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#### Settler colonialism is a permeating structure that operates via the promotion of the nation-state – it thrives off of the elimination of indigenous people and their relationship to land – that appropriation turns them into ghosts

Tuck and Yang 12 (Eve Tuck and Wayne Yang; 2012; Decolonization: Indigeneity, Education & Society Vol. 1, No. 1, 2012, pp. 1-40; *“Decolonization is not a metaphor”*; accessed 12/7/21; <https://clas.osu.edu/sites/clas.osu.edu/files/Tuck%20and%20Yang%202012%20Decolonization%20is%20not%20a%20metaphor.pdf>; Eve Tuck is a Unangax̂ scholar in the field of Indigenous studies and educational research. Tuck is the associate professor of critical race and indigenous studies at the Ontario Institute for Studies in Education at the University of Toronto; K. Wayne Yang is Provost of John Muir College and Professor of Ethnic Studies at the University of California, San Diego; pages 5-7) HB \*brackets in original\* \*They use masculine pronouns to describe the settler not through direct association of the settler as a man but rather a dominating subject characterized as hypermasculine\*

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. Settlers are not immigrants. Immigrants are beholden to the Indigenous laws and epistemologies of the lands they migrate to. Settlers become the law, supplanting Indigenous laws and epistemologies. Therefore, settler nations are not immigrant nations (See also A.J. Barker, 2009). Not unique, the United States, as a settler colonial nation-state, also operates as an empire - utilizing external forms and internal forms of colonization simultaneous to the settler colonial project. This means, and this is perplexing to some, that dispossessed people are brought onto seized Indigenous land through other colonial projects. Other colonial projects include enslavement, as discussed, but also military recruitment, low-wage and high-wage labor recruitment (such as agricultural workers and overseas-trained engineers), and displacement/migration (such as the coerced immigration from nations torn by U.S. wars or devastated by U.S. economic policy). In this set of settler colonial relations, colonial subjects who are displaced by external colonialism, as well as racialized and minoritized by internal colonialism, still occupy and settle stolen Indigenous land. Settlers are diverse, not just of white European descent, and include people of color, even from other colonial contexts. This tightly wound set of conditions and racialized, globalized relations exponentially complicates what is meant by decolonization, and by solidarity, against settler colonial forces. Decolonization in exploitative colonial situations could involve the seizing of imperial wealth by the postcolonial subject. In settler colonial situations, seizing imperial wealth is inextricably tied to settlement and re-invasion. Likewise, the promise of integration and civil rights is predicated on securing a share of a settler-appropriated wealth (as well as expropriated ‘third-world’ wealth). Decolonization in a settler context is fraught because empire, settlement, and internal colony have no spatial separation. Each of these features of settler colonialism in the US context - empire, settlement, and internal colony - make it a site of contradictory decolonial desires7 . Decolonization as metaphor allows people to equivocate these contradictory decolonial desires because it turns decolonization into an empty signifier to be filled by any track towards liberation. In reality, the tracks walk all over land/people in settler contexts. Though the details are not fixed or agreed upon, in our view, decolonization in the settler colonial context must involve the repatriation of land simultaneous to the recognition of how land and relations to land have always already been differently understood and enacted; that is, all of the land, and not just symbolically. This is precisely why decolonization is necessarily unsettling, especially across lines of solidarity. “Decolonization never takes place unnoticed” (Fanon, 1963, p. 36). Settler colonialism and its decolonization implicates and unsettles everyone

#### Journalistic objectivity relies on the narrative of a “view from nowhere” which papers over individuals material connection – that enables the continuance of false narratives that upholds a history of erasure

Brake 21 (Justin Brake; 7/5/21; Briarpatch Magazine; *“Built on a foundation of white supremacy”*; accessed 3/4/22; <https://briarpatchmagazine.com/articles/view/built-on-a-foundation-of-white-supremacy>; Justin Brake is an independent journalist from Ktaqmkuk (Newfoundland) who presently lives and works in unceded Algonquin territory. A settler with Mi’kmaq ancestry, much of Justin’s work focuses on Indigenous rights and liberation. He is a writer and editor with the Breach and a regular contributor to the Independent) HB \*Brackets in original\*

The criminalization of Indigenous land defence – and of the journalism that reported on it – forced me and the land protectors through years of court hearings. In the end, the dam was built and Innu and Inuit living downstream now suffer the consequences of the violence inflicted upon their river and their ways of life. Some talked about the occupation’s silver linings: Innu, Inuit, and settler Labradorians “know now that they need to stick together to be heard and to be strong,” Innu land defender David Nuke told APTN in 2018. A 2019 decision from the Court of Appeal of Newfoundland and Labrador in my case recognized the special role journalists play when they cover Indigenous land defence. When granting an injunction, the judges wrote, courts must be careful not to infringe on Canadians’ constitutionally protected right to a free press. But in the years since 2016, as I’ve watched media coverage of Wet’suwet’en, Haudenosaunee, and Secwepemc land defence, I’m not sure a lack of press freedom is the main issue hindering good reporting on Indigenous resistance. As the reckoning with racism in Canadian newsrooms over the last year shows us, when the journalism industry is built on a foundation of white supremacy, publications and reporters become unwilling – maybe even unable – to acknowledge their biases and the ways their work upholds colonialism. Objectivity and settler colonialism “Watch your language.” That was the warning, written into an op-ed title, given by a daily newspaper columnist who took issue with my and other journalists’ use of the term “land protector” in our coverage of the Muskrat Falls resistance. “Reporters should avoid such language, laden as it is with inherent subjectivity,” the columnist went on. “[T]he last thing any journalist wants is to fuel those who are perpetually coiled and ready to yell ‘Media bias!’” The debate over the utility and legitimacy of objectivity in journalism is almost as old as the ideal itself. Objectivity “hinges on a more fundamental belief that there is a knowable world, a way of seeing that, once we set aside our own subjectivities, can be universally achieved or at least universally agreed upon,” journalist Lewis Raven Wallace writes in The View From Somewhere. Defenders of objectivity, like The Elements of Journalism authors Bill Kovach and Tom Rosenstiel, argue that “[o]bjectivity was not meant to suggest that journalists were without bias. To the contrary, precisely because journalists could never be objective, their methods had to be. In the recognition that everyone is biased, in other words, the news, like science, should flow from a process for reporting that is defensible, rigorous, and transparent.” But too often, objectivity is conflated with the views of those in positions of power. In Seeing Red: A History of Natives in Canadian Newspapers, Mark Cronlund Anderson and Carmen L. Robertson detail how, over the course of this country’s short history, Canadian newspapers have supported and advanced settler colonialism. Under the guise of “objective” reporting, journalists have consistently othered and stereotyped Indigenous Peoples, misrepresented them, and outright erased their histories and cultures. “The colonial stereotypes have endured in the press, even flourished,” the authors noted a decade ago. “That the prose may have become less ‘blatant’ however suggests that the audience has become more familiar with the genre conventions of colonial discourse. To put it another way: the nation has been built.” Robert Ballantyne, a Cree-Mohawk grad student at Carleton University and former CBC and Toronto Star journalist, is researching anti-colonial reporting methods. He says objectivity “makes it difficult for journalists to confront their own work, as if they are somehow capable of transcending their own backgrounds, biases, and communities.” Armed with what Ballantyne calls a perceived “superpower of fairness,” journalists’ indoctrination in objectivity “can create an almost impossible situation to have difficult conversations and create change if someone believes they are beyond reproach.” Tałtan journalist Candis Callison and her colleague Mary Lynn Young argue in their book Reckoning: Journalism’s Limits and Possibilities that “what journalists think happened is deeply related to who they are and where they’re coming from in broad and specific senses – and that there are multiple truths and perspectives that contribute to understanding what ‘really’ happened,” they write. Instead of pretending to be objective, they suggest journalists could be transparent about who they are and where they come from. “Recognizing individual and collective social and historical location needs to become part of the methodology for journalists in order to situate themselves, their knowledge, and expertise within a wider web of relations and entanglements.” The land and the economy Though non-Indigenous journalists benefit from colonization by living on stolen lands and reaping the benefits of Canada’s economy, we rarely – if ever – hear about land as anything but a resource to exploit. Within settler colonialism, Eve Tuck and K. Wayne Yang write, “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.” “There are dominant narratives” in journalism, explains IndigiNews managing editor Emilee Gilpin, a Michif journalist of Cree-Métis, Filipina, and settler descent. Gilpin previously worked as the National Observer’s lead on its First Nations Forward series and is committed to decolonizing journalism and the media. She points to Canada’s economy as an example of a dominant narrative and notes few journalists ever question its nature or legitimacy when reporting on Indigenous land defence. Everything journalists report is in relation to the economy, she says, “as if that’s just the assumed reality, as if that’s the world view that we’re all working from.” In a 2020 interview for TVO, Seeing Red author Carmen Robertson told Kanyen’kehá:ka journalist Shelby Lisk that while some journalists have improved their coverage of Indigenous land defence, there remains a “disconnect [between] what land means from a settler perspective — a possession, a way to improve economics in this country — and then the notion of land as something other than that, which is a relational or kinship tie, which many Canadians, for the most part, just can’t even fathom.” As a result of that disconnect, Robertson says, “we see those stereotypes bubble through, because the fact that they’re ‘stopping progress,’ they’re stopping the economy, that doesn’t play well [with Canadians].” Countering extractive journalism When Ukwehu:we journalist Karl Dockstader embedded with Haudenosaunee land defenders at Six Nations of the Grand River last summer, he didn’t fully appreciate the significance of what he was doing. “I’ve always seen myself as an outsider when it comes to journalism, and I never realized what an asset that was until I set up a tent at 1492 Land Back Lane,” he says, recalling the early days of the land reclamation in opposition to the construction of a new housing development on the outskirts of Caledonia, Ontario. Dockstader and Sean Vanderklis, who co-host One Dish, One Mic on Niagara radio station Newstalk 610 CKTB, took a different approach to their reporting. “We believed we had a responsibility to follow traditional protocol before inviting land defenders on to the radio,” Dockstader says. As Indigenous journalists, he and Vanderklis are accountable to the communities they cover, Dockstader explains, which involves developing relationships and earning trust. When the pair visited the site, they played “LaGolf” – a lacrosse-golf hybrid game – with land defenders. “I sat around the fire, I jammed out a couple horn rattle tunes and water drum, traditional songs, with one of the singers there. And we just got to know the camp,” Dockstader recalls. The pair’s newsgathering and reporting methodologies stand in stark contrast to how most journalists do their work. “The extractive approach to journalism treats facts like coal in a mine, using sources and places the way mining companies use land – as a resource to dig into, and then leave behind,” writes Wallace in The View From Somewhere. Extractive journalism “goes hand in hand with ‘objectivity’: the outside observer objectifies the people and places the stories are about, who become ‘sources’ rather than human beings.” Courtney Skye, who is Mohawk Turtle Clan from Six Nations and a researcher, policy analyst, and consultant, has supported 1492 Land Back Lane’s efforts. She praises Dockstader and Vanderklis’ approach to covering the land defence. “They did a really professional job of reminding people of their role and their work, but at the same time they are Indigenous reporters,” she says, pointing out that the Oneida Nation, of which Dockstader is a citizen, is one of the six that comprise Six Nations of the Grand River. “When you are in your home territory and you have familial connections and responsibilities to people, and you understand what those are – our laws, our ways of being should mean more and should supersede the expectations of colonial professionalism,” she says. For his work, Dockstader was charged with mischief and failure to comply with a court injunction that was intended to get land defenders off the construction site. The Canadian Association of Journalists and Canadian Journalists for Free Expression immediately condemned, “in the strongest possible terms, the Ontario Provincial Police’s decision to arrest and lay charges against an award-winning Indigenous journalist.” Three and a half months later, the Crown withdrew the charges, saying there was no reasonable prospect of conviction. In its 2021 World Press Freedom Index report, Reporters Without Borders noted the ongoing criminalization of journalists who cover Indigenous land defence in its critique of Canada’s track record on press freedom. Making power visible Journalists covering land defence stories often report on “divisions” within communities as a way to represent the diverse ideas and perspectives Indigenous people have on issues like resource development, land stewardship, and protection of collective rights. But without historical context and an eye to power, journalists often end up supporting colonial power structures, says Hayden King, who is Anishinaabe from Beausoleil First Nation and the executive director of the Yellowhead Institute, an Indigenous-led research centre at Ryerson University. “This whole notion of factionalism can be its own narrative trope,” he explains. “If reporters had the tools to critically assess who will benefit from the story [they’re] telling, it might offer some correctives to how that story is told.” Six Nations’ most recent chief and council – elected by less than 10 per cent of eligible voters – signed an accommodations agreement with the housing developer in 2019. However, the Haudenosaunee Confederacy Chiefs Council, which represents Six Nations’ traditional governance system, has never consented to the development and has publicly supported 1492 Land Back Lane. Skye says it’s crucial that journalists reporting on the land reclamation recognize the ways colonialism has disrupted Haudenosaunee decision-making processes. “Through the imposition of the Indian Act, certain people have been elevated into positions of power, [into] systems of hierarchies,” she explains. “It’s one of the ways that colonialism continues to hold Indigenous people back.” People often respond to colonial oppression by conforming to the system in order to access power, Skye says. “A lot of people see that as a way to our safety, a way to our success, and I try to always remember that and not to hold a person personally responsible for it. But you have to have that simultaneous contextualization of where people sit and the kind of access to powers that they have, which ultimately informs their opinions and their positions.” For Wallace, simply incorporating different perspectives into a story isn’t good enough. “We don’t need more ‘both sides’ reporting as a matter of course. We need a reckoning with the cultural forces of white supremacy and patriarchy themselves – these animating fantasies of superiority,” they write. “That requires a new framework for journalism – one that doesn’t shy away from analyzing and naming power and oppression.”

#### The 1AC’s universal basis for ethics cedes the human to the racialized figure of Man – that naturalizes the sociogenic processes of colonial violence as beyond the reach of the human while policing Man’s limit at the color line --- the category of the human is inaccessible to humanity --- the attempt to create a universal mode of ethics omits indigenous communities

Weheliye ’14 [Alexander, Northwestern University. 2014. “Habeus Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human”.] pat – dm/email me for PDF

Wynter’s large-scale intellectual project, which she has been pursuing in one form or another for the last thirty years, disentangles Man from the human in order to use the space of subjects placed beyond the grasp of this domain as a vital point from which to invent hitherto unavailable genres of the human. According to this scheme in western modernity the religious conception of the self gave way to two modes of secularized being: first, the Cartesian “Rational Man,” or homo politicus, and then beginning at the end of the eighteenth century, “Man as a selected being and natural organism . . . as the universal human, ‘man as man.’” The move from a supernatural conception of world and the self ’s place within this cosmos, however, does not signal the supersession of a primitive axiomatic with an enlightened and rarefied type of the human. Rather, one genre of the human (Judeo-Christian, religious) yields to another, just as provincial, version of the human, and, although both claim universality, neither genre fully represents the multiplicity of human life forms. In the context of the secular human, black subjects, along with indigenous populations, the colonized, the insane, the poor, the disabled, and so on serve as limit cases by which Man can demarcate himself as the universal human. Thus, race, rather than representing accessory, comes to define the very essence of the modern human as “the code through which one not simply knows what human being is, but experiences being.” Accordingly, race makes its mark in the dominion of the ideological and physiological, or rather race scripts the elision of the former with the latter in the flesh.

In her latest writings, Wynter identifies homo politicus’s successor in the long road from “theodicy” to “biodicy” as the liberal “bio-economic man.” The idea of “bio-economic man” marks the assumed naturalness that positions economic inequities, white supremacy, genocide, economic exploitation, gendered subjugation, colonialism, “natural selection,” and concepts such as the free market not in the realm of divine design, as in previous religious orders of things, but beyond the reach of human intervention all the same. In both cases, this ensures that a particular humanly devised model of humanity remains isomorphic with the Homo sapiens species. Wynter’s approach differs markedly from arguments that seek to include the oppressed within the already existing strictures of liberal humanism or, conversely, abolish humanism because of its racio-colonial baggage; instead Wynter views black studies and minority discourse as liminal spaces, simultaneously ensconced in and outside the world of Man, from which to construct new objects of knowledge and launch the reinvention of the human at the juncture of the culture and biology feedback loop.

Even though the genre of the human we currently inhabit in the west is intimately tied to the somatic order of things, for Wynter, the human cannot be understood in purely biological terms, whether this applies to the history of an individual organism (ontogenesis) or the development at the level of a species (phylogeny). This is where Fanon’s important concept of sociogeny comes into play, offering Wynter an approach of thinking of the human — the “science in the social text,” to echo Spillers’s phrase — where culture and biology are not only not opposed to each other but in which their chemistry discharges mutually beneficial insights. In this scenario, a symbolic register, consisting of discourse, language, culture, and so on (sociogeny) always already accompanies the genetic dimension of human action (ontogeny), and it is only in the imbrication of these two registers that we can understand the full scope of our being-in-the-world. Fanon’s concept of sociogeny, arising from the inadequacy of traditional psychoanalytic models in the analysis of racialized colonialism, builds on Freud’s appropriation of recapitulation theory. Thus, according to Fanon, Freud breaks with the strict codes of Darwinism and social Darwinism (phylogenetic theory) in order to analyze the psyche of the modern individualized subject from an ontogenetic vantage point. While the ontogenetic technique yields, depending on your general sympathy for the now very antiquated protocols of Freudian psychoanalysis, abundant results when evaluating white subjects ensconced in the liberal nuclear family, it encounters a roadblock when transplanted to the colonial settlement, which is why “the alienation of the black man is not an individual question. Alongside phylogeny and ontogeny, there is also sociogeny. . . . Society, unlike biochemical processes, does not escape human influence. Man is what brings society into being.” Why does the colonial situation specifically necessitate a reformulation of Freud’s and Darwinism’s procedural frame of reference?

Since colonial policies and discourse are frequently grounded in racial distinctions, the colonized subject cannot experience her or his nonbeing outside the particular ideology of western Man as synonymous with human, or, as Fanon writes, “not only must the black man be black; he must be black in relation to the white man.” The colonial encounter determines not just the black colonial subject’s familial structure or social and physical mobility and such, but colors his or her [their] very being as he-or-she-which-is-not-quite-human, as always already tardy in the rigged match of the survival of the fittest. Conversely, in this ontological face-off, the white colonial subject encounters herself or himself as the “fullness and genericity of being human.” However, he or she only does so in relation to the deficiency of the black subject and indigenous (Wynter, 40). To be precise, Fanon and Wynter locate racializing assemblages in the domain of being rather than the realm of epiphenomena, showing how humans create race for the benefit of some and the detriment of other humans. Yet because race is thought to rest in biology, it necessitates different analytic protocols than bare life and biopolitics, namely ones that draw on both ontogeny and sociogeny.

Whereas Fanon’s mobilization of ontogeny remains rooted in the Freudian paradigm as pertaining to the individual subject, Wynter summons the explanatory apparatus of neurobiology to elucidate how racialization, despite its origins in sociogeny, is converted to the stuff of ontogenesis; this is what Wynter refers to as “sociogenetic.” Although human life has a biochemical core defined by a species-specific adaptive reward and punishment mechanism (poison = bad and food = good) that “determines the way in which each organism will perceive, classify, and categorize the world,” it is “only through the mediation of the organism’s experience of what feels good to the organism and what feels bad to it, and thereby of what it feels like to be that organism” that a repertoire of behaviors, which ensure the continued existence of the species, develops (Wynter, 50). For the human species, because it is defined by both organic and symbolic registers, this is complicated by the way culturally specific sociogenic principles such as what is good or bad work to trigger neurochemical reward and punishment processes, in the process “institut[ing] the human subject as a culture-specific and thereby verbally defined, if physiologically implemented, mode of being and sense of self. One, therefore, whose phenomenology . . . is as objectively, constructed as its physiology” (Wynter, 54). Phenomenological perception must consequently don the extravagant drag of physiology in order to “turn theory into flesh, . . . [into] codings in the nervous system,” so as to signal the extrahuman instantiation of humanity.

Wynter’s description of the autopoiesis of the human stretches Fanon’s concept of sociogeny by grounding it in an, albeit false or artificial, physiological reality. In other words, Wynter summons neurobiology not in order to take refuge in a prelapsarian field anterior to the registers of culture and ideology, but to provide a transdisciplinary global approach to the study of human life that explains how sociogenic phenomena, particularly race, become anchored in the ontogenic flesh. Also, in contrast to treatments of racialization more squarely articulated from the disciplinary perspective of sociobiology, Wynter does not focus on the origins and adaptive evolution of race itself but rather on how sociogenic principles are anchored in the human neurochemical system, thus counteracting sociobiological explanations of race, which retrospectively project racial categories onto an evolutionary screen. That is to say, Wynter interrogates the ontogenic functioning of race — the ways it serves as a physiologically resonant nominal and conceptual pseudonym for the specific genre of the human: Man — and not its role in human phylogeny.

Consequently, racialization figures as a master code within the genre of the human represented by western Man, because its law-like operations are yoked to species-sustaining physiological mechanisms in the form of a global color line — instituted by cultural laws so as to register in human neural networks — that clearly distinguishes the good/life/fully-human from the bad/death/not-quite-human. This, in turn, authorizes the conflation of racialization with mere biological life, which, on the one hand, enables white subjects to “see” themselves as transcending racialization due to their full embodiment of this particular genre of the human while responding antipathetically to nonwhite subjects as bearers of ontological cum biological lack, and, on the other hand, in those subjects on the other side of the color line, it creates sociogenically instituted physiological reactions against their own existence and reality. Since the being of nonwhite subjects has been coded by the cultural laws in the world of Man as pure negativity, their subjectivity impresses punishment on the neurochemical reward system of all humans, or in the words of Frantz Fanon: “My body was returned to me spread-eagled, disjointed, redone, draped in mourning on this white winter’s day. The Negro is an animal, the Negro is bad, the Negro is wicked, the Negro is ugly.” Political violence plays a crucial part in the baroque techniques of modern humanity, since it simultaneously serves to create not-quite-humans in specific acts of violence and supplies the symbolic source material for racialization.

#### The alternative is a refusal of the affirmative – an engagement in the process of decentering settler subjectivities and injecting indigenous knowledge – in this project, refusal constitutes a multi-faceted method towards decolonization

Grande 18 (Sandy Grande; 2018; Routledge Publishing; *“Refusing the University,”* a chapter in the series of essays *“Toward What Justice?: Describing Diverse Dreams of Justice in Education”*; accessed 12/22/21; ask me for the pdf; Sandy Grande is associate professor and Chair of the Education Department at Connecticut College. Her research interfaces critical Indigenous theories with the concerns of education; 58-62) HB

Taking into account the power relations of both capitalism and white supremacy, Indigenous scholars posit refusal as a positive stance that is: less oriented around attaining an affirmative form of recognition… and more about critically revaluating, reconstructing and redeploying culture and tradition in ways that seek to prefigure… a radical alternative to the structural and psycho-affective facets of colonial domination. (Coulthard, 2007, p. 456) In this way, Indigenous refusal both negatively rejects the (false) promise of inclusion and other inducements of the settler state and positively asserts Indigenous sovereignty and peoplehood. In Mohawk Interruptus (2014), Audra Simpson theorizes refusal as distinct from resistance in that it does not take authority as a given. More specifically, at the heart of the text, she theorizes refusal at the “level of method and representation,” exposing the colonialist underpinnings of the “demand to know” as a settler logic. In response, she develops the notion of ethnographic refusal as a stance or space for Indigenous subjects to limit access to what is knowable and to being known, articulating how refusal works “in everyday encounters to enunciate repeatedly to ourselves and to outsiders that ‘this is who we are, this is who you are, these are my rights’” (Simpson, 2007, p. 73). Mignolo (2011) and Quijano (1991) similarly take up refusal in relation to knowledge formation, asserting Indigenous knowledge itself as a form of refusal; a space of epistemic disobedience that is “delinked” from Western, liberal, capitalist understandings of knowledge as production. Gómez-Barris (2012) theorizes the Mapuche hunger strikes as “an extreme bodily performance and political instantiation” of refusal, an act wherein their starving bodies upon the land literally enact what it means to live in a state of permanent war (p. 120). Understood as expressions of sovereignty, such acts of refusal threaten the settler state, carrying dire if not deadly consequences for Indigenous subjects. As noted by Ferguson (2015), “capitalist settler states prefer resistance” because it can be “negotiated or recognized,” but refusal “throws into doubt” the entire system and is therefore more dangerous. While within the university the consequences of academic refusal are much less dire, they still carry a risk. To refuse inclusion offends institutional authorities offering “the gift” of belonging, creating conditions of precarity for the refuser. For example, refusal to participate in the politics of respectability that characterizes institutional governance can result in social isolation, administrative retribution, and struggles with self-worth. Similarly, the refusal to comply with the normative structures of tenure and promotion (e.g., emphasizing quantity over quality; publishing in “mainstream” journals) can and does lead to increased marginalization, exploitation, and job loss.16 And, in a system where Indigenous scholars comprise less than 1% of the professorate, such consequences not only bear hardships for individuals but also whole communities. That said, academic “rewards” and inducements accessed through recognition-based politics can have even deeper consequences. As Jodi Byrd (2011) reminds us, the colonization of Indigenous lands, bodies, and minds will not be ended by “further inclusion or more participation” (Byrd, 2011, p. xxvi). The inspirational work of Black radical and Indigenous scholars compels thinking beyond the limits of academic recognition and about the generative spaces of refusal that not only reject settler logics but also foster possibilities of co-resistance. The prospect of coalition re-raises one of the initial animating questions of this chapter: What kinds of solidarities can be developed among peoples with a shared commitment to working beyond the imperatives of capital and the settler state? Clearly, despite the ubiquitous and often overly facile calls for solidarity, building effective coalitions is deeply challenging, even among insurgent scholars. Within this particular context, tensions between Indigenous sovereignty and decolonial projects and anti-racist, social justice projects, raise a series of suspicions: whether calls for Indigenous sovereignty somehow elide the a priori condition of blackness (the “unsovereign” subject),17 whether anti-racist struggles sufficiently account for Indigenous sovereignty as a land-based struggle elucidated outside regimes of property, and whether theorizations of settler colonialism sufficiently account for the forces and structures of white supremacy, racial slavery, and antiblackness. Rather than posit such tensions as terminally incommensurable, however, I want to suggest a parallel politics of dialectical co-resistance. When Black peoples can still be killed but not murdered; when Indians are still made to disappear; when (Indigenous) land and Black bodies are still destroyed and accumulated for settler profit; it is incumbent upon all those who claim a commitment to refusing the white supremacist, capitalist, settler state, to do the hard work of building “interconnected movements for decolonization” (Coulthard, 2014). The struggle is real. It is both material and psychological, both method and politics, and thus must necessarily straddle the both/and (as opposed to either/or) coordinates of revolutionary change. In terms of process, this means working simultaneously beyond resistance and through the enactment of refusal—as fugitive, abolitionist, and Indigenous, sovereign subjects. Within the context of the university, this means replacing calls for more inclusive and diverse, safe spaces within the university with the development of a network of sovereign, safe houses outside the university. Kelley reminds us of the long history of this struggle, recalling the Institute of the Black World at Atlanta University (1969), the Mississippi Freedom Schools, and the work of Black feminists Patricia Robinson, Donna Middleton, and Patricia Haden as inspirational models. As a contemporary model, he references Harney and Moten’s vision of the undercommons as a space of possibility: a fugitive space wherein the pursuit of knowledge is not perceived as a path toward upward mobility and material wealth but rather as a means toward eradicating oppression in all of its forms (Undercommoning Collective). The ultimate goal, according to Kelley (2016), is to create in the present a future that overthrows the logic of neoliberalism. Scholars within Native studies similarly build upon a long tradition of refusing the university, theorizing from and about sovereignty through land-based models of education. Whereas a fugitive flees and seeks to escape, the Indigenous stands ground or, as Deborah Bird points out, “to get in the way of settler colonization, all the native has to do is stay at home” (as cited in Wolfe, 2006, p. 388). The ultimate goal of Indigenous refusal is Indigenous resurgence; a struggle that includes but is not limited to the return of Indigenous land. Again, while the aims may be different (and in some sense competing), efforts toward the development of parallel projects of co-resistance are possible through vigilant and sustained engagement. The “common ground” here is not necessarily literal but rather conceptual, a corpus of shared ethics and analytics: anti-capitalist, feminist, anti-colonial. Rather than allies, we are accomplices—plotting the death but not murder of the settler university. Toward this end, I offer some additional strategies for refusing the university: First and foremost, we need to commit to collectivity—to staging a refusal of the individualist promise project of the settler state and its attendant institutions. This requires that we engage in a radical and ongoing reflexivity about who we are and how we situate ourselves in the world. This includes but is not limited to a refusal of the cycle of individualized inducements—particularly, the awards, appointments, and grants that require complicity or allegiance to institutions that continue to oppress and dispossess. It is also a call to refuse the perceived imperative to self-promote, to brand one’s work and body. This includes all the personal webpages, incessant Facebook updates, and Twitter feeds featuring our latest accomplishments, publications, grants, rewards, etc. etc. Just. Make. It. Stop. The journey is not about self—which means it is not about promotion and tenure—it is about the disruption and dismantling of those structures and processes that create hierarchies of individual worth and labor. Second, we must commit to reciprocity—the kind that is primarily about being answerable to those communities we claim as our own and those we claim to serve. It is about being answerable to each other and our work. One of the many things lost to the pressures of the publish-or-perish, quantity-over-quality neoliberal regime is the loss of good critique. We have come to confuse support with sycophantic praise and critical evaluation with personal injury. Through the ethic of reciprocity, we need to remind ourselves that accountability to the collective requires a commitment to engage, extend, trouble, speak back to, and intensify our words and deeds. Third, we need to commit to mutuality, which implies reciprocity but is ultimately more encompassing. It is about the development of social relations not contingent upon the imperatives of capital—that refuses exploitation at the same time as it radically asserts connection, particularly to land. Inherent to a land-based ethic is a commitment to slowness and to the arc of inter-generational resurgence and transformation. One of the many ways that the academy recapitulates colonial logics is through the overvaluing of fast, new, young, and individualist voices and the undervaluing of slow, elder, and collective ones. And in such a system, relations and paradigms of connection, mutuality, and collectivity are inevitably undermined. For Indigenous peoples, such begin and end with land, centering questions of what it means to be a good relative. Toward this end, I have been thinking a lot lately about the formation of a new scholarly collective, one that writes and researches under a nom de guerre—like the Black feminist scholars and activists who wrote under and through the Combahee River Collective or the more recent collective of scholars and activists publishing as “the uncertain commons.”18 If furthering the aims of insurgence and resurgence (and not individual recognition) is what we hold paramount, then perhaps one of the most radical refusals we can authorize is to work together as one; to enact a kind of Zapatismo scholarship and a balaclava politics where the work of the collectivity is intentionally structured to obscure and transcend the single voice, body, and life. Together we could write in refusal of liberal, essentialist forms of identity politics, of individualist inducements, of capitalist imperatives, and other productivist logics of accumulation. This is what love as refusal looks like. It is the un-demand, the un-desire to be either of or in the university. It is the radical assertion to be on: land. Decolonial love is land.

#### The role of the ballot should be to center indigenous scholarship – any project of research should begin and end with placing the indigenous demands and resistance at it’s forefront. Our role as settlers specifically obligates us to center our politics in the context of ensuring accountability

Carlson 16 (Elizabeth Carlson; 10/21/16; Settler Colonial Studies; *“Anti-colonial methodologies and practices for settler colonial studies”*; accessed 12/28/21; ask me for the pdf; Elizabeth Carlson is an Assistant Professor at the School of Social Work at Laurentian University; pages 9-10) HB

Relational and epistemic accountability to Indigenous peoples 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 peoples, and take as its norm making this dialogue evident. In my view, it is critical that we not view settler colonial studies as a new or unique field being established, which would enact a discovery narrative and contribute to Indigenous erasure, but rather take a longer and broader view. Indigenous oral and academic scholars are indeed the originators of this work. This space is not empty. Of course, powerful forces of socialization and discipline impact scholars in the academy. There is much pressure to claim unique space, to establish a name for ourselves, and to make academic discoveries. I am suggesting that settler colonial studies and anti-colonial scholars resist these 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 humility 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 provided 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.

# Case

## FW

#### Side constraint violations are inevitable. Rights can conflict with each other. Makes your fw irresolvable.

#### Bias DA – different people have different advantages and priveleges. Cognitive bias makes it so that people don’t always act as they would behind the veil, so the government necessarily needs to counterbalance that.

#### Casinos disprove the maximin rule – mathematically the expected value of each casino game always benefits the house, but people still play. Proves that they don’t always act in accordance with the maximin rule, even behind the veil.

#### Distributive justice is impractical – it would require procedural injustices to be created.

#### Rawls’ understanding of justice undermines liberties by not accounting for skill, doesn’t ensure a prolonged practice of equality, and can never be achieved in practical reality

John 14 (Elijah Okon John; 2014; Journal of Law, Policy, and Globalization, Volume 28; *“A Critique of John Rawls’ Social Justice Theory and the Fate of Nigeria’s Politics in the 21st-Century and Beyond”*; accessed 9/12/19; <https://pdfs.semanticscholar.org/8ab4/828450ce1ce24f063678be3db45dfa9aa4e6.pdf>; Elijah John is a senior lecturer at the Philosophy Department at the University of Uyo; pages 15-17) HB

6. The Critique It should be stated that just the same way Rawls’ social justice attracted the admiration of some philosophers; it has continuously attracted various criticisms. Rogers (2000:10) has observed that the British Commission on Social Justice is quite explicit in rejecting Rawls’ strictures against letting individuals profit from their natural skills and endowments. Rogers accordingly poses the following puzzles: what is the reason that despite its commendability, Rawls’ theory has not had any great impact on the “real” world? Why has Rawls’ work appeared to be dead as a political force having enormous influence only at the theoretical level? Even Rawls’ himself during the 25th anniversary of A Theory of Justice which was marked with a super splendid large conference at Santa Clara, equally expressed concerns about the fact that political liberty is not almost infinitely greater for some than it is for others. Joshua Cohen, a former student of Rawls is quoted as saying that “Rawls’ hopefulness has been shaken by the world; his feelings have soured” (Rogers, 2000:8). Even at these criticisms, intellectual descendants of Rawls are of the view that Rawls’ time has come; that his ideas are so powerful and profound not to have an effect on any real societies. Rawls’ principle of liberty explained in the previous pages gives priority to securing basic freedoms: freedoms of thought, conscience, speech and the likes. But conspicuously absent among these basic liberties, is the freedom to appropriate what one has produced through individual talents or to inherit or pass on one’s possessions. To Rawls, the absence of these liberties is no oversight or inconsistency as the difference principle answers the question of distributive justice posed here. Robert Nozick has criticized Rawls for not counting the freedom to appropriate the fruits of one’s labour among basic liberties. Another criticism leveled against Rawls is that of the entitlement theory which is associated with the difference principle. Rawls believes that individuals who are more productive due to their natural endowments have no right to greater rewards. The difference principle is an agreement to consider the products of natural talents as a common asset. Younkins (2004:3) writes that “in this view, an individual’s natural endowments are not considered to be his own, but rather, the product of the society”. In formulating the difference principle, Rawls obviously misses certain facts about the human talent. For instance, he fails to recognize that talents are not a common pool; the aptitude that one person enjoys does in no way lessens the number of magnitude of abilities that are available to another. My talents are not acquired at your expense and to exhibit the talents nature has endowed one with, is a matter of choice. Individuals should live with the consequences of their choices. Those that work hard and earn more should not be required to subsidize for those that choose more leisure and hence, less income. Thus, there must be proper incentive for hardous workers. Failure to do this may constitute injustice in the social setting. Rawls’ posture towards natural endowments leaves us with the suspicion that he is trying to make envy an acceptable emotion. Since the products of natural endowments are the properties of the society, the society ought to redistribute them in order to redress the inequalities of natural distribution. Rawls (1971:101) opines that “we see then that the difference principle represents, in effect, an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be”. This is why Younkins (2004:3) is very vocal on this issue as he writes that, “A practical implication of the difference principle is that the society must redistribute income up to the point where the wealth of the representative poorest individual, is maximized. In other words, the state should tax and redistribute the wealth of more advantaged up to the point where their incentive to produce more, disappears. Even if all persons were to begin with an equal social position as imagined in the original position, they will end up with different social positions, income and wealth as a consequence of their choices. Any attempt at redistribution or equalization would give some persons less than they merit. How can this be fair? Rawls seems to trade on the legitimacy enjoyed by Aristotle’s discussion of distributive justice in Nichomachean Ethics. Aristotle’s context is statist; that is, distributive justice is something the state dispenses. The state has the wealth and income it must allocate in the interest of the common good. But how did the state come to acquire them? Did it violate justice in doing so? These questions need to be answered first before we come to how we ought to frame our offer of forcibly expropriated goods. In the economic sphere, after production and exchange of what is produced, there is no remainder from which we can distribute without violating individual’s rights to just entitlements. In a society of voluntary exchange as Von-Mises (1996:32) puts it “there is no such thing as an appropriation of portions out of a stock of ownerless goods. The products came into existence as somebody’s property. If one wants to redistribute them, one must first confiscate them”. The idea of exclusive ownership of property seen in the entitlement theory is the only idea with which we counter redistribution necessitated by the difference principle. Magill (1990:681) states that the central thesis of Nozick’s Anarchy, State and Utopia is that “only a minimal state, one which limits its functions to the common dense and protection against crime is morally justifiable and distributive justice is satisfied whenever a person is entitled to his holdings”. Anyim (2002:95) has rightly questioned Nozick’s idea of a minimal state arguing that only an extensive state can bring about enhanced distribution of goods. We can isolate the entitlement theory from this attack since just entitlement which is our concern does not cover property acquired through unjust means. The entitlement theory holds that; (i) A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding; (ii) A person who acquires a holding in accordance with the principle of justice in transfer from someone else is entitled to that holding; and (iii) No one is entitled to a holding except by repeated application of principles “i" and “ii” above. The complete principle of distributive justice would state simply that a distribution is just if everyone is entitled to the holdings they possess under the distribution (Nozick, 1974:151). Magill (1990:682) is of the view that “if social products fell like manna from heaven, the difference principle might be a suitable rule for their distribution. But it is not the appropriate model of deciding how to divide up the pie when the contributors to the pie are known”. If the least advantaged persons are starving, I have no duty to share my food with them. You can appeal to my generosity but no one has any right to seize my food and share it equally among us. Rawls was not only preoccupied with providing a safety net for the weak in a way people would want to see a safety net for the weak, but that talents and hard work are rewarded. Nobody complains about the earnings of a Bill Gates, a Michael Jordan, a Christian Ronaldo, a Tiger Woods, a WayneRooney, a Lionel Messi, a Samuel Peters and all popular heroes. Rawls himself shares the honour of writing A Theory of Justice with no other. We are left to wonder whether he would accept that this honour be shared equally among his colleagues at the Harvard University; let alone, the educationally least advantaged people. Since for him, our capacity or hard work is not legitimately ours and we do not deserve the products for our talents; they should be shared to the least advantaged. We are not sure that Rawls would agree to this arrangement. For while it would be unjust to coerce Rawls to accept it, we are not sure he would grant us same freedom. Another question is: who the least advantaged persons really are? Schaller (1998:172) asks: “but who are the least advantaged in Rawls’ theory?” In A Theory of Justice, it is true that circumstances over which people have no control should not adversely affect their lives prospects. But one may legitimately question what Rawls means by a “low-skilled person”. Why is the person so low-skilled? How low is the “low”? Is it the consequences of his choices that make him so low skilled? Who is poor? These so-called least advantaged persons may for all that Rawls has shown on the contrary have everything they are entitled to having. Nozick believes that on the contrary the difference principle is unacceptable because it prohibits a large class of activities which are not unjust and this prohibition constitutes intolerable limitations on individual liberty. The difference principle indeed offers terms on which the less endowed would be willing to cooperate but it does not offer terms on which the better endowed would be willing to cooperate (Magill, 1990:682). Also there are some theoretical problems in Rawls’ social justice. Rawls explicitly states that the original position is hypothetical. Etuk (2000:22) states that if this confession is meant to forestall any objections that may be raised against the utopian nature of the initial equality then one may consider the objection silenced. But in that case, the theory of justice built on this provision becomes empty. One finds common grounds with Rawls (1971:13) when he observes that “no society can, of course, be a scheme of cooperation which men enter into voluntarily in the literal sense”, because the society is of course, involuntary and our place in it largely beyond our control. But then, after a period, Rawls (1971:223) suffers from dropoutism especially when he states: “…a society satisfying the principle of justice as fairness comes as close as a society can be in a voluntary scheme”. Etuk (2000:23) strengthens this objection with the view that “the society which we call the state which is much implicated in any discussion of justice is not a voluntary scheme and never will be either. People are born into the state not by their choice nor can they check out at will”. A well ordered society of justice is characterized by fairness, one of the relevant principles of justice, which is publicly accepted by everyone. Vaggallis (2005:13) writes that “ever since the publication of A Theory of Justice, Rawls has been modifying his conception of justice as fairness. He realizes that the kind of stability that would be needed in a democratic society that is marked by a pluralism of reasonable but comprehensive moral views is inconsistent with the account of stability given in Rawls’ Theory”. Rawls comes to realize that his Theory of Justice is inconsistent. He also comes to realize that while the liberal society is meant to permit a great diversity of value systems, the arguments he advances for it would only ever appeal to those who accepted one set of values (Rogers, 2000:21). This shows that a well ordered society of justice tagged as fairness is an unrealistic ideal for a democratic society. The admission of this truth is the focus of Rawls’ Political Liberalism in which he imagines that it is possible for persons with conflicting but reasonable views to reach an “overlapping consensus” in which justice as fairness is the account, that is, most compatible with their views. Peffer (1990:304) is one of Rawls’ admirers that write that “Rawls’ implicit assumption that all major groups within democratic societies can actually reach a consensus on his theory of justice or any other is almost laughable”. It is not cleared that justice as fairness would be able to achieve an overlapping consensus with other views. For example, would utilitarians ever accept an overlapping consensus with justice as fairness? We now turn to the question of relevance.

#### The veil of ignorance ignores and justifies subconscious biases – two studies

Alter ’10 Alter, Adam. “The Persistent Illusion of Impartiality.” Psychology Today, Sussex Publishers, 2 June 2010, [www.psychologytoday.com/us/blog/alternative-truths/201006/the-persistent-illusion-impartiality](http://www.psychologytoday.com/us/blog/alternative-truths/201006/the-persistent-illusion-impartiality). Lindale PP

On a Saturday afternoon in late November, 1951, Princeton and Dartmouth played an aggressive football game. By the end of the game, Princeton's star player, Dick Kazmaier, had been carried from the field suffering [concussion](https://www.psychologytoday.com/us/basics/traumatic-brain-injury) and a broken nose, and a Dartmouth player was sidelined with a broken leg. No one denied that the game was unnecessarily rough, but the spectators apportioned the blame differently depending on their allegiances. The Daily Princetonian student newspaper laid the blame "primarily on Dartmouth's doorstep," whereas The Dartmouth emphasized that "most of the roughing penalties were claimed against Princeton." A week later, researchers Albert Hastorf (from Dartmouth) and Hadley Cantril (from Princeton) asked groups of Princeton and Dartmouth students to evaluate video footage of the game. Everyone watched the same footage, but the Princeton students perceived five more infractions against Dartmouth than against Princeton, whereas the Dartmouth students believed both teams committed the same number of infractions. Everyone watched the same game, but their perceptions of the game were tainted by partisanship. Perhaps it's not surprising that football supporters aren't impartial--their allegiances are clear and the consequences of impartiality are trivial. But Hastorf and Cantril's classic study was one of the first to show that people with pre-existing views perceive the world--even in real time, as it progresses--differently depending on those preconceptions. In contrast to the situation at a football game, the real problems arise when we assume incorrectly that people are impartial, and some of our most venerated institutions run on the assumption that humans are capable of perceiving the world impartially. Justitia, the Roman goddess of Justice, stands blindfolded to show that she considers the merits of each case without [bias](https://www.psychologytoday.com/us/basics/bias). Supreme Court justices may not be deities, but we nonetheless demand of them superhuman impartiality. Each time the president nominates a new Supreme Court justice, the citizens who didn't vote for the president claim the nominee is biased while the president's supporters defend the nominee's ability to remain impartial. Now, conservative bloggers and Republican intellectuals are claiming that Elena Kagan, President Obama's latest nominee, is incapable of deciding cases impartially. The truth is that no human--Supreme Court justice or otherwise--is impartial. If your mission were to design a being incapable of perceiving the world impartially, you couldn't improve much on our current design. Part of the problem is that we have sophisticated methods of hiding our biases. In one study, Mike Norton and his colleagues asked male undergraduates to choose amongst three job applicants who were competing to run a construction company. To help them choose, the experimenters gave a brief description of the candidates' [education](https://www.psychologytoday.com/us/basics/education) and work backgrounds. Two of the candidates were clearly superior to the third, and of those two candidates, one had more industry experience and the other was better educated. The students generally felt that education was the more important criterion, so they selected the better educated candidate for the job about 75% of the time. But the researchers threw in a twist for some of the participants, telling them that one of the superior candidates was a man and the other was a woman. When the male candidate was better educated, the students again suggested that education was the more important criterion, and they preferred the male candidate 75% of the time. When the female candidate was better educated, however, only 48% of the participants selected the female candidate, and only 22% suggested that education was the more important selection criterion. The results imply that the male students had always subconsciously preferred the male candidate, and they ranked the relative importance of the selection criteria to support that preference. This subtle technique, known as casuistic reasoning, is insidious because it's very difficult to detect. The male students who suggested that the male job candidate was better qualified weren't bad people; they weren't overtly choosing an inferior male candidate based on [gender](https://www.psychologytoday.com/us/basics/gender) biases. Instead, their pre-formed preferences for a male candidate clouded their judgments and led them to prefer a different hierarchy of selection criteria that supported their preferences. The same problem affects politicians and, more worryingly, Supreme Court justices. Comedy Central's The Daily Show with Jon Stewart has taken on the crusade of ferreting out casuistic reasoning. In one segment, Republican strategist Karl Rove defended Sarah Palin's candidacy by noting that she had been the mayor of the second largest town in Alaska (population 10,256). But when the Democrats considered Virginia governor Tim Kaine for the Vice Presidency, Rove observed that "[Kaine] was mayor of the 105th largest city in America. And again, with all due respect to Richmond, Virginia, it's smaller than Chula Vista, California; Aurora, Colorado; Mesa, or Gilbert, Arizona; North Las Vegas, or Henderson, Nevada. It's not a big town..." Perhaps, but Richmond's population of 200,000 dwarfs Wasilla's population by an order of magnitude. Rove is widely acknowledged as a canny strategist, so it's difficult to believe that he intended to make two blatantly inconsistent comments. More likely, when Rove was motivated to support Palin's candidacy, the criterion "mayor of a moderately sized town" seemed to be a sign of experience. Instead, when Rove considered Governor Kaine's VP candidacy, Richmond's population seemed measly, and serving the town as mayor was no longer a sign of experience. Like Democratic strategists, Karl Rove is necessarily partisan--but that doesn't justify their [adoption](https://www.psychologytoday.com/us/basics/adoption) of shifting standards when interpreting the same facts for different purposes. In January 2004, Vice President Dick Cheney and Supreme Court Justice Antonin Scalia embarked on a hunting trip. Three weeks earlier, the Supreme Court had agreed to hear a case involving the VP, so Justice Scalia's decision to join the VP prompted the media to question whether he could remain impartial during the trial. In typically florid (and entertaining) style, Justice Scalia refused to recuse himself and lashed out at his detractors: "I do not believe my impartiality can reasonably be questioned. If it is reasonable to think that a Supreme Court Justice can be bought so cheap, the Nation is in deeper trouble than I had imagined. For Pete's sake, if you can't trust your Supreme Court justice more than that, get a life." Justice Scalia's response suggests that he has no overt bias, and perhaps that's true. But no one--not even the most devotedly impartial Supreme Court Justice--is immune from the hidden cognitive foibles that plague every human. Just as Mike Norton's male students unwittingly moved the goalposts to justify hiring an inferior male job applicant, so Supreme Court Justices are liable to emphasize precedents that support their preferred legal conclusions. It's not enough to want to be impartial; our biases are so well hidden that we're destined to be partisan as long as we're motivated to promote one conclusion over its alternatives.