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#### Aff’s move towards political commitment is a net benefit – we should both recognize the impossibility of redemptive struggle and also strive towards emancipation – reject the alt’s attempts to determine the endpoint of political struggle in advance

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Aziz Rana, “Freedom Struggles and the Limits of Constitutional Continuity,” *Maryland Law Review*, vol. 71, no. 4, 2012, pp. 1046-1051, https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=2493&context=facpub.

V. Conclusion: Democratic Discretion and Narratives of Tragedy

The preceding sections have sought to highlight two claims about the ties between freedom struggles and constitutional discourses in America. First, they attempted to remind readers that a long black political tradition, consciously linked to global independence movements, questioned the very compatibility between redemptive anti-colonial aspirations and either constitutional faith or continuity. And second, such discussions emphasized that at two decisive moments of potential anti-colonial rupture in the U.S. the resort to frameworks of constitutional construction hindered as much as they assisted meaningful change. These two claims suggest a lesson and a caution for contemporary progressives committed to actualizing goals of equal and effective freedom. The lesson is that progressives should be less afraid of political discretion and more instrumental in their endorsement of constitutional principles and languages. The caution is that the repeated historic inadequacies of redemptive enterprises – whether here at home or as part of global anti-colonial projects abroad – raise doubts about the continuing utility as such of narratives of redemption (be they political or constitutional).

Let me begin by developing what I take to be the lesson of the historical examples. In many ways, Stevens and the most egalitarian among the Radical Republicans were generating in the first months of Reconstruction a vision of Congress as an instrument for exercising what Emmanuel Sieyès famously described as “constituent power.” 73 By this, Sieyès had in mind the sovereign authority that creates and thus precedes any instituted government. Such power was both democratic and legitimate because it expressed the national will, the people as a whole. In his view, government and its constituted powers were justified only to extent that they remained “faithful to the laws imposed upon [them]. The national will, on the other hand, simply needs the reality of its existence to be legal. It is the origin of all legality.”74 At a moment of collective refounding, Stevens sought to employ congressional discretion and military authority as constituent tools for transforming the basic character of American life – to act outside the bounds of ordinary legality in order to regenerate legal norms.

Today, among many progressives (inside and outside of the legal community) the exercise of such discretion is almost always associated with concerns about a usurpatory and “imperial”75 presidency. Not unlike those Egyptian activists who called for fidelity to the existing 1971 Constitution – regardless of its limitations – the thought is that constitutionalism protects the rights of the weak and that discretion enhances the power of despots. Given the legal specter of Schmittian dictatorship and the historical experience of totalitarianism, these fears are not to be taken lightly. In the words of one such progressive scholar, the “arbitrary character . . . of constituent power” must be avoided because it “is where the law ends, and pure politics (or war) begins.”76 At the same time, however, the Egyptian example also indicates that the progressive embrace of constitutional fidelity, as well as related discourses of shared tradition, may have their own pathologies. As the Mubarak regime exposed, instituted processes can themselves be deeply oppressive and, by contrast, the popular and extra-legal discretion of mass constituents can serve anti-authoritarian ends. In other words, depending on the political conditions, constituent power may well be generative and democratic rather than despotic; at the same time constitutionalism and frameworks of constitutional construction can simply promote a coercive rule-by-law.

More relevantly for the American case, the story of Thaddeus Stevens and David Davis indicates that progressive orientations to constitutional faith should be assessed pragmatically. Not only has the constitution-in-practice been riddled with injustice, as Balkin eloquently illuminates, the Constitution’s discursive structures have not been an unalloyed blessing for the freedom struggles of the past. Indeed, there is no reason to believe that although the radical potential of previous movements may have been hindered – at the most crucial moments – by the focus on constitutional narrative, similar fates will not befall future efforts. If the goal of progressives is a transformative and ultimately political one, faith should reside in the ideal of effective and equal freedom alone; this preeminent commitment may require both a politics of constitutional construction as well as one of constitutional rupture (the latter through democratic discretion). In a sense, progressive political faith should view its relationship to traditions, including constitutional ones, strategically – to be asserted when it serves emancipatory purposes and questioned or even rejected when it does not.

Such a call for progressives to be less tradition-bound and more willing to embrace constituent power (not to mention its very real political dangers) comes with a final note of caution. Twentieth century projects of redemption, both revolutionary anti-colonial ones and those grounded in constitutional faith, have all participated in a particular type of emancipatory history. As theorist David Scott writes, these redemptive accounts embrace a narrative structure of “romance.”77 They have presented “narratives of overcoming, often narratives of vindication; they have tended to enact a distinctive rhythm and pacing, a distinctive direction, and to tell stories of salvation.”78 Above all they have posited a future in which individuals can transcend oppression and unshackle freedom from existing modes of subordination – once and for all. Yet, the contemporary moment, both in the U.S. and in the postcolonial world writ large, has been marked by far greater historical complication. Post-apartheid South Africa offers just one telling illustration. The South African struggle embodied a classic story of anti-colonial redemption, complete with a revolutionary re-founding and a fundamental constitutional rupture. Yet, the postcolonial present in South Africa is much more equivocal than straightforwardly redemptive. Although constitutionally premised on racial equality, the country remains riddled with extreme economic hierarchies that are the persistent legacy of apartheid. In a sense, even total revolution and explicit constitutional rejection has not assured a future of salvation. Similarly, here in the U.S., the twentieth century’s great redemptive social movements – on behalf of organized labor, civil rights, and women’s equality – have transformed the political terrain but have also either receded in social power or left us with complex presents, marked by the overlap between formal equalities and substantive injustices. As Scott suggests, the twentieth century romance of redemption and untainted emancipation is now in many ways “a superseded future, one of our futures past.”79

The response among progressive should not be to give up generally on a utopian imagination. But it does suggest the value of binding this imagination to historical narratives of tragedy rather than to those of redemption or romance. By tragedy, I do not mean the notion that “due to some flaw or defect” our political and constitutional frameworks will necessarily commit us to “a disastrous course of action,” one that produces “great suffering and severe punishment.”80 Instead, I mean the idea, certainly embedded in the concept of a tragic flaw, that historical moments are marked by linked and mutually constitutive relationships of freedom and subordination. In describing the tragic in the postcolonial predicament, Scott writes:

[T]ragedy sets before us the image of a man or woman obliged to act in a world in which values are unstable and ambiguous. . . . [F]or tragedy the relation between past, present, and future is . . . a broken series of paradoxes and reversals in which human action is ever open to unaccountable contingencies – and luck.81

Thus, every political period, be it the Civil War, Reconstruction, or the current-day, presents its own hierarchies and dependencies. The goal of progressive action is to uncover those forms of dependence and to strive for liberation from them. But even successful projects of emancipation will produce their own “unaccountable contingencies” and generate new legal and political orders that knit together secured freedoms with emerging hierarchies, as post-apartheid South Africa and contemporary America suggest. This is the paradox of tragedy. It offers a narrative in which the struggle for emancipation is a ceaseless one, requiring an aspiration to utopia but never capable of being completely redeemed in history – as total emancipation is always and permanently beyond reach.

Besides speaking to the complexity of our postcolonial and post-civil rights times, such a narrative of tragedy better addresses the current moment in two ways. First, unlike stories of redemption, it provides a greater bulwark against the inclination to rationalize the injustices of the present, especially by acceding to a Whiggish faith in progress. Redemption stories, as Balkin himself recognizes and critiques,82 have the tendency to read history as a long-term trend toward justice, albeit halting and uneven. At a time when old forms of subordination persist in the U.S. and yet we see sustained backsliding from the very achievements of previous eras, a tragic narrative frontally challenges the complacent willingness to believe that conditions are ‘good enough.’ It does so by reminding us to be on continuous guard against the hidden and unwitting forms of domination embedded in our social practices, even in those practices – like constitutional construction and veneration – that we collectively esteem.

Second, and finally, an adequately tragic sensibility helps progressives to reclaim a space in their political imagination for democratic discretion. The grave problem of past revolutionary agendas (anti-colonial or otherwise) was a failure to appreciate fully the destructive violence generated by radical change. But if constitutional rupture must still be part of the progressive toolkit, an awareness of the tragic has the potential to cabin the worst consequences of discretion. Tragic discourse, by emphasizing the ambiguous nature of any transformative project, suggests its own ethic of political responsibility. Such a narrative makes ever-present the potential costs wrought by legal rupture and compels progressive actors to appreciate the political stakes when breaking from constitutional fidelity. A tragic sensibility demands of progressives both that they aggressively assert emancipatory commitments and that they embrace a judicious political ethics. Ultimately, it imagines an orientation to collective life animated by justice but tempered by the recognition of indissoluble paradox.

#### The aff transforms relations of domination characterizing settler-indigenous interactions – anti-domination and popular sovereignty reframe native self-determination and consent as intrinsic parts of governance

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Seth Davis, “American Colonialism and Constitutional Redemption,” *California Law Review*, vol. 105, 14 June 2017, pp. 1788-1799, https://www.californialawreview.org/wp-content/uploads/2017/12/6-Davis-34.pdf.

Some strains of religious and political theology treat this sort of skepticism as a necessary feature of redemption. In this register, "redemption" is relational. Applied to constitutionalism, relational redemption aims to transform unjust relationships and asks what any particular constitutional faith means not only for those who hold it, but also for those who hold other faiths.

Redemptive rhetoric, George Shulman has argued, can be dangerous politics. "God's messengers presume there is one right way to view and live in the world," he wrote, which can lead them to treat other faiths as "false prophecy dooming the nation." 237 At the same time, redemption can be relational, in which different communities of faith turn towards history and each other. When it comes to racism, for example, "we too want whites to acknowledge and overcome - why not say repent of and redeem? - a history of racial domination." 238 In that sense, "faith is ubiquitous and political theology is inescapable." 239 But perhaps there can be relational stories of redemption, ones in which different communities of faith "can engage rather than demonize the differences on which their identities depend." 240

For Reverend Powell, recognizing the problem of cheap grace was also a call for relational redemption. Cheap grace in the face of injustice does not disturb "the very societal structures responsible for oppression in the first place." 241 Redemption, by contrast, depends upon whether "the quest for justice brings about salvation and liberation for the oppressed and their oppressors." 242 On this view, redemption is relational; it begins with recognition of the injustice of a relationship and requires a transformation of that relationship.

This relational idea of redemption draws inspiration from relational theories of rights within feminist legal theory. Jennifer Nedelsky, for example, argued for an "understanding of rights as relationship and constitutionalism as a dialogue of democratic accountability." 243 Rights, in this relational approach, constitute (and are constituted out of) particular relationships "of power, of responsibility, of trust, of obligation." 244 Designing rights involves choices about basic values and how law structures (and is structured by) relationships, with lawmakers seeking to foster certain kinds of relationships. 245

To say the state is a fiduciary is to tell a story about the relationship between political elites and those subject to the public power they wield. In Socrates' telling, this story seemed beyond belief: "All of you in the city are brothers," his story went, "but the most precious are the ones fit to rule, because when the god formed you at birth he mixed gold into them, silver into the auxiliaries, and iron and bronze into the farmers and the craftsmen." 246 This is a sacred story of guardians bound to the terms of a public trust 247 and a profane tale in which some citizens dominate others. 248

Today's public fiduciary theorists seek to work this sort of myth pure of its profaneness. 249 Mutual trust and the rule of law, not elitism and paternalism, are at the heart of this modern trust conception. For more than four centuries, however, the trust conception of government has been associated with relationships of European and American imperialism and colonial domination. It seems implausible to think that the association is a mere accident, that this history of fiduciary domination tells us nothing important about the fiduciary conception. And it is beside the point to say that imperialism and colonialism would have been worse without the trust conception. Perhaps it would have been. Even so, the trust conception may perpetuate or foster relationships that we should reject. Historically, the discourse of fiduciary government became "saturated" with "images" of racism and domination, particularly in settler colonial states. 250 The persistence of the plenary power doctrine in U.S. law should make clear it is not easy to split the sacred trust from the profane tale.

"Metaphors in law," Justice Benjamin Cardozo once mused, "are to be narrowly watched, for starting as devices to liberate thought, they end often by enslaving it." 251 Some private fiduciary relationships are patently paternalistic. The law entrusts guardians with authority over their wards' affairs based upon the (purported) incapacity of the ward. Other fiduciary relationships, such as the private trust, entail paternalism because the law directs the fiduciary to decide what's in the beneficiary's best interests. There is a strong argument that fiduciary duties "build a measure of paternalism into every fiduciary relation." 252 The fiduciary metaphor may keep us from focusing on the ways in which the people are not (and should not be) passive beneficiaries of public laws made and enforced by political elites. 253

Where the people are defined as beneficiaries and the state as a fiduciary, perhaps we should expect political elites to assert a "paramount power" 254 to define the law, the right, and the just. Instead of asking why Western colonial governments dominated Indigenous Peoples "in spite of" 255 their fiduciary ideals, we might ask why the trust conception lends itself to relationships of domination.

Three features of the trust conception stand out as particularly conducive to relationships of domination. 256 First, consent need not be the source of public authority, as the law itself may entrust the state with fiduciary authority over a people. This idea of authority by operation of law lends itself to the law of the conqueror unilaterally declaring its own supremacy. In Cherokee Nation v. Georgia, Chief Justice Marshall declared it, and it was so: Indian Nations "occupy a territory to which we assert a title independent of their will … . Their relations to the United States resemble that of a ward to his guardian." 257

Second, under the trust conception, the state's authority is explicable less in terms of what the people can do, but more in terms of what they are incapable of doing. Indian Nations "are the wards of the nation," the Supreme Court reasoned in Kagama, and "their very weakness and helplessness" subjects them to the authority of the United States. 258 The problem, in other words, is that the trust conception lends itself to paternalistic justifications of relationships of domination.

Third, we do not expect fiduciaries to leave their beneficiaries alone. To the contrary, fiduciaries are authorized to interfere in their beneficiaries' affairs. Private trustees, for example, manage the trust property for the beneficiaries. Transposed to the colonial context, this idea has supported policies to restrict Tribal self-government.

Nothing in what I have argued thus far "proves" that it is impossible to tell a story of constitutional law based upon trust or the trust conception of government. 259 But what I have argued should cast doubt on trust law (much less the law of guardianship) as a device for thinking about relationships of mutual respect among self-governing peoples. That's not to deny the "unique obligations" of the United States "toward the Indians" 260 or to call into question the government-to-government relationships among Indian Nations and the federal government. These government-to-government relationships are distinct from the relationship between an individual and the government. But, as public fiduciary theorists have shown, the relationship between state authority and anyone subject to it can be described in terms of a trust. Like private fiduciaries, public officials have discretionary power to act on the interests of others. And like the beneficiaries of private fiduciary relationships, the people depend upon public officials to exercise their discretion fairly and with care. Entrusting discretionary authority to public officials makes the people vulnerable to self-dealing, carelessness, and other abuses of power. For this reason, we might view public officials as fiduciaries who owe duties of loyalty and of care to anyone subject to their authority. 261 There is nothing in the formal idea of government authority as a trust that distinguishes Indigenous Peoples from others subject to government power without their consent. 262 Therefore, the unique government-to-government relationship between an Indian Nation and the United States does not arise from the trust form alone. Instead, we have to explain this unique relationship based on something other than trust law itself.

Such stories of relational redemption cannot be told by "We the People" alone. We the People's veneration of the Constitution, their trust in its institutions, their confidence that constitutional government can be washed of the wrongs it has committed - ultimately, their faith in themselves 263 - cannot by itself transform their relationships with other peoples. Within a multinational and multicultural world, a world in which many people are excluded from "We the People" or choose not to join them, redemption should mean something that's more demanding, more radical, and more important. It should mean sharing stories among "We the Peoples."

C. The Consent of We the Peoples

1. Stories of Relational Redemption

Fiduciary theorists have told a story about colonial rule that focuses on how "Western nations framed their authority to govern territory in fiduciary terms." 264 Other stories of the relationship between settler governments and Indigenous Peoples do not depend upon the fiduciary principles that settler governments invoked to legitimate conquest and colonial rule. Whether founded on human rights claims or Indigenous visions of diplomacy, such stories involve recognition of a "mutual … relationship" 265 between peoples based upon good faith and consent.

To revisit consent in this way is not to tell the same story as traditional social contract theory. Social contract theories range from quasi-anthropological descriptions of the origins of society in agreements among persons in a state of nature to the use of contract as a conceptual device for thinking about what we should demand of each other and the state. 266 Traditional social contract theory points to agreement among rational individuals for the foundation and content of legitimate government authority. This theory influenced - and continues to influence - Americans' story of their constitutional government. American judges, for example, have used the idea of a social contract to justify exclusion, discrimination, and domination. 267

Social contract theory, then, is susceptible to the same objection as the public trust conception of government, namely, that whatever legal legitimacy it purchases comes at the price of legitimating social injustice. Perhaps any story of constitutional government based on contract lends itself to ideologies of domination, not relational redemption. 268 Critical social theorists have argued that the contract conception can exclude as much as it secures freedom among individuals. Carole Pateman, for example, has argued that the original contract includes not only the social contract constituting the state, but also the "sexual contract" through which men assert the right to govern women. 269 Following Pateman's account of the sexual contract, Charles Mills has argued that the social contract also includes a "racial contract" through which whites have justified the exclusion and domination of people of color. 270 Thus, the social contract has served as an ideology of domination, not simply a story of agreement among free and equal persons.

When it comes to American colonialism, moreover, the association between contract and domination is not simply conceptual or metaphorical. The United States acted coercively in many treaty negotiations with Indian Nations. Negotiation can lead to domination if one party does not have "the people and institutions [necessary to] hold their own as equals across the table." 271 Many Indigenous Peoples are renewing and developing the necessary institutions. But any number of "principal-agent difficulties" arise when we think about contracting as a tool of self-government. 272 Finally, in many cases colonial states refused to contract with Indigenous Peoples. Within the United States, where treaty making ended in 1871, 273 there are many Indian Nations without treaties.

One advantage of looking to contract rather than to trust as a metaphor for multicultural constitutionalism, however, is that it focuses us on these difficult questions, rather than on how colonial states justify the supreme power they claim over Indigenous Peoples. 274 Charles Mills has argued that the core of the contract metaphor is the recognition that human choices construct the law and the state. 275 As a doctrinal matter, a fiduciary relationship can exist by operation of law. The United States, for example, has assumed the authority of a trustee by operation of federal law even where Indian Nations have not consented to it. By contrast, as Michele Goodwin has argued, "a social compact exists only when a real social relationship exists. In this way, the party subject to the State's compact must be valued, their contributions respected, and their communities honored." 276

Understood in this way, the social contract is a relationship. It is not a thing, like a piece of paper in a consumer contract. 277 The social contract is not a ritual, repeated every four years in a voting booth, nor a foundation that the Framers built centuries ago and left to posterity. Instead, the social contract is an ongoing relationship between equals in which agreement and resolution of differences in good faith is a goal.

This relational understanding of the social contract has analogues in the common law of contract. Relational theories emphasize contracts as relationships based upon "good faith, best efforts, and reasonable adjustments between parties." 278 One way of thinking about contracts treats them as exchanges between parties who aim to maximize value through one-off market transactions rather than as building blocks of relationships. Relational contract theorists, on the other hand, think that the way to understand contractual agreements is by focusing upon the social relationship between the contracting parties. They reject the idea that we can best understand contracts by focusing upon one-shot deals between strangers who reach agreements in impersonal markets, an idea they associate with classical contract theory. Understanding most contracts requires a thick description of relationships in which "parties expect some form of loyalty" as well as "trust and social solidarity." 279 The difference between relational contract theory and its classical counterpart is not simply one of standards versus rules, though it encompasses that distinction. Relational contract theory, rather, focuses upon fostering ongoing relationships among contracting parties. Otherwise, relational theorists warn, "legal mechanisms are imperialistic and do not function effectively in concert" with the norms the parties have established throughout their relationship. 280 Thus, for relational theorists, recognizing the relational realities of most contracts opens up critiques of existing law and invites new norms of contracting.

Indigenous Peoples have asserted their rights to relationships based upon consent while resisting colonial domination. Sometimes this resistance involves demanding that colonial governments keep their treaty promises. 281 More broadly, as Robert Williams has put it, "so long as indigenous peoples can continue to point out the embarrassing fact that they never consented to" the authority of colonial states, "they will continue to be able to frame a compelling case for their fundamental human rights of self-determination." 282 This case need not depend on a traditional Western conception of the social contract, even if it draws upon that conception for rhetorical and normative force. Before there was a U.S. Declaration of Independence, Vine Deloria remarked, "American Indians were the original proprietors of the continent, the quintessential practitioners of the original social contract." 283 And before there was a story of "We the People," there were stories of many different peoples.

When it comes to North America, one such story holds that "the Trust Doctrine was not the exclusive byproduct of the Western legal tradition brought to North America from the Old World." 284 In the early years of Indian and European relations in eastern North America, Indian and European sovereigns treated each other in fact "as rough political, economic, and military equals." 285 As late as the 1820s, Chief Justice Marshall, the author of the foundational judicial opinions in federal Indian law, "feared the possibility that the Indians would push America into the sea." 286 As equals, Indian Nations offered understandings of international diplomacy that did not depend upon the law of trusts.

For the Iroquois, for example, diplomatic relationships were extensions of kinship. 287 Indians might refer to their European treaty partners as fathers or brothers, with the Europeans "naturally assuming that the father figure represented authority and wisdom in dealing with Indian children." 288 Understood in European terms, the diplomatic relationships between Indians and colonial governments looked like a guardian-ward, or perhaps a parent-child, fiduciary relationship. But Indian kinship terms did not have the same connotations for Indians. It was not uncommon for different Indian Nations in eastern North America to treat with one another in kinship terms without surrendering sovereignty as a ward to his guardian. 289

There are many such traditions of Indigenous diplomacy. Among Indian Nations of the eastern woodlands, 290 for example, treaties were sacred pacts affirmed by wampum. Wampum belts, made of clamshells or glass beads, served many functions, including as gifts and records of intergovernmental agreements. 291 The Gus-Wen-Tah, also known as the Two Row Wampum, symbolized the Haudenosaunee understanding of the intergovernmental relationship of "peace and friendship." 292 Along the wampum there "are two rows of purple" that "symbolize two paths or two vessels," one for Indians and another for non-Indians, "travelling down the same river together," with neither "trying to steer the other's vessel." 293 The Gus-Wen-Tah signifies a relationship of mutual protection and trust, not the submission and vulnerability of a ward to a guardian under Euro-American fiduciary law.

Understood as a "mutual, ongoing trust relationship" between sovereigns, 294 this vision signifies legal and moral protections for Indian self-determination and separatism. Robert Williams has argued that Chief Justice Marshall's opinion in Worcester incorporated Indian understandings of the trust relationship into federal law. 295 In Worcester, the Chief Justice wrote that the "relation" between the Cherokee Nation and the United States "was that of a nation claiming and receiving the protection of one more powerful: not that of individuals abandoning their national character, and submitting, as subjects, to the laws of a master." 296 Treaties between the two nations "recognize[] the national character of the Cherokees, and their right of self-government, thus guaranteeing their lands." 297 On that understanding of Worcester, American constitutional law and discourse has a story of mutual consent among peoples.

Recognizing the rights of Indian Nations to steer their own vessels entails respect for political communities whose ideas of good governance may not be rooted in fiduciary norms of Western law. In this way, a story of mutual consent is not a story of U.S. supremacy based upon plenary power and the Indian trust. Nor is it a story that assumes that U.S. norms and institutions are superior to Tribal institutions and norms. Such differences among legal norms and institutions are not unfamiliar from the American constitutional tradition. After all, the American federal system incorporates differences in legal norms through the varied laws of the fifty states. 298 The federal government may assert the supremacy of federal law, but that does not mean that federal law is superior to Tribal law. 299 Viewing relationships between Indigenous Peoples and colonial governments in terms of Indigenous diplomacy and relational contracts focuses us on mutual obligations and good faith, while not assuming Indigenous and colonial governments are partners that must share the same values.

The idea of relational contracts is not simply a metaphor when it comes to Indigenous Peoples. In many cases, there are "actual contracts" 300 that embody ongoing relationships of mutual respect and good faith. American Indian Nations have looked to treaties as tools of self-government. Under Indian traditions of diplomacy, mutual respect, protection, and good faith are inherent to treaties. Many Indian treaties embody an ongoing relationship of mutual respect and a continuing obligation among peoples to resolve disputes through consent, not conquest. An Indian treaty is not merely a document that memorializes an agreement; rather, it invokes a relational understanding of contract and consent among peoples.

Even though the United States has ceased treaty making with Indians, contracts remain an important tool of self-determination. Indian Nations have entered into self-determination contracts with the United States to provide government services, such as education and health care, to their citizens. 301 Long-term contracting with private parties has allowed Indian Nations to develop their economies. 302 And Indian Nations have entered into agreements to resolve disputes with state and local governments over jurisdictional boundaries. 303

Calls for a resumption of treaty making and government-to-government relationships based on consent are common in American Indian social movements. In November 1972, for example, American Indian activists marched the "Trail of Broken Treaties" to present "Twenty Points" to the federal government. Seven of the twenty demands concerned restoring a consensual, treaty-based relationship between Indian Nations and the United States. 304 More recently, international Indigenous rights movements have called for nation-states to comply fully with the duty to obtain free, prior, and informed consent from Indigenous Peoples, which is codified in the U.N. Declaration on the Rights of Indigenous Peoples. 305 Within the United States, the federal government's failure to live up to that obligation has been brought to national attention with the federal executive branch's authorization of construction of the Dakota Access Pipeline across the traditional territory of the Standing Rock Sioux Tribe, 306 a decision that violated the executive's obligations to take a hard look at the impacts of a pipeline spill on Tribal rights. 307

Metaphors of contract and consent thus capture some of the social reality of Indian Nations' autonomy and self-determination. Indian Nations have persisted not as wards of a colonial guardian, but as nations that negotiate agreements to provide government services, to develop their economies, and to resolve disputes with other governments. The operative metaphor here is not the guardian-ward relationship, or even a relationship in which a trustee makes decisions for her beneficiary. Instead, the metaphor is one of contract. There is a significant risk of romanticizing consent and contract as an alternative to the trust conception. But if we are committed to a constitutional democracy that recognizes Indigenous self-determination, then we need a way of sharing stories that begins with mutual respect and autonomy, not with plenary power and domination.

#### Political commitments are an ethical imperative – it is impossible to tell in advance whether we will succeed or fail, but refusing to act at all is disastrous

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Lewis Gordon, “2: Re-Imagining Liberations,” *Freedom, Justice, and Decolonization*, Routledge 2021, pp. 29.

Concluding Considerations

A crucial feature of political commitment is that it is an existential paradox. Unlike moral commitment, which involves doing the “right thing,” political commitment affords no advanced notice or assured principle of verification. Her actions could have produced an arrogant child who is shortly thereafter killed, or a fighting, committed spirit who suffers the same fate. Political commitment requires acting without knowing the outcome and acting for those whom one ultimately will never know. A six-months’ glimpse into the life of the child is not the same as knowing the man he was to become. This insight is similar with regard to political action. No political act offers guarantees save one: it will affect others whom one would ultimately never know. What, then, could one hope for with such action?

The first thing to consider hits the heart of critical diversity. Those who benefit from our actions may be so radically different from us that we may even recoil at the discovery of whom they turn out to be.

Second, those who suffer from our actions may be those beyond our expectations.

Third, the first and second considerations lead to the realization that the epistemic act of trying to imagine the recipients of our actions collapses into the first desire of love, which would be an affirmation of the self. Put differently, it would involve simply positing versions of ourselves into a future whose condition of possibility requires the emergence of people who are both not us and also, possibly, not like us.

Fourth, this means acknowledging, through political commitment, the production of freedom that transcends us. This act of political commitment is simultaneously a manifestation of the second form of love. It offers the paradox of loving, by virtue of action, anonymous generations to come.29

The fourth kind raises the question of building a future, even in the face of circumstances that do not guarantee our having one. In effect, the message, politically understood, is this: learn we hope, but try we must.

#### Aff’s distributional logic is GOOD – it’s the only way to universalize settler liberty – expansion of substantive democratic equality to Indigenous communities ruptures the settler past

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Aziz Rana, interviewed by Nikhil Pal Singh, “Universalizing Settler Liberty,” *Jacobin*, 4 August 2014, https://www.jacobinmag.com/2014/08/the-legacies-of-settler-empire/.

Thus, to universalize settler liberty — as I argue for in the book — would require a fundamental restructuring of American life. This is something radical critics themselves perceived at various moments in American history. It would mean thinking about how a democratic principle could actually govern all institutional sites and provide all communities with meaningful economic and political power.

Such an effort would transform, root and branch, settler legacies and living practices: from recognizing Indian sovereignty to fundamentally altering the structure of the economy to challenging the border as a closed barrier. The key thing to note is that such freedom, although emerging from a settler past, would no longer perpetuate settlerism.

This speaks to what I see as the dialectical character of freedom, where the conflict between an initial account of liberty and its opposition produces something new. And similarly, I would add that I do not believe that if we ever “universalized” settler freedom this would mean the end of subordination once and for all. Rather, in keeping with the dialectical vision, even successful projects of emancipation generate new legal and political orders that knit together secured liberties with emerging hierarchies.

In other words, the struggle for freedom is ongoing; it requires an aspiration to utopia but is never completely redeemed in history. This is to say that I don’t believe we can overcome the impasse of settler violence simply by rising above it or thinking differently — we are stuck with our particular histories and the modes of freedom and subordination that constitute our discursive frameworks and institutional practices. These histories open up the possibility of transformation — they give us tools to imagine utopias — but they can never be completely overcome.

This also underscores why my argument is not nostalgic, despite its discussion of the emancipatory dimensions of settler freedom. Those emancipatory elements were grounded in extreme violence. Indeed, one reason why I choose to refer to these arguments as “settler” — with all its fraught implications — rather than simply republican, populist, or socialist is to avoid extricating American economic radicalism from its colonial underpinnings.

This history of extreme violence means that there is no past we need to find a way back to; the settler experience offers no golden age before modern American imperialism. This acknowledgment perhaps distinguishes my views from those of critics like Christopher Lasch or even William Appleman Williams. If anything, for me, the two logics of empire — settler colonization and global police power — cannot be thought of as distinct historical periods. They are deeply interlinked and fold into one another rather than marking clear breaks or ruptures in time.

NPS: Why does this discussion of settler freedom as integral to US conceptions of sovereignty and governance matter for something called the Left today?

AR: I think it’s essential for at least two reasons.

First, a remarkable feature of US domestic conversations about capitalism and economic inequality is the extent to which they are often separated from conversations about the application of US power abroad. As just one example, take the issue of immigration and immigrant rights, a focal point of new labor organizing on the one hand and conservative reaction on the other.

The overwhelming tendency is to present immigration as an issue that begins at the national border, with virtually no attention paid to the particular histories, international economic pressures, and specific US foreign policy practices that generate migration patterns in the first place. The movement of men and women from their homes does not occur in a vacuum and is deeply tied to patterns of colonization and empire that stitch together the Global North and the Global South, as well as to the recent security politics of the US and Europe across the post-colonial world.

On the Left, it’s obviously taken as a truism that capitalism is a global system requiring global political action. But without articulating the mutually constitutive relationship between capitalism and the ongoing politics of empire, it’s very hard to perceive the truly global dimension of economic inequality. Moreover, the separation between what’s viewed as “domestic” and what’s viewed as “foreign” means that it’s equally difficult to recognize and develop solidarities between communities in the North and in the South or to appreciate how seemingly US-centered struggles may be only one piece of a broader global reality.

A key effect is the decline of a self-conscious and committed internationalist sensibility among economic reformers in the US. Thinking of inequality in isolation from colonialism or from exercises of American hegemony essentially leaves uncontested the security ends of the US state, ends that feed back in direct and indirect ways precisely into sustaining corporate power and class hierarchies at home.

It should be noted that during the heyday of the labor movement or of black radicalism, activists very clearly articulated an independent foreign policy grounded above all in the interests of oppressed communities — one that emphasized solidarities abroad (between workers or colonized peoples) and that directly challenged the security state itself. Nothing like this exists at present, and I can’t help but think that one reason is the discursive disconnect between questions of economy on the one hand and those of race, empire, and hegemony on the other.

The second reason for bringing the legacies of settler empire back into our discussions of capitalism has to do with specifically American roadblocks to social democracy. Thomas Piketty notes that the United States in the nineteenth century was marked by far greater white economic equality than European counterparts. But he spends less time on the essentially colonial explanation for this fact.

Throughout American history, the tension between capitalism and both democratic self-government and economic independence has largely been resolved through native expropriation and/or racialized economic subordination. And many of the great American struggles to replace capitalism with a more humane political economy have foundered precisely on questions of membership.

For example, radicals during Reconstruction, the Populist movement, the New Deal, and the long black freedom struggle all emphasized the need to pursue policies that made economic justice both universal and effective. Yet all faced powerful counterforces that defined membership narrowly and reverted to colonial dichotomies of insiders and outsiders, in the process breaking class solidarities and preserving racial and economic privileges. To return to immigration, today we can see this dynamic playing out once more in the context of debates around the legal rights and status of undocumented workers.

To make matters worse, a common American narrative has been to blame oppressed communities for the collapse of “universal” economic agendas. The conventional story of the 1960s instructs us that it is black radicals at the close of the decade that were not universalistic enough — despite the fact that they maintained a persistent and thoroughgoing critique of capitalism — and thus scared away potential white allies, fatally compromising left-liberal change. This blame narrative suggests just how pernicious race in particular and colonial legacies more generally have been for fulfilling social democratic goals.

The politics of exclusion has been a persistent means of cleaving class solidarities and undermining direct confrontation with the prevailing economic order. The collapse of these solidarities has then been blamed on the very radicals — particularly within excluded communities — that were at the forefront of pressing for universal and revolutionary reform in the first place.

The only way that these cycles of retrenchment and blame can be broken in the United States is by fully integrating our conversations about class and race, capitalism and colonialism.

#### Their structural reading relies on pessimistic “traps” – those are diametrically opposed to Indigenous agency and efforts to reassert nationhood

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Sheryl, “The Pessimism Traps of Indigenous Resurgence,” Chapter 10 in *Pessimism in International Relations*, Eds. Stevens, T., & Michelsen, N., Palgrave)

Despite all of these activities designed to re-write the relationship between states and Indigenous peoples, some high-profle critical Indigenous political theorists reject all state overtures towards reconciliation and take extremely pessimistic approaches towards future Indigenous-state relations. They advocate that Indigenous resurgence through a return to Indigenous land-based forms of governance is the only path to decolonisation. I argue that while resurgence school theorists are strong advocates for Indigenous nations and bring focus and clarity to a set of issues about power structures and dynamics, they are all caught in the same set of three ‘pessimism traps’ that unnecessarily limit their capacity to contribute to improved Indigenous-state relationships. These pessimism traps emanate from a reliance on Fanonian revolutionary thought and a problematic application of Fanonian theory from French-colonised North Africa to an entirely different context in the English-speaking settler states. Finally, I argue, these pessimism traps are diametrically opposed to the work and vision of Indigenous organisations who have been working on the ground for decades to assert Indigenous nationhood both domestically and internationally, in ways that often assertively and creatively challenge and shift the existing system of sovereign states. In sum, because the resurgence school remains trapped in a pessimism box of its own making, it remains signifcantly out of step with Indigenous movements and actually risks harming their efforts to advance Indigenous self-determination in creative and innovative ways.

Pessimism Trap 1: A Clear Demarcation of Indigenous Individuals into Only Two Categories, ‘Authentic’ and ‘Co-Opted’

For Indigenous resurgence theorists, these two categories are the only possibilities, and there is no grey area in-between. In their view, Indigenous peoples are co-opted if they hold elected offce, make land claims or economic development agreements with governments or industry, or even sign treaties. Furthermore, co-opted Indigenous peoples are so co-opted, that they do not even recognise how they are being used and colonised by the state and its private-sector partners. On the other hand, authentic Indigenous peoples live on their traditional lands, speak their Native languages, practice their culture and govern themselves in traditional fashion. They are the only ones that have successfully resisted the overwhelming forces of colonisation and its powers of cooptation, and the only ones with the power to do so into the future.

In his 2005 book, Wasáse: Indigenous Pathways of Action and Freedom, Taiaiake Alfred calls on the original people, what he calls Onkwehonwe in the Mohawk language, to unify in resisting the colonial structures that continue to oppress them.5 Relying on warrior imagery in the Mohawk tradition, Alfred confronts Indigenous people to recognise Western domination in our communities and resist it. He argues forcefully that Indigenous peoples have become overly complacent on, and even dependent upon, Western social, economic and political structures. He calls for a resurgence in Indigenous spirituality and political structures in Indigenous communities. As he sees it, a strong Indigenous warrior is not one that necessarily engages in war and violent resistance but, rather, is one that shows real courage by living a daily life grounded in the spiritual teachings and practices of our ancestors. The decolonising revolution he calls for is rooted within the peaceful resurgence of traditional spirituality and governance. As he writes, ‘There are people in all communities who understand that a true decolonization movement can emerge only when we shift our politics from articulating grievances to pursuing an organized and political battle for the cause of our freedom. These new warriors understand the need to refuse any further disconnection from their heritage and the need to reconnect with the spiritual bases of their existences’.6 While at frst glance, this book represents a powerful and compelling call to action by Indigenous communities and leaders, a closer examination reveals all three pessimism traps in play throughout the text .

Alfred draws a sharp line between authentic Indigenous approaches and co-opted ones. As he puts it, ‘Not all of us have been conquered. There are still strong Onkwehonwe who persevere in their struggle for an authentic existence and who are capable of redefning, regenerating, and reimagining our collective existences’.7 Yet, he warns, ‘The colonizers stand on guard for their ill-gotten privileges using highly advanced techniques, mainly co-optation, division and when required, physical repression’ and ‘with its massive resources, the state can co-opt leadership and movement successes’.8

Furthermore, Alfred notes, the authentic Indigenous peoples and leaders are no longer the majority, as the co-opted ones seem to occupy most of the leadership roles in organisations and communities. Lamenting the constant temptations for co-optation on offer, from land claims agreements, to casino capitalism, to chief and council salaries, Alfred writes, ‘Working for a cause that has indigenous integrity means sacrifce. …This is the reality of an authentic indigenous existence in political terms. And, evidently, in our communities today, there are only a few people who are convinced that taking on the psychological and fnancial burden of being really indigenous is worth the fght’.9

Similar patterns appear in Alfred’s follow-up 2009 book, Peace, Power, Righteousness: An Indigenous Manifesto. 10 In this work, Alfred walks the reader through Indigenous values, weaving a thesis that a new kind of Indigenous leadership, characterised by the resurgence of Indigenous forms of self-determination, is the only way to resist colonialism and preserve what still exists of Indigenous culture and lifeways today. In a Fanonian spirit, he challenges Indigenous peoples, and particularly leaders, professionals and academics, to be aware of how colonialism has impacted them and their communities on every level, including and especially, psychologically. He challenges Indigenous leadership and communities to recognise these multiple layers of colonialism in current contemporary practice, and to resist them.

As in his earlier work, Alfred divides Indigenous peoples, communities and leadership into two stark categories: authentic and co-opted. Indigenous leaders, he says, either actively resist, or they co-operate with the state. When they co-operate with the state, they ‘rationalize and participate actively in their own subordination and the maintenance of the Other’s superiority’ and therefore become co-opted.11

Further, he sees that as states have moved away from overt violent control of Indigenous communities, co-option has become the preferred method of control and subordination:

The fact is that neither the state-sponsored modifcations to the colonial-municipal model …nor the corporate or public-government systems recently negotiated in the North constitute indigenous governments at all. Potentially representing the final solution to the white society’s ‘Indian Problem,’ they use the co-operation of Native leaders in the design and implementation of such systems to legitimize the state’s longstanding assimilationist goals for indigenous nations and lands.12

One of the deepest problems, according to Alfred, is that co-opted communities, leaders and professionals do not often even realise that they are, in fact, co-opted. Co-option, he says, ‘is a subtle, insidious, undeniable fact, and it has resulted in a collective loss of ability to confront the daily injustices, both petty and profound, of Native life’.13 As a case in point, Alfred engages in a substantial discussion of how the concept of sovereignty itself is Western in focus and therefore, when Indigenous leaders advocate for it, on behalf of their nations and communities, they are unwittingly engaging in a politics of co-optation. ‘Shallow-minded politicians’, Alfred writes, ‘are unable to grasp that asserting a right to sovereignty has signifcant implications’. When they assert a claim to sovereignty but not to resist the state itself, ‘they are making a choice to accept the state as their model and to allow indigenous political goals to be framed and evaluated according to a “statist” pattern’.14 Another prominent member of the Indigenous resurgence school, Glen Coulthard (Yellowknives Dene), was mentored by Taiaiake Alfred and their common philosophy is immediately apparent. As Alfred writes in his foreword to Coulthard’s 2014 book, Red Skin, White Masks: Rejecting the Colonial Politics of Recognition, ‘Coulthard is talking about rising up, …about resurgence and the politics of self-affrmation. This is a call to combat contemporary colonialism’s objectifcation and alienation and manipulation of our true selves’.15

Coulthard critiques the current Canadian policy atmosphere of reconciliation as contemporary colonialism, ultimately the same as the old colonialism, but with a new mask. He argues the structure of the settler colonial invasion continues to dispossess and oppress Indigenous peoples, as it always has, but it now has a new face: the disingenuous liberal politics of recognition—which includes such current policy initiatives as the delegation of self-determination, economic development and the settlement of land claims. He begins by noting that over the past forty years or so, there has been an ‘unprecedented degree of recognition for Aboriginal “cultural” rights within the legal and political framework of the Canadian state’.16 Coulthard acknowledges that the increase in recognition demands coming from Indigenous intellectual and community leaders are largely responsible for these changes to the structure of the Indigenous-state relationship in Canada. Yet, Coulthard’s goal in this work is to challenge the notion that ‘the colonial relationship between Indigenous peoples and the Canadian state can be adequately transformed via such a politics of recognition’.17 Rather than ushering in a new relationship, he argues, the ‘politics of recognition in its contemporary liberal form promises to reproduce the very confgurations of colonialist, racist, patriarchal state power that Indigenous peoples’ demands for recognition have historically sought to transcend’.18

In other words, all of the work and struggle by Indigenous leaders and advocates in the past four decades to advance self-government, recognition of Aboriginal rights and title and economic development for their communities has not only been futile, but damaging to what would or should have been an ‘authentic’ struggle for Indigenous self-determination. Further, all of these advocates and leaders do not even realise how co-opted they have become in the ongoing structures of colonialism. Citing Alfred, and echoing Fanon, Coulthard notes that the dominance of the recognition approach over an extended period of time has produced a class of ‘Aboriginal “citizens”’ who have come to defne themselves in terms of the colonial state and its institutions rather than the culture and political traditions of their own Indigenous nations. He identifes a similar process with capitalist economic development initiatives that have created an ‘emergent Aboriginal bourgeoisie whose thirst for proft has come to outweigh their ancestral obligations to the land and to others’.19 Unfortunately, Coulthard pessimistically views Indigenous rights advancement as ‘bleak’, since ‘so much of what Indigenous peoples have sought over the last forty years to secure their freedom has in practice cunningly assured its opposite’.20

In a 2007 article, Cherokee political scientist Jeff Corntassel takes the co-option argument to the international level.21 Corntassel acknowledges that UN fora do provide opportunities for strategising and diplomacy among Indigenous actors from diverse parts of the world, especially important in storytelling, information sharing and building solidarity. Corntassel also acknowledges that there were a handful of instances in the First UN Indigenous Decade (1995–2004) where Indigenous peoples were able to successfully challenge UN protocols and procedures and insert themselves into the UN ‘on their own terms’. However, despite these acknowledgements, Corntassel concludes that the UN system, being made up of states, aims to co-opt Indigenous peoples into the norms and mores of the state, thereby distracting them from their proper focus on advancing their own nationhood. Like Alfred and Coulthard, Corntassel falls into the first pessimism trap which demarcates Indigenous political leadership into ‘authentic’ and ‘co-opted’ categories.

Pessimism Trap 2: The State is Unified, Deliberate and Unchanging in Its Desire to Dispossess Indigenous Peoples and Gain Unfettered Access to Indigenous Lands and Resources

In other words, colonialism by settler states is a constant, not a variable, in both outcome and intent. Further, the state is not only intentionally colonial, but it is also unifed in its desire to co-opt Indigenous peoples as a method and means of control.

In 2005’s Wasase, Alfred presents the state as unitary, intentional and unchanging in its desire to colonise and oppress Indigenous peoples noting, ‘I think that the only thing that has changed since our ancestors frst declared war on the invaders is that some of us have lost heart’.22 Referring to current state policies as a ‘self-termination movement’, Alfred states, ‘It is senseless to advocate for an accord with imperialism while there is a steady and intense ongoing attack by the Settler society on everything meaningful to us: our cultures, our communities, and our deep attachments to land’.23

Alfred’s Peace, Power, Righteousness (2009) also argues that the state is deliberate and unchanging, stating quite plainly that ‘it is still the objective of the Canadian and US governments to remove Indians, or, failing that, to prevent them from beneftting, from their ancestral territories’.24 Contemporary states do this, he argues, not through outright violent control but ‘by insidiously promoting a form of neo-colonial self-government in our communities and forcing our integration into the legal mainstream’.25 According to Alfred, the state ‘relegates indigenous peoples’ rights to the past, and constrains the development of their societies by allowing only those activities that support its own necessary illusion: that indigenous peoples today do not present a serious challenge to its legitimacy’.26

Linking back to the aim of co-option, Alfred argues that while the state’s desire to control Indigenous peoples and lands has never changed, the techniques for doing so have become subtler over time. ‘Recognizing the power of the indigenous challenge and unable to deny it a voice’, due to successful Indigenous resistance over the years, ‘the state has (now) attempted to pull indigenous people closer to it’.27 According to Alfred, the state has outwitted Indigenous leaders and ‘encouraged them to reframe and moderate their nationhood demands to accept the fait accompli of colonization, (and) to collaborate in the development of a “solution” that does not challenge the fundamental imperial lie’.28

In a similar vein, Coulthard’s central argument is centred on his understanding of the dual structure of colonialism. Drawing directly from Fanon, Coulthard fnds that colonialism relies on both objective and subjective elements. The objective components involve domination through the political, economic and legal structures of the colonial state. The subjective elements of colonialism involve the creation of ‘colonized subjects’, including a process of internalisation by which colonised subjects come to not only accept the limited forms of ‘misrecognition’ granted through the state but can even come to identify with it.29 Through this dual structure, colonial power now works through the inclusion of Indigenous peoples, actively shaping their perspectives in line with state discourses, rather than merely excluding them, as in years past. Therefore, any attempt to seek ‘the reconciliation of Indigenous nationhood with state sovereignty is still colonial insofar as it remains structurally committed to the dispossession of Indigenous peoples of our lands and self-determining authority’.30

Concerning the state in relation to Indigenous peoples on the international level, Corntassel argues that states and global organisations, for years, have been consistently framing Indigenous peoples’ self-determination claims in ways that ‘jeopardize the futures of indigenous communities’.31 He claims that states frst compartmentalise Indigenous self-determination by separating lands and resources from political and legal recognition of a limited autonomy. Second, he notes, states sometimes deny the existence of Indigenous peoples living within their borders. Thirdly, a political and legal entitlement framing by states deemphasises other responsibilities. Finally, he claims that states, through the rights discourse, limit the frameworks through which Indigenous peoples can seek self-determination. Like Alfred and Coulthard, Corntassel has concluded that states are deliberate and never changing in their behaviour. With this move, Corntassel limits and actually demeans Indigenous agency, overlooking the reality that Indigenous organisations themselves chose the human rights framework and rights discourse as a target sphere of action precisely because, as was evident in earlier struggles like slavery, civil rights or women’s rights, these were tools available to them that had a proven track record of opening up new possibilities and shifting previous state positions and behaviour. Indigenous advocates also cleverly realised, by the 1970s, that the anti-discrimination and decolonisation frames could be used together against states. States did, in no way, nefariously impose a rights framework on Indigenous peoples. Rather, Indigenous organisations and savvy Indigenous political actors deliberately chose to frame their self-determination struggles within the human rights framework in order to bring states into a double bind where they could not credibly claim to adhere to human rights and claim that they uphold equality while simultaneously denying Indigenous peoples’ human rights and leaving them with a diminished and unequal right of self-determination. But, because he is caught in the pessimism trap of seeing the state only as unifed, deliberate and unchanging, Corntassel overlooks and diminishes the clear story of Indigenous agency and the potential for positive change in advancing self-determination in a multitude of ways.

Pessimism Trap 3: Engagement with the Settler State is Futile, if Not Counter-Productive

Since the state always intends to maintain, if not expand, colonial control, and is seeking to co-opt as many Indigenous peoples as possible in order to maintain or expand its dispossession and control, it is therefore futile, at best, and actually dangerous to Indigenous existence to engage with the state. Furthermore, all patterns of engagement will lead to co-optation as the state is cunning and unrelenting in its desire to co-opt Indigenous leaders, academics and professionals in order to gain or maintain control of Indigenous peoples.

Alfred argues, in both his 2005 and 2009 books, that any Indigenous engagement with the state, including agreements and negotiations, is not only futile but fundamentally dangerous, as such pathways do not directly challenge the existing colonial structure and ‘to argue on behalf of indigenous nationhood within the dominant Western paradigm is self-defeating’.32 Alfred states that a ‘notion of nationhood or self-government rooted in state institutions and framed within the context of state sovereignty can never satisfy the imperatives of Native American political traditions’33 because the possibility for a true expression of Indigenous self-determination is ‘precluded by the state’s insistence on dominion and its exclusionary notion of sovereignty’.34 Worst of all, according to Alfred, when Indigenous communities frame their struggles in terms of asserting Aboriginal rights and title, but do so within a state framework, rather than resisting the state itself, it ‘represents the culmination of white society’s efforts to assimilate indigenous peoples’.35

Because it is impossible to advance Indigenous self-determination through any sort of engagement with the state, Coulthard also advocates for an Indigenous resurgence paradigm that follows both his mentor Taiaiake Alfred but also Anishinaabe feminist theorist Leanne Simpson.36 As Coulthard writes, ‘both Alfred and Simpson start from a position that calls on Indigenous peoples and communities to “turn away” from the assimilative reformism of the liberal recognition approach and to instead build our national liberation efforts on the revitalization of “traditional” political values and practices’.37 Drawing upon the prescriptive approach of these theorists, Coulthard proposes, in his concluding chapter, fve theses from his analysis that are intended to build and solidify Indigenous resurgence into the future:

1. On the necessity of direct action, meaning that physical forms of Indigenous resistance, like protest and blockades, are very important not only as a reaction to the state but also as a means of protecting the lands that are central to Indigenous peoples’ existence;

2. Capitalism, No More!, meaning the rejection of capitalist forms of economic development in Indigenous communities in favour of land-based Indigenous political-economic alternative approaches;

3. Dispossession and Indigenous Sovereignty in the City, meaning the need for Indigenous resurgence movements ‘to address the interrelated systems of dispossession that shape Indigenous peoples’ experiences in both urban and land-based settings’38;

4. Gender Justice and Decolonisation, meaning that decolonisation must also include a shift away from patriarchy and an embrace of gender relations that are non-violent and refective of the centrality of women in traditional forms of Indigenous governance and society; and

5. Beyond the Nation-State. While Coulthard denies that he advocates complete rejection of engagement with the state’s political and legal system, he does assert that ‘our efforts to engage these discursive and institutional spaces to secure recognition of our rights have not only failed, but have instead served to subtly reproduce the forms of racist, sexist, economic, and political confgurations of power that we initially sought…to challenge’.39 He therefore advocates expressly for ‘critical self-refection, skepticism, and caution’ in a ‘resurgent politics of recognition that seeks to practice decolonial, gender-emancipatory, and economically nonexploitative alternative structures of law and sovereign authority grounded on a critical refashioning of the best of Indigenous legal and political traditions’.40

Corntassel also demonstrates the third pessimism trap, that all engagement with the state is ultimately futile. For the most part, however, Corntassel’s observation is that the UN system operates like a reverse Keck and Sikkink ‘boomerang model’ and ‘channels the energies of transnational Indigenous networks into the institutional fefdoms of member countries’, by which an ‘illusion of inclusion’ is created.41 He argues that, in order to be included or their views listened to, Indigenous delegates at the UN must mimic the strategies, language, norms and modes of behaviour of member states and international institutions. Corntassel fnds that ‘what results is a cadre of professionalized Indigenous delegates who demonstrate more allegiance to the UN system than to their own communities’.42 In his fnal analysis, he charges that the co-optation of international Indigenous political actors is highly ‘effective in challenging the unity of the global Indigenous rights movement and hindering genuine dialogue regarding Indigenous self-determination and justice’.43

Finding that states deliberately co-opt and provide ‘illusions of inclusion’ to Indigenous political actors in UN settings, Corntassel comes to the same conclusion as Alfred concerning the futility of engagement, arguing that because transnational Indigenous networks are ‘channeled’ and ‘blunted’ by colonial state actors, ‘it is a critical time for Indigenous peoples to rethink their approaches to bringing Indigenous rights concerns to global forums’.44

Imagining a Post-Colonial Future: Pessimistic ‘Resurgence’ Versus the Optimism and Tenacity of Indigenous Movements on the Ground

All of these writers advocate Indigenous resurgence, through a combination of rejecting the current reconciliation politics of settler colonial states, coupled with a return to land-based Indigenous expressions of governance as the only viable, ‘authentic’ and legitimate path to a better future for Indigenous peoples, which they refer to as decolonisation. While inherently critical in their orientation, these three approaches do make some positive and productive contributions to Indigenous movements. They help shed light on the various and subtle ways that Indigenous leaders and communities can become co-opted into a colonial system. They help us to hold leadership accountable. They also help us keep a strong focus on our traditional, cultural and spiritual values as well as our traditional forms of governance which then also helps us imagine future possibilities.

As I have pointed out here, however, all three theorists are also caught in the same three pessimism traps: authenticity versus co-option; a vision of the state as unified, deliberate and never changing in its desire to colonise and control; and a view of engagement with the state as futile, if not dangerous, to Indigenous sovereignty and existence. When combined, these three pessimism traps aim to inhibit Indigenous peoples’ engagement with the state in any process that could potentially re-imagine and re-formulate their current relationship into one that could be transformative and post-colonial, as envisioned by the UN Declaration on the Rights of Indigenous Peoples. The pessimism traps together work to foreclose any possibility that there could be credible openings of opportunity to negotiate a fairer and just relationship of co-existence with even the most progressive state government.

This pessimistic approach is not innocuous. By overemphasising structure and granting the state an enormous degree of agency as a unitary actor, this pessimistic approach does a remarkable disservice to Indigenous resistance movements by proscribing, from academia, an extremely narrow view of what Indigenous self-determination can and should mean in practice. By overlooking and/or discounting Indigenous agency and not even considering the possibility that Indigenous peoples could themselves be calculating, strategic political actors in their own right, and vis-à-vis states, the pessimistic lens of the resurgence school unnecessarily, unproductively and unjustly limits the feld of possibility for Indigenous peoples’ decision-making, thus actually countering and inhibiting expressions of Indigenous self-determination. By condemning—writ large—all Indigenous peoples and organisations that wish to seek peaceful co-existence with the state, negotiate mutually benefcial agreements with the state, and/or who have advocated on the international level for a set of standards that can provide a positive guiding framework for Indigenous-state relations, the pessimistic lens of resurgence forecloses much potential for new and improved relations, in any form, and is very likely to lead to deeper conficts between states and Indigenous peoples, and potentially, even violent action, which Fanon indicated was the necessary outcome. The pessimism traps of the resurgence school are therefore, likely self-defeating for all but the most remote and isolated Indigenous communities. Further, this approach is quite out of step with the actions and vision of many Indigenous resistance movements on the ground who have been working for decades to advance Indigenous self-determination, both domestically and globally, in ways that transform the colonial state into something more just and may eventually present creative alternatives to the Westphalian state form in ways that could respect and accommodate Indigenous nations. Rather, it aims to shame and blame those who wish to explore creative and innovative post-colonial resolutions to the colonial condition.

The UN Declaration on the Rights of Indigenous Peoples (the Declaration or UN Declaration) was adopted by the General Assembly in 2007 after 25 years of development. The Declaration is ground-breaking, given the key leadership roles Indigenous peoples played in negotiating and achieving this agreement.45 Additionally, for the frst time in UN history, the rights holders, Indigenous peoples, worked with states to develop an instrument that would serve to promote, protect and affirm Indigenous rights, both globally and in individual domestic contexts.46

Many Indigenous organisations and movements, from dozens of countries around the world, were involved in drafting and negotiating the UN Declaration and are now advocating for its full implementation, both internationally and in domestic and regional contexts. In Canada, some of the key organisational players—the Grand Council of the Crees (Eeyou Istchee), the Assembly of First Nations, and the Union of British Columbia Indian Chiefs, or their predecessor organisations—were involved in the drafting and lengthy negotiations of the UN Declaration during the 1980s, 1990s and 2000s. In the United States, organisations like the American Indian Law Alliance and the Native American Rights Fund have been involved as well as the Navajo Nation and the Haudenosaunee Confederacy, who represent themselves as Indigenous peoples’ governing institutions. From Scandinavia, the Saami Council and the Sami Parliaments all play a key role in advancing Indigenous rights. In Latin America, organisations like the Confederación de Nationalidades Indígenas del Ecuador (CONAIE) and the Consejo Indio de Sud America (CISA) advocate for implementation of the UN Declaration. The three, major transnational Indigenous organisations— the World Council of Indigenous Peoples, the International Indian Treaty Council and the Inuit Circumpolar Council—were all key members of the drafting and negotiating team for the UN Declaration, and the latter two, which are still in existence, continue their strong advocacy for its full implementation.

Implementation of the UN Declaration on the Rights of Indigenous Peoples requires fundamental and significant change, on both the international and domestic levels. Because implementation of Indigenous rights essentially calls for a complete and fundamental restructuring of Indigenous-state relationships, it expects states to enact and implement a significant body of legal, constitutional, legislative and policy changes that can accommodate such things as Indigenous land rights, free, prior and informed consent, redress and a variety of self-government, autonomy and other such arrangements. States are not going to implement this multifaceted and complex set of changes on their own, however. They will require significant political and moral pressure to hold them accountable to the rhetorical commitments they have made to support this level of change. They will also require ongoing conversation and negotiation with Indigenous peoples along the way, lest the process becomes problematically one-sided. Such processes ultimately require sustained political will, commitment and engagement over the long term, to reach the end result of radical systemic change and Indigenous state relationships grounded in mutual respect, co-existence and reciprocity. This type of fundamental change requires creative thinking, careful diplomacy, tenacity, and above all, optimistic vision, on the part of Indigenous peoples. The pessimistic approaches of the resurgence school are ultimately of little use in these efforts, other than as a cautionary tale against state power, of which the organisational players are already keenly aware. Further, by dismissing and discouraging all efforts at engagement with states, and especially with the blanket accusations that all who engage in such efforts are ‘co-opted’ and not ‘authentically’ Indigenous, the resurgence school actually creates unnecessary negative feelings and divisions amongst Indigenous movements who should be pooling limited resources and working together towards better futures.

#### Demands on the state are a productive center of discussion but don’t tie us to the government or its legitimacy

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(*The Politics of Postanarchism*, pg. 114)

Despite the obvious pitfalls of the Leninist vanguard strategy, we should nevertheless take Zizek's challenge to Critchley seriously: that, in other words, the problem with the strategy of working outside the state is that it **may essentially leave the state intact**, and entail an irresponsible and even **self-indulgent politics of demand** that hides a secret reliance on the state to take care of the everyday running of society. Is there some truth to this claim?

There are two aspects that I would like to address here. First, the notion of demand: making certain demands on the state - say for higher wages, equal rights for excluded groups, to not go to war or an end to draconian policing - is one of the **basic strategies** of social movements and radical groups. Making such demands does not necessarily mean working within the state **or reaffirming its legitimacy.** On the contrary, demands are made from a position **outside the established political order,** and they often **exceed the question of the implementation** of this or that specific measure. They implicitly **call into question the legitimacy** and even the sovereignty of the state by highlighting fundamental inconsistencies between, for instance, a formal constitutional order that guarantees certain rights and equalities, and state practices that in reality violate and deny them. Jacques Ranciere gives a succinct example of this when he discusses Olympe de Gouges, who, at the time of the French Revolution, demanded that women be given the right to go to the Assembly. In doing so, she demonstrated the inconsistency between the promise of equality - invoked in a general sense and yet denied in the particular by the Declaration of the Rights of Man and the Citizen - and the political order which was formally based on this:

Women could make a twofold demonstration. They could demonstrate that they were deprived of the rights that they had, thanks to the Declaration of Rights. And they could demonstrate, through their public action, that they had the rights that the constitution denied to them, that they could enact those rights. So they could act as subjects of the Rights of Man in the precise sense that 1 have mentioned. They acted as subjects that did not have the rights that they had and had the rights that they had not.21

#### Direct opposition to the USFG fails – totalizing accounts of power freeze resistance – working within structures of power creates spaces of meaning contra oppressive scripts

Laura Zanotti, Ph.D., Virginia Tech, ’13

(“Governmentality, Ontology, Methodology: Re-thinking Political Agency in the Global World,” Alternatives: Global, Local, Political 201X, Vol XX(X) 1–17)

By questioning substantialist representations of power and subjects, inquiries on the possibilities of political agency are reframed in a way that focuses on power and subjects’ relational character and the contingent processes of their (trans)formation in the context of agonic relations. Options for resistance to governmental scripts are not limited to ‘‘rejection,’’ ‘‘revolution,’’ or ‘‘dispossession’’ to regain a pristine **‘‘freedom from all constraints’’** or an immanent ideal social order. It is found instead in multifarious and contingent struggles that are constituted within the scripts of governmental rationalities and at the same time exceed and transform them. This approach questions oversimplifications of the complexities of liberal political rationalities and of their interactions with non-liberal political players **and nurtures a radical skepticism** about identifying universally good or bad actors or abstract solutions to political problems. International power interacts in complex ways with diverse political spaces and within these spaces it is appropriated, hybridized, redescribed, hijacked, and tinkered with.

Governmentality as a heuristic focuses on performing complex diagnostics of events. It invites historically situated explorations and careful differentiations rather than overarching demonizations of ‘‘power,’’ romanticizations of the ‘‘rebel’’ or the ‘‘the local.’’ More broadly, theoretical formulations that conceive the subject in non-substantialist terms and focus on processes of subjectification, on the ambiguity of power discourses, and on hybridization as the terrain for political transformation, open ways for reconsidering political agency beyond the dichotomy of oppression/rebellion. These alternative formulations also foster an ethics of **political engagement**, to be continuously taken up through plural and uncertain practices, that demand continuous attention to ‘‘what happens’’ instead of fixations on ‘‘what ought to be.’’83 **Such ethics of engagement would** not await the revolution to come **or hope for a pristine ‘‘freedom’’** to be regained. Instead, it would constantly attempt to twist the working of power by playing with whatever cards are available and would require intense processes of reflexivity on the consequences of political choices. To conclude with a famous phrase by Michel Foucault ‘‘my point is not that everything is bad, but that everything is dangerous, which is not exactly the same as bad. If everything is dangerous, then we always have something to do. So my position leads not to apathy but to hyper- and pessimistic activism.’’84

#### Aff’s futurity is an effective frame for indigenous struggles --- their critique ignores the history of resistance.

Kuwaada 15

Bryan Kamaoli Kuwada, PhD Candidate in English, University of Hawaiʻi at Mānoa. “We live in the future. Come join us.” Ke Kuapu Hehiale (a group of indigenous Pacific and allied scholar/poet/activists). April 3. https://hehiale.wordpress.com/2015/04/03/we-live-in-the-future-come-join-us/.

It could not have been clearer from the words and the actions of the people up on the mauna and those standing in solidarity with them that they are concerned with nothing more than the very future of our world, our islands, and our people. Yet in boardrooms and newspapers, social media and overheard conversations, they have already been accused of “living in the past” or even of “wanting to keep Hawaiʻi in the Stone Age.” In fact, in an article on an earlier blockade to stop the Thirty Meter Telescope this past October, a science writer for the New York Times connected the action on the mauna with the repatriation of Native American burials from museums, and lumped them all together as an anti-science “turn back toward the dark ages.” Now, as much as I am devastated and inspired by what is going on up on the mountain one hundred and eighty-five miles away, this is not a post about Mauna a Wākea, because I am a malihini to that place and that issue, and can only say that I stand in support of our steadfast koa in those rocky heights.

What this post is about is how any time Hawaiians—or any other native people, for that matter—come out in force to push for more respect for our culture and language or to protect our places from this kind of destruction, we are dismissed as relics of the past, unable to hack it in the modern world with our antiquated traditions and practices. Though the very things that people say they love most about Hawaiʻi are actually what Hawaiians and their allies have been trying to protect for decades, we are still considered nothing more than speedbumps slowing everyone down on the road to progress. We are even smugly condemned as hypocrites for daring to use smartphones and social media and cars or any kind of technology in our activism, because somehow asserting ourselves as modern, innovative, future-looking native peoples does not jibe with the image of living fossils that the rest of society seems to have of us.

Yet remembering the past does not mean that we are wallowing in it. Paying attention to our history does not mean we are ostriching our heads in the sand, refusing to believe that the modern world is all around us. We native peoples carry our histories, memories, and stories in our skin, in our bones, in our health, in our children, in the movement of our hands, in our interactions with modernity, in the way we hold ourselves on the land and sea. Sometimes people see themselves implicated in the injustices and abuses we wear so clearly on our selves, and it makes them uncomfortable. They see a queen deposed and held prisoner in her own palace. They see children taken away from their tribes to abusive boarding schools, shorn of their hair, and made to refuse their native language. They see people and animals used as guinea pigs for nuclear experiments, the only outcry coming from those concerned about the animals. It makes them want to look away and ignore us. It makes them tell us to stop showing it to them. They are the ones who want us to only be living in the past, so that their pain can end.

But we don’t carry only pain, we carry connection. Whenever we resist or insist in the face of the depredations of developers, corporate predators, government officials, university administrators, or even the general public, we are trying to protect our relationships to our ancestors, our language, our culture, and our ʻāina. But at the same time, we are trying to reawaken and protect their connections as well.

That short-sighted model of “progress”—that we seem to be standing in the way of—hinges upon all of us, all of Hawaiʻi’s people, all of the Pacific’s people, all of the world’s people losing connection to land, to sea, to other human beings. The less you feel these connections, the easier it is for you to be convinced that unrestricted development is the highest and best use of land. That kind of progress means the University of Hawaiʻi and its international partners justify building on Mauna a Wākea by pointing to permits and documents that they have secured rather than any real sense of kuleana. That progress means farms exploit migrant labor and then label their products as organic and sustainable. That progress means Freeport McMoRan and Rio Tinto brag about the amazing knowledge it took to build the largest copper mine in the world in the mountains of West Papua but insist that they don’t know how to keep it from polluting the entire Aghawagon River ecosystem. That progress means our state tries to legislate homeless people out of existence because they are an eyesore for tourists but do nothing about the structural inequalities that force them to live on the sidewalks of Kakaʻako and in the bushes of Waiʻanae Boat Harbor. All of these things done in the name of rootless progress show (un)surprisingly little care for trying to truly progress and create a future that we all want for the coming generations.

And when you see the possibility of “progress” in this more connected way, you see that we are actually the ones looking to the future. We are trying to get people back to the right timescale, so that they can understand how they are connected to what is to come. One of the urgencies for the construction company trying to break ground for the telescope on the mauna is that they have a limited time in which to execute the contract. But we are operating on geological and genealogical time. Protecting the ʻāina, carrying on our traditions, speaking our language, and acting as kahu for our sacred places are not things measured in days, or weeks, or even years. This work spans generations and eras and epochs.

Our genealogies are a backbone stretching to the very inception of these islands, and when we understand our genealogy, we know our origins, where we have been. We always have our ancestors at our back. That certainty gives us a wider possibility of movement, a more supple way to navigate through the world. Standing on our mountain of connections, our foundation of history and stories and love, we can see both where the path behind us has come from and where the path ahead leads. This connection assures us that when we move forward, we can never be lost because we always know how to get back home. The future is a realm we have inhabited for thousands of years. You cannot do otherwise when you rely on the land and sea to survive. All of our gathering practices and agricultural techniques, the patterned mat of loʻi kalo, the breath passing in and out of the loko iʻa, the Kū and Hina of picking plants are predicated on looking ahead. This ensures that the land is productive into the future, that the sea will still be abundant into the future, and that our people will still thrive into the future.

This is the future we are leading the way to, the future we are going to live in, the future our ancestors fought for, the future we still fight for.

Come join us.

#### The brain is too complex to be simplified into singular theories of behavior – any decision to wage war or violence involves multiple contradictory motives and influences

Pinker 13

Steven Pinker, Prof of Psychology at Harvard, "The Decline of War and Conceptions of Human Nature", International Studies Review, 2013, 15, pp. 396-419

2. Human Nature Has Multiple Components

People tend to reduce human nature to a single essence and then debate what that essence consists of. Are we nasty or noble, Hobbesian or Rousseauan, ape or angel? In this way of thinking, if we regularly engage in violence, we must be a violent species; if we are capable of peace we must be pacifistic.

But the brain is a mind-bogglingly complex organ with many anatomically and chemically distinguishable circuits. Most psychologists believe that human nature is not just one thing, but comprises multiple intelligences, modules, faculties, organs, drives, or other subsystems. Some of these subsystems may impel us toward violence, but others inhibit us from violence.

Human violence springs from at least four kinds of motives, each involving different neurobiological systems:

Exploitation: Violence used as the means to an end; that is, damaging a human who happens to be an obstacle on the path to something the actor wants. Examples include plunder, rape, conquest, the displacement or genocide of native peoples, and the murder or imprisonment of political or economic rivals.

Dominance: The urge among individuals to ascend the pecking order and become the alpha male, and the corresponding urge among groups for tribal, ethnic, racial, national, or religious supremacy.

Revenge: The conviction that someone who has committed a moral infraction deserves to be punished.

Ideology: Shared belief systems, spread virally or by indoctrination or force, which hold out the prospect of a utopia. Examples include nationalism, Fascism, Nazism, communism, and militant religions. Since a utopia is a world that will be infinitely good forever, one is permitted to perpetrate unlimited amounts of force against those who stand in its way, as in the saying, “You can’t make an omelet without breaking a few eggs.”

Pushing against these nasty impulses are some of our kinder, gentler faculties:

Self-control: Circuitry in the frontal lobes of the brain that can anticipate the long-term consequence of actions and inhibit them accordingly.

Empathy: The ability to feel someone else’s pain.

The moral sense: A system of norms and taboos centered on intuitions of fairness to individuals, loyalty to a community, deference to legitimate authority, and the safeguarding of purity and sanctity. The moral sense can motivate the imposition of standards of fairness and can render certain courses of harmful action unthinkable. (Unfortunately, it can also be a cause of violence, because it can rationalize militant ideologies based on tribalism, puritanism, and authoritarianism.)

Reason: Cognitive processes that allow us to engage in objective, detached analysis. Whether people actually commit acts of violence, then, depends on the interplay among these faculties; the mere existence of human nature does not doom our species to a constant rate of violence.

The decision to wage war, in particular, may be triggered by any combination of the violence-inducing motives. If the decision is not overturned by any of the motives that inhibit violence, the decision-maker must then mobilize an aggressive coalition by whipping up the aggressive motives in his compatriots, while disabling the peaceable motives. The actual outbreak of war thus depends on many psychological processes lining up in the right way and escaping the restraining influence of other psychological processes, which are distributed in social networks connecting many other individuals. There is no reason to expect that the relative strengths of these competing influences should remain constant over the course of human history.

3. Facultative Components of Human Nature

Many components of human nature are facultative (environmentally sensitive), not hydraulic (homeostatic). The intuition that a respite from war could not possibly be real often rests on a mental model in which the drive toward violence is conceived of as a hydraulic force. At best, it can be diverted or channeled, but it cannot be bottled up indefinitely. The hydraulic model of human motivation is deeply embedded in the way we think about violence. It was given a scientific imprimatur by psychoanalysis, ethology, and behaviorism (in the guise of drive reduction), and it fits with the cybernetic notion of homeostasis, in which a feedback loop maintains a system in a steady state by counteracting any imbalance. It also fits with our subjective experience: no one can go indefinitely without food, water, or sleep, and it is a challenge to do without sex or to hold in a mounting urge to yawn, sneeze, scratch an itch, or expel various substances from the body.

But, it is a big mistake to think that all human responses are homeostatic. Many are opportunistic, reactive, or facultative: they are elicited by combinations of environmental triggers and cognitive and emotional states. Consider evolutionarily prepared fears such as those of heights, snakes, confinement, deep water, or spiders. Even if one were born with an innate phobia of snakes, as long as one never encountered a snake one could live one’s entire life without experiencing that fear. Other examples include the tendency to shiver, fall head over heels in love, or experience sexual jealousy.

The motives that lead to violence, too, need not be homeostatic. There is no reason to believe that the urge to hurt someone gradually builds up and periodically needs to be discharged. Violence carries significant risks of injury or death when the target defends himself, when he or his relatives wreak revenge, or when he is tempted into attacking preemptively. The theory of natural selection predicts that adaptations evolve when their expected costs exceed their expected benefits. We should not expect a hydraulic urge to violence to evolve, but rather one that is sensitive to circumstances. These may include predation and exploitation, when an opportunity to exploit a victim at low risk presents itself; dominance, when one’s masculinity is suddenly impugned in front of an important audience; vengeance, to punish (and thus ultimately deter) insults or injuries; rampage, when a longstanding menace is suddenly exposed in a window of vulnerability. If the circumstances never materialize—say, if one lives an orderly, bourgeois life, free from grave threats or insults—any tendency to react with violence could lie as dormant as a fear of poisonous snakes. The same sensitivity to environmental contingencies could, if circumstances line up, prevent political leaders from experiencing any urge to mobilize their countries for war.

#### Frame of the aff through political inclusivity is good – Byrd no assume our reorientation of institutions towards guaranteeing substantive freedom and equality

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Bruno Leipold, Karma Nabulsi, and Stuart White, “Introduction: Radical Republicanism and Popular Sovereignty,” *Radical Republicanism: Recovering the Tradition’s Popular Heritage*, Eds. Bruno Leipold, Karma Nabulsi, and Stuart White, Oxford University Press 2020, pp. 1-10.

This volume offers a historically informed understanding of republicanism: a political tradition encompassing radical forms of democracy and popular sovereignty. In this tradition, the active and equal political participation of citizens are seen as the core guarantors of liberty, equality, and solidarity. The tradition has an extensive history of revolutionary activity to achieve these principles and of opposition to all forms of domination and oppression that undermine the free and equal standing of citizens in the republic. It lays claim to a long series of struggles against tyrants and despots, slaveholders and colonial masters, patriarchs and oligarchs, and is a tradition that stretches across the world, from Latin America to Haiti, from Asia to Africa. It has combined a commitment to revolution and insurrection with a dedication to building institutions that keep power in the hands of the citizenry, and one that is alert and resilient to oligarchical and imperial encroachments.

Contemporary political theorists are informed by a somewhat distinct conception of republicanism, associated with understandings where ‘the people’ is viewed with suspicion or even something to be guarded against; where courts and expert committees are empowered to counteract possible tyranny by the majority; and where representative government, the rule of law, and the separation of powers are seen as the ultimate guarantors of liberty. Republicanism’s rich and diverse intellectual tradition has, in other words, become largely associated with concepts locating it within contemporary liberalism.

This volume seeks to rectify the current absence of this tradition’s extensive history of radicalism, in the process reintroducing popular sovereignty as a driving force in republican thought. The contributions to the volume set out to retrieve republicanism’s popular and revolutionary heritage, from English Levellers to French and Ottoman revolutionaries, to American abolitionists and trade unionists. It draws on the anti-oligarchical thought of Machiavelli, the radical democratic aspects of Rousseau, and the republican dimensions of Marx’s socialism. Further, the volume explores theoretical accounts of social and structural domination and offers institutional proposals to democratize the state and the economy—from citizens’ assemblies to cooperative production—that are inspired by this radical republican history.

Republicanism’s trajectory is not exclusively radical: moderate and indeed conservative strains can also be traced, especially in its pre-modern incarnations. The sensibilities of Roman statesmen, Florentine ottimati, and American Federalists are an integral part of the republican tradition. Yet the rich language, defining ideas, and organizational forms of republicanism’s radical elements provide us with powerful resources for contemporary discussions about confronting injustice and domination.1

Republican theorists owe a profound debt to the scholarship and body of work developed by Quentin Skinner and Philip Pettit, which has articulated a republican conception of freedom as non-domination, where citizens are only free when not subject to the arbitrary, uncontrolled power of a master.2 This conception of liberty has enormous critical potential and has rightly taken its place as one of republicanism’s defining principles. Here, we seek to help extend the concept’s application from political domination (historically the main focus of republicanism) to social and private forms of domination (which are often the most intense form of domination citizens experience),3 as well as emphasizing the structural processes that underlie them.4

Alongside this commitment to non-domination, we argue that the republican tradition is identified with the core principle of popular sovereignty. The concept of sovereignty belonging to the people is one closely tied to republicanism’s other defining commitments: the need for civic virtues in order to create, and then maintain a free republic; the idea that politics should be directed towards the common good of all; and that widespread political deliberation and participation are necessary to achieve a common understanding of that good.5 Like ‘democracy’, popular sovereignty is an ideal which is widely endorsed, but often without any engagement with the radical challenge it presents to more traditional justifications of authority. Instituting the people as the foundational source of the republic’s legitimacy remains republicanism’s most subversive and revolutionary commitment. Our volume consequently seeks to restore the centrality of popular sovereignty to the republican tradition and show how it can inform and serve contemporary republican theorization. In the sections that follow, we indicate some of the contributions that popular sovereignty can make to three central areas of concern for republicanism: its organization in political and social movements, the design of its political institutions, and the structure of its economy. This is followed by an overview of the chapters to follow.

1. Popular Sovereignty and Radical Republican Movements

Under varying political conditions and different times and places, radical and revolutionary movements across the world struggled to achieve liberty and equality for themselves and their people, and identified themselves as republicans. They engaged in this battle with a commonality of facing unequal odds and informed by a shared approach: their reliance—indeed ardent belief—in the justice and the triumphant power of popular sovereignty. Their battle to restore popular sovereignty lay at the heart of radical republican movements’ organizing, and informed the techniques they relied on to change society, the shape their movements took, as well as the institutions they created to advance their goals. For republicans, the source of popular sovereignty lay in a continually refashioned social contract. Indeed, their goal was a return to the natural order of things: for republicans, sovereignty did not reside in the monarch or the hands of a few, but was instead the rightful possession of all. Put simply, popular sovereignty is the foundational principle underlying a just political order. People are the source of power and legitimacy, and therefore all laws and institutions created must be the reflection and outcome of their determining, and their will.

Republicans understood that it was popular sovereignty’s constant location of power and authority in the people themselves, not in the state or its national institutions, that allowed these very institutions to breathe, take life, and have force. When applied, the principle of popular sovereignty ensured that the decisions of any national body were made through its people’s determining, and with their participation and consent. In this way, their general will and its expression are understood as the basis for all legitimate collective political arrangements, structures, laws, strategies, and policies. In the republic they campaigned and fought to create, radical and revolutionary movements viewed popular sovereignty as performing two essential tasks to ensure the republic was sustained: that the people would participate in its institutional workings, and that they recognized the political structures that emerged from their will—where they played the primary role—as representing their desired ends.

Although the principle of popular sovereignty was included (with numerous constraints), in a variety of political institutions of liberal democratic forms, throughout the ‘long nineteenth’ century its formations and expressions were predominantly found within revolutionary, socialist, and anti-colonial liberation movements. Its revolutionary and socialist expressions have a long heritage and tradition across the world; socialist frameworks of popular sovereignty have a rich history in Latin America, Africa, Asia, the Arab world, and Europe.

Through a set of philosophically grounded practices, republicanism remains rooted in a common history with peoples who took up this same mission of instituting popular sovereignty—against a tyrant, a monarch, an empire, or a foreign colonial power. Tracing such common accounts furnish us with a vast reservoir of customs which republicans practised in their political associations, networks, and organizations. In the most inclusive republican imaginary, popular sovereignty can be defined as a legal status, an abstract concept, or a political principle. But it can also be understood as a tradition of action: its vast repertoire of techniques, handed on by successive republicans, provided generations with a concrete education on achieving radical change.

The republicans’ goal to overturn the established order meant that their guiding eighteenth- and nineteenth-century principles of freedom, equality, and fraternity, combined with popular sovereignty, created a model of lengthy, sustained, and often successful revolutionary activity, which represented an ongoing and decisive challenge to the ordering of the international system of states between the second half of the eighteenth century and the end of the twentieth.

Distinctive in many of its features from contemporary Anglo-American republican theory, republican movements had clear doctrines for mobilization that were designed specifically to confront larger, far better-equipped structural forces— notably the powerful apparatus of the imperial state. So revolutionary republicans possessed more than an innovatory language to inspire their cause: in the words of a leader of the republican movement in 1830s France, it was ‘la force revolutionnaire’,6 of mass mobilization: generous, usually national in scope, and offering useful guidelines, rules, and lessons for achieving their dreams.

In its manifest workings, this rich and complex tradition offers patterns of associational practices that provide a system for building a republic: for it was republicans who created republics; not republics (at least in their formation) that created republicans. Sequentially the formation of citizens came before any virtuous republic could appear; republicans’ own capacities became the prerequisite for obtaining a truly free republic, one that would be able to maintain equality and freedom against the constantly increasing power of elites.

Radical republicans believed that the republic belonged to the people, that the wellbeing of a people existed in the extent of their individual and collective freedoms, and in the equality of their relations to each other as citizens. Considered in this light, republicanism as a movement comes into view: associations whose essential purpose was to create and preserve freedom for each and for all, never understood as a limited search for parliamentary democracy alone, or a gradual (and possibly temporary) enfranchising of individual rights and liberties that were prised from the encroachments of an ever expanding state.

Given the strength of their opposition, along with the extensive nature of their goals, radical republicans saw themselves as engaged in a constant battle, a struggle, in a fight. The notion of the military campaign ‘in the field’ was transferred into the arena of the public realm—the battle against empire, tyranny, inequality, and colonialism, now seen as a political campaign, yet most often as the continuation of a military one in a new arena: the public space they were establishing. Equally, the histories of these republican movements illustrate that the battle to transform the body politic from absolute monarchy to free republic was neither spontaneous nor ceded by an existing power. Instead, each liberty was gained by a number of different formations and coalitions of movements over centuries of struggle and enfranchisements.

Combining, developing, augmenting, then conveying the gathered understandings of mid-eighteenth-century republican thought and practice, Rousseau emphasized republicans’ duty to dedicate themselves to advancing the common good for ‘the happiness of all’, in the phrase most commonly used by republicans of the era. In his Social Contract, Rousseau shows the convergence between republican principles—fraternity, equality, liberty—and republican practice. The republic was not simply to be imagined, but was to be fashioned by republicans coming together to work purposefully for it.

In this tradition, although debate, discussion, and deliberation were essential to republicans, and to republicanism, it was not often seen as useful to rely solely upon them in the stage of creating the republic, especially when facing the asymmetry of force of the king’s repressive army and when seeking an immediate end to its gross injustices. Free deliberation could only be secured once the republic protected the rights of all, especially the weak and invisible, to speak and be heard as equals. This classic republican view was captured by the editor of a nineteenth-century republican newspaper: ‘To arrive at the perfection that is possible of society, from the point of departure that we are at, there are two routes: one violent, that of revolutions; the other, peaceful education of public opinion. Both of these are popular, the Tribune accepts them both.’7

With popular sovereignty as a core principle of republicans, their movements that challenged the status quo primarily belonged to the people. Radical republicanism did not typically operate in elite domains (although radical republicans could often be found in the corridors and salons of power and played a key role in them). This subtle, intelligent, and purposive understanding of popular sovereignty created a distinct style of leadership carried by the popular class, based on a shared understanding of leadership as required in all tiers of society, and power, working together as a shared purpose, one body—if playing distinct roles. Republican culture was shared too, across the battleground of the factory, field, town square, association or underground network, and the tyrants’ prisons. Radical republicanism in its various forms, movements, and sectors was led by factory workers, artisans, peasants, prisoners, refugees, and sometimes captains or colonels, and members of the nobility. In the final days of the momentous 1834 silk workers’ insurrection in Lyon, while it was being crushed by the king’s troops, a poster went up in the popular Croix Rousse district calling for the revolution to continue. It expresses this republican adherence to popular rule, of the people’s sovereign right to the public realm, of the intelligence of the sovereignty of the people: ‘no doubt it is terrible that blood must spill in order to fight tyranny . . .but our enemies have already assassinated us before we could dream of taking up arms. We are republicans, and we know all the virtues.’8

2. Popular Sovereignty and Political Institutions

After the republic is founded, popular sovereignty expresses itself not only through citizens’ movements, but also requires a constitutional and institutional context for the making of law and policy. What kind of institutions are needed, or helpful, to give expression to the ideal of popular sovereignty?

One obvious point of inspiration here is once again Rousseau’s Social Contract. Rousseau argues that the legitimacy of a state depends on reconciling freedom and authority, and that this requires a political order in which sovereignty lies with the ‘general will’. As a first approximation at least, we can say that the general will is general in terms of its source and its aims. On the one hand, it is a will that comes from the citizen body as a whole, as expressed in political participation in making the ‘laws’. On the other hand, it is a will that is properly oriented towards the interests of all, towards a common good. Rousseau’s central idea is that when laws have this origin and orientation it is possible for citizens to view the laws as an expression of their will, thereby achieving the ambitious reconciliation between freedom and state authority. For Rousseau, the institution of the general will in this sense is most obviously served by requiring that all fundamental laws be authorized by an assembly of the citizens.

Some further aspects and possible implications of this conception of the polity should be noted. First, note that for Rousseau the sovereign power of the people over their basic laws is in an important sense an active power. In some social contract theories, such as that of John Locke, the people assemble to make their basic laws, but then dissolve, reassembling as a constitutional authority only in a revolutionary context. By contrast, Rousseau’s model of the periodic citizen assembly (CA) captures the idea that popular sovereignty should be institutionalized as an ongoing feature of the political system. When he insists that the CA should meet periodically, independent of the governments’ will, he is asserting that ‘We, the people’ regularly reassemble with authority over the ‘laws’. Second, given the way the general will is oriented to the common good, it is arguable that this conception also entails a central role for public argument, debate, and deliberation so that citizens are able to thrash out the nature of their common good.9 It is also very important, in this connection, that political power is not skewed towards particular social groups (e.g., defined by class or race) who are able to impose their sectional interest at the expense of the common good. As Helena Rosenblatt has argued, Rousseau’s Social Contract was in part motivated by a long-standing concern that power in the Genevan city-state had been effectively usurped by a social elite. His advocacy of the rights of the CA was supposed to be an antidote to this.10

Given this basic vision, what kind of political institutions are implied? To put the question more concretely, how adequate to this vision are the standard institutions of a contemporary representative, parliamentary democracy? Is it enough for a state to have, say, regular, open, and fair elections to legislatures which have the power to make laws and policy?

To begin with, we should perhaps beware of overstating the extent to which radical republicanism necessarily takes issue with these institutions. It is helpful here to recall Bruce Ackerman’s idea of ‘dualist democracy’ in which politics operates at two levels.11 There is, first, a level of ‘normal’ politics in which citizens elect representatives to legislatures to make ordinary law and policy. But normal politics in this sense properly works within the framework of a higher, constitutional law. This implies a second level of ‘constitutional politics’ in which, Ackerman argues, the people properly exercise a sovereign power over the constitution that sets the limits and goals of normal politics. With respect to these two levels of politics, Rousseau makes a related distinction between ‘government’ and ‘sovereign’. The people, in assembly, have sole authority to make the laws while also choosing the institutions and individuals to serve as a government, making detailed policy within the framework of the laws. If we understand ‘laws’ in Rousseau’s discussion to refer to the basic, fundamental laws of the political association, as some interpreters argue we should, then Rousseau’s conception looks very similar to the dualist democracy model identified by Ackerman.12 Within this model, the standard institutions of representative democracy have an important place. They are central to the operation of normal politics.

Nevertheless, a radical republican may have reason to doubt the adequacy of these institutions by themselves. First, while these institutions might have a central place in normal politics, what about constitutional politics? This is the point (or, at least, a point) at which Rousseau’s picture of an active popular sovereign comes in. How can the people retain their authority over the basic, fundamental laws of their polity? Are the standard institutions of parliamentary democracy adequate to this, or is there a need for further institutions? Possibilities here include requirements for periodic constitutional conventions to review the basic laws and/or powers for citizens to initiate conventions or direct votes on constitutional amendments.

Second, the historic record, and contemporary politics in many nations, suggests that the standard institutions of representative democracy are by no means invulnerable to capture by socio-economic elites. For example, where electoral competition requires resources, and the rich are in a better position to offer politicians resources, there is always a danger that the politicians will become overly attentive to the preferences of the rich at the expense of the common good. Radical republicanism will therefore want to see strict controls on the role of ‘money in politics’. This concern is also a further consideration in support of giving citizens the power to initiate reviews and even direct popular votes independently of the elected legislature.

That said, ‘direct democracy’ undoubtedly carries its own risks from a radical republican point of view. Even if the process of direct democracy, e.g., in the form of citizens’ initiatives, can be insulated from the power of money in politics, it is possible for these processes to be used in objectionably ‘majoritarian’ ways, e.g., to oppress racial or sexual minorities.13 The radical republican response in part refers us back to the importance of social movements and the wider associational context in which institutions operate. These movements and related associations, such as trade unions, can potentially both push back against the power of money in politics and raise the voices of popular and minority groups. A further, complementary response, however, is to think further about the institutions themselves. For example, is there a role here for ‘micro-publics’, such as CAs?14

CAs are bodies of representatives chosen on a near random basis, but so as to be descriptively representative of the population along dimensions such as gender, race, and region. CAs are typically given an issue or proposal to consider, and their discussion of the issue or proposal is structured through learning, testimony, and decision phases, supported by facilitators who aim at full participation by all involved. Evidence from a number of nations suggests that they can achieve highquality deliberation.15 Placing CAs within citizen initiative processes might be one way to raise their deliberative quality and orientation to the common good.

More generally, CAs direct our attention to the possible value of sortition in a radical republican perspective: of choosing representatives by lot, a practice used in many ancient, medieval, and early modern city-states.16 John P. McCormick has recently outlined an interesting variant of the CA which he calls the tribunate.17 Drawing on Machiavelli’s works, McCormick argues for an understanding of ‘the people’ as distinct from and standing in conflict with society’s economic and political elite (a perspective he argues is occluded by the more Rousseauian picture of the people as a unitary popular sovereign). Conventional institutions of representative democracy in capitalist societies do not offer any formal or explicit representation of the people in this Machiavellian sense and, McCormick argues, this enhances the potential for effective elite control even within the framework of formally democratic institutions. As a counter, McCormick proposes (in the United States context) the setting up of a body of fifty-one citizens to be chosen at random for non-renewable one-year terms. The tribunate’s members will be chosen by lot from the general population but excluding the wealthiest 10 per cent and politicians and with provision to enhance representation members of historically oppressed groups such as African American and Native American citizens. The tribunate would have powers to veto proposals coming from other branches of government, to initiate referendums, and to initiate impeachment proceedings against political officials.

Insofar as radical republicanism continues to make use of election in representation, there is also an interest in mechanisms that increase the accountability of elected officials to voters (thereby limiting the risks that they give undue preference to the preferences and interests of elites). Possibilities here include placing representatives under imperative mandates as to how they can vote. Another possibility is to give voters effective powers to recall elected representatives if they are dissatisfied with their performance. For both elected and non-elected representatives, having short terms of office might also enhance accountability, as might limits on the number of terms for which someone can sit as a representative.

Radical republicanism does not offer a single set of institutional prescriptions for democratic political life. But its emphasis on popular sovereignty, and on the properly active and deliberative and contestatory quality of popular sovereignty, points to a need to think creatively about political institutions in a way that goes beyond the conventional structures of representative democracy, taking in (and perhaps integrating) proposals for things like citizens’ initiatives, micro-publics, sortition, and rights of recall. These proposals for political institutions need to be understood, however, as working in tandem with the radical republican emphasis on the value of citizens’ movements and with a radical republican agenda for the economy. There is no purely, narrowly ‘institutional’ solution to the challenge of realizing genuine popular sovereignty.

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#### Coloniality not the root cause

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(Gustavo Lins, “Why (post)colonialism and (de)coloniality are not enough: a post-imperialist perspective,” Postcolonial Studies Volume 14, Issue 3, 2011)

In spite of the power of structuration of colonialism, **it** cannot be seen as an overall force **determining all current sociological, economic, political and cultural scenarios in previously colonized nation-states**. The duration of the post-colonial period and the prominence of the coloniality of power **vary in different historical settings**. The definition of such moments needs to be found on a case-by-case basis. I would argue that in Bolivia, for instance, the moment of shift from the prominence of the coloniality of power to the beginning of the construction of the nationality of power happened only with the election of Evo Morales as president in 2006. This leads me to think that the close relation between the formulation of the theory on the coloniality of power and the political life of Andean countries such as Bolivia, Peru, Ecuador and Colombia, is an index of the relative strength of the power of structuration of colonialism in these countries. In view of the variability of glocal historical experiences**, the ‘nationality of power’ cannot be subsumed under colonial frameworks** of analysis, nor under globalized ones; **it is a specific object of enquiry.** Therefore a more complete framework of analysis includes causal hierarchies that are sensitive to the different geographies and histories of colonialism and of nation-building, the power of structuration of which varies over time according to the outcome of different historical conflicts in different nation-states. In sum, former colonies are differently subject, today, to the diverse powers of structuration stemming from the coloniality of power, the nationality of power (which includes the histories, specificities and contradictions of the local and regional levels) and the globality of power. All of the latter needs to be understood within the framework of an ever expanding capitalist political economy with its dynamics and contradictions.

#### Only catastrophe solves destruction --- their individual focus dismisses action and redeployment solves cooption

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(J.L., “The Importance of Apocalypse: The Value of End-Of The-World Politics While Advancing Ecocriticism,” Journal of Ecocriticism 4(2) July)

It is no longer a question that human interaction with the world is destroying the very ecosystems that sustain life1. Nevertheless, within academic communities people are divided over which discursive tactic, ontological position, or strategy for activism should be adopted. I contend that regardless of an ecocritic’s particular orientation that ecocriticism most effectively produces change when it doesn’t neglect the tangible reality that surrounds any discussion of the environment. This demands including human-induced ecocidal violence within all our accounts. Retreating from images of ecological collapse to speak purely within inner-academic or policymaking circles isolates our conversations away from the rest of the world—as it dies before our eyes.

This is not to argue that interrogating people’s discourse, tactics, ontological orientation, or anything else lacks merit. Timothy Luke, Chair and Distinguished Professor of Political Science at the Virginia Polytechnic Institute, explains that

Because nothing in Nature simply is given within society, such terms must be assigned sig- nificance by every social group that mobilizes them[.] ... Many styles of ecologically grounded criticism circulate in present-day American mass culture, partisan debate, consumer society, academic discourse, and electoral politics as episodes of ecocritique, contesting our politics of nature, economy, and culture in the contemporary global system of capitalist production and consumption. (1997: xi)

Luke reminds us that regardless of how ecocritics advance their agenda they always impact our environmental awareness and therefore alter our surrounding ecology. In doing so he shows that both literal governmental policies and the symbolic universe they take place within reconstruct the discourses utilized to justify policy and criticism in the first place. This is why films like The Day After Tomorrow and 2012 can put forth realistic depictions of government response to environmental apocalypse. And despite being fictional, these films in turn can influence the reality of governmental policy. Even the science-fiction of weather-controlling weapons are now only steps away from becoming reality2.

Oftentimes it takes images of planetary annihilation to motivate people into action after years of sitting idly by watching things slowly decay. In reality it takes awareness of impending disaster to compel policymakers to enact even piecemeal reform. On the screen it takes the actual appearance of ecological apocalypse to set the plot in motion. What is constant is that “as these debates unfold, visions of what is the good or bad life ... find many of their most compelling articulations as ecocritiques ... [that are] mobilized for and against various projects of power and economy in the organization of our everyday existence” (Luke 1997: xi). We cannot motivate people to change the ecological conditions that give rise to thoughts of theorization without reference to the concrete environmental destruction ongoing in reality. This means that, even when our images of apocalypse aren’t fully accurate, our use of elements of scientifically-established reality reconstructs the surrounding power structures in beneficial ways. When we ignore either ecological metaphors or environmental reality we only get part of the picture.`

In recent years, many ecocritics have shied away from the very metaphors that compel a sense of urgency. They have largely done so out of the fear that its deployment will get co-opted by hegemonic institutions. Such critics ignore how what we advocate alters our understanding of ourselves to the surrounding ecology. In doing so, our advocacies render such co-optation meaningless because of the possibility to redeploy our metaphors in the future. In the upcoming sections, I will provide an overview of how poststructuralist thinkers like Michel Foucault and Martin Heidegger influence some ecocritics to retreat from omnicidal rhetoric. This retreat minimizes the main objectives of their ecocriticism. I argue that rather than withdrawing from images of apocalypse that we should utilize them in subversive ways to disrupt the current relationship people have to their ecology. Professor of Sociology at York University, Fuyuki Kurasawa argues that “instead of bemoaning the contemporary preeminence of a dystopian imaginary ... it can enable a novel form of transnational socio-political action ... that can be termed preventive foresight. ... [I]t is a mode of ethico-political practice enacted by participants in the emerging realm of global civil society ... [by] putting into practice a sense of responsibility for the future by attempting to prevent global catastrophes” (454-455).

By understanding how metaphors around the environment operate we can better utilize discourse to steer us away from the brink of apocalypse. The alternative of abandoning apocalyptic deployments is far worse. Put simply, “by minimizing the urgency or gravity of potential threats, procrastination appears legitimate” (Kurasawa 462). In the final section of my essay, I outline how ecocritics can utilize images of omnicide to motivate the evolution of successful tactics that can slow the pace of environmental destruction.