# Valley R2 Neg vs Princeton

# 1NC

### K

#### Settlerism is an everyday process shaped by affective investments in institutions that claim jurisdiction over native land.

Mark Rifkin, PhD, Director of the Women's and Gender Studies Program and Professor of English at the University of North Carolina, Greensboro. “Settler common sense.” Settler Colonial Studies, 2013 Vol. 3, Nos. 3–4, 322–340, http://dx.doi.org/10.1080/2201473X.2013.810702. JJN

In Walden (1854), Henry David Thoreau offers a vision of personhood divorced from the state, characterizing his experience of “Nature” during his time at Walden Pond as providing him with a sense of his own autonomous embodiment and a related set of ethical resources that enable him to reject the demands of contemporary political economy.1 The invocation of “Nature” appears to bracket the question of jurisdiction, opening into a different conceptual and phenomenological register that displaces the problem of locating oneself in relation to the boundaries of the state. However, the very feeling that one has moved beyond geopolitics, that one has entered a kind of space that suspends questions of sovereignty or renders them moot, depends on the presence of an encompassing sovereignty that licenses one’s access to that space. If the idea of “Nature” holds at bay the question of jurisdiction so as to envision a kind of place for cultivating a selfhood that can oppose state logics/politics, it also effaces the ways that experience/vision of personhood itself may arise out of the legal subjectivities put in play by the jurisdictional claiming/clearing of that space as against geopolitical claims by other polities, specifically Native peoples. Thoreau offers an example of how settlement – the exertion of control by non-Natives over Native peoples and lands – gives rise to modes of feeling, generating kinds of affect through which the terms of law and policy become imbued with a sensation of everyday certainty. This affective experience productively can be characterized as an instantiation of what more broadly may be characterized as settler common sense. The phrase suggests the ways the legal and political structures that enable non-Native access to Indigenous territories come to be lived as given, as simply the unmarked, generic conditions of possibility for occupancy, association, history, and personhood. Addressing whiteness in Australia, Fiona Nicoll argues that “rather than analysing and evaluating Indigenous sovereignty claims…, we have a political and intellectual responsibility to analyse and evaluate the innumerable ways in which White sovereignty circumscribes and mitigates the exercise of Indigenous sovereignty”, and she suggests that “we move towards a less coercive stance of reconciliation with when we fall from perspective into an embodied recognition that we already exist within Indigenous sovereignty”. 2 Addressing the question of how settlement as a system of coercive incorporation and expropriation comes to be lived as quotidian forms of non-Native being and potential, though, may require tactically shifting the analytical focus such that Indigenous sovereignties are not at the center of critical attention, even as they remain crucial in animating the study of settler colonialism and form its ethical horizon. “An embodied recognition” of the enduring presence of settler sovereignty, as well as of quotidian non-Native implication in the dispossession, effacement, and management of indigeneity, needs to attend to everyday experiences of non-relation, of a perceptual engagement with place, various institutions, and other people that takes shape around the policies and legalities of settlement but that do not specifically refer to them as such or their effects on Indigenous peoples. In order to conceptualize the mundane dynamics of settler colonialism, the quotidian feelings and tendencies through which it is continually reconstituted and experienced as the horizon of everyday potentiality, we may need to shift from an explicit attention to articulations of Native sovereignty and toward an exploration of the processes through which settler geographies are lived as ordinary, non-reflexive conditions of possibility. In Marxism and Literature, Raymond Williams argues for the necessity of approaching “relations of domination and subordination” as “practical consciousness” that saturat[es] … the whole substance of lived identities and relationships, to such a depth that the pressures and limits of what can ultimately be seen as a specific economic, political, and cultural system seem to most of us the pressures and limits of simple experience and common sense.3 Understanding settlement as, in Williams’s terms, such a “structure of feeling” entails asking how emotions, sensations, psychic life take part in the (ongoing) process of realizing the exertion of non-Native authority over Indigenous peoples, governance, and territoriality in ways that saturate quotidian life but are not necessarily present to settlers as a set of political propositions or as a specifically imperial project of dispossession. In the current scholarly efforts to characterize settler colonialism, the contours of settlement often appear analytically as clear and coherent from the start, as a virtual totality, and in this way, the ongoing processes by which settler dominance actively is reconstituted as a set of actions, occupations, deferrals, and potentials slide from view. We need to ask how the regularities of settler colonialism are materialized in and through quotidian non-Native sensations, inclinations, and trajectories. Moreover, administrative initiatives and legalities become part of everyday normalizations of state aims and mappings but in ways that also allow for an exceeding of state interests that potentially can be turned back against the state, giving rise to oppositional projects still given shape and momentum by the framings that emerge out of the ongoing work of settler occupation – such as in Walden. The essay will close with a brief reading of Thoreau’s text that illustrates how its ethical framing emerges out of, and indexes, everyday forms of settler feeling shaped by state policy but not directly continuous with it. 1. The figure of the vanishing Indian still remains prominent within US popular and scholarly discourses, both explicitly and implicitly. Within this narrative, Native peoples may have had prior claims to the land, but they, perhaps tragically, were removed from the area, or died out, or ceased to be “really” Indian, or simply disappeared at some point between the appearance of the “last” one and the current moment, whenever that may be.4 As against this tendency, scholars who seek to track the workings of settler colonialism face an entrenched inattention to the ways non-Native conceptions and articulations of personhood, place, property, and political belonging coalesce around and through the dispossession of Native peoples and normalization of (the) settler (-state’s) presence on Native lands. Insistence on the systemic quality of such settler seizures, displacements, identifications responds to this relative absence of acknowledgment by emphasizing its centrality and regularity, arguing that the claiming of a naturalized right to Indigenous place lies at the heart of non-Native modes of governance, association, and identity. However, such figurations of the pervasive and enduring quality of settler colonialism may shorthand its workings, producing accounts in which it appears as a fully integrated whole operating in smooth, consistent, and intentional ways across the socio-spatial terrain it encompasses. Doing so, particularly in considering the exchange between the domains of formal policy and of everyday life, may displace how settlement’s histories, brutalities, effacements, and interests become quotidian and common-sensical. Looking at three different models, I want to sketch varied efforts to systemize settler colonialism, highlighting some questions that emerge when they are read in light of issues of process and affect. In Settler Colonialism and the Transformation of Anthropology, Patrick Wolfe argues, “Settler colonies were (are) premised on the elimination of native societies. The split tensing reflects a determinate feature of settler colonization. The colonizers come to stay – invasion is a structure not an event.” 5 Offering perhaps the most prominent definition of settler colonialism, Wolfe’s formulation emphasizes the fact that it cannot be localized within a specific period of removal or extermination and that it persists as a determinative feature of national territoriality and identity. He argues that a “logic of elimination” drives settler governance and sociality, describing “the settler-colonial will” as “a historical force that ultimately derives from the primal drive to expansion that is generally glossed as capitalism” (167), and in “Settler Colonialism and the Elimination of the Native,” he observes that “elimination is an organizing principle of settler-colonial society rather than a one-off (and superceded) occurrence”, adding, “Settler colonialism destroys to replace.” 6 Rather than being superseded after an initial moment/period of conquest, however, colonization persists since “the logic of elimination marks a return whereby the native repressed continues to structure settler-colonial society” (390), and “the process of replacement maintains the refractory imprint of the native counter-claim” (389). Yet, when and how do projects of elimination and replacement become geographies of everyday non-Native occupancy that do not understand themselves as predicated on colonial occupation or on a history of settler-Indigenous relation (even though they are), and what are the contours and effects of such experiences of inhabitance and belonging? In characterizing settlement as a “structure”, “logic”, and a “will”, Wolfe seeks to integrate the multivalent aspects of ongoing processes of non-Native expropriation and superintendence, but doing so potentially sidesteps the question of how official governmental initiatives and framings become normalized as the setting for everyday non-Native being and action in ways that cannot be captured solely by reference to “the murderous activities of the frontier rabble” (392–3).

#### Claims of fluid identity are antithetical to the cultural survival of indigenous people – subjectivity cannot be rhizomatic – it is tied to place

Sandy Grande , PhD, is associate professor and Chair of the Education Department at Connecticut College, director of the Center for the Comparative Study of Race and Ethnicity. “Chapter Four American Indian Geographies of Identity and Power.” Red Pedagogy Native American Social and Political Thought. 2004. JJN

That being said, postmodern constructions of identity as "free-floating" also create a new set of problematics for American Indians. As articulated in chapter 2, American Indians are not like other subjugated groups struggling to define their place within the larger democratic project. Specifically, they do not seek greater "inclusion"; rather, they are engaged in a perpetual struggle to have their legal and moral claims to sovereignty recognized. The duration and severity of this struggle for American Indians removes the question of identity from the superficial realm of cultural politics to the more profound arena of cultural survival. Thus, contrary to postmodern analyses, American Indians do not exercise essentialist tactics in order to establish hierarchies of "authenticity," but rather as a means of resisting wholesale appropriation of Indian culture and identity. Specifically, indigenous peoples work to fend off the global capitalist forces that crave indigenous cultures at the same time such forces operate to destroy all that sustains indigenous communities (i.e., land bases, natural resources).17 Therefore, while it is important to recognize the way essentialism works to undermine the emancipatory project, it is also important to be aware of the dangers of postmodern constructions of identity as they interface with American Indian realities. To facilitate better understanding of the specific ways postmodernism and cultural imperialism work together to undermine the integrity and viability of American Indian communities, the phenomena of identity appropriation and cultural encroachment are discussed below. Though examined discretely, both forces emanate from the political project of colonization, the social project of postmodernism, and the insatiable, if not cannibalistic, desire of capitalism to consume all that it produces. Identity Appropriation Ever since we entered the post–Dances with Wolves era, it has become increasingly popular to be American Indian. Joane Nagel, a sociologist and expert in the politics of ethnicity, attests that between 1960 and 1990 the number of Americans reporting "American Indian" as their racial category in the U.S. Census more than tripled. Researchers attribute this growth to the phenomenon of "ethnic switching ," a process by which individuals previously identifying as "non-Indian" now claim "Indian" as their racial affiliation. Nagel (1995) identifies three factors as contributing to the practice of ethnic switching: changes in federal Indian policy, changes in American ethnic politics, and increases in American Indian political activism. The changes in federal Indian policy referenced by Nagel are the termination and relocation policies of the 1960s and 1970s that led to the growth of urban Indian populations and the various land-claims settlements of the 1980s, which also led to increases in certain tribal populations.I8 The changes in ethnic politics are those that reverberated from the civil rights and Red Power movements that ostensibly made American Indian identification "a more attractive ethnic option." The increased political activism from these movements also helped to raise American Indian ethnic consciousness, encouraging individuals to reclaim their Native American ancestry (Nagel 1995,956). While Nagel makes strong arguments for the three factors she identifies, she ignores the possibility that part of the resurgence may also be due to increasing incidents of identity appropriation or "ethnic fraud"—the practice of claiming an Indian identity based on the recent discovery of real or imagined residuals of Indian blood in one's distant ancestry. While there is nothing inherently wrong with "claiming" one's ancestral background, when such claims are opportunistically used to cash in on scholarships, set-aside programs, and other affirmative actions intended to correct centuries of unequal treatment it becomes highly problematic. For example, studies conducted at UCLA in 1988-1989 and 1993 reveal that of the enrolled 179 American Indian students, 125 did not or could not provide adequate documentation of their tribal affiliation, and that, on average, less than 15 percent of American Indian students were enrolled in federally recognized tribes (Machamer 1997). More important, a significant number of students who initially identified themselves as American Indian to gain admission ultimately relinquished that identity by the time of graduation, suggesting that economic incentives aside, "new Indians" eventually reclaimed their whiteness (Machamer 1997). Such practices indicate that it is not only popular but also profitable to be "Indian" in postmodern America. These so-called fraudulent Indians have also found ways to profit in the publishing world as their (highly romanticized) work is often favored over that of "legitimate" American Indian scholars. Deloria (1998) observes that what passes in the academic world as legitimate scholarship on American Indians is either the product of average (whitestream) scholars advocating a predetermined anti-Indian agenda 19 or that of "fraudulent Indians" who cater to whitestream notions of Indian-ness, moving him to ask: "Who is it that has made such people as Adolph Hungry Wolf, Jamake Highwater, Joseph Epes Brown, Su Bear, Rolling Thunder, Wallace Black Elk, John Redtail Freesoul, Lynn Andrews, and Dhyani Ywahoo the spokespeople of American Indians?" He responds by naming whitestream America as both patron and peddler of the Hollywood Indian, adding, "They [the fraudulent Indians] represent the intense desire of whites to create in their own minds an Indian they want to believe in" (1998, 79). In addition to outright identity fraud, American Indian communities also endure the more superficial but equally problematic phenomenon of "ethnic vogueing." Every summer there is a seasonal influx of tour buses, church groups, and do-gooders that discharge a veritable wave of whiteness into Indian communities. Armed with their own constructions of Indian-ness, the interlopers appropriate and try on various elements of Native culture, voyeuristically touring reservation communities like cultural predators loose in Indian theme parks. They stay for as long as their experience meets their needs and then they leave, completely dysconscious20 of the fact that their adventures have conscripted Native culture as fashion, Indian as exotic, and the sacred as entertainment.21 All told, the practice of identity appropriation has become so widespread that some American Indian organizations have felt compelled to devise statements and enact policies against its proliferation. 22 Even the federal government has acknowledged the impact of ethnic fraud, passing Public Law 101- 644, or what is commonly referred to as the Indian Arts and Crafts Act (IACA).23 In an effort to "protect" Native craftspeople, the federal government passed legislation that forbids any one other than a "certified Indian" to display for sale or sell any good that is suggested to be "Indian produced." Individuals found to be in violation of this law are subject to penalties of up to one million dollars and fifteen years in prison (PL. 101-644,1990). While such legislation appears to protect the interests of American Indian artists, the IACA ultimately does more to protect whitestream consumers against the purchase of "fraudulent" goods. As a result of the legislation, countless "legitimate" Indian artists from over two hundred federally unrecognized tribes (and other adequately "blooded" Indians who refuse to comply with the federal "blood-certifying" system) found themselves out of work, now criminalized for practicing their own trades (Jaimes 1992). In addition to being exclusionary, the IACA undermines the political and economic power of tribes by stripping them of their sovereign right to control their own labor and means of production. While measures such as the IACA may appear reasonable in theory, in practice they become problematic. The reliance on essentialist logic rarely "protects" Indian interests and often backfires to undermine them. Furthermore, insofar as compliance with "ethnic fraud" policies requires the formation of an Indian Identity Police,' enforcement becomes a dubious enterprise, inviting even more scrutiny from outside federal and private agencies. Cultural Imperialism "Indian Country" persists as both a metaphoric space and a geographic place, one that profoundly shapes the subjectivities of those who traverse it. Specifically, the relationship between American Indian communities and the surrounding (white) border towns not only shapes the ways Indians perceive and construct the whitestream but also their views of themselves. Thus, while reservation borders exist as vestiges of forced removal, colonialist domination, and whitestream greed, they are also understood as marking the defensive perimeters between cultural integrity and wholesale appropriation. They are the literal dividing lines between "us" and "them," demarcating the borders of this nation's only internal sovereigns. Though the power of this status is continually challenged, American Indians have retained enough of their plenary powers to establish tribal courts, tribal governments, and tribal police forces; the borders of such communities are thus material realities and not simply "signifiers" of Indian Country. That being said, tribal sovereignty remains deeply fettered by the fact that most reservation economies are only sustainable with the infusion of outside capital (Deloria and Lytle 1984). This dependency on outside capital generates a subordinating effect, often leaving American Indians at the mercy of venture capitalists and whitestream do-gooders. Emissaries of white justice, private entrepreneurs, and New Age liberals thus descend on reservation communities, forging lucrative careers at the same time they engage in "charitable" practices. Indeed, most of the business people, teachers, principals, doctors, and health care professionals in reservation communities are white and most of the laborers, minimum-wagers, underemployed, and unemployed are American Indian. Safely bivouacked in their internal and external compounds, they wield power and broker services by day and, by night, retreat back into the comforts of their bourgeois border towns. Though the social and political impact of "do-gooders" is significant, culture vultures and venture capitalists wreak even more damage as they aim to sell everything Indian, from Native art and music, to spirituality and DNA. Indigenous scholar Laurie Ann Whitt (1998) faults late-capitalist views of ownership and property for sustaining cultural imperialism, which she sees as "the central historical dynamic mediating Euro-American/indigenous relations." In particular, she identifies the following two central assumptions of property and ownership as underlying relations of imperialism: (1) the belief that ownership is individually held; and (2) the belief that individual owners have the right to privacy, in both the maintenance and the economic management of their property. Whitt maintains that these "politics of property" have provided the premise under which U.S. imperialists have seized everything from American Indian lands to spiritual traditions and cultural practices (1998, 148). Specifically, the first assumption—that ownership is individually held—is used to negate tribal (collective) "ownership" over Indian lands, spiritual practices, and cultural traditions: If (a) ownership of such "goods" cannot be traced back to a single individual; then, (b) no "one" must own them. This logic is insidiously and explicitly employed by whitestream proprietors to transfer commonly held indigenous "property" to the realm of public domain. Once American Indian "property" is reclassified as material of the public domain, the second assumption of U.S. property law comes into effect, that is, that any individual can claim property formerly in the "public domain" and that such claim bestows private and exclusive ownership thereafter, with all the privacy rights inherent to such ownership. In other words, once the music, art, spiritual, and cultural traditions of American Indians are deemed to be part of the "public domain," they become fair game to anyone seeking to pilfer, copy, and re-create such goods and practices, reaping considerable profits in a capitalist marketplace that craves the exotic and authentic. Therefore, the whitestream politics of property not only fails to discourage the commodification of American Indian goods and traditions but also actively encourages it. The latest and perhaps most egregious form of capitalist profiteering to impact indigenous communities is the quest for genetic materials set in motion by the Human Genome Diversity Project (HGDP). Burrows (1994) reports that indigenous opposition to the project has been extensive and emphatic, and that, in 1993, the Annual Assembly of the World Council of Indigenous Peoples unanimously resolved to "categorically reject and condemn HGDP as it applies to [indigenous peoples'] rights, lives, and dignity" (Burrows 1994, 33). In addition, Whitt (1998) reports that indigenous representatives at the 1993 session of the U.N. Commission on Sustainable Development (CSD) called for a stop to the HGDP. As representatives of those who have been subjected to ethnocide and genocide for five hundred years, delegates questioned why the only alternative to "saving" indigenous peoples being discussed was the collection and storage of indigenous DNA. The delegates argued that such a strategy was just a more sophisticated version of how the remains of indigenous peoples have been collected and stored in museums and scientific institutions for centuries. They argued: "Why don't they address the causes of our being endangered instead of spending $20 million for five years to collect and store us in cold laboratories? If this money will be used instead to provide us with the basic social services and promote our rights as indigenous peoples, then our biodiversity will be protected" (Tauli-Corpus 1993, 25). Whether it is land, spiritual practice, or genetic material that is being mined, appropriated, and sold, the logic of domination remains the same—in the eyes of U.S. law and policy the collective rights and concerns of indigenous peoples are considered subordinate to individual rights. Thus, the extension of marketplace logic to the realms of cultural and intellectual property not only extends the power of the whitestream but also diminishes the power of indigenous communities, continuing the project of cultural imperialism that began over five hundred years ago In view of the above, it is clear to see how postmodernism—the notion of fluid boundaries, the relativizing of difference and negation of grand narratives—primarily serves whitestream America. The multiphrenia of postmodern plurality, its "world of simulation" and obliteration of any sense of objective reality, has given rise to a frenetic search for the "authentic" led by culture vultures and capitalist bandits fraught with "imperialist nostalgia."25 In response, American Indian communities have restricted access to the discursive spaces of American Indian culture and identity and the nondiscursive borders of American Indian communities. In short, the notion of fluidity has never worked to the advantage of indigenous peoples. Federal agencies have invoked the language of fluid or unstable identities as the rationale for dismantling the structures of tribal life. Whitestream America has seized upon the message of relativism to declare open season on Indians, and whitestream academics have employed the language of signification and simulation to transmute centuries of war between indigenous peoples and their respective nation-states into a "genetic and cultural dialogue" (Valle and Tones 1995, 141). Thus, in spite of its "democratic" promise, postmodernism and its ludic theories of identity fail to provide indigenous communities the theoretical grounding for asserting their claims as colonized peoples, and, more important, impede construction of transcendent emancipatory theories. Despite the pressures of cultural encroachment and cultural imperialism, however, indigenous communities continue to evolve as sites of political con- testation and cultural empowerment. They manage to survive the dangers of colonialist forces by employing proactive strategies, which emphasize education, empowerment, and self-determination, and defensive tactics that protect against unfettered economic and political encroachment. Thus, whatever else the borders of indigenous communities may or may not demarcate, they continue to serve as potent geographic filters of all that is non-Indian—dividing between the real and metaphoric spaces that differentiate Indian country from the rest of whitestream America. Pedagogical Implications of Postmodern Theories As students learn to navigate the plurality of difference, it is equally important to avoid falling into the (postmodern) trap of relativism. A postmodern theory of difference that insists on impartiality masks the power and privilege that underpins whitestream culture and perspectives. In other words, American Indian students do not enter into a social space in which identities compete with equal power for legitimacy; rather, they are infused into a political terrain that presumes their inferiority. For example, postmodern musings of subjectivity as disembodied and free-floating ignore the fact that American Indian students, along with other indigenous peoples, are "engaged with the state in a complex relationship in which there are varying degrees of interdependency at play" (Alfred 1999, 85). As such, American Indian students are neither free to "reinvent" themselves nor able to liberally "transgress" borders of difference, but, rather, remain captive to the determined spaces of colonialist rule. These students experience the binds of the paradox inherent to current modes of identity theory and it becomes increasingly evident that "neither the cold linearity of blood-quantum nor the tortured weakness of self-identification" (both systems designed and legitimated by the state) will provide them any relief (Alfred 1999, 84). Thus, while postmodern theorists rightly question the whole notion of origins and work to disrupt the grand narrative of modernism, its hyperelastic and all-inclusive categories offer little to no protection against the colonialist forces of cultural encroachment and capitalist commodification.

#### Rhizomatic politics gets modeled off of settler expansionism – those are the lines of flight represented by settler treaties and individual settlers, designed to smooth spaces of indigeneity

Alex Trimble Young - He is a Copeland Visiting Fellow at Amherst College, His research has garnered multiple national awards, including the American Studies Association’s Comparative Ethnic Studies Prize in 2013, and the Western Literature Association’s J. Golden Taylor Prize in 2010. “Settler Sovereignty and The Rhizomatic West, or, The Significance of the Frontier in Postwestern Studies.” WAL 48.1 & 2 (Spring & Summer 2013): 115—40. JJN

In her 2011 monograph The Transit of Empire: Indigenous Critiques of Colonialism, Chickasaw critical theorist Jodi Byrd addresses the relationship between US state power and the rhizome directly in a trenchant critique of Deleuze and Guattari’s investment in frontier logics: Drawing on the paradigmatic Indian wilderness to encapsulate an America in which arborescence becomes rhizomatic, A Thousand Plateaus performs a global, nomadic reframing in which the frontier becomes, again, Frederick Jackson Turner’s site of transformation, possibility, and mapping. … The maps of settler colonialism were always already proliferative, the nation state’s borders were always perforated, and the US lines of flight across treaties with indigenous nations were always rhizomatic and fluid rather than hierarchical, linear, and coherent, located not just in the nation-state but within the individual settlers and arrivants who saw indigenous lands as profit, fortune, and equality. (13) For Byrd, the power exerted over indigenous peoples during settler conquest is not “always arborescent” but rather expressed via the very rhizomatic lines of flight that transgress the coherent juridical order of the settler state, here represented by the treaties that were supposed to guarantee the containment of settler expansion. While these frontier “lines of flight” did offer the potential of newfound material and formal freedoms for settlers and arrivants, the rhizomatic expansion of settler society also consigned indigenous lands and indigenous peoples themselves to the role of the “apparently open space,” the “transit” across which settler empire expands For Byrd, the danger of embracing Deleuzian rhizomatics as a paradigm for cultural studies lies in Deleuze and Guattari’s tendency to imagine countercultural assemblages as modeled on the rhizomatic form of settler expansion, as well as in their penchant for citing questionable ethnographic evidence regarding American Indians in their work. Byrd argues that Deleuze and Guattari perform multiple acts of cultural appropriation, scholarly performances akin to those outlined by Philip Deloria in Playing Indian (1998), whereby the “left intellectual … steps forward to ventriloquize the speaking Indian by transforming the becoming- into replacing-Indian” (Byrd 16). Byrd goes on to perform readings of the many such acts of ethnographic ventriloquism in A Thousand Plateaus, lingering on a consideration of their enthusiasm for the work of the fraudulent anthropologist and the new age guru Carlos Castaneda’s writings on Yaqui spirituality.12 Byrd warns that multiple cultural studies works inflected by Deleuzian thought “flow from the phrase ‘Experiment, don’t signify or interpret!’” that Deleuze and Guattari read as the central injunction of Castaneda’s work (18). This slogan “functions as a call for transformational new worlds of relation and relationship that move us toward a joyously cacaphonic multiplicity and away from the lived colonial conditions of indigeneity within the postcolonizing settler society” (Byrd 18). Byrd goes on to argue that this motif, “even if it acknowledges all the divergent discourses that come into race, gender, sexual, and class assemblages,” “smoothes” the social field “once again into uncultivated wilderness that allows any trajectory or cultivation to enter it, but not arise from it” (18). The Rhizomatic West (Bank): Frontier Complexity and the Settler State To better understand Byrd’s somewhat recondite point about Deleuze and Guattari’s rhetoric of rhizomatic “lines of flight” and the “smoothing” of social space, it is useful to consider a contemporary example of how one settler society has put these concepts to use in the field, as it were. The work of Israeli scholar Eyal Weizman famously explores how the Israeli Defense Forces (IDF) employ the writings of Deleuze and Guattari in training their field commanders. In an interview with General Shimon Naveh, Weizman reveals how A Thousand Plateaus has proven an especially fruitful text for the IDF: [Naveh said that] “several of the concepts in A Thousand Plateaux [sic] became instrumental for us. … Most important was the distinction they have pointed out between the concepts of ‘smooth’ and ‘striated’ space. … In the IDF we now often use the term ‘to smooth out space’ when we want to refer to operation in a space as if it had no borders. … Palestinian areas could indeed be thought of as “striated” in the sense that they are enclosed by fences, walls, ditches, road blocks and so on.” When I asked him if moving through walls was part of it, he explained that, “In Nablus the IDF understood urban fighting as a spatial problem. … Travelling through walls is a simple mechanical solution that connects theory and practice.” (“The Art of War”) In the IDF’s application of Deleuze and Guattari’s notion of the “smoothing” of space—which Byrd employs to describe the process whereby Deleuzian cultural studies metaphorically erases and replaces indigenous presence—“smoothing” is used to describe the IDF’s urban warfare strategy of destroying and moving through the walls of civilian homes in order to facilitate unfettered military mobility through a space “striated” by the infrastructure of the local people, allowing the IDF to imagine battle plans modeled on the Deleuzian “swarm,” freed from the grids of “classical space.” While discussion of Weizman’s work on the Israeli military’s use of A Thousand Plateaus has almost become a commonplace in contemporary critiques of Deleuze and Guattari, his less-discussed work on the spatial forms that Israeli settlers have employed in their efforts to colonize the West Bank since 1967 offers an equally important analysis of the relationship of rhizomatic assemblages to settler state power. In a chapter titled “Frontier Architecture” in his 2007 monograph Hollow Land: Israel’s Architecture of Occupation, Weizman tracks the growth of a single Israeli settlement in the West Bank, the “illegal” outpost of Migron. In Weizman’s description of the “elastic geography” of the development of this Israeli frontier, the rhetorical parallels to Deleuze and Guattari’s description of the rhizome are striking: The frontiers of the Occupied Territories are not rigid and fixed at all; rather, they are elastic, and in constant transformation. The linear border, a cartographic imaginary inherited from the military and political spatiality of the nation state has splintered into a multitude of … border-synonyms. … These borders are dynamic, constantly shifting, ebbing, and flowing. … The anarchic geography of the frontier is an evolving image of transformation. (6–7) Like so many settler colonies on the United States’ nineteenth-century western frontier (the Deadwood camp perhaps being the most familiar example), the rhizomatic nature of Israel’s frontier outposts often defies containment by its juridical order: the founding of Migron was not sanctioned by the arborescent power structure of the state. That said, the pioneers of this frontier, “equally influenced by the myth of rough and rugged Western heroes as by the Israeli myth of the pioneering Zionist settlers of the early twentieth century,” while acting outside the law, could hardly be said to be acting in a manner contrary to the interests of the expanding settler society itself (4). The Israeli state has long cast a blind eye on the expansion of illegal settlements such as Migron, and many once-illegal frontier outposts have been incorporated into Israel’s legally sanctioned network of West Bank settlements.14 Weizman argues that the plenary power of the Israeli state is, in fact, extended by the rhizomatic nature of frontier settlement even as the letter of Israeli law condemns it. This “selective absence of government intervention promotes an unregulated process of violent dispossession” (5), in which the erratic and unpredictable nature of the frontier is exploited by the government. Chaos has its peculiar structural advantages. It supports one of Israel’s foremost strategies of obfuscation: the promotion of complexity—geographical, legal, or linguistic. Sometimes, following a terminology pioneered by Henry Kissinger, this strategy is openly referred to as “constructive blurring.” This strategy seeks simultaneously to obfuscate and naturalize the facts of domination. Across the frontiers of the West Bank it is undertaken by simultaneously unleashing processes that would create conditions too complex and illogical to make any territorial solution in the form of partition possible. (8) Through this process of “constructive blurring,” settler sovereignty is not established through a “gridding” process of rationalizing space but rather through chaotic and often extralegal acts of expansion: settlers follow “lines of flight” made possible by the “smoothing” of indigenous space.

#### The alternative is a call for place-based education – this requires relating theorizing to present realities of injustice and acknowledging the ways settler colonialism creates those injustices to foster a radical movement against domination.

Gardner **Seawright** is a **doctoral candidate** in the Education, Culture, and Society department at the University of Utah. “Settler Traditions of Place: Making Explicit the Epistemological Legacy of White Supremacy and Settler Colonialism for Place-Based Education.” EDUCATIONAL STUDIES, 50: 554–572, 20**14**, American Educational Studies Association. JJN

As place-based educators have worked to disrupt the norms of schooling, they have started to examine the normative conception of place within the Western knowledge system. This, in turn, has led prominent scholars of place to sug- gest that the dominant understanding of place exists in an abstract capacity that subordinates place to simplistic conceptualizations of land as divorced from the personal and ontological. David Orr (2005) is emblematic of this perspective when he suggests, “Place has no particular standing in contemporary education” (87); all places have been relegated to “‘real estate’ or mere natural resources, their larger economic, ecological, social, political, and spiritual possibilities lost to the purely and narrowly utilitarian” (89). Western epistemology, and subsequently Western schooling, has come to be seen as placeless (Greenwood 2009, 2013a; Marker 2006; Orr 2005; Sobel 2004). Marking the Western concept of place as “narrowly utilitarian” is rooted in an accurate understanding of the distorted realities imposed by capitalism, but I argue that Western epistemology is not placeless and that, in addition to the distorted values of capitalism, place operates in a more significant capacity by shaping and influencing the self. Place, as it is articulated through a Western knowledge system, intersects with a social epistemology that normalizes domination through systems of white supremacy, settler colonialism, heteropatriarchy, and anthropocentrism, among other modes of domination. As a result, these epistemic norms curate conceptions of place, and come to bear on the way one knows oneself, others, and one’s relation to the natural world. Emerging from this normalized epistemological context, this article focuses on how Western social epistemologies constitute places in relation to the raced, classed, and gendered ontological possibilities embedded in the dominant knowl- edge system. Of particular interest is the method by which this oppressive epis- temology formulates an ideal social actor, an ideal social being that mirrors and reinforces the cognitive, moral, material, and spiritual norms of the operative modes of domination. In this article, I pay specific attention to how this formula- tion of the ideal social actor is established upon a particular conception of place that is integral in perpetuating domination. This article is rooted in the idea that to envision a better and more just fu- ture, the nuances and reality of systemically imposed oppression and violence must be understood. Jose ́ Medina (2013) offers an example of a similar guid- ing principle in The Epistemology of Resistance, in which he uses an approach to epistemology that emerges from an understanding that the prevailing social episte- mology operates from a normalized injustice. Medina explains, “If our normative theories should start where we are, in medias res, we should start our theorizing by reflecting on the details of the actual injustices that surround us, rather than by speculating what a perfect justice might be. We need a theory of injustice more than a theory of justice” (12, emphasis in original). In response, Medina argues that epistemologies of resistance must be cultivated through critical understand- ings of how injustice is epistemically proliferated across social systems and must begin with a structural account of domination. This article harbors a parallel spirit, and seeks to elucidate the epistemic mechanics of white supremacy and settler colonialism, to consider the possibilities of building resistance, and to encourage critical epistemic interrogation and introspection in place-based education. Place is an appropriate point of departure for this critical epistemic interroga- tion because inherent to place-based models of learning is epistemic challenge—a shifting of perspective that dares to see and understand the world around us in new ways (Gruenewald 2003). Critical epistemic shifts can move conceptions of place beyond simplistic visions of geography and flattened understandings of the land or the environment to a point where the soil, streams, and multitudes of beings engaged in complex relationships can be seen on their own terms outside of economic utility. Following the path set by many place-based scholars, I also see critical potential in place (Basso 1996; Cajete 1994, 1999; Greenwood 2013a, 2013b; Kawagley and Barnhardt 1999; Pen ̃a 1998). We all exist in place and we are all engaged in a subtle process of place-making: constituting and defining the places we exist in (Basso 1996), and thus the potential of place-based learning to encourage a shift in awareness towards our most intimate environments. As this article suggests, such an epistemic shift can be pushed further to incorporate a critical awareness of how place intersects with race, gender, and colonialism. How- ever, epistemic interrogation cannot only be comprised of an individual critically engaging structural aspects of epistemology. Interrogation must also forefront a process of “self-estrangement” (Medina 2013, 19), in which epistemic positional- ity is located, and an individual seeks awareness of their relationship to epistemic structures and matrices of power. Accordingly, place-based inquiry needs to more thoroughly engage the complex epistemic relationship between modes of domi- nation, conceptions of the natural world, and the politics of self. The structural epistemologies that influence conceptions of the self are not only enmeshed with white supremacy and settler colonialism. As has been pointed out by many scholars, educators and activists, to truly understand domination it must be seen in its entirety, meaning that white supremacy and settler colonialism have to be understood alongside the likes of heteropatriarchy (Smith 2006) and anthropocentrism (Martusewicz, Edmundson, and Lupinacci 2011; Plumwood 2002). Although these modes of domination employ intersecting and mutually invested logics (e.g., a dependence on false dichotomies like man/woman, nature/culture, reason/passion, mind/body; Plumwood 2002), they do not always operate in the same manner, and thus need to be considered on their own terms and according to their epistemic uniqueness (Medina 2013). With that being said, this article’s primary focus is on the structural epistemic interactions between white supremacy, settler colonialism, and place, hence the spotlight on white settler epistemology. I do my best to honestly engage with the complexities inherent to conversations of structure, positionality, and identity, and to acknowledge the concomitant nature between white supremacy and other modes of domination and elucidate these intersections where possible. To build upon the critical possibilities of epistemic interrogation within place- based education, this article examines white settler epistemology in relation to the politics of place and politics of self. To properly situate the role of place within the white settler epistemology, I argue that settler traditions of place are constituted by normative habits and practices that have been passed down for generations, encouraging particular relations to place, and ultimately impacting the contemporary potential of place-based education. Addressing the function of place within both white supremacy and settler colonialism provides a look at some of the nuances of settler traditions of place. The work of John Locke, as an epistemic representative of the West, is analyzed to push the politics of place to incorporate the politics of self. Locke’s theory of land, nature, people, and labor brings to light the racist, sexist, and anthropocentric characteristics and values of the ideal social actor embedded in Western epistemology. There is a radical potential in place-based education to promote productive epistemic friction and interrogation of the epistemic genealogy of the West. However, a critical comprehension of how we are differentially incorporated into epistemic structures is required to fully realize its potential.

#### Representations and epistemology perpetuate settler practices – the way we understand and discuss the structures around us overdetermines our praxis

Seawright 14 Gardner Seawright is a doctoral candidate in the Education, Culture, and Society department at the University of Utah. “Settler Traditions of Place: Making Explicit the Epistemological Legacy of White Supremacy and Settler Colonialism for Place-Based Education.” EDUCATIONAL STUDIES, 50: 554–572, 2014, American Educational Studies Association. JJN

Situating Settler Traditions Settler traditions of place are an epistemic genealogy—the ethics, logics, and ideologies foundational to a knowledge system that have been passed down across generations, a knowledge framework that establishes what is known (the socially constructed commonsense of a culture), how things come to be known (the process of attaining new knowledge), how the world is to be interpreted according to what is known (the social construction of reality), and how the self is known in relation to perceived reality (the politics of self). Tradition is used as a conceptual tool allowing for domination to be empha- sized as an on-going historical process, while also allowing for epistemology as tradition to simultaneously be evolutionary and a cherished cultural artifact. As a cultural product, settler traditions of place are transmitted across generations through discipline, teaching, modeling and other forms of direct and subtle so- cial communication resulting in normalized habits, beliefs, values, and practices. In speaking about “western cultural traditions,” Val Plumood (2002) argues that there are “epistemic and moral limitations” embedded in these traditions—these normalized habits—that perpetuate hierarchized notions of the world that privi- lege white-hetero-landowning males (99). As Martusewicz et al. (2011) explain, these subtle discourses manifest as taken-for-granted cultural assumptions that are rooted in racism, sexism, classism that intertwine with and reflect the cultivation of violent relationships with the more-than-human world and natural systems that we depend on for life (119). The tradition in question here is the social air that penetrates the Western world, interacting with human beings whether they want it to or not. Using tradition as a metaphor for epistemology allows me to emphasize the way epistemology can im- pact every aspect of life while remaining removed from a deterministic position. Embedded in discourse, tradition appears as ever-present; despite this, individual social actors have the agency to break tradition. Consequently, in the same way that an individual breaks from familial, cultural, or religious tradition and faces the ramifications for transgressing, epistemic transgression can also incur social fallout and cause friction. When an individual epistemically transgresses, they employ an epistemic praxis (the operationalization of an alternative or critical epistemology) that goes against the grain and is counter to the tradition that defines the social environment. For conversations concerning the cultivation of criticality (like the one herein) this break in tradition is absolutely desirable and can inspire what Jose ́ Medina (2013) calls epistemic friction. Epistemic friction is contained in those uncomfortable moments in which our taken-for-granted assumptions about the world begin to crack. These moments can be transformative and cat- alyze critical consciousness to imagine and hopefully actualize an alternative epistemology.

## Case

### OV

#### Top level framing issues –

#### 1] Every morally repugnant blip in the 1AC is an independent link that they shouldn’t be allowed to kick out of – a refusal to hold the aff accountable for the racist choices they made in the 1AC encourages students to knowingly blip out racist one liners for strategic gain and is a form of settler fluidity

#### 2] You should auto reject any aff FW arg that tries to claim the impacts of the K don’t matter – denying that things like genocide or racism matter makes the debate space unsafe and encourages the development of racist subjectivities – that outweighs – a] accessibility – maintaining a safe environment is a pre requisite to every other impact b] it disproves the conclusion of their theory even if you can’t pinpoint exactly where it fell apart

#### 3] We get new 2NR responses to spikes – anything else incentivizes the 1AC hiding blippy arguments to avoid clash which decks engagement and ends the debate after the 1AR which is educationally bankrupt and unfair

### FW

#### Grande answers subject is unstable

#### 1] It’s not – subjectivity is overburdened by place – relationality to land determines how a subject can change and how that subject is seen by larger communities – anything else ignores Indigenous cosmologies

#### 2] Even if it is unstable its strategic to view it as static – anything else greenlights white ethnic voguing in and out of minoritarian subjectivities i.e. Rachel Dolezal

#### Deleuze 68

#### 1] Beings can only affectively experience subjectivity in specific moments in time but predictions/imagination/induction all prove we can conceive of and identify future things, including identifying with our future and past self which coheres identity

#### Impacts

#### Off a

#### 1] Presupposes they’ve won self fluxtuation

#### 2] Even if subjectivity changes its repugnant to say things like oppression bad don’t still hold true

#### Off b

#### 1] Obviously distinct – everything has relations to something i..e aff and neg but saying theyre the same thing is repugnant – not a treigger

#### Hardt 14

#### 1] Concede encounters with world change our subjectivity BUT certain encounters ensure those changes can’t be undone – i.e. relationality to land

#### K&R 16

#### 1] Linear future planning good – k2 decol

#### 2] It’s a link - the location of natives within majoritarian settler society is defined as an external other – their theory of redefining minoritarian location might be useful for other marginalized groups that seek inclusion but that inclusion becomes assimilation in the context of settler colonialism – the problem isn’t a need to escape sqo social positioning to somewhere else, but rather to completely upend the settler system in which social positioning occurs

#### Carlin and Wallin 14

#### 1] Impact turning minoritarian resistance impact turns the TJF – this also def proves the link – says “capturing difference is bad”

#### 2] Place based education solves – it might not oppose difference at every turn BUT it still combats dominant hierarchies

#### Schaefer 13

#### 1] All args ab static place based subjectivity answers

#### 2] They can be broadly true but lack specifity - extemp

#### A point

#### 1] Indexicals racist

#### 2] Some moral truths remain constant – i.e. affect being good as per AC

#### B point

#### 1] Discursive theories describe actions that can be translated

#### 2] If induction works we can prescribe action

### Contention

#### On 2 – turn – patents are key to ethical use – the aff opens the floodgates to worse commodification

**Sherkow 17** [(Jacob, Professor of Law at the College of Law and Affiliate of the Carl R. Woese Institute for Genomic Biology at the University of Illinois, where his research focuses on the legal and ethical implications of advanced biotechnologies, especially as related to intellectual property. He is a leading expert on IP protection for genome-editing technologies, including CRISPR. He is the author of over 60 articles published in both scientific journals and traditional law reviews, including Science, Nature, the Yale Law Journal, and the Stanford Law Review. Since 2018, Sherkow has also been a Permanent Visiting Professor at the Center for Advanced Studies in Biomedical Innovation Law (“CeBIL”) at the University of Copenhagen Faculty of Law) “Patent protection for CRISPR: an ELSI review” Journal of Law and the Biosciences 12/7/2017 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5965580/>]

Most of the commentary on the CRISPR patents has been negative—and, in particular, the negative side of patenting the products of academic research.[59](javascript:;) But—aside from money—there are some significant social positives as well. At their core, patents are rights to exclude others from practicing the claimed invention.[60](javascript:;) The corollary to this axiom is that patents therefore allow their owners to dictate to the rest of the world *how* to use the inventors’ technology.[61](javascript:;) This power to direct others’ research can be harnessed for societal good.[62](javascript:;) Where the claimed technology raises ethical or social concerns, patent holders have the right to tell their technologies’ users to behave ethically and to provide access to downstream inventions.[63](javascript:;) In this sense, patents—when used well—can function as a powerful form of private governance.[64](javascript:;)

This is certainly the case with CRISPR, the ethical and social issues of which have been explored at length.[65](javascript:;) One potentially problematic use of CRISPR is its use in ‘gene drives’, a daisy chain of genetic editing that essentially forces future generations to inherit and subsequently pass on only a single variant of a particular gene.[66](javascript:;) The concern, as detailed by Kevin Esvelt, is that gene drives, because they are forcibly heritable, become difficult to control once put in place.[67](javascript:;) Should later research find negative, unintended effects of the particular genetic variant driven through the population, it may simply be too late.[68](javascript:;) To that end, Esvelt and others have proposed patenting the use of CRISPR-based gene drives to, essentially, prevent others from using the technology without rigorous scientific and ethical controls.[69](javascript:;) The legal mechanics of enforcing patent protection in this manner leave some gaps that likely need to be addressed. But Esvelt's proposal suggests, at a minimum, that patenting controversial technologies is one possible tool to further their ethical use.

In other cases, rather than using patents to ethically *restrict* access to controversial technologies, patents can be used to ethically promote access to the same. That is, patent holders can demand licensees promise that they make their technology available to broad segments of society, and on fair terms.[70](javascript:;) This is largely the case with Monsanto's license from the Broad Institute covering the use of CRISPR-Cas9 for a variety of agricultural purposes. That license essentially requires Monsanto to allow its farmer customers to save and resew seed from one season to the next, in contrast to some of Monsanto's past practices.[71](javascript:;) Requiring this of Monsanto provides greater access to the fruits of CRISPR technology to farmers, who would otherwise be required to purchase expensive new seed each year from Monsanto.[72](javascript:;) In the therapeutics context, similar license restrictions could be used, in theory, to require price controls, access plans, or that research and development funds be used, in part, to develop treatments for neglected diseases.[73](javascript:;)

#### They can’t solve the first arg – all of it is in the context of IP writ large i.e. on Coke, iPads, Kodak, etc. – it’s not specific to medical IP at all, which we have more specific ev on

#### Turn – contamination, poor-quality ingredients, falsified data, and lax FDA regulations abroad ensure worse quality and adverse effects for medicines post-plan – essentializes subjects as undeserving of quality care

(We aren’t biased against generics cuz most people WANT generics to work – it’s the only way they can afford medication)

Brown 2/10 [Harriet Brown, 2-10-2021, "My Generic Medications Failed Me. I’m Not Alone," No Publication, [https://www.vice.com/en/article/v7mnm3/my-generic-medication-gave-me-constant-nosebleeds-im-not-alone //](https://www.vice.com/en/article/v7mnm3/my-generic-medication-gave-me-constant-nosebleeds-im-not-alone%20//) belle]

I’m kneeling on my driveway, watching blood pour from my nose and stream toward the street. It’s my fourth big nosebleed in four days, and as my husband bundles me into the car, I’m thinking the worst. After a gauntlet of tests, all of which are negative, my doctor says she thinks the nosebleeds were triggered by my antidepressant—specifically by my switching from a generic version to the brand-name. A few months earlier, when the generic hadn’t diminished my panic attacks, she had suggested trying the brand-name, and I’d started it a few days earlier. “You’re suddenly getting a lot more of the active ingredient,” she explains now. “Which you were supposed to get before, on the generic, but clearly weren’t. That’s why you’re having nosebleeds. They’ll stop in a few days.” Most people think generic medications are identical to brand-name drugs; I certainly did. After all, that’s what pharmacists, insurance companies, and doctors tell us. But it’s not exactly true. For one thing, most generics are manufactured abroad, where lax standards, lack of regulation, and outright fraud compromise their quality. Those issues have gotten some well-deserved attention in recent years. For another, while generics are considered “bio-equivalent” to brand-name drugs—meaning they behave the same way in the body—they are not required by the Food and Drug Administration (FDA) to contain exactly the same amount of active ingredient or to deliver it at the same rate or in the same way. In fact, they can’t deliver it the same way, since patents on brand-name medications often include the delivery system. Most people think generic medications are identical to brand-name drugs; I certainly did. After all, that’s what pharmacists, insurance companies, and doctors tell us. But it’s not exactly true. While many people tolerate the differences between generic and brand-name formulations, some of us—as I learned the day I found myself bleeding in the driveway—do not. When I went looking into those differences, I found significant evidence to support this conclusion. Yet for the most part, western medicine insists it cannot be true. Ever since the 1984 Hatch-Waxman Act cleared the way for the wide-scale marketing of generic drugs in the U.S., the FDA has required that generic drugs have the same active ingredient, strength, and dosage form as brand names. “The generic manufacturer must prove its drug is the same (bioequivalent) as the brand-name drug,” said Sandy Walsh, an FDA press officer, in an email. Given that generics make up close to 90% of the U.S. drug supply, and that Americans spend around $300 billion a year on prescriptions, a lot is riding on this system working—about $117 billion a year. So it helps to understand the ways in which brand names and generics hit the market. Pharmaceutical companies that are developing a new (brand name) medication file a New Drug Application (NDA) with the FDA, showing that the drug is both safe and effective for humans. This is done by submitting meticulous documentation of animal and human studies, detailed records of the manufacturing process, analysis of dosage and inactive ingredients, and other evidence that the benefits of the new drug outweigh any risks. Putting together an NDA takes years and costs millions of dollars, much of it spent on research. The road to generic approval is a lot shorter. When the patent on a brand-name drug is about to run out, companies typically file an Abbreviated New Drug Application (ANDA), signaling their intent to produce a generic version of the drug. An ANDA requires no animal trials and very limited human trials. While a generic is supposed to be chemically similar to its brand-name counterpart, with the same active ingredient in roughly the same amount, it is allowed to vary in quantity by about 10% in either direction. Manufacturers need only test their generic against the brand name in a tiny group of healthy volunteers to show it is bioequivalent. They don’t have to show therapeutic equivalency—that is, they don’t have to prove that patients respond to the generic in the same way they respond to the brand name. It is instead assumed that the generic will produce the same effect because the active ingredient is supposed to be the same. Many ANDAs are aspirational, first filed before a manufacturer has figured out how exactly to produce a generic version of a brand-name drug. And since FDA approval can take as little as six months, an ANDA might be approved before a manufacturer has finalized a generic formulation. Many medical professionals believe this approval process is enough to protect patients and ensure consistency. Experts like Michel Berg, a neurologist who directs the University of Rochester’s Epilepsy Center, say that when people complain about generics not working the way brand names do, it’s usually because they didn’t take the medication correctly: They skipped or added a dose, took it at the wrong time of day, swallowed it with or without food, or in some other way violated what Berg calls good “medication hygiene.” The road to generic approval is a lot shorter. Richard Hansen, dean of Auburn University’s Harrison School of Pharmacy, points to another contributing factor: the nocebo effect. People expect generics to cause more side effects and be less effective, so that’s what they experience. Hansen calls this the public perception bias. “There’s actual clinical studies that show if you give 100 people the exact same thing but tell half of them that they received a generic, the half you told are going to have more adverse events and lower efficacy,” he said. His solution: education. Teach people that generics are just as good as brand-name drugs and their attitudes will change. But human error and the power of suggestion can’t possibly be the whole story. What about experiences like mine, in which switching to a brand-name drug from the generic caused the problem? Clearly that wasn’t the nocebo effect. And while I’m as fallible as anyone else, I’m certain that in this case I was taking the medication correctly. Many of the experts I talked to for this story dismissed or downplayed questions about generics. One researcher who didn’t is Jacinthe Leclerc, an assistant professor of nursing at the University of Québec at Trois-Rivieres. Leclerc and her colleagues noticed an interesting pattern when they studied cardiac drugs: When a new generic became available and patients switched, they saw many more adverse effects. “For example, switching from a brand name anti-hypertensive drug to a generic one, the patients got more swollen,” she explained. Leclerc and her team analyzed data for a number of widely prescribed cardiac medications and found that when new generics were introduced, and people switched to them, hospitalizations and emergency room visits went up. Leclerc says the nocebo effect can’t possibly explain this finding. In fact, there’s a counterargument to the nocebo premise, one Hansen and others don’t take into account: Most people want generics to work

because that’s the only way they can afford their medication. (When asked if his team had considered this, Hansen said, “That’s not something we’ve looked at in particular.”) Erica Smith, a 50-year-old software designer in Oakland, California, found herself in this situation after her pharmacy switched her to a generic antidepressant made in India. Smith began having symptoms like brain “zaps” and extreme irritability, signs that she wasn’t getting as much of the active ingredient as she had before. She looked into getting the brand-name, which cost $400 for a month’s supply. “Insurance of course did not cover that, so of course I didn’t get it,” she recalled. Charlynn Schmiedt, a 36-year-old entrepreneur in San Dimas, California, was one of hundreds of patients who reported massive side effects and symptoms after switching from the brand-name Wellbutrin, a popular antidepressant, to Teva Pharmaceuticals’s generic extended-release, version, bupropion XL. Schmiedt’s doctor had given her a few weeks’ worth of brand-name samples, and as she took them her depression and anxiety began to subside. When the samples ran out, she filled a prescription and got the Teva generic. “It was a massive 180-degree shift,” she remembered. “It was horrible. I got really angry, I got agitated, I would cry at the drop of a hat. I was a wreck.” Schmiedt lasted three weeks on the generic before she quit. Like many patients, she couldn’t afford the brand-name, so she went through months of trial and error before finding another medication that helped her symptoms. In 2012, after years of complaints from patients like Schmiedt, the FDA more or less acknowledged that Teva’s generic was problematic by pulling it from sale, a step the agency almost never takes. Journalist Katherine Eban, author of the book Bottle of Lies: The Inside Story of the Generic Drug Boom, was surprised by the FDA’s reversal but not by Teva’s problems. The vast majority of generics—no one seems to know exactly what percentage—used in the U.S. are sourced or manufactured in India, China, and other countries. Eban spent 10 years investigating overseas manufacturers and found a jaw-dropping range of problems, including poor-quality ingredients, contamination, dangerous plant conditions, and outright fraud and deception. Pharmaceutical companies like Ranbaxy, a former Indian manufacturer, deliberately falsified data to fool regulators, lying to regulators about safety tests and results and then covering up those lies with more falsehoods. The reality is that the FDA simply doesn’t have the resources to monitor overseas drug makers the way they do U.S. manufacturers. The result, according to Eban, is that many of the medications we take today are ineffective or worse. “We need systematic surveillance testing of our drugs, which is not happening,” she told me. And that doesn’t apply just to medicine made overseas. No matter where they’re made, generics are subject to far less testing than original brand-name drugs. As the FDA’s Walsh explained, “Generic drug applications are termed ‘abbreviated’ because they are not required to include preclinical (animal) and clinical (human) data to establish safety and effectiveness. Instead, generic applicants must scientifically demonstrate that their product performs in the same manner as the innovator drug.” Pharmaceutical companies like Ranbaxy, a former Indian manufacturer, deliberately falsified data to fool regulators, lying to regulators about safety tests and results and then covering up those lies with more falsehoods. “We’ve got a lot of companies that lie, that manipulate data,” said Joe Graedon, a pharmacologist and co-founder of the pharmaceutical watchdog site People’s Pharmacy. “There’s examples of fraud left and right. Quality control has been clearly a huge problem both in China and India but many other countries as well, and the FDA is probably not monitoring many of these countries as well as it should.” Douglas Kamerow, a family doctor and medical researcher in Washington, D.C., put it this way in an article in The BMJ: “Full clinical trials are not required to approve generics—that’s why they are so inexpensive, after all—so true clinical equivalence is never tested.” But what about the Wellbutrin example? Presumably that wasn’t the result of fraud or low standards. How could something like this happen if, as the FDA insists, generics makers are required to prove that their products are bioequivalent? The problem in this case turned out to be the rate at which the extended-release generic was absorbed into the body. “[Levels of] the brand name peaked somewhere around five or six hours. The generic peaked around one or two hours,” said Graedon. So people who took the generic got a big dump of the active ingredient too quickly, and then it left their systems too soon. “That was what, in my estimation, led to all the complications people experienced,” he added. “They had a lot of side effects from the generic and they didn’t get the clinical benefit of this antidepressant.” (Teva did not respond to multiple requests for comment.) To visualize the process, Graedon asked me to imagine a spreadsheet tracking a city’s water usage over a 24-hour period, showing peaks and valleys depending on the time of day. For instance, a lot more water would be used at 7 a.m., when people are showering and cooking, than at 2 a.m., when most people are asleep. That, he says, is the kind of detailed data needed to follow exactly how a generic is absorbed. “You want to know how much was absorbed at half an hour, an hour, two hours, all the way through,” he said. The bupropion XL problems would have been obvious with this kind of tracking over time. According to Graedon, the FDA asks for this information from drug companies but doesn’t incorporate it in decisions about which generics are approved. Another reason generics sometimes don’t behave the way brand drugs do involves what’s known as inter-subject variability. William Ravis, a retired professor of drug discovery and development at Auburn University, spent four decades studying pharmacokinetics, or how drugs move through the body. He pointed out that certain drugs have a lot of variability in terms of how they metabolize and behave. “The majority of patients might not show a difference in exchanging one product for another,” he explained. “But if you handle the drug too much differently from somebody else or you’re taking other medications than somebody else, that may put you right on the edge where it’s toxic or you lose the therapeutic effects.” For example, Ravis said, it’s been well documented that switching from one thyroid medication to another, even if they’ve been shown to be bioequivalent, can cause problems. “There are things going on there in absorption, or body sensitivity to T4 or T3 products, or thyroid hormones, that is different in different patients,” he said. “Drugs produce their effects on receptors in the body and those all don’t respond the same way in every patient.” In fact, one member of his own family pays out of pocket for a brand-name thyroid drug that’s not covered by their insurance, because the generics don’t work for them. Neurologist Gregory Krauss of Johns Hopkins University actually filed Freedom of Information Act requests to get bioequivalence data from the FDA on five generic versions of the epilepsy drug carbamazepine, and learned that maximal concentrations—the peak amount of active ingredient—differed by as much as 40 percent. While many people tolerate those kinds of discrepancies, many don’t. And they might never realize that the problem is the generic version they’re taking rather than the medication itself. Finally, there’s the issue of what experts call the therapeutic index, meaning the margin between an effective dose and a toxic one. If that margin is large, manufacturing discrepancies don’t matter as much; a little more or less of the active ingredient will go unnoticed by most patients. But the smaller the margin—the narrower the therapeutic index—the more likely patients are to experience side effects and failures. While many people tolerate those kinds of discrepancies, many don’t. And they might never realize that the problem is the generic version they’re taking rather than the medication itself. Many psychiatric drugs fall into this category, which might explain why they’re among the most problematic. Studies of antidepressants like Effexor and Celexa, along with anti-psychotics like Risperdal, Clozaril, and Dogmatil, all highlight the fact that some patients do worse on the generic versions than on the brand-name medications. Research on other drugs with narrow therapeutic indexes, or NTIs, like cardiac drugs, immunosuppressants for transplant patients, and epilepsy drugs suggest similar discrepancies, though other studies on seizure medications showed no significant differences between brands and generics. “The narrow therapeutic index drug class, those are tricky,” agrees Jingjing Qian, an associate professor in health outcomes and research at Auburn University. “But in order to verify if that difference is perception or real difference—that needs more research. And there’s no incentive for industry to study generic drugs.” Which is unfortunate for those of us who take those drugs. One of my daughters had a terrifying experience after a change in her insurance forced her to switch from a brand-name antidepressant to a generic one. When her depression roared back following the switch, the psychiatrist upped her dose. A month later, the pharmacy switched her prescription from the Indian generic she had been taking to what’s called an authorized generic, meaning it’s the same exact drug made by the same company that produces the brand-name, but it’s marketed as a generic. And now something was clearly, scarily wrong. Even from a thousand miles away I could tell she was not in good shape. She was speaking so fast I could barely follow; what I did understand was that her anxiety was off the charts, her muscles were twitching and spasming, she hadn’t slept properly in days, and she was talking about suicide. Because I’ve had my own history with generics, I wondered about the medication change. Her symptoms were consistent with serotonin syndrome, a potentially fatal condition caused by a sudden overload of serotonin. Maybe her depression symptoms came back on the generic because it didn’t contain enough active ingredients; then, when the pharmacy switched her to the authorized generic, maybe she was suddenly getting way too much of the active ingredient. She cut back the dose, and thankfully her symptoms subsided. I now pay out of pocket for her to take the brand-name version. She’s had no further problems. Raising these kinds of questions about generics is deeply unpopular. And it’s understandable, in a way, because our healthcare system relies so heavily on generics. Michel Berg, who directs the University of Rochester’s Epilepsy Center, represents the views of many medical professionals when he says, “There’s no perfect here. I think mostly [generics are] pretty good. The cost savings of generics is just so great. I think the advantage of the generics by far in that sense outweighs what problems that might exist that I think are fairly infrequent.” Whether Berg is right or not, without generics, we’d be seeing much higher drug prices and even more drug shortages. Atorvastatin, a generic cholesterol medication, costs about $15 a month, while its brand-name equivalent, Lipitor, goes for between $450 and $500 a month. Abilify, an antipsychotic and antidepressant made by Bristol-Myers Squibb, costs between $700 and $900 a month; the generic version, aripiprazole, goes for around $8. And these aren’t even extreme examples. Cuprimine, a brand-name drug made by Bausch Health to treat rheumatoid arthritis, retails for $26,000 a month; the generic version, penicillamine, costs $7,000. Raising these kinds of questions about generics is deeply unpopular. And it’s understandable, in a way, because our healthcare system relies so heavily on generics. Last September, the Trump administration approved a plan to let states import cheaper medications from Canada and elsewhere, though it is still unclear how exactly this will affect consumers. Several years ago AARP, whose more than 38 million members take an average of 4.5 medications apiece, announced an initiative called Stop Rx Greed, inviting people to “tell Congress to stop Rx greed and cut drug prices now!” Media coverage about profit-hungry pharmaceutical companies like Mylan, the makers of EpiPen that infamously jacked up its price 400 percent, make it politically untenable to do anything that makes the situation worse for consumers. “There’s no plan B for our drug supply,” Eban told me. “We’re facing critical drug shortages, we are reliant on these medications, and there is no meaningful price regulation for brand-name drugs. There is a tremendous amount of political pressure for these low-cost generics.” In a recent story about Eban’s book, published in a trade magazine for biopharma executives, a reviewer commented, “The entire U.S. pharma industry is under attack for its pricing policies, so who wants to question the quality of generics . . . that keep drug costs down?” Who indeed. We’d much rather believe that patients who report issues with generics are biased or victims of misperception because if they’re not, if they’re right about these problems, the whole system is screwed. So where does that leave people like Erica Smith, Charlynn Schmiedt, and the rest of us who have struggled with generics? Awareness is key, starting with awareness of our own perceptions and behaviors. While reporting this story I bought a pill dispenser so I could, as Michel Berg suggested, practice better medication hygiene. But we also need to be aware that there are major manufacturing and safety concerns with some generics. If you think something’s wrong with any medication, generic or not, report it on the FDA’s MedWatch site so the agency can track complaints about it and, ideally, investigate. There is clear scientific evidence that some drugs do affect some people differently, no matter what doctors and pharmacists and insurance companies say. LeClerc of the University of Quebec thinks people need to learn to advocate for themselves when things don’t feel right, and medical professionals need to listen. “When we listen carefully to patients, they say there is something wrong once they switch [from a brand to a generic],” she said. “It cannot only be in their heads.”

#### The WTO can’t enforce the aff- causes circumvention

Hillman and Tippett 21 [Jennifer A; Senior fellow for trade and international political economy; Alex; Research associate for international economics, at the Council on Foreign Relations; “Europe and the Prospects for WTO Reform,” CFR; 3/10/21; <https://www.cfr.org/blog/europe-and-prospects-wto-reform>] Justin

The WTO has been in the clutches of a slow-moving crisis for years. At its heart are a series of disputes about the role of the WTO’s Appellate Body, the final arbiter in the WTO’s Dispute Settlement System. Today, the Appellate Body sits empty, severely undermining the capacity of the WTO to resolve trade disputes.

Since the start of the Trump administration, the United States has refused to appoint any new members to the body, effectively allowing countries to avoid compliance with WTO rulings. The primary driver of this drastic action has been American frustration at perceived judicial overreach. U.S. policymakers, starting with the George W. Bush administration, have repeatedly voiced their displeasure with Appellate Body decisions, contending that certain decisions have reached beyond the text of existing WTO agreements.