# Setcol AFF

#### The continuation of the settler-dominated world perpetuates a transversal structural violence that culminates in extinction. Decolonization is the only practice to solve for settler colonialism.

**Mitchell 17** “Decolonizing against extinction part I: extinction is violence.” July 28th 2017.

**Western scientists are proclaiming the start of a ‘sixth mass extinction event’ that may involve the destruction of more than three quarters of earth’s currently-existing life forms.** In their attempts to explain this phenomenon, most scientists have converged around four major, interlinked drivers: **climate change, habitat destruction, species exchange, and the direct killing of plants and animals.** In most cases, **these drivers are understood as the unintended consequences of generic ‘human’ activity, and as a result of desirable trends such as development or urbanization** (Wilson 2002; Barnosky 2014; Ceballos 2016). **A crucial driver is missing from this list: transversal structural violence against Indigenous peoples and their relations, and colonial violence in particular.** ‘Structural violence’ involves systemic forms of harm, exclusion and discrimination that disproportionately affect particular groups, and which can take many forms (physical, psychological, economic, gendered and others). They are embedded in and expressed through political, cultural, economic and social structures (Farmer 2009) that can persist across large spans of time and space. I use the term ‘transversal’ to refer to forms of structural violence that extend across multiple boundaries – not only those of nation-states, but also other kinds of nations (human and otherwise), communities or kinship groups, and temporalities. Prime examples of transversal structural violence include**: settler colonialism, colonial genocides** (Woolford et al 2014); **environmental racism or ‘slow violence’, including toxification and pollution; and complexes of sexual, physical, communal, spiritual and land-based violence associated with the extractive industries. Each of these forms of violence is ecologically devastating, and their convergence in European projects of colonisation is even more so.** **Many formations of transversal structural violence are significant causes of the so-called ‘four horsemen’ of extinction mentioned above.** For instance, ‘**direct killing’ is carried out to clear land for settlement**, and it **occurs as a result of ecological damage caused by resource extraction**. **Settler colonialism, carbon-based economies and regimes of environmental racism also support forms of socio-economic organization (for instance, carbon and energy-intensive urbanized societies) that intensify climate change and increase habitat destruction**. Meanwhile, **colonization has played a significant role in the ongoing transfer of life forms across the planet – whether unintentionally (e.g. the transfer of fish in the bilge water of ships); as an instrument of agricultural settlement (e.g. cattle ranching), or as a deliberate strategy of violence (e.g. smallpox).** However, **transversal structural violence is a driver of extinction in itself,** with its own distinct manifestations. First**, it involves the disruption or severance of relations and kinship structures between humancommunities and other life forms, and the dissolution of Indigenous systems of governance**, laws and protocols that have co-created and sustained plural worlds over millennia (Borrows 2010; Atleo 2012; Kimmerer 2013). Second, **the destruction of Indigenous knowledges through policies of assimilation, expropriation, cultural appropriation and other strategies undermines these forms of order and the relationships they nurture**. Third, **the displacement of and/or restricted access to land by Indigenous peoples interferes with practices of caring for land or Country that are necessary for the survival of humans and other life forms** (Bawaka Country 2015). **Colonial genocides embody all of these forms of destruction by killing or displacing Indigenous communities, undermining Indigenous modes of governance and kinship systems, systematically destroying relationships between life forms and erasing knowledge**. All of these modes of violence weaken co-constitutive relationships between Indigenous communities, other life forms and ecosystems that have enabled their collaborative survival. This results in disruptions to ecosystems – and climate – that Potawatomi scholar Kyle Powys Whyte (2016) has recently argued would have been considered a dystopia by his Ancestors. In other words, transversal structural violence, and colonial violence in particular, are fundamental drivers of global patterns of extinction. It stands to reason, then, that **responses to extinction that focus on managing endangered species or populations, or ‘backing up’ genetic material, are insufficient: they leave the structures of violence intact and may add to their power. Instead, efforts to address extinction need to focus on identifying, confronting and dismantling these formations of violence, and on restoring or strengthening the relations they sever. Yet responses to global patterns of extinction are overwhelmingly rooted in Western scientific concepts of conservation** – a paradigm that emerged within 20th century European colonial government structures (Adams 2004). Contemporary conservation approaches – from the creation of land and marine parks to the archiving of genetic materials – may exacerbate the destruction of relations between Indigenous peoples and their relations. For instance, **conservation strategies often involve displacing Indigenous peoples from the land that they care for** (Jago 2017, Brockington and Igoe 2006), or curtailing of processes such as subsistence hunting, fishing or burning that have enabled the co-survival of Indigenous groups, plants, animals and land for millennia. Meanwhile, ex situ and genetic forms of conservation (including zoos and gene banks) may violate these relationships by instrumentalizing or commodifying kinship relations. Increasingly popular conservation approaches based on Traditional Ecological Knowledge (TEK) approaches claim to center Indigenous communities and knowledges. However, **they ultimately instrumentalize fragments of Indigenous knowledge systems** (for instance, data on climatic change) to test or support Western approaches. **As such, they leave the structures of colonization and other forms of transversal structural violence untouched, and may even exacerbate them.** All of this suggests that **confronting global patterns of extinction calls for decolonization and other ethos that work to eliminate transversal structural violence** – and I don’t mean this metaphorically. **Enabling the restoration of relations that can enable the ongoing flourishing of life on earth will require the transfer of land and power back into plural Indigenous peoples and their distinct modes of sovereignty, law and governance** (Tuck and Yang 2012). These relationships and forms of order have enabled plural Indigenous peoples and their multitude of relations to co-flourish for millennia, including through periods of rapid climate change, and they are needed to ensure the continuation of this co-flourishing. This means that **decolonization is not simply related to global patterns of extinction: it is necessary to ensuring the ongoingness of plural life forms on earth.**

#### Intellectual property has been one of many strategies for forced assimilation that erases the Native.

**Chidi 08** Oguamanam Chidi (2008) "Patents and Traditional Medicine: Digital Capture, Creative Legal Interventions and the Dialectics of Knowledge Transformation," Indiana Journal of Global Legal Studies: Vol. 15 : Iss. 2 , Article 3.

Intellectual property, particularly the patent regime, is an important factor in the privileging of Western medicine over traditional medical systems." However, methods of medical treatment are excluded from virtually all national patent regimes." Consequently, the impact of intellectual property on medical care delivery turns mainly on pharmaceutical innovations, including access to drugs, related products, and various other medical technological innovations other than methods of treatment. In traditional medicine, the pharmacological process involves mainly the exploitation of natural products such as plants, animals, and minerals in accordance with underlying theories of health and healing. 2 In most cases, the holistic nature of traditional medicine means the fusion of the therapeutic with the pharmacological.

#### AND has always been mishandled and is a form of pushing Natives into an asterisk especially in the cases of traditional knowledge and culture.

**Shabalala 17** Shabalala, Dalindyebo Bafana (2017) "Intellectual Property, Traditional Knowledge, and Traditional Cultural Expressions in Native American Tribal Codes," Akron Law Review: Vol. 51 : Iss. 4 , Article 5. Available at: http://ideaexchange.uakron.edu/akronlawreview/vol51/iss4/5

On Friday, September 8, 2017, pharmaceutical company Allergan transferred ownership of all federal U.S. patents for its Restasis drug to the Saint Regis Mohawk tribe; the tribe then licensed them back to the company.1 The aim was to shield the patents from the United States Patent and Trademark Office (USPTO) administrative inter partes review (IPR)2 process by having the tribe claim sovereign immunity from the process. This action represents a new assertion and participation of Native American tribes in the United States federal system for protection of intellectual property (IP). This is in contrast to what has been the traditional experience of Native American tribe’s experience with the way U.S. federal law has dealt with their intellectual and cultural property (i.e., enabling its misappropriation by non-tribal citizens).3 This misappropriation has occurred either through use of the IP system where non-tribal citizens make patent, copyright, or trademark claims over tribal intellectual and cultural property,4 or through claims that Native American intellectual cultural property is part of the public domain and free for all to use.5 In either case, the common experience of Native American tribes has been one of victimization rather than active participation in the federal IP system. The St. Regis deal and others like it draw attention to the core demand that Native American tribes make, in concert with indigenous peoples and nations worldwide, for the protection of their intellectual and cultural property, especially their traditional knowledge (TK) and traditional cultural expressions (TCEs). In particular, the deal raises two questions which, despite the long-standing demand for protection, have not received full attention. First, what are Native American tribes themselves doing to provide such protection to their citizens on their territory, in the exercise of whatever scope of authority that they have as dependent sovereign entities6 within the United States? This determination seems like a necessary precursor to making claims for protection under broader U.S. law as a means of giving notice of what the claim to protection entails. It is also a precursor to ensuring that Native American participation in the federal IP system, such as that of the St. Regis tribe, is consistent with tribal legislation. This, of course, also leads to the second question: what are the exact contours of the protection that U.S. law provides to Native American intellectual and cultural property? More specifically, what are the existing laws, what is the gap between the scope and nature of protection provided in tribal law versus what the federal government applies, and what is the gap between the protection that is being sought and what is actually being provided? In particular, this Article seeks to answer the question of whether any of the extant federal legislation acts can be seen to act as a means of providing protection for Native American intellectual and cultural property. This Article is divided in two major sections. The first section conducts a survey of Native American tribal codes to describe and outline the scope and nature of protection for IP in the universe of tribal codes in the United States. The second section carries out an examination of specific laws addressed to Native American intellectual and cultural property and examines the legislative history to determine the extent of protection that they provide. The results of my analysis form a first step in a broader research agenda that is outlined in the conclusion to this Article, which will hopefully progress with a somewhat stronger descriptive basis for deciding which research paths and questions to follow.

#### Settlers in the name of economic profit have stolen the methods of Natives in medicinal fields. This is in mirror image to many of the ways of living, land, and culture that the settler nation have taken for its own.

**Guest 95** Richard A. Guest, Intellectual Property Rights and Native American Tribes, 20 Am. Indian L. Rev. 111 (1995), <https://digitalcommons.law.ou.edu/ailr/vol20/iss1/4> (1-9)

In recent years, several Native American tribes have begun a journey into the unfamiliar terrain of intellectual property rights as a means to assert their self-determination, secure economic independence, and protect their cultural identities. Although "ideas about property have played a central role in shaping the American legal order,"2 in the prevailing legal literature of intellectual property law in the United States, the protection of Native American intellectual property rights is rarely an issue of consideration. Suzan Shown Harjo, in her article, Native Peoples' Cultural and Human Rights: An Unfinished Agenda, writes: "The cultural and intellectual property rights of Native Peoples are worthy of being addressed during this time of increased appropriation of Native national names, religious symbology, and cultural images."3 In contrast, within the realm of international law, the topic of intellectual property is a high priority, uniting the concerns for self-determination and economic independence. For example, the International Alliance of the Indigenous-Tribal Peoples of the Tropical Forests set out in the articles of its Charter demands for respect of the right to self-determination of indigenous peoples and guaranteed rights their intellectual property.4 The most comprehensive recognition for protection of the intellectual property of indigenous peoples is the Draft Universal Declaration on the Rights of Indigenous Peoples which states: "Indigenous peoples have the right to special measures for protection, as intellectual property, of their traditional cultural manifestations, such as their literature, designs, visual and performing arts, cultigens, medicines, and knowledge of the useful properties of fauna and flora."' Thus, in the United States, Native American tribal councils and communities are beginning to ask the question as to whether their intellectual property, as they perceive their intellectual property to exist, can be protected. This article seeks to explore the issue of whether Native American tribes can protect themselves from the increased appropriation of their intellectual property under existing U.S. law.6 Part 1[ introduces the reader to the intriguing world of intellectual property and the distinction between Native American intellectual versus cultural property. Part II focuses on existing patent, copyright, and trademark law in the United States and whether Native American tribes can utilize those laws to protect their intellectual property: Section A summarizes existing patent law and examines the lack of protection for Native traditional seeds and folk crop varieties; Section B summarizes copyright law and illustrates the lack of protection for Native cultural images and expressions. Section C summarizes trademark law and analyzes whether Native American tribal names can be protected. Part I highlights the Indian Arts and Crafts Act (IACA) as a potential source of protection of Native American intellectual property and explores the potential application of the IACA to each of the Native American intellectual property issues discussed in Part II. As mentioned above, intellectual property is not really property, but rights to do certain things and to prohibit others from doing certain things. Thus, for Native American tribes, examples of intellectual property would include the rights to the knowledge of medicinal qualities inherent in indigenous fauna and flora; the embodiment of oral traditions and religious ceremonies; the expression of native art and designs; the use of tribal names and symbols; and most importantly, the right to prohibit their use by others. Although existing patent, copyright, and trademark law in the United States offers significant protection and economic benefit for individuals and companies, it fails to recognize and protect the unique nature of Native American intellectual property. One current area of increasing controversy is the protection of plant genetic resources as intellectual property. Plant genetic resources are developed by scientists in the laboratory for companies who then exclusively market the improved seeds and products they yield. Early in the history of the United States, Thomas Jefferson recognized that "the greatest service which can be rendered any country is to add a useful plant to its culture."' At present, a full range of intellectual property protection is applied to plants.' Unfortunately, indigenous farmers whose traditional knowledge and labor developed and preserved genetic resources over the centuries in the form of traditional seeds, crop varieties and medicinal plants receive no protection and little compensation for their contribution. For those who question the contribution of indigenous farmers, consider these facts: the international seed industry alone accounts for over $15 billion per year, much of which derived its original organic materials from traditional crop varieties; the annual world market value of medicines derived from medicinal plants acquired from indigenous peoples is $43 billion; and the projected sales of natural products such as natural insecticides, fragrances, dyes, etc., derived from plant genetic materials acquired from indigenous peoples, will exceed all other food and medicinal products combined. 7

#### **The aff is not anti-thetical to polcy making. If the judge votes aff, policy making doesn’t become obsolete however we are critiquing the current modalities of policy making and think that approaching the world including policymaking through the lens of decol is good. However we need to first theorize outside of the political to understand how to operate within in. Examining the historical contexts of Settlers bringing diseases to Native land, then creating medicines and IPP and denying the Natives access is essential to the formation of policy making. Even with COVID the reason as to why developing countries or specific Native communities had and are having a difficult time with acquiring the COVID vaccine is because settlers have taken the medical field and privatized it. We need to ask ourselves the root cause as to why the problems exist.**

#### International efforts and colonialism are linked and exercises of international law always have colonialist undertones

Knox 14. [Robert, thesis submitted to the Department of Law of the London School of Economics for the degree of Doctor of Philosophy, London, April 2014, Dissertation, “A Critical Examination of the Concept of Imperialism in Marxist and Third World Approaches to International Law” http://etheses.lse.ac.uk/1030/1/Knox\_A\_Critical\_Examination\_of\_the\_Concept\_of\_Imperialism.pdf]//NH.

It is this intellectual legacy that TWAIL scholarship has inherited. The task seems clear. Postcolonialism responds to a real historical, political and theoretical urge to understand imperialism, yet it does so by discarding the materialist method that had animated earlier accounts of imperialism. One can reclaim the insights of postcolonial theory by setting it within a material context which does not reduce ‘race’ or ‘culture’ to epiphenomena of capitalism, but understands them as social forms coextensive with and necessary to the accumulation of capital, which therefore come to assume a vital and structuring role within the imperialist system. 274 Fanon’s emphasis on the changing forms of racialisation provides a bridge in this respect. The relationship he describes between transformations in the process of capital accumulation and transformations in forms of racialisation would also – on the reading outlined above – be reflected in international law. As will be recalled, an analysis similar to this was one of the pivots around which Marxist-influenced Third Worldist legal scholarship has turned. As was argued in Chapter 2, Bedjaoui, Umozurike and Chimni all sought to trace the way in which transformations in the nature of imperialism were reflected in different international legal regimes. They understood the initial ‘encounter’ between Europe and the ‘new world’ to be one rooted in early capitalist expansion. This was an unsystematic process of primitive accumulation, which was achieved through trade and ‘looting’. Consequently, it did not require wholesale transformations of the internal life of peripheral territories. International law, therefore, was unsystematic and characterised largely by a silence about colonies. Often non-European sovereigns were recognised so as to facilitate trade and others such as the ‘Indians’ were compelled to engage in trade, or their resources were subject to European appropriation. As capitalism stabilised and grew within Europe, there was a stronger imperative to expand outwards. This expansion could no longer be simply concerned with the extraction of wealth; now societies would have to be transformed wholesale. This was because they were to be the markets for European goods and the direct sites for the export and accumulation of capital. European states would therefore often require a greater deal of control in order to carry out these transformations. For this reason, direct political control in the form of colonisation became more and more necessary. This was buttressed by the competition between European powers, which could better secure profits through the creation of tariff territory. International law mediated this through the standard of civilisation, which justified colonisation, mediated other European dealings with the non-European world and provided an external compulsion for non- or pre- capitalist states and empires to open themselves up to the logics of capital accumulation. Such a situation was unstable, however, both because of the resistance of colonised peoples to colonialism and because of the costs associated with direct colonial control. 275 International law served the role of channelling anti-colonial struggles within the colonies in such a way as to remain compatible with imperialism: both in terms of maintaining these struggles within the nation-state, and also by neutering the Third World’s demands for nationalisation. What this meant was that – given the continued existence of imperialism – international law mediated neo-colonial relations. With the collapse of even those marginal oppositional movements and the slow implosion of the USSR, there was even less restraint upon the capitalists in the advanced capitalist core. This, combined with stagnating conditions at home, led to a renewed round of capital accumulation under the auspices of neoliberalism and globalisation, which was facilitated by international institutions such as the World Bank and IMF. As a part and parcel of this process there has been a wave of military interventions, which were legitimised through an international law which both posited peripheral territories as open for military violence. It is this account which must be ‘reclaimed’ and built within Marxist and TWAIL scholarship. Following Fanon, we can see that these changing forms of capital accumulation are also changing forms of racialisation. The above story can be seen of international law casting the peripheries in different racialised roles in order to facilitate the continued process of capital accumulation. Over time his has shifted from a language based directly on ‘civilisation’, to one which draws on subtler tropes of ‘chaos’, ‘disorder’ and rogue states. It has also (as outlined in Chapter 3, Section 3.3.) been shaped by the resurgence of inter-imperialist rivalries. Thus, this racialisation plays out in different forms in different periods, but nonetheless forms the real ‘dynamic of difference’ which fundamentally structures international law. Crucially, therefore, we are able to combine the insights of the Marxist and postcolonial wings of TWAIL scholarship. This is not achieved by throwing them arbitrarily tying them together, but rather by understanding their common ‘ancestry’ in the stretched Marxist tradition of the radical anti-colonial and Third Worldist movements.

#### Emancipation cannot be realized via political means; operating within existing institutions merely bolsters the power of the state.

**Lystrup 15** Lauren Lystrup, University of California, Irvine. Master of Arts in Social and Cultural Foundations in Education. The Institutional Repository at DePaul University. University of California, Santa Cruz B.A. Feminist Studies, Education Minor, Law, Politics and Social Change, 2007 – 2011. “Decolonial Futures and the Law: Reflections on Mitigating Projects of Coloniality.” 4/1/2015. https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1079&context=soe\_etd || OES-SW

Colonial logics produce the colonized as abject, that which the colonizer is both disgusted by and that which he depends upon to sustain existence as he is accustomed. Sectioned off and compartmentalized to the spaces where the colonized has made room for the abject to exist (slums, prisons, public housing, shelters) and where their movement is restricted in zoological-like conditions, the colonizer has studies the colonized and visits as he pleases to bestow what he has learned about them and to build paths toward the European beacon of civilization, progress, and development. In A Nation Rising: Hawaiian Movements for Life, Land and Sovereignty, Joan Conrow (2014) quotes a native Hawaiian homeless women who observes, “They got to lock us up to help us” (p. 89). Colonial logics want to solve problems in formerly colonized places through hyper attention on the local level held statically in place, movement signaling instability, without pulling the lens back to account for its own continued historical legacies, and continuing to paint subjects outside the colonial image of man/human as a burden or impediment to progress. A white classmate who will remain anonymous once exclaimed, “I was driven by a native Hawaiian when I visited; he told me he is happy to have tourism because it brings money to the island!” This anecdotal reference is representative of the sentiments not only that tourism brings what should be desirable, but a double edge-sword that the native desires against their own interests. Freedom and emancipation are recognized by the (former) colonizer as promises betrayed while, simultaneously, the colonizer gawks and wonders at the spectacle of violence and struggle endured by the (formerly) colonized. Saldana-Portillo (2003) understands agency and consciousness not as a moment of birth or revelation, but as an ongoing process in which everyone is engaged and invested. Moving away from the language of self-determination in which decolonization visions have been articulated, and which can be limited in narrowly signaling a concern with political choices only, I look toward the Fanonian language of ‘self-discovery’ and ‘self-becoming’ to signal an ongoing and humanistic aspect of decoloniality. This recognizes not only the usurpation of political power, control, authority and European universal productions of knowledge grafted onto colonized spaces. It also recognizes coloniality’s denial of self-inquiry, self-questioning and reflection, becoming and future in order to make room for its own. Self-discovery, which informs self-becoming, begins from a place of questioning and of openness to a truth that informs material reality. Rather than this process being directed by an outside actor the agent and subject is the self. It is a process continuously in movement, not only directed inwardly, but recognition of self in context. Becoming is never in a vacuum but always relational. Fanon (1968) says: Decolonization never takes place unnoticed, for it influences individuals and modifies them fundamentally. It transforms spectators crushed with their inessentiality into privileged actors, with the grandiose glare of history's floodlights upon them… Decolonization is the veritable creation of new men. But this creation owes nothing of its legitimacy to any supernatural power; the "thing" which has been colonized becomes man during the same process by which it frees itself. (pp. 36-37) The process that Fanon describes will perhaps be felt most by the colonizer, contrary to the imagination and visions of development and charity projects seeking to do justice to their abjectified subjects, to whom they have given only death under the auspices of providing opportunity and stability. Decoloniality for the colonizer will require a dramatic and radical change in existence as he knows and is accustomed. For Ranciere (1991), emancipation occurs when “intelligence obeys only itself” (p. 13). Ranciere, In Education, Truth, Emancipation Ranciere elaborates on his idea laid out in Ignorant School Master explicating that the teacher indeed can teach what one is ignorant of and reify mechanisms of dependency. The student is made to be dependent on the truth outlined by the teacher or schoolmaster. Ranciere contends that processes of emancipation offered by antioppressive work (Socrates or Freire’s methods, for example) function at worst, to instill mistrust and dependency within students, and at best only re-posit the student in need of the master to ask the right question leading to conscientization. Emancipation cannot be fully realized in this model because it is always conceived within a dichotomous framework where the student must rely on what is outside themselves in order to emancipate themselves. It subtly continues to undermine individual and communal self-determination. The contradiction functions under the logic of equality that is always already presumed by the logic of inequality. True politics, according to Ranciere (1999), only occurs when the logic of the order is disrupted and found to be false, requiring a new formation that is detached from these logics. The logic of dependency is a model that operates by creating a one-sided historical narrative that not only legitimize a social ordering, but also make it appear as the only rational way of being. The techniques of this logic work to instill fear and mistrust personally and communally into submission and cooperation based on people’s lack of logos or rational thinking. Dissent is limited to incorporation negotiating in the terms of the police state, its history and language. Political actions that do not seek autonomy from the state and the institutions of the state, or to disrupt their very foundations are incorporative and would not represent true politics for Ranciere (1991), as they do not disrupt the police order. Instead, they bolster the same systems that consistently reproduce inequality. Emancipation can occur when de-linked from dependency on the state as mediator of the good, when the singular legitimacy of the police state is rendered false. While dissent often functions as incorporation, the ability to be like the monoculture posited as most progressively advanced, options exist outside or delinked from these systems.

#### The impact is racialized targeting and extermination – settler colonialism separates Natives into zones of legality and zones of death in order to justify free and ruthless use of force until Natives are appropriated into the Sovereign’s culture nativity is erased

**Lloyd** and **Wolfe** **16** (David, Distinguished Professor of English at the University of California, Riverside, works primarily on Irish culture and on postcolonial and cultural theory, and Patrick, a freelance historian who lives and works in Wurundjeri country near Healesville, Australia. He has written, taught, and lectured, in comparative vein, on colonialism, race, genocide, theories of imperialism, Aboriginal histories, and the history of anthropology, Settler colonial logics and the neoliberal regime, Settler Colonial Studies, 6:2, 109-118, DOI: 10.1080/2201473X.2015.1035361)

As Jesse Carr shows in detail in this volume, writing of the contemporary legacies of frontier violence, **state-sanctioned law and vigilante violence are intimately intertwined throughout US history**: **settler colonial violence is at once law-making, and therefore constitutive of a certain kind of sovereignty, and a ‘free and ruthless’ use of force. It at once obeys and constitutes** over and again **the line that demarcates the appropriation of land and resources** **and the division between those protected by law and sovereignty and those subject to their violence.** The corollary to **this perpetual reconstitution of law-making violence**, which does not allow the ‘forgetting’ of the law’s origins in appropriation**, is the persistence of a psychic ‘state of siege’: the representation of the world as a surround populated by uncivil peoples who pose what, in the language of neoconservatism** as of Zionism, **is understood as an ‘existential threat’ to civil subjects.** With the impeccable logic of the paranoid, **the ‘free and ruthless force’ inflicted on those evicted** ‘beyond the line’ is projected onto its objects. **This leads**, as Nadera Shalhoub-Kevorkian shows in her essay, **to the constitution of ‘death zones’ inhabited by beings whom the settler colonial state considers**, from before their births to even after their deaths, **as existential and demographic threats**. In the final pages of The Nomos of the Earth, Schmitt asks a question still pertinent to the current moment of globalization: ‘Has humanity today actually “appropriated” the earth as a unity, so that there is nothing more to be appropriated? Has appropriation really ceased?’ 20 It is clear, following Harvey, that **appropriation has not ceased, but it is equally clear that the fundamental act of demarcation, the distributions of legality and ruthless force which constitute a nomos, continues in new forms,** constituting new frontiers appropriate to the emergent mode of accumulation on a global scale. See reminds us of Rosa Luxemburg’s argument that capitalism ‘needs other races’: for her, those ‘races’ were the ‘outside’ of capital, ‘beyond the line’, in Schmitt’s terms. Now, **at a moment when the globe has been appropriated ‘as a unity**’, **the current crisis of capital may find no geographical ‘outside’** any more, **but is no less productive** **of forms of racialization that continue to correspond to nomothetic demarcations** but within an utterly different spatial ordering wherein, in Weizman’s phrase, ‘the periphery comes straight to the center’. Within this new spatial ordering, Weizman suggests, **‘acts of spatial exclusion creat[e] wedges that separate the habitat of a population marked as a political “outside” and perceived as a political threat’. 21 Such ‘wedges’ result in a quite different mapping of the spatial order of domination** that was designated by lines of longitude, a mapping with which any contemporary urban dweller is already intimate: **The contemporary city is exploding spatially, but in essence is fractalized into a collection of interlocking, internally homogeneous, and externally alienating synthetic environments. The separation between the affluent, established populations from [sic] the poorer immigrant populations can no longer be understood as a continuous line across the map.** Internal city borders will be further 114 D. Lloyd and P. Wolfe reinforced, forming local enclaves scattered across the city and its suburbs. Point based security systems fractalize borders and turn them from a defined object into a condition of heightened security whose presence is manifested in electronic or physical barriers at entry points to office buildings, shopping malls, or transport infrastructure – from midtown to suburbia.22 **The laboratories for both this ‘condition of heightened security’**, including the necessary surveillance technologies, and for the reorganization of social space **have been and continue to be the sites of colonial counter-insurgency**, from Northern Ireland to Palestine.23 **Settler colonialism**, specifically under conditions of what Israeli sociologist Baruch Kimmerling called ‘low frontierity’, 24 **furnished** both **the model by which populations** and spaces **are distributed between zones of legality and,** in Shalhoub-Kevorkian’s phrase, ‘**zones of death’**, and the historically normalized imaginary of the perpetual ‘state of siege’. The counter-insurgency campaigns of Israel and Northern Ireland stand as some reminder that **the settler colony has always also been a site of military occupation** and – as See also points out – **is extended extraterritorially by way of military occupation as a further modality of colonialism.** The settler colonial and the military imaginaries intertwine with great and familiar intimacy, from the stockades of the early colonists and forts of the frontier cavalry to the hilltop Israeli settlements in Palestine that double as military outposts, to the current military intervention into Aboriginal communities in Australia’s Northern Territory, or to the fortified police stations of Soweto or Belfast. But **military occupation, which Klein identifies as one model of the new modes of social control and spatial organization of neoliberal states, does also offer an alternative if intersecting model for colonial domination.** The military occupation of the Philippines entailed neither extensive Euro-American settlement nor incorporation into the state, though particularly in the Philippines the genocidal prosecution of the war from 1898 to 1913 explicitly learnt much from the recently completed frontier wars against Native Americans.25 Rather, **they offer paradigms for the kinds of colonial domination that operate through partial and segmented land-appropriation, secured through ruthless violence but maintained through the forced** (‘benevolent’) **pacification of the surviving population. In this respect, occupation combined with tutelage functions as an early instance of the nomothetic lines of legal or moral demarcation that characterize for the most part the framework of the neoliberal state and its racial order.**

#### Settlers should call into question their authority to legislate on this land in the first place. The ideological reiteration of autonomous settler political selfhood is the organizing logic of settler colonialism – the settler understands itself as carrying lawmaking capacity across space. REFUSE settler subject formation in favor of disorientation that refuses moves of authority on stolen land.

**Rifkin 13** Mark, Associate Professor of English & WGS UNC-Greensboro. “Settler common sense,” Settler Colonial Studies, Volume 3, Issue 3, pp. 322-340

As opposed to the sense of withdrawal into a space divorced from contemporary political economy, the text also proposes a reframing of perspective, altering the physical sense of relation to one's surroundings via a suspension of their givenness. In this vein, **Ahmed suggests, “If orientation is about making the strange familiar through the extension of bodies into space, then disorientation occurs when that extension fails**” (11). These moments in the text suggest how **the self can become the site for an imaginative break with routine that produces a sensuous reorientation** (getting “turned round”). **The critical project of the text appears here less as locating a space apart in which to discover the fullness of the self than as the making alien of an already occupied place, such that “we should not recognize” it. The act of turning round, of shifting one's orientation** and redirecting the momentum by which one previously was impelled, **offers possibilities for perceiving differently, for seeing and engaging in ways that less take for granted the jurisdictional matrix of the state** and in which contemporary Native peoples can be acknowledged as themselves important “inhabitants of New England” whose indigeneity compels a reconceptualization of the terms of occupancy for everyone.¶ **Becoming conscious of the everyday enactment of settlement involves relinquishing the notion of an autonomous, extra-political selfhood existing in a place apart, instead opening onto a recognition not only of enduring Native presence within contemporary political economy but of the effaced history of imperial superintendence and displacement that provides the continuing condition of possibility for th**e sense of **settler** escape into the wilderness. To be clear, **the absence of a declared set of imperial commitments does not suggest non-Natives' exoneration from continuing histories of violence perpetrated and perpetuated by the settler-state**. Returning from a different direction to Nicoll's critique discussed earlier**, there may be an absence of sentiments hostile to Native peoples in non-Natives' speech or writing, or non-Natives may adopt a particular viewpoint supportive of Indigenous sovereignty on delimited plots of land** when considering Native peoples as such. **However, that absence of malice or declaration of support does not address the ways quotidian experiences of space** (with respect to jurisdiction, occupancy, and ownership) and subjectivity (as modular, self-identical, and extralegal) affectively register and iterate settler sovereignty in ways that shape the generation of, for example, ethics, ideals, and political projects that do not take Native nations, voices, and lands as their direct object. While arguments about the structural quality of settler colonialism – its scale, density, duration, and centrality to US life – remain important, their very insistence on its pervasive and systemic operation can create the impression of an integrated whole. However, as Latour observes, if “the body politic” is taken “to be virtual, total, and always already there”, then “the practical means to compose it are no longer traceable; if it's total, the practical means to totalize it are no longer visible; if it's virtual, the practical means to realize, visualize, and collect it have disappeared from view” (162–3). **How is the settler body politic composed, collected, and realized in everyday ways through the experiences, perceptions, associations, emplacements, and trajectories of non-Native bodies**? How do settler jurisdiction and governmentality shape the material possibilities available to non-Natives in scenes and sites apparently disconnected from Native peoples and Indian policy, and **how do non-Natives in their quotidian feelings and interactions (and the cultural productions for which ordinary sensation serves as background) actualize the political and legal geographies of the settler-state?** Attending to settler common sense in this way does not so much bracket Indigenous self-determination as draw on it as ethical inspiration to investigate the ways it is deferred through ordinary action whose aim is not such but whose effect is to reiterate the self-evidence of settler geopolitics. Reciprocally, s**uch analysis also seeks to suggest how non-Natives might disorient and reorient themselves, how they might come to understand** not only that Indigenous peoples remain part of the social landscape of life in the US but that the very terrain non-Natives inhabit as given has never ceased to be a site of political struggle.

#### The role of the ballot is to center indigenous scholarship and resistance-- Any ethical commitment requires that debate place themselves in the center of Native scholarship and demands.

**Carlson 16** (Elizabeth Carlson, PhD, is an Aamitigoozhi, Wemistigosi, and Wasicu (settler Canadian and American), whose Swedish, Saami, German, Scots-Irish, and English ancestors have settled on lands of the Anishinaabe and Omaha Nations which were unethically obtained by the US government. Elizabeth lives on Treaty 1 territory, the traditional lands of the Anishinaabe, Nehiyawak, Dakota, Nakota, and Red River Metis peoples currently occupied by the city of Winnipeg, the province of Manitoba, (2016): Anti-colonial methodologies and practices for settler colonial studies, Settler Colonial Studies, DOI: 10.1080/2201473X.2016.1241213,)

Arlo Kempf says that ‘**where anticolonialism is a tool used to invoke resistance for the colonized, 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 experience**s – either on the grounds that this structural analysis already conceptually explains Indigenous experience, or because **Indigenous 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 scho lars resist these hegemonic 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 Indigenous 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 Indigenous 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.**

#### The alternative is total refusal. That means rejecting fantasies of institutional benevolence and quick-fix solutions

Grande 18 – Sandy Grande, Professor of Education and Director of the Center for the Critical Study of Race and Ethnicity at Connecticut University, 2018 (“Refusing the Settler Society of the Spectacle,” Handbook of Indigenous Education, Published by Springer, Edited by Elizabeth Ann McKinley and Linda Tuhiwai Smith, ISBN 978-981-10-1839-8, pp. 1-17)

Indigenous Refusal and the Twenty-First-Century Ghost Dance

As articulated by Indigenous scholars, Julian Brave NoiseCat and Anne Spice, “At Standing Rock, the audacious vision for an indigenous future, handed down from Wounded Knee and global in force, is alive and well.” In order for this “audacious vision” to be fully realized, it is up to all of us to see and work past the glimmer of spectacle, to resist the cult of the immediate, and to do the more deliberative work of history, earnestly connecting past with present. This requires a collective refusal to participate in the theater of cruelty and choose instead to dismantle the settler consciousness that enables it. Such efforts entail working beyond and below the surface, keeping an eye toward the process by which relations of mutuality are either abandoned or eroded by relations of capital – to in effect, decolonize. Within this struggle, Indigenous nations, peoples, and knowledge are crucial, not because they hold any magic or “ancient wisdom” but because they represent the most enduring and resilient entities that present a competing moral vision to the settler order. Despite myriad struggles, Native peoples have maintained their autonomy and political sovereignty for centuries, confounding the infamous Thatcherism, “There is No Alternative.” And insofar as current patterns of thinking and being have contributed to the existing political, economic, and environmental crises of our time, it is incumbent upon all of us to protect the complex ecologies that sustain Indigenous communities. That said, I want to be clear that by “protect” I do not mean appropriate, mimic, exploit, or put on display. I mean to create and sustain the conditions under which such communities continue to survive and thrive.

Settlers desiring to be accomplices in the decolonial project need to assume the stance of advocate (not spectator) for Indigenous rights and perhaps more importantly, for whitestream transformation. Within activist spaces this means demonstrating a willingness to stand on the front lines to help contain the metastasizing neoliberalism. As argued by Glen Coulthard (2014), “For Indigenous nations to live, capitalism must die” (p. 173). This also necessarily demands a prior rejection of liberalism. Particularly now, as pundits and scholars begin to dissect the “success” of #NoDAPL, it is important to register the long-understood failures of liberal politics and belief in reform – of the liberal subject, of capital, of the state – through “peaceful” action and “rational” discourse. Any movement that does not first recognize the irrationality and violence of the settler state and its envoys is by definition anti-Indian.

It means recognizing that “the movement” is not (only) about the present but rather demands both history and a ground(ing) that is both literal and metaphoric. The guiding vision is not human centered or derived but rather comes from land and all that sustains it. The less quoted, second half of Coulthard’s (2014) assertion is, “for capitalism to die, we must actively participate in the construction of Indigenous alternatives to it” (p. 173). The Indigenous project is not defined by liberal or juridical notions of justice. Indeed, liberalism’s reliance on the fantasy of the benevolent state and its refusal to relinquish the idea of a “new social order, built in the shell of the old,” ultimately solidifies the settler state. The so-called progressive movements built on liberal ideas give rise to organizing strategies held captive to the “reign of the perpetual present.” Such politics were epitomized by the Occupy Wall movement – its never-ending process of agenda building, leaderless and lateral structure and non-prescriptive slogan, “What is Our One Demand?” – all suggest an allegiance to the liberal ideal of freedom as individual liberty.In contrast, Indigenous struggle is built on history and ancestral knowledge. It is informed by original teachings and the responsibility to uphold relations of mutuality. Attention to these teachings requires resistance and refusal of the fast, quick, sleek, and spectacular in favor of the steady, tried, consistent, and intergenerational. It is the replacement of “to each his own” and “may the best man win” with “we are all related.” As Debord observes, the spectacle is “the reigning social organization of a paralyzed history, of a paralyzed memory, of an abandonment of any history founded in historical time” and, thus, “is a false consciousness of time” (158). We must refuse this false consciousness.

In the end, refracting liberal, social justice movements through an Indigenous lens compels us to be attentive to both the larger ontological and epistemic underpinnings of settler colonialism; to discern the relationship between our struggles and others; to disrupt complicity and ignite a refusal of the false promises of capitalism. This level of clarity removes the messy and participatory work of agenda setting that liberal movements insist upon, because, the agenda has already been set – a long time ago. It is about land and defense of land. Land is our collective past, our present, and our future. This is our one demand.

#### We must acknowledge that educational spaces have upheld settler colonial practices and work to reject these norms by centering around indigenous experiences; refusal is key to set discourse against colonialism in education. ALT solved all education impacts.