## Framing

#### Settler colonialism operates as an ongoing structure that seeks to eliminate or forcibly assimilate via erasure of the native. The settler enacts mass genocide in order to sever native epistemological ties to the land all while upholding the violent triad of the native-settler-slave. This structure perpetuates endless anti-black and anti-indigenous violence. Anything that does not start from the question of settler colonialism removes indigeneity from history.

**Tuck and Gaztambide-Fernandez 13** Eve, Professor at SUNY, Ruben, Professor at the University of Toronto, “Curriculum, Replacement, and Settler Futurity”, Journal of Curriculum Theorizing, Volume 29, Number 1, 2013, PDF, pg. 73-75, October 24, 2016 // RBA

Settler Colonialism and Curriculum Studies Settler colonialism is the specific formation of colonialism in which the colonizer comes to stay, making himself the sovereign, and the arbiter of citizenship, civility, and knowing. Patrick Wolfe (2006) argues that **settler colonialism destroys to replace**,” (p. 338) **operating with a logic of elimination**. “Whatever settlers may say—and they generally have a lot to say,” Wolfe observes, “the primary motive for elimination is not race (or religion, ethnicity, grade of civilization, etc.) but access to territory” (ibid., parentheses original). **The logic of elimination is embedded into every aspect of the settler colonial structures and its disciplines**—it is in their DNA, in a manner of speaking. Indeed invasion is a structure, not an event (p. 402). The **violence of invasion is not contained to first contact or the unfortunate birth pangs of a new nation, but is reasserted each day of occupation. Thus, when we write about settler colonialism in this article, we are writing about it as both an historical and contemporary matrix of relations and conditions that define life in the settler colonial nation-state**, such as the United States, Canada, New Zealand, Australia, Israel, South Africa, Chinese Tibet, and others. In North America, settler colonialism operates through a triad of relationships, between the (white [but not always]) settlers, the Indigenous inhabitants, and chattel slaves who are removed from their homelands to work stolen land. **At the crux of these relationships is land, highly valued and disputed. For settlers to live on and profit from land, they must eliminate Indigenous peoples, and extinguish their historical, epistemological, philosophical, moral and political claims to land. Land, in being settled, becomes property.** Settlers must also import chattel slaves, who must be kept landless, and who also become property, to be used, abused, and managed. Several **belief systems need to be in place to justify the destruction of Indigenous life and the enslavement of life from other lands**, in particular the continent of Africa. These **belief systems are constituted through** “what Michel Foucault identifies as **the ‘invention of Man**’: that is, by the Renaissance humanists’ epochal **redescription of the human outside the terms of the then theocentric, ‘sinful by nature’ conception/‘descriptive statement’ of the human**” (Wynter, 2003, p. 263). **These include what was termed in the 19th century “manifest destiny”–or the expansion of the settler state as afforded by God**; heteropaternalism–the assumption that heteropatriarchal nuclear domestic arrangements are the building block of the state and institutions; and most of all, white supremacy. **Settler colonialism requires the construction of non-white peoples as less than or not-quite civilized, an earlier expression of human civilization, and makes whiteness and white subjectivity both superior and normal** (Wynter, 2003). In doing so, **whiteness and settler status are made invisible, only seen when threatened** (see also Tuck & Yang, 2012). **Settler colonialism is typified by its practiced epistemological refusal to recognize the latent relations of the settler colonial triad; the covering of its tracks**. One of the ways the settlercolonial state manages this covering is through the circulation of its creation story. These stories involve signs-turned mythologies that conceal the teleology of violence and domination that characterize settlement (Donald, 2012a, 2012b). For example, Dwayne Donald examines the centrality of the “Fort on Frontier” as a signifier for the myth of civilization and modernity in the creation story of the Canadian nation-state. The image of the fort works as “a mythic sign that initiates, substantiates and, through its density, hides the teleological story of the development of the nation” (2012a, p. 43): Fort pedagogy works according to an insistence that **everyone must be brought inside and become like the insiders, or they will be eliminated. The fort teaches us that outsiders must be either incorporated, or excluded, in order for development to occur in the desired ways.** (2012a, p. 44) **The fort is not simply about the process of colonization–of the exogenous conquering of land and people, but more importantly, about a process of colonial settlement**—of imposing a hegemonic logic from the inside, “premised on the domination of a majority that has become indigenous” (Veracini, 2010, p. 5, emphasis added). As Donald (2012b) explains, “transplanting a four-cornered version of European development into the heart of the wilderness” (p. 95), the fort stands as a signifier “of the process by which wild and underutilized lands were civilized through European exploration, takeover, and settlement” (p. 99). Scholars like John Willinsky (1998) have offered ample evidence of the ways **in which schooling has served the purpose of promoting an imperialist view of the world that justifies colonization premised on European epistemological supremacy.** While he provides a powerful critique of the colonizing force of the North American curriculum, **such analyses stop short of examining how the project of curriculum is implied in the ongoing project of colonial settlement, assuming that settler colonies are a thing of the past. Recognizing that colonization is an ongoing process, there have been many postcolonial conceptualizations of curriculum and curriculum history** (e.g. Asher, 2005; Coloma; 2009; McCarthy, 1998). Yet such conceptualizations typically ignore important differences in the various kinds of colonial processes occurring in the contemporary world. Because it is different from other forms of colonialism in ways that matter, settler colonialism requires more than a postcolonial theory of decolonization. Indeed, “decolonization in a settler context is fraught because empire, settlement, and internal colony have no spatial separation” (Tuck & Yang, 2012, p. 7). In this light, the specific contours of settler colonialism in curriculum studies are as yet undertheorized, particularly its continued role in ensuring what we describe later in this article as settler futurity. This essay takes part in this conversation by theorizing what we call the curriculum project of replacement.

#### The ROTB is to embrace indigenous futurity – this means endorsing practices that challenge settler normative modes of thoughts and futurity, creating relations with the land as more than beings through indigenous science, technology and society

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Krisha Hernández, 2019, "View of Co-Creating Indigenous Futurities with/in Academic Worlds," (Krisha J. Hernández (Yaqui/Xicanx/Bisayan), raised on Tongva/Gabrieleño land near the village of Nacaugna—in so-called Los Angeles, California—is an Indígenx Ph.D. Candidate and Teaching Fellow in the Department of Anthropology at the University of California, Santa Cruz (UCSC) whose work is relationally grounded through Indigenous Queer Feminist politics. They are a researcher in the Indigenous Science, Technology, and Society (Indigenous STS) international research and teaching hub chaired by Dr. Kim TallBear, and writes with the Creatures Collective.) <https://catalystjournal.org/index.php/catalyst/article/view/32833/25438> //RBA

I dream again of Babok the toad, the deliverer of fire to humans and bringer of rain to Earth. Babok, an excellent storyteller, holds my hand and shows me the way to the river and to myself—a reminder of responsibilities and possibilities. The dream ignites a vision: in the place of flowers, where their power far surpasses their beauty, all beings are regarded as having purpose(s)—with bodies and lives worthy of living and thriving to fulfill those purposes. Here, our community acknowledges each other’s roles and accepts our own as meaningful contributions. In this community, one seeks out the Hu’upa (Mesquite) and Cho’i (Palo Verde) trees to ask for guidance because trees have revealed many truths to our Yoemem ancestors from long ago and continue to teach us still. The vision becomes reality, a way of being and moving among worlds where many persons, such as insect beings, plant beings, soil bodies, elder stones, caretaker plants, and water beings, for example, are relegated to “natural resources”—objects of exploitation who are often taken up in servitude or generally mistreated. Doing academic work that listens to and thinks with more-than-human beings as having bodies and lives worthy of living through to their fullest meaning is indeed a challenge in arenas where settler futurities take precedence over all else. Place/land and all beings tied up with them, despite having much to teach, are rarely treated and centered as living beings in academic analysis (Tuck & McKenzie, 2015). In other words, taking up this sort of work has proven to be such a challenge that it is often skipped over by academics, and quite possibly for good reason. Engulfment in worlds largely filled with settler logics creates seemingly insurmountable barriers to those who may otherwise wish to co-create Indigenous futurities with/in academe, and in particular, with Indigenous Land. Scholars who work to co-create bridges that link the gaps between human-centered worlds and the many more-than-humans already living among them/us are of particular guidance to me in the challenge of co-creating Indigenous futurities with/in academic worlds. I am grateful to geographer Sarah Whatmore (2006) for gifting communities in/beyond the academy with “more-than” terminology, where, in English, one is provided with language that shifts landscape as a plane to land—a living actor. I look to Tonawanda Band of Seneca scholar on literature, race, and ethnic theory Mishuana Goeman (2013) when considering the necessary decolonizing work that is to (re)claim, (re)name, and (re)vitalize—where “(re)” creates Indigenous futurities that are simultaneously past and present but made anew. Sisseton Wahpeton Oyate anthropologist Kim TallBear’s (2013, 2014) work illuminates the ways in which worlds and beings are co-constituted in relation with others, where collaborations are sites for new knowledge formations, thus creating space for academe that is more-than research. I often think with the work of Kanaka Maoli political scientist Noelani Goodyear-Ka‘ōpua (2016), who reminds one that Indigenous Peoples forge their relationships with place/land and land-bodied beings, and, therefore, researchers are obligated to such land beings far beyond the scope of a research project. Political scientist Audra Mitchell (2018), a settler of Ukrainian, Polish, Scottish, and English ancestry who lives on the Ancestral and Treaty Lands of the Attawandaron (Neutral), Haudenosaunee, and Mississaugas of the New Credit, demonstrates ways in which non-Indigenous scholars might honor the efforts of Indigenous resurgents who seek to repair protocols and relations between particular peoples, plants, animals, and many land and water beings. Drawing on these lineages of thought and scholarship, my work strives to co-create Indigenous futurities with more-than-human beings, an effort that simultaneously envisions Indigenous futurities as it takes up and works against settler colonial modes of being and separation. I find an academic home in the emerging discipline of Indigenous Science, Technology, and Society (I-STS), a community of scholars who contribute to the interplay of emerging worlds, realities becoming. Together, this community honors land-bodied beings seen, unseen, and felt, while co-creating Indigenous futurities through scholarship.

#### Tribal sovereignty recognizes the importance as land, not as a commodity, but full of life and meaning – protecting and caring for it in ways settler states never could – this solves

#### Coquille Indian Tribe, no date

Coquille Indian Tribe, no date, "The Meaning of Sovereignty – Coquille Indian Tribe," No Publication, https://www.coquilletribe.org/?page\_id=26

A Statement from Tribal Chairperson Brenda Meade Sovereignty is understood worldwide as the right and power of a governing body to govern itself, its people and its lands without outside interference. In political theory, sovereignty means the supreme decision-making authority of a government. For Coquille people, sovereignty is an inherent right and responsibility that has been upheld by our Tribal leaders since time began. Today, sovereignty is the principle that the United States government and the Coquille Indian Tribe understand and agree on when we talk about the importance of taking care of our people and the lands that we come from. The Coquille Tribe’s sovereignty is tied to who we are and who we have always been. It is reflected in how we treat one another and our neighbors in the broader community. It is tied to our culture, our heritage, and the responsibility we feel to address the needs of our people, to ensure the future of our Tribal nation and the health of these lands and waters. Since our creation, Tribal leaders have always recognized and prioritized the needs of our people. Those priorities consistently have been to ensure health and safety; to care for our Elders; to teach our young people; and to offer opportunities for Coquille people to stay strong, healthy and proud of their heritage. Sovereignty also means protecting our sacred places and the lands that support our traditional activities and teachings. It is important to know that the Coquille people never gave up their sovereign rights. Despite unratified treaties, removal from our lands to reservations, vigorous assimilation programs, and the termination policies meant to extinguish Indian identity, the Coquille Indian Tribe never abandoned our sovereignty or our desire to be recognized as the people of this land. We never forgot the importance of sovereignty to the health, wellness and future of our people. The Coquille people persevered through decades of devastation. After much personal dedication and sacrifice, we regained our federal recognition on June 28, 1989. It was a day that changed the future of our people – a day we will celebrate forever. We understand that we must uphold our sovereignty and our culture. We must never forget who we are and where we come from. By remembering to “take only what we need and to leave some for the others,” we ensure that Coquille people will always be here on this land.

#### The ROTJ is to center indigenous knowledge – red pedagogy is the only orientation that combats settler colonialism within educative spaces

**Grande 04** [Red Pedagogy Native American Social and Political Thought Sandy Grande 2004; quals: a professor of Education and Director of the Center for the Critical Study of Race and Ethnicity (CCSRE) at Connecticut College. She is Quechua. She got her masters and PhD from Kent State University.] // SJ AME

As we raise yet another generation in a nation at war, it is even more imperative for schools to be reimagined as sites for social transformation and emancipation; as a place "where students are educated not only to be critical thinkers, but also to view the world as a place where their actions might make a difference" (McLaren 2003). More specifically, McLaren outlines the essential elements of a post-9/11 critical pedagogy: (1) to support the broader societal aim of freedom of speech; (2) to be willing to challenge the Bush ad- ministration's definition of "patriotism"; (3) to examine the linkages between government and transnational corporations; (4) to commit to critical self- reflexivity and dialogue in public conversations; (5) to enforce the separation between church and state; (6) to struggle for a media that does not serve corporate interests; and, above all, (7) to commit to understanding the fundamental basis of Marx's critique of capitalism (McLaren 2003) Indeed, in a time when the forces of free-market politics conspire not only to maintain the march of colonialism but also to dismantle (i.e., privatize) public education, such aims are essential. In addition to these immediate concerns, the frameworks of revolutionary critical theory provide indigenous educators and scholars a way to think about the issues of sovereignty and self-determination that moves beyond simple cultural constructions and analyses. Specifically, their foregrounding of capitalist relations as the axis of exploitation helps to frame the history of indigenous peoples as one of dispossession and not simply oppression. Their trenchant critique of postmodernism helps to reveal the "problem" of identity (social representation) as a distraction from the need for social transformation. Similarly, the work of revolutionary critical feminists helps to explain how gendered differences have been systematically produced and continue to operate within regimes of exploitation. In all these ways, the analyses of revolutionary critical pedagogy prove invaluable. As discussed in previous chapters, however, there are also ways in which the analysis of revolutionary theorists fails to consider their own enmeshment with the Western paradigm. Specifically, the notion of "democratization" remains rooted in Western concepts of property; the radical constructs of identity remain tied to Western notions of citizenship; the analyses of Marxist-feminists retain Western notions of subjectivity and gender; and revolutionary conceptions of the "ecological crisis" presume the "finished project" of colonization. Such aporias of revolutionary critical pedagogy, however, must not be viewed as deficiencies. Rather, they should be theorized as points of tension, helping to define the spaces in-between the Western and indigenous thought-worlds. Revolutionary scholars themselves acknowledge "no theory can fully anticipate or account for the consequences of its application but remains a living aperture through which specific histories are made visible and. intelligible" (McLaren and Farahmandpur 2001, 301). In other words no theory can, or should be, every- thing to all peoples—difference in the material domain necessitates difference in discursive fields. Therefore, while revolutionary critical theory can serve as a vital tool for indigenous educators and scholars, the basis of Red pedagogy re- mains distinctive, rooted in indigenous knowledge and praxis. Though a "tradition-based" revitalization project, Red pedagogy does not aim to reproduce an essentialist or romanticized view of "tradition." As several indigenous scholars have noted (e.g., Alfred, Deloria, Mihesuah, Warrior) the "return to tradition" is often a specious enterprise. In contradistinction to essentialist models of "tradition," Taiaiake Alfred suggests a model of "self- conscious traditionalism" for indigenous communities. He defines "self- conscious traditionalism" as an intellectual, social, and political movement to reinvigorate indigenous values, principles, and other cultural elements best suited to the larger contemporary political and economic reality (Alfred 1999, 81). In this context, tradition is not simply "predicated upon a set of uniform, unchanging beliefs" but rather is expressed as a commitment to the future sustainability of the group (Warrior 1995, xx). In other words, the struggle for freedom is not about "dressing up in the trappings of the past and making demands" but about being firmly rooted in "the ever changing experiences of the community." As such, the process of defining a Red pedagogy is necessarily ongoing and self-reflexive— a never-ending project that is continually informed by the work of critical and indigenous scholars and by the changing realities of indigenous peoples. Though the process is continual, the overarching goal of Red pedagogy is stable. It is, and will always remain, decolonization. "Decolonization" (like democracy) is neither achievable nor definable, rendering it ephemeral as a goal, but perpetual as a process. That is not to say, however, that "progress" cannot be measured. Indeed, the degree to which indigenous peoples are able to define and exercise political, intellectual, and spiritual sovereignty is an accurate measure of colonialist relations. The dream of sovereignty in all of these realms, thus, forms the foundation of Red pedagogy. As such, indigenous responses of the international, transnational, postcolonial question are discussed in terms of Lyons's quest for a "nation-people," and Alfred's (1999) model for self-determined and self-directed communities. [Continued…] In the words of Peter McLaren, "one of the first casualties of war is truth." History, in other words, belongs to the victors (McLaren 2003, 289). Perhaps no one understands this better than indigenous peoples who, in addition to suffering the depredations of genocide, colonization, and cultural annihilation, have been revictimized at the hands of whitestream history. The lesson here is pedagogical. The imperative before us, as educators, is to ensure that we engage a thorough examination of the causes and effects of all wars, conflicts, and inter/ intracultural encounters. We must engage the best of our creative and critical capacities to discern the path of social justice and then follow it. The ongoing injustices of the world call educators-as-students-as-activists to work together—to be in solidarity as we work to change the history of empire and struggle in the common project of decolonization. To do so requires courage, humility, and love *(mun).* Moreover, revolutionary scholars remind us that "our struggle must not stop at calling for better wages and living conditions for teachers and other workers but must anticipate an alternative to capitalism that will bring about a better chance for democracy to live up to its promise" (McLaren 2003, 290). Though the promise of democracy has always been specious for American Indians, the notion of an anticapitalist society has not. Indigenous peoples continue to present such an alternative vision, persisting in their lived experience of collectivity and connection to land, both of which vehemently defy capitalist desire. Red pedagogy is the manifestation of sovereignty, engaging the development of "community-based power" in the interest of "a responsible political, economic, and spiritual society" 12 (Richardson and Villenas 2000, 272). Power in this context refers to the practice of “living out active prescnecses and survivancesrather than an illusionary democracy" (Richardson and Villenas 2000, 273). As articulated by Vizenor, the notion of survivance signifies a state of being beyond "survival, endurance, or a mere response to colonization," toward "an active presence . . . and active repudiation of dominance, tragedy and victimry"(Vizenor 1998, 15). The *survivance* narratives of indigenous peoples are those that articulate the active recovery, reimagination, and reinvestment of indigenous ways of being. These narratives assert the struggles of indigenous peoples and the lived reality of colonization as a complexity that extends far beyond the parameters of economic capitalist oppression. Survivance narratives form the basis of a Red pedagogy. They compel it to move beyond romantic calls to an imagined past toward the development of a viable, competing moral vision. Specifically, a Red pedagogy implores our conversations about power to include an examination of responsibility, to consider our collective need "to live poorer and waste less." It implores struggles for human rights to move beyond the anthropocentric discourse of humans-only and to fetter battles for "voice" with an appreciation for silence. In the end a Red pedagogy embraces an educative process that works to reenchant the universe, to reconnect peoples to the land, and is as much about belief and acquiescence as it is about questioning and empowerment. In so do- ing, it defines a viable space for tradition, rather than working to "rupture" our connections to it. The hope is that such a pedagogy will help shape schools and processes of learning around the "decolonial imaginary." Within this fourth space of being, the dream is that indigenous and nonindigenous peoples will work in solidarity to envision a way of life free of exploitation and replete with spirit. The invitation is for scholars, educators, and students to exercise critical consciousness at the same time they recognize that the world of knowledge far exceeds our ability to know. It beckons all of us to acknowledge that only the mountain commands reverence, the bird freedom of thought, and the land comprehension of time. With this spirit in mind, I proceed on my own journey to learn, to teach, and to be.

#### Fighting discrimination must be centered around indigenous resurgence and solidarity. Understanding the ways different acts of violence intersect with settler colonialism and endorsing land-based practices is the only way decolonize.

**Snelgrove et. al 14**(Corey Snelgrove, Rita Kaur Dhamoon, Jeff Corntassel (2014), professor at University of British Columbia, professors at University of Victoria, Unsettling settler colonialism: The discourse and politics of settlers, and solidarity with Indigenous nations, 3:2, p. 2-3) //RBA

Our goal in this article is intervene and disrupt current contentious debates regarding the predominant lines of inquiry bourgeoning in settler colonial studies, the use of ‘settler’, and the politics of building solidarities between Indigenous and non-Indigenous peoples. These three themes are not only salient in scholarly debates but also in practices of Indigenous resurgence, decolonization, anti-racism, feminist and queer work, and in alliances that challenge corporate pipeline expansion, resource extraction, colonial environmentalism, neo-liberal exploitation of temporary foreign workers, and violence against women, transgendered, and queer people. Through our own particular engagements with these issues, the three of us came together to think through our different relationships to settler colonial studies, debates about the term ‘settler’, and decolonizing relations of solidarity, with a shared commitment to practicing and/or supporting Indigenous resurgence. By Indigenous resurgence we mean ways to restore and regenerate Indigenous nationhood (Corntassel, 2012) and the “repatriation of Indigenous land and life” (Tuck & Yang, 2012). By centering Indigenous resurgence, we resist the disavowal of a colonial present still defined by Indigenous dispossession, we center transformative alternatives to this present articulated within Indigenous resurgence, and we remain attentive to the very ground upon which we stand. Indigenous resurgence, then, is our organizing frame for responding to the three themes of this essay, namely settler colonialism, settlers, and solidarity. First, our process of thinking together revealed some uncertainty about the emerging institutionalization of settler colonial studies and its relationship to Indigenous studies; at the same time, the practice, structure, governmentality, and politics of settler colonialism distinctly sharpens the focus on ongoing colonialism, the dispossession of Indigenous lands, and the actual/attempted elimination of Indigenous peoples. It is this focus on power, land, and Indigenous bodies that we centre in our approach to the study of settler colonialism. But our understanding of settler colonialism is not one-dimensional; instead, we begin from the position that it is intrinsically shaped by and shaping interactive relations of coloniality, racism, gender, class, sexuality and desire, capitalism, and ableism. This multi-dimensional understanding of settler colonialism enables specificity in the ways to which place, culture, and relations of power are approached; reflects the ways in which the State has governed subjects differently; and emphasizes that the disruption of settler colonialism necessitates the disruption of intersecting forces of power such as colonialism, heteropatriarchy and capitalism. Second, our analysis and dialogue about the term ‘settler’ illuminated that, whether using Indigenous words for ‘settler’ or the English word ‘settler’, these terms should be discomforting and provide an impetus for decolonial transformation through a renewed community-centered approach. This decolonizing praxis requires what Kanaka Maoli scholar Noelani Goodyear-Ka’ōpua (2013, pp. 30, 36) calls “land-centered literacies” which are “…based on an intimate connection with and knowledge of the land.” At the same time, our concerns go beyond the proper assignment of ‘settler’, where we are vigilant of those who adopt and legitimize a “way of thinking with an imperialist’s mind” (Alfred, 2009, p. 102). Third, while the language of solidarity does not fully capture the way we approach social struggles as interconnected, our collective conversations highlighted for us that Unsettling incommensurabilities 3 solidarity between Indigenous and non-Indigenous peoples must be grounded in actual practices and place-based relationships, and be approached as incommensurable but not incompatible.

## Advantage

#### The world trade organization perpetuates neoliberal policies that decimate indigenous land, culture, and tribal sovereignty. Globalization means the WTO protects the interests of companies over those of indigenous people – this leads to endless state sanctioned violence against natives

#### IPMSDL et all 13

Indigenous Peoples Movement for Self Determination and Liberation (IPMSDL), Asia Pacific Indigenous Youth Network (APIYN), Alyansi Masyarakat Adat Nusantara (AMAN) Barisan Pemuda Adat Nusantara (BPAN), Cordillera Peoples Alliance (CPA), Land is Life Committee for the Protection of Natural Resources-Manipur Center for Research and Advocacy-Manipur Indigenous Environmental Network (IEN), International Organisation for Self-Determination and Equality (IOSDE), Kalipunan ng mga Katutubong Mamamayan ng Pilipinas (KAMP), BAI National Network of Indigenous Women in the Philippines Innabuyog-Gabriela KALUMARAN, Cordillera Women’s Education Action Research Center, 12-9-2013, "The World Trade Organization (WTO) and Indigenous Peoples: Resisting Globalization, Asserting Self-Determination," Indigenous Environmental Network | ienearth.org, https://www.ienearth.org/the-world-trade-organization-wto-and-indigenous-peoples-resisting-globalization-asserting-self-determination/

We, the Indigenous Peoples of Mother Earth gathered here in Bali, Indonesia on 2-6 December 2013, organizing our own workshop and various events parallel to the World Trade Organization Ninth Ministerial Meeting (WTO MC9), hereby agreed to resist neoliberal globalization and assert our right to Self-Determination. As Indigenous Peoples of the land and the waters, we have a close relationship to Mother Earth and nature. This relationship tells us that life on Mother Earth is in danger and coming to a time of great transformation. We are accepting the responsibility as the guardians of the earth, which has been designated by our respective Original Instructions woven into our cosmovisions, cultures, languages, and ways of life. We are telling the trade ministers of the world governments that we must all work together to create a new paradigm in global trade instruments and economic systems that fully recognizes the vital life-giving cycles, well-being and territorial integrity of Mother Earth. We reaffirm our responsibilities to protect and defend our lands, water, territories, natural resources, culture and traditional knowledge, all of which are vital to the survival of all of humanity and for future generations. We will persevere in our struggle in reclaiming our inherent rights as Indigenous Peoples and for the well-being of Mother Earth. Until the right to self-determination of Indigenous Peoples and universal laws that recognize Mother Earth as a living being are observed and respected, genuine sustainable development will not be achieved. We share a common history of colonization and globalization. For centuries, we experienced the colonization of our lands, territories, air, ice, oceans and waters, mountains and forests. Colonialism institutionalized the oppression and exploitation of Indigenous Peoples up to the current era of globalization, exacerbated by the neoliberal impositions of multilateral trade agreements implemented over six decades through the General Agreement on Tariffs and Trade (GATT), replaced by the World Trade Organization (WTO) in 1995. In its 9th Ministerial Conference, we believe that the WTO will only push for greater neoliberal policies on globalization, liberalization, privatization, deregulation, and denationalization that will consequently intensify the violation of our inherent rights as Indigenous Peoples and the multiple crises that humanity confronts today. Thus, with our common problems, aspirations and struggles, we resolved to strengthen our unity as Indigenous Peoples and link our struggles with various democratic sectors and organizations worldwide until our right to self-determination and liberation is achieved. The World Trade Organization and Violation of Indigenous Peoples’ Rights The WTO is the primary instrument of neoliberal globalization to further economic globalization especially in international trade. It aims to build a unitary system of trade relations of countries around the world governed by various agreements. WTO’s catchphrases of “borderless world”, “leveling the playing field” and “free market democracies”, involves the removal of restrictions or so-called trade barriers that hinder greater corporate profit. While the WTO binds the Least Developed Countries (LDCs) to implement the neoliberal policies on trade of goods and services, the few capitalist countries on the other hand, protect their economies from these “free market” policies. Several WTO Ministerials, such as the Doha Development Round in 2001, collapsed due to continuing disagreements over subsidies on agricultural products, market access, and special safeguard mechanisms, and massive Peoples’ protests. In its 9th Ministerial Conference, the WTO will make decisions on any of the multilateral trade related agreements such as the Agreement on Agriculture (AoA), Trade Related Aspects of Intellectual Property Rights (TRIPS), Trade Related Investment Measures (TRIMS), and General Agreement on Trade in Services (GATS), and forge new multilateral agreements. The proposed agreement for the MC9 called the Bali Package will push for greater liberalization in agriculture, acceleration of LDCs in the WTO, and expedite trade facilitation through restructuring of GATT articles on imports-exports and trade costs. The Bali Package, along with post-Bali issues on International Technology Agreement (ITA) and Trade in Services Agreement (TISA), are labeled by developed countries as the solution to the stalled Doha Round to pursue intensified trade liberalization. Indigenous Peoples, especially future generations, will be extremely affected by these decisions and agreements. For over 6 six decades now, since colonization, neoliberal policies have intensified the sufferings of the Indigenous Peoples. Our lands, territories and natural resources have been exploited by unsustainable development projects, such as mono-cultural chemically intensive plantations, extractive industries such as mining, oil drilling, hydro projects and other environmentally destructive “renewable” energy projects. Trade and investment liberalization have resulted in development aggression and plunder of our territories. We have been displaced from our Indigenous lands and territories. Our Indigenous knowledge, values and spirituality have been bastardized. And our rights to self-determination, to our own governance and own self-determined development have been violated. While defending our inherent and collective rights, we continue to suffer from militarization and State terrorism, including extrajudicial killings, enforced disappearance, assassination, arbitrary arrests, imprisonment, criminalization of community resistance, harassment and vilification as “terrorists.” All of this has happened for the sake of globalization, and is bound to worsen as the WTO imposes more agreements and policies. Our experiences show that the removal of tariffs and quantitative restrictions on import goods has led to the influx of foreign products in domestic markets. The AoA has unleashed agricultural liberalization and imposed the importation of agricultural crops even if locally produced. It has forced many developing countries to favor transnational agricultural companies like Monsanto and compelled impoverished Indigenous Peoples to use high yielding varieties (HYV) seeds without being informed of the negative effects. The AoA pushes for commercial agricultural production, replacing traditional plant varieties with genetically altered species marketed by agriculture companies, and chemical-laden foods. The AoA eliminates the ability of Indigenous Peoples to produce culturally appropriate and sufficient food. Such trading system is detrimental to Indigenous Peoples’ food security, health and sustainability. It forces dependency to the capitalist market and weakens Indigenous Peoples’ ability to self-determined development and food sovereignty. The WTO demands reduction of subsidies on price support, while capitalist countries refuse to apply this in their own economies. This has damaged livelihoods resulting in bankruptcy of farmers including Indigenous Peoples, as they are unable to compete with subsidized and cheaper imports from abroad. States worsen this situation by failing to protect Indigenous Peoples’ sources of livelihood and food, land and resources. Through our harmonious relations with nature as part of our spirituality, culture and beliefs, we maintain knowledge and practice of Indigenous medicines from medicinal plants and animals. We, however, are denied rights and control over our Indigenous medicines when these are taken over by big corporations as their intellectual property rights under WTO. Big pharmaceutical corporations race for patents to gain exclusive control for the production, marketing, distribution and sales of products derived from indigenous knowledge and practice. We are also alarmed that the WTO allows the patenting of life forms including extraction of genetic information under its TRIPS. These capitalist monsters treat Indigenous Peoples as valuable and vulnerable targets for medical research and experiments. Trade agreements on services have further marginalized and impoverished us, with very limited access to basic social and health services, a situation worsened by government neglect and discrimination. Our right to quality and affordable education and health is further violated by GATS which allows foreign corporations to own and operate educational and health institutions leading to profit-oriented and corporate owned services that are available only to the few who have the means to pay. Education is designed to meet the needs and interests of the multinational corporations and the advanced capitalist countries above the social values and needs of Indigenous communities and national development of poor countries. As a result, the youth and the next generations’ futures are bleak and the survival of our Indigenous knowledge is in peril. Globalization has even destroyed our biological and cultural diversity, ecosystems, values and traditional knowledge that constitute our existence as humans and as Indigenous Peoples. It is the culprit of the climate crisis, which exacerbates the historical, political, and economic marginalization of Indigenous Peoples. It puts Indigenous Peoples in a very vulnerable situation, notwithstanding the fact that Indigenous Peoples have contributed the least to the climate crisis. The dominant world capitalist system under which the WTO and similar trade agreements operate is the culprit to the multiple crises that humanity confronts today. The neoliberal policies of globalization, liberalization, deregulation, privatization and denationalization are the root causes of the protracted economic, financial, political, and climatic crises that have put Indigenous Peoples in more oppressive and exploitative conditions and the planet on the brink of destruction. The WTO MC9 in its Bali Package is hell-bent on pushing and imposing more new deals that would intensify our misery ten-fold, as it demands the acceleration of neoliberal globalization for more profit to the few ruling elite of the advanced capitalist countries and their transnational corporations above the interest of Indigenous Peoples, humanity and Mother Earth. Clearly, the WTO advances the neoliberal globalization framework and violates all the rights of Peoples, including Indigenous Peoples and Nations, to self-determination, life and liberty. The WTO is an instrument that serves the primary interest of the multinational corporations and the few advanced capitalist countries to the detriment of Indigenous Peoples worldwide, humanity, Mother Earth and all life.

#### The concept of intellectual property rights by the WTO enforces a western and colonized legal framework that makes regular policies options impossible

Whitt 98

Laurie Anne Whitt (1998). Biocolonialism and the commodification of knowledge. Science as Culture, 7(1), 33–67. doi:10.1080/09505439809526490

'The commodity fiction handed over the fate of man and nature to the play of an automaton running in its own grooves and governed by its own laws.' (Karl Polyani) While the market and market forces of late capitalism differ substantially from those envisaged by Adam Smith, they continue—notably under the banner of intellectual property law—to transform the legal system in ways that impact directly the western conception of knowledge. Just as land and labour were metaphorically transformed to accommodate a market economy, so too is knowledge—human intellectual labour—being transformed by what Polyani calls a 'commodity fiction'. Various commentators have noted how the market doctrine obtained political and philosophical hegemony over western society by pointedly ignoring the distinction between commodities and noncommodities. Commodities, for the economist, have a specific origin and purpose. They are manufactured goods that are produced for sale, sold and eventually consumed. Since human labour—intellectual or manual—is not manufactured for sale and consumption, it is not a commodity strictly speaking. It is not a product, but: a personal, intimate and intrinsic part of ourselves. Human work cannot be separated from the whole person ... it is a market fiction that there is a separation between the human and human work. We can no more sell our work than we can sell ourselves. (Kimbrell, 1993, pp. 269, 270) Neither, of course, is land—a part of nature—a commodity that is produced by people for sale and consumption. Yet to leave work and nature out of the market equation would challenge the market system. As Andrew Kimbrell observes: If market ideology was to be the central law of a society ... it had to extend to all important aspects of life ... Vital noncommodities had to be subsumed under the definition of commodity, treated like any other commodity, and subjected to the supply-and-demand laws of commodities, (p. 270) So, it was convenient to ignore the distinction between commodities and noncommodities. This metaphorical transformation of labour and land into 'fictitious commodities' also greatly enhanced the power of the market system, facilitating control of virtually all aspects of social behaviour and natural resources. Karl Polanyi recounts this transformation, and its full impact: The crucial step was this: llabor and land were made into commodities, that is, they were treated as if produced for sale. Of course, they were not actually commodities, since they were either not produced at all (as land) or, if so, not for sale (as labor). Yet no more thoroughly effective fiction was ever devised ... The true scope of such a step can be gauged if we remember that labor is only another name for man, and land for nature. (Polyani, 1968, pp. 61-62) The transformation and commodification of knowledge—of human intellectual labour—was part of this process. Knowledge is not produced by people for sale and consumption, and despite the tendency of recent work in science studies to speak of knowledge production and knowledge products, knowledge is not a product. Such talk merely reflects the effectiveness of the knowledge-ascommodity metaphor. Like manual labour, intellectual labour is a 'personal, intimate and intrinsic part' of human beings. To paraphrase Kimbrell, human knowledge cannot be separated from the whole person; it is a market fiction that there is a separation. We can no more sell our knowledge than we can sell ourselves. When market assumptions are extended to ideas, to information, intellectual property results. Patents, copyrights and trade secrets are protections that the state gives to innovations—to new ideas (Hettinger, 1989, p. 35). These types of property rights are intended to provide for ownership of 'noncorporeal, intellectual objects, such as writings, inventions and secret business information' (p. 31) that can be bought and sold in the marketplace. Private intellectual property restricts the use of ideas through patents, the expression of ideas through copyrights, and the methods of acquiring ideas through trade secrets. The rise of intellectual property has also helped to transform the western conception of knowledge in another way. Scholarly, as well as popular, conceptions of knowledge (see R. Roberts, 1987, and Fuller, 1991) have regarded it as nonexclusive—as existing in many places at once and as not consumed by use: 'the possession or use of (such) an intellectual object by one person does not preclude others from possessing or using it as well' (Hettinger, 1989, p. 34). However, when it is commodified, and rendered as intellectual property, information becomes exclusive, and its value is seen to lie in part in that exclusiveness. The point of owning a song, or certain genetic information, is to ensure and secure exclusive profits. Intellectual property laws serve as means of transforming indigenous knowledge and genetic resources into profitable commodities, and of advancing the commodification of nature. For example, the chief of the Global Environment Division of the World Bank, discussing traditional plant knowledge in the Ethiopian Coptic Church, recently proposed: 'Let's screen that knowledge stock ... (and) explore how it might be commercialized' (cited in Bereano, 1995). Indigenous representatives to the Commission on Sustainable Development have challenged the practice of bioprospecting, and the global imposition of western intellectual property laws. Victoria Tauli-Corpus (1993) offers a compelling description of the cultural politics of science unfolding here, and of the contrasting metaphors of knowledge that help to sustain them: We have witnessed how indigenous seed varieties and medicinal plants which our women and healers have preserved and developed, were appropriated by international and national research institutes and transnational corporations ... Without our knowing, these seeds and medicinal plants were altered in laboratories and now we are told that the companies have intellectual property rights over these genetic plant materials because they have improved on them. This logic is beyond us ... we, indigenous peoples ... have developed and preserved these plants over thousands of years, (p. 25) Another particularly disturbing aspect of this debate is that the patenting of genetic information is simultaneously the patenting of life forms, since the innovations in question are based upon and produce life forms. A 1995 report to UNESCO's International Bioethics Committee notes: 'Genetic material is seen as part of what constitutes life; as such, patenting transforms this material into a commodity that can be owned and traded in' (1995, Section 2.3.2). Commenting on this phenomenon, José de Souza Silva (1995) observes that 'genetic property rights subject nature to worldwide commodification, an important step in the ongoing biotechnological revolution' (p. 57). This is not limited to plants, of course, it involves nonhuman animals as well. According to the Office of Technology Assessment, well over 190 genetically engineered animals (these include fish, cows, mice and pigs) are 'figuratively standing in line to be patented by a variety of researchers and corporations' (Kimbrell, 1993, p. 198). It also involves human animals, people, who are treated as sources of genetic information. As Okanagan activist Jeanette Armstrong (1995) states: 'it is not only knowledge about plants and animals that is being made a commodity: The essential substance of the human life form—human gene lines—are now items for transnational trade and profit' (p. 11). An instance of this, which has provoked widespread indigenous resistance, is the Human Genome Diversity Project, an international undertaking by scientists, universities, private researchers and governments to create thousands of cell lines from DNA collected primarily from indigenous peoples. The controversy surrounding the Diversity Project has been vigorous and substantial from the Project's outset, when the targetted sample populations were referred to as 'Isolates of Historic Interest' (Roberts, 1993, p. 675). (See Harry, 1994, and Whitt, 1998, for more discussion of this.) The Diversity Project's indigenous critics charge that 'This is just a more sophisticated version of how the remains of our ancestors are collected and stored in museums and scientific institutions' (TauliCorpus, 1993, p. 26). According to an article in the prestigious journal Science, whose advocacy of this western science project has been unremitting: As (indigenous) people vanish, they are taking with them a wealth of information, buried in their genes about human origins, evolution, and diversity ... Already, there are indications of the wealth of information harbored in the DNA of aboriginal peoples. (Roberts, 1991, p. 1614) Concerns about patenting and commercial exploitation have been repeatedly voiced: 'How soon will it be before they apply for intellectual property rights to these genes and sell them for a profit?' (Tauli-Corpus, 1993, p. 26). And as John Liddle, director of the Central Australian Aboriginal Congress, observes: If the Vampire Project goes ahead and patents are put on genetic material from Aboriginal People, this would be legalized theft. Over the last 200 years, non-Aboriginal people have taken our land, our language, culture and health—even our children. Now they want to take the genetic material which makes us Aboriginal people as well. (Nason, 1994, p. 3)GIFTS AND COMMODITIES 'Labor should not be sold like merchandise but offered as a gift to the community. ' (Che Guevara) The nature, depth and force of indigenous opposition to biocolonialism, and especially to the Diversity Project, is poorly grasped by advocates of these extractive initiatives of western science—whether corporate or academic.2 It is frequently assumed that once proper informed consent documents, material transfer agreements and database access agreements have been drafted, and the 'hysteria' whetted up by 'professional alarmists' subsides, opposition to the Diversity Project will and should dissipate (Moore, 1996, p. 62). At the least, it should be effectively disarmed. At best, indigenous people will realize, finally, that 'they should be grateful to us'.3 Such assumptions can be sustained only by wrenching certain indigenist critiques from their contexts. Some of the most substantive objections to the Diversity Project, and to biocolonialism more generally, contend that life forms, and indigenous knowledge of the natural world, are gifts; they must not be privatized, commercialized and commodified. This section contrasts a western commodity conception of knowledge with the construal of knowledge as a gift that is prevalent in many indigenous knowledge systems. I do not suggest that all knowledge within all western and indigenous knowledge systems conforms to these divergent metaphors of commodity and gift.4 Certainly within the west there has been resistance to life-form patents on analogous grounds. Similarly, some indigenous peoples have embraced such patents, to varying degrees and with varying degrees of consensus and reluctance. As Greaves (1994) notes, 'the arena of Western institutions are played in when the stakes are high and there is no other choice' (p. 6). Knowledge systems, whether western or indigenous, are neither monolithic nor static; they are varied and changing, far more so than my discussion here will reflect. Nevertheless, these diverging metaphors of knowledge do capture tendencies and features that are typical of, or prevail in, many indigenous and western knowledge systems. Moreover, they have not only intellectual but social and moral implications for what and how something can be known: metaphors 'shape our perceptions and in turn our actions, which tend to be in accordance with the metaphor' (Stepan, 1993, p. 372). These are politically significant insofar as they inform contemporary struggles within indigenous and western knowledge systems over biocolonialist policies and practices. Indeed, pan of what is at issue in resistance to the Diversity Project is whether or not a particular change should take place within indigneous knowledge and value systems ... a significant change in how certain knowledge is understood and in how it is valued. Consider Aroha Mead's statement of the basis of Maori opposition to the Project. Many of the Diversity Project's advocates, she notes, 'have the mistaken view that the reason for indigenous opposition to the (Project) rests in lack of understanding of (its) aspirations, and confusion over minor details' (Mead, 1995). Anyone who has followed the long electronic debate on Native-Net between opponents of the Project and its central apologist—Henry Greely, a Stanford University law professor and head of the Project's North American Ethics Committee—will concur with Mead here. Greely and other Project proponents have repeatedly failed to address—or even to indicate they take seriously—what lies at the heart of indigenist resistance: It is difficult to articulate the degree to which the indigenous and western scientific philosophies differ on such a fundamental point, but ... I wish to emphasize that it is the difference in understanding of the origin of humanity, the responsibility of individuals and the safety of future generations which sits so firmly at the core of indigenous opposition to the (Diversity Project) ... the fundamental reason is that, according to an indigenous world view, this type of research proposes to interfere in a highly sacred domain of indigenous history, survival and commitment to future generations. (Mead, 1995) As Mead explains, the Maori translate the word 'gene' as 'iratangata' ('life spirit of the mortals') or 'whakapapa' ('genealogy'). So a physical gene is understood to be 'imbued with a life spirit handed down from the ancestors' (1995). Each successive generation contributes to it, passing it on to future generations. Genes, thus, are part of the heritage of families, communities, tribes and entire indigenous nations. They are not the property of individuals, and neither is any part or derivative of them. The innovative manipulations leading to the isolation and storage of DNA segments, and the privatization and commercialization of cell lines, turn them into such and must therefore be vigorously resisted. Comparable concerns have been expressed by diverse indigenous peoples protesting the patenting of traditional medicines and crop varieties, and for whom knowledge of the natural world, particularly medicinal and agricultural knowledge, is regarded (like life itself) as given, not produced. There are normative implications to such an epistemological posture. When knowledge is construed as a gift, the process of knowing rather than the product of knowledge, and the nature and quality of the relations with the nonhuman world which are constitutive of that process, become central. To properly engage in a process of reciprocal exchange, of giving and receiving, behavioral constraints must be accepted. The reciprocity of the exchange is to be respected and reflected in one's conduct. These normative constraints are simultaneously ecological and social. The process of knowing must be undertaken in a way that respects and reflects the fact that each individual, each community, each tribe, each nation and species has 'a responsibility to the workings of the universe' (Allen, 1986, p. 73), to the generations to come and to those that have passed. Like knowledge of the natural world, for many indigenous peoples land itself is a: gift... (so) they assume certain ceremonial duties which must be performed as long as they live on and use the land ... Obligations demanded by the lands upon which people lived were part of their understanding of the world; indeed their view of life was grounded in the knowledge of these responsibilities. (Deloria, 1992, pp. 262-63) This construal of knowledge and the normative constraints that attend it can be readily illustrated by diverse indigenous knowledge practices. I emphasize here, knowledge of healing, of hunting and of crop cultivation

Policy must begin with native sovereignty - otherwise policies of IPR will always fail and perpetuate settler colonialism

Daes 04

Professor Dr. Erica-Irene A. Daes, 5-25-2004, "The impact of globalization on Indigenous Intellectual Property and Cultures," No Publication, https://humanrights.gov.au/about/news/speeches/impact-globalization-indigenous-intellectual-property-and-cultures

The Convention on Biological Diversity was a crucial step for the protection of intellectual property. It recognizes the need to "respect, preserve and maintain", the ecological knowledge of Indigenous peoples and local communities, and to ensure that the benefits of commercial applications are shared equitably. The Convention has been almost universally ratified, which enhances its importance as a legal foundation for future elaboration. In this connection, I should like to observe that if the Parties to the Convention and the International Undertaking are seriously concerned for the protection of Indigenous ecological and genetic knowledge, they should reflect carefully on the fate of the model folklore provisions. Let us assume, for 'the sake of argument, that World Intellectual Property Organization , Food and Agriculture Organization and other United Nations agencies eventually succeed in adopting a universal definition on Indigenous knowledge; they agree that states should adopt national laws for the protection of Indigenous knowledge; and confirm that national laws for the sui generis protection of Indigenous knowledge are compatible with the Trade-Related Aspects of Intellectual Property's Agreement (TRIPs Agreement). What would be the consequences for Indigenous peoples? First of all, Indigenous peoples would need to convince their national governments to draft and adopt national legislation. That will take some years; at present, such laws exist (to the best of my knowledge) in Costa Rica, Peru, and the Philippines, although it is gratifying that the Andean Pact countries as a whole are committed to such legislation. But ninety five percent (95%) of the world's Indigenous peoples live in the developing countries, and legislation enacted by these countries is insufficient, by itself, to prevent the piracy of Indigenous knowledge by researchers and corporations in industrialized countries. The real issue is not the problem of defining Indigenous cultural and intellectual property, nor of agreeing that the heritage of Indigenous peoples, should in principle, be protected by law, like other property. The real issue is enforcement, where disputes routinely cross international frontiers, and generally involve parties with vastly different levels of power, information and financial resources. Suppose, for example, that a German University professor obtains sensitive information from an Indigenous healer in Brazil, and subsequently obtains a patent or copyright in Germany. How will Indigenous people in Brazil learn about the infringement? Can they afford to take the necessary legal action in Germany? Can they rely on Brazilian state to represent their interests? And assuming that there is a relevant Brazilian legislation, will German courts enforce it? From a practical viewpoint, these are very serious problems which the international community has failed to address until now. But let me return for a moment to the model folklore provisions. As I indicated a moment ago, the model law regards folklore as state property, not as Indigenous people's property. Not only does it mean that Indigenous peoples must rely on state officials to prevent infringements, and to give them their fair share of any royalties or compensation; it also means that the state determines through legislation, the standards and procedures under which Indigenous peoples may use, learn, and teach their own intellectual heritage. The same state-centered philosophy characterizes the aforesaid Convention on Biological diversity and the proposed revisions of the International Undertaking. In fact, many State parties to the Convention have adopted access and benefit-sharing laws that are very similar to the model folklore provisions, insofar as the State retains the authority to grant research, access, and use licenses affecting Indigenous peoples and their ancestral territories. I find this approach difficult and worrisome. In my humble opinion, efforts by states and intergovernmental bodies to define Indigenous peoples rights and responsibilities in their own heritage are contrary to the principle of Indigenous self-determination.

## Plan

#### The only way to combat the neoliberal policies of the WTO is to surrender to indigenous demands – to embrace indigenous futurity – thus the

#### Plan text: The member nations of the World Trade Organization ought to reduce indigenous intellectual property protections for medicines

#### IPMSDL et all 13

Indigenous Peoples Movement for Self Determination and Liberation (IPMSDL), Asia Pacific Indigenous Youth Network (APIYN), Alyansi Masyarakat Adat Nusantara (AMAN) Barisan Pemuda Adat Nusantara (BPAN), Cordillera Peoples Alliance (CPA), Land is Life Committee for the Protection of Natural Resources-Manipur Center for Research and Advocacy-Manipur Indigenous Environmental Network (IEN), International Organisation for Self-Determination and Equality (IOSDE), Kalipunan ng mga Katutubong Mamamayan ng Pilipinas (KAMP), BAI National Network of Indigenous Women in the Philippines Innabuyog-Gabriela KALUMARAN, Cordillera Women’s Education Action Research Center, 12-9-2013, "The World Trade Organization (WTO) and Indigenous Peoples: Resisting Globalization, Asserting Self-Determination," Indigenous Environmental Network | ienearth.org, https://www.ienearth.org/the-world-trade-organization-wto-and-indigenous-peoples-resisting-globalization-asserting-self-determination/

We demand for the respect of Indigenous Peoples’ collective rights, such as but not limited to their traditional lands, territories, resources, free prior informed consent (FPIC), self-determination, culture and identity, and traditional management systems as enshrined in the UNDRIP and other international standards in negotiations and agreements. All trade agreements on investments, programs and projects affecting our lands, territories, communities, culture and identity without our FPIC must be immediately revoked and cancelled. We demand for the repeal of all trade agreements affecting us without our meaningful, full and effective participation and FPIC. Likewise, we demand for Indigenous Peoples’ full and active participation in decision-making processes and discourses on trade and other matters affecting us at all levels. Our right to FPIC is fundamental, and thus we continue to assert that this must be respected. Nothing About Us, Without Us! We demand for the full recognition of Indigenous Peoples’ inherent and inalienable right to self-determination and permanent sovereignty over our lands, territories, resources, air, ice, oceans, waters, mountains and forests. We demand an end to the militarization of our communities, for States and corporations to be held accountable on human rights violations, and ensured justice to the victims and their families and communities who have experienced such atrocities. Likewise, States should provide concrete support, such as appropriate technologies and funds, to help us develop for ourselves our own self-determined and sustainable development models ad methods. Stop the theft and patenting of our traditional seeds, medicines, traditional knowledge, and our identity. Stop the commodification of our sacred culture for mega-tourism projects and other big businesses.

#### Removing indigenous IPR from the WTO combats settler colonialism – we are not defending these institutions but finding ways to assert indigenous self-governance to bring about the end of neoliberal institutions

#### IPMSDL et all 13

Indigenous Peoples Movement for Self Determination and Liberation (IPMSDL), Asia Pacific Indigenous Youth Network (APIYN), Alyansi Masyarakat Adat Nusantara (AMAN) Barisan Pemuda Adat Nusantara (BPAN), Cordillera Peoples Alliance (CPA), Land is Life Committee for the Protection of Natural Resources-Manipur Center for Research and Advocacy-Manipur Indigenous Environmental Network (IEN), International Organisation for Self-Determination and Equality (IOSDE), Kalipunan ng mga Katutubong Mamamayan ng Pilipinas (KAMP), BAI National Network of Indigenous Women in the Philippines Innabuyog-Gabriela KALUMARAN, Cordillera Women’s Education Action Research Center, 12-9-2013, "The World Trade Organization (WTO) and Indigenous Peoples: Resisting Globalization, Asserting Self-Determination," Indigenous Environmental Network | ienearth.org, https://www.ienearth.org/the-world-trade-organization-wto-and-indigenous-peoples-resisting-globalization-asserting-self-determination/

We push for an alternative trade system appropriate for us. We do not just reject trade per se, but push for trade systems that respect and recognize our traditional economies and governance. We envision systems that promote solidarity, mutual cooperation and respect, based on the needs and development of our communities and empowerment of our people. We demand systems that underpin our inherent right to self-determination and our permanent sovereignty over our traditional lands, territories and resources, forests, water, and everything that sustains life for the future generations. We demand systems that reject, and call for the abolition of, all colonial, unequal, and neocolonial trade agreements such as the WTO and other similar trade agreements. We will continue to strengthen our ranks and further develop and mobilize the capacities of the young generations and women in advancing our struggles against neoliberal globalization and its instruments like the WTO until its removal. We will link our struggles not only with Indigenous Peoples worldwide, but also with other Peoples’ movements, democratic and marginalized sectors and civil society organizations (CSOs) that have common goals and aspirations with that of Indigenous Peoples. We join the worldwide movement to Junk WTO and reject Neoliberal Globalization. We commit to consolidate our efforts to engage the WTO and other multilateral, regional and bilateral trade syndicates/agreements, and we strongly oppose agreements forged without our knowledge, participation, and consent. In our engagement to these trade agreements, we shall bring to the forefront as main points of assertion our inherent right to self-determination, self-determined and sustainable development, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Alta Outcome Document and other declarations on our collective rights as Indigenous Peoples. We shall strive to achieve gains that go beyond the mechanisms and opportunities in the UN, and of the benevolence of States and governments. Like in other international fora, processes and mechanisms, we shall create our own spaces asserting our rights to lands, territories, and self-determination. We must take collective control of our natural resources based on the principles of people’s participation, gender equality, environmental and social justice, self-reliant and sustainable management systems and mindful of the needs of the whole of humanity while maintaining a deep respect, responsibility and recognition of the natural laws of Mother Earth and all creatures within. We must regain sovereignty over our lands and resources from multinational corporations and capitalist countries. We focus on building sustainable communities based on indigenous knowledge and peoples’ development, not on capitalist development. We must strive to promote and assert our sustainable ways of life, social and cultural values for the common good and the whole of society, collective interest over individual, service over profit, respect and care for nature and Mother Earth, including our viable solutions as opposed to false solutions to climate change. While we continue to unite as Indigenous Peoples worldwide, we also uphold the spirit of international solidarity with other sectors, organizations, activists and genuine advocates of our issues. This solidarity advances our global campaign for Indigenous Peoples’ rights to self-determination and liberation. Junk WTO! No New Deals!

#### Policy action within tribal sovereignty and the Interrogation into legal solutions ruptures the intelligibility of settler colonialism and creates meaningful progress

Bhandar 13 [lecturer at Kent Law School and Queen Mary School of Law – her areas of research and teaching include property law, equity and trusts, indigenous land rights, post-colonial and feminist legal theory, multiculturalism and pluralism, critical legal theory, and critical race theory Brenna, “Strategies of Legal Rupture: the politics of judgment” [http://www.forensic-architecture.org/wp-content/uploads/2013/02/BHANDAR-Brenna.-Strategies-of-Legal-Rupture.pdf] // recut SJ AME

In this article, my aim is to consider the use of law as a political strategy of rupture in colonial and post - colonial nation states. The question of whether and how to use law in order to transform and potentially shatter an existing political - legal order is one that continues t o plague legal advocates in a variety of places, from Australia, to India, to Canada to Israel/Palestine. For example, the struggle for the recognition of indigenous rights in the context of colonial settler regimes has often produced pyrrhic victories. 21 T he question of indigenous sovereignty is ultimately quashed, and aboriginal rights are paradoxically recognized as an interest that derives from the prior occupation of the land by aboriginal communities but is at the same time parasitic on underlying Crow n sovereignty; an interest that can be justifiably limited in the interests of settlement. 22 Thus, the primary and inescapable question remains: how does one utilize the law without re - inscribing the **very** colonial legal order that one is attempting to break down? 23 I argue that this is an inescapable dilemma; as critical race theorists and indigenous scholars have shown, to not avail ourselves of the law in an effort to ameliorate social ills, and to promote and protect the rights of oppressed minorities is to essentially abrogate one’s political responsibilities. Moreover, the reality of political struggle (particularly of the anti - colonial variety) is that it is of a diffuse and varied nature, engaging multiple different tactics in order to achieve its ends.¶ The notion of the ruptural defense emerges from the work of Jacques Vergès, a French advocate and subject of a film by Barbet Schroder entitled Terror’s Advocate . The film is as much a portrait of Vergès ’ life as it is a series of vignettes of armed anti - colonial and anti - imperial struggle during the decades between the late 1940s and the 1980s. I should say at the beginning that I do not perceive Vergès as a heroic figure or defender of the oppressed; we can see from his later decisions to defend Klaus Barbie, for instance, that his desire to reveal the violence wrought by European imperial powers was pursued at any cost. But in tracing the development of what Vergès called the ruptural defense, the film takes us to the heart of the inescapable paradoxes and contradictions involved in using law as a means of political resistance in colonial and post - colonial contexts. I want to explore the strategy of rupture as developed by Vergès but also in a broader se nse, to consider whether there is in this defense strategy that arose in colonial, criminal law contexts, something that is generalisable, something that can be drawn out to form a notion of legal rupture more generally.¶ To begin then, an exploration of Vergès’ ‘rupture defense’, or rendered more eloquently, a strategy of rupture. At the beginning of the film, Vergès comments on his strategy for the trial of Djamila Bouhired, a member of the FLN, who was tried in a military court for planting a bomb in a cafe in Algiers in 1956. Vergès states the following in relation to the trial:¶ The problem wasn’t to play for sympathy as left - wing lawyers advised us to do, from the murderous fools who judged us, but to taunt them, to provoke incidents that would reac h people in Paris, London, Brussels and Cairo...¶ The refusal to play for sympathy from those empowered to uphold the law in a colonial legal order hints at the much more profound refusal that lies at the basis of the strategy of rupture, which we see unfold throughout the film. In refusing to accept the characterisation of Djamila’s acts as criminal acts, Vergès challenges the very legal categories that were used to criminalise, condemn and punish anti - colonial resistance. The refusal to make the defendan ts’ actions cognizable to and intelligible within the colonial legal framework breaks the capacity of the judges to adjudicate in at least two senses. First, their moral authority is radically undermined by an outright rejection of the legal terms of refer ence and categories which they are appointed to uphold. The legal strategy of rupture is a politics of refusal that calls into question the justiciability of the purported crime by challenging the moral and political jurisdiction of the colonial legal order itself.¶ Second, the refusal of the legal categorization of the FLN acts of resistance as criminal brought into light the contradictions inherent in the official French position and the reality of the Algerian context. This was not, as the official line would have it, simply a case of French criminal law being applied to French nationals. The repeated assertion that the defendants were independent Algerian actors fighting against colonial brutality, coupled with repeated revelations of the use of torture on political prisoners made it impossible for the contradictions to be “rationally contained” within the normal operations of criminal law. The revelation and denunciation of torture in the courtroom not to prevent statements or admissions from being admissable as evidence (as such violations would normally be used) but to challenge the legitimacy of the imposition of a colonial legal order on the Algerian people made the normal operation of criminal law procedure virtually impossible . 24 And it is in this ma king impossible of the operation of the legal order that the power of the strategy of rupture lies. ¶ In refusing to render his clients’ actions intelligible to a colonial (and later imperial) legal framework, Vergès makes visible the obvious hypocrisy of the colonial legal order that attempts to punish resistance that employs violence, in the same spatial temporal boundaries where the brute violence of colonial rule saturates everyday life. In doing so, this is a strategy that challenges the monopoly of legitimate violence the state holds. Vergès aims to render visible the false distinction between common crimes and political crimes, or more broadly, the separation of law and politics. 25 The ruptured defense seeks to subvert the order and structure of the tr ial by re - defining the relation between accuser and accused. This illumination of the hypocrisy of the colonial state questions the authority of its judiciary to adjudicate. But more than this, his strategy is rupture in two senses that are fundamental to the operation of the law in the colonial settler and post - colonial contexts. The first is that the space of opposition within the legal confrontation is reconfigured. The second, and related point, is that the strictures of a legal politics of recognition are shattered.¶ In relation to the first point, a space of opposition is, in the view of Fanon, missing in certain senses, in the colonial context. A space of opposition in which a genuinely mutual struggle between colonizer and colonized can occur is denied by spatial and legal - political strategies of containment and segregation. While these strategies also exhibit great degree es of plasticity 26 , the control over such mobility remains to a great degree in the hands of the colonial occupier. The legal strategy of rupture creates a space of political opposition in the courtroom that cannot be absorbed or appropriated by the legal order. In Christodoulidis’ view, this lack of co - option is the crux of the strategy of rupture.¶ This strategy of rupture also points to a path that challenges the limits of a politics of recognition, often one of the key legal and political strategies utilized by indigenous and racial minority communities in their struggles for justice. Claims for recognition in a juridical frame inevitably involve a variety of onto - epistemological closures. 27 Whether because of the impossible and irreconcilable relation between the need for universal norms and laws and the specificities of the particular claims that come before the law, or because of the need to fit one’s claims within legal - political categories that are already intelligible within the legal order, legal recognition has been critiqued, particularly in regards to colonial settler societies, on the basis that it only allows identities, legal claims, ways of being that are always - already proper to the existing juridical order to be recognized by the law. In the Canadian context, for instance, many scholars have elucidated the ways in which the legal doctrine of aboriginal title to land im ports Anglo - American concepts of ownership into the heart of its definition; and moreover, defines aboriginality on the basis of a fixed, static concept of cultural difference. The strategy of rupture elides the violence of recognition by challenging the legitimacy of the colonial legal order itself.¶ In an article discussing Vergès’ strategy of rupture, Emilios Christodoulidis takes up a question posed to Vergès by Foucault shortly after the publication of Vergès’ book, De La Stratégie Judiciare, as to wh ether the defense of rupture in the context of criminal law trials in the colony could be generalized more widely, or whether it was “not in fact caught up in a specific historical conjuncture.” 28 In exploring how the strategy of rupture could inform practices and theory outside of the courtroom, Christodoulidis characterizes the strategy of rupture as one mode of immanent critique. As individuals and communities subjected to the force of law, the law itself becomes the object of critique, the object that ne eds to be taken apart in order to expose its violence. To quote from Christodoulidis:¶ Immanent critique aims to generate within these institutional frameworks contradictions that are inevitable (they can neither be displaced nor ignored), compelling (they necessitate action) and transformative in that (unlike internal critique) the overcoming of the contradiction does not restore, but transcends, the ‘disturbed’ framework within which it arose. It pushes it to go beyond its confines and in the process, famously in Marx’s words, ‘enables the world to clarify its consciousness in waking it from its dream about itself’. 29¶ Christodoulidis explores how the strategy of rupture can be utilised as an intellectual resource for critical legal theory and more broadly, as a point of departure for political strategies that could cause a crisis for globalized capital. Strategies of rupture are particularly crucial when considering a system, he notes, that has been so successful at appropriating, ingesting and making its own, political aspirations (such as freedom, to take one example) that have also been used to disrupt its most violent and exploitative tendencies. Here Christodoulidis departs from the question of colonialism to focus on the operation of capitalism in po st - war European states. It is also this bifurcation that I want to question, and rather than a distinction between colonialism and capitalism, to consider how the colonial (as a set of economic and political relations that rely on ideologies of racial diff erence, and civilizational discourses that emerged during the period of European colonialism) is continually re - written and re - instantiated through a globalized capitalism. As I elaborate in the discussion of the Salwa Judum judgment below, it is the combi nation of violent state repression of political dissent that finds its origins (in the legal form it takes) during the colonial era, and capitalist development imperatives that implicate local and global mining corporations in the dispossession of tribal peoples that constitutes the legal - political conflict at issue.¶ After the Trial: From Defense to Judgment¶ In response to a question from Jean Lapeyrie (a member o f the Action Committee for Prison - Justice) during a discussion of De La Stratégie Judiciare published as the Preface to the second edition, Vergès remarks that there are actually effective judges, but that they are effective when forgetting the essence of what it is to be a judge. 31 The strategy of rupture is a tactic utilized to subvert the order and structure of a trial; to re - define the very terms upon which the trial is premised. On this view, the judge, charged with the obligation to uphold the rule o f law is of course by definition not able to do anything but sustain an unjust political order.¶ In the film Terror’s Advocate , one is left to wonder about the specificities of the judicial responses to the strategy deployed by Vergès. (Djamila Bouhired , for instance, was sentenced to death, but as a result of a worldwide media campaign was released from prison in 1962). While I would argue that the judicial response is clearly not what is at stake in the ruptured defense, I want to consider the potentiality of the judgment to be ruptured in the sense articulate ed by Christodoulidis, discussed above. Exposing a law to its own contradictions and violence, revealing the ways in which a law or policy contradicts and violates rights to basic political freedoms , has clear political - legal effects