to the strategic use of the fiction of a society as the product of a ‘contract’ between its founding members when it is employed in these historical moments to displace the question of that society’s actual formation in acts of conquest, genocide and land appropriation.6 The Settler Contract’s reactivation is used not to deny the content of specific indigenous peoples’ claims, but rather to shift the register of argumentation to a highly abstract and counter-factual level, relieving the burden of proof from colonial states. In such a case, the original contract between white colonial settlers thus ‘simultaneously presupposes, extinguishes, and replaces a state of nature. A settled colony simultaneously presupposes and extinguishes a terra nullius.’ 7 The Settler Contract then refers to the dual legitimating function of the philosophical and historical-narrative device of the ‘original contract’ as the origins of societal order: first, by presupposing no previous indigenous societies and second, by legitimizing the violence required to turn this fiction into reality. Although the Settler Contract has obvious similarities and points of overlap with the Racial Contract, and is constituted in gendered and sexualized practices, it is analysable as a distinct axis since it pertains more to issues related to land appropriation and the subordination of previously sovereign polities and societies. My specific contribution here is twofold. First, I am interested in expanding the scope of these critical genealogies to include the mode of argumentation or style of reasoning endemic to social contract theory. In order to explain what I mean by this it is helpful to look to a point of difference between Pateman and Mills. Although Charles Mills sees the actual historical instantiation of contract theory as implicated in white supremacy, he nevertheless argues that the form or model of reasoning it represents can be ‘modified and used for emancipatory purposes’.8 Mills argues that the language of an ideal contract that constitutes society ‘serves a useful heuristic purpose – it’s a way of dramatizing the original social contract idea of humans choosing the principles that would regulate a just society’.9 This is why Mills described his work as a contribution to that long struggle to ‘close the gap between the ideal of the social contract and the reality of the Racial Contract’.10 Carole Pateman, on the other hand, has argued that the theoretical device of an appeal to the ‘ideal’ contract is itself inherently problematic. This is because Pateman, unlike Mills, sees contract theory as requiring the ‘fiction’ of property in the person. This theoretical presupposition is, according to Pateman, necessarily enabling of domination and oppression. She writes: Property in the person cannot be contracted out in the absence of the owner. If the worker’s services (property) are to be ‘employed’ in the manner required by the employer, the worker has to go with them. The property is useful to the employer only if the worker acts as the employer demands and, therefore, entry into the contract means that the work becomes a subordinate. The consequence of voluntary entry into a contract is not freedom but superiority and subordination.11 168 Philosophy and Social Criticism 39(2) Downloaded from psc.sagepub.com at NORTH CAROLINA STATE UNIV on March 18, 2015 Although Pateman’s more radical and comprehensive critique of social contract theory is instructive here, my contribution is different still. While I agree in general with Pateman’s assessment of the inherently problematic nature of contract theory, my aim is to bring to light another facet of this, one specifically related to colonization. As I will discuss in more length below, I am concerned to show how the appeal to an ‘ideal’ original contract, even as a heuristic device for the generating of ‘first principles’, serves to displace questions of the historical instantiation of actual political societies and domains of sovereignty and, as such, has served and continues to serve the function of justifying ongoing occupation of settler societies in indigenous territory. To do this, I draw upon a Foucaultian distinction between historico-political vs philosophico-juridical discourses of sovereignty and right as a means of complementing and augmenting previous work on the Settler Contract. Furthermore, I argue that the philosophico-juridical discourse of the Settler Contract has its origins – both in historical time and as an event repeated in contemporaneous time – at the moment in which the weight of the past cannot be borne. Contract theory can therefore be studied not merely in terms of the content of its claims (i.e. true or false depictions of indigenous peoples), but in terms of its strategic function in relieving the burden of the historical inheritance of conquest. When read in light of this function, I argue, contract theory emerges as an inherently problematic framework for the adjudication of indigenous claims and, moreover, for the establishment of a non-colonial relationship between indigenous peoples and settler-colonial societies. This also means, however, that unlike Pateman and Mills, I am less interested in the specific content of, for instance, the racist and demeaning depictions of indigenous peoples as pre-political ‘savages’ in the works of contract theorists since it is my claim that even independent of any specifically negative portrayal of indigenous peoples within such work, social contract theory is still a vehicle for the displacement of such peoples, conceptually and in actual historical fact. In fact, I want to argue, it is in those places where contract theory is at its most abstract (purportedly neutral and non-evaluative) that it often functions most effectively as a strategy of settler-colonial domination. The second contribution to this discussion I would like to make is to demonstrate how this form of theory continues to function today with respect to the claims of indigenous peoples. Thus, I am also less concerned here with the historical figures of Hobbes, Locke, Rousseau and Kant than Pateman or Mills, and more interested in those contemporary thinkers who explicitly work in this tradition – philosophers such as John Rawls, Robert Nozick and, the focus of this article, Jeremy Waldron. A few caveats before I proceed. First, it is not my claim that contemporary thinkers such as Rawls, Nozick, or Waldron necessarily intend to facilitate the logic of the Settler Contract (though I do not rule out this possibility either). I am not primarily interested in what specific authors intend to do with their arguments, but rather with how a specific rhetorical structure or style of argumentation shapes the discursive space such that certain outcomes appear as the logical or necessary conclusion to an argument when, in fact, the debate has been skewed in this direction by the point of departure itself. Second, I acknowledge that my selection of authors is non-comprehensive. I have chosen here to focus on Jeremy Waldron’s recent application of the social contract tradition to the claims of indigenous peoples. This is in part because (as I said at the outset) this particular article is merely one small slice of a much larger genealogy. But it is also in Nichols 169 Downloaded from psc.sagepub.com at NORTH CAROLINA STATE UNIV on March 18, 2015 part because Waldron represents a kind of ‘exemplary figure’ here. One of the difficulties in examining contemporary analytic contract philosophy as it relates to indigenous claims is that, overwhelmingly, philosophers working within this tradition do not consider such questions at all. Jeremy Waldron is a major exception to this rule. Since Waldron explicitly locates his work within the tradition descending from Hobbes and Locke, through Kant to Rawls and Nozick, and because Waldron’s influential and prominent role as legal scholar enmeshes his work closely with the juridical apparatus that actually adjudicates indigenous claims in Anglo-settler societies, and finally, because Waldron (a New Zealander of European descent) takes up the question of ‘indigeneity’ so directly and seriously, it seems appropriate to take him as an exemplar of the attempt to reformulate some modified version of analytic contract theory in relation to indigenous peoples.

#### The alternative is to adopt an ethic of incommensurability. You must reject compromise and coalitions in favor of positing material decolonization as prior.

Tuck & Yang ‘12 [Eve Tuck, Associate Professor of Critical Race and Indigenous Studies, Ontario Institute for Studies in Education, University of Toronto, Canada Research Chair of Indigenous Methodologies with Youth and Communities, William T Grant Scholar and former Ford Foundation Postdoctoral Fellow, is Unangax and an enrolled member of the Aleut Community of St. Paul Island, Alaska, and K. Wayne Yang, University of California, San Diego, “Decolonization is not a metaphor,” Decolonization: Indigeneity, Education & Society, 1(1), 2012, <http://decolonization.org/index.php/des/article/download/18630/15554>]

Conclusion An ethic of incommensurability, which guides moves that unsettle innocence, stands in contrast to aims of reconciliation, which motivate settler moves to innocence. Reconciliation is about rescuing settler normalcy, about rescuing a settler future. Reconciliation is concerned with questions of what will decolonization look like? What will happen after abolition? What will be the consequences of decolonization for the settler? Incommensurability acknowledges that these questions need not, and perhaps cannot, be answered in order for decolonization to exist as a framework. We want to say, first, that decolonization is not obliged to answer those questions decolonization is not accountable to settlers, or settler futurity. Decolonization is accountable to Indigenous sovereignty and futurity. Still, we acknowledge the questions of those wary participants in Occupy Oakland and other settlers who want to know what decolonization will require of them. The answers are not fully in view and can’t be as long as decolonization remains punctuated by metaphor. The answers will not emerge from friendly understanding, and indeed require a dangerous understanding of uncommonality that un-coalesces coalition politics moves that may feel very unfriendly. But we will find out the answers as we get there, “in the exact measure that we can discern the movements which give [decolonization] historical form and content” (Fanon, 1963, p. 36). To fully enact an ethic of incommensurability means relinquishing settler futurity, abandoning the hope that settlers may one day be commensurable to Native peoples. It means removing the asterisks, periods, commas, apostrophes, the whereas’s, buts, and conditional clauses that punctuate decolonization and underwrite settler innocence. The Native futures, the lives to be lived once the settler nation is gone these are the unwritten possibilities made possible by an ethic of incommensurability. when you take away the punctuation he says of lines lifted from the documents about military-occupied land its acreage and location you take away its finality opening the possibility of other futures -Craig Santos Perez, Chamoru scholar and poet (as quoted by Voeltz, 2012) Decolonization offers a different perspective to human and civil rights based approaches to justice, an unsettling one, rather than a complementary one. Decolonization is not an “and”. It is an elsewhere.

#### The role of the ballot is to fracture the settler imago in the debate space. Speech acts are critical to create moments of uncomfortability in academic spaces that deconstruct the settler psyche.

Henderson ’17 [Phil; Master’s Degree in Political Science from the University of Victoria, with a specialization in Cultural, Social and Political thought, Bachelor’s (Hons.) in Political Science from the University of Western Ontario “Imagoed communities: the psychosocial space of settler colonialism”; 2017; Volume 7, Issue 1; Settler Colonial Studies; <https://doi.org/10.1080/2201473X.2015.1092194>; Accessed 8/29/20; NT]

Facing assertive indigenous presences within settler colonial spaces, settlers must answer the legitimate charge that their daily life – in all its banality – is predicated upon the privileges produced by ongoing genocide. The jarring nature of such charges offers an irreconcilable challenge to settlers qua settlers.64 Should these charges become impossible to ignore, they threaten to explode the imago of settler colonialism, which had hitherto operated within the settler psyche in a relatively smooth and benign manner. This explosion is potentiated by the revelation of even a portion of the violence that is required to make settler life possible. If, for example, settlers are forced to see ‘their’ beach as a site of murder and ongoing colonization, it becomes more difficult to sustain it within the imaginary as a site of frivolity.65 As Brown writes, in the ‘loss of horizons, order, and identity’ the subject experiences a sense of enormous vulnerability.66 Threatened with this ‘loss of containment', the settler subject embarks down the road to psychosis.67 Thus, to parlay Brown's thesis to the settler colonial context, the uncontrollable rage that indigenous presences induce within the settler is not evidence of the strength of settlers, but rather of a subject lashing out on the brink of its own dissolution.

This panic – this rabid and insatiable anger – is always already at the core of the settler as a subject. As Lorenzo Veracini observes, the settler necessarily remains in a disposition of aggression ‘even after indigenous alterities have ceased to be threatening'.68 This disposition results from the precarity inherent in the maintenance of settler colonialism's imago, wherein any and all indigenous presences threaten subjective dissolution of the settler as such. Trapped in a Gordian Knot, the very thing that provides a balm to the settler subject – further development and entrenchment of the settler colonial imago – is also what panics the subject when it is inevitably contravened.69 We might think of this as a process of hardening that leaves the imago brittle and more susceptible to breakage. Their desire to produce a firm imago means that settlers are also always already in a psychically defensive position – that is, the settler's offensive position on occupied land is sustained through a defensive posture. For while settlers desire the total erasure of indigenous populations, the attendant desire to disappear their own identity as settlers necessitates the suppression of both desires, if the subject's reliance on settler colonial power structure is to be psychically naturalized.

Settlers’ reactions to indigenous peoples fit, almost universally, with the two ego defense responses that Sigmund Freud observed. The first of these defenses is to attempt a complete conversion of the suppressed desire into a new idea. In settler colonial contexts, this requires averting attention from the violence of dispossession; as such, settlers often suggest that they aim to create a ‘city on the hill’.70 Freud noted that the conversion defense mechanism does suppress the anxiety-inducing desire, but it also leads to ‘periodic hysterical outbursts'. Such is the case when settlers’ utopic visions are forced to confront the reality that the gentile community they imagine is founded in and perpetuates irredeemable suffering. A second type of defense is to channel the original desire's energy into an obsession or a phobia. The effects of this defense are seen in the preoccupation that settler colonialism has with purity of blood or of community.71 As we have already seen, this obsession at once solidifies the power of the settler state, thereby naturalizing the settler and simultaneously perpetuating the processes of erasing indigenous peoples. Psychic defenses are intended to secure the subject from pain, and whether that pain originates inside or outside the psyche is inconsequential. Because of the threat that indigeneity presents to the phantasmatic wholeness of settler colonialism, settlers must always remain suspended in a state of arrested development between these defensive positions. Despite any pretensions to the contrary, the settler is necessarily a parochial subject who continuously coils, reacts, disavows, and lashes out, when confronted with his dependency on indigenous peoples and their territory. This psychic precarity exists at the core of the settler subject because of the unending fear of its own dissolution, should indigenous sovereignty be recognized.72

Goeman writes as an explicit challenge to other indigenous peoples, but this holds true to settler-allies as well, that decolonization must include an analysis of the dominant ‘self-disciplining colonial subject’.73 However, as this discussion of subjective precarity demonstrates, the degree of to which these disciplinary or phenomenological processes are complete should not be overstated. For settler-allies must also examine and cultivate the ways in which settler subjects fail to be totally disciplined. Evidence of this incompletion is apparent in the subject's arrested state of development. Discovering the instability at the core of the settler subject, indeed of all subjects, is the central conceit of psychoanalysis. This exception of at least partial failure to fully subjectivize the settler is also what sets my account apart from Rifkin's. His phenomenology falls into the trap that Jacqueline Rose observes within many sociological accounts of the subject: that of assuming a successful internalization of norms. From the psychoanalytical perspective, the ‘unconscious constantly reveals the “failure”’ of internalization.74 As we have seen, within settler subjects this can be expressed as an irrational anxiety that expresses itself whenever a settler is confronted with the facts regarding their colonizing status. Under conditions of total subjectification, such charges ought to be unintelligible to the settler. Thus, the process of subject formation is always in slippage and never totalized as others might suggest.75 Because of this precarity, the settler subject is prone to violence and lashing out; but the subject in slippage also provides an avenue by which the process of settler colonialism can be subverted – creating cracks in a phantasmatic wholeness which can be opened wider. Breakages of this sort offer an opportunity to pursue what Paulette Regan calls a ‘restorying’ of settler colonial history and culture, to decanter settler mythologies built upon and within the dispossession of indigenous peoples.76 The cultivation of these cracks is a necessary part of decolonizing work, as it continues to panic and thus to destabilize settler subjects.

Resistance to settler colonialism does not occur only in highly visible moments like the famous conflict at Kanesatake and Kahnawake,77 it also occurs in reiterative and disruptive practices, presences, and speech acts. Goeman correctly observes that the ‘repetitive practices of everyday life’ are what give settler spaces their meaning, as they provide a degree of naturalness to the settler imago and its psychic investments.78 As such, to disrupt the ease of these repetitions is at once to striate radically the otherwise smooth spaces of settler colonialism and also to disrupt the easy (re)production of the settler subject. Goeman calls these subversive acts the ‘micro-politics of resistance', which historically took the form of ‘moving fences, not cooperating with census enumerators, sometimes disrupting survey parties’ amongst other process.79 These acts panic the subject that is disciplined as a product of settler colonial power, by forcing encounters with the sovereign indigenous peoples that were imagined to be gone. This reveals to the settler, if only fleetingly, the violence that founds and sustains the settler colonial relationship. While such practices may not overthrow the settler colonial system, they do subvert its logics by insistently drawing attention to the ongoing presence of indigenous peoples who refuse erasure.

## Case

### FW

#### Universalizing principles fails because of the rarity objection.

Derek Parfit 11 [Oxford], On What Matters (June 11, 2011 version), 241-242.

**Suppose that I wrongly steal some wallet from some woman dressed in white who is eating strawberries while reading the last page of Spinoza’s *Ethics*.** My maxim is to act in precisely this way, whenever I can. **I could rationally will it to be true that this maxim is universal, because it would be most unlikely that anyone else would ever be able to act in precisely this way, so this maxim’s being universal would be most unlikely to make any difference.** Since I could rationally will this maxim to be universal, Kant’s formulas mistakenly permit my act**.** Similar claims apply to other highly specific maxims. When wrong-doers act on such maxims, they could rationally will that their maxims be universal, because they would know that other such acts would be rare, and would therefore make little difference. Kant’s formulas would mistakenly permit these wrong acts. We can call this the *Rarity Objection*.

### Contention

#### 1] Strikes allows for domination by exercising coercion.

**Gourevitch 18** [Alex; Brown University; “The Right to Strike: A Radical View,” American Political Science Review; 2018; [https://sci-hub.se/10.1017/s0003055418000321]](https://sci-hub.se/10.1017/s0003055418000321%5d//SJWen) Justin

\*\*Edited for ableist language

Every liberal democracy **recognizes** that workers have a **right** to **strike**. That right is protected in law, sometimes in the constitution itself. Yet strikes pose **serious** **problems** for **liberal** **societies**. They involve **violence** and **coercion**, they often violate some **basic** **liberal** **liberties**, they appear to **involve** group rights having **priority** over **individual** **ones**, and they can **threaten** **public** **order** itself. Strikes are also one of the most common forms of **disruptive** **collective** **protest** in modern history. Even given the dramatic decline in strike activity since its peak in the 1970s, they can play significant roles in our lives. For instance, just over the past few years in the United States, large illegal strikes by teachers ~~paralyzed~~ **froze** major school districts in Chicago and Seattle, as well as **statewide** in **West** **Virginia**, **Oklahoma**, **Arizona**, and **Colorado**; a **strike** by taxi drivers played a **major** role in debates and court decisions regarding **immigration**; and strikes by retail and foodservice workers were instrumental in getting new minimum wage and other legislation passed in states like California, New York, and North Carolina. Yet, despite their significance, there is almost no political philosophy written about strikes.1 This despite the enormous literature on neighboring forms of protest like nonviolence, civil disobedience, conscientious refusal, and social movements.

The right to strike raises **far** more **issues** than a **single** **essay** can handle. In what follows, I address a particularly significant problem regarding the right to strike and its **relation** to **coercive** **strike** **tactics**. I argue that strikes present a **dilemma** for liberal societies because for **most** **workers** to have a reasonable chance of **success** they need to use some **coercive** **strike** **tactics**. But these coercive strike tactics both **violate** the law and **infringe** upon what are widely held to be **basic** **liberal** **rights**. To resolve this dilemma, we have to know **why** workers have the right to strike in the first place. I argue that the best way of **understanding** the right to strike is as a right to **resist** the **oppression** that workers face in the **standard** **liberal** **capitalist** **economy**. This way of **understanding** the right explains why the use of **coercive** **strike** **tactics** is not morally **constrained** by the requirement to respect the **basic** **liberties** nor the related laws that strikers violate when using certain coercive tactics.

#### 2] No offense: Strikes quit working, not the job which still allows for instances of domination.

**Gourevitch 16** [Alex; Brown University; “Quitting Work but Not the Job: Liberty and the Right to Strike,” 2016; [https://sci-hub.se/https://doi.org/10.1017/S1537592716000049]](https://sci-hub.se/https://doi.org/10.1017/S1537592716000049%5d) Justin

The further point is that, short of quasi-socialist redistribution or of giving everyone universal rights to ownership of capital, workers are **justified** in turning to some other way of resisting their structural domination. The legal fact of being able to quit a job is **cold comfort** because it allows workers to leave a **specific boss**, but not the **labor market itself.** Insofar as workers are forced into contracts with employers, and into work associations with other workers, they can only resist their structural domination from within. Here we have an insight into why the right to strike includes the **perplexing claim that workers refuse to work yet maintain a right to the job**. The typical worker can quit the job, but she cannot quit the work. To avoid being exploited she turns the table: she quits working **without** quitting the job.

#### 3] Free-riding: strikes are a form of free-riding since those who don’t participate still reap the benefits – that allows for instances of domination.

**Dolsak and Prakash 19** [Nives and Aseem; We write on environmental issues, climate politics and NGOs; “Climate Strikes: What They Accomplish And How They Could Have More Impact,” 9/14/19; Forbes; <https://www.forbes.com/sites/prakashdolsak/2019/09/14/climate-strikes-what-they-accomplish-and-how-they-could-have-more-impact/?sh=2244a9bd5eed>] Justin

While strikes and protests build **solidarity** among their supporters, they are susceptible to **collective action problems**. This is **because** **the goals that strikers pursue tend to create non-excludable benefits**. That is, benefits such as climate protection can be **enjoyed** by both **strikers** and **non**-**strikers**. Thus, large participation in climate strikes will reveal that in spite of **free-riding problems**, a large number of people have a strong preference for climate action.

#### Government recognition doesn’t mean that the right to strike will actually be upheld, it just means they government says it exists – this is terminal defense to the aff’s solvency and outweighs on legal precision.

Law Dictionary ‘ND [The Law Dictionary; Featuring Black's Law Dictionary Free Online Legal Dictionary 2nd Ed.; No Date; “What is RECOGNIZE?”; https://thelawdictionary.org/recognize/; Accessed 10-28-2021] AK

To try; to examine in order to determine the truth of a matter. Also to enter into a recognizance.