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### 1NC – T

#### Topical affirmatives must advocate a policy whereby The United States Federal Government substantially increases its prohibitions on anticompetitive business practices by the private sector by at least expanding the scope of its core antitrust laws.

#### The United States federal government is the national government in DC.

Black’s Law ‘4 (Black’s Law Dictionary; 6/1/4; 8th Edition, p. 716)

Federal government. 1. A **national government** that exercises some degree of control over smaller political units that have surrendered some degree of power in exchange for the right to participate in national politics matters – Also termed (in federal states) **central government**. 2. **the U.S. government** – Also **termed national government**. [Cases: United States -1 C.J.S. United States - - 2-3]

#### Should means mandating something be done.

Nieto ‘9 – Judge Henry Nieto, Colorado Court of Appeals, 8-20-2009 People v. Munoz, 240 P.3d 311 (Colo. Ct. App. 2009)

"Should" is "used . . . to express duty, obligation, propriety, or expediency." Webster's Third New International Dictionary 2104 (2002). Courts [\*\*15] interpreting the word in various contexts have drawn conflicting conclusions, although the weight of authority appears to favor interpreting "should" in an imperative, obligatory sense. HN7A number of courts, confronted with the question of whether using the word "should" in jury instructions conforms with the Fifth and Sixth Amendment protections governing the reasonable doubt standard, have upheld instructions using the word. In the courts of other states in which a defendant has argued that the word "should" in the reasonable doubt instruction does not sufficiently inform the jury that it is bound to find the defendant not guilty if insufficient proof is submitted at trial, the courts have squarely rejected the argument. They reasoned that the word "conveys a sense of duty and obligation and could not be misunderstood by a jury." See State v. McCloud, 257 Kan. 1, 891 P.2d 324, 335 (Kan. 1995); see also Tyson v. State, 217 Ga. App. 428, 457 S.E.2d 690, 691-92 (Ga. Ct. App. 1995) (finding argument that "should" is directional but not instructional to be without merit); Commonwealth v. Hammond, 350 Pa. Super. 477, 504 A.2d 940, 941-42 (Pa. Super. Ct. 1986). Notably, courts interpreting the word "should" in other types of jury instructions [\*\*16] have also found that the word conveys to the jury a sense of duty or obligation and not discretion. In Little v. State, 261 Ark. 859, 554 S.W.2d 312, 324 (Ark. 1977), the Arkansas Supreme Court interpreted the word "should" in an instruction on circumstantial evidence as synonymous with the word "must" and rejected the defendant's argument that the jury may have been misled by the court's use of the word in the instruction. Similarly, the Missouri Supreme Court rejected a defendant's argument that the court erred by not using the word "should" in an instruction on witness credibility which used the word "must" because the two words have the same meaning. State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958). [\*318] In applying a child support statute, the Arizona Court of Appeals concluded that a legislature's or commission's use of the word "should" is meant to convey duty or obligation. McNutt v. McNutt, 203 Ariz. 28, 49 P.3d 300, 306 (Ariz. Ct. App. 2002) (finding a statute stating that child support expenditures "should" be allocated for the purpose of parents' federal tax exemption to be mandatory).

#### Prohibits are legal restrictions against certain conduct.

DLD ‘ND [Duhaime's Law Dictionary; “Prohibition Definition”; http://www.duhaime.org/LegalDictionary/P/Prohibition.aspx; AS]

A legal restriction against the use of something or against certain conduct.

#### The core antitrust laws are Sherman, Clayton, and FTC.

Curley & Rothman ‘ND [Curley & Rothman, LLC; “What are Antitrust Laws?”; https://www.curleyrothman.com/blog/what-are-antitrust-laws; AS]

What are Antitrust Laws?

Antitrust laws are laws that are aimed at protecting free markets and promoting fair competition. The Federal Trade Commission explains the antitrust laws that apply to companies throughout the United States. According to the FTC: “antitrust laws proscribe unlawful mergers and business practices in general terms, leaving courts to decide which ones are illegal based on the facts of each case.”

There are three core antitrust laws passed by the federal government and applicable in Pennsylvania and throughout the United States. These laws include:

The Sherman Act

The Sherman Act was the first antitrust law passed by congress and it dates back to 1980. It prohibits unreasonable restraints on trade. This can include: “every contract, combination, or conspiracy in restraint of trade” as well as any “monopolization, attempted monopolization, or conspiracy or combination to monopolize.” Price fixing, bid rigging, and dividing of markets are considered per se violations of the Sherman Act, which means that if you engage in any of these behaviors, you have violated antitrust law.

There are also other behaviors which could be considered violations of the Sherman Act, depending upon the specific facts involved. There are severe penalties for Sherman Act violations, including criminal penalties of up to $100 million for corporations and $1 million for individuals. Those who violate the Sherman Act could also face up to 10 years imprisonment.

Because of the severe penalties and the broad range of behaviors which the Sherman Act forbids, it is important for companies to talk with a Philadelphia commercial law attorney about what exactly the Sherman Act prohibits. You do not accidentally want to commit a Sherman Act violation and an attorney can assist you in making certain that none of your business conduct crosses the line into a violation of this federal law.

The Clayton Act

The Clayton Act specifically addresses mergers. It also prohibits interlocking directorates, which is a situation where the same person makes business decisions for companies that are in direct competition. A merger will be prohibited by the Clayton Act if the merger has the effect of creating a monopoly or of substantially lessening competition.

The Federal Trade Commission Act

Th Federal Trade Commission Act prohibits unfair or deceptive practices, and prohibits unfair methods of competition. The Federal Trade Commission is the only one that can bring cases under the FTC. The FTC covers a lot of different types of prohibited behaviors that are also forbidden under the Sherman Act, as well as other practices that interfere with competition but that are not expressly prohibited by the Sherman Act.

#### Debate is a game and we’re both here to win – this means procedural questions like T come first. The role of the ballot is to vote for whoever does the better debating over the resolutional question.

#### Vote neg –

#### First is procedural fairness – their interpretation eviscerates predictable limits – all negative strategy is premised off a stable reading of the resolution. The lack of a stable mechanism lets them radically re-contextualize their aff and erase neg ground via perms. Including their advocacy authorizes any methodology or orientation tangentially related to the topic, which renders research burdens untenable. That outweighs and precedes their offense – debate is a game that we’ve all chosen to participate in and requires effective negation. It makes no sense to skew a competitive activity in favor of one side.

#### Second is clash – you should privilege rigorous debate over different political paradigms over endorsing any one political paradigm. Unflinching commitments ignore the complexity and partiality of any political theory. Promoting clash is key to interrogate complex issues, problematize solutions, and actualize any benefits of debate.

Tully ‘2 – Jackman Chari of Philosophical Studies at Toronto (James, Political Philosophy as Critical Activity, Political Theory 30 (4) p. 544-546)

Accordingly, understanding and clarifying political concepts, whether by citizens or philosophers, will always be a form of practical reasoning, of entering into and clarifying the ongoing exchange of reasons over the uses of our political vocabulary. It will not be the theoretical activity of abstracting from everyday use and making explicit the context-independent rules for the correct use of our concepts in every case, for the conditions of possibility for such a metacontextual political theory are not available. When political philosophers enter into political discussions and disputes to help clarify the language being used and the appropriate procedures for exchanging reasons, as well as to present reasons of their own, they are not doing anything different in kind from the citizens involved in the argumentation, as the picture of political reflection as a theoretical enterprise would lead us to believe. Political philosophy is rather the methodological extension and critical clarification of the already reflective and problematised character of historically situated practices of practical reasoning.'8 Thus, we can now see why the first step should be to start from the ways the concepts we take up are actually used in the practices in which the political difficulties arise. Here we 'bring words back from their metaphysical to their everyday use' to ensure that the work of philosophy starts from 'the rough ground' of struggles with and over words rather than from uncritically accepted forms of representation of them, which may result in 'merely tracing round the frame through which we look at' them. '9 On this view, contemporary political theories are approached, not as rival comprehensive and exclusive theories of the contested concepts, but as limited and often complementary accounts of the complex uses (senses) of the concepts in question and the corresponding aspects of the problematic practice to which these senses refer. They extend and clarify the practical exchange of reasons over the problematic practice of governance by citizens, putting forward a limited range of academic reasons, analogies, and examples for employing criteria in such-and-such a way, for showing why these considerations outweigh those of other theorists, and so on (often of course with the additional claim that these limited uses transcend practice and legis- late legitimate use). A theory clarifies one range of uses of the concepts in question and corresponding aspects of the practice of government and puts forward reasons for seeing this as decisive. Yet there is always the possibility of reasonable disagreement, of other theories bringing to attention other senses of the word and other aspects of the situation that any one theory unavoidably overlooks or downplays. Political theories are thus seen to offer conditional perspectives on the whole broad complex of languages, relations of power, forms of subjectivity, and practices of freedom to which they are addressed. None of these theories tells us the whole truth, yet each provides an aspect of the complex picture.20 This first form of survey enables readers (and authors) to understand critically both the problem and the proposed solutions. It enables us to see the reasons and redescriptions on the various sides; to grasp the contested criteria for their application, the circumstances in which they can be applied, and the considerations that justify their different applications, thereby passing freely from one sense of the concept to another and from one aspect of the practice to another; and to appreciate the partial and relative merits of each proposal. To have acquired the complex linguistic abilities to do this is literally to have come to understand critically the concepts in question. This enables us to enter into the discussions of the relative merits of the proposed solutions our- selves and present and defend our own views on the matter. To have mastered this dialogical technique is to have acquired the 'burdens of judgment' (in a broader sense than Rawls's use of this phrase is normally interpreted) or what Nietzsche called the ability to reason 'perspectivally'.21 This form of practical reasoning is also a descendent of the classical humanist view of political philosophy as a practical dialogue. Because it is always possible to invoke a reason and redescribe the accepted application of our political concepts (paradiastole), it is always necessary to learn to listen to the other side (audi alteram partem), to learn the conditional arguments that support the various sides (in utramque partem), and so to be prepared to enter into deliberations with others on how to negotiate an agreeable solution (negotium).22

### 1NC – K

#### The structuralist ontology of the aff represents the West and non-West as distinct essences. Regardless of intent, this Eurocentric discourse produces the West as a hyper-agent that built a singular modern world order.

John **HOBSON** Politics & IR @ Sheffield **AND** Alina **SAJED** Poli Sci @ McMaster **’17** “Navigating Beyond the Eurofetishist Frontier of Critical IR Theory: Exploring the Complex Landscapes of Non-Western Agency” *Int’l Studies Review* 19 p. 550-552

For the purposes of this article, we are focusing on three strands of critical IR theory: Marxist, poststructuralist, and postcolonial. We understand that some readers may see our grouping together these apparently incommensurable strands of critical theory within IR as problematic. Our defense of this grouping is twofold. First, we feel their incommensurability is unfairly emphasized, given that there are postcolonial scholars who are inspired by both poststructuralist and Marxist approaches (e.g., Inayatullah and Blaney 2004), or those who combine Marxism and postcolonialism (e.g., Pasha 2005; Persaud 2001, 2016; Matin 2013; Gruffydd Jones 2006; Seth 2013; Anievas and Nis¸ancioglu 2015), or those who combine postcolonial and poststructuralist/Foucauldian perspectives (e.g., Grovogui 2006; Jabri 2013). This in itself suggests that the “boundaries” between these critical approaches are fluid and shifting rather than being fixed and impermeable. Second, by grouping these three strands together, we do not imply that they are theoretically and politically equivalent. Rather, we are interested in dealing with two common overarching tendencies that link them up under the loosely defined umbrella of CIRT. First, they launch vehement critiques against the mainstream of the discipline, one of the core critiques being its enduring Westerncentric gaze and its omission of relations of inequality and domination between Western and non-Western worlds. Second, and related to the former, they indicate (in various forms, some more explicit than others) an interest in the agency or condition of the marginalized in world politics. We therefore attend here to the implications of their critiques insofar as they attempt to locate marginalized voices in world politics while also pointing to power asymmetries and relations of inequality between Western and non-Western actors.

We argue that much of Marxist IR frames its critique within a structuralist ontology, which invokes a substantialist conception of the West. As Mustafa Emirbayer (1997) points out, substantialism focuses on objects—for example, societies, nation-states, or civilizations—that are conceived as “preformed self-subsistent entities. While subsequent relations with other such objects are sometimes considered, nevertheless such interactions do not modify the preformed object and therefore do not affect its inner essential nature” (Emirbayer 1997, 282–83; and Jackson 1999; Qin 2010). In the “selfaction” variant, objects are understood “as acting under their own powers” (Dewey and Bentley 1949, 108) independently of all other entities, thereby implying selfgenerating, self-motivating, and self-directed activity. Specifically, a substantialist ontology underpins the top-down structuralist frameworks that large parts of Marxist CIRT deploy. In general, it speaks of Western structuralist logics of power: of men over women under capitalist patriarchy; capital over labor under global capitalism; White over non-White under imperialism/neo-imperialism. While revealing such global hierarchies must indeed constitute part of the antidote to Eurocentrism, nevertheless, when these are reified into ontological absolutes, the space for non- Western agency is necessarily squeezed out or evacuated.

Our argument is that the particular slice of CIRT on which we focus here operates within a highly limited vision of non-Western agency. While it has made important strides toward developing a relational ontology (especially poststructuralist and postcolonial IR), nevertheless we feel that only a fully relational conception that does not lapse into substantialism can promote the more complex understanding of non-Western subjectivities that we are interested in revealing and exploring. We suggest here that in a fully relational ontology, non-Western agents often engage and entwine with the West interstitially in network-type formations, sometimes dialectically and sometimes dialogically. Or, as various postcolonialists in IR and Sociology have argued, we need to move beyond substantialist conceptions of the West toward an IR of international or global interconnectedness and co-constitutivities between the Western and non- Western worlds—that is, the very language or grammar of non-Eurocentric relationalism (see Vasilaki 2012, 20–21; Bhambra 2010; Go 2013; Hobson 2004, 2011, 2012; Sajed 2015). Such a conception rejects the notion that the West is absolutely autonomous because it is, in so many ways, shaped and reshaped through its interactions with the non-Western world. In this way, we aim to puncture the twin Eurocentric optical illusions of a hyper-autonomous West alongside that of Western Empire’s representation of its Self as permanently omnipotent and universal, unified and self-directed.

At this point, however, two issues need to be dealt with, the first being that it would be problematic for readers to assume that our use of the terms “West” and “non-West” smacks of a substantialist, binary ontology in which these exist as autonomous and self-constituting entities and, therefore, leads our analysis back into the logocentric meta-geography of Eurocentrism. But our objective is precisely to show that West and non-West are not autonomous and separate but are mutually embedded and co-constitutive. That is, as a result of their constant interactions and relational interconnectivities, neither “West” nor “non-West” exist in pure form but are amalgams that comprise Western and non-Western elements. We separate them out only for heuristic purposes in order to pinpoint moments of agency, even if in the final analysis they are fundamentally relational in nature. All in all, therefore, while we retain a certain unease about deploying the bald categories of West and non-West, we ask readers to appreciate the wider non- Eurocentric theoretical and empirical context within which they are embedded. Second, we should clarify the point that we are not arguing that all non- Western perspectives are alike or that all non-Western ontologies are inherently relational. When we are distinguishing between substantialist and relational ontologies, we are referring to two different (methodological) approaches to the problem of power differentials between Western and non-Western actors and the dynamics they engender, not to mention the implications for theorizing such power differentials. Ultimately, our concern is with how to theorize power differentials and relations of domination without falling into reductionist-Manichean binaries of silence vs. resistance or an all-powerful West vs. a powerless non-West. Or, as Frederick Cooper (1994, 1517) puts it, concerning the colonial ideology of the civilized colonizer versus the primitive colonized, the “risk is that by exploring the colonial binarism one reproduces it, either by new [liberal] variations of the dichotomy (modern versus traditional) or by [critical] inversion (the destructive imperialist versus the sustaining community of the victims).”

Our project is guided by the spirit of E.P. Thompson’s ([1978] 1995) famous critique of Althusserian structuralism, which seeks to retrieve the agency of subordinate groups, thereby moving beyond seeing them as but mere trager—that is, as passive victims or bearers of exterior (Western) structures of power. For if we squeeze out the manifold conceptions of non-Western agency then, accordingly, these aforementioned hierarchies become reified, permanent, and intractable, such that all hope for emancipation becomes lost. We also draw inspiration from the work of Dipesh Chakrabarty (2000) and the Subaltern Studies collective (see especially Guha 1982), by seeking to reinstate the agency and subjectivity of subaltern actors in their own terms rather than squeezing them into a prioristic Western categories. Overall, the key paradoxical problem is that CIRT’s pessimism and despair vis-a-vis the inevitability of the (tragic) triumph of the West risks mirroring the “celebratory Western triumphalism” of mainstream IR theory and its Eurocentric mantra that the Western telos marks the “end of history.” We thus invite critical IR scholars to consider the implications of our alternative critical emancipatory strategy: that rather than only revealing non-Western agents as overdetermined and repressed by exterior Western structures of power, we seek to highlight the multiple expressions of non-Western agency, albeit under structurally confined conditions.

Our aim, therefore, is to open up a debate or dialogue with critical theorists both in terms of our reading of their approaches as well as our proposed agenda to bring a more complex and consequential-constitutive conception of non- Western agency into the fold of CIRT. For it remains deeply perplexing to us that while the critique of Eurocentrism in IR is well under way, nevertheless CIRT has remained, most surprisingly, somewhat aloof from, if not largely indifferent to, this critique that has occasionally been levied at it (Sajed 2012; Pasha 2005; Shani 2008; Hobson 2012; Persaud 2016). One reason for this lack of engagement may be that many such scholars presume axiomatically that CIRT is anything but Eurocentric (for reasons that we explain in the next section). In addition, a key inter-linked debate that we think needs resolving is one that we begin in this piece, one that effectively contests both what Eurocentrism is and what the antidote to it comprises.

Revealing the Trap of Eurofetishism: “Western Supremacism” and

the Re-Inscription of Western Universal History

The nature of Eurocentrism that we identify within CIRT is rather different in some respects from that which underpins conventional IR. While orthodox/conventional IR theory advances various imperialist and anti-imperialist normative postures (Hobson 2012), nevertheless all of its variants converge on the propositions that the West exclusively made modern world politics and that the West is the civilized universal to which all inferior non-Western states should, or will in time, conform. By contrast, CIRT clearly provides robust critiques of the West and of Western imperialism/neo-imperialism. A further crucial difference is that conventional Eurocentric IR blames the current predicament of Third World “backwardness” on the internal nature of its constituent societies, focusing on their “internal blockages” and “regressive irrational” institutions. By contrast, many CIRT analyses assign the Third World’s current predicament largely to the effects of Western imperialism and neo-imperialism (see Wallerstein 1974; Cox 1987; Grovogui 1996; Inayatullah and Blaney 2004; Gruffydd Jones 2006; Agathangelou and Ling 2009; Sajed 2013). In that vein, the wealth of the West today is attributed not to its inherently virtuous and exceptional properties but rather to its neo-imperialist exploitation of the Third World. Not surprisingly, the upshot of all of this is that most CIRT scholars presume that their approach is anything but Eurocentric. But we believe that the problem emerges when CIRT reifies or fetishizes the West as the hyper-agential actor in world politics while simultaneously eclipsing the existence or role of non-Western agency, hence our designation of it as Eurofetishism. And it is important to appreciate the paradox that Eurofetishism is a modus operandi evoked by many CIRT scholars, implicitly and occasionally explicitly, as they seek to provide a critique of the West and which they conceive, problematically in our view, as the antidote to conventional Eurocentric IR theory. This discussion enters the terrain of the aforementioned debate that we believe CIRT needs to engage.

#### Refusal is premised on an absolute critique of order. Non-domination flips the burden onto settler states

Duncan **IVISON** Philosophy @ Sydney **’17** “Pluralising political legitimacy” *Political Studies* 20 (1) p. 118-130

Audra Simpson (in this volume) suggests that a better alternative to the politics of recognition is one of refusal – to refuse to play the game of recognition altogether. Others explore a middle-ground, where indigenous people in settler and non-settler states attempt to reconcile complex and sometimes competing impulses for and against recognition. By contrast, I will attempt to establish the conditions under which cross-cultural normative frameworks within which to justify, legitimate and transform the exercise of political power in settler colonial states might emerge. However, insofar as ‘refusal’ shifts the burden of justification from indigenous peoples to the state (and the international system within which states reside), it shares a similar starting point.

The challenge of historical injustice

Recognition and justification are two of the most influential ‘language games’ in liberal political theory. But the challenges posed by indigenous peoples for these approaches are significant: how can the legitimacy and justice of liberal political orders be established given the historical injustices that characterise relations between settler states and indigenous peoples? By ‘historical injustice’ I mean not only acts of injustice that occurred in the distant past, but also how consequences of these injustices persist.4 These are enduring injustices – ones that continue to shape the conceptual, legal, political and institutional frameworks within which states and their citizens act. In the indigenous case, a clear example of an enduring injustice is the ongoing entrenchment of their territorial dispossession and denial of property rights. It is not merely that territory was unjustly taken in the past, but that the consequences of those takings continues through existing constitutional, legal and political frameworks, as well as in the attitudes, beliefs and practices of citizens that are shaped through these institutional arrangements.

Consider two responses to this challenge of historical injustice and liberalism’s approach to it. The first, especially from indigenous political theorists, as well as critics of liberalism, is that achieving liberal justice is not only elusive, but misguided. The second response, from many liberal egalitarians, is to argue there isn’t a special kind of problem here for liberalism, but rather a failure of the state and its agencies to uphold otherwise valid liberal principles. A failure to live up to one’s principles is not, in itself, reason to abandon them. I want to try and conceptualise political legitimacy in a way that is responsive to the challenge of enduring injustices and thus offers an alternative to these two responses. Before doing so, I want to identify certain crucial features of ‘recognition’ and ‘justification’ and how they bear on debates over the legacy of colonialism for liberalism today.

The critique of liberal recognition

The broad outline of the ‘politics of recognition’5 has been well outlined in the introduction to this special issue.6 At the heart of it is the idea that to become a self-conscious and self-determining agent, we need the recognition of other, similarly constituted beings. Thus the demand for recognition is a demand for mutual respect. Mis-recognition is a form of disrespect; an absence of mutual esteem. Depending on the theorist, misrecognition either undermines an individual’s (or group’s) capacity for self-development and freedom, because they internalise perceptions of inferior social worth and inequality;7 or it reinforces existing structural and material inequalities that impede their equal participation in democratic institutions (whatever their subjective mental states).8 The first offers a psychological account of the role of recognition in political struggles. The second focuses on the way demands for recognition reflect deeper, more fundamental, structural inequalities.

There are two lines of critique of these different aspects of the ‘politics of recognition’. The first is how a focus on recognition often misconstrues the motives and aims of social and political actors engaged in political struggles. Recognition is certainly an important element of what is at stake in these contexts, but not the main driver.9 In the most psychologically focused accounts, struggles over recognition become dominated by the quality of the individual’s (or group’s) sense of self-respect vis-a-vis their recognition by others. But this overemphasises the need for mutual recognition as a condition for effective political agency. At the very least, history suggest that individuals and groups form a sense of their own identity and self-worth both prior to and in the midst of often deeply unequal struggles for justice. After all, Hegel’s slave ultimately gains his freedom only after turning away from his master and focusing on his own work. The sense of who I am (or we are) depends neither morally nor practically upon recognition by others, or at least not primarily so. And nor should the aim of such struggles be seen as a desire for mutual moral esteem – the conditions for which are demanding – but rather to be respected as political equals.

The second line of critique is more specific. Who is recognising whom, and on what basis? The concern here is that casting the claims of indigenous peoples as claims for recognition by the state, or the broader political community, is something of a trap. Indigenous political theorists (including Audra Simpson) have developed powerful versions of this critique. The basic claim is that the history of colonialism makes mutual recognition impossible. Franz Fanon made a devastating case for this early on: the colonial master is not dependent on the slave, as Hegel thought, for securing his own self-consciousness, but rather needs their work (and crucially, their territory).10 The colonial subject, in turn, subjects himself to a regime of recognition in which he internalises the gaze of the coloniser and thus the conceptual schemes and discipline imposed on his desires. As Simpson puts it, this means that the production of anthropological and political knowledge about indigenous people ends up being wed ‘elegantly, effortlessly and very cleanly’ to the imperatives of the colonial project and the desire for territory.11 This can result in divisive, overlapping and enduring injustices within indigenous communities as well. Take, for example, the situation facing Aboriginal women in Canada (and elsewhere). The effects of a racist and patriarchal Canadian Indian Act, combined with diminished territory and constrained rights of self-government, ends up generating yet more grounds for legislative intervention in Aboriginal communities – which, in turn, generates new conflicts and divisions therein. As Glen Coulthard well summarises it, what results is the absurd paradox of the injustices of colonialism generating the grounds for yet more colonialist interventions.12

What these critiques expose is the ‘sting in the tail of recognition’:13 to seek recognition is to seek to be valued by others, which invites a critical evaluation of the beliefs and practices of the person (or peoples) making the claim. The ‘recogniser’ thus exercises power over the ‘recognisee’ in having the capacity to grant recognition. In fact, it’s difficult to make sense of recognition being something that one can demand in the first place – as if it were a right that triggered a necessary obligation.14

This challenge becomes acute if mutual recognition requires mediation through the state, as noted above. If the legitimacy of the state is under serious question, then the conditions for genuine mutuality and respect are absent. Thus the legacy and continuing reality of historical injustices render the politics of recognition problematic, both in terms of its explanatory power and as an appropriate normative framework for constitutional and political reform.

This critique has led indigenous and other political theorists to turn away from recognition and towards a self-conscious reconstitution of indigenous ways of life away from the liberal settler state, despite inevitably remaining in the midst of it. As I mentioned above, this can take the form of a refusal to accept the terms of the recognition game through a counter-assertion of indigenous sovereignty.15 But are there other frameworks available for thinking about the nature of justice and legitimacy in settler states like Australia?

Power and justification

What critics of the liberal recognition game are really focusing on is power. In refusing to play the recognition game, indigenous peoples are disrupting the legitimacy of the liberal settler state. Despite the focus on the justification and legitimacy in recent political theory, it is still not clear that liberal political theorists really do put power at the heart of their analysis. If they did, it would shift the onus of justification from resting mainly with indigenous communities, to one owed by the state.

It is important to capture the nature of power as it is being used here. A frequent complaint about liberalism is that it lacks the resources to both analyse and attend to the nature of structural domination in politics.16 It is not just that the state and its agencies could (and do) interfere arbitrarily in the lives of indigenous peoples, but that domination is exercised through the background conditions of the settler political order – and thus even through the apparently ‘free’ actions of those subject to it. Can a different approach to liberal justification address these concerns?

One powerful recent attempt to respond to this challenge has been developed by Rainer

Forst. I won’t summarise all of his arguments here, but rather focus on his distinctive account of the ‘right to justification’ as a way of thinking about the legitimacy (and ultimately justice) of liberal political orders. According to Forst, people should be conceived not as ‘recipients’ but ‘agents’ of justice: that is, as ‘autonomous agents who codetermine the structure of production and distribution that determine their lives’.17 The shift is thus from a focus on recognition to power and to ‘relations of justification’: the conditions in which people are able to demand justification of the power exercised over them. And indeed Forst makes explicit that the first question of justice is one of power – ‘the justifiability of social relations and the distribution of the “power of justification” within a political context’.18 A just order is one in which all the rules and institutions of social life are entirely ‘free of all forms of arbitrary rule or domination’.19

Forst is appealing here to a familiar conception of respect for the autonomy of persons, but on the basis of what he calls their moral ‘right to justification’. That is, to the recursive, general principle that every norm appealed to in order to legitimise the use of force must be reciprocally and generally valid and, therefore, justified by reciprocally and generally non-rejectable reasons. What does this mean? When justifying the allocation of rights and resources, I cannot claim rights or resources that are denied to others and I can’t simply impose my reasons on others in making those claims. Moreover, the reasons I offer in justifying the imposition of norms on others must be in principle shareable among all those affected, not just the dominant parties.20 The underlying normative appeal here is to respect each other’s moral and political autonomy as reason-giving and ‘reason-receiving’ agents. In political terms, this translates into a general right to justification, on terms no one can reasonably reject, of those exercises of power that affect our most vital interests.

Forst embraces a broad conception of power, including forms of structural domination. Power can be exercised for good or ill, depending on the context. And power can be exercised both in the physical sense (I prevent you from leaving the room) as well as in the ‘space of reasons’: that is, the power to shape the framework within which the legitimacy of social and political institutions are justified, including what counts as a legitimate move in those language games.

There are complex debates about the nature of justification that I cannot explore here. But at the heart of Forst’s underlying conception of normativity is that the validity (and bindingness) of norms is grounded in a form of practical deliberation among equals. A norm is valid to the extent that it withstands a certain kind of justificatory procedure. There are, of course, elaborate and sophisticated accounts of the kind of justificatory procedure required to meet the appropriate threshold – of which Forst’s is a prominent example. These neo-Kantian approaches seek to establish the validity of a procedure that avoids both moral particularism, on the one hand, and dogmatism on the other. For Forst, we can’t appeal to a particular conception of the good to justify the exercise of political power on the assumption that it is already accepted, nor to a set of pre-established common interests. Instead, we need to construct the appropriate terms of our moral and political relations collectively, respecting the fundamental freedom and equality of everyone in the process.

There are two significant challenges, however, for this approach. The first is the limit to what justification can do. The source of normativity of the justificatory procedure itself is, more often than not, presumed. For example, First, following Kant, accepts that there are limits to our being able to justify the normatively of justification. Like a good Kantian, he argues it is implicit in the way we grasp the nature of practical reason itself.21 In other words, and very roughly, it is tied to what it means to see oneself as a competent moral agent in the first place, sharing a world with other similar moral agents and to whom I owe appropriate justifications.22 Forst argues this is an ‘autonomous’ insight of practical reason: we grasp the other in light of the capacity to reason that each of us shares. Of course, this invites the charges of circularity and arbitrariness that the neo-Kantian tradition has long sought to avoid. I leave this critique aside here. The key point, for our purposes, is that, ultimately, the ground of normativity is modelled on practices and conceptions of practical reason. But these are very much our practices of practical reason. Practical reasoning is a social practice, as much as it is a practice of reasoning.23 It has a history. And that means that there is always the possibility that those practices have been – and continue to be – shaped by various relations of power that evade our extant conceptual and justificatory schemes. And this returns us to the question of power, as well as to the legacies of historical injustices. It’s not that the project of reconstructing the ground of normativity is impossible. Rather, it’s that we need to address the challenge of redeeming this mode of normativity in ways that stay true to its own aspirations and in light of the complex histories of our political communities.

A constellation of normative orders

A key insight from the critique of recognition is that our political communities are not only a plurality of cultures and peoples, but also of ‘normative orders’. We need to pay attention to the historical and political contexts in which these normative orders come into being and the interactions between them over time.

What do I mean by a ‘normative order’? And why do I refer to it in the plural? There is both a functionalist and prescriptive sense to the term as I intend it here. In the first instance, drawing on classic sociological theory, a normative order is any set of rules and shared expectations governing a particular social situation. But in the second much richer sense, a normative order is a cluster of values, beliefs and legitimation ‘narratives’ (religious, cultural, moral, political and legal) that people appeal to in order to justify (and contest) the practices and institutions they are both subject to and help constitute. These normative orders are plural, because they are historically constituted; and dynamic because they are undergoing change and modification through the actions of those subject to them.

What are the consequences of this picture of a plurality of normative orders for liberalism? First of all, instead of a liberal nation state (even a multicultural one) being the political form within which indigenous political communities are to be subsumed, the alternative is to conceive a liberal political order as a constellation of normative orders that overlap and intersect in complex ways above and below the state.

But this raises the challenge of having a plurality of normative authority. How is it possible to pluralise authority and still be a community? In fact, this is an important insight that we learn from the indigenous case. Liberalism, historically, emerged from the challenge of grappling with normative diversity of societies in a particular way. This began with religious diversity, but grew to include a wider array of normative ‘sources’. And by normative diversity I mean the different sets of values, principles and practices that people hold and which orient them in moral and political space. These conceptions of the good and right are also sources of normative authority. So the problem is not so much an absence of normative authority as a plurality of it. On what basis can a liberal political order be considered legitimate given this plurality?

Notice the particular features of the indigenous case.24 There is no clear fact of the matter to be discovered or appealed to in order to settle the question of authority. Should we appeal to history? Which history? Should we appeal to the facts on the ground? That would seem to imply that power justifies itself. But legitimacy can’t mean successful domination. Is there a morally correct principle or value that provides the normative authority for the exercise of power in this case? Human rights, distributive justice and equality are all candidates for grounding postcolonial legitimacy, but none are conclusive, given the complexity and diversity of considerations involved. There are also other important elements at play. There is deep, underlying distrust between indigenous communities and the state, given the history of their relations. And relatedly, there are deep asymmetries of power, at multiple levels, between indigenous peoples and various agencies of the state.

So how can the exercise of political power in settler political societies become legitimate? In virtue of what will political decisions have the property of being legitimate? What is the ‘source of normativity’ for postcolonial political legitimacy?

First of all, it is important to distinguish legitimacy from justice. These concepts are closely related – perhaps even interdependent – but not equivalent. Some (like Forst) argue that legitimacy is tightly aligned with justice, such that if the conditions required for citizens to exercise suitable ‘justificatory power’ are in place, just outcomes will follow (and vice-versa). The idea, roughly speaking, is that it doesn’t only matter what benefits or outcomes citizens enjoy, but also their role in shaping and controlling how those outcomes come about. For others, like Rawls, we need an independent theory of justice, in addition to a liberal principle of legitimacy, in order to deliver just outcomes. I don’t propose to resolve this debate here. However, note two important aspects of legitimacy that we need to keep clear. The first has to do with the quality of political relations between members of a political community. The second has to do with the social outcomes they enjoy. We might summarise these as the ‘political equality’ condition and the ‘social justice’ condition.

Starting with the second, legitimacy is often linked to the outcomes and benefits individuals and groups enjoy as a result of the political process. The basic idea is that the better the social outcomes for the larger number of citizens, the greater the legitimacy of the regime. However, it’s clear that benefits are not a sufficient condition for legitimacy, since they can be delivered through deeply problematic political processes. Consider, for example, the case of the ‘Northern Territory National Emergency Response’ in Australia in 2007. This package of changes to welfare policy, land tenure and law enforcement was justified on the basis of an alarming report that highlighted serious cases of child sexual abuse and social dysfunction in various Northern Territory Aboriginal communities. Part of its implementation involved sending more than 600 Australian Defence Force personnel into these communities. Even if, for argument’s sake, sending in the Australian army did, in fact, end up reducing domestic violence and providing better security for members of these communities, there remain deep questions about the legitimacy of such a policy. Was there adequate consultation with those most adversely affected? Did the members of those communities have the opportunity to respond to the recommendations of the original report? What was missing from this entire episode was sufficient ‘democratic control’25 exercised by those subject to those policies. It failed the political equality condition of legitimacy.

So legitimacy and justice can come apart. Social and economic goods can be distributed in illegitimate ways, including those that involve domination over the people to whom they are distributed. But equally, legitimate decision-making processes, and the institutions upon which they rest, can become de-legitimated over time, especially if they result in deeply unjust outcomes. Thus legitimacy and justice are not synonymous, but normatively interdependent in complex ways.

We need to attend to both the social and political dimensions of political community. This has been a significant failing of many recent discussions of indigenous peoples by egalitarian liberals. One reason why repeated attempts at ‘solving’ entrenched indigenous disadvantage fail (measured almost exclusively in social welfare terms) is because of the lack of political (and moral) attention accorded to indigenous normative orders in the determination of law and policy. In other words, there has been insufficient attention paid to the structural nature of the injustice underlying relations between settler states and indigenous peoples. To lack adequate control over the laws, institutions and procedures to which you are subject (and which are unavoidable), is to lack freedom from domination.

Legitimacy and disagreement

If liberal settler states are constellations of normative orders, then how can a plurality of normative authority be reconciled within a single political entity? How can these normative orders not only co-exist in non-dominating ways, but also form the basis for a genuine political community? Could any state (and the international order that surrounds it) be legitimate in these circumstances?

Deep disagreement is a condition of politics, or what Jeremy Waldron calls the ‘circumstance of politics’.26 There are different ways of expressing this idea. For Rawls, ‘reasonable disagreement’ is a kind of normative fact about our democratic public culture that a liberal principle of legitimacy has to accommodate.27 This is not simply a form of political realism (pace Raymond Geuss28), but an ‘elemental’ feature of politics and one of the consequences of people exercising their basic freedom. Nevertheless, we need to arrive at common decisions regarding our collective affairs. A liberal political order needs to solve what Bernard Williams called the ‘first’ question in politics – the legitimacy question – in a distinctive way: not by securing order and the conditions for cooperation by any means necessary, but rather on terms that are acceptable to all those subject to it.29 The crucial question then becomes: what counts as ‘acceptable’?

The challenge for a distinctly liberal account of political legitimacy is thus to acknowledge the ‘circumstances of politics’ without giving up on the prospect for establishing legitimate political authority. Political decisions are complex and involve a large number of normative and empirical considerations. And this makes it difficult – even when there are normative facts that point in a particular direction – to construct a sufficiently justified collective belief about what is the correct action.

Consider two recent approaches to political legitimacy that focus on different dimensions of the legitimacy problem. In the first case, the focus is on trying to reconcile the competing ‘wills’ of members of a political community (the ‘will-based approach’). In the second, the focus is on identifying the correct ‘beliefs’ that should guide the exercise of political authority (the ‘belief-based approach’).

According to the first dimension of the legitimacy problem, taking people as ‘selfauthenticating sources of valid claims’30 (as Rawls put it), how do we accommodate the plurality and often conflicting claims about what ought to be done? How do we make political decisions on behalf of people with conflicting wills? Legitimate political decisions, on this view, adjudicate between the wills of citizens in the right way: for Rawls, this means deciding in accordance with a constitution ‘the essentials of which all citizens as free and equal may reasonably be expected to endorse’.31 For Philip Pettit, on the other hand, citizens need to have ‘equal control’ over political decisions, which means essentially two things: they must be capable of influencing and directing the political power being exercised over them. In the first case, they must have equal access to a ‘system of popular influence over government’ and enabled to ‘share equally in operating that system’.32 And second, that this ‘system of popular influence’ must actually impose a direction on government that all (who are subject to it) have equal reason to welcome. Thus for both Rawls and Pettit, albeit for different reasons, each citizen must be able to endorse, in some reasonable way, the exercise of power that they are both subject to and help constitute. The challenge they both face is how to justify this given the diversity of wills and thus beliefs about both the ‘good’ and the ‘right’ (including about the nature of the relevant ‘constitutional essentials’). Of course, there is also the problem of whether our existing electoral systems and institutions are capable of delivering genuine ‘democratic control’ in the first place.33

According to the second dimension, political legitimacy ought to track judgement independent normative facts about what should be done. Political decisions, in other words, need to be responsive to valid claims about what ought be done.34 The problem of political legitimacy is thus not (or perhaps, not only) to adjudicate between conflicting wills, but to identify the correct judgement about what ought be done. Political decisions that recommend genocide or the violation of human rights, for example, are not illegitimate because they result in actions that fail to treat individuals as ‘self-originating sources of valid claims’. Rather, they are illegitimate because they are wrong, independently of what people might will (or not will). Validity does not stem from a process of adjudication between wills, but rather from the correct normative authority.

There is another aspect of the belief-based approach to political legitimacy that raises a further challenge. As Fabienne Peter has argued, according to this approach, the force of normative facts must somehow ‘reach through’ to our will formation:35 it should help form our judgements about the validity and legitimacy of political decisions taken in our name. The more successful the normative orientation that normative facts provide, the more significant the normative authority for determining the legitimacy of political decisions.

But of course we are also always acting from within existing institutions and practices – within history. This is particularly important for thinking about the nature of political legitimacy. Again, recall the context of this special issue. The history of the relations between indigenous peoples and the state is a critical feature of the conditions required for effective normative authority to be established. The challenge for any conception of legitimacy – belief-based, will-based or ‘realist’ – is how to ensure that the acceptance of a justification for the exercise of power is not itself produced by the coercive power that is being justified. Does the colonial past and present of liberal settler states make political legitimacy impossible in this sense? Are the institutions and practices of contemporary settler states so saturated by the legacy of colonialism that any claim to legitimacy – either now or in the future – is hopeless? The politics of ‘refusal’ of the liberal ‘politics of recognition’ articulated by Simpson and others trades on this powerful claim.

The politics of political legitimacy

However, one danger of abandoning a belief-based conception of political legitimacy completely is that we risk having nothing to say about political legitimacy at all. If there is no available normative authority, then either collective decision-making is impossible, or all political decisions are illegitimate. The first is moot given the need for collective decisions about our public affairs. So the second looms as the greatest challenge. Belief-based accounts of political legitimacy tend to lack a sufficient response to the problem of the plurality of normative authority.

So this leaves us with two options. Either we opt for a hybrid of the belief-based and will-based accounts of political legitimacy, and accept that there are agreement-independent normative standards for collective decision-making, but no straight-forward way of enforcing them given the ‘circumstances of politics’. Or, we embrace the will-based account and thus the challenge of justifying the process (and institutions) through which we adjudicate between a plethora of conflicting wills.

However, this way of characterising the problem is perhaps too stark. The push and pull between the adjudication of wills and the attempt to establish normative authority just is the ‘politics’ of political legitimacy. Tying justification to legitimacy means that political decisions must be justified to citizens: the reasons upon which legitimate political decision-making are based, in other words, are unavoidably agreement-dependent. This is so even if we believe there are agreement-independent normative facts that should guide political decision-making (i.e. that there are genuinely objective public reasons).36 The emphasis on justification-to shifts the onus from the state to the citizen and the normative contexts within which they are situated.

The promise of this public justification approach, only sketchily outlined here, is that it creates the conditions for the emergence of new forms of ‘multi-personal’ reasons that serve as the basis for the now more complex grounds of political legitimacy. Multi-personal reasons are reasons that can be endorsed from a range of different perspectives and that emerge from the bottom-up – through ongoing, historically situated, multi-perspectival public reasoning – as opposed to ‘top-down’ state-based reasoning.

For this to occur, however, our modes of public reasoning and political institutions must remain open to counter-assertions and contestations of our existing normative orders and authorities. Recall the challenge noted above when the very processes most in need of legitimation are rendered immune from contestation. What recent indigenous political theory (and activism) has made clear is the extent to which we are often blind to these ‘structures of domination’. And this can mean that the forms of mutual justification envisaged by liberal egalitarian theorists (such as Rawls or Forst) become practically impossible from the perspective of indigenous peoples.37 Thus, political legitimacy needs to be pluralised to reveal the shifting multiplicity of normative orders within an existing state – especially the settler state. However, and at the same time, we then need to develop the terms of mediation, engagement and adjudication between these different orders that could form the basis of new claims to legitimacy.

A deep, underlying question raised by the challenge of political legitimacy is whether a political community can be forged in ways that do not entail a desire for mastery and domination – of human beings over each other and over nature. The history of settler colonialism demonstrates how indigenous peoples have experienced the promise of liberal legitimacy as perpetually deferred, if not a matter of colossal bad faith. The self-proclaimed desire of contemporary neo-Kantians (and neo-Hegelians) to acknowledge the limits of practical reason in justifying liberal institutions has been seen, instead, as justifying existing conceptions of sovereignty and self-determination that need to be challenged from an indigenous perspective.

But after this critique of settler colonialism, what kind of politics are we left with? The global structures of sovereignty and capital might appear so entrenched, and yet based on such flagrant violations of liberal egalitarian principles, that we are at a kind of dead end for liberalism. And so it seems to call for the enactment of forms of indigenous sovereignty and normativity located outside of liberal democratic practices altogether. However, that too is problematic, if only given the aspirations of many indigenous peoples themselves. And so, perhaps, a more promising question emerges: how do we create new resonances between these now multiple normativities in our communities, and thus new modes of solidarity required to identify and then address domestic and global injustices? This should be the focus of a resolutely anti-colonial and egalitarian political theory.

#### Bearing witness to the history of black sovereignty fights antiblack erasure. The Haitian Revolution demonstrates that even those deemed inhuman and unpolitical by others have the right to sovereignty.

Karen **SALT** Director Centre for Research in Race and Rights @ Nottingham **’19** *The Unfinished Revolution: Haiti, Black Sovereignty and Power in the Nineteenth-Century Atlantic World* p.12-35

In a recent, rousing, oft-quoted essay written just after the 2010 earthquake in Haiti, Ulysse argues that Haitians have typically appeared in research as “fractures, as fragments—bodies without minds, heads without bodies, or roving spirits.”33 Turning her eye to the representations in the media of Haiti and Haitians that appeared after the earthquake, Ulysse reads and critiques them for their stereotypical portrayals.34 For Ulysse, these portrayals emerge from “the dominant idea” that “Haitians are irrational, devil-worshipping, progress-resistant, [and] uneducated.” These assumptions are not just a case of blatant primitivism and public disavowal. Too many entities, Ulysse laments, see “Haiti and Haitians [… as] a manifestation of blackness in its worst form.” Why? Its history and its politics. She continues: “The unruly enfant terrible of the Americas defied all European odds and created a disorder of things colonial” in the founding of its state.35 This declaration of independence provided a legible and visible challenge to colonialism and to articulations of whiteness (in its many fluctuations and permutations) that represented blackness (variously defined) and statehood as anathema. The message: blackness and sovereignty don’t mix. This is not just a disavowal of Haiti’s origins. As Dubois, Ulysse and others have extolled, Haiti continues to be portrayed as a politically wrong and even abhorrent thing.36

Although the surge in scholarship on Haiti and the Haitian Revolution has shifted some popular perspectives regarding Haiti, much of this work has provided little evidence of Haiti’s relationship to and influence on black statehood and political thought across the last two centuries. Trouillot picks up on this political silence, amongst other occlusions, in Silencing the Past. In one searing passage, Trouillot makes this link plain, charting the ways that the ontological world view held by many whites and non-whites in Europe and the Americas refused to include a vision of freedom for enslaved Africans and their progeny. He argues that it was not that freedom was imagined as impossible for enslaved Africans (and other people of African descent) as much as it was articulated as a state of being that slaves could never achieve. Even those who countered this world view with more radical and equitable articulations about people, politics, freedom and racial difference (and Trouillot acknowledges that there were some) struggled to imagine any world in which a slave uprising could ever lead to the formation of a black nation-state.37 Unthinkable revolution? Yes. Unthinkable revolution leading to an independent state? Just as impossible—and potentially more dangerous. Ulysse makes this point plain in her NACLA Report essay, “Why Representations of Haiti Matter Now More than Ever.” In assessing the pejorative imaging of Haiti from its origins to the twenty-first century, Ulysse argues that it “had to become colonialism’s bête noire [literally translated as “black beast”] if the sanctity of whiteness were to remain unquestioned.”38

As a nation formed through rebellion, violence and anti-colonialism, Haiti would represent the least “normal” nation in the nineteenth-century Atlantic world as it outlawed slavery from the beginning and articulated, at least on paper, that all of its citizens were politically equal and black. In one of Haiti’s earliest constitutions, all Haitian citizens were legally defined as black, regardless of skin-pigmentation or prior racial categorisation. These political moves and assertions put the nation at odds with the nation-states in the Atlantic that surrounded it. As historian Julia Gaffield succinctly notes in Haitian Connections in the Atlantic World, “the basis of the economic system of the Atlantic world was under attack” after Haiti’s 12-year battle for freedoms, rights and opportunities drew a successful slave revolution and violent anti-colonial struggle into a concentrated fight for independence that would, improbably, defeat the French—while also seeing off challenges from English and Spanish forces who saw an opportunity to take the island by force.39

Although often cast as a ragtag, untrained cadre of blood-thirsty agitators, especially by antagonists in France, England and the USA, Haitian revolutionary leaders (and their representatives) spent considerable time influencing foreign officials, developing new strategic governance models (or building upon older colonial models) and working out how to perform sovereign politics amongst other sovereign nations, while black. For these and other reasons, Haiti was and remains, due to its history, a vastly important political entity.40 As Malick Ghachem notes regarding Haiti’s official declaration of anti-colonial freedom, “the mere existence of Haiti, the very fact of its new ruling class, and the act of the declaration itself—all of these were momentously novel forces in the Atlantic World.”41

In short, it was led by people of African descent who declared in their performance of power and rights that black people could be racialised as black and political. In The Haitian Declaration of Independence: Creation, Context, and Legacy, David Armitage, Julia Gaffield, Laurent Dubois and Erin Zavitz make clear that what could be read as a singular “Declaration of Haitian Independence” should rightfully be seen as “acts” of becoming that took multiple forms and were performed on varied stages. Through song, oral history and in print forms that circulated the Atlantic world, Haitian leaders and Haitian people signalled a refusal to unbecoming.42 The new nation’s very existence ran counter to pejorative assumptions and increasingly vitriolic racist imaginings that systematically rejected the ability of people of African descent to be creative, exhibit intelligence or even understand politics, much less engage in political behaviour and activities. In asserting their rights to sovereignty and working with various tools and circuits of power and production to communicate those rights, Haiti and its officials rewrote the rules about who could and could not be a sovereign body, as well as how that sovereignty would be performed. This book explores that terrain. The Unfinished Revolution: Haiti, Black Sovereignty and Power in the Nineteenth-Century Atlantic World chronicles the ways that Haiti’s black sovereignty moved and morphed in the Atlantic world. Tethered, then, between a kind of “othered” space, Haitian officials would use whatever means were at their disposal to resist closure to and consumption of their independence and power, from letters, photographs, material objects, narratives, diplomatic missives, black and brown bodies, essays, newspaper articles to political performances on the world stage. What emerges from these oppositional, yet imploring demands is a sovereignty that celebrates, even as it rejects, its outlaw status.

In 1853, Benjamin C. Clark, Haitian Commercial Agent to the USA (more on him in later chapters), argues in A Plea for Hayti that Atlantic nation-states, specifically the USA and Britain, failed to recognise and adequately to engage diplomatically with Haiti not simply because the USA’s continued practice of Atlantic racial slavery was until the 1860s incompatible with the anti-slavery demands of the new Haitian nation-state. For Clark, at the heart of the antipathy toward Haiti was a deep resentment of its very existence. Haiti was not merely the product of a successful slave revolt: it was a black nation-state. And this identity made it an oddity within an Atlantic world that had no category for black political entities (in the form either of nations or citizens). Clark suggests that Haiti’s oddness was not just unthinkable: it was outside the bounds of custom and law. In a stirring passage, he stresses that the USA’s failure to engage with Haiti as a sovereign entity was at odds with its engagement with other independent Latin American countries. Clark argues that this differential diplomatic treatment was because “the horrors of St. Domingo were raked up and interposed, and it was contended that these Islanders having achieved their freedom by bloodshed, should forever be regarded as outlaws.”43 And they were not just any outlaws. They were self-avowed black ones who dared to perform their power on a global stage amongst an ocean of white nation-states and their official and unofficial representatives.

Nineteenth-century Haiti’s outward-facing officials and their cognates from various economic industries and artistic sectors performed a form of racial power that utilised older and newly formed networks of influence to reposition and rearticulate Haiti’s presence in the Atlantic world as a black space steeped in political power. Neither organised nor always coherent, this image-making of sovereignty assembled often unstable figurations of control and characterisations of power that when read together formulate a singular black political body that represented (and continues to represent) a sovereignty formed through encounters with and amongst other sovereign nation-states (more on this below). What has been gathered here in one text are the ways that a variety of agents and actants fought for, against, in tandem with and in praise of Haiti’s black sovereignty. Through this examination, what emerges is not a fight for a specific cause but a series of jumbled and, at times, competing strategies for state control.

These strategies (and the encounters that gave birth to them) illuminate the ways in which Haitian officials, their designated political and cultural attendants and external others would use various geopolitical and economic openings within a changing and volatile Caribbean region to configure Haiti. Many nineteenth-century Haitian leaders engaged in Haiti’s international work found their sovereignty consistently compromised by outside agents who treated the nation as an exception in need of external control. Sociologist Alex Dupuy, writing about power and class in twenty-first-century Haiti, provides a roadmap to these earlier sovereignty struggles in Haiti, suggesting that “if by sovereignty we mean the right and the ability of a people and their government to determine their agenda,” then this right and ability is compromised and undermined “when the state is subordinated to the dictates of foreign governments and international financial institutions, and/ or the interests of powerful private foreign and domestic actors who are not accountable to the people or their government.”44 Dupuy’s short list roughly captures the various interests exhibited by foreign officials, government agencies and financial organisations in their more than 200-plus-year encounters with Haiti.

Although nineteenth-century Haitian officials would court, entrap, ensnare, play with and even manipulate the terms of many of the diplomatic and economic state-crafting of their times, other nations also played key roles in these dramas. Here is a short list of some of these political “acts”: the USA engaged in trade embargoes against Haiti in the early 1800s in order to isolate the young nation; France levied a crippling indemnity in 1825 of 150 million francs that forced the former colony to pay its colonial masters for its independence; and US banks took over the nation at the end of the nineteenth century near the start of the US military’s occupation of Haiti that lasted, in total, almost 20 long and violent years.45 By the time the late twentieth-century structural adjustment programmes and internal coups brought Haiti under the protection (or, some would suggest, control) of the United Nations Stabilisation Mission in Haiti (Mission des Nations Unies pour la stabilisation en Haïti or MINU STA H) force and auspices of the US State Department, Haiti had lived through centuries of compromise and undermining—and responded to each episode with even more figurations of black sovereignty.

Some pundits, influenced by accounts in the media and international governance documents that frame Haiti as a failed state, may see my interrogation of sovereignty in Haiti as a naive dream that Haiti could instantiate its own political future. I can anticipate that many of these same people, critical of Haiti and the political aptitude of its leaders, will pick up this book and doubt if a failed state could ever be, or even had ever been, a sovereign one. This book responds to these and similar conjectures with a simple, but important, question: “What makes Haiti a failed state?” Some of those in the development world and within international relations circles point to Haiti’s poverty levels (perhaps reciting the mantra: Haiti is the poorest nation in the western hemisphere) or its lack of institutional infrastructures as examples of its failure. The issues of poverty and infrastructural collapse may be visible in Haiti, but other nations have significant poverty levels and little or no internally coordinated agencies or organisations. What makes Haiti so especially different, so critically difficult, that it merits a charge of failure at its roots or claims by the media of suffering from a “complex web of progress-resistant cultural influences”?46

This line of questioning is not about apportioning blame on others for the ways that various Haitian elites have amassed wealth and allocated resources within Haiti to the detriment of the masses. I raise the spectre of failure to make clear that in repeating Haiti’s purported failure and then reading that failure back into Haiti’s history, critics and supporters alike run the risk of never really understanding the routes that have brought various configurations of the nation into existence. In reading Haiti’s history as a narrative of declension, whose high point is the Haitian Revolution, critics (and even some supporters) repeat the very acts of erasure that many claim silenced the Haitian Revolution for so many years to those outside of Haitian studies.

We must do better by Haiti. We must challenge ourselves to witness Haiti’s history and see its many resistances to charges of “state failure” by its many presence(s) on the world stage. The Unfinished Revolution resists reifying the rhetoric of failure and instead lays bare the ways that its logics echo within criticism of Haiti’s history and its continued political existence. In drawing together a range of documents, actors, nations and entanglements, this book moves conversations about Haiti beyond the polarities that tend to constrain it—i.e., failed black nation on one side and idealised revolutionary spark of radical antislavery and anti-colonialism on the other.

It responds to historical anthropologist and Francophone political theorist Gary Wilder’s call for scholars to offer “clear” speaking about Haiti that attempts to chart its existence without resorting to “overdetermined poles of abject failure and audacious triumph.” Wilder stresses that circulating images of Haiti must be challenged if we—in the widest sense of community—ever hope to silence current articulations of Haiti as a “phantasmic object of fear and desire” that conjure fantastic notions of “political failure, social catastrophe, or natural disaster.”47 In many ways, this book charts the tensions that have emerged from Haiti’s unfinished project of creating a black sovereign nation-state under these conditions.

In a 2010 talk delivered to the United Nations on the international day of remembrance for people brutalised by slavery and the transatlantic slave trade, political theorist and Africana studies scholar Anthony Bogues turns his lens to Haiti and its “archive of freedom.” Bogues argues that in order for the wider public to reframe Haiti as a freedom land, the international community must recognise that Haiti’s revolutionary beginnings contained not one rebellion, but two. The first violent insurrection rejected slavery; the second, occurring years later, drew together a concentrated military force determined to fight against a return to colonialism and imperial control. In the pages that follow, I posit that there was—and remains—a third, and unfinished, revolution in Haiti: sovereignty. Although sovereignty has not emerged as a significant theme examined by scholars, Haitian politics, in general, has garnered critics’ attention. Notably, researchers have produced exceptional new readings of Haiti’s early constitutions (including Toussaint’s pre-Haiti Constitution of 1801).48 These new considerations sit alongside other examinations of diplomacy, such as texts by Ronald Johnson and Ashli White, that seek to understand the struggles of the burgeoning nation to set up and defend its right to existence.49 These works are joined by a wide and varied body of texts that focus on Haiti’s early political manifestations and its interactions with US literary history through examinations of such themes as the significance of the image and military acumen of Toussaint Louverture to black power in the Atlantic world and the writings of particular US authors who have written on or been influenced by Haitian culture and politics, such as Charles Brockden Brown, Herman Melville and Leonora Sansay, or the perspectives from some who spent considerable time in Haiti during the Haitian Revolution, including the British officer Marcus Rainsford.50 Francophone Caribbeanists have also considered the political world of Haiti. These scholars have offered new methods and new source materials that have helped document how the various figurations of early Haiti were rooted/routed through Haitian literature and the cultural and political worlds in the Americas and the wider French empire.51

The above thematic sets of work have been influenced (in some instances, quite noticeably) by additional scholarship on Haiti crafted by social scientists, including the works of David Nicholls, J. Michael Dash, Michel- Rolph Trouillot, Sidney Mintz, Alex Dupuy, Arthur Stinchcombe and Anthony Maingot, each of whom has painstakingly documented tensions around development and political economy with regards to Haiti and Haiti’s place within geopolitical structures of power.52 Aspects of these now classic texts can be found in newer pieces from interdisciplinary investigators, such as the work of Philip Kaisary, who moves within and between law, race and human rights, and Robbie Shilliam, who teases apart the entanglements between international politics, post-coloniality and global movements for decolonisation.53 Both Shilliam and Kaisary, alongside Matthew Smith, have produced nuanced texts focused on the Haitian Revolution, the early Haitian republic and later Haitian history that interrogate issues of Caribbean exile, capitalism, liberty and race. Although, as mentioned, aspects of politics or “the political” play a role in the above-mentioned texts and in the wider work of some of the authors identified, sovereignty—as a formative construction—remains undertheorised.54

The Unfinished Revolution grapples, cautiously, with race and sovereignty. It builds upon the scholarly openings provided by many of the above texts and projects, even as it amasses and assesses a new archive of nineteenthcentury and later materials that gesture toward the challenges, performances and articulations of nation-ness that contributed to (and may continue to shape) Haiti’s black sovereignty. Although focused primarily on the long nineteenth century, The Unfinished Revolution does venture into later periods in order to illuminate the continued significance of Haiti’s unfinished sovereign revolution to its current international battles—including those that focus on economic, political or cultural issues. As opposed to being a text about the past, I have been urged, by the material, to recognise that these are ongoing struggles and configurations that remain ever present in political dramas facing Haiti, today. I do not aim in these temporal moves to capture every manifestation of continued resistance or battles. What emerges are instances of forward shifts in the narrative that speak directly to particular instances, tropes or figurations that make clear that the unfinished nature of Haiti’s sovereignty will not be miraculously solved by some future form of political recognition. In weaving through time, I reconstruct the ways that these promises in the past have been laid out before—and have not come to fruition. Time here is not a panacea to political dispossession and challenge. In fact, what bubbles forth from the archive are the many spirals of form, thought and resistance that move through and against the unfinished project of black sovereignty.55

In what immediately follows, I offer up an expanded discussion of black sovereignty that makes clear the contours of the term, as articulated within these pages, and its use and relevancy as a framing device. In order to define the limits and potentials of this term, I first explore blackness in relation to sovereignty before tackling the exciting (yet, racially limited) field/debates within sovereignty studies. This discussion is finally followed by a detailed description of the chapters and themes contained within the text.

Black is a Country: The Blackness of Black Sovereignty

Although I use the term black sovereignty throughout the book, I do not deploy it lightly or use it without some trepidation. I recognise the vexed and problematic nature of reducing the complexities of sovereign power and the performances of it on the global stage into an amorphous (even as it may be generative and politically cohering), socially constructed racial category of distinction. For decades, critics have argued that blackness is “slippery,” often defying definition and eluding formal identification. As a result, it is often described as a signifying trope; a dynamic, conscious way of living; a forced conceptualisation; a mobilising idea; a social movement; a political demand; a creative impulse and (importantly) a socially constructed term that means (meant) none of the above.56 The field of black studies is enormous and constantly being reshaped by scholars around the globe who find within its generative space new forms of relationality and contestation. The deftness and nuance of performance artist and black queer theorist E. P atrick Johnson’s work perhaps best captures the vitality (and interdisciplinarity) of critical approaches to the study of blackness. As Johnson notes in Appropriating Blackness: Performance and the Politics of Authenticity, “‘black’ culture” contains a “production of blackness” that involves a “mutual constructing/deconstructing, avowing/disavowing, and expanding/ delimiting dynamic.”57 In essence, it is a complex and charged figuration.

Of course, we know that any assertions about blackness’s essential qualities must be questioned. As scholars have argued for many decades within African diaspora studies, terms such as “black” may hold some set ideas and historical constructions even as they mutate others once black and blackness become global and situated within specific spaces and wielded by specific actors to describe specific entities—whether people, places or things. Deployed in different settings and at different times, these labels may enable, as well as constrain, certain conclusions about the performance of difference—and who can be configured within its sphere. As anyone who studies racialisation and racialisms in a global perspective knows, what constitutes hierarchies of being in one location does not have to be regarded the same way in another.58 New forms of difference, even when marked against the same body, may enable someone never to see race in their daily lives or be marked as different by others primarily through frameworks informed by that body’s immediate location. (Here I am thinking about friends from areas such as Bahia, in north-eastern Brazil, who see themselves one way and then travel to the USA or the United Kingdom and are marked differently by a new system of racialisation or difference.)

As we seek out ways to investigate the transnational vectors and cultural networks that mobilise blackness and the flows of blackness in particular ways, we must also develop methods that allow us to understand how specific political systems and institutions racialise, erase or even re-racialise specific bodies for political purposes. “Black” as a demarcation of a political body/nation, may operate in a similar manner. There is still more research needed in order fully to comprehend the ways that race and nation politically intersect at the international level and impact governance structures and relations between particular nation-states—especially nations such as Haiti, Abyssinia and Liberia—whose nineteenth-century exceptionalism marked them as different. Essayist and novelist Teju Cole makes clear the dilemma about the admiration (ostensibly on the part of white Americans and Europeans) of black exceptions: “In the presence of the admirable, some are breathless not with admiration but with rage. They object to the presence of the black body (an unarmed boy in a street, a man buying a toy, a dancer on the subway, a bystander) as much as they object to the presence of the black mind.” Cole frames these objections in ways similar to Trouillot’s silences, but notes something far more damning about the negation: it profits from “black labor and black innovation,” or what Cole describes as the “co-option of black life.”59 Although this refrain is not the main impetus for this book, there is an echo of it within the history of enforced labour, co-opted lands or meandering credit and inflated geopoliticking in the region. While some nations may have disavowed Haiti, still others courted the nation for its resources—be those people or material things.

Rather than an exercise in arguing for Haiti’s legitimacy within histories of dispossession, this book situates Haiti’s unfinished revolution as an ongoing project that continually produces, even as it recasts, black political thought and nation-state action. It takes the form of a standard academic monograph, but this final product sits uneasily in this form. This discomfiture is a testimony less to the prematurity of the investigation than the contrapuntal aspects of the terms of discovery, the slipperiness of statecraft and the difficulties in finding a point of origin.

In writing this text, I found myself immersed in what critical race theorist and cultural theorist Jared Sexton describes, in his musings on the political geography of black lives, as moments thinking “about the unspeakable, perhaps unimaginable ways that black lives have been devalued,” where you—as the crafter of this tale—“have trouble determining when to start the story—or history or mythology or fable—or how far afield to draw your sphere of concern.”60 This uncertainty adequately captures the dilemma of imagining and articulating Haiti’s black sovereignty as it has emerged within a consistently demeaning and delimiting political world quite often fuelled by racialisms and determinants of political impossibility for those of African descent. Balancing this searching for with a critique of the failings of the frames of race and international relations is a difficult—some would even argue impossible—task.

Yet, this work is more than just an act of recovery regarding Haiti’s political struggle. It is also a search for a framework that corresponds, in many ways, with writer, filmmaker and cultural critic Frank B. Wilderson III ’s call for a “conceptual framework, predicated not on the subject-effect of cultural performance but on the structure of political ontology, a framework that allows us to substitute a culture of politics for a politics of culture.”61 In order to recognise this framework, we—scholars, activists, critics and casual observers alike—must attune our instruments of knowing (spirit, critical thinking, rhythms, etc.) in order to bear witness to the power of black sovereignty and the stultifying aspects of negrophobia/black nullification that exist within transnational sovereignty’s roots and make the ontological struggle of black sovereignty so compelling. Forcing sovereignty to grapple with blackness offers up the chance to study black sovereignty’s many modes and practices: its power, and, to borrow from poet and cultural critic Fred Moten, its “thingliness, even as (absolute) nothingness, even as imprisonment in passage on the most open road of all, even as—to use and abuse a terribly beautiful phrase of [Frank] Wilderson’s (2010: ix)—fantasy in the hold.”62

Back in Haiti, though, blackness has had a long and contentious history as a demarcation of citizenship, an African ancestral-spiritual connector and as part of a movement (and a weapon in the hands of politicians such as François “Papa Doc” Duvalier) of power along class and colour lines—pivoting Haiti, at times, culturally between France and Africa. Cultural critic and critical legal scholar Colin Dayan notes how Haiti, “called variously ‘Black France’ by one nineteenth-century observer” and “a tropical dog-kennel and pestiferous jungle” by another, has always been “moved uneasily between the extremes of [black] idealization and [black] debasement.”63 Dayan continues by noting, “the business of being Haitian [as in the nation-state] was more complex” than these simple categories express.64

Dayan’s observations nod to the entangled racialisation and colourisation that divided Haiti in its colonial form in the eighteenth century. It also firmly rejects philosopher and historian Ernest Renan’s infamous suggestion that race matters only to historians interested in humanity and “has no applications, however, in politics.”65 Blackness mattered so much to Haiti’s revolutionary leaders that the very first constitution of the young nation declared that all Haitian citizens would be marked/coded as “black,” regardless of their previously applied, chosen or assumed racial category. While Haiti’s new leaders chose a name for the nation that forever linked it to its indigenous past (as “Ayiti” is a Taíno word that means mountainous land), they constitutionally cast their citizens as universally black, or what Doris Garraway describes as a “negative universalism.”66 These black citizens, even with their internal divisions in terms of status and wealth, charged into the Atlantic world and challenged—with their very presence and continued existence—that black people, , even those deemed inhuman and unpolitical by others have the right to sovereignty. This book assembles a rich and unexamined archive of power and political practice that provides the contours and evidence of political theorist Siba Grovogui’s claim that “sovereignty takes form through multiple, complex, and differentiated institutions that congeal into formal and informal regimes of authority and practices” that look vastly different when coded black or seen through the lens of race.67 As tempting as it might be to offer a list of patterns or definitive tropes, I have moved to resist the comfiture of the all-knowing intellectual. As a journey, what appears here is less the final word than an opening into a political terrain of discovery. There is, therefore, much to learn.

These racialised differences often erupted into challenges by foreign others to Haiti’s sovereignty that tended to carry within them certain thinly veiled racisms. The encounters often appeared within diplomatic and international circles, especially as nation-states discussed, negotiated, crafted or figured Haiti into their plans. Although external agents often played key roles in the narrativisation of Haiti as black and “other” in these encounters, Haitian politicians and their intermediaries did not sit by as silent actors in their own national/international dramatic story. Instead, many would insist on manipulating, curating, challenging or even assisting the terms used and the assumptions made during these negotiations—for their own political benefit and not necessarily those of the nation’s citizens. Recovering these narratives is important, but so too is understanding how this state-crafting has been and continues to be influenced by racial formations and the unfinished project that is Haiti’s revolutionary sovereignty.

The challenges encountered by Haiti’s founding band of agitators, activists, conspirators and freedom fighters still resonate today, as Haiti and its various leaders engage in battles and negotiations with (or, at times, abet) outside financiers, internal power brokers and international “keepers” of the peace over Haiti’s precarious labouring populace and the nation’s resources (including those found amongst its people and within its environment). Sociologist and Caribbeanist Mimi Sheller argues in an important essay on “Haitian Fear” that how and what we discuss about Haiti “will continue to have a significant impact on international relations and racial formations” in Haiti.68 What Sheller sees as Haitian impacts, I see as more Atlantic and global concerns. Motivated, in part, by the racial projects that attempt to categorise and de-limit the political and sovereign work of Haiti and its politicians, this book charts how this state-work would be cast and performed by Haitians.

Although significant things have been done to Haiti by external others, critics must begin to understand the ways that Haitian officials utilised various conduits of power and influence to craft their version of black statehood in the midst of these external pressures and tensions. What emerges from this multi-directional flow of narratives, counter narratives and cultural diplomacy is a dialogue of power brokering that forms a layered and racially charged conversation about politics and sovereignty—and which entities can embody or be recognised, externally, as having or expressing those characteristics. This is more than just a simple discussion about exclusion.

Constitutional law scholar Hent Kalmo and intellectual historian Quentin Skinner assert, in a critique of sovereignty’s purported obsolescence (amongst other topics), that sovereignty remains an important ambiguous term worth exploring for the very reason that in “answering the question as to what sovereignty is,” critics also have to deal with an additional linked question that cannot be separated from the first—namely, “who is thought to be its proper bearer.”69

Much of the recent political and development aid rhetoric regarding Haiti’s “failed state” status hinges on the premise that Haiti bears no resemblance to a functioning sovereign state. Although some critics point to various causes for Haiti’s perceived failures—such as foreign intervention, unequal power, corruption or political instability—this book asserts that any list of Haiti’s perceived “problems” must include the challenges and manipulations amongst international bodies and nation-states over Haiti’s sovereign existence. This is, as described above, an unfinished issue.

There are important reasons for revisiting Haiti’s unfinished sovereign revolution and its sovereign practices. One, the arrival of the new nation of Haiti in the Atlantic world brought with it sweeping political changes— especially regarding the ideation of freedom, liberty and power—and who had the rights to have, demand and exhibit any of these conditions. This demand, startling and ground-breaking in the nineteenth century, shook the foundations of difference, possession, rights-taking and capital accumulation that many European empires relied upon to build their colonial machines. The arrival of Haiti, and its revolutionary beginnings, would have profound impacts on later rebellions, uprisings, power demands and even national movements across the globe.

While Haiti’s revolution has been celebrated and remains a touchstone for various human rights campaigns because of its embodiment of anti-slavery and anti-colonialism, Haiti’s sovereign arrival—and the impact of its continued political existence—remain unexamined. And we know that its representation mattered and continues to matter in twenty-first-century rhetorics of aid and humanitarianism. Haiti’s name is invoked—especially in coverage in the media—as an anomaly. It may no longer be cast as a savage, violent country, but far too many identify it as a lawless, inept one.70 There is a second important reason to tread into this subject area. Haiti remains a nation caught between the tethers of neoliberalism and planetary sovereignty (although it could be argued that these terms describe similar motivations of control). More has to be done to disentangle these frames of relationality from old and new forms of racialisms (see Chapters 2 and 3 for more on these processes).71 And, finally, Haiti’s particular political situation provides substantive examples of the frames and possibilities of power and resistance for those engaged in global discussions and negotiations about dispossession, rights and environmental impact, such as the many conversations and agitations regarding the future of Kiribati and its people.72

Adding Haiti’s environmental crises into these larger global considerations of contested and racialised zones, such as Nauru, should enable scholars, critics, scientists, community groups, environmentalists and planners to recognise how, as Sheller asserts, “interpretations, representations, and explanations of Haiti continue to serve ongoing ‘efforts to reorganize and redistribute resources along particular racial [or colonial] lines.’”73 What Sheller illuminates and The Unfinished Revolution begins to chart are the ways that these economic and political redistributions and reorganisations hinge on the destabilisation of sovereignty and the currency of racialisation or difference.

In offering up the term “black sovereignty,” I recognise that I have set this text within a vexed area of scholarship regarding the black Atlantic, black politics and black nations in which blackness is neither easily nor often clearly defined in relation to territorially bounded political structures and institutions. (Of course, the same could be said for sovereignty and nationness, but let’s work through one theoretical battle at a time.) Although I have briefly argued above why Haiti’s sovereignty could be coded black, the question remains what is symbolised either about race or politics with or perhaps through this articulation. When we—as critics—configure blackness in association with political bodies, such as nation-states, public bodies or communities, does it describe shared experiences (such as Atlantic racial slavery or cultural connections to Africa); certain political imaginings and resistances (such as those espoused by Négritude, the African Blood Brotherhood or the Black Panthers); or is it merely the recognition of a majority or a minority population within a bounded territory (such as the “race” of the main population of Jamaica or the racio-cultural place-coding implied in the term “black America”)? These questions are not just about numbers, majority or minority status, political ties and cultural memory. What people are called, how they organise themselves through or against these designations, and the ways that other groups recognise or categorise them influences how they may mobilise or construct themselves—and how others may frame their existence.

From a political standpoint, these categorisations and recognitions may carry even greater weight during intergovernmental encounters, delimiting, constraining or even opening certain pathways and articulations of rights, freedoms and liberation strategies during various sensitive debates, negotiations and diplomatic encounters. Black may not be a country, but, for those who experience life as an “outsider” within, it may be the closest thing to a coherency that they have, even as the connective potential of “blackness” gets reshaped by some political agents as a weapon of control or difference.74

As suggested above, identifying a nation as a black nation-state may productively trouble the ways that populations utilise racial codes of distinction (such as the vexed role of “colour” in Haiti, more broadly) and the ways that racialised codes of aggregation may be utilised by internal and external others for political purposes. An example? When pundits in the USA talk about “black America” are they cohering a range of perspectives, people, experiences and ideas into something that is aligned with, but yet separate from, the generic USA? Does “black America” identify a cultural group only lightly and tangentially affiliated with the political entity that is “America”? Or does “black America” signal some entity or thing that manages to live in the land and within the imagination, as a lived theory that can buffer the struggles of existence facing many people of African descent in the USA? On a more personal point: what happens when a black American who identifies as female lives and works in the United Kingdom and encounters diversity information that labels her as black “Other”? In other words: what is blackness and what does it do to political entities, territories and bodies (in the collective sense) as they move and encounter new forms of legal entanglements and political challenges?

Returning to Haiti with these questions illuminates additional tensions. What are the dangers in investigating black sovereignty as a strategy of international power in a country where colourism politics have divided governmental bodies and citizens since its beginnings—reaching its most tragic juxtapositioning in the twentieth century’s “noirisme” movement and the rise and destructive power of François Duvalier?75

While these and similar questions push at the structure and foundations of this book, and keep me up most nights, they are not this book’s main focus. I raise these issues mostly to do battle with my own thoughts on race and national and international politics and openly to place on the table the difficult issues that trouble this research—even as I work to tackle them. As I grapple with “states” of blackness—in a political and global sense—I remain convinced that just as we need new narratives of Haiti and other self-avowed and internationally marked black nation-states we also need new frames of articulation that allow us to understand racialisms and politics even as we seek ways to redraw power within and outside of international systems of governance. These redrawings have taken on significant urgency as notable areas, such as the USA, the United Kingdom, France and Germany, confront shifting forms of racism (and fascism) within their political structures.76 These are elusive and slippery terms to quantify and capture. Refusing to try and understand black sovereignty, though, is something that we cannot continue to do. Lives, I believe, depend on our bearing witness to its moves and its continued work—positively and negatively—in shaping Haiti’s and other black nation-states’ futures. What I have written above, and what circles these pages, are difficult and contentious issues that have attracted political philosophers, activists and theorists to work through and on them.77 The reasons people turn to them are the very reasons that I have placed them for us to consider in this introduction: they impact on the “black” world and our figurations of it. As a singular body of work, this text does not aim to solve the problem of blackness within nation-state sovereignty but to highlight that it actually is a problem worth discussing. Although political theorists, such as Siba Grovogui, have written about blackness, race and sovereignty, much of the discussion on sovereignty and quasi-sovereignty focuses on indigenous sovereignty or the tumultuous mid-twentieth-century movements for decolonisation that reverberated around portions of what is often referred to as the Global South—movements that articulated a vastly different version of the “rising tide of color” that Lothrop Stoddard feared in the 1920s.78 Although indebted to Grovogui, and others, for their keen twentieth-century observations, this book places sovereignty and blackness into historical context by examining a challenge to sovereignty rooted much further back in time than the decolonisation movements of the twentieth century and grounded by figurations of race.79

The Unfinished Revolution, then, works consciously, to situate these processes within international relations, the performances of power and global politics. Even as it examines these considerations and gathers a heretofore unexplored and untheorised set of material objects associated with them, it remains committed to ensuring that additional work adds to this dialogue. And it is a dialogic exchange that is envisioned here as these objects speak to and from the times and situations that gave them meaning. The archive assembled for this project makes clear the precariousness of power as performed by particular racialised and politicised bodies—and the responses by multiple players to this precarity. It asks questions about the forms of this performance, its tropic dimensions and its responses (and adaptations) to the shifting dynamics of blackness and power in the nineteenth-century Atlantic world, even as it charts Haitian leaders’ and their representatives’ demands for reciprocity, sovereign equality and recognition from other sovereign entities. These demands, occurring in divergent circumstances and situations, such as private letters, diplomatic cables or cultural products, circulated through established capitalist flows of knowledge throughout the Atlantic world, drew together competing and, oftentimes, compelling figurations of black sovereignty and empire.

National leaders on both sides of the Atlantic Ocean struggled to recognise Haiti as an equal nation-state throughout the nineteenth century, especially one capable of engaging in sovereign decision-making. But this refusal and declared disavowal is only part of the story.80 Sources from the assembled archive within this volume amply demonstrate that many of the agents who refused politically to recognise Haiti encouraged—either directly or through various economic agents—commercial and military entanglements with Haiti. Although some media and political agents were quick to label Haiti’s entire machinery of state power as the “best burlesque” the world had ever seen, others sought ways to harness Haiti’s resources or direct its capital. And Haitian officials often fed off or even manipulated this “hunger” for their own means. Meanwhile, public discourses on both sides of the Atlantic grappled with how best to describe and deal with Haiti, the political entity.

US newspaper accounts from around the mid-nineteenth century routinely portray Haiti as a political absurdity.81 As a nation, Haiti was dubbed the Atlantic world’s foolish parody. Its monarchs, emperors and presidents represented the punchline of comical dark jokes—as if shades of colour and politics could never mix. Haiti’s attempts at engaging in statecraft were often mocked and its leaders recast in sketches as simian-like creatures ridiculously attempting to engage in politics. Critics have produced a body of literature that charts these caricatures and isolation—especially as they relate to the early years of Haiti’s existence.82 This text dives into this archive and begins to ask what Haiti’s black sovereignty is and how have the battles to be/ remain sovereign responded to racialisms and racisms within the sectors of politics and international relations. In considering this history, the text places these older battles for sovereignty within current transnational and extragovernmental initiatives and projects aimed at Haiti’s current economic and political future. The next section lays out some of the stakes of these battles for authority within sovereignty before turning to an overview of the book’s chapters.

Sovereignty without Power: The Role of Race in the Battle for Authority

As a text about Haiti and its articulation, construction and performance of sovereign power in the nineteenth century, The Unfinished Revolution does not simply argue that Haiti has been on the receiving end of ostracisation since its inception. Although non-recognition (at different times and within different contexts) from France, the United Kingdom and the USA carried with it significant penalties for Haiti, Haitian politicians, their official and unofficial designees and cultural representatives routinely staged oppositional performances of empowerment. By refusing politically to engage with Haiti, various international political actors (such as US President Thomas Jefferson, who was in office from 1801 to 1809) consciously deployed strategies of disengagement, or perhaps controlled engagement, that framed exchanges with Haitian officials and their intermediaries as variations of “not”—not politics, not recognition, not reciprocity and definitely not transnational exchanges as equal sovereign nations. In framing these diplomatic and quasi-diplomatic conversations and entanglements around “nots,” Jefferson and others stressed that they did not see people of African descent as beings capable of articulating, crafting or practising politics.83 Although many of these politicos rejected or outwardly struggled with the radical antislavery potential of the Haitian Revolution (and its violence), they also refused to assign political power to any entity—including nations—coded as black. The Haitian Revolution may have inspired fantasies and fuelled nightmares of a contagion of slave upheavals, but it also stirred up deep chasms between abstract notions and articulations of freedom and the type of people who had the right to claim those ideas for themselves on an individual, collective and nation-state level.

Political theorist Siba Grovogui traces some of this history, its impact on international relations and the role of sovereignty within these processes. In an important chapter discussing these issues, Grovogui examines the impact of the American, French and Haitian Revolutions on sovereignty’s contemporary construction. He concludes that “centuries before the modern Refugee Convention, the Helsinki Accords, and the philosophical treatises of Giorgio Agamben and Hannah Arendt, Haitian slaves had pondered bare existence and the right to those so reduced to such an existence to claim sovereign rights for themselves.” These rights-claimers, Grovogui continues, demanded in their continued national existence that people of African descent, including formerly enslaved persons, had “equal access to the resources of life” and power.84

Grovogui’s theoretical moves, above, suggest the tensions that exist within sovereignty studies between articulations about who has access to (or controls) the so-called “resources of life,” how power moves between the entities connected within sovereignty’s web and who ultimately wields sovereign authority. Political geographer John Agnew occupies a specific role within these debates. Rather than arguing the case for sovereignty’s elusiveness or its irrelevancy in our hyper-global world, Agnew takes aim at the artificial aspects of its supposed spatial demarcations. In other words, sovereignty can extend beyond state and territorial borders due to the networks that power uses to travel or the multiple outside entities that a sovereign state has to encounter. Agnew does not reject the state as superfluous. Instead, he reimagines state power as deterritorialised, setting his theories in opposition to critics who argue for either the centrality of globalisation (see sociologist Sassia Sassken for more on this) or the impact of liquid modernity upon the transnational circuits of power that fuel “extraction zones” and repeated cycles of dispossession.85

What Agnew stresses is the geography of sovereignty—and its unequal moves. In recognising the disparateness in which sovereignty can tether legitimacy to the wielding of state violence in the name of “defending the state,” Agnew draws attention to the ways in which sovereign claims or the practice of acting as a sovereign sets up a relational field in which only designated sets of actors are able to engage within certain political projects. This is a powerful situational field of engagement and disavowal that has significant domestic and international implications. As Agnew states, “claims to sovereignty provide the linguistic coin in which both domestic and international politics are transacted.”86 Although Agnew’s case studies are read through the lens of deterritorialisation and not race (in counterdistinction to my reading of black sovereignty), we nevertheless share a conviction that “sovereignty is made out of the circulation of power among a range of actors at dispersed sites rather than simply emanating outward from an original and commanding central point.”87 Agnew takes aim at the abstracted state, but his evaluations of sovereign practice involve little consideration of “race matters” within these processes.

The same is true of other international relations scholars who mostly resist discussing race. The potential importance of race to sovereignty lies just beneath the surface in many of these discussions. Take, for example, the work of international relations scholar Jens Bartelson, who, in writing about the indivisibility of sovereignty and its “symbolic form,” takes the reader through a historical reconceptualisation of early theorists of sovereignty—namely, Hobbes, Bodin and Grotius—while noting that even as scholars grapple with definitions of sovereignty and its legal and potentially extraterritorial contours, “sovereignty cannot simply be wished away, since it has been foundational to the differentiation of modern political life into a domestic and an international space.”88 If race and difference have played roles in domestic, military and imperial expansions, so too must they dance along the contours of sovereign articulations. We must not ignore sovereignty’s origins, its mutations over time as certain nation states have been absorbed within it—or distinguished as different—or the implications of these distinctions for exceptional nation-states. For the purposes of this book, it is clear that sovereignty’s nation-state beginnings do not include political bodies that represent people of African descent. By default, race must play a key role, as political entities demarcated as non-white would have been denied sovereign recognition at their conception.

Scholars such as Kevin Bruyneel have written extensively about indigenous or tribal sovereignty, especially as it relates to indigenous and aboriginal communities and First Nation peoples within North America, South America, Africa and the Pacific. Alongside work by Grovogui, these examinations within sovereignty studies have critiqued the limitations of tribal or quasi-sovereignty, including those within decolonised and paracolonial spaces still economically or politically tied (some would say controlled) by former imperial powers. These two strands of scholarship are extensive and growing and help support much of the considerations of race that inform my readings of sovereignty. Rather than read black sovereignty through a more Agambian notion of “bare life,” I read black sovereignty through the critical lens of blackness. This is not a sovereignty given meaning by enslavement, violence or the control of life, but a sovereignty given meaning through political struggle.

#### Tracing the world-making power of self-determination builds solidarity in the face of environmental injustice, global hierarchy, and exploitation.

Ali **MEGHJI** Lecturer @ Cambridge **’20** “What can the sociology of race learn from the histories of anti-colonialism?” *Ethnicities* Online First p. SAGE p. 7-13

Getachew’s (2019: 2) book holds that while decolonization is seen as a moment of ‘nation-building [. . .] and the formation of nation-states’, instead, we ought to see anticolonial nationalism itself as an exercise in ‘worldmaking’. In other words, Getachew recasts anticolonial nationalism itself as a transnational process, seeking an equitable remaking of the world to overcome the injustices of colonialism and neo-colonialism. Getachew’s (2019: 5) book thus signals a gestalt shift in the way that she envisages anticolonial nationalism not as ‘marking the collapse of internationalism and the closure of alternative conceptions of a world after empire’, but instead as a direct, transnational confrontation to ‘the legacies of imperial hierarchy with a demand for the radical reconstitution of the international order’.

Through focusing explicitly on Nnamdi Azikiwe, W.E.B. Du Bois, Michael Manley, Kwame Nkrumah, Julius Nyerere, George Padmore, and Eric Williams, Getachew focuses on three forms of anticolonial worldmaking. Firstly, Getachew explores the anticolonial demand for the right to selfdetermination. Central to Getachew’s (2019: 75) argument is that anticolonial nationalists did not simply ‘take up’ the West’s discourse of self-determination and use it to secure their own independence, but – similarly to how Gopal (2019) looks at anticolonial iterations of liberty, freedom, and justice – through an ‘anticolonial appropriation’ such nationalists radically reconceptualised the meaning of self-determination. Thus, as it was first articulated by the League of Nations, self-determination involved ‘the consent of the governed and consultation with subject people’; however, this definition still allowed for colonialism given that ‘racially backwards people’ were said to not yet be capable of self-governance (Getachew, 2019: 42). Years after the League of Nations, the United Nations (UN) Charter of 1945 again evoked ‘human rights and equality of nations [. . .] as founding principles of a new world order’ despite the continuity of colonial rule (Getachew, 2019: 71). By contrast, anticolonial radicals – through forming organisations and conferences such as the League against Imperialism, and the Pan-African Congresses – directly highlighted the hypocrisy of the Westernized definition of self-determination. For instance, Nkrumah and Padmore organised the fifth Pan-African Congress in Manchester, 1945, where the epistemic roots were planted for self-determination to be reconceptualised as a universalist issue of human rights. Through showing how colonialism itself was a violation of human rights, the work of anticolonial nationalists radically shifted the discourse of selfdetermination such that by 1960, when Nkrumah spoke to the UN as the president of Ghana, he was able to use the principle of self-determination to show how colonialism was directly against the UN’s principles, thus leading to the Article 1514 Declaration on the Granting of Independence to Colonial Peoples and Countries.

Secondly, Getachew looks at anticolonial nationalist worldmaking through focusing on the formation of regional federations. As Getachew (2019: 113) shows, to such anticolonial nationalists, sovereignty granted through the right to self-determination was ‘meaningless in the context of international hierarchy and economic dependence’. This relates to Nkrumah’s critique of neo-imperialism, described as ‘the disjuncture between formal independence and de facto dependence’ (Getachew, 2019: 108), whereby nation states have ‘nominal freedom’ yet remain economically dependent on the Global North and thus vulnerable to political domination through financial control. In response to this neo-imperialism, radicals like Nkrumah and Eric Williams saw federations – such as the Union of African States or the West Indian Federation – as providing the potential for economic trade and development that did not require foreign intervention and reliance on the Global North. This is why, for instance, upon Ghana becoming a republic in 1960, Nkrumah’s nationalism also involved successfully advocating for a clause in the constitution that conferred on the parliament ‘the power to provide for the surrender of the whole or any part of the sovereignty of Ghana’ once a Union of African States was formed (Getachew, 2019: 107): national independence was thus connected to an embracing of anticolonial internationalism.

Connected to such building of federations, which ultimately failed, Getachew explores the final form of anticolonial nationalist worldmaking: the demand for a New International Economic Order (NIEO). Getachew thus shows how ‘second wave’ anticolonial nationalists, such as Michael Manley and Julius Nyerere, developed Nkrumah’s critique of neo-imperialism to show how formerly colonized nations were still vulnerable and exploited in an unequal global political economy – if not by other nations, then by private corporations. This meant that not only were the newly independent nations unequally integrated into the world economic system, but that their efforts of state building were also much more susceptible to the fluctuations of the international markets and private, corporate interests. Thus emerged the demands for a New International Economic Order (NIEO). The Declaration for the Establishment of an NIEO, put to the UN in 1974, challenged the way that the UN’s General Assembly – where each member has one vote – has the power to issue legally binding international economic policy. Anticolonial nationalists, such as Nyerere, pointed out that such formal, legislative equality that was granted to formerly colonized nations was not translated into a substantive equality – as Getachew (2019: 93) summaries: ‘to say that Jamaica or Tanzania and the United States were equal members of the international order obfuscated the outsized economic dominance that the United States exercised and could deploy to compel dependent states’. Thus, Nyerere argued that an NIEO was needed such that newly independent states could have the freedom to pursue their own economic programmes, including the ability to nationalize industries under private control. To such nationalists, this NIEO was in fact a necessary prerequisite to achieve the UN’s founding principle for international order: that of sovereign equality. In other words, anticolonial radicals used the principle of national sovereignty, and economic control over one’s own nation, again as a process through which we could achieve an anti-imperial world order.

At the heart of Getachew’s (2019: 2) book, therefore, is the principle that ‘decolonization was a project of reordering the world that sought to create a domination free and egalitarian international order’. Anticolonial nationalism, read through this lens, despite evoking principles of self-determination and national sovereignty, was always concerned with the grander transnational project of remaking the world in an equitable fashion.

Stretching the sociology of race across time and space

While my review of these three books’ arguments is fairly brief, I hope it is already apparent that despite making discrete arguments and contributions, they each share some fundamental similarities. Throughout the books, we see recurrent figures mentioned – from Du Bois, Padmore and Nkrumah, through to Gandhi, Churchill, and Woodrow Wilson – as well as analysis of key institutions and conferences – from the Gadar Party, based on the West Coast of the United States campaigning for Indian anti-colonialism, through to the League against Imperialism and the Pan-African Congresses. I want to now develop this review by focusing on three particular ways that these three books’ transnational and historical scopes push forward the sociology of race.

Racism at home, imperialism abroad

Firstly, each of these three books makes the point that there is an inherent connection between racism ‘at home’ in the West, with Western practices of colonialism, imperialism, and neo-colonialism ‘abroad’. Desai’s (2020) discussion, for instance, interrogates how Du Bois saw racialised capitalism as the binding factor between the United States’ exploitation of Black Americans with the British empire’s colonial apparatus, and how ‘whiteness’ offered a symbolic space of purity – a material and psychological wage – that impeded the white workers across the West to endorse an anti-imperialism. In his critique of racial capitalism, therefore, Du Bois argues that ‘the English working classes are exploiting India [. . .] and the working classes of America are subjugating Santo Domingo and Haiti [. . .] He is a co-worker in the miserable modern subjugation of over half the world’ (quoted in Desai 2020: 144). Similarly, Gopal (2019: 284) questions: ‘How could the problem of race in the context of global imperialism be addressed in its specificity and as it intersected with the question of class and the exploitation of labour?’ In exploring this question through the lens of dissent against the British empire, Gopal (2019: 441) presents the work of anticolonial Marxists – such as C. L.R James, Padmore, and Eric Williams – each of whom stressed that ‘if empire was to be left behind, then the buccaneering capitalism that it had propagated would also need to be replaced with a more radically egalitarian system’. In advocating for a new ‘radically egalitarian’ alternative to global capitalism, these radicals sought to not just free those newly independent nations from the Global North’s economic control, but also those ‘postcolonial citizens’ exploited in the metropoles itself. Lastly, Getachew (2019: 20–21) discusses the notion of a ‘global Jim Crow’, highlighting how rather than being an idiosyncrasy of the US South, ‘the color line was an international phenomenon of which segregation and racial domination in the United States were only a domestic iteration’.

Indeed, it may seem almost too obvious of a point to make that racism is connected to the processes of colonialism and neo-colonialism. After all, ‘the concept of race was thus the glue that stuck the colonial world order together, as it became common-sense knowledge that there was a global racial hierarchy which permitted the colonization of the “lesser” races by the dominant white Europeans’ (Meghji, 2020a: 4). Nevertheless, if we look at dominant approaches in the sociology of race, then such transnational connections tend to be elided. Instead, much sociology of race tends to be characterised by a methodological nationalism in which it becomes sociologically viable – and advisable – to study racism within the confines of particular, discrete nation states (Meghji, Forthcoming). However, such methodological nationalism is not analytically useful for our current predicaments. It is the same social system that exploits the labour of children in China to make electronic goods, that exploits the (disproportionately Black and Brown) zero-hour contracted truck driver who delivers this product to its eventual owner in the West; it is the same imperialised-racialised principle that Islam is opposed to modernity that justifies the state surveillance of Muslims under the Patriot Act in the United States and the Prevent counter-terrorism programme in Britain, that justifies Western military intervention in the Middle East under the guise of civilizing the backwards world. While neither Getachew, Desai, or Gopal’s books are explicitly about the links between racism and imperialism, they each highlight that there is a radical tradition of thought which has always analysed these two processes in tandem with one another. The fact that this tradition already exists pushes me to my next point, as I argue that the sociology of race needs to adopt a more historical approach.

Looking backwards to move forwards

While each of the three reviewed books use historical methods, each of them also reflects on our present conjunctures. Getachew (2019: 181) points out that the ‘worldmakers of decolonization’ offer an intellectual tradition through which to think about contemporary transnational movements such as ‘the Movement for Black Lives, the Caribbean demand for reparations for slavery and genocide, and South African calls for a social and economic decolonization’. Similarly, Gopal (2019: 448) argues the dispelling the myth of British colonial benevolence, and centering anticolonial agency, allows us to both move beyond the idea that Britain is a global superpower that has the legitimacy to intervene across the globe, as well as allowing ‘Britons to lay claim to a different, more challenging history [. . .] which can draw on multiple historical and cultural resources’. Lastly, Desai (2020) argues that his book highlights historical themes that still shape the present day, such as the United States’ claim of being the champion of liberalism and democracy while it still routinely kills many of its citizens (and those around the world).

In short, therefore, each of the three authors stress the necessity of having a historical sensibility to comprehend current situations and social processes. At the very same time as they are developing such temporal linkages, however, we are seeing increased attempts within the sociology of race to bifurcate the study of racism away from its historical roots in colonialism (and consequently, its contemporary basis in neo-colonialism). If we take critical race theory, for instance, Bonilla-Silva (2015: 74) even goes as far as to say that this paradigm ought to move beyond ‘the sins [of the] past (e.g., slavery, colonization, and genocide)’ in studying the ‘contemporary foundation’ of racism. Of course, Bonilla-Silva has apt reasons for his methodological scope – by reducing racism to being a consequence of past events, we lose sight of how racism continues because it still benefits people in the present day, who consequently maintain an interest in reproducing it. Nevertheless, we have to question whether being captured in a methodological ‘presentism’, which explicitly attempts to bifurcate the study of the present from its past, is analytically viable when it comes to the processes of racialisation and racism.

Very often, for instance, what we immediately think of as a social process specific to our present racialised social structure in fact has a much longer history informed by the logics of coloniality. For instance, consider the case of the militarisation of the police in the United States – a key issue in contemporary racism. As Go (2020) shows, such militarisation of the United States’ police started in the early 20th century primarily as a means of punitively surveying and controlling the racially subdominant. However, the tactics used by this police – such as the creation of mobile squads and intelligence divisions – derived from the United States’ military practices in their colonies (Go, 2020). In this regard, Go creates a temporal link between a contemporary issue of police militarisation with its historical origins, and also a transnational link between ‘racism at home’ with the US’ ‘imperialism abroad’ in a way that transcends bifurcated understandings of racialized processes.

Without necessarily having it as their primary focus, therefore, Getachew, Gopal, and Desai each show the possibilities for social analysis that can be opened up if we retain a historical focus when looking at contemporary society. Through appreciating the historical linkages with contemporary racism, we become better placed to connect with the various intellectual paradigms which dedicated themselves to dismantling this system in the fight for social justice. It is this theme of social justice that we now turn to.

Towards anti-racist, anti-colonial solidarities

A recurrent theme runs through each of the reviewed books: the importance of forging transnational solidarities. Gopal (2019) shows how anticolonial radicals in Britain centred solidarity – in the sense of multicultural, transnational, crossorganisational coalitions – in their struggles against the British empire, meaning that thinkers in the metropoles, such as Frederic Harrison and Arthur Ballard, came to argue that the British ruling class’ fascism in the colonies, in the name of capital accumulation, could be connected with their exploitation of white British workers. Similarly, Desai’s (2020: 45) concept of ‘transnational refraction’ was built around the premise that anti-imperialists thought about colonialism and racism through the sense of shared struggle and solidarity, citing, for instance Saint Nihal Singh’s argument that there was a fundamental ‘link between the Asian migrant laborer [in the United States], the African American subject, and the colonized Indian, each connected the other by the sheer fact of being on the wrong side of the color line’. Desai (2020: 199) even concludes his book with the assertion that such transnational refraction is a prerequisite for solidarity, when he comments that: ‘solidarity emerges only out of a wilful act of seeing through the eyes of another, whose life we can only understand in glimpses’. Lastly, Getachew (2019: 145) too notes that anticolonial nationalists ‘fashioned Third World solidarity as a form of international class politics, and demanded redistribution on the basis that postcolonial states had in fact produced the wealth the West enjoyed’.

Each of these authors focuses on transnational, multicultural, multiorganisational forms of solidarity not because it is historically interesting, but because history has shown us that these forms of solidarity are successful and necessary in the struggles for social justice. I make this point not because the sociology of race is wilfully ignoring the importance of such solidarity, but because the issues of racism facing us in the contemporary and future world need to replicate these forms of solidarity fostered by the anticolonial radicals recounted in these three books. When we think of the climate crisis, for instance, a solidarity needs to be forged between the poor workers across the West (many of whom areracialised as Black and Brown) who are disproportionately exposed to air pollution, with the environmental destruction faced by indigenous people across Latin America, Canada, the United States, Australia, and New Zealand in the name of capital accumulation, who also in turn need to form a solidarity with those in South Asia facing starvation due to droughts, who in turn need to form solidarities with those in the Caribbean, Mozambique, and Zimbabwe, where cyclones and hurricanes have been creating humanitarian crises. When we think of Islamophobia, we need to form a solidarity between those campaigning against the punitive surveillance of, and state violence towards, Muslims in the West, with those campaigning against the Uyghur detention camps in China, and the Hindutva violence towards Muslims in Kashmir. When it comes to race and racism, we are always talking about transnational, historically, epistemically, and spatially connected social processes, and – as Getachew rightfully highlights – ‘worldmaking’ processes of inequality require equally global solidarities and projects of resistance.

#### Our alternative – We should adopt the principle of sovereignty as non-domination. Non-domination flips responsibility and accountability against powerful states. The alternative proves the international community has a responsibility to secure the background conditions that end neo-colonialism and indirect hierarchy.

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Toward a Postcolonial Cosmopolitanism

Theorizing from the specificity of the postcolonial condition also offers critical resources in normative debates about sovereignty and the international order. Against the backdrop of self-determination’s fall, political theorists and philosophers reframed their questions about justice and legitimacy from a global perspective. Historically, these disciplines viewed the domestic sphere and particularly the “sovereign state as the consummation of political experience and activity” and thus limited normative theorizing to questions of domestic politics.68 However, beginning in the 1970s and in a more sustained fashion after the end of the Cold War, the global turn in political theory questioned this disaggregation of the domestic and international and subjected the international to normative theorizing. Fueling this body of work was a confrontation with the nation-state’s empirical and normative limits. On the one hand, the stylized self-sufficient state, which served as the backdrop for John Rawls’s A Theory of Justice, appeared entirely out of sync with the growing interdependence wrought by economic globalization. In his early critique of Rawls’s assumptions about self-sufficient states, Charles Beitz drew on the growing role of multinational corporations and transnational capital flows to argue that “international economic cooperation creates a new basis for international morality.”69 For Beitz and the field of global justice that emerged in the wake of this intervention, this account of economic globalization made it possible to theorize redistributive obligations beyond the state.

By the end of the Cold War, the growing layers of international legal, political, and economic interdependence also opened up new possibilities for rethinking the political institutions of the international order. In this context, a “fortress-like conception of state sovereignty,” which historically gave states a monopoly on internal political and economic decision-making, was giving way to international institutions and particularly international human rights law that sought to limit and tame state action.70 According to Habermas, these developments signaled a growing transformation of “international law as a law of states into cosmopolitan law as a law of individuals.”71 In this context, Habermas and others have examined the prospects for a constitutionalization of international law that does not aim at the formation of a world state, but disaggregates sovereignty such that the limited functions of securing peace and protecting human rights are lodged in a supranational institution while intermediary and regional institutions address arenas of growing interdependence such as economic and environmental policy.72

While the field of cosmopolitan political theory includes debates that range from global distributional justice to the constitutionalization of regional and international organizations, a central assumption of this perspective is that we now occupy a post-Westphalian world order. On this view, an international order governed by the principles of state sovereignty, equality, and nonintervention can be dated to the 1648 Treaty of Westphalia and was progressively expanded and extended in the course of the nineteenth and twentieth centuries. As noted above, decolonization is often viewed as the culmination of this process. At the same time, this moment of its universalization is said to coincide with economic and political transformations that chipped away at the normative model of the “self-determining sovereign national state.”73 Thus, while decolonization made the Westphalian model universal, it quickly became “an anachronism.”74

This invocation of “Westphalian sovereignty” is often taken to be a conceptual construct rather than a lived reality. But even when this is acknowledged, the division of Westphalian and post-Westphalian elides the continuities between our international past and present by obscuring the ways in which empire was and continues to be constitutive of international society. An expansive view of empire as a practice and structure of unequal integration rather than simply alien rule highlights the deep continuities between the Westphalian and post-Westphalian world orders. For instance, far from being unprecedented, contemporary economic globalization should be situated within a long history of an imperial global economy. The “density, the speed, and the impact of the global flows” that emerged from the first colonial encounters in the Americas were already planetary in the fifteenth century and restructured political and economic relations within and beyond the Atlantic world.75 This economic integration often took the form of a “non-colonial imperialism” that secured economic access and domination through indirect forms of coercion.76 Contemporary conditions—such as the outsized power of private corporations, the role of international institutions in ensuring the unfettered movement of capital, and the inequalities this era of globalization has generated—build on these imperial foundations and reproduce the logics of unequal integration.

And as was the case prior to decolonization, relations of economic dependence and inequality are often coupled with legal and political modes of unequal membership in international society. While decolonization is associated with the extension of formal rights to all states, legal handicaps written into the process of decolonization set limits on the sovereignty of postcolonial states.77 Thus, even at the moment associated with the culmination of Westphalian sovereignty, juridical equality was aspirational rather than fully realized. More recently, international lawyers and scholars of international relations have abandoned even the normative and aspirational commitment to sovereign equality, arguing for a return to modes of conditional and limited membership for states deemed outlaws, failed, or rogue.78 The explicit defense of a hierarchically organized international order coincides with the growing power of institutions like the UN Security Council and the unilateralism of the United States.79 Rather than view the international order through the dichotomy of Westphalian and post-Westphalian, we should understand it as an imperial world order that was challenged by projects of anticolonial worldmaking and was reconstituted.

The persistence of unequal integration and hierarchy calls for a postcolonial cosmopolitanism that recenters the problem of empire. Drawing on the critique of international hierarchy and the anticolonial efforts to build a world after empire, which are reconstructed in the following pages, this model of cosmopolitanism is less aimed at the limits of the nation-state and more concerned with the ways that relations of hierarchy continue to create differentiated modes of sovereignty and reproduce domination in the international sphere. As described above, hierarchy designates not hegemony, but processes of integration and interaction that produce unevenly distributed rights, obligations, and burdens. These processes of unequal integration are structural and embedded in the institutional arrangements of the international order. They create the international conditions of ongoing imperial domination.

With its critical and diagnostic orientation focused on the present configurations of international hierarchy, the normative and utopian core of a postcolonial cosmopolitanism remains the principle of nondomination at the center of anticolonial worldmaking.80 Nondomination recasts the current configurations of international hierarchy as infringements on collective projects of self-government. This approach contrasts with an account of the injustices of the international sphere that is primarily concerned with the violation of individual human rights. While international human rights protections have provided important resources in challenging international hierarchy and can be combined with collective claims for self-government, on their own they offer a limited account of the wrongs involved.81 For instance, the expansive claims of private corporations not only undermine individual human rights but also threaten the capacity of self-government insofar as corporate prerogatives erode guarantees secured through state constitutions and national legislation. An emphasis on nondomination thus broadens our account of the injustices that unequal integration and international hierarchy engender. Moreover, as the examples of anticolonial worldmaking suggest, realizing the international condition of nondomination necessary to self-government can extend beyond a defense of the state to include more demanding internationalisms.

In this dual focus on hierarchy and nondomination, a postcolonial cosmopolitanism offers a more circumspect approach to the antistatist orientation of the cosmopolitan turn in political theory. In championing the equal moral worth of persons against the morally arbitrary nature of nation-states, cosmopolitan theorists have advocated taming the state through international law and have expanded the reach of our political and moral obligations. However, this privileging and prioritization of the moral worth of individuals coincides with the normative diminution of collective claims to sovereignty and self-determination, which have historically served to restrain imperialism. As Jean Cohen has argued, in “prematurely drop[ping] the concept of sovereignty” and “assum[ing] that a constitutional cosmopolitan legal order already exists which has or should replace international law,” cosmopolitans risk “becoming apologists for neo-imperial projects.”82 Viewing sovereignty as primarily an impediment to securing the rights of individuals provides cover for imperial practices cynically masked as humanitarian efforts and leaves insufficient normative resources to distinguish and critique imperial and hierarchical curtailments of sovereignty.

This is not an argument for retreating into a defensive sovereigntist position, which cannot provide adequate critical and normative resources to address the contemporary dilemmas of the international order, and it should be clear that the postcolonial approach outlined here does not offer an exhaustive theory of the international order. But in returning to the problem of empire, it provides a readjustment of what we take to be the central conundrums and predicaments of international politics. Moreover, it reminds us that claims of sovereignty and sovereign equality not only have preserved the state against claims of international justice by creating a hermetic seal but also have served as the foundation of anti-imperial visions of international justice. These principles provide bulwarks against hierarchy and resources for resisting domination in the international sphere, while also making possible ambitious visions of the international redistribution of political and economic power.

### Case

#### Vote negative on presumption if the affirmative is unable scale up solvency to match the scale of the structural claims they use to indict negative positions.

#### Their pedagogical model of refusal fails because it is stuck in a process where it requires oppressive systems to exist so we can refuse them. The aff would not make sense absent the norms they criticize which proves it is not actualizable as a way to solve violence, simply point it out

#### They don’t resolve their critique of the topic – arguments about legalism and antitrust as inherently violent are totally disconnected from their method of refusal. When their argument is that naitve and black people lack accsess to the educational space as per Wilson, then refusing within it fails

#### King’s refusal is anti-Indigenous. Despite being interdisciplinary, King et al prioritize an Afropessimist reading of sovereignty and Black-Native relations. This justifies elimination on a scholarly and material level.

Johnson 21

(KHALIL ANTHONY JOHNSON JR. is assistant professor of African American studies at Wesleyan University. Fall 2021, Book Review: Otherwise Worlds: Against Settler Colonialism and Anti-Blackness ed. by Tiffany Lethabo King, Jenell Navarro and Andrea Smith, Native American and Indigenous Studies, Volume 8, Issue 2, Fall 2021, University of Minnesota Press, JKS)

OTHERWISE WORLDS IS THE FIRST major anthology on Black and Indigenous relations to appear since Patrick Wolfe's article "Settler Colonialism and the Elimination of the Native" (Journal of Genocide Research 8, no. 4 [2006]) and Frank B. Wilderson III's Afro-pessimist monograph, Red, White, & Black: Cinema and the Structure of U.S. Antagonisms (2010). Whereas ethnic studies originated from revolutionary Third World movements for global liberation, the institutionalization of Black studies and Native studies resulted in a "tendency to position one's field, ontological position, politics, and modes of knowledge production as incommensurable" (9). Otherwise Worlds avoids such origins. Refusing the "baggage" of genealogy, the coeditors, Tiffany Lethabo King, Jenell Navarro, and Andrea Smith, instead ask contributors to speak as "amateurs" across the disciplinary divide (11, 6). Twenty chapters are divided across four thematic sections. The editors ask, "How do we carefully tend to relationships between Native and Black communities that lead toward liberation?" (13). Meandering readers will find earnest responses. For Ashon Crawley, love and care vibrate in ways that exceed settler violence. Sandra Harvey unearths Black Choctaw testimony from the Dawes enrollment archive that "rejects historical narratives of natal alienation and puts forth the possibility of 'African' political and social determination, including particular relationships to land" (227). Rinaldo Walcott pushes beyond the nation-state and Western thought to consider the indigenization of Black people in the Americas as a political process that might foster a "pure decolonial project" (356). Marcus Briggs-Cloud beautifully demonstrates how ancient Muskogee epistemology renders anti-Blackness literally unthinkable. Reading the book sequentially offers a different experience. The first Indigenous contributor appears on page 213. And even as its introduction calls beyond Black and Native incommensurability—a notion popularized in Jared Sexton's "The Vel of Slavery," which the anthology reprints—the opening paragraphs position the book squarely within Afro-pessimistic terrain and reduce the complex histories of Black and Native peoples in the Americas into a binary "relationship between Native genocide and anti-Blackness" (1). Otherwise Worlds contains no sustained consideration of anti-Indigeneity. There is no acknowledgment that Black people may operate in oppressive roles within U.S. settler colonialism vis-à-vis Native peoples, and there is no engagement with the histories of Liberia or Sierra Leone, where Black settlers from the U.S. and U.K. conquered, enslaved, and "civilized" West African tribes. Neither is there any apparent comprehension that the enslavement of Indigenous people persisted in New Mexico long after the Thirteenth Amendment or that slavery was a central means toward Indian genocide in California. Instead, its most consistent themes argue against Indigenous sovereignty and the contributions of settler-colonial studies. A conversation between Wilderson and King concludes the first section and sets the tone for several chapters. Wilderson states, without evidence, that "anti-Blackness is driving the quest for [Indigenous] sovereignty as much as the desire to get rid of the settler" (55). Such pessimism informs King's subsequent chapter, which argues that conquest should displace Marxist-humanist-inflected "white settler colonial studies" (79). Her citations of Native scholars, narrowly mediated through Wilderson and Smith, facilitate her claim that settler-colonial studies performs a "discursive genocide" that erases "Native scholars, texts, and analytics"—an assertion that, ironically, enacts what it denounces (82). Sexton curates a few essays on Black-Native solidarity to argue that Indigenous sovereignty is inherently anti-Black and should be abolished. "This point," he insists, "is not mitigated by the fact that Native sovereignty is qualitatively different from, and not simply a rival to, the sovereignty of nation-states" (107). Smith's argument that federally-recognized sovereignty is "deferred genocide" only approaches coherence if one decouples Indigenous sovereignty from Indigenous epistemologies and presumes—following Wilderson and Sexton—that both have been subsumed under the prerogatives of Western conquest. Cedric Sunray's forty-page polemic weaponizes anti-Blackness in tribal enrollment and federal recognition against so-called "nouveau ideas of sovereignty" (240), undermining the Cherokee Nation's power to determine its citizenry. Surely some NAIS readers will wonder what motivates this antagonism. These arguments against Indigenous sovereignty overwhelm contingencies. So when the fourth section opens with a paean to Beyoncé as an Indigenous feminist icon, it comes across as terrifyingly superficial. It is unfortunate that Otherwise Worlds presents Afro-pessimism as the forefront of Black radical thought because there is almost nothing at stake in an Afro-pessimist argument that has nihilistically ceded political liberation to an apocalypse. But there is so much at stake for Indigenous nations as sovereign political entities in the struggle against ongoing elimination. It is troublesome that this book, which runs counter to the histories, theoretical interventions, and political philosophies within Native American and Indigenous studies, may otherwise introduce many to the field. [End Page 157]

#### Settlement framing treats anti-blackness and settlerism as fait accompli – their politics reproduces the problesm of liberal optimism.

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(Aziz, interviewed by Dan Denvir on “The Dig” podcast <https://www.blubrry.com/thedig/28578811/universalizing-american-liberty-with-aziz-rana/> roughly minutes 27-33, transcribed by Harvard Westlake)

AR: The racial ideology that then emerges to justify the strict difference between whites and blacks both serves to preserve the labor supply for plantation owners, and it also serves to enhance white solidarity and so break up various class accounts. The reason why I think its important is that today there is an extended conversation about how to think of white supremacy and, one of the ways of talking about white supremacy is to say there is a constitutive antiblackness that goes back to the very founding of the western state; that it’s just part of Enlightenment, and it’s a kind of perpetual enduring feature. But one of the things that I think the less skillful and complex versions of it tend to do is it **tends to make very difficult for us to see**, well how is that regimes of racial management changed over time? How is that white supremacy as a regime of racial control was different in the 17h versus the 18th versus 19th century. Between kind of the period of colonial settler expansion that I was describing and then the US’ emergence on the global stage in the 20th century. And It also makes it really hard to see what **ways it can be contested in the present;** it’s as if there’s no spaces for cross-racial solidarity. But if instead, you see a really complicated story about how economics and race are sort of implicated within one another and certain types of arguments about racial management emerged out of class and labor conditions. Then you can see, wait a second, **this was a place of political struggle.** **There are actual sites of resistance**. And those cites of resistance then shaped the terms of the racial politics that emerged. Now this isn’t to say that there aren’t clearly deep-seated racial and cultural judgements that are part of why it made sense to have lifetime bondage for Africans alone. But is to say that if we don’t pay attention to the **material conditions**, and we just have this kind **of permanent 500-year story of unchanging antiblackness**, **we can’t actually articulately describe the past or explain what change in the present would like.** DD: I think that’s such an important point, that these sorts of primordialist accounts of racism seem to echo primordial or biological **accounts of race**, and both are things that we should steer away from if we want to understand both how history has unfolded and avoid the sense that the state of affairs we’re living in is **inevitable and permanent.** AR: And yeah, so this is an argument that does not contest that white supremacy has been a really constitutive feature of the American project, bound to the settler past part of the troubled way in which settlerism participates in our own present. But it is to say that there are important spaces for kind of **like alternative political self-conception** that are built into the American project **that we ignore if we think of white supremacy as just like one flat feature, or even one flat thing**. DD: And something that lacks a historical context and a political economic context. And another outcome of that I think, is the sort of framing we here from some people in the liberal establishment that we hear from people like Hillary Clinton last year is that things like economic exploitation on the one hand and racism on the other are sort of mutually exclusive problems, or that dealing with one entails some sort of tradeoff of not dealing with the other. Which then, I think, and you talk about this at the end of your book, leads to this emphasis on including a small number of women and people of color into the ranks of the ruling class instead of thinking about how to transform power relations in a way that ends the ruling class. AR: Yeah, I know absolutely. In a way this might be a useful moment to talk about, well, how is it that is that as Americans came to imagine their own past, especially in the mid 20th century, with the rise of liberal nationalism, and with the revolution being reconceived, how was slavery reconceived? And basically what happens is, not surprisingly, against the backdrop of the fact that you have all of these anti-colonial movements in the global south, you have American policy makers at home saying that “well the revolution was an anti-imperial act”. When it was actually much more complicated. It’s like anti-imperial in rejecting Britain, but on behalf of a deeper commitment to settler control and expansion. Framing the revolution as anti-imperial then also reframes like the meaning of slavery. The story then is that slavery is kind of archaic racist practice out of step with American values and principles, so what does it mean in the 20th century to take seriously the anti-imperial elements of the countries past? It means now, sort of, including African Americans and other communities within liberal society. And that mostly means ensuring that elites from minority backgrounds have access to position of power, equal opportunity, in some sense is provided. DD: And **this redemptive story, is sort of the flip side of the pessimistic story** we were just talking about AR: That’s exactly the case. What it does is it ignores how the basic bedrock structure of the US was organized through principles of subordination, control of labor and land. And that’s something to this day in the 21st century had just not been addressed. And so even if you now have like a liberal ideology of including some people, that’s a liberal ideology that’s not dealing with the structural fact of economic and political dispossession. And that’s the argument that many black radicals were making in the 1960s. And so for the liberal , like the Hilary Clinton liberal, it leads to the conclusion that since slavery really doesn’t have to do with like the embedded structure of society and racism really isn’t about the embedded structure of society that you can disconnect class domination, and various forms of economic inequality, from a commitment to racial progress. And **it ends up producing a very limited account of what you can and should do in the present. So there is a weird way in which liberal optimism and this brand of very pessimistic radicalism ends up in a kind of similar location.**

**using the dominant language to engage the state challenges settler landscapes and empowers change**

**Rifkin 17,** Mark Rifkin is Director of the Women's and Gender Studies Program and Professor of English at the University of North Carolina, Greensboro and the author of several books, including Settler Common Sense: Queerness and Everyday Colonialism in the American Renaissance. ["Indigenizing Agamben: Rethinking Sovereignty in Light of the “Peculiar” Status of Native Peoples," Sovereign Acts: Contesting Colonialism Across Indigenous Nations and Latinx America, University of Arizona Press, 2017, pgs. 296-335.]//ARK1

As against Alfred’s call for eschewing the framework of “sovereignty,” Dale Turner insists that the **protection of Native peoples involves** making their **concerns** and **representations intelligible within** the **legal and political structures of the settler state**. In This Is Not a Peace Pipe, Turner argues that the **political terrain on which Native** peoples **must move** has been **mapped by the settler state** and that **if they are to gain greater traction** for their land claims and assertions of governmental autonomy, they will need to **express them** in ways **that non-Native** people and **institutions can understand**: “As a matter of survival, **Aboriginal intellectuals must engage** the **non-Aboriginal intellectual landscapes from which** their **political rights and sovereignty** are **articulated** and put to use in Aboriginal communities.”66 Given that non-Native political processes already are active in shaping the terms of Indigenous governance and social life, **Native** peoples cannot **afford simply to ignore them or** to insist on the significance of “traditional” knowledge in ways that **speak past non-Native modes of articulation**. Turner suggests that such translation is the work of “the word warrior,” whose “most difficult task will be to **reconcile indigenous ways of knowing with** the **forms of knowledge that define European intellectual traditions**.”67 “Survival” for Native polities, from this perspective, is predicated on a kind of communication in which discrepant “ways of knowing” can be bridged. However, to what extent does Turner’s notion of “**reconcil[ing]” knowledges** also present the struggle over sovereignty as a function of cultural dissonance **between Indigenous peoples and the settler state**? The central question he poses is, “How do we explain our differences and in the process **empower ourselves to actually change** the **state’s legal and political practices**?”68 But does **transposing Indigenous concepts into non-Native terminologies intervene** in the logic structuring “the state’s legal and political practices”? Does such a conversion challenge the jurisdictional imperative and imaginary driving the settler-state assertion of authority over Native peoples?

The idea of “explain[ing]” Indigenous “differences” acknowledges the imperial force exerted under the sign of sovereignty, but it does not contest the state’s monopoly over the legitimate exercise of legitimacy, nor does it prevent those “differences” from being reified, regulated, and subordinated as “culture” in the ways discussed earlier. Alongside the discussion of the necessity for translation by “word warriors,” Turner also calls for a thorough accounting of the violences of settler-state imperialism: “The project of unpacking and laying bare the meaning and effects of colonialism will open up the physical and **intellectual space for Aboriginal voice to participate** in the **legal** and **political practices of the state**.”69 Later, he suggests that **Indigenous intellectuals should** pursue three goals: “(a) they must take up, **deconstruct**, and continue to **resist colonialism** and its effects on indigenous peoples; (b) they must protect and defend indigeneity; **and** (c) they must **engage the legal and political discourses of the state** in an effective way.”70 What kind of “participat[ion]” and “engage[ment]” do such strategies yield?

Although Turner tends to answer this question by focusing on the possibility of explaining Indigenous intellectual traditions, making them comprehensible to non-Natives, the above comments offer another option, namely, deconstructing the dynamics of settler-state power—problematizing the ways it seeks to generate legitimacy for itself. He describes such intervention as “understanding . . . how colonialism has been woven into the normative political language that guides contemporary Canadian legal and political practices,” and folding deconstruction back into the elaboration of “differences” between Natives and non-Natives, he argues, “**indigenous peoples must use** the **normative language of the dominant culture to** ultimately **defend world views** that are **embedded in completely different normative frameworks**.

**Reject the aff’s Choice for Native people—leaving multiple options for survival on the table is necessary for indigenous people to effectively resist colonization**

**Grande 07**

**(Sandy Grande, Connecticut College education associate professor], Critical Pedagogy: Where are we now? By Peter McLaren, “Red Lake Woebegone: Pedagogy, Decolonization, and the Critical Project” p330, http://books.google.com/books?id=M97YKJdkJbcCandq=sandy+grande#v=onepageandq=grammar20of20empireandf=false, p.330, accessed 3-17-14)**

Audre Lorde’s essay, The Master’s Tools Will Not Dismantle the Master’s House, is one of the most quoted essays in academic history and, I would also venture to say, one that needs rethinking. While it is self-evident that indigenous knowledge is essential to the process of decolonization, I would also argue that the Master’s tools are necessary. Otherwise, to take Audre Lorde seriously means to create a dichotomy between the tools of the colonizer and those of the colonized. Such a dichotomy leaves the indigenous scholar to grapple with a kind of “Sophie’s Choice” moment where one feels compelled to choose between retaining their integrity (identity) as a Naitve scholar by employing only indigenous knowledge or to “sell out” and employ the frames of Western knowledge. Does it signify a final submission to the siren’s son, seducing us into the colonialist abyss with promises of empowerment? Or is it the necessary first step in reclaiming and decolonizing an intellectual space – an inquiry rom – of our own? Such questions provoke beyond the bounds of academic exercise, suggesting instead the need for an academic exorcism. The demon to be purged is the specter of colonialism. As indigenous scholars, we live within, against, and outside of its constant company, witnessing its various manifestations as it shape-shifts its way into everything from research and public policy to textbooks and classrooms. Thus, the colonial tax of Native scholars not only requires a renegotiation of personal identity but also an analysis of how whole nations get trans- or (dis)figured when articulated through Western frames of knowing. As Edward Said observes, “institutions, vocabulary, scholarship, imagery, doctrines, even colonial bureaucracies and colonial styles” all support to the “Western discourse” (Said, 1985, p. 2). In other words, is it possible to engage the grammar of empire without replicating its effects? At the same time indigenous scholars entertain these ruminations, Native communities continue to be impacted and transformed by the forces of colonization, rendering the “choice” of whether to employ Western knowledge in the process of defining indigenous pedagogies essentially moot. In other words, by virtue of living in this world and having to negotiate the forces of colonization, indigenous scholars are given no choice but to know, understand, and acquire the grammar of empire as well as develop the skills to contest it. The relationship between the two is not some liberal dream of multicultural harmony but rather the critical and dialogical tension between competing moral visions.

**Legal archive is a key site of political struggle – contesting legal interpretation undermines claims of absolute authority.**

Renisa **MAWANI** Sociology @ Univ. of British Columbia **’12** “Law’s Archive” *Annual Review of Law and Social Science* 8 p. Online

Where openings toward law's archive can be glimpsed, albeit fleetingly, is in recent debates on colonialism and indigeneity. Perceptive to the challenges of poststructuralism, subaltern, and postcolonial studies—and in some instances echoing the archival concerns of historians, historical anthropologists, and literary theorists—some have questioned how to effectively document indigenous struggles against colonial and settler states, especially from an asymmetrical and incomplete record of the past (Chakrabarty 2007, Johnson 2008, Povinelli 2002). How does one recover the presence of indigenous peoples in an archive from which their voices have been written out? How might researchers and analysts trace configurations of colonial power through a legal record that privileges the written over the oral and thus the European over the subaltern and indigenous? Below, I consider these questions as I review discussions on indigeneity as a productive site of legal and archival origin, erasure, and return (Birrell 2010, Mawani 2012b). Instead of approaching law to be like the archive or solely tracing its origins in the archive, I begin formulating law as archive, as a **dynamic formation** in which the distinctions between law and history morph, mutate, and bleed into one another without ever fully collapsing. In conceptualizing law as archive, I ask how such a formulation—one that **does not reduce law to history** and that expands **understandings of law beyond its formality and technicality**—may invite a fuller reflection on the ongoing and **unfinished struggles** through which law constitutes, instantiates, and expands its reach as an (**il)legitimate force of command**.

Given the numerous critiques of law in legal theory, philosophy, legal history, and law and society, including efforts to undermine the grounds of law (Fitzpatrick 2001a) and its prevailing conceptualizations (Tomlins & Comaroff 2011), the lack of investigation into law's archive is somewhat puzzling. This absence is even more curious when we consider that both Foucault (1972, 2003) and Derrida (1998), each with their own respective influences on law and legal studies, have long reflected on law and the archive. Whereas Foucault's (1972, p. 129) conceptualizations of the archive as “the law of what can be said” have deeply contoured the archival turn, as I discuss in the previous section, Derrida's (1998) emphasis on the archive as a site of juridical command has, by contrast, generated only uneven interest in the law-archive nexus. Yet, for many commentators, Archive Fever is a long essay and a short book on law. In Vismann's (2008b, p. 42) reading, “the essay draws a line from archive to law suggesting that the beginnings of law lie in the archive.” For others, the book develops “a general theory of how the law becomes institutionalized as law” (Shetty & Bellamy 2000, p. 27, emphasis in original). Derrida (1998, p. 1) himself is clear that his meditations on the archive are in fact reflections on the ontology of law as both commencement and commandment. “Entrusted to such archons, these documents in effect speak the law,” he writes. They “recall the law and call on or impose the law” (p. 2). The archive, like law, is always public (Derrida 2002, p. 48). Although the archive's location is what legitimates its authority (Derrida 2002, Mbembe 2002), the constituent relations between law, history, archive, and command, one might argue, are eroded through conceptions of law as authority, distinct from files and documents, and in perceptions of the archive as a place of public use and scholarly inquiry (Joseph 2004, p. 5). At a most basic level, law continually produces, protects, proliferates, and destroys documents and records that ground its authority and that are contained and preserved in state and nonstate archives. In so doing, it perpetually creates itself as a legitimate form of command while always harboring the possibility that its authority and legality **may be called into question by exactly those documents it produces and seeks to protect**. Viewed as such, law can no longer be conceived as a groundless ground or a “vacuity of origin,” as some have claimed (Birrell 2010, p. 97; Fitzpatrick 2001a). Nor can law's archive be seen as a fortuitous combination of records that resonate similarities with law. Rather, law is the archive: generating, compiling, referencing, absorbing, and disregarding statutes, precedent, and other forms of knowledge. In the “ideal of the archive, the law is the sum of all files on record. They are the capital of the law” (Vismann 2008a, p. 58).

Not necessarily approaching law as archive, several commentators have usefully built on and expanded Derrida's (1998) conception of the archive as juridical force. For Paul Kong (2009) the connections between law, command, and the archive are relatively straightforward:

The archon's commanding power relies on the official manuscripts filed in his house and in his position of a guardian of these manuscripts. Because of this, the guardian of the archive has the power to interpret the archive and the manuscripts and thus the power to speak the law: to recall and impose the law, to originate and enforce the law, to commence and command by law. (p. 9)

The archive may very well be the site of commencement and commandment.15 However, its meanings and its ability to speak the law are far more ambiguous than Kong (2009) suggests. Although law's archive maintains a juridico-political status that is both material and imaginary (Mbembe 2002, pp. 20–21), its origin of commencement and commandment is never static or certain. For Derrida (2002), the unreliability and indeterminacy of the archive are attributable to its **lack of closure**. The archon's power may rely on and derive its authority from official documents, as Kong (2009) claims, but these documents also carry the potential to **undermine the state's juridical power** and to expose the historical sediments of legal force, violence, repression, and exclusion (Mbembe 2002, p. 23). This is precisely one reason historians and others have conceptualized the **archive** as a **politically charged site of contestation**.

In a recent essay that productively traces the relations between indigeneity, law, and the Australian colonial archive, Kathleen Birrell (2010) elaborates Derrida's (1998) formulations in interesting ways. Unlike Kong (2009), who conceives of the archive narrowly and as the juridical authority of the archon, Birrell (2010) emphasizes the archive's ambivalence as a site of remembering and forgetting that holds a reciprocal relation to law. The assertion of British sovereignty in what is now Australia, she argues, entailed the inauguration of a new legal archive that was, in turn, instantiated through British sovereignty (p. 94). Here, Birrell's concern centers on the indigenous subject as a present absence of both law and the archive. In native title jurisprudence, she claims, the indigenous subject is equally the subject of European conquest created through the British common law as well as a transgressive alterity to which the law is compelled to respond but which it must also forget (p. 89). Through the fiction of terra nullius, she argues, the archive inaugurated the mythical foundations of the British common law and in so doing instituted the (non)existence of aboriginal peoples.

Crucially, the indigenous presence is **not only effaced but also recovered in law and the archive**. In settler colonies including Australia, all native title claims must respond and conform to the written colonial record (Chakrabarty 2007, Johnson 2008, Povinelli 2002). Thus, for Birrell (2010), indigeneity forms the origin of colonial law and the origin of the colonial archive, an origin that law and the archive both seek to forget but can never fully accomplish. Law and its archive may be forces that repress indigeneity, but their power can also be undermined by what they seek to repress and obscure. In Birrell's formulation, law and the archive are “a place of haunting” where indigeneity remains as palimpsest and as “originary ghosts perceptible beneath the apparently inviolate constructions of contemporary jurisprudence” (p. 96). Law as archive, as I sketch out below and more fully in the final section, is not only a site of remembering and forgetting but also a potent site of command. Law's authority, albeit shaky and uncertain, is founded on the proliferation of documents and documentation that renders law not merely proximate or similar to the archive but as the archive.

For Derrida (2002, p. 48), the archive is not a compilation of facts but a **locus of interpretation.** As such, the archive always opens a significant problem of translation (Derrida 1998, p. 90). Walter Benjamin (1978) has argued that translation is never a straightforward task. Rather, it demands an elaborate and even impossible process of elucidation. “Unlike the words of the original, it is not translatable, because the relationship between content and language is quite different in the original and the translation,” he writes. “While content and language form a certain unity in the original, like a fruit and its skin, the language of the translation envelopes its content like a royal robe with ample folds” (p. 75). Historical documents preserved in the archive cannot easily be recovered, decoded, and explicated, even though historians, legal historians, and other scholars claim to be doing just that. Archival readings, as the archival turn has urged, demand critical modes of reading and interpretation. “Reading against the grain” does not reveal what really happened but provides one version of events through a reading of the archive that changes and expands its meanings.

# 2nc

#### Including the 1AC re-essentializes the divide between the West and the Rest.

Christopher **MURRAY** PhD Candidate IR LSE **’20** *Anti-imperial world politics: race, class, and internationalism in the making of post-colonial order* p. 80-81

Anti-Eurocentric critiques of ‘Western civilisation’, though they deploy the concept in its processual, power-laden sense, have tended to reinscribe civilisation within broad narratives about Western chauvinism and non-Western subordination, rather than fully address the inter-societal forces which shape political imaginaries and possibilities. As Mustapha Kamal Pasha warns, defining civilisation as a process of power is necessary, but it does not guarantee by itself a relapse into essentialism. ‘Celebratory accounts of Indigeneity or Nativism’ used to deflect Western civilisational chauvinism are often instances of ‘anti-essentialist essentialism’, which reproduce Orientalist binaries and conceal the plurality of social forces and sites internal to ‘civilisations.’221 Bowden, for example, characterises both liberalism and socialism as ‘competing visions of Enlightenment utopianism’ which together define ‘Western civilization’ against ‘non-Western’ civilisations rendered inferior.222 Western civilisational chauvinism, Bowden tells us, is pointless for its ‘scorekeeping’, but he then suggests that we deflect this scorekeeping by pointing to – and in effect celebrating -- the ‘East’s influences in the realm of ideas and innovations that were introduced to the West.’223 Just as scholars have contested the concept as an essential category of cultural difference, it has become re-essentialised as a category of flattened, transhistorical oppression.

# 1nr

#### Wilson is concretely neg – TVA is apply the EFD to public schools. Creates a new economic framework, they get all their education good args.

1ac Wilson 21 (Erika Wilson, Wade Edwards Distinguished Scholar, Thomas Willis Lambeth Distinguished Chair in Public Policy, Associate Professor of Law, University of North Carolina at Chapel Hill, “Monopolizing Whiteness”, https://harvardlawreview.org/wp-content/uploads/2021/05/134-Harv.-L.-Rev.-2382-1.pdf//af)

V .CONCLUSION

This Article analyzed the prevalence and persistence of white student segregation in racially diverse metropolitan areas. It theorized that white student racial segregation in racially diverse metropolitan areas is a byproduct of social closure. Using examples from three predominately white school districts, it provided an account of how laws surrounding school district boundary lines facilitate race-neutral forms of social closure. Owing to the historical and modern alignment of whiteness with power and resources, it argued that social closure leads to predominately white school districts monopolizing high quality schools. It further argued that the monopolization creates stark racial disparities between school districts within metropolitan areas. Those regional disparities have harmful consequences for American democratic norms that go unaddressed.

Equal protection doctrine is the common legal framework used to regulate racial disparities in public education. Yet the Article demonstrated that equal protection doctrine is ill-suited to address white student segregation because it does not recognize monopolization as a legally cognizable harm. Nor does it account for the broader harms that racial disparities in public education has on American democratic norms. Instead, equal protection doctrine with its stringent subjective intent requirements and decontextualization of the significance of racially identifiable schools, allows white student racial segregation to persist unabated. Indeed, the doctrine unwittingly serves as a conduit through which whites can engage in second order social closure that facilitate monopolization of high-quality schools without legal scrutiny.

The Article therefore turned to a framework used to regulate monopolization for guidance. It demonstrated how principles from antitrust law – namely the essential facilities doctrine - if extrapolated to the public-school context is a useful lens through which to conceptualize the monopolization and harms to democracy caused by white student segregation. It also demonstrated a potential remedial path forward. Most importantly, it provides a blueprint for courts, legislators, and the public at large to reframe the way in which white student segregation is viewed and to consider alternative rationales and mechanisms for addressing white student segregation and monopolization of high-quality schools.