## 1

#### The land we stand on today once belonged to the Karankawa, Atakapa, and Sana who once occupied Houston. Eventually settlers arrived, and the tribes fought to protect their ancestral land. But by 1891, these tribes were considered to be extinct and were forced to move west to Kansas by the 19th century with no traces left.

#### The role of the ballot is to vote for who best centers indigenous scholarship and resistance-- Any ethical commitment requires that the aff 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) // recut SJ DL

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 experiences – 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 peoplesand 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 broade\_r view. Indigenous oral and academic scholars are indeed the originators of this work. This space is not empty. Of course, powerful forces of socialization and discipline impact scholars in the academy. There is much pressure to claim unique space, to establish a name for ourselves, and to make academic discoveries. I am suggesting that settler colonial studies and anti-colonial scholars resist these 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. If our work has no foundation of Indigenous scholarship and mentorship, I believe our contributions to settler colonial studies are even more deeply problematic.

#### Settler colonialism is not a one-off occurrence – it requires the combination of external and internal colonialism fused with the identity-making of the settler through the erasure of indigenous populations that rewrites ontological identity and relationships.

Tuck and Yang 12 Eve Tuck and K. Wayne Yang, 2012, “Decolonization is not a metaphor,” Decolonization: Indigeneity, Education & Society

Generally speaking, postcolonial theories and theories of coloniality attend to two forms of colonialism2 . External colonialism (also called exogenous or exploitation colonization) denotes the expropriation of fragments of Indigenous worlds, animals, plants and human beings, extracting them in order to transport them to - and build the wealth, the privilege, or feed the appetites of - the colonizers, who get marked as the first world. This includes so-thought ‘historic’ examples such as opium, spices, tea, sugar, and tobacco, the extraction of which continues to fuel colonial efforts. This form of colonialism also includes the feeding of contemporary appetites for diamonds, fish, water, oil, humans turned workers, genetic material, cadmium and other essential minerals for high tech devices. External colonialism often requires a subset of activities properly called military colonialism - the creation of war fronts/frontiers against enemies to be conquered, and the enlistment of foreign land, resources, and people into military operations. In external colonialism, all things Native become recast as ‘natural resources’ - bodies and earth for war, bodies and earth for chattel. The other form of colonialism that is attended to by postcolonial theories and theories of coloniality is internal colonialism, the biopolitical and geopolitical management of people, land, flora and fauna within the “domestic” borders of the imperial nation. This involves the use of particularized modes of control - prisons, ghettos, minoritizing, schooling, policing - to ensure the ascendancy of a nation and its white3 elite. These modes of control, imprisonment, and involuntary transport of the human beings across borders - ghettos, their policing, their economic divestiture, and their dislocatability - are at work to authorize the metropole and conscribe her periphery. Strategies of internal colonialism, such as segregation, divestment, surveillance, and criminalization, are both structural and interpersonal. Our intention in this descriptive exercise is not be exhaustive, or even inarguable; instead, we wish to emphasize that (a) decolonization will take a different shape in each of these contexts - though they can overlap4 - and that (b) neither external nor internal colonialism adequately describe the form of colonialism which operates in the United States or other nation-states in which the colonizer comes to stay. Settler colonialism operates through internal/external colonial modes simultaneously because there is no spatial separation between metropole and colony. For example, in the United States, many Indigenous peoples have been forcibly removed from their homelands onto reservations, indentured, and abducted into state custody, signaling the form of colonization as simultaneously internal (via boarding schools and other biopolitical modes of control) and external (via uranium mining on Indigenous land in the US Southwest and oil extraction on Indigenous land in Alaska) with a frontier (the US military still nicknames all enemy territory “Indian Country”). The horizons of the settler colonial nation-state are total and require a mode of total appropriation of Indigenous life and land, rather than the selective expropriation of profit-producing fragments. Settler colonialism is different from other forms of colonialism in that settlers come with the intention of making a new home on the land, a homemaking that insists on settler sovereignty over all things in their new domain. Thus, relying solely on postcolonial literatures or theories of coloniality that ignore settler colonialism will not help to envision the shape that decolonization must take in settler colonial contexts. Within settler colonialism, the most important concern is land/water/air/subterranean earth (land, for shorthand, in this article.) Land is what is most valuable, contested, required. This is both because the settlers make Indigenous land their new home and source of capital, and also because the disruption of Indigenous relationships to land represents a profound epistemic, ontological, cosmological violence. This violence is not temporally contained in the arrival of the settler but is reasserted each day of occupation. This is why Patrick Wolfe (1999) emphasizes that settler colonialism is a structure and not an event. In the process of settler colonialism, land is remade into property and human relationships to land are restricted to the relationship of the owner to his property. Epistemological, ontological, and cosmological relationships to land are interred, indeed made pre-modern and backward. Made savage. In order for the settlers to make a place their home, they must destroy and disappear the Indigenous peoples that live there. Indigenous peoples are those who have creation stories, not colonization stories, about how we/they came to be in a particular place - indeed how we/they came to be a place. Our/their relationships to land comprise our/their epistemologies, ontologies, and cosmologies. For the settlers, Indigenous peoples are in the way and, in the destruction of Indigenous peoples, Indigenous communities, and over time and through law and policy, Indigenous peoples’ claims to land under settler regimes, land is recast as property and as a resource. Indigenous peoples must be erased, must be made into ghosts (Tuck and Ree, forthcoming). At the same time, settler colonialism involves the subjugation and forced labor of chattel slaves5 , whose bodies and lives become the property, and who are kept landless. Slavery in settler colonial contexts is distinct from other forms of indenture whereby excess labor is extracted from persons. First, chattels are commodities of labor and therefore it is the slave’s person that is the excess. Second, unlike workers who may aspire to own land, the slave’s very presence on the land is already an excess that must be dis-located. Thus, the slave is a desirable commodity but the person underneath is imprisonable, punishable, and murderable. The violence of keeping/killing the chattel slave makes them deathlike monsters in the settler imagination; they are reconfigured/disfigured as the threat, the razor’s edge of safety and terror. The settler, if known by his actions and how he justifies them, sees himself as holding dominion over the earth and its flora and fauna, as the anthropocentric normal, and as more developed, more human, more deserving than other groups or species. The settler is making a new "home" and that home is rooted in a homesteading worldview where the wild land and wild people were made for his benefit. He can only make his identity as a settler by making the land produce, and produce excessively, because "civilization" is defined as production in excess of the "natural" world (i.e. in excess of the sustainable production already present in the Indigenous world). In order for excess production, he needs excess labor, which he cannot provide himself. The chattel slave serves as that excess labor, labor that can never be paid because payment would have to be in the form of property (land). The settler's wealth is land, or a fungible version of it, and so payment for labor is impossible.6 The settler positions himself as both superior and normal; the settler is natural, whereas the Indigenous inhabitant and the chattel slave are unnatural, even supernatural.

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

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

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

#### Western epistemology is deeply engrained in settler colonialism. Rationalist thought centres itself as the almighty while pushing others down and is what created the conditions that were used to justify genocide. The 1AC outsources agency to a “neutral point” where they look down at Indigenous people, classify them, and eliminate them.

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Coloniality scholars provide a distinct interpretation and critique of modernist thought as related to colonial violence. The rise of modernist thought leading to the 17th century Western Enlightenment has been critiqued through various lenses in post-modern scholarship. In general, the Enlightenment is seen as the project of establishing objective foundations for knowledge that was taken up by such thinkers as Descartes, Locke and, later, Kant. These Enlightenment scholars sought to establish reason as a methodology that exists abstractly and as the basis for the justification of knowledge (Bernstein, 1983, pp. 115-117). Thus, in the modern era there was a marginalization of the idea that knowledge could be understood as oral, particular, local, and timely, in favour of an understanding of knowledge as written, abstract, universal and timeless (Toulmin, 1990, p. 34). Daniel Carey and Lynn Festa (2009) argue that this sort of rationalist foundationalism at the heart of Enlightenment epistemology simultaneously centres its own perspective, while positioning any other epistemological orientation as uncivilized, irrational, or superstitious (p. 8); thus, making a strong connection between modernist epistemology and colonial dominance. Mignolo takes this post-modern critique a step further and argues that modernity has a flip side that is relatively ignored in Western based scholarship. He argues that Western European modernity created an image of itself, in the Renaissance and Enlightenment eras, as Western Civilization, and presumed itself as the arrival point of human existence and as the point of reference of global history (Mignolo, 2011, p. xiv). He argues that through these beliefs a problematic side of modernity materialized in an imperial structure of coloniality. He refers to this as the coloniality-modernity relationship which formed together in the mid 15th century, and established in space and time a perpetuating structure of racism and patriarchy, “that created the conditions to build and control a structure of knowledge, either grounded on the word of God or the word of Reason and Truth” (Mignolo, 2011, p. xv; see also, Deloria, 1973, pp. 275-281 for a more detailed discussion of European colonial imperialism intersecting with Christianity). Ramon Grosfoguel captures the idea of coloniality in an illuminating way when he states that what arrived in sovereign, non-European territories was not just a selection of representatives of a colonizing nation, nor just an economic system of labour and capital; what arrived was a complex world system embodied in the “European, capitalist, military, Christian, patriarchal, white, heterosexual, male,” who “established in time and space several entangled global hierarchies” (Grosfoguel, 2008, p. 5). Understood in this way, coloniality is a perpetuating spatio-temporal structure that imposes intersecting global hierarchies in terms of race, class, gender, sexuality, spirituality, economic system, and geography, that organizes bodies into complex hierarchal social organizations. It is a system of inequity and privilege that moves through time, claims geographic spaces, and is perpetuated through material and discursive epistemic practices in social and institutional spaces. As Grosfoguel (2008) argues: “Coloniality allows us to understand the continuity of colonial forms of domination after the end of colonial administrations, produced by colonial cultures and structures in the modern/colonial capitalist world−system” (p. 8). Western epistemic dominance Anabal Quijano further extends the concept of coloniality and the global hierarchies to theorize a colonial power matrix organized around the socially constructed notion of race. Quijano argues that race is the key element of the social classification of colonized and colonizers. Unlike previous instances of colonization, “the superiority of the dominant under European colonialism became related to biological superiority, producing new social identities using physiognomic traits as external manifestations of their 'racial nature'” (Quijano, 2007, p. 171). Quijano goes on to argue that the produced geocultural identities form the basis of distribution of work around the globe: The system of “salaried, independent peasants, independent merchants, and slave and serfs, was organized basically following the same ‘racial’ lines of global-social classification” and organized under a euro-centred world power (p. 171). Thus, colonialism produced an economic power structure that effectively classified the world's peoples into a hierarchy of superior normalized bodies and inferior racialized bodies that was used as justification for the both the benevolent and violent domination of non-white bodies by white Western European bodies. Quijano’s ideas on race are an important element in coloniality theorizing and are significantly engaged in settler colonialism scholarship. Settler colonialism scholarship similarly positions colonialism as a structural phenomenon – rather than a historical event (Wolfe, 2006, p. 388) – but also engages a more detailed consideration of the notion of race. Patrick Wolfe (2006) points out that racialization is not all of one kind, but relates to colonial desires that manifest in specific ways. Wolfe contrasts the antithetical racialization of Indigenous and African descendants in the United States, where legal frameworks supported the elimination of Indigenous peoples while simultaneously expanding African descendant groups, so as to ensure access to Indigenous peoples’ land simultaneously with access to African descendant peoples’ labour (p. 387). Lorenzo Veracini (2010) makes a related analytic distinction by considering positionalities within colonial dynamics in terms of Indigenous, Settler and Exogenous Other – noting the distinctions between those who migrate to Indigenous territory, but do or do not manifest a colonial sovereign capacity in relation to being racialized (p. 3). The focus on race in these discussions centres, instead of elides, the distinctive experiences and perspectives of peoples coming to Indigenous territories to settle. This also complicates the identity of “settler”, and views those peoples migrating to Indigenous territories not as a singular monolith, but as peoples with complex diasporic and migrational histories that position them differently within colonial encounters related to privilege, power and racialization processes. Important to the coloniality paradigm, and the central point of this article, is the notion that intersecting hierarchies and processes of racialization are supported by modernist epistemology and the centring of Western epistemic perspectives. Mignolo identifies the key to maintaining the invisibility of this structure of domination and oppression is the hubris of the zero point. Mignolo argues that the zero point is the epistemological location that places a privileged knowing body as occupying a detached and neutral point of observation, and from this neutral place “maps the world and its problems, classifies people, and projects what is good for them” (Mignolo, 2011, p. 118). Grosfoguel adds to these thoughts through noting that a particular Western modernist view of knowledge is able to dominate by masquerading as universal knowledge and present itself as the god-like view of truth – “It’s a point of view that conceals itself as being beyond a point of view” (Grosfoguel, 2007, p. 214). As Quijano argues, the European paradigm of rational knowledge not only grew in the context of colonialism, but was also a foundational part of the power structure of domination (Quijano, 2007, p. 174). Thinking again to my experience in the Garden, it becomes obvious how pervasive and sometimes subtle these epistemic dynamics become when intersecting with a privileged settler body. In the Garden, despite my decolonial aspirations, I still imposed a culturally laden view of gardens, a view that I had been raised in Western society to perceive not only as universal, but also culturally neutral or ‘natural’. Reflecting on my Eurocentric encounter with this Mayanbased garden, I realized the depth of my assumptions and commitments that came from being raised and educated in a Western modernist society, and my tacit expectation that my ideas are universally understood and will be reflected back to me in my encounters – despite my claims to the contrary. I also witnessed my incredible readiness to impose my ideas on others (the human and non-human others) from a very secure and problematic set of assumptions. My settler body has become used to engaging in knowledge that manifests European epistemic assumptions and commitments – I am immersed in this. My lifelong participation in Western social life, where my cultural assumptions are continually privileged and reflected back to me as neutral and universal, frames the challenges of engaging in these conversations and the power structure of the context. As Dei points out: “knowledge production is not an innocent or neutral project”

#### The alternative is one of decolonization – settlers need to enact an ethic of incommensurability to relinquish settler futurity.

Tuck and Yang 12 Eve Tuck and K. Wayne Yang, 2012, “Decolonization is not a metaphor,” Decolonization: Indigeneity, Education & Society, // SJ DL

An ethic of incommensurability, which guides moves that unsettle innocence, stands in contrast to aims of reconciliation, which motivate settler moves to innocence. Reconciliation is about rescuing settler normalcy, about rescuing a settler future. Reconciliation is concerned with questions of what will decolonization look like? What will happen after abolition? What will be the consequences of decolonization for the settler? Incommensurability acknowledges that these questions need not, and perhaps cannot, be answered in order for decolonization to exist as a framework. We want to say, first, that decolonization is not obliged to answer those questions - decolonization is not accountable to settlers, or settler futurity. Decolonization is accountable to Indigenous sovereignty and futurity. Still, we acknowledge the questions of those wary participants in Occupy Oakland and other settlers who want to know what decolonization will require of them. The answers are not fully in view and can’t be as long as decolonization remains punctuated by metaphor. The answers will not emerge from friendly understanding, and indeed require a dangerous understanding of uncommonality that un-coalesces coalition politics - moves that may feel very unfriendly.But we will find out the answers as we get there, “in the exact measure that we can discern the movements which give [decolonization] historical form and content” (Fanon, 1963, p. 36). To fully enact an ethic of incommensurability means relinquishing settler futurity, abandoning the hope that settlers may one day be commensurable to Native peoples. It meansremoving the asterisks, periods, commas, apostrophes, the whereas’s, buts, and conditional clauses that punctuate decolonization and underwrite settler innocence. The Native futures, the lives to be lived once the settler nation is gone - these are the unwritten possibilities made possible by an ethic of incommensurability.

Graphical user interface, text, application, chat or text message

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### Offense

#### Acquisition of property can never be unjust – to create rights violations, there must already be an owner of the property being violated, but that presupposes its appropriation by another entity.

Feser 1, (Edward Feser, 1-1-2005, accessed on 12-15-2021, Cambridge University Press, "THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION | Social Philosophy and Policy | Cambridge Core", Edward C. Feser is an American philosopher. He is an Associate Professor of Philosophy at Pasadena City College in Pasadena, California. [https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)[brackets](https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)%5bbrackets) for gen lang]//phs st

There is a serious difficulty with this criticism of Nozick, however. It is just this: There is no such thing as an unjust initial acquisition of resources; therefore, there is no case to be made for redistributive taxation on the basis of alleged injustices in initial acquisition. This is, to be sure, a bold claim. Moreover, in making it, I contradict not only Nozick’s critics, but Nozick himself, who clearly thinks it is at least possible for there to be injustices in acquisition, whether or not there have in fact been any (or, more realistically, whether or not there have been enough such injustices to justify continual redistributive taxation for the purposes of rectifying them). But here is a case where Nozick has, I think, been too generous to the other side. Rather than attempt —unsatisfactorily, in the view of his critics—to meet the challenge to show that initial acquisition has not in general been unjust, he ought instead to have insisted that there is no such challenge to be met in the first place. Giving what I shall call “the basic argument” for this audacious claim will be the task of Section II of this essay. The argument is, I think, compelling, but by itself it leaves unexplained some widespread intu- itions to the effect that certain specific instances of initial acquisition are unjust and call forth as their remedy the application of a Lockean proviso, or are otherwise problematic. (A “Lockean proviso,” of course, is one that forbids initial acquisitions of resources when these acquisitions do not leave “enough and as good” in common for others.) Thus, Section III focuses on various considerations that tend to show how those intuitions are best explained in a way consistent with the argument of Section II. Section IV completes the task of accounting for the intuitions in question by considering how the thesis of self-ownership itself bears on the acqui- sition and use of property. Section V shows how the results of the previ- ous sections add up to a more satisfying defense of Nozickian property rights than the one given by Nozick himself, and considers some of the implications of this revised conception of initial acquisition for our under- standing of Nozick’s principles of transfer and rectification. II. The Basic Argument The reason there is no such thing as an unjust initial acquisition of resources is that there is no such thing as either a just or an unjust initial acquisition of resources. The concept of justice, that is to say, simply does not apply to initial acquisition. It applies only after initial acquisition has already taken place. In particular, it applies only to transfers of property (and derivatively, to the rectification of injustices in transfer). This, it seems to me, is a clear implication of the assumption (rightly) made by Nozick that external resources are initially unowned. Consider the following example. Suppose an individual A seeks to acquire some previously unowned resource R. For it to be the case that A commits an injustice in acquiring R, it would also have to be the case that there is some individual B (or perhaps a group of individuals) against whom A commits the injustice. But for B to have been wronged by A’s acquisi- tion of R, B would have to have had a rightful claim over R, a right to R. By hypothesis, however, B did not have a right to R, because no one had a right to it—it was unowned, after all. So B was not wronged and could not have been. In fact, the very first person who could conceivably be wronged by anyone’s use of R would be, not B, but A himself, since A is the first one to own R. Such a wrong would in the nature of the case be an injustice in transfer—in unjustly taking from A what is rightfully his—not in initial acquisition. The same thing, by extension, will be true of all unowned resources: it is only after some- one has initially acquired them that anyone could unjustly come to possess them, via unjust transfer. It is impossible, then, for there to be any injustices in initial acquisition.7

#### Thus, self-ownership justifies the appropriation of property – our freedom necessitates being able to set and pursue external things as our ends, including exercising our rights on property. Restricting this arbitrarily limits our freedom which is unjust.

Feser 3, (Edward Feser, 1-1-2005, accessed on 12-15-2021, Cambridge University Press, "THERE IS NO SUCH THING AS AN UNJUST INITIAL ACQUISITION | Social Philosophy and Policy | Cambridge Core", Edward C. Feser is an American philosopher. He is an Associate Professor of Philosophy at Pasadena City College in Pasadena, California. [https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)[brackets](https://www.cambridge.org/core/journals/social-philosophy-and-policy/article/abs/there-is-no-such-thing-as-an-unjust-initial-acquisition/5C744D6D5C525E711EC75F75BF7109D1)%5bbrackets) for gen lang]//phs st

V. Some Implications If what I have argued so far is correct, then the way is opened to the following revised case for strongly libertarian Lockean-Nozickian prop-erty rights: We are self-owners, having full property rights to our body parts, powers, talents, energies, etc. As self-owners, we also have a right, given the SOP, not to have our self-owned powers nullified —we have the right, that is, to act within the extra-personal world and thus to acquire rights to extra-personal objects that the use of our self-owned powers requires.39 This might involve the buying or leasing of certain rights or bundles of rights and, correspondingly, the acquiring of lesser or greater degrees of ownership of parts of the external world, but as long as one is able to exercise one’s powers to some degree and is not rendered incapable of acting within that world, the SOP is satisfied. In any case, such rights can only be traded after they are first established by initial acquisition. In initially acquiring a resource, an agent does no one an injustice (it was unowned, after all). Furthermore, [they] has mixed [their] labor with the resource, significantly altering it and/or bringing it under his control, and is himself solely responsible for whatever value or utility the resource has come to have. Thus, [they] has a presumptive right to it, and, if his control and/or alteration (and thus acquisition) of it is (more or less) complete, his own- ership is accordingly (more or less) full. The system of strong private property rights that follows from the acts of initial acquisition performed by countless such agents results, as a matter of empirical fact, in a market economy that inevitably and dramatically increases the number of resources available for use by individuals, and these benefited individuals include those who come along long after initial acquisition has taken place. (Indeed, it especially includes these latecomers, given that they were able to avoid the hard work of being the first to “tame the land” and draw out the value of raw materials.)40 The SOP is thus, in fact, rarely, if ever, violated. The upshot is that a system of Lockean-Nozickian private property rights is morally justified, with a strong presumption against tampering with exist- ing property titles in general. In any case, there is a strong presumption against any general egalitarian redistribution of wealth, and no case what- soever to be made for such redistribution from the general theory of prop- erty just sketched, purged as it is of the Lockean proviso, with all the egalitarian mischief-making the proviso has made possible.

### AT offense

#### [1] No promise breaking- private companies not bound by OST only countries we read green

Van Eijk 20 Cristian Van Eijk, BA cum laude in International Justice and an LLM in Public International Law from Leiden University, “Sorry, Elon: Mars is not a legal vacuum – and it’s not yours, either,” 11 May 2020, Völkerrechtsblog, accessed 27 December 2021, Pg. 1, [https://voelkerrechtsblog.org/sorry-elon-mars-is-not-a-legal-vacuum-and-its-not-yours-either](https://voelkerrechtsblog.org/sorry-elon-mars-is-not-a-legal-vacuum-and-its-not-yours-either%20) TDI recut

OST article II: “Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.”

OST article III: “States… shall carry on activities in the exploration and use of outer space, including (…) celestial bodies, in accordance with international law”.

SpaceX is a private entity, and is not bound by the Outer Space Treaty – but that does not mean it can opt out. Its actions in space could have consequences for the United States in three ways. First, the US, as SpaceX’s launch state, bears fault-based liability for injury or damage SpaceX’s space objects cause to other states’ persons or property (OST article VII, Liability Convention articles I, III). Second, the US, as SpaceX’s state of registry, is the sole state that retains jurisdiction and control over SpaceX objects (OST article VIII, Registration Convention article II). Both refer to objects in space and are irrelevant.

According to article VI OST, States “bear international responsibility for national activities in outer space”, including Mars, including those by “non-governmental entities”. The US, as SpaceX’s state of incorporation, must authorise and continuously supervise SpaceX’s actions in space to ensure compliance with the OST (OST article VI) and international law (OST article III). In practice, this task is done by the US Federal Communications Commission, which licenses and regulates SpaceX.

Article VI OST sets a specific rule of attribution, supplementing the customary rules of state responsibility (Stubbe 2017, pp. 85-104). SpaceX acts with US authorisation, and its conduct in space within and beyond that authorisation is attributable to the US (ARSIWA articles 5, 7). In the absence of circumstances precluding wrongfulness, the result is straightforward. If SpaceX breaches a US obligation under international law, the US bears responsibility for an internationally wrongful act.

The principle of non-appropriation

SpaceX risks breaching OST article II, the “cardinal rule” of space law (Tronchetti, 2007). This principle is a jus cogens norm (Hobe et al. 2009, pp. 255-6) establishing Mars as res communis, rather than terra nullius. I must acknowledge, with tongue firmly in cheek, that SpaceX is partly correct – states have no sovereignty on Mars. But that does not leave Mars a “free planet” up for grabs – SpaceX has no sovereignty either.

On plain reading, article II OST lacks clarity on two key points: i) whose claims are prohibited, and ii) what exactly constitutes a ‘claim of sovereignty’. The first has been answered; per the then-customary interpretative rules and travaux préparatoires, there is quite broad academic consensus (Hobe, et al. 2017; Tronchetti, 2007; Pershing, 2019; Cheney, 2009) that sovereign claims include those by private entities. This is consistent with OST article VI; private entities act in space with state authorisation, and thus state authority. It also accords with the law of state responsibility, wherein conduct of entities exercising state authority is attributable to the state, even if ultra vires (ARSIWA articles 5, 7).

The second issue is more complex. Much has been written on whether claims to space resources or space property (Nemitz v United States) are sovereign. In this case, the territorial claim is less clear; is establishing a jurisdiction a sovereign claim “by other means”? SpaceX purports not to create law horizontally via contract, but to establish the only law on Mars – a vertical structure endemic to sovereign legal orders. International caselaw on territorial acquisition agrees; sovereign acts include “legislative, administrative and quasi-judicial acts” (Case concerning sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia v. Malaysia), para 148; Decision regarding delimitation of the border between Eritrea and Ethiopia, para. 3.29) with the exercise of jurisdiction and local administration having “particular, probative value” (Minquiers and Ecrehos (France v. UK), p. 22). Also relevant are attempts to exclude other states’ jurisdiction (Island of Palmas (USA v. Netherlands), pp. 838-9). An attempt by SpaceX to prescribe its own jurisdiction on Mars would constitute a sovereign claim in breach of OST article II, and entail US responsibility for an internationally wrongful act.