# 1

#### 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.

#### Their claim to the ethical necessity and sufficiency of deliberation re-entrenches settler colonialism – it’s a form of inclusive recognition politics that obscures the settler colonial frameworks that undergird deliberation and opens space for settler reconciliation.

Norris 18 HOW BEAR LOST HIS TAIL: AN INDIGENOUS PERSPECTIVE ON INCLUSIVE DELIBERATIVE DEMOCRATIC THEORY AS APPLIED TO THE CANADIAN SOCIETAL CONTEXT by Matthew Norris B.A., The University of British Columbia (Political Science) August 2018 <https://open.library.ubc.ca/collections/ubctheses/24/items/1.0371608> SM

Colonialism, specifically settler colonialism, creates, entrenches and makes invisible the systems which are responsible for the social delineations between us and them, between settler society and Indigenous societies, and between have and have nots. Deliberative democratic theory, through its varied social justice mechanisms, is incapable of addressing the fundamental and structural mechanisms colonialism has created, which ensure the marginalization, disempowerment and dispossession of Indigenous peoples, systems on which the legitimacy of the colonial state relies. This thesis will argue that the circumstances leading to Boushie’s death, the acquittal of Stanley, and the outrage and indignation which gripped Canada during and following the trial are direct consequences of the imposition of a settler-colonial state upon pre-existing Indigenous societies. In addition, this thesis will argue that the reliance of contemporary Indigenous communities upon a governance structure premised on principles similar to those espoused by deliberative democratic theory has been unable, in its 150 years of existence, to remedy the racist ideals and societal divide on which settler colonialism relies. This thesis will seek to prove that deliberative democratic theory, as articulated by Iris Marion Young, a professor of Political Science at the University of Chicago, specializing in deliberative democratic theory, feminist social theory, justice and social difference, is ineffective in advancing social justice issues and overcoming instances of grave marginalization and disempowerment as present in societies derivative of settler colonialism. To prove this, I will use Frantz Fanon’s analysis of the psycho-inhibitive relationships colonialism imposes, and 3 the impact of these relationships upon the psyches of settlers and Indigenous peoples. Further, I will prove how the suggested avenues of justice and reconciliation, as posed by Young, do not address the foundational, structural and historic impositions upon which colonialism was created. 2 Argument I argue that colonialism, specifically settler colonialism, creates, entrenches and makes invisible the systems which are responsible for the social delineations between us and them, between settler society and Indigenous societies, and between have and have nots. Further I argue that deliberative democratic theory, through its varied social justice mechanisms, is incapable of addressing the fundamental and structural mechanisms colonialism has created, which ensure the marginalization, disempowerment and dispossession of Indigenous peoples, systems on which the legitimacy of the colonial state relies. 3 Methodology I will begin with a summary of Young’s democratic theory of justice, including a brief engagement with the various pillars of deliberative democratic theory which Young proposes as mechanisms for the pursuit of social justice. I will then follow with an engagement with Frantz Fanon’s work on the psycho-afflictive disorders settler-colonial societies inflict and are built upon. By doing so, I hope to begin to flush out the inadequacies of Young’s arguments by 4 demonstrating their lack of engagement with the psychological impacts Fanon describes. I will follow with a brief overview of the purpose and impacts of the colonial regime in Canada, with the aim of applying a Fanonian lens to the impositions of settler colonialism within the Canadian state. I will then provide an overview and an application of Young’s proposed deliberative democratic model and process to qualify their ability to address and overcome such instances of social injustice and divide between Indigenous and non-Indigenous communities. I will proceed with a discussion on Canada’s attempts and failures to address these societal gaps and the continued oppression of Indigenous societies by the Canadian state and settler society, thus drawing conclusions into the shortcomings of Young’s theory. This thesis will then conclude with the application of my arguments in an analysis of the circumstances and the national schisms leading up to and following the Stanley trial in February 2018. 4 Literature Review: Deliberative Democratic Theory and the Canadian State Two strains of democratic theory are widely accepted by political theorists: the aggregative model and the deliberative model. Both models rely on the rule of law, aggregate societal preferences when consensus and broad consultation is too costly or impossible, and include various mechanisms requiring the freedoms of speech, assembly, and association, among others. Young’s model of deliberative democratic theory as found in her book Inclusion and Democracy (2000), along with the mechanisms and arguments she presents, mirror the many 5 processes Canada has taken to appease Indigenous demands for justice, wherein social difference is viewed as a political resource which must be recognized and accounted for to achieve a just result. Young argues that “a model of deliberative democracy implies a strong meaning of inclusion and political equality which, when implemented, increases the likelihood that democratic decision-making processes will promote justice.” 2 Central to Young’s model is the idea that through inclusive democratic practices, dissonant perspectives and viewpoints will engage each other. Through natural empathetic means and efforts of individuals and groups “to persuade one another of the justice and the wisdom of their claims,” 3 contenders will arrive at consensual decisions based on compromise, thus providing legitimacy to state policy decisions. Additionally, Young’s theory extends beyond traditional norms of deliberations which “implicitly value certain styles of expression as dispassionate, orderly, or articulate”4 which tend to favour exclusionary practices and thus reinforce systems of oppression and marginalization. Social justice issues that affect Indigenous peoples within the Canadian settler-colonial state include oppressive and marginalizing social structures inherent to systems of colonization and settler colonialism, including systems of dispossession, discriminatory public policy, poor access to education, prejudiced child apprehension policies, culturally unresponsive judicial systems, and systemic attempts to destroy Indigenous cultures, identities and connection to the land and title. These systems of oppression and marginalization, though often historically 2 Young, Iris Marion. Inclusion and Democracy. New York: Oxford University Press, 2000. P. 6 3 Young, 6 4 Young, 6-7 6 imposed, continue to impact First Nations, Inuit and Métis peoples throughout Canada in present day. As a result of these systems, Indigenous people in Canada consistently show increased rates of incarceration5, higher levels of poverty6, lower levels of education7 and literacy rates8 , devastatingly high levels of youth suicides9 , increased chance of being victim to violence10, the existence of health afflictions not common or expected in countries with a level of GDP and overall quality of life indicators as Canada11, communities with constant boil water advisories12 and often debilitating lack or inflated cost of basic goods which ensures an oppressive quality of life gap between Indigenous populations and non-Indigenous populations13. These debilitating circumstances have shaken the status quo of the Canadian state and have resulted in increased levels of civil disobedience, debilitating stoppages in the extractive resource industry, powerful shows of public demonstration in streets throughout the country and countless millions of dollars spent in Canada’s courts. Conversely, this period has also been witness to “an unprecedented degree of recognition for Aboriginal ‘cultural’ right within the legal and political framework of the Canadian state,”14 largely due to the leadership and activism of Indigenous communities, organizations and individuals. This contradiction between high levels of oppression and social marginalization and high levels of political recognition appears to be counterintuitive when viewed from the perspective of deliberative democratic theory. Young’s model appears to contradict this observation by suggesting that the existence of an unprecedented recognition of an ‘Indigenous group identity’, alongside an unprecedented level of accommodation and recognition of cultural distinctiveness and political autonomy of Indigenous nations, indicates that the existence of oppressed or marginalized groups, or the experience of oppression and marginalization, should be minimized. This contradiction between Young’s theory and the specific circumstances of Canadian society questions the applicability of Young’s theory to colonial states. This contradiction also leads us to question if deliberative democratic theory has the means to overcome and effectively address such instances of deep social injustice which exist so prominently throughout Canadian society. 8 4.1 Literature Review: Young Young’s theory relies heavily on “democratic discussion and decision-making [...] as a process in which differentiated social groups should attend to the particular situation of others and be willing to work out just solutions to their conflicts and collective problems from across their situated positions.” 15 It would be reasonable to assume that Young perceives the possibility of overcoming such instances of social injustice through the crucible of public communication. To analyze the applicability of this argument, it is necessary to further engage with each of Young’s proposed mechanisms within her deliberative democratic theory as a means to pursue social justice through the engagement of social difference as a political resource in pluralistic democratic systems: inclusion, political equality, reasonableness and publicity. Young’s theory differs from other theorists’ conceptions in her conviction that deliberation presents a means to overcome social injustice in societies divided by large social differences, while other theorists16 “assume [a societal] commonness [or unity] as a prior9 condition of deliberation, or […] as a goal.”17 Young uses a broad definition of social difference, including those differentiated by gender, race, sexuality, national origin, religion, and class.18 Young suggests that “there are at least two problems with the assumption that deliberative democracy must proceed on the basis of common understanding. First, in pluralist societies we cannot assume that we sufficiently share understanding to which we can appeal in many situations of conflict and solving collective problems”19, and second “the assumption of a common good or shared understanding prior to or as a condition of political communication is that it obviates the need for the transformations from self-regarding to enlarged thought which [she] argues is an important aspect of a discussion-based model of democracy.”20 I believe that Young’s assertion that “circumstances of pluralism, appeals to supposedly shared understandings… exclude or marginalize some people or groups,”21 is particularly relevant to the context of the Canadian settler-state, where central to Indigenous and non-Indigenous conflicts is a fundamental difference in worldviews and ethical-belief systems. The assumption of, or attempts at achieving, a shared understanding has acted to marginalize and oppress the worldviews and perspectives of the least powerful, least numerous and least influential participant22, and in the case of the settler-colonial state, the numerous and diverse perspective of Indigenous peoples throughout the country. 10 This leaves one to consider the following questions: despite the lack of a shared understanding or commonality throughout a settler-colonial state, as divided by processes of colonialism, do mechanisms of deliberation allow for pluralist societies to “transcend their subjective, self-regarding perspectives on political issues by putting aside their particular interests and seeking the good of the whole”23? Is the goal of transcending differences, as means to pursue unity and a common good, a normatively beneficial goal? Is this even a feasible goal, given a vast historical context of oppression and marginalization? 4.2 Literature Review: Young – Inclusion Central to Young’s model, and the engagement of social difference as a political resource in the pursuit of social justice, is the concept of political inclusion. Young argues that “the scope of a polity ought to correspond to the scope of relations across which obligations of justice extend”24; by this, Young effectively emphasizes the necessary inclusions of all impacted individuals to the democratic decision-making process. To do so, Young proposes a system in which differentiated social segments engage with one another to offer proposals as how to best solve problems by presenting arguments through which they aim to persuade others: “Participants arrive at a decision not by determining what preferences have greatest numerical support, but by determining which proposals the collective agrees are supported by the best 23 Young, 42 24 Young, 9 11 reasons.”25 This inclusionary principle is widely accepted amongst democratic theorists to provide democratic decisions with normative legitimacy. 26 This would theoretically appear to limit socially differentiated groups’ public demonstrations of distrust and rage by allowing for increased levels of political participation and thus greater recognition of rights and instances in an effort to pursue democratic decision to rectify issues of injustice. As Young states, “inclusion allows for maximum expression of interests, opinions, and perspectives relevant to the problems or issues for which a public seeks solution.”27 Inclusion increases the chances that those who make proposals will transform their positions from an initial self-regarding stance to a more objective appeal to justice, because they must listen to others with differing position to whom they are also answerable. Even if they disagree with an outcome, political actors must accept the legitimacy of a decision if it was arrived at through an inclusive process of public discussion. The norm of inclusion is therefore also a powerful means for criticizing the legitimacy of nominally democratic processes and decisions.28 This focus on the inclusionary principle to deliberative argument would theoretically act to limit both external and internal exclusions: external exclusion being the prohibitive participation of certain individuals representing disparate viewpoints and opinions, and internal exclusion being the privileging, both consciously and unconsciously, of certain styles or means 25 Young, 23 26 On this theory a norm is valid if it is the result of free discussion and agreement under circumstances of inclusive equality. Jurgen Habermas Moral Consciousness and Communicative Ethics. (Young, 52) 27 Young, 24 28 Young 52 12 of expression and communication. The inclusionary principle extends to previously unaccepted and non-traditional views of democratic participation, including public protest, mass demonstrations, roadblocks, non-participation, and emotive speech, including the recognition of disparate viewpoints and the political organizations exposing such views. This is of critical importance as all of these oft-dismissed forms of political participation have been mainstays in the formulation and expression of Indigenous discontent and action in Canada. Indigenous peoples have relied upon these forms of political participation due to the fact that more acceptable formal means of engagement have been and continue to be denied to them by the settler-colonial state and society, and to deny these means effectively limits the participation and impedes any societal movement to a more just polity. In limiting exclusions, Young calls for the recognition and inclusion of these previously unaccepted and overlooked forms of political participation into the deliberative democratic system. It can be suggested that Canadian society has been witness to an unprecedented growth in the voicing of Indigenous concerns and opposition through these ‘unconventional’ means, and through the growth of Indigenous representative organizations nationally, regionally and locally. 29 Indigenous protest, roadblocks, demonstrations, sit-ins and occupations have been a mainstay in Canadian politics and continue to be a regular feature throughout the country. Indigenous protests and resistance to the imposition of colonial policies began in large part in the late 1800s when it became apparent to Indigenous 29 Including such organizations as the National Assembly of First Nations, Inuit Tapiriit Kanatami, the Métis National Council, and particularly to BC the BC Assembly of First Nations, the Union of BC Indian Chiefs, and the First Nations Summit. 13 communities that Canada did not intent to uphold the spirit or intent of the early agreements and Treaties which guided early engagements between Indigenous and settler communities. The political activism of Indigenous peoples became particularly evident and widespread in 1969 and the early 1970s, when Indigenous peoples mobilized into political representative organizations to oppose the Federal Government of Canada’s imposition of the white paper policy on Indians, released in June of 196930, whereby Canada proposed to absolve themselves of any responsibility for Indigenous peoples throughout the country. 31 Additionally and of particular relevance, 2012 and 2013 saw the rise of the Idle No More (INM) movement. The INM movement consisted of numerous, grassroots-organized protests, marches and rallies across the country, raising awareness of Indigenous issues pertaining to resource rights, Indigenous nationhood and the protection of Indigenous lands, territories, and cultures. 32 Indigenous protest and activism continues to be a form of political expression by which Indigenous peoples participate in the deliberative dialogues occurring throughout the country, as a means to have a voice in matters where they are often only afforded silence and ignorance. Young’s proposed mechanisms to ensure the minimal internal exclusion of impacted socially differentiated groups have been, more or less, implemented within Canadian society through the active participation of Indigenous peoples in non-traditional forms of political expression. Not only are Indigenous protests, rallies, and emotive expression of political 30 Canada. Statement of the Government of Canada on Indian Policy. Presented to the first session of the 28th Parliament by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development. Ottawa: Queen’s Printer, 1969. 31 UBCIC, A Declaration of Indian Rights: The BC Indian Position Paper. Vancouver: UBCIC, 1970. 32 Idle No More. “The Vision”. Idle No More. Web. Accessed Nov 2017. 14 opinion present within and throughout Canadian society, but the messages and goals of such actions are vehemently debated and discussed throughout public life, through media outlets and within national, regional, local and Indigenous political leadership, and are permitted as normative forms of political participation. Beyond limiting internal exclusion, Young also prescribes measures to reducing external exclusion, a topic commonly discussed amongst theorists, and which necessarily requires the limitation of wealth or position influencing the ability of individuals or groups to participate33 in the democratic decision-making process, which may be overcome through the creation of democratic institutions and mechanisms necessitating high levels of transparency, accountability and access. Similar mechanisms have been found in the Canadian system with respect to Indigenous participation by limiting the access of wealth to political parties34, placing maximum limits on campaign spending35, the diversification and weighing of electoral districts36, the emancipation of Indigenous voters in 196037, focused electoral program outreach to remote Indigenous communities38, funding of a national independent Indigenous 15 news program39, national and regional support for Indigenous governmental organizations40 and numerous social welfare programs aimed at reducing the socio-economic disparities between Indigenous and non-Indigenous groups41. Regarding the much more subtle internal exclusions, Young theorizes three modes of communicative attention necessary to mitigate such internal exclusions, or the unconscious favoring of certain modes of expression and participation within a deliberative system: greeting, rhetoric and narrative. Greeting, or in political contexts public acknowledgment, is a form of communication where a subject directly recognizes the subjectivity of others, thereby fostering trust; Rhetoric, the ways that political assertions and arguments are expressed, has several functions that contribute to inclusive and persuasive political communications, including calling attention to points and situating speakers and audience in relation to one another; and Narrative also has several functions that counter exclusive tendencies and further argument. Among other functions, narrative empowers relatively disfranchised groups to assert themselves publicly...42 39 See: Canada, Department of Canadian Heritage. Northern Aboriginal Broadcasting – Aboriginal Peoples’ Program. Department of Canadian Heritage. N.D. Web. 40 See: Canada, Indian and Northern Affairs. Summative Evaluation of Consultation and Policy Development and Basic Organizational Capacity Funding: Final Report. Indian and Northern Affairs Canada. 16 Feb. 2009. 41 See the list of programs funded by the Department of Indigenous Services Canada: https://www.aadncaandc.gc.ca/eng/1425576051772/1425576078345 42 Young, 53 16 Young’s suggested modes of expression can be seen in the speeches of Canadian politicians and their recognition of Indigenous territories, in the 2016 Federal Ministers’ mandate letters43 highlighting the singular importance of a renewed relationship with Indigenous peoples, in Prime Minister Stephen Harper’s official apology on behalf of the Canadian state to Indigenous survivors of the Indian residential school system44, in the 94 Calls to Action of the 2015 Truth and Reconciliation Commission, in the 2016 Murdered and Missing Indigenous Women Inquiry, in Minister Carolyn Bennett’s statements on Canada’s unqualified enactment of the United Nations Declaration on the Rights of Indigenous Peoples, in the Federal Government’s announcement of a Ministerial Working Group on the reform of laws and legislation pertaining to Indigenous peoples following ten principles of engagement, 45 and in the renaming of geographical landmarks to honour Indigenous positionalities46. Indeed, as stated by Coulthard Red Skin, White Masks, “over the last three decades, a global industry has emerged promoting the issuing of official apologies advocating ‘forgiveness’ and reconciliation’ as an important precondition for resolving the deleterious social impacts of intrastate violence, mass atrocity, and historical injustice.”47 43 Canada. Prime Minister Justin Trudeau. “Ministerial Mandate Letters.” 12 Nov. 2015. August, 2017 44 Canada. Prime Minister Stephen Harper. “Statement of Apology – to former students of Indian Residential Schools.” 11 June 2008. 45 Canada. Principles respecting the Government of Canada’s relationship with Indigenous Peoples, July 19, 2017. August 2017. 46 i.e the renaming of the ‘Georgie Strait’ to the ‘Salish Sea in 2010, and the renaming of the Queen Charlotte Islands to Haida Gwaii in 2009. 47 Coulthard, 106. 17 4.3 Literature

#### Thus the alternative is one of refusal, a reshifting of posthumanist discource to interrupt settler communicative spheres like debate

King 2017 (Tiffany, Assistant Professor of Women’s and Gender Studies at the Georgia State University “Humans Involved: Lurking in the Lines of Posthumanist Flight” *Critical Ethnic Studies* 3, No. 1, pp. 163-170)

Native feminist politics of decolonial refusal and Black feminist abolitionist politics of skepticism informed by a misandry and misanthropic distrust of and animus toward the (over)representation of man/men as the human diverge from the polite, communicative acts of the public sphere, much like the politics of the “feminist killjoy.”4 [INSERT FOOTNOTE: I use “misandry” (hatred of men) and “misanthropic” (distrust or deep skepticism about humankind or humanity) to illustrate how Sylvia Wynter and other Black scholars attend to the ways that the human— and **investments in the human—and its revised forms or genres of the human as woman/feminist still reproduce violent exclusions that make the death of Black and Native people viable and in-evitable**. In other words, **neither men nor women (as humans) can absorb Black females/males/children/LGBT and trans people into their collective folds. Both the hatred of “misandry” and the distrust and pessimism of “misanthropy” are appropriate methods to describe the inflection of the critique levied by Wynter and the other Black scholars examined in this article**. END FOOTNOTE] Throughout this article, I deploy the term “feminist” both ambivalently and strategically to mark and distinguish the scholarly tradition created by Black and Native women, queer, trans, and other people marginalized within these respective communities and their anticolonial and abolitionist movements.5 [INSERT FOOTNOTE: See Sylvia Wynter’s afterword, “Beyond Miranda’s Meanings: Un/silencing the ‘Demonic Ground’ of Caliban’s ‘Woman,’” in Out of the Kumbla: Caribbean Women and Literature, ed. Carole Boyce Davies (Chicago, Ill.: Africa World Press, 1990) 355– 72. Wynter warns Black women in the United States and the Caribbean that they need not uncritically embrace womanism as a political position, which can effectively oppose the elisions, racism, and false universalism of white feminism. “Feminism” as well as “womanism” are bounded and exclusive terms that do not effectively throw the category of the human into continual flux. END FOOTENOTE], Until a more useful and legible term emerges, I will use “feminist” to mark the practices of refusal and skepticism (misandry/misanthropy) as ones that largely exist outside more masculinist traditions within Indigenous/Native studies and Black studies**. “Decolonial refusal” and “abolitionist skepticism” depart from the kinds of masculinist anticolonial traditions that attempt to reason Native/ Black man to White Man within humanist logic in at least two significant ways**. First, **neither participate in the communicative acts of the humanist public sphere from within the terms of the debate**. Further, they do not play by the rules.6 [INSERT FOOTNOTE: See the critiques of the anticolonial tradition within Caribbean philosophy articulated by Shona Jackson in her book Creole Indigeneity (Minneapolis: University of Minnesota Press, 2012). Jackson argues that **anticolonial Caribbean masculinist philosophy tends to argue from inside the logic of Western philosophy in order to counter it.** For instance, in a valorization of the laborer as human and inheritor of the nation-state, Caribbean philosophy tends to reproduce the Hegelian telos of labor as a humanizing agent for the slave, which inadvertently makes the slave a subordinate human and effectively erases the ostensibly “nonlaboring” humanity of Indigenous peoples in the Anglophone Caribbean. END FOOTENOTE] Specifically, the Native and Black “feminist” politics discussed throughout launch a critique of both the logic of the discussion about the human and identity as well as the mode of communication. In fact, **practices of refusal and skepticism interrupt and flout codes of civil and collegial discursive protocol to focus on and illumine the violence that structures the posthumanist discourse.** Attending to the comportment, tone, and intensity of an engagement is just as important as focusing on its content. **The** particular **manner in which Black and Native feminists push back against violence is important**. **The force**, break with decorum, and style **in which Black and Native feminists confront discursive violence can change the nature of future encounters**. Given that Black women who confront the logics of “nonrepresentational theory” are really confronting genocide and the white, whimsical disavowal of Black and Native negation on the way to subjectlessness, it is understandable that there is an equally discordant response. **Refusal and skepticism are modes of engagement that are uncooperative and force an impasse in a discursive exchange.** This article tracks how traditions of “**decolonial refusal**” and “abolitionist skepticism” that emerge from Native/Indigenous and Black studies **expose the limits and violence of contemporary nonidentitarian and nonrepresentational impulses within white “critical” theory.** Further, this article asks whether Western forms of nonrepresentational (subjectless and nonidentitarian) theory can truly transcend the human through self- critique, self-abnegation, and masochism alone. External pressure, specifically the kind of pressure that “decolonial **refusal**” and “abolitionist skepticism” as forms of resistance that **enact outright rejection of or view “posthumanist” attempts with a “hermeneutics of suspicion,**”7 [INSERT FOOTNOTE: See the work of Black feminists such as Susana M. Morris, author of Close Kin and Distant Relatives: The Paradox of Respectability in Black Women’s Literature (Charlottesville: University of Virginia Press, 2014), as well as womanist theologians who appropriate the phrase “hermeneutics of suspicion” as coined by Paul Ricoeur to describe the reading and interpretive practices of Black woman who are distrustful of traditional tropes about heteronormativity or conventional ways of thinking about what is natural and normal. Further, in Morris’s case, as well as within the tradition of Black women of faith and theologians, canonical and biblical texts are interpreted through a lens that acknowledges white supremacy and misogyny, and critically challenges racism and sexism (or kyriarchy in Morris’s case). Within Black feminist and womanist traditions, it is a position that can recognize the limitations of text and that refuses to accept the doctrine, theories, or message of an ideology wholesale. END FOOTENOTE**] is needed in order to truly address the recurrent problem of the violence of the human in continental theory.** While this article does not directly stake a claim in embracing or rejecting identity per se, it does take up the category of the human. **Because the category of the human is modified by identity in ways that position certain people** (white, male, able- bodied) within greater or lesser proximity to humanness, **identity is already taken up in this discussion**. Conversations about the human are very much tethered to conversations about identity. In the final section, the article will explore how Black and Native/Indigenous absorption into the category of the human would disfigure the category of the human beyond recognition. **Engaging how forms of Native decolonization and Black abolition scrutinize the violently exclusive means in which the human has been written and conceived is generative because it sets some workable terms of engagement for interrogating Western and mainstream claims to and disavowals of identity**. Rather than answer how Native decolonization and Black abolition construe the human or identity, the article examines how Native and Black feminists use refusal and misandry to question the very systems, institutions, and order of knowledge that secure humanity as an exclusive experience and bound identity in violent ways. I consider the practices and postures of refusal assumed by Native/Indigenous scholars such as Audra Simpson, Eve Tuck, Jodi Byrd, and Linda Tuhiwai Smith to be particularly instructive for exposing the violence of ostensibly nonrepresentational Deleuzoguattarian rhizomes and lines of flight. While reparative readings and “working with what is productive” about Gilles Deleuze and Félix Guattari’s work is certainly a part of the Native feminist scholarly tradition, this article focuses on the underexamined ways that Native feminists refuse to entertain certain logics and foundations that actually structure Deleuzoguattarian thought.8 [I thank one of the reviewers, who reminded me that Native feminist thought’s engagement with continental theory, specifically the work of Deleuze and Guattari, can be likened more to “constellations” as it takes up Deleuzoguattarian thought rather than a single point that always departs from a place of refusal. END FOOTENOTE] Further, I discuss **“decolonial refusal**” in relation to how Black scholars like Sylvia Wynter, Zakiyyah Iman Jackson, and Amber Jamilla Musser work within a Black feminist tradition animated **by a kind of skepticism or suspicion capable of ferreting out the trace of the white liberal human within (self-)professed subjectless, futureless, and nonrepresentational white theoretical traditions.** In other words, in the work of Sylvia Wynter**, one senses a general suspicion and deep distrust of the ability of Western theory— specifically its attempt at self- critique and self- correction in the name of justice for humanity— to revise its cognitive orders to work itself out of its current “closed system,” which reproduces exclusion and structural oppositions based on the negation of the other**.9 [INSERT FOOTENOTE: See Katherine McKittrick, “Diachronic Loops/Deadweight Tonnage/Bad Made Measure,” Cultural Geographies 23, no. 1 (2016): 3– 18, doi:10.1177/14744740156 12716, for an exemplary explication of how Sylvia Wynter uses the decolonial scholarship of an “autopoiesis.” END FOOTENOTE] Wynter’s study of decolonial theory and its elaboration of autopoiesis informs her understanding of how the human and its overrepresentation as man emerges. Recognizing that humans (of various genres) write themselves through a “self- perpetuating and self- referencing closed belief system” that often prevents them from seeing or noticing “the process of recursion,” Wynter works to expose these blind spots.10 [INSERT FOOTNOTE: See McKittrick, “Diachronic Loops,” in which the author cites the importance of the work of H. Maturana and F. Varela, Autopoiesis and Cognition: The Realization of the Living (London: D. Reidel, 1972), for the study of the human’s process of self- writing. END FOOTNOTE] Wynter understands that **one of the limitations of Western liberal thought is that it cannot see itself in the process of writing itself.** I observe a similar kind of cynicism about the way the academic left invokes “post humanism” in the work of Jackson and Musser. Musser in particular questions the capacity of queer theories to turn to sensations like masochism within the field of affect studies to overcome the subject. Further, Jackson’s and Musser’s work is skeptical that white transcendence can happen on its own terms or rely solely on its own processes of self-critique and self- correction. I read Jackson’s and Musser’s work as distrustful of the ability for “posthumanism” to be accountable to Black and Indigenous peoples or for affect theory on its own to not replicate and reinforce the subjugation of the other as it moves toward self- annihilation. Both the human and the post human are causes for suspicion within Black studies. Like Wynter, the field of Black studies has consistently made the liberal human an object of study and scrutiny, particularly the nefarious manner in which it violently produces Black existence as other than and at times nonhuman. Wynter’s empirical method of tracking the internal epistemic crises and revolutions of Europe from the outside has functioned as a model for one way that Black studies can unfurl a critique of the human as well as Western modes of thought. I use the terms “misanthropy” and “misandry” in this article to evoke how Black studies has remained attentive to, wary about, and deeply distrustful of the human condition, humankind, and the humanas-man/men in the case of Black “feminists.” Both Black studies’ distrust of the “human” and Black feminism’s distrust of humanism in its version as man/men (which at times seeks to incorporate Black men) relentlessly scrutinize how the category of the human and in this case the “posthuman” reproduce Black death. I link misandry (skepticism of humankind-as-man) to the kind of skepticism and “hermeneutics of suspicion” that Black feminist scholars like Wynter, Jackson, and Musser at times apply to their reading and engagement with revisions to or expansions of the category of the human, posthuman discourses, and nonrepresentational theory In this article, I connect discursive performance of skepticism to embodied and affective responses I have witnessed in the academy that challenge the sanctioned modes of protocol, politesse, and decorum in the university. For example, Wynter assumes a critically disinterested posture as she gazes empirically on and examines intra-European epistemic shifts over time. Paget Henry has described Wynter as an anthropologist of the Occident, as Europe becomes an object of study rather than the center of thought and humanity.11 [INSERT FOOTNOTE: Paget Henry, Caliban’s Reason: Introducing Afro-Caribbean Philosophy (New York: Routledge, 2002), 19. END FOOTENOTE] Throughout the body of Wynter’s work, she seems to be more interested in drawing our attention to the capacity of European orders of knowledge to shift over time— or their fragility— than in celebrating the progress that European systems of knowledge have claimed to make. Wynter’s tracking is just a tracking and not a celebration of the progress narrative that Western civilization tells about itself and its capacity to define, refine, and recognize new kinds of humanity over time. This comportment of critical disinterest is often read as an affront to the codes and customs of scholarly discourse and dialogue in the academic community, particularly when it is in response to the white thinkers of the Western cannon. **Decolonial refusal and abolitionist skepticism respond to how perverse and reprehensible it is to ask Indigenous and Black people who cannot seem to escape death to move beyond the human or the desire to be human**. In fact, Black and **Indigenous people have never been fully folded into the category of the human**. As Zakiyyah Iman Jackson has argued**, It has largely gone unnoticed by posthumanists that their queries into ontology often find their homologous (even anticipatory) appearance in decolonial philosophies that confront slavery and colonialism’s inextricability from the Enlightenment humanism they are trying to displace. Perhaps this foresight on the part of decolonial theory is rather unsurprising considering that exigencies of race have crucially anticipated and shaped discourses governing the non- human** (animal, technology, object, and plant).12 [Zakkiyah Iman Jackson, “Review: Animal: New Directions in the Theorization of Race and Posthumanism,” Feminist Studies 39, no. 3 (2013): 681. END FOOTENOTE] A crucial point that Jackson emphasizes is that Black and Indigenous studies, particularly decolonial studies, has already grappled with and anticipated the late twentieth century impulses inspired by Leo Bersani and Lee Edelman to annihilate the self and jettison the future. **Indigenous and Black “sex**” (as activity, reproduction, pleasure, world-building, and not-human sexuality) **are already subsumed by death**. For some reason, white critical theory cannot seem to fathom that self- annihilation is something white people need to figure out by themselves. In other words, “they can have that.”13 [INSERT FOOTNOTE: This is a colloquialism or form of vernacular often used by Blacks and People of Color to express that they disagree with something and more specifically reject an idea and will leave that to the people whom it concerns to deal with. END FOOTNOTE] Within Native feminist theorizing, ethnographic refusal can be traced to Audra Simpson’s 2007 article, “On Ethnographic Refusal.” In this seminal work, Simpson reflects on and gains inspiration from the tradition of refusal practiced by the people of Kahnawake.14 [INSERT FOOTNOTE: Simpson’s ethnographic work specifically focuses on the Kahnawake Mohawk who reside in a reservation in the territory is now referred to as southwest Quebec. END FOOTNOTE] **Simpson shares that** **Kahnawake refusals are at the core and spirit of her own ethnographic and ethical practices of refusal.** I was interested in the larger picture, in the discursive, material and moral territory that was simultaneously historical and contemporary (this “national” space) and the ways in which Kahnawakero:non, **the “people of Kahnawake,” had refused the authority of the state at almost every turn.** The ways in which their formation of the initial membership code (now replaced by a lineage code and board of elders to implement the code and determine cases) was refused; the ways in which their interactions with border guards at the international boundary line were predicated upon a refusal; how refusal worked in everyday encounters to enunciate repeatedly to ourselves and to outsiders that “this is who we are, this is who you are, these are my rights.”15 [INSERT FOOTNOTE: Audra Simpson, “On Ethnographic Refusal: Indigeneity, ‘Voice’ and Colonial Citizenship,” Junctures: The Journal for Thematic Dialogue, no. 9 (December 2007): 73. END FOOTNOTE] Because Simpson was concerned with applying the political and everyday modes of Kahnawake refusal, she attended to the “collective limit” established by her and her Kahnawake participants. 16 [INSERT FOOTNOTE: Ibid., 77. END FOOTNOTE] The collective limit was relationally and ethically determined by what was shared but more importantly by what was not shared. Simpson’s ability to discern the collective limit could only be achieved through a form of relational knowledge production that regards and cares for the other. Simpson recounts how one of her participants forced her to recognize a collective limit. Approaching and then arriving at the limit, Simpson experiences the following: And although I pushed him, hoping that there might be something explicit said from the space of his exclusion— or more explicit than he gave me— it was enough that he said what he said. “Enough” is certainly enough. “Enough,” I realised, was when I reached the limit of my own return and our collective arrival. Can I do this and still come home; what am I revealing here and why? Where will this get us? Who benefits from this and why? And “enough” was when they shut down (or told me to turn off the recorder), or told me outright funny things like “nobody seems to know”— when everybody does know and talks about it all the time. Dominion then has to be exercised over these representations, and that was determined when enough was said. The ethnographic limit then, was reached not just when it would cause harm (or extreme discomfort)— the limit was arrived at when the representation would bite all of us and compromise the representational territory that we have gained for ourselves in the past 100 years.17 [INSERT FOOTNOTE: Ibid., 78. END FOOTNOTE] Extending her discussion of ethnographic refusal beyond the bounds of ethnographic concerns, Simpson also ponders whether this enactment of refusal can be applied to theoretical work. Simpson outright poses a question: “What is theoretically generative about these refusals?”18 [INSERT FOOTNOTE: Ibid. END FOOTNOTE] The question that Simpson asks in 2007 is clarified by Eve Tuck and K. Wayne Yang in the 2014 essay “R- Words: Refusing Research.” **Arguing that modes of refusal extended into the theoretical and methodological terrains of knowledge production are productive and necessary,** Tuck and Yang state: For the purposes of our discussion, the most important insight to draw from Simpson’s article is her emphasis that **refusals are not subtractive, but are theoretically generative, expansive. Refusal is not just a “no,” but a redirection to ideas otherwise unacknowledged or unquestioned.** Unlike a settler colonial configuration of knowledge that is petulantly exasperated and resentful of limits, **a methodology of refusal regards limits on knowledge as productive, as indeed a good thing**.19 [INSERT FOOTNOTE: Eve Tuck and K. Wayne Yang, “R- Words: Refusing Research,” in Humanizing Research: Decolonizing Qualitative Inquiry with Youth and Communities (Thousand Oaks, Calif.: SAGE, 2014), 239. END FOOTNOTE] In line with Simpson’s intervention, Tuck and Yang posit that “refusal itself could be developed into both method and theory.”20 [INSERT FOOTNOTE: Ibid., 242. END FOOTNOTE] For Tuck and Yang, a generative practice of refusal and a decolonial and abolitionist tradition is making Western thought “turn back upon itself as settler colonial knowledge, as opposed to universal, liberal, or neutral knowledge without horizon.”21 [INSERT FOOTNOTE: Ibid., 243. END FOOTNOTE] In fact, the coauthors suggest “making the settler colonial metanarrative the object of . . . research.”22 [INSERT FOOTNOTE: Ibid., 244. END FOOTNOTE] What this move effectively does is question the uninterrogated assumptions and exposes the violent particularities of the metanarrative. **Scrutiny as a practice of refusal also slows down or perhaps halts the momentum of the machinery that allows, as Tuck and Yang argue, “knowledge to facilitate interdictions on Indigenous and Black life**.”23 [INSERT FOOTNOTE: Ibid., 244. END FOOTNOTE] Taking a cue from Simpson and Tuck and Yang, I turn to Tuck’s 2010 critique of Deleuze’s notion of “desire” as an example of the theoretical practice of refusal, which Simpson wonders about and which Tuck and Yang elaborated on in 2014. Eve Tuck’s 2010 article “Breaking Up with Deleuze” refuses Deleuze’s understanding and imposition of his definition of desire for Native studies and Native resurgence in particular. Tuck refuses the Deleuzoguattarian nomadic due to its totalizing moves and specifically its evasion and refusal of Native and alternative notions of refusal that emerge from Native struggles for survival.24 [INSERT FOOTNOTE: Eve Tuck, “Breaking Up with Deleuze: Desire and Valuing the Irreconcilable,” International Journal of Qualitative Studies in Education 23, no. 5 (2010): 635– 50. END FOOTNOTE] For Tuck, paying attention to “the continuity of ancestors,” or genealogies, in Native and in all modes of knowledge production is imperative. For Indigenous and Native studies, it reverses the erasure enacted by continental European and settler-colonial theory, which uses a tradition of ongoing genocide to annihilate Native thinkers and subsequently their epistemologies and theories. Prior to Byrd’s indictment of Deleuzoguattarian laudatory accounts of America’s terrain of “Indians without Ancestry,” Tuck reroutes us back to ancestral and genealogical thinking as a way of asserting Indigenous presence and its epistemological systems and traditions, devoid of Cartesian boundary- making impulses and desires. Tuck’s work also prepares us in 2010 for the critique that Byrd levies in 2011, which exposes the traditions, roots, and genealogies of Western poststructuralist theory. Such theory created the conditions of possibility and emergence for Deleuzoguattarian genocidal forms of rhizomatic and nonrepresentational thought. Black Caribbean feminist Michelle V. Rowley argues we need to especially attend to a theory’s “politics and conditions of emergence.”25 [INSERT FOOTNOTE: See Michelle V. Rowley, “The Idea of Ancestry: Of Feminist Genealogies and Many Other Things,” in Feminist Theory Reader: Local and Global Perspectives, 3rd ed., ed. Carole R. McCann and Syeung Kyung Kim (New York: Routledge, 2013), 810– 81, where Rowley argues that transnational feminisms need to attend to how the white feminist wave as a metaphor and theory emerges, disciplines are thought, and more importantly how “its wins” are gained through the exploitation and suffering of women from the Global South. Rowley describes this work as attending to the “politics and conditions of emergence” of feminist metaphors and theories. END FOOTNOTE] In other words, we need to consider on whose backs or through whose blood a theory developed and then circulated while hiding its own violence.

#### The role of the ballot is to center indigenous scholarship and research. Indigenous theories must come before settler frameworks. We need to hold colonizers accountable to open the space up for new narratives and disrupt colonial institutions.

Carlson ‘16 [Elizabeth Carlson, Oct 21 2016, Anti-colonial methodologies and practices for settler colonial studies, Settler Colonial Studies, 7:4, 496-517, DOI: 10.1080/2201473X.2016.1241213] [SS]

Macoun and Strakosch contend that ‘most settlers who use [settler colonial theory] are concerned to disturb rather than re-enact colonial hierarchies, and seek to contribute to Indigenous political struggles’.40 The particular research project out of which this article arises, focuses on the ways experienced white settler anti-colonial, decolonial, or solidarity activists have worked to disrupt and subvert settler colonialism within themselves, their organizations, their relationships, their pedagogies, their connections with land, their com- munities, and sometimes also in the Canadian government, with a goal of inspiring others to engage in or deepen such work, and of contributing to social change. As has been noted, **in subverting settler colonialism, the role of white settler academics is at the periphery, making space for Indigenous resurgence and knowledges, and pushing back against colonial institutions,** structures, practices, mentalities, and land theft. In order to do this, anti-colonial settler scholars can sit on departmental and university committees, supporting anti-colonial and anti-oppressive ethical choices to push for changes in Euro- centric and colonial curricula, narratives, policies, and structures**. We can seek to disrupt rather than enact colonial values and practices, and engage in anti-colonial actions within the academy.** This also applies to our writing: Settler scholars seeking to challenge colonial power relations should be doubly attentive to the operation of [colonial] narratives, and the way that we as individual scholars perform and deploy academic authority. For us, this has involved the need to interrogate our work – along with other settler cultural productions.41 **When settler scholars subvert colonialism in the academy, the ethics of their work are improved, and potentially more space is made for Indigenous scholars who wish to main- tain their own values in the academy.** Arlo Kempf says that ‘where anticolonialism is a tool used to invoke resistance for the colo- nized, it is a tool used to invoke accountability for the colonizer’.**42 Relational accountability should be a cornerstone of settler colonial studies.** I believe settler colonial studies and scholars should ethically and overtly place themselves in relationship to the centuries of Indigenous oral, and later academic scholarship that conceptualizes and resists settler colonialism without necessarily using the term: SCT may be revelatory to many settler scholars, but Indigenous people have been speaking for a long time about colonial continuities based on their lived experiences. Some SCTs have sought to connect with these discussions and to foreground Indigenous resistance, survival and agency. Others, however, seem to use SCT as a pathway to explain the colonial encounter without engaging with Indigenous people and experiences – either on the grounds that this structural analysis already conceptually explains Indigenous experience, or because Indigen- ous resistance is rendered invisible.43 Ethical settler colonial theory (SCT) would recognize the foundational role Indigenous scholarship has in critiques of settler colonialism. It would acknowledge the limitations of settler scholars in articulating settler colonialism without dialogue with Indigenous peoples, and take as its norm making this dialogue evident. In my view, **it is critical that we not view settler colonial studies as a new or unique field being established, which would enact a discovery narrative and contribute to Indigenous  erasure, but rather take a longer and broader view**. Indigenous oral and academic scholars are indeed the originators of this work. This space is not empty. Of course, powerful forces of socialization and discipline impact scholars in the academy. **There is much pressure to claim unique space**, to establish a name for ourselves, and to make academic discoveries. I am suggesting that **settler colonial studies and anti-colonial scholars resist these hegemo- nic pressures and maintain a higher anti-colonial ethic.** As has been argued, ‘**the theory itself places ethical demands on us as settlers, including the demand that we actively refuse its potential to re-empower our own academic voices and to marginalize Indigen- ous resistance’**.44 As settler scholars, we can reposition our work relationally and contextually with humi- lity and accountability. **We can centre Indigenous resistance, knowledges, and scholarship in our work, and contextualize our work in Indigenous sovereignty.** We can view oral Indi- genous scholarship as legitimate scholarly sources. We can acknowledge explicitly and often the Indigenous traditions of resistance and scholarship that have taught us and pro- vided the foundations for our work. **If our work has no foundation of Indigenous scholar- ship and mentorship, I believe our contributions to settler colonial studies are even more deeply problematic.** I embody the principle of relational and epistemic accountability by acknowledging here that my interest in the larger study out of which the anti-colonial research method- ology is based was inspired by a lifetime of influences. In particular, my work in this area has been influenced by years of guidance from a number of Indigenous and African-Amer- ican mentors including Nicholas Cooper-Lewter, Nii Gaani Aki Inini (Dave Courchene Jr), Zoongigaabowitmiskoakikwe, and my late brother Byron Matwewinin.45 I entered into dis- cussions with Indigenous scholars, friends, and Elders (in particular, Zoongigaabowitmis- koakikwe, Michael Hart, Leona Star-Manoakeesick, and Gladys Rowe),46 observing their protocols of gifts and offerings for the feedback I was requesting, depending on the context. In addition, my reading of Indigenous scholarship located the study as a response to a call by Indigenous scholars that settler peoples engage in decolonization processes and work. Throughout the research and writing process I made it a point to attend Indi- genous-led community events and gatherings to stay connected to community and con- tinue to learn. When I met with Leona Star-Manoakeesick, we discussed how Ownership, Control, Access, Possession research principles might relate to my research.47 Leona challenged me to think about who constitutes the community that relates to my research as a begin- ning step, and shared that accountability to Indigenous peoples would also mean account- ability to the land. Her input greatly influenced the methodology principles and practices. As I achieved greater clarity about the study, I engaged in formal consultations with a number of other Indigenous scholars, knowledge keepers, and/or activists. Chickadee Richard, Belinda Vandenbroek, Don Robinson, Aimée Craft, Louis Sorin, and Manito Mukwa (Troy Fontaine),48 provided guidance, input, and encouragement regarding the initial research design and process, much of which shifted and strengthened my initial thoughts and was readily integrated into the research. I was gifted key insights and values on which to build the research, and meaningful ideas for interview questions and interview participants. During the initial phases of the research, I was inspired by scho- larship that urges settler peoples on Indigenous lands who wish to identify themselves in the context of Indigenous sovereignty to learn and use words that local Indigenous peoples use for them.49 A number of individuals helped me in my quest to learn about Anishinaabemowin conceptions of white people – Nii Gaani Aki Inini (Dave Courchene), Rose Roulette, Niizhosake (Sherry Copenace), Daabaasanaquwat ‘Lowcloud’ (Peter Atkin- son), Byron Matwewinin, and Pebaamibines.50 **I further sought to embody relational accountability by centring Indigenous scholarship and literatures in my research proposal and literature review.** Aspects of the data analysis process were shared with a smaller group of Indigenous scholars (Leona Star-Manoakeesick, Aimée Craft, and Dawnis Kennedy),51 who provided feedback which shaped the analysis and the writing of the research report. Towards the end of the research process, I organized a research feast, which is described further below. **Relational accountability was embodied by sharing the research with the community and receiving feedback from it.**

# 2

#### Interpretation – saying no neg args is bad

# Case

Don’t give them 1AR theory

1. It’s a bad norm because we have less speeches to have the theory debate – only three speeches
2. Leads to intervention since any counter interps or responses to the counter interps are new in the 2
3. Unfair since we only get one speech to respond so the 2ar can spin the shell and we can’t do anything about it
4. Cross apply neg flex

#### Evaluate substance before 1AR theory:

#### 1 ) Resolvability – more speeches develop substance, so there’s more weighing analysis and the judge won’t have to evaluate entirely new 2A responses to 2N counterinterps or arbitrarily decide what counts as a new argum

#### 2 ) The neg has 1 chance to respond – means we can’t resolve arguments or weigh like the aff; AND 2AR clarification furthers a massive skew in favour of the aff

#### 3 ) Prep skew—encourages bad theory debates since people have less prep time and less time to make responses—worse for norms setting—means even if they win their interp you should put low credence into it and look to resolve the debate elsewhere

OV – 1] frame through neg flex 2] don’t evaluate bad arugments 3] give us new 2n responses

OV – 1] set col is a prior q 2] white people experimenting 3] fallacy of origin takes out most of it

#### COVID waivers are a form of American Imperialism.

Patanè 21 Andrea Patanè 5-15-2021 "COVID-19 pandemic: patents and profits" <https://www.marxist.com/covid-19-pandemic-patents-and-profits.htm> (Northern California Functional Medicine | Modern Natural Health.)//Elmer

A “calculated risk” Far from an act of ‘international solidarity', this latest move from the US government is a **calculated political risk**, and will be implemented **in the interests of US imperialism**. A section of the more serious wing of the bourgeoisie understands that a proper economic recovery **can happen only if the pandemic is suppressed worldwide**. As we have explained elsewhere, wealthy countries risk losing billions of dollars if the pandemic is brought under control only within their own borders, because new variants (like those in India and Brazil) can always mutate elsewhere and reinfect their populations, causing further economic disruption. Therefore, even on a capitalist basis, it is expedient in the long-term for the rich countries to facilitate a global vaccination campaign. Even Pope Francis anointed the demand from his seat in Rome! Biden’s announcement is also an act of vaccine diplomacy. America’s main rivals, China and Russia, have been shoring up their spheres of influence by distributing their Sinopharm and Sputnik V vaccines to poor countries left out by the vaccine nationalism of the US and Europe. Chinese and Russian vaccines have been exported into countries traditionally under western spheres of influence, including Brazil and Hungary. Pushing to waive **IP protections on COVID**-19 vaccines is therefore partly **an effort to push back** against the encroachment of rival imperialist powers, which have so far outcompeted Washington in the global vaccination drive. Biden’s announcement is also an attempt to restore the standing and authority of US imperialism on the world stage, which has been bruised by the ‘America First’ vaccine nationalist policy started by Donald Trump, and continued by Biden. According to the FT, Katherine Tai (top US trade envoy) and Jake Sullivan (national security adviser) made the case to Biden that pushing for the waiver “was a low-risk way to secure a diplomatic victory”, after coming under fire for not “respond[ing] quickly enough to the unfolding COVID-19 crisis in India”. Here you have it, straight from the horse’s mouth. Under capitalism, vaccines – rather than providing a way out of the pandemic – **are tools for ‘low-risk diplomatic victories’**. As if this was some sort of football match between world leaders! In short, Biden is stepping in to prioritise the interests of US imperialism as a whole over the immediate interests of the Big Pharma capitalists. But we should say clearly: this cynical attempt to claim the moral high ground came only after the US used its massive economic clout to secure enough vaccines to inoculate its own population several times over. And in fact, the wartime Defense Production Act is still in effect, which forces US manufacturers to fulfil domestic demands for medical equipment before exports are permitted. This de facto export ban has created bottlenecks in the supply chain that have already undermined the WHO-led COVAX programme to vaccinate poor countries. Rest assured, Biden’s policy remains ‘America First’, just by somewhat more calculated means than his predecessor.

#### **Reducing IP protections chills future investment – even the perception of wavering commitment scares off companies.**

Grabowski et al. ’15 (Harry; Professor Emeritus of Economics at Duke, and a specialist in the intersection of the pharmaceutical industry and government regulation of business; February 2015; “The Roles Of Patents And Research And Development Incentives In Biopharmaceutical Innovation”; Health Affairs; <https://www.healthaffairs.org/doi/10.1377/hlthaff.2014.1047>; Accessed: 8-31-2021; AU)

Patents and other forms of **intellectual property** **protection** play **essential roles** in encouraging innovation in biopharmaceuticals. As part of the “21st Century Cures” initiative, Congress is reviewing the policy mechanisms designed to accelerate the discovery, development, and delivery of new treatments. Debate continues about how best to balance patent and intellectual property incentives to encourage innovation, on the one hand, and generic utilization and price competition, on the other hand. We review the current framework for accomplishing these dual objectives and the important role of patents and regulatory exclusivity (together, the patent-based system), given the lengthy, costly, and risky biopharmaceutical research and development process. We summarize existing targeted incentives, such as for orphan drugs and neglected diseases, and we consider the pros and cons of proposed voluntary or mandatory alternatives to the patent-based system, such as prizes and government research and development contracting. We conclude that patents and regulatory exclusivity provisions are likely to remain the core approach to providing incentives for biopharmaceutical research and development. However, prizes and other voluntary supplements could play a useful role in addressing unmet needs and gaps in specific circumstances. Technological innovation is widely recognized as a key determinant of economic and public health progress. 1,2 Patents and other forms of intellectual property protection are generally thought to play essential roles in encouraging innovation in biopharmaceuticals. This is because the process of developing a new drug and bringing it to market is **long, costly, and risky**, and the costs of imitation are low. After a new drug has been approved and is being marketed, its **patents protect it** from competition from chemically identical entrants (or entrants infringing on other patents) for a period of time. **For firms** to have an **incentive** to **continue to invest** in innovative development efforts, they must have an **expectation** that they can **charge enough** during this period to **recoup** costs and make a profit. After a drug’s patent or patents expire, **generic rivals** can enter the market at **greatly reduced development cost** and prices, providing added consumer benefit but **eroding** the **innovator drug** company’s revenues. The Drug Price Competition and Patent Term Restoration Act of 1984 (commonly known as the Hatch-Waxman Act) was designed to balance innovation incentives and generic price competition for new drugs (generally small-molecule chemical drugs, with some large-molecule biologic exceptions) by extending the period of a drug’s marketing exclusivity while providing a regulatory framework for generic drug approval. This framework was later changed to encompass so-called biosimilars for large-molecule (biologic) drugs through the separate Biologics Price Competition and Innovation Act of 2009. Other measures have been enacted to provide research and development (R&D) incentives for antibiotics and drugs to treat orphan diseases and neglected tropical diseases. Discussion continues about whether current innovation incentives are optimal or even adequate, given evolving public health needs and scientific knowledge. For instance, the House Energy and Commerce Committee recently embarked on the “21st Century Cures” initiative, 3 following earlier recommendations by the President’s Council of Advisors on Science and Technology on responding to challenges in “propelling innovation in drug discovery, development, and evaluation.” 4 In this context, we discuss the importance of patents and other forms of intellectual property protection to biopharmaceutical innovation, given the unique economic characteristics of drug research and development. We also review the R&D incentives that complement patents in certain circumstances. Finally, we consider the pros and cons of selected voluntary (“opt-in”) or mandatory alternatives to the current patent- and regulatory exclusivity–based system (such as prizes or government-contracted drug development) and whether they could better achieve the dual goals of innovation incentives and price competition. The essential rationale for patent protection for biopharmaceuticals is that long-term benefits in the form of continued future innovation by pioneer or brand-name drug manufacturers outweigh the relatively short-term restrictions on imitative cost competition associated with market exclusivity. Regardless, the entry of other branded agents remains an important source of therapeutic competition during the patent term. Several economic characteristics make patents and intellectual property protection **particularly important** to **innovation incentives** for the biopharmaceutical industry. 5 The R&D process often takes more than a decade to complete, and according to a recent analysis by Joseph DiMasi and colleagues, per new drug approval (including failed attempts), it involves more than a **billion** dollars in out-of-pocket costs. 6 Only approximately one in eight drug candidates survive clinical testing. 6 As a result of the high risks of failure and the high costs, research and development must be funded by the **few successful, on-market products** (the top quintile of marketed products provide the dominant share of R&D returns). 7,8 Once a new drug’s patent term and any regulatory exclusivity provisions have expired, competing manufacturers are allowed to sell generic equivalents that require the investment of only several million dollars and that have a high likelihood of commercial success. **Absent intellectual property protections** that allow marketing exclusivity, innovative firms would be **unlikely** to make the costly and risky investments needed to bring a new drug to market. Patents confer the right to exclude competitors for a limited time within a given scope, as defined by patent claims. However, **they do not guarantee demand**, nor do they prevent competition from nonidentical drugs that treat the same diseases and fall outside the protection of the patents. New products may enter the same therapeutic class with common mechanisms of action but different molecular structures (for example, different statins) or with differing mechanisms of action (such as calcium channel blockers and angiotensin receptor blockers). 9 Joseph DiMasi and Laura Faden have found that the time between a first-in-class new drug and subsequent new drugs in the same therapeutic class has been dramatically reduced, from a median of 10.2 years in the 1970s to 2.5 years in the early 2000s. 10 Drugs in the same class compete through quality and price for preferred placement on drug formularies and physicians’ choices for patient treatment. Patents play an **essential role** in the economic “ecosystem” of **discovery and investment** that has developed since the 1980s. Hundreds of start-up firms, often backed by venture capital, have been launched, and a robust innovation market has emerged. 11 The value of these development-stage firms is largely determined by their proprietary technologies and the candidate drugs they have in development. As a result, the **strength of intellectual property protection** plays a **key role** in funding and partnership opportunities for such firms. Universities also play a key role in the R&D ecosystem because they conduct basic biomedical research supported by sponsored research grants from the National Institutes of Health (NIH) and the National Science Foundation (NSF). The Patent and Trademark Law Amendments Act of 1980 (commonly known as the Bayh-Dole Act) gave universities the right to retain title to patents and discoveries made through federally funded research. This change was designed to encourage technology transfer through industry licensing and the creation of start-up companies. Universities received only 390 patents for their discoveries in 1980, 12 compared to 4,296 in 2011, with biotechnology and pharmaceuticals being the top two technology areas (accounting for 36 percent of all university patent awards in 2012). 13

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