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Publication Date

2022

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UNIVERSITY OF CALIFORNIA
SANTA CRUZ

**SPIRITUAL CONQUEST:
DESECRATION AND SETTLER COLONIAL EXTRACTION ON SACRED
AND STOLEN LANDS**

A dissertation submitted in partial satisfaction
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

FEMINIST STUDIES
with an emphasis in CRITICAL RACE & ETHNIC STUDIES
and ANTHROPOLOGY

by

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June 2022

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Abstract

Spiritual Conquest: Desecration and Settler Colonial Extraction On Stolen and Sacred Lands

Claire M. Urbanski

This dissertation examines how the desecration of Indigenous sacred sites, burial grounds, and the theft of Indigenous dead are imperative to the consolidation and reproduction of United States settler colonial capitalist empire. Through archival research, oral histories, and participant observation, I track these colonial projects of Indigenous burial theft, human remains collecting, and sacred site desecration as taken up across colonial institutions of militarism, scientific knowledge production, and industrial development from the eighteenth century to the present day. By demonstrating each institution's use of such projects to expand colonial claims, I reveal how the U.S. accumulates power both materially (e.g. land) and immaterially (e.g. afterlife and futurity) through distinct forms of spiritual violence. By tracking the consistent use and essential function of such desecration throughout the expansion of U.S. empire and the rise of global capitalism, I find that colonial capitalist systems have always hinged upon extractive relations with the Indigenous body in both life and death. Overall, I reconceptualize desecration as a distinct process of dispossession. In conclusion, I look to Indigenous movements in defense of the Sacred in their creation of otherwise ways of life beyond colonial capitalist empire.

In Chapter One: "Settler State Spiritual Violence and the Human Sciences from the Anatomy Acts to the Army Medical Museum," I trace the origins of the U.S.

bone-collecting period as emerging from the passage of state Anatomy Acts during the nineteenth century. Analyzing nineteenth-century newspaper articles, editorials, and public lectures, I show how prominent medical scientists and anthropologists of this time deployed colonial tropes of ‘Indian savagery’ to promote the Anatomy Act Legislature. At the same time, these same scientists were developing theories of race through the scientific study of human crania (craniometry). Together, I argue that these narratives enabled the subsequent bone-collecting period through their discursive production of the Indigenous body as the rational and ethical property of Western science, indebted as raw material for the production of human progress.

In Chapter Two, “For the Glory of Gold and Bones: Spiritual Accumulation and Dispossession in the Making of Colonial California” I continue to track these extractive relations with Indigenous life and death into the presence of what I call “spiritual economies” throughout the U.S. invasion, colonization, and economic development of the state of California. Using state legislative and economic records, I reveal how California’s early-statehood mining industry relied upon correlating economies of Indigenous genocide. I then relationally connect these economies to the spiritual economy of the Spanish California mission system, wherein agricultural production relied upon both the extraction of life (as physical labor) from Indigenous ‘neophytes’ and the extraction of eternal souls (via conversion) at death. I argue that this spiritual economy reemerges with the University of California’s Department of Anthropology.

In Chapter Three, “In Defense of the Sacred: Property is Desecration, Life is

Indigenous Lands Returned,” I analyze several California property dispute cases involving the disturbance of Indigenous burial grounds. In each of these cases, I show how property owners, developers, and settler citizens strategically use the presence of Indigenous gravesites to manipulate property law towards their desired outcomes, revealing how California settler state property law is constantly being reshaped and reformed through the desecration of Indigenous sacred burial sites. In turn, I analyze how Bay Area Indigenous women and Two Spirit activists strategically navigate U.S. settler property law in their reclamation and rematriation of Ohlone lands and life. I argue that, in their rematriation of Indigenous sacred land/life, the colonial world of property (as spiritual terror) is undone.

Acknowledgements

Thank you to the members of my dissertation committee for their energy, time, labor, and support of my scholarship and well-being throughout the crafting of this dissertation. I especially thank my advisor, Felicity Amaya Schaeffer, whose mentorship over the past eight years has been a tremendous gift I am so lucky to have received. Thank you to Amy Lonetree for her critical mentorship that continues to grow me into the scholar I want to become. I am forever grateful to both Felicity and Amy for believing in me since day one. Thank you to Neda Atanasoski and Renya Ramirez for their incredible generosity and support over so many years. And the biggest, most jubilant thank yous to Nick Mitchell for the joy of your being and for growing my thinking in such expansive ways.

Thank you to Corrina Gould, who has taught me more than I even comprehend and whose leadership has been quite literally life-saving (and is the reason this project exists). Thank you to Corrina, Johnella LaRose, the Save the Shellmounds crew and the Sogorea Te' Land Trust for showing me that other worlds are more than possible and are already being created. Thank you to Fui Niumeitolu for your life-saving support and care during the most critical of weeks. Thank you to my dearest Annie Banks for your unconditional love and care and to Audre Inez, Justice, and James Burch for letting me be part of the world's cutest family. Thank you to the friends and family without whose support this project would not exist: my siblings Al and Adrienne, Jeanie Austin, Shaun Emerald August, Zaire Bidgel, Eloise

Dewitt, Darla Evanosky, Erin Gray, Nora Hansel, Dev Ocean, Judy Bals, Jaime Clark, Elise Smith, Rosie, Valentine, and all the freaks of my heart not listed. Thank you to Dana Ahern, Jess Whatcott, Jessica Calvanico, Trung PQ Nguyen, and Savannah Kilner for holding my hand throughout graduate school and to Meshell Nicholas for your support and guidance. And, finally, I thank the little cat who wandered into my life and has been my constant companion for the past four years of writing.

Introduction:
Belonging, Unknowing, and Unmaking

*“The matter of white terror is the desecration of the
Sacred”*

– Fuifulupe Niumeitolu

*“Perhaps empire never ended, that psychic and material will to
conquer and appropriate, twentieth-century movements for
decolonization notwithstanding. What we can say for sure is that
empire makes all innocence impossible.”*

– M. Jacqui Alexander

This dissertation is concerned with the matter of colonial spiritual terror and the role of desecration in the formation and reproduction of settler colonial place.¹ It has been crafted, conceptualized, and written with the aim and intention of supporting and contributing to Indigenous-led movements for the protection of Indigenous sacred sites and the return of Indigenous lands.² This project emerges from and is premised in the specific forms of colonial violence that pervade the occupied Lisjan Ohlone homelands known as the San Francisco East Bay Area (the place where I have lived uninvited for the past ten years) and the specific ways of life, resistance, survivance, and persistence that have formed in relation to these specific lands and its histories. It is instructed by the lessons of Indigenous knowledges, worldviews, political

strategies, resistance histories, and networks of care that protect, cultivate, and generate otherwise ways of life on Lisjan Ohlone lands.

This project began thirteen years ago, in the moment when I first became aware that my experience and understanding of place were mediated through settler colonization and genocide.³ At that point of my life, I had begun to piece together an understanding of the legacies that had facilitated my ancestors' ability to settle as colonizers on the stolen Dakota lands I grew up on and called home.⁴ From the few stories my mother had shared with me, I knew that my maternal great grandparents had left Finland and Norway for Minnesota around 1905. I can presume my ancestors were beneficiaries of the 1862 Homestead Act, which gave away 160-acre parcels of stolen Indigenous lands to settler families as an incentive to colonize and repopulate the vast tracts of freshly dispossessed Indigenous land to the west of the Mississippi with white settlers.⁵ From this information, I could connect that my ancestors were settler colonizers and that I, in fact, was still living on the very same stolen Dakota homelands. Yet, despite holding this knowledge at the very forefront of my understanding, I was still able to maintain a complete disconnect between my family's historical role as settlers and my own relationship to the land in the present day.⁶ Even though I was able to recognize at least some of the everyday ways in which the world I moved through was shaped by and from the violence of colonization and its aftermaths, I *still* did not connect them to myself and my own existence in the world. I occupied these realities, yet somehow imagined myself innocent of them.

It was not until one evening in March of 2009 that this iron-willed blockage of my consciousness broke apart. I had been attending a workshop series put on by Indigenous Dakota youth activists on Dakota land reclamation struggles. At that evening's session, we were asked to envision what the place around us might look like if Dakota peoples had never been dispossessed of their homelands. While - given the predominantly white settler participants - what was being collectively envisioned in that room most likely resembled a sampler platter of 'authentic Indian' fantasies, the practice of being made to see differently pushed me beyond the limits of my own conjured colonial imaginaries. In that moment, the place most familiar to me in the world distorted and dissolved, as the pavement of the streets, the brick walls of buildings, and the street lamps surrounding me began to tilt and blur. For that moment, suspended time, I lost all directional sense, so that 'up' and 'down' were no longer familiar concepts to grasp onto and orient oneself. In that moment, the disconnect between consciousness and subconscious, between concept and embodiment, ignorance and experience, cracked apart.

What I experienced in that moment was an unraveling of the world as I knew it. In that suspended moment, the protective barrier that held the world of my imaginary innocence in place crumbled, and I finally understood that the world I had known as 'reality' was comprised of colonial terror masquerading as normalcy. I could not make sense of how it was possible that I had grown up and spent my entire life in so-called Minneapolis without ever once questioning my relationship to the violence that ensures and sustains my access to home on stolen Dakota homelands?

Even after I had learned the horrific history of the State of Minnesota, how was it that I could so easily relegate it to an unfortunate and unjust past to which I held no relation or responsibility?

In that moment, I sensorily understood that loss was not something left in the past, that loss was not defined by temporal markers of beginning and end, that loss was not passive. Rather, I understood that I was an active participant in the (re)production of the violence that saturates the place I then called home, and that participating in this effort was the (re)enactment of a perpetual theft. Ever since, I have worked to understand the relations of power that regenerate such sweeping, boundless, belligerent oblivion.⁷

Some years later, after moving to the occupied Lisjan Ohlone homelands known as the San Francisco East Bay Area, my understanding of these relations was greatly deepened after attending a talk given by the Confederated Villages of Lisjan Ohlone tribal chair and spokesperson, Corrina Gould.⁸ Here is where I first learned that, on the University of California's Berkeley campus beneath the Hearst Gymnasium swimming pool, is a small basement storage room that, for over fifty years, has contained the human remains of approximately 15,000 Ohlone peoples, Gould's ancestors. These bodies make up just a fraction of those in the possession of the University of California (UC), who owns one of the largest collections of Native American and Indigenous human remains in the world.⁹ The UC amassed the bones of Gould's ancestors through its systematic desecration and destruction of hundreds

of Indigenous burial grounds throughout the U.S. invasion, occupation, settlement, and development of what is known as the state of California.¹⁰

The UC is not exceptional in its bone-collecting activities, rather, the UC's actions reflect what is practically standard to every US university. Beginning in the mid-nineteenth century, universities, museums, and other research institutions across the United States embarked on an expansive mission to excavate, collect and experiment on the bodies of Native American dead, what some scholars refer to as the period of 'bone-collecting.'¹¹ The human remains of Native American and Indigenous dead have been systematically denied burial or removed from their grave sites throughout the construction of the settler colonial United States and have been collected, analyzed, and displayed as museum objects around the world. While the passage of the 1990 Native American Graves and Repatriation Act established significant, comprehensive legal measures to protect Indigenous burial grounds and to repatriate stolen human remains, these colonial projects persist today, as many colonial institutions (including the UC) still hold tremendous collections of Indigenous human remains in their possession.

In the auditorium that evening, I, like most of the predominantly white liberal audience, was shocked and horrified to learn this information. I was disturbed to learn that something so unthinkable violent had not only taken place, but was still occurring. Given the extensiveness of settler colonial bone-collecting of Indigenous human remains – in that virtually every single settler-colonized place in the United States has ransacked and devastated the burial grounds of the Indigenous peoples it

continues to dispossess – how is it that settler society maintains such mass ignorance of this bone-collecting period?¹² How do these extensive terror projects inform how we (settler society) conceptualize the world(s) around us? What everyday actions must settler society constantly undertake in order to keep the arrangements of its world in place?

I am struck by the notion that to stay in the world of a colonial time and place requires a constant disavowal of so much profound terror, trauma and grief of which that very world is made up of. Genocide and dispossession are woven into my very sense of place, whether or not I know anything of the specific histories and contexts of its occurrences. I arrive to this project seeking to understand how such violent relations of place are not only normalized, but are imbued into place itself.

In order to keep the colonial world in place, settlers must continually reenact colonial terror while simultaneously obscuring its presence each day. In order for settlers to make Indigenous lands into their home and source of capital, as Eve Tuck and K. Wayne Yang argue, this requires the disruption of Indigenous relationships to land; a disruption that "represents a profound epistemic, ontological, cosmological violence. This violence is not temporally contained in the arrival of the settler but is reasserted each day of occupation."¹³ A critical mode by which such violence is reasserted is through the act of ignoring, or what Juliana Hu Pegues, Manu Vimalassery, and Alyosha Goldstein call 'colonial unknowing.' They write: " The magnitude of this disavowal is not primarily a matter of a forgotten or hidden past, at least to the extent that forgetting might be viewed as a passive relation or a concealed

past might suspend culpability. Instead, this ignorance - this act of ignoring - is aggressively made and reproduced, affectively invested and effectively distributed in ways that conform the social relations and economies of the here and now.”¹⁴

Settler colonial ignorance is not simply a passive matter of forgetting, in which colonial narratives omit, distort, and fabricate events in collective historical memory. Rather, colonial unknowing is the ability to maintain a complete disconnect between myself and the ongoing realities of Indigenous dispossession that are requisite to the conditions of my existence on Indigenous lands. “Colonial unknowing establishes what can count as evidence, proof, or possibility - aiming to secure the terms of reason and reasonableness - as much as it works to dissociate and ignore.”¹⁵ Colonial unknowing is the ability to preemptively dismiss and ignore the obvious evidence of colonial violence that saturates settler social reality and produces the conditions of settler existence.

While the passage of the 1990 Native American Graves and Repatriation Act established significant, comprehensive legal measures to protect Indigenous burial grounds and to repatriate stolen human remains, these colonial projects persist today, as many colonial institutions (including the UC) still hold tremendous collections of Indigenous human remains in their possession. In the contemporary moment, Indigenous struggles to repatriate (or rematriate) the stolen bones of their ancestors hold strong and continue to make tremendous gains in the long fight to protect the remains of their ancestors. Yet, Indigenous gravesites and Indigenous dead continue unabated, as they are routinely destroyed by the everyday construction and resource

extraction projects mundane to capitalist life. For example, in September 2016, Dakota Access Pipeline construction crews bulldozed through ancient Standing Rock burial grounds; in February of 2020, Homeland Security blew up Tohono O'odham burial grounds during construction of a section of U.S.-Mexico border wall; and in October of 2021, Coastal Gas Link workers destroyed Wet'suwet'en ancestral burial grounds in retaliation to their defense of their homelands against destruction by the Trans Canada Pipeline. Indigenous movements in defense of the Sacred continue to fight off the most powerful conglomerates of institutions, corporations, and governments in the world, such as the successful and ongoing protection of Kanaka Maoli sacred site, Mauna Kea, from desecration by the University of California-backed \$2.4 billion Thirty Meter Telescope.¹⁶

Just two miles away from the UC Berkeley campus is where I have spent the past eight years organizing with Lisjan Ohlone leadership to protect the remains of a sacred Ohlone burial ground (the West Berkeley Shellmound) from such destruction.¹⁷ Throughout our efforts to ward off encroaching property developers, I began to conceptualize the role of Indigenous burial ground desecration as critical to the development of the San Francisco Bay Area. As I witnessed more and more Ohlone gravesites be disturbed and destroyed throughout endless construction projects, I questioned how such desecration was in fact essential to the function of the settler state.

Spiritual Conquest: Desecration and Settler Colonial Extraction On Stolen and Sacred Lands examines how the desecration of Indigenous sacred sites, burial

grounds, and the theft of Indigenous dead are imperative to the consolidation and reproduction of United States settler colonial capitalist empire. Through oral histories and archival research, I track these colonial projects of Indigenous burial theft, human remains collecting, and sacred site desecration as taken up across colonial institutions of militarism, scientific knowledge production, and industrial development from the eighteenth century to the present day. By demonstrating each institution's use of such projects to expand colonial claims, I reveal how the U.S. accumulates power both materially (e.g. land) and immaterially (e.g. afterlife and futurity) through distinct forms of spiritual violence. By tracking the consistent use and essential function of such desecration throughout the expansion of U.S. empire and the rise of global capitalism, I find that colonial capitalist systems have always hinged upon extractive relations with the Indigenous body in both life and death. Overall, I reconceptualize desecration as a distinct process of dispossession.

By elucidating the relationship between settler state power, capital accumulation, and the destruction of sacred Indigenous land-based relations, I impart why the protection of Indigenous sacred sites is urgent and imperative to all struggles for climate, economic, and social justice. More precisely, I aim to make clear to settlers and non-Native peoples that Indigenous-led struggles for the defense and return of Indigenous sacred sites (and Indigenous lands in general) are *necessary* to any and all possibilities of liberation.

The objective of *Spiritual Conquest: Desecration and Settler Colonial Extraction on Stolen and Sacred Lands*, is to trace the processes and formations of

colonial capitalist power that are critical to sustain and reproduce its existence, yet which are rendered unknowable by colonial epistemological frameworks and disciplinary formations. I engage decolonizing methodologies, ethical practices, and political goals in its production; in that the aim of *Spiritual Conquest* is to contribute to Indigenous-led movements for decolonization and the ‘defense of the sacred,’ in its lived material and immaterial, tangible and conceptual forms.¹⁸ In other words, *Spiritual Conquest* is politically grounded in the support of Indigenous-led movements for decolonization and (as such movements entail) the return of Indigenous lands to Indigenous stewardship.

Settler Colonial Spiritual Violence

The human remains of Native and Indigenous peoples have been systematically denied burial or removed from their grave sites throughout the construction of the settler colonial United States and have been collected, analyzed and displayed as museum objects around the world. The rapid increase in the demand for Native American skeletal remains during the nineteenth century was due to the popular use of craniometry and physical anthropology to theorize and affix racial inferiority within the biological world. By using stolen skulls to develop scientific theories of race, Western scientists sought to legitimize colonization by ‘scientifically proving’ that Native peoples were “doomed to extinction.”¹⁹ Museums displayed Indigenous human remains (along with funerary and cultural items) as “evidence of Indian demise.”²⁰ By temporally locating Indigenous peoples in a vanishing past,

Western scientists affirmed Western empire as the harbinger of civilizational progress and rationalized settler colonial occupation of Indigenous lands by locating its basis within the scientific, biological world.

In “Our Dead Are Never Forgotten,” historian James Riding In (Pawnee) describes these atrocities committed against the Indigenous dead as constituting a "spiritual holocaust."²¹ By using the terminology of *spiritual holocaust*, Riding In names and defines the bone-collecting period as a devastating assault on Indigenous relations between the living and the dead. Riding In describes that a common practice of United States settler colonial warfare/terror was to disinter the heads of Indigenous people that they had killed during battles, massacres, and executions, to be sent along to the AMM and other researchers.²² While stationed in southwestern Arizona in 1875, army surgeon William Henry Corbusier described a graphic military massacre of an Apache community, after which he removed the heads from fourteen of the slain and sent them to the AMM, as he considered the skulls to be “exemplary specimens.”²³ The actions of Corbusier firmly situate the pursuit of skull-collecting as a tactic of genocidal military warfare and terror, while also demonstrating carceral modes of occupation enacted upon Native American dead. The practice of stealing Native American dead for scientific research situates the function of U.S. museums as colonial institutions of militarization, demonstrating the linkage between U.S. scientific knowledge production and military conquest.

Riding In’s naming of spiritual genocide and its use as a technique of U.S. conquest and colonization is of critical importance to understandings of U.S. empire

and global circuits of colonial imperialism. Yet, aside from its naming in Riding In's article, such research does not exist. Native American and Indigenous Studies (NAIS) scholarship has produced tremendously vital work on such violent legacies of colonial research institutions, the study of Indigenous peoples as a core project of colonization, on the museum collection of Indigenous human remains and sacred objects, and on Indigenous struggles to return and repatriate their stolen ancestors. While such NAIS activist scholarship has profoundly influenced and transformed practices of research across disciplinary formations - as well as the legal systems and infrastructures of national and international institutions around the world - field formations outside of NAIS have yet to recognize and take seriously the collection of Native American and Indigenous human remains in its critical significance to analyses of state violence and empire. Relatedly, such studies have yet to take seriously the role of spiritual violence in the formation and reproduction of the state - (what in part, I argue, is due to the collapsing of the spiritual into the religious, as I discuss later on in this chapter).

NAIS as well as decolonial theory, decolonial women of color feminisms, Chicana feminisms, and Black feminisms - especially at their intersections with religious studies - take up the spiritual as a politicized site (particularly of anti-/decolonial resistance and liberation) and have analyzed and defined modes of colonial spiritual violence through the embodied and experiential knowledges of the harm it deploys. I draw from this research in order to specifically examine genealogies of settler state spiritual violence in their contemporary operation and deployment;

specifically in the formation and reproduction of settler colonial state power. Drawing from Jodi Byrd's work, I examine how colonial power accumulates and 'transits' through forms of spiritual violence that are simultaneously rendered unknowable by colonial epistemological and ontological frameworks.

In order to interrogate the spiritual relations that undergird these bone-collecting projects, I locate the spiritual first as a crucial terrain of U.S. warfare – a dimension that remains entirely overlooked when considered from an epistemological orientation of colonial secular modernity.²⁴ I argue that the systemic desecration and dispossession of Indigenous burial grounds and Indigenous human remains must be understood as a tactic of settler warfare, or rather, settler conquest - and more so, what is specifically *spiritual conquest* – as these destructive acts seek to devastate connections between land/life, the living, and the dead.²⁵ Such spiritual warfare aims to eliminate the landscape of Indigenous ancestral presence, place knowledge, and sacred relationship. By claiming Indigenous dead and their sacred burial sites as scientific objects belonging to American researchers, the legitimacy of United States power is affirmed as the presence of Indigenous peoples is discursively erased.

In order to analyze such spiritual violence, I draw from decolonial, Indigenous, and women of color feminisms to conceptualize 'the spiritual' in two key ways. First, I engage 'the spiritual' as referring to the immaterial energies and embodied knowledges of transgenerational memory, or, that which animates the binds between the living and their ancestors.²⁶ Second, I use 'the spiritual' as a way to refer to the modes of life, relational practices, knowledges, and cosmologies that have been

systematically eviscerated, expelled, submerged, and/or criminalized throughout the implementation and development of colonization and capitalism. For example, the banishment of all Indigenous knowledges and practices that contradicted Christian doctrine was foundational to the spread of conquest and colonization across the (so-called) Americas. According to Silvia Federici, the eradication of “magical” views of the world - what constituted “pre-capitalist beliefs, practices, and social subjects” - was a necessary condition for the capitalist rationalization of work.²⁷ In this conceptualization, 'the spiritual' and 'the sacred' can be understood as that which the colonial world renders 'not real.' Through an Anzaldúan framework, 'the spiritual' can be understood in ways that exceed its meaning as a colonial term - what instead signals to the unfathomable and multitudinous ways of life, cosmologies, ontologies, and relational complexities that have been systematically obfuscated, eviscerated, expelled, submerged, and that remain criminalized in the (re)production of the colonial world.

What does 'the spiritual' or 'the sacred' define as a concept when applied across thousands of vastly diverse and distinct cultures and societies, formed through infinitely complex relationalities, histories, lineages, ontologies, and cosmologies? Similarly by which the term 'Indigenous' does not intend to generalize, but rather refers to an identity borne from the specific, shared experiences of conquest and colonization, I conceptualize 'the Sacred' not as a generalization, but rather as it unifies across struggles to defend worlds and ways of life that colonization exists to destroy. Broadly speaking, 'the sacred' refers to Indigenous ways of life, wherein

land *is* life (rather than a separate, distinct entity). As conceptualized by K. Wayne Yang, I use Yang's term 'land/life' as shorthand to "emphasize that land/life are in relation within Indigenous cosmologies but are actively being separated by colonizing operations."²⁸ I utilize 'the sacred' in a similar manner, as a term (shorthand) to refer to vast ontological, epistemological, cosmological complexities and otherwise ways of life that have been banished from and/or which remain unknowable to the colonial world.²⁹

Tongan scholar Fuifuilupe Niumeitolu conceptualizes the Tongan Sacred as "the heartbeat of Tonganness."³⁰ Drawing on Fanon, Niumeitolu describes how the colonial project strived towards its "objective for 'total' dominion and subjugation of the Native" by splitting and (dis)locating Tongan life – the Tongan Sacred – within 'prehistory' or, "the era of darkness associated with savagery and barbarianism" as opposed to the Western linear time asserted as "the era of light and civilization ushered in by Christianity"³¹ This "institutionalization of linear time... demands the desecration of the Sacred," argues Niumeitolu, "[t]hus, the colonial objective to desecrate the Sacred was the quintessential goal of the colonial project in Tonga, because to sever the heartbeat of a people is to obliterate the lifeline of a people."³² Niumeitolu further defines the colonial desecration of the Sacred as the severing of a people's relationality with their ancestors through the eradication of memory; what constitutes a colonial technology of surveillance.

Importantly, the sacred and the spiritual are not synonymous with religion. 'Religion,' conceptualized as a disciplinary mechanism with which to order and

arrange social life, has facilitated colonialism and imperialism by inhibiting the ability to define outside of Europe's terms and by requiring the usage of European frameworks to think 'religion'.³³ In *Formations of the Secular: Christianity, Islam, Modernity*, Talal Asad critiques the common anthropological assumption of secularism as equating the space of 'real' human life that "gradually emancipates itself" from the controlling power of religion (whereas it is rather secularism that enables one to think of religion as "infecting the secular domain").³⁴ Asad identifies a prominent feature of secular modernity to be the institutionalization of liberal principles (such as individualism, democracy, human rights) and technologies which generate "new experiences of space and time, of cruelty and health, of consumption and knowledge."³⁵ For Asad, these experiences support the idea of disenchantment, "implying a direct access to reality, a stripping away of myth, magic, and the sacred."³⁶ Along with the categorization of 'religion,' secularism also constitutes the ability to name a particular kind of violence as 'desecration.' I understand desecration in the context of colonialism to mean the destruction of Indigenous land/life. In this sense, desecration becomes a necessary process of colonial capitalism and of secular liberal state governance, as such violations of Indigenous land/life are requisite to establish, sustain, develop, and expand colonial capitalist empire.

Returning to James Riding In's terminology of *spiritual holocaust* – such forms of colonial terror are omitted and overlooked as the very concepts of 'spiritual' and 'desecration' are relegated to the mythical realm of belief (i.e. the irrational). Therefore, the violence James Riding In names as a spiritual holocaust is made

nonexistent; but more than this, it is made *unknowable*. Such spiritual violence is made unknowable by its epistemological impossibility outside the confines of religion. As an act of religious violence, the desecration of an Indigenous sacred site is reduced to a matter of rights - a transgression of freedoms. as a transgression of Colonial spiritual terror is regenerated by its impossibility as the religious, for through the lens of religion, the desecration of an Indigenous sacred site is a matter for resolution through state intervention, regulation, protection; openings through which colonial terror may gain an even deeper hold. In this way, I situate the desecration of Indigenous sacred sites within the context of United States colonial capitalist empire.

Desecration as Dispossession

Linda Tuhiwai Smith reminds us that “extraction operates through material and immaterial forms of converting Indigeneity into exchange value, where intellectual and spiritual resources are taken to produce new forms of colonial currency.”³⁷ This informs my conceptual analysis of settler colonial extraction as well as the methodological and epistemological foundations of my project. By considering the desecration of Indigenous sacred sites as a devastating assault on Indigenous relations between the living and the dead, I identify spiritual violence as a critical mode of U.S. conquest and Indigenous dispossession. In doing so, I build on and contribute to contemporary scholarly efforts stemming largely from critical race and ethnic studies to reframe capital accumulation and dispossession as forming parts of

the same logical and historical processes.³⁸ However, in these accounts, the dispossession of Indigenous homelands is predominantly figured as a *precondition* of capitalism, rather than as a defining feature of its modernity.³⁹ In contrast, my work mobilizes Indigenous critiques of capitalism that situate the ongoing dispossession of Indigenous life and land as primary to capitalist production and, thus, as necessary to sustain the material accumulation of capitalist societies.⁴⁰

In her critique of the teleological and originary nature of Marx's concept of primitive accumulation, Rosa Luxemburg theorized the accumulation of capital as an ongoing and perpetually expansive process that requires ever-increasing, ever-expanding markets of production and consumption. "Capital, impelled to appropriate productive forces for purposes of exploitation, ransacks the whole world, it procures its means of production from all corners of the earth, seizing them, if necessary by force, from all levels of civilization and from all forms of society."⁴¹ Whereas Marx conceptualized primitive accumulation as a process forming the historical basis "instead of the historical result of specifically capitalist production," Luxemburg contended that the relations which constitute Marx's primitive accumulation have never ended, but are rather ongoing and essential conditions of capitalist production.⁴² Luxemburg identified capitalism's inherently colonial nature through its constant need for "something outside of itself" and that the impact of capitalist ransacking would take on greater scales of significance over time through colonial relations of devastation, as was demonstrated by the modern colonial policy of the time in which she wrote.⁴³

In his theory of ‘accumulation by dispossession,’ David Harvey builds on Luxemburg’s notion of capital accumulation as perpetually expansionary and Hannah Arendt’s theory of capital accumulation as requiring structures of unlimited power to accommodate its insatiable accumulation of property. Harvey formulates that as capitalism’s perpetual spatial mobility creates ever-shifting geographies of human interaction, the accumulation of capital therefore creates permanently unequal and always shifting geographical arrangements of dispossession (hence, ‘accumulation by dispossession’).⁴⁴ Dene scholar Glen Coulthard critiques Harvey’s formulation for its failure to account for the ongoing role of colonization and racialization in the production and accumulation of capital. Coulthard demonstrates that Harvey’s ‘accumulation by dispossession’ maintains colonial practices as temporally distinct from modern capitalist practices, thus emplacing Indigenous dispossession within the historical past of primitive accumulation. “[Harvey] preserves an analytical separation between the practices of primitive accumulation that institute and expand commodification and capitalist development, such as colonization and Indigenous dispossession in the Americas, and those practices of accumulation by dispossession that are developed to manage crises immanent to expanded reproduction, such as the post- 1970s crises of capitalist overaccumulation.”⁴⁵

In his reading of capital accumulation, Coulthard centers an analysis of settler colonialism, which he defines as “a relationship characterized by domination-interrelated discursive and nondiscursive facets of economic, gendered, racial, and state power...structured into a relatively secure or sedimented set of hierarchical

social relations that continue to facilitate the dispossession of Indigenous peoples of their land and self-determining authority.”⁴⁶ The primary motive of settler colonialism (according to Coulthard) is access to land and territory, as without it, the settler state cannot exist. Thus, the settler state must continuously enforce and enact Indigenous dispossession in order to maintain access (and claims to) Indigenous lands as a condition of its possibility. This is not only the case for settler colonial capitalist economies, but to the continuation of capitalist production and accumulation generally. As capitalism demands ever-increasing scales of production and expansion to generate profitability, the ongoing and continuous dispossession of Indigenous land and life must be reinforced, resecured, and reproduced each day in order to maintain possession of, and sustain access to, the territorial grounds from which production and speculative capital are continuously mobilized.⁴⁷ Thus, by shifting emphasis away from the capital relation to an emphasis on the colonial relation, Coulthard reveals how capital accumulation requires the *ongoing* dispossession of Indigenous land and life as a condition of its very possibility.⁴⁸ Thus, Indigenous dispossession constitutes a core condition of the accumulation process in perpetuity.

As Marx, Federici, and Coulthard concur, capitalism (and capital accumulation via extraction and dispossession) requires the violent transformation of noncapitalist forms of life into capitalist ones. Transforming modes of life is key to the accumulation process as it violently coheres all life into capitalist relations and logics. Economies of dispossession, in other words, refers to the world-making project of colonial capitalist relations, in which all ways of relating to and with the

world are rendered into things which can be possessed, from which value must be extracted. In this sense, capital accumulation is also, inherently, a spiritual dispossession, as Indigenous ways of relating to and with land/life stand in stark opposition to colonial capitalist extractive projects. In this way, I position desecration (or spiritual violence) as definitive to processes of capital accumulation and dispossession.

An analysis of colonial spiritual violence contributes to deepened understandings of how paradigmatic structures/narratives/ categories of religious difference and secular rationality are imperative to the consolidation of imperial power understandings and awareness of the production of the settler state as secular and how the management of ‘religious tolerance’ works to masquerade and reproduce the legitimacy of the settler state as a legal authority. The categorization of Indigenous ceremony and Indigenous notions of place sacredness as an issue of ‘religious tolerance’ or civil rights issue of ‘religious freedom’ is actually a technology of extractive capital, for it reasserts the ‘rational’ meaning of land as abstracted, homogenized territory and exploitable resource, whose rational ‘proper use’ is to be made to produce for economic gain. Note that here, it’s proper use is not to produce for the purpose of human need/survival, but to produce for the purpose of economic production and profit. This remains the case today, as evidenced by laws of ‘eminent domain’ such as along the construction of the U.S. border wall, and the ineffectiveness of the American Indian Religious Freedoms Act in protecting sacred places from the interests of extractive capital and resource exploitation.

Rematriation and Defense of the Sacred

Most critically, I conceptualize 'the Sacred' as it is invoked by Indigenous land defense movements united in the rallying call to 'Defend the Sacred.' It is this conceptualization of 'the sacred' that reckons with (re)connection to and creation of otherwise worlds, and with the possibility of life beyond colonial violence. It is this sacredness that signals to the possibility of healing; where the growth of something other than dispossession can take root; a place that can neither be defined nor determined from within the epistemological boundaries that structure the colonial world.

As Leanne Betasamosake Simpson writes, the opposite of dispossession is not possession, it is deep, reciprocal, consensual *attachment*. Indigenous bodies don't relate to the land by possessing or owning it or having control over it. We relate to land through connection- generative, affirmative, complex, overlapping, and nonlinear *relationship*.⁴⁹ Therefore, to return Indigenous lands is not simply the material transfer of property from one set of hand to another, rather, it signifies the return of a specific way of life, a specific worldview, specific relationalities specific to a place – to its people.

My use of the term 'rematriation' is instructed by the urban Indigenous women-led land trust, the Sogorea Te' Land Trust, whose conceptual usage of the term (as I understand it) speaks to the layered, more nuanced complexities of colonial violence embedded within the theft of Indigenous lands (such as the enforcement of colonial heteropatriarchal sex and gender systems).

Rematriation, as defined by the Sogorea Te' Land Trust, is “to restore a people to their rightful place in sacred relationship with their ancestral land.”⁵⁰ Expanding this definition, the STLTL describes that “Rematriation is Indigenous women-led work to restore sacred relationships between Indigenous people and our ancestral land, honoring our matrilineal societies, and in opposition of patriarchal violence and dynamics.”⁵¹ STLTL member, Viola LeBeau notes that, while the concept of rematriation is centered around land, “it also expands beyond that...ancestral remains, cultural artifacts, language, heritage, culture... all of these things have been taken from us throughout history, all of those things can be rematriated. Things that have been separated from their people for so long.”⁵² STLTL member Inés Ixierda expounds on what is meant by “restore a sacred relationship,” in that “the relationship is not just a thing or a place, it’s not just accumulating land or things. It’s a restoration of practices, of ways of being and living in the world. It’s something you build up slowly, like a weaving, right? Little pieces get brought together. Every day we do work we learn new things of what rematriation can be.”⁵³

Fuifuilupe Niumeitolu emphasizes “the pivotal and significant role that Indigenous women play in rematriation,” noting that “rematriation is in fact Indigenous women’s roles. Rematriation is to consider the histories of colonial – settler colonial violence; especially its preoccupation with the violence against Indigenous women’s bodies and bodies of Indigenous girls...This unrelenting [historical and ongoing] settler colonial violence against Indigenous women’s bodies is directly correlated to the expropriation and the violence on our Mother Earth, or

what we all know as Indigenous peoples *is* the Sacred.” Niumeitolu emphasizes that rematriation is specifically Indigenous Native feminist work, in its ability to propose and show to us “new alternatives to settler colonial violence.”⁵⁴ This is done through what Corrina Gould identifies is a big part of rematriation work, which is to “tell the stories” and “to remember ourselves outside of these heteropatriarchal narratives that have been told of us.”⁵⁵

Unknowing and Un-making

Native American and Indigenous studies scholarship has produced a tremendously significant and extensive body of scholarship on the systemic theft, desecration, destruction, collection, and study of Native American and Indigenous human remains by the U.S. military and research institutions throughout conquest and United States colonization (and across the so-called Americas); while tirelessly organizing against university collection and for the repatriation of Native and Indigenous human remains (as well as sacred and cultural materials).⁵⁶ NAIS scholarship continues to critically intervene in the (re)production of colonial knowledge production by disrupting its methods, epistemological and disciplinary formations, and by producing/contributing/transforming decolonizing methodologies that decenter “the colonizing power of disciplinary knowledge” and move towards “the proliferation of epistemological possibility.”⁵⁷

American studies and history of science and technology studies has produced significant scholarship on Samuel Morton, craniometry, and the project of skull

collecting in the production of race science. However, this scholarship regards the bone-collecting period as an isolated historical event, examined only in its contextual relation to the production of scientific racism and the early development of American and physical anthropology, whereas the colonial removal of Native American dead from their burial grounds never ended, but rather continues as an everyday occurrence.⁵⁸ The reason for its temporal isolation is its lack of colonial analysis.

Without an analysis of (settler) colonialism, American studies and history of science and technology studies scholars have read the theft and collection of Native American and Indigenous dead as a historical trauma, from which the nation, as well as modern science, have yet to address; the violence of which can be redeemed through liberal multicultural inclusion. For example, in *Bone Rooms*, Samuel Redman closes his study of the bone-collecting period by concluding that, “[the] story of their collection, study, and exhibition leaves us with a legacy we must continually confront as we reassess science and society.”⁵⁹ For Redman, the violence and trauma that endures from the bone-collecting period is due to its continued omission from the historical narratives of the nation’s memory and anthropology’s self-understanding. The ‘us’ that Redman makes reference to implies the shared, collective responsibility in the present to redress the violence in the past. Redman locates the collection of Native and Indigenous dead as a matter of the past, a past that must be reckoned with in order to understand how it has shaped the present – a version of the present that elides the ongoing desecration and destruction of Indigenous burial grounds.

In *The Skull Collectors*, Ann Fabian identifies that there was “something more

than secularism” that informed the ability of these skull collectors to maintain a disconnect between the grief they felt as they buried their own dead and their complete absence of feeling when it came to the respect of Native and Indigenous gravesites. “It wasn’t secular science,” Fabian writes, “[nor] is it an empty secular worldview” enabling such inhumane cruelty. Rather, Fabian identifies that it was the power the scientists held over their research subjects in (what Fabian indirectly implies is) the racist, white supremacist world these scientists helped to produce. Fabian notes that as the U.S. government “pushed Indians father and father west, sure that Native Americans had no place in America’s future,” scientists like Morton “could act on [their] grief and [their] spiritual needs,” whereas Native peoples were forced to watch the bodies of their loved ones being ripped from their burial places as the U.S. simultaneously launched a national effort to rebury the dead of the Civil War.⁶⁰ Fabian writes, “Congress allocated resources for reburial, expressing a political will to create sacred grounds that would knit the war’s dead into the country’s future. The native dead have earned a place in that future too.” Despite Fabian’s identification of the ways in which removing Native and Indigenous dead “erased markers of past settlement and helped open the land for American farmers and town builders,” she locates the matter of justice within the horizons of the settler state. Fabian’s vision of justice entails the inclusion of Native Americans within the nation as lives worth grieving; by mourning these dead as a nation, the healing of these wounds could begin as Native Americans too would be ‘knit’ into the country’s future.

Yet, in the United States, as Jodi Byrd argues in *The Transit of Empire*, “the Indian is the original enemy combatant who cannot be grieved.”⁶¹ Byrd identifies the Indian as the spectral figure in Judith Butler’s statement that the “derealization of the ‘Other... means that it is neither alive nor dead, but interminably *spectral*. The infinite paranoia that imagines the war against terrorism as a war without end will be one that justifies itself endlessly in relation to the spectral infinity of its enemy, regardless of whether or not there are established grounds to suspect the continuing operation of terror cells with violent aims” [emphasis mine].⁶² In the context of United States settler colonial empire, Jodi Byrd argues that “Indians are typically spectral, implied and felt, but remain as lamentable casualties of national progress who haunt the United States on the cusp of empire and are destined to disappear with the frontier itself. Or American Indians are rendered as melancholic citizens dissatisfied with the conditions of inclusion.”⁶³

These studies fail to look beyond singular frames of analysis because “[c]olonial unknowing endeavors to render unintelligible the entanglements of racialization and colonization, occluding the mutable historicity of colonial structures and attributing finality to events of conquest and dispossession.”⁶⁴ Spiritual violence is rendered unintelligible under colonial conditions of “insistence on epistemic mastery and refusal of heterogeneous ways of knowing otherwise.”⁶⁵

Spiritual Conquest, in turn, studies what Jodi Byrd theorizes as the transit of empire, wherein, “transit as a concept suggests the multiple subjectivities and subjugations put into motion and made to move through notions of injury, grievance,

and grievability as the United States deploys a paradigmatic Indianness to facilitate its imperial desires. This paradigm of Indianness that functions as the transit of U.S. empire arises from how the United States was constituted from the start, not just in the scientific racisms and territorial mappings inaugurated through Enlightenment voyages for knowledge, but in the very constitutionality that produced the nation.”⁶⁶ By considering such violence through a critical lens that considers how “the Indian is left nowhere and everywhere within the ontological premises through which U.S. empire orients, imagines, and critiques itself,” and “how ideas of Indian and Indianness have served as the ontological ground through which U.S. settler colonialism enacts itself as settler imperialism,” then understanding the work that such bone-collecting does requires an analysis that extends beyond the naturalization of the settler colonial project, and requires a consideration of bone-collecting as part of the continuation of spiritual terror through which the United States has been constituted, defined, envisioned, developed, and by which its empire is spread.⁶⁷

Because this project is founded in a critique of colonial unknowing as an epistemological orientation, what works to “preempt relational modes of analysis,” its methods cannot be contained within academic disciplinary boundaries of epistemic mastery.⁶⁸ I am instructed by decolonial and Indigenous studies methods of embodied knowing as a research technology. In order to trace the unknowable, I engage a mode of analysis that is “porous and undisciplined;” what is “shaped by the perspectives and critical genealogies that emerge within these spaces as a mode of doing research.”⁶⁹ This project emphatically does *not* attempt to – nor does it argue for – the

“making visible, rendering comprehensible, or restoring to presence as a response to forms of colonial unknowing and willful ignorance.”⁷⁰ As my definitions of the spiritual and the sacred attest, this project does not and *cannot* speak to the lived realities, meanings, or impacts of spiritual violence and desecration as experienced by Indigenous peoples. The meanings and impacts of such burial theft are only known from within the specific contexts of each occurrence, according to the distinct histories, cosmologies, practices, and knowledges specific to each people. More than an issue of the impossibility of ontological translation, I recognize that, for myself, any desire to *know* Indigenous experience is to reproduce and sustain the relations of spiritual violence and colonial unknowing that I critique. In lieu of extractive research, I am instructed by "the practices of refusing and rejecting colonial demands for intelligibility" as theorized by Indigenous studies scholars like Audra Simpson and Joanne Barker that "suggest some of the ways that making known, recognition, and visibility can replicate and reinscribe colonial regimes of knowledge/power."⁷¹

As Saidiya Hartman describes in "Venus in Two Acts," the unattainability of 'knowability' in colonial archives is rife with the desire for self-making through the desire for recovery, recuperation, and repair; the desire to know and make sense of illogical horror. The violence that I seek to define cannot be made sense of, it cannot be made perceptible or legible as empirical representation already renders its nonexistence. Instead, Hartman 'un-makes' colonial legibility by walking her way out of the world structured by Western empirical evidence into a world of 'un-making,' a space of absence and incomprehension. While my project seeks to understand the

colonial forms that “at once facilitate and delimit the conditions of colonial dispossession,” or, put another way, that define what can and cannot be dispossessed, what I pursue is already a project of making-legible on colonialism’s terms. Yet, paradoxically, it is precisely because colonial epistemologies already render spiritual violence as belief-based and, thus, as not-real, that this dissertation practices an ‘un-making,’ or unsettling, of colonial logics.⁷²

Chapter Summaries

In each of my chapters, I identify and examine a specific scene of U.S. colonial spiritual violence, using decolonial methods and relational critique to analyze how historic and ongoing projects of desecration have reinforced entangled economies of racialized and gendered dispossession. By identifying the sacred and the spiritual as realms through which U.S. empire circuits, this dissertation locates forms of power that have been otherwise rendered invisible by theorists of state power and modernity.⁷³ By tracking the consistent use and essential function of colonial desecration throughout the expansion of U.S. empire and rise of global capitalism, what I find is that colonial capitalist systems have always hinged upon material and immaterial extractive relations with the Indigenous body in life and death.

In Chapter One: “Settler State Spiritual Violence and the Human Sciences from the Anatomy Acts to the Army Medical Museum,” I trace the origins of the U.S. bone-collecting period through the passage of U.S. State Anatomy Acts during the

late-eighteenth and nineteenth centuries. The Anatomy Acts legally designated the bodies of those deemed criminal, insane, and/or destitute to be used for dissection by U.S. medical schools. These Acts demonstrate the infliction of a form of spiritual punishment for those deemed unworthy of sacred protection over their bodies in death. Using primary source materials of eighteenth and nineteenth century newspaper articles, essays, and speeches by anatomists and U.S. legislators, I examine how prominent nineteenth-century scientists circulated ‘common-sense’ narratives to sway public approval of the Anatomy Act legislature. These narratives deployed colonial tropes of ‘Indian savagery’ to shift societal paradigms of death away from their basis in divine judgment towards a new basis in secular scientific materialism. I argue that these narratives fueled the subsequent bone-collecting period through the discursive production of ‘the Indian’ as the rational and ethical property of Western science, indebted as raw material for the production of human progress.

In Chapter Two, “For the Glory of Gold and Bones: Spiritual Accumulation and Dispossession in the Making of Colonial California” I continue to track these extractive relations with Indigenous life and death into the presence of what I call “spiritual economies” throughout the U.S. invasion, colonization, and economic development of the state of California. Using state legislative and economic records, I reveal how California’s early-statehood mining industry relied upon correlating economies of Indigenous genocide. I then relationally connect these economies to the spiritual economy of the Spanish California mission system, wherein agricultural production relied upon both the extraction of life (as physical labor) from Indigenous

‘neophytes’ and the extraction of eternal souls (via conversion) at death. I argue that this spiritual economy reemerges with the University of California’s Department of Anthropology.

In Chapter Three, “In Defense of the Sacred: Property is Desecration, Life is Indigenous Lands Returned,” I analyze several California property dispute cases involving the disturbance of Indigenous burial grounds. In each of these cases, I show how property owners, developers, and settler citizens strategically use the presence of Indigenous gravesites to manipulate property law towards their desired outcomes, revealing how California settler state property law is constantly being reshaped and reformed through the desecration of Indigenous sacred burial sites. In turn, I analyze how Bay Area Indigenous women and Two Spirit activists strategically navigate U.S. settler property law in their reclamation and rematriation of Ohlone lands and life. I argue that in their rematriation of Indigenous sacred life, the colonial world of property (as spiritual terror) is undone.

¹ In this dissertation, I define settler colonialism as a genocidal project of conquest, in which colonizers invade and ‘settle’ upon indigenous lands. The term ‘settler colonialism’ was first coined by Kanaka Maoli scholar Haunani-Kay Trask. As numerous NAIS and settler colonial studies scholars have posited, settler colonialism is different from other forms of colonialism in that settlers come with the intent to permanently occupy indigenous lands and enact indigenous genocide in order to do so. Importantly, indigenous dispossession is an ongoing process of settler colonialism, not a singular historical event. Indigenous dispossession is and

must be maintained and reproduced each day in order for colonial capitalist production and society to continue to exist.

² If I am to have any hope in its potential to do so, I have learned (through many painful mistakes) that I have to write against the compulsion to create what I think an academic dissertation is supposed to be. This is why I intentionally begin this dissertation with personal narrative in exactly the form as I do (despite all advisement to the contrary).

³ My use of the term ‘possessive logics’ makes direct reference to Aileen Moreton Robinson’s theoretical conceptualization of what she calls ‘the logics of white possession’ or ‘the white possessive’ in Aileen Moreton-Robinson, *The White Possessive: Property, Power, and Indigenous Sovereignty*, Indigenous Americas (Minneapolis, Minnesota ; University of Minnesota Press, 2015).

⁴ My existence and upbringing in what is known as the city of Minneapolis, MN were contingent upon the outcome of the 1862 Dakota War, in which Dakota peoples fought in a last-ditch effort to defend their homelands against U.S. invasion. Far outnumbered by the swells of U.S. military and settler forces, the war ended with the Dakota being rounded up and held captive in one of the world’s first modern concentration camps at Fort Snelling. After voiding its treaties with the Dakota and dissolving their reservation lands, the Dakota were exiled from their own territories and marched south. Congress then passed legislation making it illegal for the Dakota to live in the state of Minnesota, which remains in effect to this day. To ensure the Dakota were fully driven out of Minnesota, a bounty with cash reward was created for every Dakota scalp turned in. Little Crow, who had led the first raids of the war, was killed and his scalp collected for bounty. His skull was kept as a memento until 1971. For an excellent historical account of these events and the colonization of Dakota homelands, see Waziyatawin., *What Does Justice Look like? : The Struggle for Liberation in Dakota Homeland*, First edition (St. Paul, Minnesota: Living Justice Press, 2008).

⁵ The U.S. recruited European populations (especially Germans and Scandinavians) deemed ‘desirable’ according to the logics of nineteenth century scientific racism.

⁶ I use the term ‘settler’ as defined by Waziyatawin: as a way to refer to colonizers living on Indigenous lands who continue to reap and reproduce the benefits of conquest and settlement. Furthermore, I understand the term in its function as an ontological position that, as Tiffany Lethabo King has described, “references more than just certain people. Settler references structural positions and relationships to others.” See Tiffany King, *In the Clearing: Black Female Bodies, Space, and Settler Colonial Landscapes*. 2013. I also recognize that the term ‘settler’ is insufficient to describing the forms of violence that are enacted through colonial invasion and occupation.

⁷ This physical experience I describe bares striking resemblance to what several other scholars have described of similar such experiences; these scholars include: Gloria Anzaldúa, Avery Gordon, and Macarena Gómez-Barris.

⁸ The Confederated Villages of Lisjan are made up of the six Indigenous nations that were directly enslaved at Mission San Jose in Fremont, CA and at Mission Dolores in San Francisco, CA: Lisjan (Ohlone), Karkin (Ohlone), Bay Miwok, Plains Miwok, Delta Yokut and Napiian (Patwin). Their unceded homelands include the cities of Oakland, Berkeley, Emeryville, Piedmont, Albany, Alameda, and the Bay Area counties of Alameda, Contra

Costa, Solano, Napa and San Joaquin. “The Confederated Villages of Lisjan are one of many Ohlone nations, each with its own geography and history. Our tribes, cultures and languages are as diverse as the ecosystems we live within. When the Spanish invaded in the late 1700s, in their ignorance they called us Costanoan, people of the coast. In the 1960s and 70s, inspired by the Black Power and American Indian Movements, we organized and renamed ourselves Ohlone. The different nations of Ohlone people are connected but have different territories and languages. The Confederated Villages of Lisjan speak the language Chochenyo” (Sogorea Te’ Land Trust). To learn more, visit the Sogorea Te’ Land Trust website: sogoreate-landtrust.org and shellmounds.org.

⁹ At the time of writing this article, it is my understanding that UC Berkeley has agreed to repatriate the bones of these ancestors. One of the issues causing a delay in their return is that as the Ohlone are not federally recognized, they do not have legal title to a land base in which the remains can be reburied. The Sogorea-Te’ Land Trust, an urban Indigenous women’s led organization, has been working to acquire Chochenyo and Karkin Ohlone homelands in which the ancestors will be reburied.

¹⁰ San Francisco State University among other institutions also participated in the collection of Ohlone and other Indigenous human remains.

¹¹ Amy Lonetree, *Decolonizing Museums: Representing Native America in National and Tribal Museums*, (Chapel Hill: University of North Carolina Press, 2012); James Riding In. "Six Pawnee Crania: Historical and Contemporary Issues Associated with the Massacre and Decapitation of Pawnee Indians in 1869," *American Indian Culture and Research Journal* 16, no. 2 (1992): 101-19.

¹² Non-Native peoples also are just as lacking in awareness of this history, but settlers bare direct responsibility.

¹³ Eve Tuck and K. Yang, “Decolonization Is Not a Metaphor,” *Decolonization* 1 (September 8, 2012): 5, <https://doi.org/10.25058/20112742.n38.04>.

¹⁴ Manu Vimalassery, Juliana Hu Pegues, and Alyosha Goldstein, “Introduction On Colonial Unknowing,” *Theory & Event* 19, no. 4 (2016): 1, <https://www.proquest.com/scholarly-journals/introduction-on-colonial-unknowing/docview/1866315123/se-2?accountid=14523>.

¹⁵ Vimalassery, Pegues, and Goldstein.

¹⁶ Mauna Kea is one of the most sacred sites “- if not the most sacred” – to the Kanaka Maoli. The University of California and the California Institute of Technology (CalTech), together with the National Institutes of Natural Sciences of Japan, the National Astronomical Observatories of the Chinese Academy of Sciences, the Department of Science and Technology of India, and the National Research Council (Canada), are the designers and developers of the Thirty Meter Telescope, collectively making up the TMT International Observatory LLC. The University of California has invested \$68 million in the TMT – with \$30 million “pulled from ‘UC’s own funds’” as of May 2020. Skylar De Paul. “UC invests \$68M into Thirty Meter Telescope on Maunakea.” May 22, 2020. *Dailycal*. <https://www.dailycal.org/2020/05/22/uc-invests-68m-into-thirty-meter-telescope-on-maunakea/>

¹⁷ The West Berkeley Shellmound sacred village site and burial ground.

¹⁸ See Eve Tuck & K. Wayne Yang, “Decolonization is Not a Metaphor” for a critique of the popular usage of the term ‘decolonization’ when divorced from Indigenous movements for the return of Indigenous lands to Indigenous stewardship.

¹⁹ Trope & Echo-Hawk, “The Native American Graves and Repatriation Act” (1992).

²⁰ Jean O’Brien, *Firsting and Lasting: Writing Indians out of Existence in New England* (Minneapolis: University of Minnesota Press, 2010), p. 94.

²¹ Riding In, James. “Our Dead Are Never Forgotten: American Indian Struggles for Burial Rights and Protections.” In *They Made Us Many Promises*, edited by Philip Weeks, 291-323. Wheeling, IL: Harlan Davidson, 2002, 301.

²² James Riding In, “Six Pawnee Crania: Historical and Contemporary Issues Associated with the Massacre and Decapitation of Pawnee Indians in 1869,” *American Indian Culture and Research Journal* 16.2 (1992), pp. 101-119; and Samuel J. Redman, *Bone Rooms: From Scientific Racism to Human Prehistory in Museums* (Cambridge, MA: Harvard University Press, 2016).

²³ “On my way back to Camp Verde I disinterred the heads and sent the skulls to the Army Medical Museum, as they showed the so-called explosive action of a bullet passing through the skull which it broke into many pieces.” William Henry Corbusier, “Record of William Henry Corbusier, Colonel, U.S. Army Retired,” UAL, SC, Record of William Henry Corbusier, Colonel, U.S. Army 1844-1930, box 2, folder 4, AZ 116, page 33.

²⁴ See Redman, Samuel. *Bone Rooms: From Scientific Racism to Human Prehistory in Museums*. Harvard University Press, 2016.

²⁵ I use the term ‘land/life’ as conceptualized by K. Wayne Yang, in its use as shorthand to “emphasize that land/life are in relation within Indigenous cosmologies but are actively being separated by colonizing operations.” la paperson. *A third university is possible*. p. 5

²⁶ This conceptualization is especially informed by M. Jacqui Alexander’s *Pedagogies of Crossing* and the work of Gloria E. Anzaldúa.

²⁷ Silvia Federici, *Caliban and the Witch: Women, the Body, and Primitive Accumulation* (Brooklyn: Autonomedia, 2004), 141.

²⁸ la paperson. *A third university is possible*. p. 5 K. Wayne Yang also publishes under the penname 'la paperson.'

²⁹ Here, I use the term 'otherwise' as conceptualized by Ashon Crawley and Andrea Smith in their 2015 UC Riverside conference convening, “Otherwise Worlds: Against Settler Colonialism and Anti-Blackness.” By the same title is the 2021 anthology edited by Tiffany Lethabo King, Jenell Navarro and Smith (published by Duke University Press).

³⁰ Fuifuilupe 'Alilia Niumeitolu, "The Mana of the Tongan Everyday: Tongan Grief and Mourning, Patriarchal Violence, and Remembering Va" (eScholarship, University of California, 2019), 12.

³¹ Niumeitolu, 12.

³² Niumeitolu, 12.

³³ Through the category of 'religion,' the West defined itself by mapping the world around it. Through the Enlightenment's re-ordering of the universe, the mapping of the world through religious difference allowed the West to define itself as a "harbinger of universal history," implicating a globally shared sense of time, as secular, linear, progressive time. [Tomoko Masuzawa. *The Invention of World Religions Or, How European Universalism Was Preserved in The Language of Pluralism*. (Chicago: University of Chicago Press, 2005).

³⁴ Talal Asad. *Formations of the Secular: Christianity, Islam, Modernity*, (Stanford University Press, 2003). p. 192. Asad establishes secularism as definitive to the rise of modernity as an enforced global system of capitalist nation-states. Asad's interpretation demonstrates how modernity has been maintained as a hegemonic political goal by defining secularism as a mode of discipline and power making, for, although notions of what is secular versus religious fluctuate, secularism maps and coheres the world into a secular ontology.

³⁵ Asad, 13.

³⁶ Ibid.

³⁷ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, Second edition (London: Zed Books, 2012).

³⁸ For example, Jodi Byrd et al. "Predatory Value: Economies of Dispossession and Disturbed Relationalities," 2018; Coulthard, Glen. *Red Skin White Masks: Rejecting the Colonial Politics of Recognition*, 2014; Aileen Moreton-Robinson. *The White Possessive: Property, Power, and Indigenous Sovereignty*, 2015; Grace Kyungwon Hong & Roderick Ferguson, eds. *Strange Affinities: The Gender and Sexual Politics of Comparative Racialization*, 2011.

³⁹ See for example: David Harvey. *The New Imperialism*. Oxford: Oxford University Press, 2003; Judith Butler. *Precarious Life: The Powers of Mourning and Violence*. Verso: London, 2004.

⁴⁰ See Jodi Byrd et al. "Predatory Value: Economies of Dispossession and Disturbed Relationalities." *Social Text* Vol. 36, no. 2 (2018): 1-18; Coulthard, Glen. *Red Skin White Masks: Rejecting the Colonial Politics of Recognition*. Univ of MN Press, 2014; Moreton-Robinson, Aileen. *The White Possessive: Property, Power, and Indigenous Sovereignty*. University of MN Press, 2015.

⁴¹ Rosa Luxemburg, *The Accumulation of Capital* (London & New York: Routledge Press, 2003), 338.

⁴² Karl Marx, *Capital: A Critique of Political Economy, Vol. One.*, trans. Ben. Fowkes, Reprint (London: Penguin Classics, 1990), 775.

⁴³ Luxemburg, *The Accumulation of Capital*, 350.

⁴⁴ David Harvey, *The New Imperialism, The New Imperialism* (Oxford: Oxford University Press, 2005), 101.

⁴⁵ Glen Sean Coulthard, *Red Skin, White Masks : Rejecting the Colonial Politics of Recognition*, Indigenous Americas (Minneapolis: University of Minnesota Press, 2014), 7.

⁴⁶ Coulthard, 7.

⁴⁷ Coulthard, 7.

⁴⁸ Although Harvey recognizes the ongoingness of dispossession as requisite to the continued accumulation of capital, he still places Indigenous dispossession in the past, constituting a singular, historic event of primitive accumulation.

⁴⁹ Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis & London: Duke University Press, 2017), 43.

⁵⁰ *Sogorea Te Land Trust: Rematriation*, n.d.

⁵¹ Sogorea Te' Land Trust, "What Is Rematriation?," *Ya Nuunukne Newsletter*, Spring 2022, 2.

⁵² "Rematriation and Indigenous Feminisms" *Sogorea Te' Land Trust Speaker Series*.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Such works include Smith, *Decolonizing Methodologies*; Amy Lonetree, *Decolonizing Museums: Representing Native America in National and Tribal Museums* (Chapel Hill: University of North Carolina Press, 2012); Winona. LaDuke, *Recovering the Sacred : The Power of Naming and Claiming*, 1st ed. (Cambridge, MA: South End Press, 2005); Vine Deloria, *God Is Red: A Native View of Religion* (Colorado: Fulcrum Publishing, 1973); Waziyatawin., *What Does Justice Look like? : The Struggle for Liberation in Dakota Homeland*; Kathleen Fine-Dare, *Grave Injustice: The American Indian Repatriation Movement and NAGPRA* (University of Nebraska Press, 2002); Devon A Mihesuah, "American Indians, Anthropologists, Pothunters, and Repatriation: Ethical, Religious, and Political Differences," *American Indian Quarterly* 20, no. 2 (1996); the work of Susan Miller, and many others I have failed to mention here.

⁵⁷ Macarena Gómez-Barris, *The Extractive Zone : Social Ecologies and Decolonial Perspectives*, *Dissident Acts* (Durham: Duke University Press, 2017), <https://doi.org/10.1515/9780822372561>.

⁵⁸ To be clear, this is not meant to discredit or fault such studies, as such research is tremendously important and needed; rather, I mean to highlight the need for scholarship which examines the settler state's theft and removal of Indigenous dead from their burial grounds across time, in its entirety.

⁵⁹ Samuel J. Redman, *Bone Rooms: From Scientific Racism to Human Prehistory in Museums* (Cambridge & London: Harvard University Press, 2016), 290.

⁶⁰ Ann Fabian, *The Skull Collectors: Race, Science, and America's Unburied Dead* (Chicago: University of Chicago Press, 2010).

⁶¹ Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism*, First Peoples: New Directions Indigenous (Minneapolis: University of Minnesota Press, 2011), xviii.

⁶² Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism*, First Peoples: New Directions Indigenous (Minneapolis: University of Minnesota Press, 2011), xviii. (Byrd, quoting Butler, xviii).

⁶³ Byrd, xx.

⁶⁴ Vimalassery, Pegues, and Goldstein, "Introduction On Colonial Unknowing."

⁶⁵ Vimalassery, Pegues, and Goldstein. Vimalassery, Pegues, Goldstein. "On Colonial Unknowing" p. 2

⁶⁶ Byrd, xxi.

⁶⁷ Byrd, xix.

⁶⁸ Vimalassery et, al., "On Colonial Unknowing," 2

⁶⁹ Gómez-Barris, *The Extractive Zone: Social Ecologies and Decolonial Perspectives*.

⁷⁰ Vimalassery, Pegues, Goldstein. "On Colonial Unknowing" p. 2

⁷¹ Vimalassery, Pegues, Goldstein. "On Colonial Unknowing" p. 2

⁷² In my early anxious, self-doubting attempts to perform academia and evade detection as a fraudulent imposter, I imposed the colonial logics of the archive onto my research; I did not know how to define the parameters of such a project - what it would and would not do. I therefore initially defined the contours of this project through the logics of the colonial archive; I assigned arbitrary dates, geographical borders - neat, orderly units of linear time and flattened space. Yet as I began my research, I felt increasing resistance to these boundaries; I soon found that it was impossible to track the processes I pursued through the logics of linear time and space. The residue of attempted disciplinary framings is evident throughout this project, in what goes unrecognized and unattended to; it is evidenced in this project's reinforcement of the boundaries maintaining separation between Native American and Indigenous Studies and Black Studies scholarship. All of the research I have found that investigates the systemic theft, collection, and experimentation on the dead conducted in relation to the development of the United States and the development of the human sciences, has regarded the theft of Native American and Indigenous dead and the theft of Black/African diasporic/African American dead as entirely separate and apart from one another. While the colonial logics and desires that motivate/d the theft of Indigenous human remains versus the theft of Black human remains differ significantly, resulting in the theft of these dead for different motivations and aims – they are also mutually constituted in their enactment and aims. Furthermore, by overly insisting on the stark separations and differences between both, this

erases the places where they converge. As is evidenced by the mass graves of the mission compound the sugar plantation, the boarding school; by the classrooms of Princeton, UPenn, San Jose State, and the University of California; by the research of Samuel G. Morton and J. Marion Sims - the human sciences, the carceral state, the modern penitentiary, the accumulation and production of wealth - the entire development of the colonial capitalist United States have been mutually constituted through the theft, collection, study, and production of Indigenous and Black human remains. So much of what these projects signify, so much of what these projects produced (and continue to produce) of the emergent, shapeshifting, fluctuating, relations and formations of power, by which they took and take shape, cannot be understood without the other. This project's greatest failure is perhaps its reassertion of a bounded separation between disciplinary formations of NAIS and Black Studies by defining each in terms of its proper subject of study.

⁷³ My thinking here is informed by Jodi Byrd's concept of 'transit' in *The Transit of Empire* and by Macarena Gómez-Barris's decolonial queer femme methodology in *The Extractive Zone*.

Chapter One

Settler State Spiritual Violence and the Human Sciences from the Anatomy Acts to the Army Medical Museum

In 1866, while on duty at Camp Lincoln (later named Fort Verde) in what is known now as the (so-called) state of Arizona, United States army surgeon Edward Palmer wrote in a diary entry he had titled “Burial of an Apache child I wanted as a specimen:

One of the little children was wounded and 2 days afterwards it died in camp. The females of the camp laid it out after their custom and covered it with wild flowers and carried it to a grave, chanting a Catholic hymn and at the grave initiated a regular Catholic burial. They hid it so completely that it's body could not be found as I had a wish to have it for a specimen. These women had the forethought to hide it, and no persuasion could induce them to tell the secret. So, I did not get the specimen.¹

Edward Palmer was seeking the body of the Apache child to dig up, study, and send to the Smithsonian Institute for examination. In his diary, Palmer describes that he could not find the body, indicating that he had likely dug in several places in his attempts to unearth the child's grave. His attempts to convince (or rather, coerce) the Apache women at the camp to tell him where they had buried the child were unsuccessful, as the women presented a unified front against his grave-robbing endeavors. In Palmer's account of his inability to locate the child's body, one can surmise that these Apache women had to be clandestine and diligent in their efforts to hide the burial place of the child from Palmer. The fact of their forethought to hide

the child's burial place - and apparent success in doing so - suggests that this was not the first time the women had dealt with such a situation.

Palmer's description of his interaction comprises only a brief day's entry in a journal that reads as a field research log, the entry is spaced in between pages scattered with sketches of plant identifications and geologic rock formations and daily data recordings of everyday life at the Arizona military camp in which he was then stationed. For Palmer, this child was just another scientific specimen to study, not a life worthy of being grieved.

During the mid-nineteenth century, Edward Palmer worked as a United States army surgeon in several military camps across the territory comprising what is known as the state of Arizona. In addition to providing medical care to soldiers, Edward Palmer considered himself an amateur archaeologist, as he frequently dug up the grave sites of Native American peoples and collected their human remains for his personal inspection, then sent them on to research institutions like the Army Medical Museum and the Smithsonian Institute to add to their growing collections of Indigenous crania.² Palmer was not an anomaly of his time; throughout the mid-to-late nineteenth century, U.S. army surgeons, like Palmer, were stationed at military camps across the Western territories occupied by the United States, as part of the United States' efforts to conquer the Indigenous lands west of the Mississippi river.³ Army doctors stationed in western military forts were encouraged by authorities in Washington to excavate Native American gravesites as a way to pass the time: "Superiors in Washington worried that doctors grew bored during peaceful and

healthy months, when no soldiers came by complaining about diarrhea or conjunctivitis, when there were no bullet wounds or snake bites.”⁴ As a solution, the surgeon general recommended a number of hobbies to keep the doctors entertained, a list that included the excavation and study of Native American skulls from local burial grounds.⁵ Following this advice, many medical officers took up the practice during their leisure hours; as army surgeon Emile Cyrus Houle related in a letter to a friend, he had developed “an accidental interest in archaeology” while stationed in Arizona, declaring: “I vaingloriously confess to being a grave-robber.”⁶

In 1868, U.S. Surgeon General Joseph Barnes issued an order to all U.S. Army medical personnel instructing them to collect and send in specimens of the skulls of Native American peoples to the Army Medical Museum (AMM), so as to aid in the growth of its collections and to promote “the progress of anthropological science by obtaining measurements of a large number of skulls of the aboriginal races of North America.”⁷ Initially started as a Civil War project, the Army Medical Museum (AMM) was established to amass a catalog of different kinds of human physical injuries and diseases. The AMM began collecting body parts and human remains during the Civil War so as to preserve a catalog fatal diseases and injuries for scientific study. Following the end of the war, the AMM shifted its focus to the collection of specimens from the so-called ‘natural world,’ issuing an order in 1867 to collect samples of the local floral and fauna, including skeletal remains and cultural items belonging to Native American peoples. In 1868, a memorandum to this order was issued instructing for the specific collection of Native American crania. The

AMM alone collected an estimated 4,500 Native American skulls, which were later transferred to the Smithsonian Institute.⁸

The U.S. military's interest in the study of Native American crania is largely owed to the work of Samuel G. Morton, whose development of craniometry was immensely popular in the development of scientific theories of race.⁹ The publication of his magnum opus in 1839, *Crania Americana*, helped launch the rise of race science, eugenics, and the popularization of collecting Native American and Indigenous crania. Once heralded as "the father of American anthropology" (a title now more commonly attributed to Franz Boas), Morton's work laid the foundations for the then nascent field of physical (or biological) anthropology.¹⁰ While Morton is famous for his studies of skulls and theories of race, what remains overlooked is that, at the same time as he was engaged in the theft, collection, and study of Indigenous human crania, Morton was also working to develop, promote, and pass the first anatomy legislature in the United States.

The anatomy legislation passed in the nineteenth century reflects a significant shift in Western social conceptions of death, spiritual afterlife, the body, and the soul. The first of its kind in the U.S., such anatomy legislature was designed to "promote the development of medical science" by establishing legal means through which physicians and medical students could acquire human cadavers to dissect as part of their medical training.¹¹ Prior to the late eighteenth century, no such laws existed in regard to the acquisition of cadavers by physicians and medical colleges in the United States, meaning there were no legal means by which a cadaver could be procured.

Due to popular social conceptions of death in England and the United States, the public overwhelmingly opposed anatomical science and dissection, as it prevented the soul's ascension to eternal Christian afterlife (heaven). With the increasing demand for cadavers stemming from the rapid growth of its medical college industry, England passed its first anatomy law in 1752. Known as the Murder Act, this law ordered that criminals sentenced to execution for the crime of murder be given the additional sentence of medical dissection in death; as only those guilty of committing such evil could be deemed to deserve such horrific torture in death. Following suit, the first anatomy legislation in the United States modeled itself after the British Murder Act.

The significance of this legislature (for the purposes of this dissertation) is that, by sentencing the convicted to dissection in death, the juridical authority of the state extends itself into the realm of spiritual afterlife. Yet, between the late-eighteenth and early-nineteenth centuries, in the span of just a few decades, Michel Foucault observes that punishment in the form of execution and torture (including the dismemberment of the body) altogether disappeared, as Europe and the United States underwent a sweeping period of penal reform based in “a new moral or political justification of the right to punish.”¹² As settler societal conceptions of death and spiritual afterlife shifted into new arrangements of secular and religious life, why and how did social outrage over dissection dissipate? In what ways did societal beliefs change and what were the influences of this transformation? With the rise of the secular nation-state, what became of the state's exertion of authority over the realm of spiritual afterlife?

In this chapter, I examine the relationship between the U.S. bone-collecting period and the passage of U.S. state and federal Anatomy Act legislation during the eighteenth and nineteenth centuries. Through analysis of lectures, essays, and speeches by prominent scientists and legislators on the topics of anatomy legislation and the study of human crania, I trace the paradigmatic shift in settler societal conceptions of death as coincided with the rise of Native American bone-collecting by settler institutions. As these materials demonstrate, while scientists like Morton worked to pass comprehensive legislation that would legally ensure U.S. medical colleges a large and regular supply of human cadavers for use in the instruction and development of medical research, they also collected Indigenous skulls and used them to develop scientific theories of racial hierarchy. Through these sources, I show how scientists influenced public opinion to favor anatomy legislature through the use of progress narratives that relied upon tropes of 'Indian savagery' to dispel societal 'sentimentality' for the dead.¹³ Furthermore, I show how these scientists and politicians discursively produced the figure of the 'Indian savage' as sacrificial; a figure whose burdensome nature in life indebted them to society and was repaid/redeemed only in death. I argue that social acceptance of dissection was facilitated through the discursive production of Native American and Indigenous dead as the proper objects of scientific research and the (sacrificial) ethical property of 'the greater good.'

Spiritual Punishment & Social Conceptions of Death

Over the mid-eighteenth and nineteenth centuries, the growth of the medical college industry in both England and the United States resulted in the development of new policies regarding the supply and demand of human cadavers for dissection. Prior to 1784, no such laws existed in the United States, as medical professional and legal structures were not yet established. In the eighteenth century, U.S. settler societal conceptions of death were predominantly based in Protestant and Catholic beliefs, which observed that the body of the deceased must be interred fully intact for the soul to ascend to heaven. Prior to the Reformation, burials typically took place in churchyards, with the expectation that, at the Last Judgment, the bodies would rise from the grave to ascend to heaven. Following the Reformation, although burials primarily took place in cemeteries, societal attitudes regarding the respect and protection of the dead from desecration remained the same. Pawnee scholar James Riding In writes that the belief in a spirit or soul that remained attached to the body of the deceased is “similar to Indian philosophy.”¹⁴ As Indigenous knowledges of death and practices/ways of relating to and with the dead are vastly diverse and have been violently misinterpreted by colonial society, I by no means attempt to convey or describe what it means to experience the violence of colonial desecration by emphasizing what similarities were then (and now) shared between Indigenous and settler conceptions of death. Rather, I do so in the effort to convey desecration as ‘real’ violence that is committed with full knowledge of and in full intention to inflict its harm.

As dissection dismembered the body (causing the separation of the soul from the body), the public staunchly opposed its practice - what they perceived to be a “great indignity” and most unthinkable of punishments.¹⁵ Yet, by the end of the nineteenth century, every U.S. state had enacted comprehensive anatomy legislation (to varying extents) permitting the practice of dissection on the bodies of designated groups. This signals the profound transformations that occurred over the course of the nineteenth century regarding U.S. settler societal conceptions of death, the body, the soul, and spiritual afterlife.

The passage of the British Murder Act in 1752 attempted to redress the lack of legal means by which to procure the growing demand for cadavers by surgeon-anatomists. In addition to establishing that the bodies of those executed for the crime of murder be dissected and anatomized by the Company of Surgeons, the Murder Act also made it a felony crime to interfere in the process and attempt to ‘rescue’ the bodies from their awaiting fate.¹⁶ In the late eighteenth century, the United States developed and passed its first anatomy legislature modeled after the Murder Act, also establishing that the bodies of executed criminals be delivered to medical colleges for dissection. This legislation effectively exempted criminals from the sacred protection and respect of their bodies in death; it “impaired if not eliminated, the hapless criminals’ ascension to heaven. In this sense,” argues James Riding In, “medical dissection and autopsy served as a form of spiritual punishment for the wicked and evil.”¹⁷ In addition to providing a legal source of cadavers to medical schools, the Murder Act and similar legislation sought to deter crime through the threat of eternal

suffering.¹⁸ Dissection, in this context, was socially perceived as a “second and greater death,” so that, according to Silvia Federici, “the condemned spent their last days making sure that their body should not be abandoned into the hands of surgeons.”¹⁹

Although the reasoning behind the Murder Act was that dissection would be publicly tolerated if conducted only on convicted murderers (as their having committed the most evil offenses in life warranted their eternal suffering in death), only dissection for the most unpopular murderers went without public protest.²⁰ As surgeons (or their hired hands) stood by at the public gallows, waiting to receive their corpse, the public spectacle of the body's transfer into the hands of the surgeon-anatomists incited great public uproar, whether or not the public had any affiliation with the person being executed.

By the turn of the nineteenth century, surgeon-anatomists had established human dissection as a standard requirement of medical training while increasing numbers of new medical colleges were being opened to accommodate what was a rapidly growing population of new, incoming medical students. Therefore, the demand for cadavers far outpaced the amount made available by early U.S. (and British) anatomy laws. Consequently, physicians and medical students procured cadavers by hiring laborers called 'resurrectionists' or 'body-snatchers' to steal them from cemeteries (medical students often stole the corpses themselves), what developed into an underground cadaver trade. At King's College in New York City (the first medical school in the state), each student was required to supply their own

corpse for "his sole use" in dissection (only male students were admitted to the college).²¹ Students supplied their cadavers by stealing corpses from the nearby 'Negro Burial Ground' potter's cemetery, where "bodies [were] buried in common graves, without coffins, [and] could easily be dug up and carried away."²² By 1788, the theft of corpses from Black cemeteries and potter's fields had become common practice in New York City, as was also the case for major cities like London and Philadelphia.

While the vast majority of those made victim to the cadaver trade were Black, poor, destitute, incarcerated, and/or enslaved, sometimes body-snatching crossed social barriers into the cemeteries of the white, propertied upper class. Yet, prior to the passage of the anatomy act legislation, sometimes (although rarely) body snatching crossed social barriers, and the bodies of white property-owning classes were stolen (who bought the elaborate iron gated safeguards created to protect the graves of the wealthy).²³ Such an instance resulted in the 1788 'Doctor Riots' or 'Anti-Dissection Riots' in New York City, what escalated into two full days of rioting at the New York Hospital (where King's College medical students conducted dissection), where crowds smashed apart its museum collection of medical specimens as their first act of the destruction that ensued until military troops were dispersed on the crowds.²⁴

In 1789, in response to the riots, the State of New York passed the second anatomy law in the United States, titled 'An Act to Prevent the Odious Practice of Digging up and Removing, for the Purpose of Dissection, Dead Bodies Interred in Cemeteries or Burial Places'.²⁵ In addition to outlawing grave theft as a criminal

offense, this act ordered that those convicted for the crimes of murder, arson, or burglary be sentenced to medical dissection in death.²⁶ Following the 1789 New York state law, the United States Congress passed the first federal anatomy act in 1790 which similarly ordered the post-death sentence of dissection for convicted criminals. Unsurprisingly, these acts did nothing to curtail body-snatching, but merely ensured the protection of white propertied cemeteries while further pushing burial theft solely into (the predominantly Black) pauper's graveyards.²⁷

Both the Murder Act, the 1789 New York state law, and the 1790 U.S. federal law exemplify how dissection became synonymous with capital punishment.²⁸ The early anatomy act legislation reflects the juridical extension of state authority into the realm of spiritual afterlife, where the soul was subject to punishment beyond the limits of mortal life into eternal death. With the ever-growing demand for medical cadavers, U.S. anatomy legislation continued to expand its criteria for inclusion into social candidacy for dissection. Over the course of the nineteenth century, the legal parameters designating which bodies warranted dissection in death increasingly expanded. The subsequent anatomy laws of the early nineteenth century designated that the bodies of the enslaved, the destitute, the houseless, and the insane be handed over to medical colleges for dissection in death. By the turn of the twentieth century, all U.S. states had comprehensive anatomy laws in place mandating that all bodies of the poor and destitute unclaimed within 32 hours be delivered to medical colleges for dissection. How is it that social opinion went from vehement objection to the dissection of any dead body - in that no one deserved such eternal suffering - to

widespread acceptance of a significantly large percentage of the population deserving this fate?

The Barbarous Race and Scientific Materialism

On December 11, 1830, in the city of Philadelphia, nine years before he would introduce his theory of craniometry to the world, physician Samuel George Morton delivered the introductory lecture to a course on demonstrative anatomy. The topic of Morton's lecture was the necessity of human dissection for the progress of medical science and of mankind, "for if there is any source from which we can reasonably expect to derive unequivocal principles in Medicine, it is this."²⁹ "Human anatomy," stated Morton, "can only be learned by dissecting the human body; and where dissection is efficient and frequent, there will medicine be studied to most advantage."³⁰ In his lecture, Morton extolled the virtues of the anatomist in his heroic struggle throughout time to advance the "cause of humanity" through the "noble science" of medicine against the enemy of superstition. As defined by Morton, such superstition - what "placed an almost insuperable barrier in [his] path -" was the "kind of sacred feeling" that society has "ever attached to its dead."³¹ What, in other words, compels society to bury and protect their loved ones in death.

Morton, as one of the most influential anatomist-physicians of the nineteenth century, promoted the anatomy act legislature by rationalizing the practice of dissection as a hallmark of civilization. To do so, Morton defined societal belief in the spiritual afterlife of the soul and the protection of the dead with irrational ignorance; a

severe detriment to the progress of civilization and the survival of humanity.

Researchers, scientists, and the upper class of white men who guarded and defended the boundaries of expertise and authoritative knowledge production, worked to establish human sentiment and ‘emotionality’ for the dead as the terrain of irrational superstition. Such beliefs, they argued, were detrimental to the progress of mankind and the future of civilization.

Throughout the nineteenth century, scientists like Morton worked to shift the public perception of dissection through the publication and circulation of lectures, essays, speeches, pamphlets and editorials that appealed to public sensibility. At the time, introductory lectures to medical courses were a popular form of media consumption; such lectures were “sought for with avidity, and circulated and read to a surprising extent.” As the author of one of the most widely circulated lectures described: “Strangely enough, they have become in the United States the most effectual medium of communication between our profession and the public; for thousands who would never dream of looking into a Medical Journal, take a morbid delight in this annual literature.”³² Printed in major newspapers across the country, anatomists/physicians used these lectures to reach the broader public and to cultivate the public perception of physicians as a voice of authority/an authoritative figure.

In a widely distributed 1853 lecture titled “An Appeal to the State of New York to Legalize the Dissection of the Dead,” the author exemplifies the typical (if not standard) template form such lectures took. The introduction stating: “At the foundation of all true medical knowledge – without which there can be neither

physician nor surgeon – is the study of anatomy. This, which reveals to us the construction of our own bodies, is the only method by which we can reason intelligently respecting the cause of disease, or determine upon methods of cure... Yet there is but one means by which that knowledge can be perfectly obtained. It is by the dissection of the dead.”³³ Next, the lecturer positions the public (in its opposing stance) as unreasonable: “The public demands that the medical institutions shall furnish it with accomplished physicians, yet it has set its face against the only means of doing this – it discountenances the study of anatomy.” He then portrays the physician/anatomist as a victim of the public's ignorance: “Some luckless medical student, caught in the act of a midnight invasion of the grave, is marched off incontinently to the county jail... He may bless his stars that the walls are thick and the gratings strong, for a mob is howling at the outside. Some country college, conspicuous in its remoteness, is suspected by the populace of teaching anatomy. It is torn to the ground and the professors flee for their lives... I have undertaken the almost hopeless task of reasoning the community out of its determination in this respect.” The lecturer then invites his audience (the public) to align themselves with the side of the educated and rational: “But some politician whispers to me – The intelligent part of the community understand perfectly your professional necessity, and these penal enactments are a dead letter, intended merely as an offering to popular prejudice. You doctors should set about overcoming that prejudice, and we statesmen will quickly remove such inconsistencies from the statute-book.” Any illusions of a public unified in opposition to dissection is dissolved, as the division

between the enlightened and the barbaric is revealed, the ignorance of the latter preventing the spread of medicine to humanity.

The lecturer then reveals a tragic truth: that it is by their own ignorance that the poor are kept in a state of perpetual suffering: “All classes of society participate in [the benefits and advantages of anatomy], and yet, perhaps, not equally. For as long as wealth is attended by comfort, and poverty by affliction and suffering so long will there be a greater demand for the skill of the physician among the lowly and desolate and therefore I cast back the infamous assertion, ‘you dissect the poor for the sake of the rich,’ since, alas; the poor are the greatest gainers thereby.”³⁴ Thus, the author declares that “it is the bounden duty of every conscientious man to give his support to the medical colleges, and to see that they lack nothing needed for their efficiency, remembering that it is these institutions alone which can be brought to bear on this caste of life. The knowledge which has been gathered in the dissecting room will produce its results in the railroad shanty; it will be felt among that wandering population which fringes the advance of civilization; nay, even here at home, it will find its way into those sinks of destitution and vice which your hospitals can never reach. For the sake of living humanity permit your colleges to dissect the dead.”

³⁵This is but one of countless lectures exemplifying the methods by which physicians worked to establish a dominant medical authority amongst the public, positioning themselves as the rational, authoritative caregiver who knows what is best for the public, positioned as an emotion-driven child in need of caretaking.

The Sacrificial Brute

In their appeals to public sensibility, the lectures and similar printed forms circulated at this time demonstrate the ways by which physicians established the social bodies designated for dissection. Returning to Morton's 1830 lecture, Morton rationalizes the dissection of society's designated lower classes by locating its practice amid the major pillars of Western civilization's history, stating that even "Homer himself" must have obtained anatomical knowledge via "the examination of brutes." "The practice of Herophilus and Erasistratus," he continues, "was still more desirable; for they took malefactors from the prisons, and dissected them alive: and, while they yet breathed the breath of life, examined the position, colour, size, form, and other circumstances connected with the visceral organs. Nor can it be considered cruel, as some assert, to commit a few offenders to dissection, in as much as the good, for ages to come, will be benefited by the sacrifice."³⁶ Morton then portrays modern practices of dissection as progressively humanistic, advocating for the ethical necessity of a sacrificial social class due to the benefits their sacrifice will procure for the greater good of humanity. "This sentiment of the Roman physician is justly appalling to our modern sensibility, and is indeed prohibited by the commonest principles of humanity. Anatomists of the present day ask no such immolations: they are content to examine the inanimate body; or, where living nature is demanded for peculiar investigations, the brute alone is sacrificed."³⁷

Morton identifies ‘the brute’ as this sacrificial individual. Who this brute is exactly is never defined as, presumably, the figure of the brute is already known to the social imaginary.

Morton builds on the figure of this already-imagined brute to expand the purview of who is befit its branding. Morton further defines this sacrificial brute as those “who have been a burthen to the community during their lives, and who have none to mourn over them in death.”³⁸ Morton articulates and defines a relation of debt owed to society by these ‘brutes:’ “The lazar houses of all countries are crowded with such characters, upon whose remains, (at least when the feelings of friends and kindred are not violated,) society has a just and imperative claim. Disregard this claim and what will be the inevitable consequence? The tomb will be despoiled of its shrouded inhabitants.”³⁹

Morton’s language draws the public in to make an ethical decision: sacrifice the brute for the benefit of all, and your gravesites will be protected. Cling to your superstitions and the body-snatchers will steal your dead. The ethics of dissection are no longer in question, the wrongdoer in question is not the physician but rather the public. The audience is presented with the dilemma they must face: Will they be sensible and choose reason for the benefit of all? Or will they cling to superstition and bring about onto their loved ones the very misfortune from which they claim to want to protect?

Morton's influence resonates in the subsequent anatomical legislation passed in that same year, what designated that the bodies of the incarcerated and the

institutionalized (in hospitals, asylums, and other public institutions), upon their death, be delivered to medical colleges for dissection. A few years later, the state of Missouri designated the bodies of the enslaved for medical dissection.⁴⁰ By the 1840s, most U.S. states had anatomy legislature in place designating the bodies of deviants, criminals, and the destitute for dissection in medical schools.⁴¹ The criteria determining who would be sentenced to dissection in these anatomy laws was in terms of social ungrievability. The destitute left nothing behind in their absence; no property to be inherited, no possessions to remainder value; no connection to the living world anchored in matter of worth. Life that goes *ungrieved* by society leaves behind nothing worthy of protection in (eternal) death.⁴²

Through the language of ‘sacrifice’ and societal burden, Morton and other anatomists attached a notion of proprietorial rights to the cadavers of paupers and “brutes” – those who are a burden to society. The repeated use of such discourse is evident within the media circulation of speeches, essays, and news articles pertaining to the anatomy acts. On February 28, 1854, at the New York State Assembly meeting to vote on the Act to Promote Medical Science and Protect Burial Grounds (or what was informally known as ‘the Bone Bill’), Frederick A. Conkling urged his fellow state assemblymen to vote in favor of the bill, reasoning that its passage was necessary to the development of medicine and, thus, to the progress of mankind. Conkling began his speech by empathizing with the social desire to protect the dead and social aversion to dissection, yet then expresses that this “feeling of repugnance” towards dissection “is entertained most strongly by heathen nations,” observing that

“in highly civilized communities”, such repugnance “yields in no inconsiderable degree to the just claims of humanity and a clearer perception of the exigencies of society.”⁴³ Of such ‘repugnance’ to dissection, Conkling asks, “Is it in reality, anything better than a blind impulse, having its origin in ignorance and superstition, and unsanctioned by reason?”⁴⁴ Like Morton, Conkling uses the discourse of authoritative scientific rationality to present the individual with a dilemma of self-perception; the choice to align oneself with the rational modern world, and the ‘just cause of humanity,’ or to abandon your common man and retreat into the irrational heathen past.

The ‘just claims of humanity’ referred to by Conkling are the same as those identified by Morton in 1830: the cadavers of ‘brutes.’ According to the logic of politicians like Conkling and scientists like Morton, such ‘brutes’ or ‘savages’ are a burden to society for the duration of their life, therefore, humanity has a just claim to their corpses in death, as the debt of the brute/savage is repaid with the benefits the corpse can be made to produce. Following his speech before the state assembly, New York voted unanimously in favor of the passage of the Bone Bill, establishing that the bodies of the homeless, the incarcerated, the institutionalized, and those who died in alms-houses “prisons, penitentiaries or alms-house departments in the state” would be delivered to medical colleges for dissection.

Of further note in Conkling's 1854 speech before the New York State Assembly are the following remarks: “Sir, what is the direct object of this bill? It is simply to provide the means by which a large supply of *subjects* may be *lawfully*

obtained, for the purpose of affording useful instruction to a numerous and most respectable profession, to whose keeping we are obliged, by the infirmities of our nature, whether we will or not, to entrust our health and lives. The design of the act, I have said, is to furnish by law a larger supply of *subjects*; and what, sir, is a *subject*? It is but the material tenement of man, from which the spirit has fled, and in which the vital principle, whatever that may be, has become extinct. It is a piece of inanimate clay, that cannot even be preserved from instant decay without a resort to highly artificial means, which it is not our custom to employ.”⁴⁵ Important to work against societal notions of dissection as harmful was the conceptualization of the body as devoid of, or separate from, the soul. Nineteenth century medical scientists worked to shift societal understandings of death from their basis in conceptions of a divinely-ordained world to a basis formed within the biological, scientific world. Yet, the figure of the sacrificial brute that inhabits Morton, Draper, and Conkling's speech contradicts this logic. “I do not deny that this prejudice has its origin in a commendable respect for the dead; but the question for our decision, as legislators, is,” Conkling notes, “whether or not we are now called upon to sacrifice on the altar of science and humanity.”⁴⁶

Despite their declarations of such attitudes belonging to the realm of savage ignorance, the actions of these researchers show that they believed dissection to be reserved for the disposable members of society. According to Ann Fabian, Morton “did not apply those new attitudes to the corpses of families and friends. The living Morton had been a thinking subject, and he did not leave behind a body as an object

to be collected or displayed.”⁴⁷ The use of such figures – the brute, the heathen, the savage – to promote and enact the anatomy legislation is especially significant given that scientists like Morton were simultaneously engaged in the collection and study of Indigenous skulls.

To promote the anatomy act legislature, nineteenth century medical scientists equated respect for the dead as belonging to the terrain of ‘savagery’ in their circulation of authoritative ‘common sense’ narratives that rationalized the dissection of certain bodies as not only justified, but as ethically necessary to the future of mankind. At the same time, these endeavors were paralleled by the systemic theft, collection, and study of Indigenous skulls in the theoretical development of race science/scientific racism. Through the materiality of the skull, Morton and other scientists used methods of craniometry to “anchor the indeterminacies of race to organic organization.”⁴⁸ As opposed to the natural sciences, the development of the human sciences in the nineteenth century allowed for race to become increasingly defined as inherent, biological, corporeal difference. Morton and other scientists, theorized the materiality of the Indigenous skull as biological evidence of Indian irrationality and inferiority, producing through knowledge what Aileen Moreton-Robinson describes as "a subject of his own making, one that he interprets for himself. This process violates the subjectivity of Indigenous people by obliterating any trace of our ontological and epistemological existence. In other words, the Indigenous ‘others’ are represented and constituted in discourse as white epistemological possessions. This epistemological possessiveness operated as an

inhibitor to reduce the capacity for Indigenous people to be recognized as having a will, as property-owning sovereign subjects possessing different knowledges.”⁴⁹

Through craniometry, scientists produced an 'Indian' subject of their own making in the figure of the sacrificial savage. This figure, indebted to society through its burdensome life, discursively produces the 'Indian body' as an epistemological possession of settler society, as the debt that is owed is repaid with the body in death. In the body's representation as material evidence of Native demise (or extinction), Native and Indigenous peoples are evacuated from the time of the present. Without any living relatives/kin to 'claim' and mourn them, Indigenous bodies remain 'ungrieveable' in death, designating their rightful (and ethical) possession by settler society.

The Soul, the Spirit, and the Secular Body

Prior to the human sciences, the natural sciences used visibility to categorize man in a table of relations with other forms of life, which, as Foucault notes, did not define or "isolate, in any way, a specific domain proper to man."⁵⁰ The development of comparative anatomy, however, "begins to break with the assurance of the visible to craft interior space," notes Robyn Weigman, "to open the body to the possibilities of subterranean and invisible truths and meanings, and to define the particular physical domain through which the human being will gain increasing specificity and biological coherence."⁵¹ Just as the invention of the anatomy theater exposed the interiority of the human body, the sciences increasingly turned to get at man's

interior. Where “the naturalist’s gaze had once halted,” comparative anatomy extended its investigative pursuit beyond the body’s surface.”⁵² As Weigman states, “natural history, in other words, was replaced by biology and in this, race was situated as potentially more than skin deep.”⁵³

The human sciences and the rise of scientific racism in the nineteenth century reflect the paradigmatic shift in societal conceptions of the world as based in a divine higher power to a more secularized, biological worldview. In the sixteenth century, the Protestant Reformation in Europe and the influence of Calvinism dispelled previous beliefs of man as powerless over his eternal fate with the new understanding that one could have a direct connection with God and actively create their own salvation by pleasing God through work and following their calling.⁵⁴ Accordingly, social order was no longer divined by the will of God, but by the “virtue of the powers immanent in each citizen.”⁵⁵ Thus, in the seventeenth century, the battle between virtue and vice became a matter of individual consequence, internally located in the destruction or preservation of the body.⁵⁶ Consequently, as Foucault and Silvia Federici describe, the internal or ‘carnal self’ became the “terrain for a war of all against all” between Reason and the Passions of the Body.⁵⁷ This conflict, “is now staged *within* the person who is reconstructed as a battlefield, where opposite elements clash for domination,” writes Federici, “[t]he battle is fought on many fronts because Reason must be vigilant against the attacks of the carnal self, and prevent ‘the wisdom of the flesh’ (in Luther’s words) from corrupting the powers of the mind.”⁵⁸

In *the History of Sexuality*, Foucault describes how the Counter Reformation sought to make “the flesh the root of all evil- shifting the most important moment of transgression to the act itself, to the stirrings of [desire] ... Discourse, therefore, had to trace the meeting line of the body and the soul...beneath the surface of the sins, it would lay bare the unbroken nervure of the flesh.”⁵⁹ The Church's need to control the flesh drove investigation into the body's interior, so as to locate the elusive source of sinful desire. This enabled the comprehension of a material body as an object of knowledge, and “from that time on,” argues Foucault, “the technology of sex was ordered in relation to the medical institution, the exigency of normality, and – instead of the question of death and everlasting punishment – the problem of life and illness. The flesh was brought down to the level of the organism.”⁶⁰

According to Federici, this 'discursive battle on the person' is founded in the broader social reformation during the ‘Age of Reason,’ when “the rising bourgeoisie attempted to remold the subordinate classes in conformity with the needs of the developing capitalist economy.”⁶¹ Just as the body “was attacked as the source of all evils,” it was also studied with great passion, in its new conception as the “source of all wealth.”⁶² According to Marx, a necessary condition for the capitalist rationalization of work is the alienation of the self from the body. In the seventeenth century, the concept of a 'purely physical' body, as divided and separate from the soul drove investigations to get at the body's interiority, ‘open it up,’ and break it down to into a machine. State strategies and social policies focused on the body as a "container of labor-power, a means of production, the primary work-machine.”⁶³

Thus, the study of the body's mechanics, motions, and properties "formed the basis of virtually all theoretical speculation of the age."⁶⁴ Through the invention of the Anatomy Theater (where corpses were dissected to teach anatomy) the body was literally opened up, exposing its interior to the public eye; what Federici argues transformed the body into a raw material, as it "discloses to the public eye a disenchanting, desecrated body, which only in principle can be conceived as the site of the soul, but actually is treated as a separate reality."⁶⁵ By divorcing the soul from the body, the body can then be manipulated and controlled, as "once [the body's] devices were deconstructed and it was itself reduced to a tool, the body could be opened to an infinite manipulation of its powers and possibilities."⁶⁶

"To pose the body as a mechanical matter void of any intrinsic teleology the occult virtues attributed to it by both natural magic and the popular superstitions of the time – was to make intelligible the possibility of subordinating it to a work process that increasingly relied on uniform and predictable forms of behavior."⁶⁷ The body, emptied of its "occult forces," argues Foucault, could be "caught in a system of subjection," its behavior calculated, organized, and, thus, invested with power relations.⁶⁸ This physical, medical body, devoid of the soul, could be subjected to state mechanisms of authoritative management, regulation and control over biological life. The inclusion of biological life in the mechanisms and calculations of state power, as 'biopower,' is what Foucault marks as Europe's shift into the modern era, as the development of capitalism would not have been possible without the disciplinary techniques exercised by the state to produce the docile bodies that capitalism

requires.⁶⁹

The Threat of Savagery and the Eradication of the Spiritual

Under the medical gaze, the body became docile, transparent, and analyzable. The moment when ‘calculable man’ was substituted for ‘memorable man’ was the ‘moment when the sciences of man became possible, the moment when a new technology of power and a new political anatomy of the body was developed.’” Seeing the body as mechanical matter allows for development of self-management, and thus submission to the state, ideally suited for capitalist work discipline; “the body had to die so that labor-power could live.”⁷⁰ According to Federici, what ‘died’ was the concept of the body “as a receptacle of magical powers that had prevailed in the medieval world.”⁷¹ “The mechanical body, the body-machine, could not have become a model of social behavior without the destruction by the state of a vast range of pre-capitalist beliefs, practices, and social subjects whose existence contradicted the regularization of corporeal behavior promised by Mechanical Philosophy.”⁷² The body was emptied of its ‘occult forces’ through the eradication of “magical views of the world,” what allowed for the body to be fixed in space and time.⁷³

Although Federici isolates her examination of the eradication of ‘magical’ knowledges and pre-capitalist practices to Europe, the eradication of ‘magical’ knowledges was also a condition of colonization across the Americas. In this sense, the eradication of the ‘magical’ as the eradication of ‘the sacred,’ refers to the multitudinous ways of Indigenous life, cosmologies, ontologies, and relational

complexities that have been systematically eviscerated, expelled, submerged, and criminalized in the production of the colonial world. The epistemic shifts identified by Foucault and Federici that brought about new understandings of the body and new state strategies/social policies towards the body, I argue, are founded not only in the threat of desire (as potential for sin), but in the threat of *savagery*.

As discussed in the previous chapter, at the sixteenth-century Spanish colonial silver mines of Peru, Spanish missionaries initially perceived Indigenous idolatry as taking the external forms of idols or *huacas*.⁷⁴ However, by the 1570s, the ideology of evangelization had shifted, so that “the primary locus of idolatry” was now perceived to be located *internally* within the Indigenous subject.⁷⁵ According to Daniel Nemser, in the first half of the sixteenth century, Franciscan missionaries in Mexico believed their conversion efforts to be successful, and that Indigenous idolatry had more or less been vanquished, “while the indigenous [peoples] had at first buried their idols to hide them from the friars, as evangelization progressed they voluntarily returned to these secret locations to dig up and hand over the idols so they could be publicly destroyed. Those that were not recovered decayed and were ultimately forgotten.” Yet, in the latter half of the century, “this euphoric optimism was replaced with skepticism regarding the first wave of conversions and, despite providential overtones, a deep and enduring ambivalence about the apostolic future.” This skepticism was a result of the epistemic shifts brought about by the classical period.

In *The Order of Things*, Foucault “characterizes the transition to the baroque or ‘classical’ episteme as the detachment of words from things and the shift from

resemblance and similitude to identity and difference.”⁷⁶ In the Classical age, language made signs, signified, and arranged signs around the object of its signification. Language produced meaning and the world around it. As Nemser describes, “where language once formed part of the natural world, one component of the coherent unity created by God and inscribed with a prose that could be deciphered to reveal its secrets, now language became separate and discrete, a human construct designed to represent the world around it.”⁷⁷ The “problem of thought,” or the “enduring problem of modernity,” begins in the baroque, as “the problem of appearances and the reality they purport to represent,” when applied to the human body, “this problem of thought creates a break in the human subject, for the corporeal exterior becomes deceptive... It is no longer their identity that beings manifest in representation, but the external relation they establish with the human being.”⁷⁸

In the so-called ‘New World’ of Latin America, “the constitutive split of the baroque subject takes on a threatening racial dimension.”⁷⁹ In the colonial silver mines, the threat of apostasy then took exterior and interior forms, in the split subjectivity of ‘the Indian.’ In the writings of Jose Acosta, the threat of ‘Indian savagery’ is located internally, for, as the in/sincerity of one’s conversion is “rooted in the heart, the repository of inner truth,” Indians can “appear to be Christians on the surface,” but internally “their loyalties are divided between God and the devil.”⁸⁰ “The instability of Indian nature is compounded by the baroque crisis of representation, the breakdown in transparency between words and things....Under the baroque missionary gaze, the Indian poses a constant threat of backsliding. Even the

sincere convert, having brought his heart fully into line with his mouth, is always capable of letting them slip out of joint, whether deliberately or by accident, and, under cover of a façade that had once appeared as transparent, returning to the idolatrous practices that the Spanish colonial project had set out to eradicate”⁸¹ As the Indian's “risk of reversal” is ever present, “the evangelization project can never afford to pause’ even—especially—where it has already been successful.”⁸² Conversion at the moment of Indigenous death is the only way to assure against the ‘threat of savagery,’ as conversion, in this instance, permanently secures the eternal soul by eradicating the 'Indian savage.’ Thus, the colonial world is created, secured, and sustained by the eradication of savagery through the physical death of the Indigenous life/body.

With the epistemic shifts brought about by the Enlightenment and the new conceptualization of the body evacuated of the soul, the threat of 'Indian savagery' was no longer secured through conversion/salvation. As the immateriality of the spiritual realm that once authorized the ‘correctness’ of the colonial project is no longer a guarantor of evidentiary truth, the legitimacy of colonial authority (as bound to the threat of savagery) must now be secured within the material, biological world. Through the collection of Indigenous skulls and the development of craniometry and anthropology, the ‘threat’ of the Indian subject is resolved by anchoring Western scientific rationalism into the materiality of the Indigenous skull/body itself.

The threat of the Indian savage is secured by exposing the ‘truth’ of the Indian through Western scientific representation. Through museum collection, display, and

study of the material 'Indian' body, Indigenous peoples (as material representations of 'the Indian savage') are ordered into colonial systems of representation, asserted as authoritative reality. In this sense, Western science ascribes its authoritative meaning onto Indigenous human remains, and onto the Indigenous body, determining the appropriate 'use' and proper placement of their human remains. As objects of scientific study, their proper place is not in their burial places, nor in the care of their relatives. The threat and 'racialized permanent suspicion' of the Indian savage continues to be 'resolved' via the work of skull collecting, as the Indigenous body is still used for scientific data extraction and knowledge production for the health and vitality of the settler state and its citizenry.

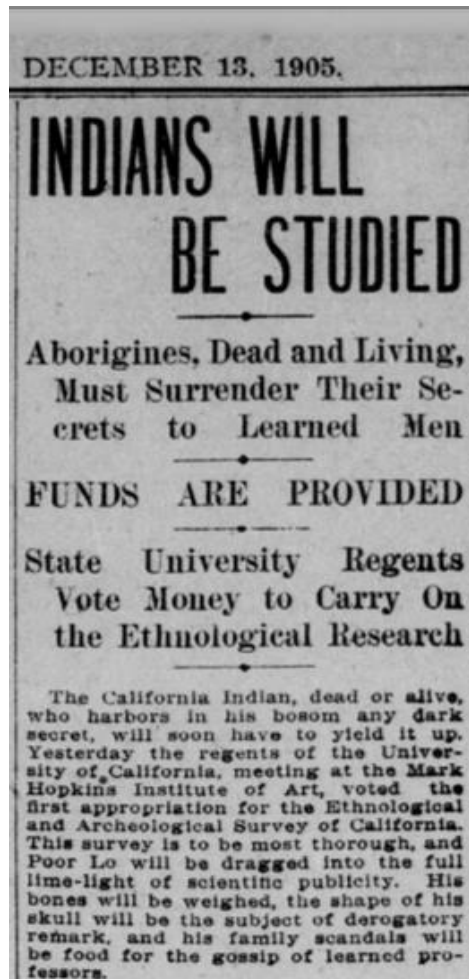


Figure 1: "Indians will be Studied" *The San Francisco Call*, Volume 99, Number 13, 13 December 1905.

The Secular State & Spiritual Punishment

In the latter half of the eighteenth century and into the nineteenth century, Europe and the United States underwent a period of institutional transformation and

penal reform based in what Foucault called “a new moral or political justification of the right to punish.”⁸³ Across Europe and the U.S., this period saw the abolishment of old forms of punishment based in the exertion of sovereign authority to new self-regulating forms of disciplinary power, widely dispersed throughout the entire social body. In the span of a few decades between the late-eighteenth and early-nineteenth centuries, public executions and spectacles of torture entirely disappeared. As premised in Foucault's *Discipline & Punish*, the old power to punish and the spectacle of punishment vanished; “whatever theatrical elements it still retained were now downgraded, as if the functions of the penal ceremony were gradually ceasing to be understood, as if this rite that 'concluded the crime' was suspected of being in some undesirable way linked with it.”⁸⁴ In its place emerged a new humane discourse of punishment, what positioned itself in opposition to such barbaric acts of public torture, as though “the punishment was thought to equal, if not to exceed, in savagery the crime itself.”⁸⁵

Prior to the emergence of this ‘new power to punish’, punishment was a public spectacle to be observed. Executions took place in public gallows where, afterwards, “the tortured, dismembered, amputated body” of the condemned person (“symbolically branded on face or shoulder”), would be displayed (exposed) to public view. “The bodies would then be stripped, and the clothes removed...which, with the fatal rope, were afterwards exhibited to the morbidly curious, at so much per head, at some favoured public-house.”⁸⁶ Foucault describes the public spectacle of torture and execution as a ceremony of punishment and as an exercise of terror that asserts and

reconstitutes the power of the sovereign's authority. Public torture-execution was a "manifestation of force [...] it was justice as the physical, material and awesome force of the sovereign deployed there."⁸⁷ The power to punish was based in the sovereign's right to "make war on his enemies:" a power belonging to "that absolute power of life and death which Roman law calls, *nerum imperium*, a right by virtue of which the prince sees that his law is respected by ordering the punishment of crime."⁸⁸ As law represented the will of the sovereign, to commit a crime was a violation and offense to "the dignity of his character."⁸⁹ Public execution and torture then restored the power of the sovereign by "[deploying] before all eyes an invincible force...It is a ceremonial by which a momentarily injured sovereignty is reconstituted. It restores that sovereignty by manifesting it at its most spectacular... Its aim is not so much to re-establish a balance as to bring into play, as its extreme point, the dissymmetry between the subject who has dared to violate the law and the all-powerful sovereign who displays his strength ... the punishment is carried out in such a way as to give a spectacle not of measure, but of imbalance and excess; in this liturgy of punishment, there must be an emphatic affirmation of power and of its intrinsic superiority."⁹⁰ As Foucault argues, the 'ceremony' of public torture and execution "did not re-establish justice; it reactivated power [it] displayed for all to see the power relation that gave his force to the law."⁹¹ Through torture and execution, the violence of the crime as challenge to the sovereign was vanquished; execution was to exceed the atrocity of the crime, and thus to annul it. The ritual of the public execution functioned as a mechanism of power, a power that "was exalted and

strengthened by its visible manifestations” and that was “recharged in the ritual display of its reality as 'super-power'.”⁹²

As Foucault describes, this spectacle of the tortured or executed body anticipates an ‘irremediable destiny’ of what lays in afterlife, as it worked to “publish the truth” of the crime *into the very body* of the criminal.⁹³ The body of the condemned is then the medium onto which, via the ceremony of punishment, the public is made aware of the exorbitant force and “unrestrained presence of the sovereign.”⁹⁴ The visible display of the tortured, executed body served the juridico-political function almost like the centrifuge of the entire operation of the system of punishment. The tortured body established the truth of the crime in the public’s eye, while “the atrocity that haunted the public execution played [a] double role: it was the principle of the communication between the crime and the punishment, it was also the exacerbation of the punishment in relation to the crime. It provided the spectacle with both truth and power; it was the culmination of the ritual of the investigation and the ceremony in which the sovereign triumphed. And it joined both together in the tortured body.”⁹⁵

What Foucault does not identify, however, is the importance of *spiritual* punishment to the ritual display of the sovereign’s ‘super-power’. What Foucault overlooks is the significance of what he identifies to be an “apparently paradoxical ceremony” in that it took place “almost entirely after death,” wherein, “justice did little more than deploy its magnificent theatre, the ritual praise of its force, *on a corpse*.”⁹⁶ Although Foucault make no mention of dissection, it performed an

important part in the ritual of public spectacle and ceremony of punishment.

Following the passage of the 1752 Murder Act, London's City Marshal would oversee the conduction of the anatomization: "a crucial incision in the chest was enough to satisfy the important City functionary....these experiments concluded, the body would be stitched up, and [removed] in a light cart to the hospital, to which it was intended to present it for dissection."⁹⁷ The wheeling of the 'anatomized' corpse on the cart was for the purposes of public spectacle, ensuring that the horror of dissection would be seen and known.⁹⁸

As opposed to Foucault, I consider the fact of the ceremony of punishment taking place almost entirely *after* death to be perhaps the most significant factor in the exercise of terror. The addition of dissection to the sentence of execution, and the act of dissection alone are critical parts of this ceremony of punishment as an exercise of terror; specifically, an exercise of *spiritual* terror. The infliction of spiritual terror via the sentencing of dissection in death truly demonstrates and, in fact, *wields* the outrageous and *excessive* force of the sovereign. What could more powerfully assert or attest to the invincibility of the sovereign than his eternal power to punish? It is therefore this sentencing of the condemned to eternal agony and suffering that aligned the public so powerfully in opposition to its practice; for it is the most egregious, most "unthinkably cruel," exercise of legal violence " without moderation or restraint, that redoubles the strength of solidarity among the people against the sovereign.

Significantly, it was the breaking up of *this* solidarity that, Foucault argues, became "the aim of penal and police repression."⁹⁹ What emerged was a new

‘economy’ of the power to punish, a “more finely tuned justice, towards a closer penal mapping of the social body.”¹⁰⁰ What sought better and greater distribution through “homogeneous circuits capable of operating everywhere, in a continuous way, down to the finest grain of the social body.”¹⁰¹ Here, the relationship between punishment and the body is no longer the same, “the body now serves as an instrument or intermediary: if one intervenes upon it to imprison it, or to make it work, it is in order to deprive the individual of a liberty that is regarded both as a right and as property.”¹⁰² Foucault describes the formation of a political technology of the body “as a set of material elements and techniques that serve as weapons, relays, communication routes and supports for the power and knowledge relations that invest human bodies and subjugate them by turning them into objects of knowledge.”¹⁰³ As “the body becomes a useful force only if it is both a productive body and a subjected body,” Man is ordered, arranged, categorized and calculated into a system of subjection. It is this specific mode of subjection that “was able to give birth to man as an object of knowledge" for a new discourse of the power to punish "with a scientific status.”¹⁰⁴

It was not that society had suddenly awoken to concern for the fair treatment and wellbeing of the condemned men and therefore wished to bestow a more humane punishment. Rather, according to Foucault, “it was not as a theme of positive knowledge that man was opposed to the barbarity of the public executions, but as a legal limit: the legitimate frontier of the power to punish...If the law must now treat in a 'humane' way an individual who is 'outside nature'... it is not on account of some

profound humanity that the criminal conceals within him, but because of a necessary regulation of the effects of power. It is this 'economic' rationality that must calculate the penalty and prescribe the appropriate techniques. 'Humanity' is the respectable name given to this economy and to its meticulous calculations."¹⁰⁵

Rationalism & Sociality of Self

According to Dorinda Outram, the new concept of the body as desacralized and alienated from the soul/self in the eighteenth century was "most immediately connected with the claims to rationality that formed so intimate a part of middle-class self-perception."¹⁰⁶ This production of new medical knowledge, which "deepened the picture of man enormously," writes Outram, "also gave the eighteenth-century middle class very little hold on the innermost centre of themselves."¹⁰⁷ From their reconsideration of the nature of rationality "and of the soul itself," the basic understanding that emerged from eighteenth-century medical science's turn to the interiority of the body, was that "the springs of human physical behaviour, both voluntary and involuntary, were not to be found in external forces operating on the body, such as the will of God, or in those with only vague physicality and bodily location, such as the 'soul', but rather were to be located squarely within the body itself, and were the product of internally generated physical forces."¹⁰⁸

In the absence of the soul, physicians increasingly attempted to locate and define the source of human rationality and reason within the physical body, producing an increasing tension that called into question "the very meaning of life and especially

of death;" a tension that remains unresolved to this day.¹⁰⁹ "Out of this insecurity," argues Outram, "came two developments: an insistence on even more self-control of body image and especially body outline...and an increasing desire to subject the bodies of the lower social classes to medical control, precisely at the time when widely appreciated changes in medical theory made the nature of the middle-class body, in life and in death, more difficult to define than ever before."¹¹⁰

The rise of scientific racism and the use of anatomy to establish racial difference worked to resolve the increasing contradictions that arose from the human sciences, as the quest to locate and define the human as both interior psychic depth (what Foucault calls 'the modern soul') and a 'desacralized' medical body are unresolved in their tension at odds with one another. As Weigman writes, "The asymmetry of these relations - of an iconicity that gestures the body as universally particular on one hand, while privileging the public's historical reliance on disembodiment on the other-can be linked to modernity's emphasis on disciplinary knowledge, and to the effect, as Foucault would say, of "man's" entrance into culture as its primary object of investigation. With this new status, the human being is approached as an organic body and an interior psychic depth, and a variety of new technologies, institutions, and academic disciplines are formed around the human's epistemological centrality. As might be clear, the abstraction of personhood that underlies the democratic public sphere is in many ways in contradiction with this increasingly specified structure of disciplinary knowledges... contemporary pressures within institutionalized structures of knowledge ... demonstrate that the borders

through which "man's" centrality has been formed are wrought with tension and increasingly less secure. These tensions arise from modernity's own internal impossibilities: to hold to a political philosophy of corporeal abstraction at the same time that disciplinary knowledge necessitates the particularization of human being in a variety of explanatory registers.”¹¹¹

As Foucault and Federici theorize, the focus of medical science's drive into the interiority of the body in the eighteenth century sought to gain control over the body in order to produce the working force of 'docile bodies' required by capitalism. For Outram, the purpose was also for the ruling/middle classes to subject the rural peasant/working class to medical control, so as to “secure an area of undisputed exercise for rationality and to focus that rationality on the direction of the *bodies* of *others*.”¹¹² Enlightenment thinkers, states Outram, “urged upon the middle class the values of rationality as the legitimation of the exercise of social authority by the middle class.”¹¹³ Not only were the lower classes seen as a threat to the power of the upper classes (as in the threat of uprising) but were also seen as a threat to the vitality and health of the upper classes. For, whereas previously it was God who granted good health, now it was the individual responsibility to manage the health of the body, a responsibility that also bore upon the health of the collective whole. Because the ‘peasant’ class was seen as intellectually inferior to the upper classes, “by a sort of moral defectiveness or obtuseness which seemed to operate in such a way as to prevent the making of 'rational' choices in the matter of health and body management,” biopolitical management intervened into the households of the poor.¹¹⁴

Just like the physician lectures that circulated in the nineteenth century, these interventions often came in the form of printed 'self-help' literature that was distributed throughout the rural communities, that attempted to "impose a peculiarly middle-class ideal of rationality and control upon the physical practices of the peasants," argues Outram, and to establish public image of the physician "as dominant through the use of a self-styled rationality."¹¹⁵

In the narratives that were printed and distributed amongst rural and poor communities, physicians imposed their medical authority by instilling the message that to privilege one's spiritual belief over the rationalism of science was not only ignorant, but gravely *harmful* to humanity. At an 1834 annual meeting of the Massachusetts Medical Society, a Dr. Zadok Howe delivered a proposal to eradicate the evil of 'quackery': "It has been well said, by an acute observer, that 'the less we know of the material [world], the more extensive we suppose our acquaintance to be with the world of spirits; there can be no doubt, that from ignorance of the operations of nature...has originated that predilection for superstitious remedies, which in every age has constituted a prominent feature in the character of the people; [for whom] credulity is of course more convenient for them than the research [that] is necessary for the investigation of truth."¹¹⁶ In his speech, Dr. Howe asserts the need for physician intervention into the lives of the poor: "The importance of the subject has not been sufficiently [brought] upon the minds of the people. Instead, therefore, of petitioning for legislative interference, let the people first be enlightened upon the point: let them be made to realize the extent of the evil and its ruinous consequences,

and in due time wholesome laws will be enacted, which will be duly enforced, and produce the desired effect.”¹¹⁷ “From these, and other instances which might be adduced, we are led to infer, that the people will ever be disposed to do right, when they are brought to realize that they are doing wrong. That the suppression of quack medicines is an object of important second to none, save that of intemperance, is the truth which will be admitted by everyone.”¹¹⁸

Through the collection, study, and display of Indigenous bones, the state secures and reaffirms its authority by positioning itself and the settler public on the side of reason and rationality, against the material evidence of the ‘Indian savage.’ As Foucault writes, “Like a mathematical truth, the truth of the crime will be accepted only when it is completely proven. It follows that, up to the final demonstration of his crime, the defendant must be regarded as innocent; and that, in order to carry out this demonstration, the judge must use not ritual forms, but common instruments, that reason possessed by everyone, which is also that of philosophers and scientists.”¹¹⁹ The visible archive of Indigenous human remains provides the ‘proof’ of Western (settler) society’s own ‘correctness’. The settler state proves itself as the arbiter of ‘truth’ and reason, thus legitimizing its own authority. The right to punish is the defense of society as the public aligns against barbarism and savagery to the side of civilization and rationality.

As Foucault argues, penal reform disposed of the “specular exposure of pain” and instead “maximized the representation of the penalty, not its corporal reality” or in other words, “the idea of the offence [was] enough to arouse the sign of the

punishment.” As, in the eighteenth century, through the “through the philosophies of the Enlightenment, penal reform began to dispose of the specular exposure of pain.” Instead, what was "maximized [was] the representation of the penalty, not its corporal reality," or as Foucault says a bit later, "the idea of the offence [was] enough to arouse the sign of the punishment." ¹²⁰ With penal reform, visible cues such as a prisoner’s clothing or wearing of a placard signified the crime; as Robyn Weigman explains “the public incorporated the sign of the punishment into its image of the crime, and hence the disciplining effect was exacted not from the horror of torture but from the more benign but still visible mark conferring criminality (and the exercising of justice) on the individual...The ‘gentle way of punishment,’ as Foucault ironically calls it, was thus achieved through ‘a mechanism that coerce[d] by means of observation,’ where the subject's internalization of discipline constituted the coercive mechanism through which the social body was traversed by power.”¹²¹

Foucault uses the model of the Panopticon to theorize the “compulsory visibility attending surveillance...an architectural form that demonstrates both materially and metaphorically the new relations of visibility that enmeshed the disciplinary subject.” ¹²² This omnipresent surveillance is characterized by the disembodied gaze of the observer, which Foucault likens to the work of the naturalist, “whose metaphorical if not literal enclosure in a tower of observation decorporealizes the gaze, rendering an exterior or outer world fully open to view. And like the naturalist, the panoptic observer was committed to classification, hierarchy, and relations of identity and difference” as the Panopticon, write Foucault, made "it

possible to observe performances[,] ... to map aptitudes, to assess characters, [and] to draw up rigorous classifications."¹²³ However, the Panopticon was not a reiteration of the “regime of visibility” that attended the spectacle; for with the spectacle, the visible display of the tortured body conveyed the power of the sovereign through the act of looking, whereas the panoptic functioned by “inscribing visibility everywhere.”¹²⁴ “In time, this panoptic system was generalized throughout the Western world, no longer bound to a specific architecture but wrought within a broader configuration of social space, visual technologies, and disciplinary exercise. Assuming the form of an omnipresent surveillance, power was itself invisible, but "capable of making all visible ... a faceless gaze that transformed the whole social body into a field of perception: thousands of eyes posted everywhere."¹²⁵

Robyn Weigman argues that, in the United States, the entangled technologies of the specular and the panoptic worked together “simultaneously to stage the hierarchical relations of race.”¹²⁶ Through the example of white supremacist lynching terror, Weigman describes how the Ku Klux Klan enacted a visible regime of terror that utilized the signs of white hoods and the spectacle of the tortured, dismembered body to inscribe the visibility of white supremacy everywhere. This too applies to the institutional collection, display, and study of Indigenous human remains, accompanied by the 'living exhibitions' of Indigenous peoples that toured across the United States (and the Western world).¹²⁷ Through the collection, display, and study of Indigenous skulls by colonial institutions, the state’s infliction of spiritual punishment shifted through the anatomy act legislation into the institutional collection

and display of Indigenous dead, where settler society asserted/asserts the meaning and proper placement of these human remains. Relations between living and dead are severed, as bones are stolen and possessed as objects of scientific property; their proper place is not in the ground, not in the care of their descendants, but in the possession of settler society.

Social acceptance of the anatomy act legislature perhaps depended upon placing fears about eternal suffering in the afterlife onto the ‘sacrifice’ of Indigenous bodies. The ‘sacrifice’ of Indigenous dead to the “altar of science” is distributed throughout the (settler) social body through the notion of its necessity to the ‘greater good’ and ‘benefit to all.’ In effect, the modern human subject takes form through the notion of a ‘greater good’ and progress of Mankind that takes urgency in the here and now. Whereas the collection and display of Indigenous skulls produces the prehistoricness of Mankind; material evidence of human life from the past from which knowledge must be extracted to secure modern human life in the present (and future).

By attaching the sacrificial brute to the Indigenous body, this allays “the deeply threatening potential of human sameness: of a cosmic order in which the ascendancy of the white masculine is no longer universalized, but reduced to its own corporeal particularities.”¹²⁸ Social acceptance of the anatomy act legislature perhaps depended upon placing fears about eternal suffering in the afterlife onto the ‘sacrifice’ of the brute. The simultaneous work of skull-collecting and the development of craniometry worked to attach the ‘truth’ of the Indian savage’s ungrievability to the

material representation of the Indigenous body. In their representation as material evidence of Mankind's evolution, the threat of the Indigenous body (as interior savagery) is once again secured as the Indigenous soul is eradicated into ungrievability. The settler (white, propertied) social body is assured of their sacred protection in death, enforced by the authority of the state, through the discursive production of the sacrificial Indigenous subject, and the public spectacle of museum display.

The exercise of state spiritual terror remains embedded in the project of modern Western science. The Indigenous body remains critical to sustain the authority of medical professional structures by the anatomy act's location and attachment of irrationality (through superstition) to the Indigenous body itself. The divide between the ruling/upper classes and the proletariat is sutured by aligning the enemy of irrationality and superstition within the body of the savage/brute. The display of Indigenous bodies secured medical scientist authority through the visual production of Indigenous bodily materiality as evidence of Western science's truth. The state's authority is reaffirmed through the human remains of the Indian body as it secures settler society within the modern time of the present against the evidence of the Indian as Man's past – displacing Indigenous peoples from 'authentic' existence in the in the present.¹²⁹

¹ Edward Palmer, "Notes and Description of life and events at Old Camp Lincoln Arizona and at New Camp Lincoln on the Rio Vird [sic] in 1865 and 1866," February 1866, page 10.

University of Arizona Libraries (hereafter UAL), Tucson, University of Arizona Special Collections (hereafter SC), box 1, folder 2, Edward Palmer Manuscripts 1831-1911 (hereafter Edward Palmer Manuscripts), AZ 197.

² Edward Palmer Manuscripts 1866-1885, box 1, folders 1-3.

³ Following the Treaty of Guadalupe Hidalgo in 1848 and the Gadsden Purchase of 1853, the United States established a series of military encampments throughout its newly claimed Western territories. A quotidian occurrence in these military camps was the excavation of Native American burial sites and the theft of Native American dead by United States Army medical officers.

⁴ Ann Fabian, *The Skull Collectors: Race, Science, and America's Unburied Dead* (Chicago: The University of Chicago Press, 2010), p. 184.

⁵ *Ibid.*, p. 255.

⁶ Houle also describes “another enthusiastic ‘Grave Robber’” named Matthews, the Wells Fargo Manager at Nogales. Emile Cyrus Houle, UAL, SC, Emile Cyrus Houle Collection 1896-2010, MS 478, box 10, folder 2, p. 1-4.

⁷ Charles H. Crane, “Memorandum for the Information of Medical Officers,” September 1, 1868, RG 112, box 4, National Archives; Lamb, “A History,” 50-51, p. 89.

In 1867, U.S. Surgeon General Joseph Barnes issued an order instructing all Army medical officers to collect and send in specimens of the flora and fauna local to their stations – including Native American skulls – to assist the newly founded Army Medical Museum in the growth of its collections.⁷

While the Army Medical Museum did collect skulls from all over the world, overwhelmingly represented were the skulls of Indigenous peoples, and especially Native Americans. Following the Indian Removal Act, the U.S. Army frequently decapitated Native American peoples after massacres and battles to send in to the Army Medical Museum. For example, see James Riding In, “Six Pawnee Crania.”

⁸ The Smithsonian Institute at the height of the collecting period held around 34,000 skeletal remains, the majority of which were Native American. By the time that NAGPRA legislation was passed in 1990, scholars estimate that between 300,000 to 2.5 million Native American bodies were held in museum, federal, and private collections around the world. See “Indians Seek Burial of Smithsonian Skeletons,” *New York Times*, 8 December 1987. Author unknown. <https://www.nytimes.com/1987/12/08/science/indians-seek-burial-of-smithsonian-skeletons.html>

⁹ Lonetree, *Decolonizing Museums*, p. 12.

¹⁰ The enduring impact of Morton’s work is easily found today within any introductory-level anthropology course, where a typical classroom scene finds students fumbling to maneuver the same bulky calipers of Morton's design across the span of a human cranium.

¹¹ F.A. Conkling, “Promotion of Medical Science : Remarks / of Mr. F.A. Conkling, on the Bill for the Promotion of Medical Science. In Assembly, February 28, 1854.,” February 28, 1854, Library Company of Philadelphia.

¹² Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1975), 7.

¹³ Through archival research at the American Philosophical Society and the Library Company of Philadelphia.

¹⁴ A major error of my dissertation work is that I do not really include or engage with Indigenous knowledges, conceptions, beliefs, and practices regarding death and the dead, nor how they relate and diverge from settler society, nor in relation to settler acts of desecration. This is in part because I intentionally do not attempt to define, name, or speak to what it means to experience such violence as I felt that, by doing so, I would only reproduce colonial violence. I very much wanted to avoid the colonial violence of academic research by not making Indigenous peoples themselves my research subject. I now realize that what I have done instead is perform precisely the colonial violence I tried to avoid by omitting Indigenous knowledges, perspectives, and voices to a detrimental, violent, and harmful extent. As the multitude of errors I have made in this dissertation were too many to resolve before the filing deadline, I can at the very least acknowledge the errors I have made here (to the extent that I am presently aware of them).

¹⁵ James Blake Bailey, B.A. Librarian of the Royal College of Surgeons of England. *The Diary of a Resurrectionist 1811-1812 to which are added an account of The Resurrection Men in London and a short history of the passing of the Anatomy Act*. London: Swan Sonnenschein & Co., Lim. Paternoster Square, 1896, 35. Library Company of Philadelphia, 13.

¹⁶ James Blake Bailey, “The Diary of a Resurrectionist 1811-1812 to Which Are Added an Account of The Resurrection Men in London and a Short History of the Passing of the Anatomy Act” (London: Swan Sonnenschein & Co., Lim. Paternoster Square, 1896), 21, Library Company of Philadelphia.

¹⁷ James Riding In, “Our Dead Are Never Forgotten: American Indian Struggles for Burial Rights and Protections,” in *They Made Us Many Promises: The American Indian Experience, 1524 to the Present*, Ed. Philip Weeks (Wheeling, IL: Harlan Davidson, 2002), 294.

¹⁸ Specifically, it sought to deter the crime of murder. Which apparently was a major issue for England and the U.S. at the time, according to Ruth Richardson.

¹⁹ Federici, *Caliban and the Witch*, p. 145.

²⁰ Ruth Richardson. *will add more info*.

²¹ Willard A. Heaps, *Riots, U.S.A., 1765-1970*, Rev. ed. (New York: Seabury Press, 1970), 19.

²² Heaps, 20. See also Daina Ramey Berry, *The Price for Their Pound of Flesh : The Value of the Enslaved from Womb to Grave in the Building of a Nation* (Boston: Beacon Press, 2017); and Harriet A Washington, *Medical Apartheid : The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present*. (New York: Anchor, 2008).

²³ Fears of the resurrectionists were exaggerated by circulation of newspaper accounts of body-snatching that fed upon and aggravated these fears, stirring up greater social outrage. James Blake Bailey, B.A. Librarian of the Royal College of Surgeons of England. *The Diary*

of a Resurrectionist 1811-1812 to which are added an account of The Resurrection Men in London and a short history of the passing of the Anatomy Act. London: Swan Sonnenschein & Co., Lim. Paternoster Square, 1896, 35. Library Company of Philadelphia, viii.

²⁴ See Heaps, *Riots, U.S.A., 1765-1970*.

²⁵ The first anatomy law passed in the U.S. was in 1784 by the state of Massachusetts, which ordered that those executed for the crime of dueling may be sentenced to dissection.

²⁶ The law was passed during the Twelfth Session of the New York State Senate and Assembly over in the winter and spring of 1788-89.

²⁷ Robert Bieder E., "Collecting of Bones for Anthropological Narratives," *American Indian Culture and Research Journal*, Repatriation of American Indian Remains, 16, no. 2 (1992): 23.

²⁸ S. Hildebrandt, "Capital Punishment and Anatomy: History and Ethics of an Ongoing Association," *Clinical Anatomy (New York, N.Y.)* 21, no. 1 (2008): 5–14, <https://doi.org/10.1002/ca.20571>.

²⁹ Samuel George Morton, *Introductory Lecture to a Course of Demonstrative Anatomy* (Philadelphia: Mifflin & Parry, 1831), 10.

³⁰ *Ibid.*, 8.

³¹ Samuel George Morton, *Introductory Lecture to a Course of Demonstrative Anatomy* (Philadelphia: Mifflin & Parry, 1831), 4.

³² "DISSECTION OF THE DEAD.: DR. DRAPER'S LECTURE NEW-YORK UNIVERSITY. AN APPEAL TO LEGISLATORS. APPEAL TO THE STATE OF NEW-YORK TO LEGALIZE THE DISSECTION OF THE DEAD.," *New York Daily Times (1851-1857)*, October 18, 1853, 95841428, ProQuest Historical Newspapers: The New York Times, <https://www.proquest.com/historical-newspapers/dissection-dead/docview/95841428/se-2?accountid=14523>.

³³ "DISSECTION OF THE DEAD.: DR. DRAPER'S LECTURE NEW-YORK UNIVERSITY. AN APPEAL TO LEGISLATORS. APPEAL TO THE STATE OF NEW-YORK TO LEGALIZE THE DISSECTION OF THE DEAD."

³⁴ "Anatomical Dissection--Dr. Draper's Lecture.," *New York Daily Times (1851-1857)*, October 18, 1853, 95833842, ProQuest Historical Newspapers: The New York Times, <https://www.proquest.com/historical-newspapers/anatomical-dissection-dr-drapers-lecture/docview/95833842/se-2?accountid=14523>.

³⁵ "Anatomical Dissection--Dr. Draper's Lecture."

³⁶ Morton, *Introductory Lecture to a Course of Demonstrative Anatomy*, 5.

³⁷ Morton, 5.

³⁸ Morton, 6.

³⁹ *Ibid.*

⁴⁰ For an excellent and important account of the theft and medial experimentation on Black bodies, see: Berry, *The Price for Their Pound of Flesh : The Value of the Enslaved from Womb to Grave in the Building of a Nation*.

⁴¹ This was the case for states officially incorporated into the Union by that time, not U.S. claimed territories.

⁴² Here I make reference to Jodi Byrd's conceptualization of the 'ungrievability' of Indigenous life in, *The Transit of Empire : Indigenous Critiques of Colonialism*, First Peoples : New Directions Indigenous (Minneapolis: University of Minnesota Press, 2011).

⁴³ Conkling, "Promotion of Medical Science : Remarks / of Mr. F.A. Conkling, on the Bill for the Promotion of Medical Science. In Assembly, February 28, 1854.," 4.

⁴⁴ Conkling, 4.

⁴⁵ Conkling, 5.

⁴⁶ Conkling, 4.

⁴⁷ Ann Fabian, *The Skull Collectors: Race, Science, and America's Unburied Dead* (Chicago: University of Chicago Press, 2010), 11.

⁴⁸ In his 1842 lecture, "Brief remarks on the diversities of the human species, and on some kindred subject," Morton makes the case for his theory of polygenesis (each race having a separate origin) by concluding from his studies of human crania that "The large proportion which the cranium bears to the face in man, is very remarkable, and has even been assumed as a criterion of the relative intelligence of the different races. It is true that these proportions differ in whole nations; and it is an incontestable fact, that the most intellectual nations have the largest and more beautifully formed heads. That this rule has obtained since the earliest times, is proved by the remains of the classic sculpture of Egypt and of Greece, as well as by the every day facts which result from our own observation. Yet here, again, remarkable exceptions occur, which are not, however, sufficiently numerous to invalidate the rule." Morton, *Introductory Lecture to a Course of Demonstrative Anatomy*, 14.

Morton argues for racial hierarchical difference and white supremacy by arguing that if "the human frame seems designed, as it certainly is, in fact, to bear every variety of climate, it follows that man must be omnivorous, or capable of deriving his nourishment from every kind of food... Some savage tribes of our own country live for months of the year on roots alone; yet these unfortunate people have all the physical attributes of the cognate tribes... In New Holland, the lank, ferocious, and denuded savage, the feeble intelligence, the mere glimmer of the reasoning mind. In Africa, the wretched and brutalized Hottentot, yet more degraded, if possible, than the Australian himself, and constituting the lowest natural link in the scale of the rational creation... But while much is due to climate, even more is attributable to those primeval attributes of mind, which, for wise purposes, have given our race a decided and unquestionable superiority over all the nations of the earth. Was this not the case, the numberless hordes of the Mongolians of Asia, would long since have exterminated the Caucasian race from Europe; and the very religion which we profess, would ere now have been replaced by those unhallowed rites, and that multiform idolatry, which are justly abhorrent to christianized man... Was it not for this same mental superiority, these happy climes which we now inhabit would yet be possessed by the wild and untutored Indian, and that soil which now rejoices the hearts of millions of freemen, would be yet overrun by lawless tribes of contending Barbarians. Thus it is that the white race has been able to plant and to sustain its colonies in every region of the habitable earth."

Samuel George Morton, "Brief Remarks on the Diversities of the Human Species, and on Some Kindred Subjects. : Being an Introductory Lecture Delivered before the Class of Pennsylvania Medical College, in Philadelphia" (Philadelphia, November 1, 1842), 15–22.

⁴⁹ Aileen Moreton-Robinson, *The White Possessive: Property, Power, and Indigenous Sovereignty*, Indigenous Americas (Minneapolis, Minnesota ; University of Minnesota Press, 2015), 114.

⁵⁰ Michel Foucault, *The Order of Things: An Archeology of the Human Sciences* (New York: Random House, 1970), 308–9.

⁵¹ Robyn Wiegman, *American Anatomies : Theorizing Race and Gender*, New Americanists (Durham: Duke University Press, 1995), 30.

⁵² Foucault, *The Order of Things: An Archeology of the Human Sciences*, 269, 294.

⁵³ Wiegman, *American Anatomies : Theorizing Race and Gender*, 30.

⁵⁴ Max Weber, *The Protestant Work Ethic and the Spirit of Capitalism*.... 79.

⁵⁵ Weber?

⁵⁶ Dorinda Outram, *The Body and the French Revolution: Sex, Class and Political Culture* (New Haven, Conn: Yale University Press, 1989), 51, <http://www.jstor.org.oqa.ucsc.edu/stable/j.ctt211qwn6>.

⁵⁷ In *Caliban and the Witch*, Silvia Federici writes: "In the 17th century, what in Prospero remains a subliminal foreboding is formalized as the conflict between Reason and the Passions of the Body, which reconceptualizes classic Judeo-Christian themes to produce a new anthropological paradigm. The outcome is reminiscent of the medieval skirmishes between angels and devils for the possession of the departing soul. But the conflict is now staged within the person who is reconstructed as a battlefield, where opposite elements clash for domination. On the one side, there are the 'forces of Reason': parsimony, prudence, sense of responsibility, self-control. On the other, the 'low instincts of the Body': lewdness, idleness, systematic dissipation of one's vital energies. The battle is fought on many fronts because Reason must be vigilant against the attacks of the carnal self, and prevent 'the wisdom of the flesh' (in Luther's words) from corrupting the powers of the mind. In the extreme case, the person becomes a terrain for a war of all against all" Silvia Federici, *Caliban and the Witch: Women, the Body, and Primitive Accumulation* (Brooklyn: Autonomedia, 2004), 134.

⁵⁸ Federici, 134. .

⁵⁹ Michel Foucault, *The History of Sexuality. Volume I, An Introduction* (New York: Random House, 1978), 20.

⁶⁰ Foucault, 117.

⁶¹ Federici, *Caliban and the Witch: Women, the Body, and Primitive Accumulation*, 135.

⁶² Federici, 137.

⁶³ Federici, 138.

⁶⁴ Federici, 138.

⁶⁵ Federici, 139.

⁶⁶ Federici, 139.

⁶⁷ Federici, 139.

⁶⁸ Foucault, *The History of Sexuality. Volume 1, An Introduction*, 140.

⁶⁹ Foucault, 125. Foucault writes, “One of the great innovations in the techniques of power in the eighteenth century [is] the emergence of ‘population’ as an economic and political problem” (136).

⁷⁰ Federici, *Caliban and the Witch: Women, the Body, and Primitive Accumulation*, 141.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid., 143.

⁷⁴ As this chapter was originally intended to come after Chapter Two, I wrote this section in the understanding that the reader would now be familiar with the argument I make there. For that reason, this section of the chapter may not come across with the clarity intended.

⁷⁵ Daniel Nemser, “Primitive Spiritual Accumulation and the Colonial Extraction Economy[1],” *Política Común* 5 (2014), <https://doi.org/10.3998/pc.12322227.0005.003>.

⁷⁶ Michel Foucault, *The Order of Things: An Archeology of the Human Sciences* (New York: Random House, 1970), 50–51.

⁷⁷ Nemser, “Primitive Spiritual Accumulation and the Colonial Extraction Economy[1].”

⁷⁸ Foucault, *The Order of Things: An Archeology of the Human Sciences*, 312.

⁷⁹ Nemser, “Primitive Spiritual Accumulation and the Colonial Extraction Economy[1].”

⁸⁰ Acosta writes that ‘insincere Indians’ are “cristianos de apariencia y de nombre, pero de corazón y en realidad infieles obstinados.” Quoted in Nemser.

⁸¹ Nemser writes: “Indian essence is static, rooted in an unchanging, idolatrous past. Yet what is most threatening about the Indian is precisely the opposite, the possibility of change. If the millenarianism of the early Franciscans led them to conceive of evangelization in teleological terms, this confidence had largely disappeared by the 1570s. In Acosta, the missionary project is no longer a process of unceasing forward motion but rather one of stops and starts, barriers and obstacles—and even, most worrisome of all, reversals. Fear of losing ground that had already been “conquered” intensified.”

⁸² Nemser, “Primitive Spiritual Accumulation and the Colonial Extraction Economy[1].”

⁸³ Foucault, *Discipline and Punish: The Birth of the Prison*, 7.

⁸⁴ Foucault, 9.

⁸⁵ Foucault, 9.

⁸⁶ Bailey, “The Diary of a Resurrectionist 1811-1812 to Which Are Added an Account of The Resurrection Men in London and a Short History of the Passing of the Anatomy Act,” 29.

⁸⁷ Foucault, *Discipline and Punish: The Birth of the Prison*, 49.

⁸⁸ Quoted in Foucault, 48.

⁸⁹ Quoted in Foucault, 47.

⁹⁰ Foucault, 48.

⁹¹ Foucault, 49.

⁹² Foucault, 57.

⁹³ Foucault, 46.

⁹⁴ Foucault, 49.

⁹⁵ Foucault, 56.

⁹⁶ Foucault, 51. Emphasis mine.

⁹⁷ Bailey, "The Diary of a Resurrectionist 1811-1812 to Which Are Added an Account of The Resurrection Men in London and a Short History of the Passing of the Anatomy Act," 30.

⁹⁸ For a period of time during the late-eighteenth and nineteenth centuries, dissections of corpses in the anatomy theater were free and open to the public (the implications of which go unconsidered here).

⁹⁹ Foucault, *Discipline and Punish: The Birth of the Prison*, 63.

¹⁰⁰ Foucault, 78.

¹⁰¹ Foucault, 80.

¹⁰² Foucault, 13.

¹⁰³ Foucault, 28.

¹⁰⁴ As the history of penal law and the history of the human sciences both "derive from a single process of 'epistemologico-juridical' formation" and a new power to punish. Foucault writes: "In short, try to study the metamorphosis of punitive methods on the basis of a political technology of the body in which might be read a common history of power relations and object relations. Thus, by an analysis of penal leniency as a technique of power, one might understand both how man, the soul, the normal or abnormal individual have come to duplicate crime as objects of penal intervention; and in what way a specific mode of subjection was able to give birth to man as an object of knowledge for a discourse with a 'scientific' status". Foucault, 23-26.

¹⁰⁵ Foucault, 92.

¹⁰⁶ Outram, *The Body and the French Revolution*, 53.

¹⁰⁷ Outram, 56.

¹⁰⁸ Outram continues, "The body, in other words, became the ultimate sign, because things formally external to it were collapsed into its physical totality and reality." The body as the ultimate sign was "the pre-condition for the emergence of the body as the ultimate reservoir of signification which it became under the Revolution itself. It was also to be the pre-condition for modern views of the body as an 'economy' of physiological systems, propelled

throughout by an inner dynamic, rather than by externally located forces. Such views necessarily detach the body from other levels of meaning, whether theological or moral, and lead on to the view of the body as a problem in self-management, which it has retained to this day." Outram, 53.

¹⁰⁹ The tension I am referring to is between personhood and the body, as is outlined by Abou Farman in "Speculative Matter: Secular Bodies, Minds, and Persons," *Cultural Anthropology* 28, no. 4 (2013): 737–59.

¹¹⁰ Outram, *The Body and the French Revolution*, 56.

¹¹¹ Robyn Wiegman, *American Anatomies : Theorizing Race and Gender*, 50.

¹¹² Outram uses the language of the "middle class" but does so out of what I interpret to be a lack of political economic/class analysis. Outram, *The Body and the French Revolution*, 56.

¹¹³ Outram, 67.

¹¹⁴ Outram, 57.

¹¹⁵ Outram, 58..

¹¹⁶ Zadok Howe, "A Discourse on Quackery, : Read before the Massachusetts Medical Society, at Their Annual Meeting, June 4, 1834" (Massachusetts, 1834), 4.

¹¹⁷ Zadok Howe, "A Discourse on Quackery, : Read before the Massachusetts Medical Society, at Their Annual Meeting, June 4, 1834," 12.

¹¹⁸ Howe continues: "The remedy in both cases must be the same; Namely, a change in public opinion...But in order to ensure success, the subject must engage the attention of individuals of influence and character out of the Medical profession; in a word, it must become a common cause, or effort will be useless. For this purpose, let an association be formed for the suppression of quack medicines. Let a general society be organized, with subordinate branches, who's object shall be to collect and diffuse information among the people upon this subject. Let them establish newspapers and periodicals devoted to the cause. These might be made to contain matter which would ensure to them [an] extensive circulation: The people are now disposed to investigate for themselves; They seem unwilling to take anything on trust. The antiquity of a system will no longer guarantee its continuance. This therefore seems to be a favorable time to commence this great work of reformation. And let moralists say what they will, nothing is [read] with more avidity than accounts of murder and suicide." Zadok Howe, 21.

¹¹⁹ Foucault, *Discipline and Punish: The Birth of the Prison*, 59.

¹²⁰ Foucault, 95 and 105.

¹²¹ Wiegman, *American Anatomies : Theorizing Race and Gender*, 38.

¹²² Ibid.

¹²³ Foucault, *Discipline and Punish: The Birth of the Prison*, 203; and Wiegman, *American Anatomies : Theorizing Race and Gender*, 38.

¹²⁴ Wiegman, *American Anatomies : Theorizing Race and Gender*, 38.

¹²⁵ Wiegman, 38.

¹²⁶ Wiegman, 39.

¹²⁷ Sorely missing in this chapter is the critical insight that would be gained through meaningful engagement with Simone Browne's *Dark Matters: On the Surveillance of Blackness* (Durham & London: Duke University Press, 2015).

¹²⁸ Wiegman, *American Anatomies : Theorizing Race and Gender*, 48.

¹²⁹ Here I am drawing from Joanne Barker's conceptualization of Native 'authenticity' in her critique of colonial discourses of recognition; Barker writes, "U.S. national narratives represent recognition as an expected outcome of Native cultural authenticity. This is coupled with the deployment of recognition as evidence that the United States has realized itself as a fully democratic, humanist, and civil society, rendering historical violence and fraud against Native peoples an unfortunate aberration that the U.S. has evolved progressively past and that Natives just need to 'get over.' The seamless articulation of Native legal legitimacy to cultural authenticity by recognition, however, marks the racist ideologies and identificatory practices that undergird its function in reinforcing Native subjugation.... 'Indian tribes' are (made) *recognizable* and so *investable* with a unique set of rights under constitutional and common law. In order to be recognized as a legitimate 'Indian tribe,' Native groups must be recognizable as tribes in federal terms. These conditions are about the effectiveness of U.S. national narrations at maintaining Native dominance on the grounds of U.S. superiority and a Native inferiority that simultaneously codifies Native authenticity as a particular kind of cultural continuity, cohesiveness, and distinction." Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham, N.C: Duke University Press, 2011), 28.

Chapter Two:

For the Glory of Gold and Bones: Spiritual Accumulation and Dispossession in the Making of Colonial California

As capitalism's eternal and infinite demands drive the ever-increasing destruction of Indigenous lands and life, Indigenous sacred sites and burial grounds are subjected to perpetual cycles of desecration and loss. Given that, as Glen Coulthard (Yellowknives Dene) has argued, the ongoing dispossession of Indigenous land and life is necessary to sustain the production and accumulation of capital, how might the desecration of Indigenous sacred sites constitute an integral part of the production process?¹ As opposed to a reductive interpretation that would situate the destruction of Indigenous sacred sites as merely an inevitability of extractive capitalist consumption (as though desecration were simply an irrational concept amid the logical frameworks of capitalist rationality), I ask, what is revealed if we understood the desecration of Indigenous sacred land/life to be *in itself* a mode of capital accumulation?

In this chapter, I examine the relationship between the settler state, the production and accumulation of capital, and the desecration of sacred Indigenous land/life as situated within the context of the economic development of colonial capitalist California. To do so, I trace a genealogy of colonial desecration as entangled within colonial California's economic development. Rather than following a linear historical timeline, I use relational modes of analysis to approach my archival sources in "a suspension of time, tense, and timeliness," so as to better account for the

ever-shifting, ever-elaborating nature of (settler) colonialism, as it disobeys and contradicts its own governing logics.²

I begin with the University of California's anthropological excavation of sacred Indigenous burial grounds and collection of Indigenous human remains throughout the twentieth century. Situating these excavations within a colonial economy of knowledge production, I also contextualize the development of the University of California in relation to the production of California Gold Rush wealth during the mid-nineteenth century. By understanding the UC as a continuation of the Gold Rush economy (as opposed to an investment), I reveal how the production of wealth for both the Gold Rush and the UC relied upon corresponding extractive relations with Indigenous life and death. By identifying their similarities, I am then able to trace the existence of a 'colonial extractive spiritual economy' that has been inherited, refigured, and redeployed across each of colonial California's regimes.³ By examining how the economic production of each regime is contingent upon extractive relations with Indigenous life and death, I conceptualize a process of 'spiritual accumulation.' Through the process of 'spiritual accumulation,' I reconceptualize colonial desecration in its productive capacity as a distinct process of dispossession.

California Genocide

The University of California opened its first Department of Anthropology in 1901, upon which it formally undertook the systematic, widespread excavation of hundreds of Ohlone and other Indigenous burial grounds across what is known as

California.⁴ These bone-collecting endeavors were enthusiastically funded with the Gold Rush fortunes of California's new settler elite. Resultingly, with its massive collection of Indigenous artifacts, human remains, and volumes of ethnography on the 'California Indian', the UC Anthropology Department soon gained notable renown, in turn elevating the UC up the ranks of institutional prestige. Not long thereafter, the UC launched its geographic expansion; with the addition of each new campus, the UC system also added another branch to its collection of Native American and Indigenous human remains.⁵

The University of California today operates as a mammoth institutional enterprise, what is made up of ten sprawling university campuses, dozens of research laboratories, millions of acres of forestry and agricultural experimentation land, weapons testing sites, residential complexes, and countless private properties stretching across and beyond the state. Today, in their recounting of the University of California's noble historical founding, the UC Regents describe how the UC began with "a vision in the State Constitution" for a state university that would contribute "even more than California's gold to the glory and happiness of advancing generations."⁶ Here, the gold to which the Regents attribute such glory and happiness, alludes to the tremendous wealth produced by the California Gold Rush of 1848-1855. Yet, by 'California's gold', the UC Regents are not making simple reference to a shiny precious metal. Rather, the glory of 'California's gold' signifies the U.S. invasion of the Indigenous lands occupied by the state of California and the campaign of sheer terror that U.S. settlers unleashed onto the Indigenous peoples of California.

For the production of wealth during the Gold Rush entailed not only the process of gold mining, but state-sanctioned genocide of Indigenous peoples as well.

Prior to the U.S. acquisition of California in 1848 (via the Treaty of Guadalupe Hidalgo), U.S. interests in the colonial territory known as *Alta California* had begun long before its declaration of war on Mexico in 1846. Anglo-American settler-invaders had begun to invade and occupy the Indigenous lands of Alta California prior to Mexican Independence and the collapse of Spanish empire.⁷ By squatting, homesteading, and establishing a militarized and economic presence, Anglo-American settler-invaders facilitated the U.S. invasion of Alta California, especially by mining gold prior to 1843, when nearly two thousand ounces of gold were sent to Washington D.C. from California gold mines.⁸⁹

With material evidence of gold, the U.S. moved to take possession of the California territory and declared war on Mexico in 1846, resulting in Mexico's cession of Alta California to the U.S. in 1848.¹⁰ On December 5th of that same year, U.S. President James K. Polk announced in a State of the Union address that evidence of gold was confirmed in California's Sierra Foothills. This announcement was a strategic move by the Polk administration to "fill the would-be emptiness of California" with Anglo-American settlers, who, in their pursuit of gold, would facilitate the conquest, colonization, and 'settlement' of California.¹¹ Successful in these aims, Polk's announcement signaled the launch of the California Gold Rush, wherein San Francisco's settler and non-Indigenous population increased from what was 750 at the time of Polk's address to over 100,000 in the span of one year; further

ballooning to 264,000 by 1852.¹² By 1858, California had produced an estimated \$445 million in gold, what is roughly equivalent to \$14 trillion in the year of 2021.¹³

Throughout the Gold Rush, the speed with which California's settler-invaders accumulated gold wealth was mirrored by the pace with which they killed California's Indigenous peoples.¹⁴ Funded by the state and federal governments, Anglo-American settler-invaders carried out what some historians consider to be the most rapidly devastating period of genocide in U.S. history, murdering over 85% of California's Indigenous population between 1849 and 1872.¹⁵ As the first year of the Gold Rush generated such tremendous and unprecedented amounts of wealth, the State of California implemented strategies to accelerate production. In 1850, the same year that California was granted statehood by the federal government, California governor Peter Burnett institutionalized Indigenous genocide by signing the Militia Acts into law. The Militia Acts endorsed and funded the formation of settler-invader militias to carry out the mass extermination of all Indigenous peoples inhabiting the lands claimed and occupied as California.¹⁶ Due to the generous funding provided by the State government and the already established precedent of granting legal impunity to settlers who murdered Indigenous peoples, settler militia groups proliferated quickly.

With the extermination of Indigenous life, California lands were 'cleared' and opened up for unimpeded resource extraction and economic production. U.S. settler-invaders soon eviscerated the California landscape, extracting everything and anything that could be made to produce value by every destructive means available.

In just a few decades, U.S. industrialization had permanently altered the rivers and landscape of the California territories; the Pacific coast old-growth forests were completely gutted by the timber industry as thousands of miles of riverbed were blown up by the mining industry.¹⁷ Furthermore, with tens of thousands of settlers arriving each year through the bay of San Francisco, mass hunting to meet the demands of such human consumption wiped out dozens of species of fish and aquatic mammals.¹⁸ As countless forms of life were obliterated and destroyed, California's 'pre-U.S.' landscape quickly became entirely unrecognizable, permanently altered by the influx of the Gold Rush invasion and the devastation of industrial capitalism that followed.

Capital Accumulation

In her critique of the teleological and originary nature of Marx's concept of primitive accumulation, Rosa Luxemburg theorized the accumulation of capital as an ongoing and perpetually expansive process that requires ever-increasing, ever-expanding markets of production and consumption. "Capital, impelled to appropriate productive forces for purposes of exploitation, ransacks the whole world, it procures its means of production from all corners of the earth, seizing them, if necessary by force, from all levels of civilization and from all forms of society."¹⁹ Whereas Marx conceptualized primitive accumulation as a process forming the historical basis "instead of the historical result of specifically capitalist production," Luxemburg contended that the relations which constitute Marx's primitive accumulation have

never ended, but are rather ongoing and essential conditions of capitalist production.²⁰ Luxemburg identified capitalism's inherently colonial nature through its constant need for "something outside of itself" and that the impact of capitalist ransacking would take on greater scales of significance over time through colonial relations of devastation, as was demonstrated by modern colonial policy at the time in which she wrote.²¹

In *The New Imperialism*, David Harvey developed his well-known theory of 'accumulation by dispossession,' which builds on Luxemburg's notion of capital accumulation as perpetually expansionary and Hannah Arendt's theory of capital accumulation as requiring structures of unlimited power to accommodate its insatiable accumulation of property. Harvey formulates that as capitalism's perpetual spatial mobility creates ever-shifting geographies of human interaction, the accumulation of capital therefore creates permanently unequal and always shifting geographical arrangements.²² Dene scholar Glen Coulthard critiques Harvey's formulation for its failure to account for the ongoing role of colonization and racialization in the production and accumulation of capital. Coulthard demonstrates that Harvey's 'accumulation by dispossession' maintains colonial practices as temporally distinct from modern capitalist practices, thus emplacing Indigenous dispossession within the historical past of primitive accumulation: "[Harvey] preserves an analytical separation between the practices of primitive accumulation that institute and expand commodification and capitalist development, such as colonization and Indigenous dispossession in the Americas, and those practices of

accumulation by dispossession that are developed to manage crises immanent to expanded reproduction, such as the post- 1970s crises of capitalist overaccumulation.”²³ Coulthard dispels both Harvey and Marx’s temporal rendering of Indigenous dispossession as belonging to a historical past of primitive accumulation by revealing Indigenous dispossession as a core condition of the accumulation process in perpetuity. By shifting emphasis away from the capital relation to an emphasis on the colonial relation, Coulthard demonstrates how capital accumulation requires the *ongoing* dispossession of Indigenous land and life as a condition of its very possibility.²⁴

In his reading of capital accumulation, Coulthard centers an analysis of settler colonialism, which he defines as “a relationship characterized by domination-interrelated discursive and nondiscursive facets of economic, gendered, racial, and state power...structured into a relatively secure or sedimented set of hierarchical social relations that continue to facilitate the dispossession of Indigenous peoples of their land and self-determining authority.”²⁵ The primary motive of settler colonialism (according to Coulthard) is access to land and territory, as without it, the settler state cannot exist. Thus, the settler state must continuously enforce and enact Indigenous dispossession in order to maintain access (and claims to) Indigenous lands as a condition of its possibility. This is not only the case for settler colonial capitalist economies, but to the continuation of capitalist production and accumulation generally. As capitalism demands ever-increasing scales of production and expansion to generate profitability, the ongoing and continuous dispossession of Indigenous land

and life must be reinforced, resecured, and reproduced each day in order to maintain possession of, and sustain access to, the territorial grounds from which production and speculative capital are continuously mobilized.²⁶ In this light, it becomes far more difficult to confine Indigenous dispossession within the specific temporal boundaries of a historic past (let alone to affix it with any kind of approximate ‘end’) and far more clear in its operation as a governing logic of capital accumulation.

Shifting focus back to California, the Gold Rush genocide of Indigenous peoples reflects a critical point in the economic development and spread of U.S. empire, for as the scale of Indigenous extermination increased, so did the scale of California’s economic production. The extermination of Indigenous life formed an essential process of California’s economic production, wherein the ‘extraction’ (extermination) of Indigenous life ‘opened up’ unrestricted access to California lands and resources. As California produced an unprecedented amount of wealth for the United States’ economy, this incentivized federal financial backing of California’s genocide campaigns. In 1852, U.S. legislators passed a \$600,000 ‘Indian War Bond’ to pay off California’s expenses accrued from its extermination campaign. The Indian War Bonds presented a new investment opportunity for finance capital; by offering bondholders seven percent annual interest, this gave great incentive to banks and individuals to buy up the bonds, making Indigenous genocide a lucrative enterprise of its own.²⁷ While California’s mineral lands were stripped of every last bit of gold, the settler militia groups swiftly grew in number, as extermination proved to be more lucrative than mining for gold. New deposits of valuable minerals and other natural

resources were ‘discovered’ in abundance throughout California, for which newer and bigger methods of extraction were continuously being invented. As a result, California’s economic production only continued to expand and increase so that by 1890, the United States had become the most powerful economy in the world, a status it has since retained for over one hundred and thirty-one years.²⁸

The Militia Acts and the Indian War Bonds demonstrate how the (American) California genocide of Indigenous peoples constituted a critical process of California’s economic production. Whereas the production of gold mining wealth was swiftly depleted in just a few years, the production of Indigenous genocide was expanded; rather than genocide being carried out as a singular event from which the foundations of California’s capitalist economy were established, the Militia Acts and Indian War Bonds show that the scale of Indigenous genocide only continued to increase along *with* the expansion of capitalist production and accumulation. The Indian War Bonds exemplify that Indigenous genocide had formed into a lucrative enterprise of its own, wherein settler individuals and corporations financially invested in the present and future of Indigenous genocide.²⁹

Property, Possession, and Accumulating the Primitive

Coulthard shows that the process which best reflects Marx’s primitive accumulation is the “violent transformation of noncapitalist forms of life into capitalist ones.”³⁰ Indigenous extermination reflects a process of accumulation by dispossession in its facilitation of U.S. access to Indigenous lands through the violent

transformation of land into territory. Given that, (generally) Indigenous cosmologies do not divide or distinguish between land as separate from life, and rather exist in fluid relationality (wherein life *is* land and land *is* life), the extraction of Indigenous life from Indigenous lands (via genocide) facilitates the transformation of Indigenous lands into the ontological and epistemological structures of colonialism. Through its colonial meaning as territory, all land in the world is homogenized and emptied of its contextual meanings and relations with and as part of life. As territory, all land can be evaluated according to the same standard sets of criteria, so that it can be measured and divided up into commodifiable units of value which can then be bought, sold, and (most importantly) *owned*. As territory, any relations with land that are not based in property title are made meaningless in determinations of land rights and land ownership. As territory, land is stripped of life, meaning *all* life that exists and which together forms the life of that particular place.

With the end of the Gold Rush, the Western frontier had supposedly been conquered by the United States. As the close of the nineteenth century saw the completion of the first transcontinental railroad and the peak of U.S. industrialization, the Western USA-occupied territories became the source of nostalgic fantasy in the national imagination, as ‘traveling ‘Wild West’ spectacle productions circulated throughout the public. The scientific study of Native American human remains had accelerated in tandem with the rise of industrialization and urbanization across the (so-called) United States; as the turn of the twentieth century loomed near, California took center stage as a critical hotspot for such anthropological investigation.

Renowned anthropologist Franz Boas (regarded as the ‘Father’ of American anthropology) identified California as a time-sensitive source of crucial information, requiring urgent and extensive research so as to extract and collect as much knowledge from its Indigenous peoples while there were any still left in existence. In his appeals to the UC Regents for the formation of an anthropology department at the UC, Boas pressed that, “all these tribes are on the verge of extinction, [and] it is only a question of a very few years when their languages, and with them their traditions and the records of their customs, will have disappeared.”³¹

By institutionalizing the elimination of Native peoples, the California landscape was (unsuccessfully) cleared of any potentially conflicting land claims, securing and accumulating ‘the glory and happiness’ of settler California’s present and future. The wealth produced from the extermination economy of the Gold Rush then funded the construction of the University of California, which continued to accumulate more of the same. The private wealth accumulated during the Gold Rush produced the dynastic wealth of some of the richest families in the world, including the Hearst family, whose fortune began when George Hearst arrived in California as a settler-invader. George accumulated his gargantuan fortune by exploiting the opportunistic vulnerabilities generated by the Mexican-American War, through which he snatched up titles to vast tracts of land at little cost. His wife, Phoebe Hearst, established herself as a primary benefactor of the University of California, funding much of the campus’s initial structures with the Hearst wealth (even sponsoring a nationwide competition to design its campus). After George’s death in 1891, Phoebe

inherited the entirety of the Hearst fortune, which she soon used to finance the opening and operation of an anthropology department at the UC.

Prior to the Department's opening, University of California scientists (many of whom later joined the Anthropology Department) had already begun to excavate Indigenous burial grounds and to collect the human remains of Indigenous ancestors.³² With its official opening, the Department's collection of Indigenous human remains quickly multiplied in volume, aided by the contributions of California settlers who sent in their private collections of Indigenous human remains, which they had dug up while exploring the surroundings of their newly acquired properties. With the constant and abundant flow of funding supplied by Phoebe Hearst, the UC Anthropology Department swiftly produced a large volume of ethnographic research as it extracted information from Indigenous peoples, both living and dead.

As a continuation of the extractive colonial Gold Rush genocide economy, the excavation of Indigenous burial grounds and collection of Indigenous human remains by U.S. universities is critical to maintain the legitimacy of U.S. land claims and to sustain access to the territorial grounds from which forms of speculative and mobile capital can be generated. In order for the U.S. to accumulate and possess Indigenous lands, the relations and connections between Indigenous land and Indigenous life have to be continuously displaced and disavowed in order for the U.S. to maintain the legitimacy of its claims to Indigenous lands. By digging into the ground, physically removing Indigenous human remains, desecrating and destroying Indigenous burial places, settler anthropologists severed Indigenous connections to and relations between the living and the dead. By doing so, UC anthropologists supported and affirmed the abstraction of land into the empty homogenous

form of territory.

Coulthard writes that settler colonialism “should not be seen as deriving its reproductive force solely from its strictly repressive or violent features, but rather from its ability to produce forms of life that make settler-colonialism’s constitutive hierarchies seem natural.”³³ The production of modern scientific knowledge affirmed the legitimacy of colonial land claims by locating Indigenous peoples (and Indigenous knowledges) within a temporal past. Western colonial scientific paradigms of empiricism, positivism, and rationalism understand and interpret the world through issues of measurement, including the classification of human societies into systems of representation that can be evaluated, measured, and ranked according to a standard set of criteria. The development of racial science in the nineteenth century used standard scientific methods of measurement and quantification to theorize and affix racial inferiority firmly within the biological world. Racial science categorized Indigenous peoples (and Indigenous knowledges) as being determinately prehistoric, irrational, premodern, and thus, as located outside of Western definitions of (normative, civilized) human status. Such beliefs manifest into the fields of phrenology and physical anthropology, which popularized the study of Indigenous skulls to develop scientific ‘evidence’ of white supremacy within the biological world. Throughout the mid-nineteenth and into the early-twentieth centuries, the study of Native American skulls in the so-called ‘American West’ were especially studied due to colonial empire’s peaked interest in possessing Native American lands.

Modern science affirmed the “correctness” of colonialism and capitalism by locating and *naturalizing* colonial and capitalist relations within the biological world (greatly supporting and facilitating the global spread of capitalism). The display of

Indigenous human remains was valuable in rendering visible – and thereby making ‘real’ – the existence and passage of evolutionary progressive time, separating the modern from the ‘prehistoric.’ By coding Indigenous life and Indigenous lands into colonial knowledge systems of representation, their nonexistence in the present is ‘naturalized,’ for, to use Mary Louise Pratt’s words, “naming brings the reality of order into being.”³⁴

The UC’s anthropological excavations of the dead reflect the continuation of the same extractive relations as those of the extermination campaigns. By extracting the material remains of the dead, Indigenous life is extracted and abstracted from the earth. Through the excavation, collection, and display of Indigenous human remains, university anthropologists abstracted the dead from their relations with land and with the living; through categorization and display as representations of colonial meanings, the unique and meaningful Indigenous relations formed with land and as part of the life of that land (or place) are distorted through the lens and ‘expertise’ of anthropological knowledge production; Indigenous peoples and Indigenous lands are erased of their specificity to forming that particular place, as land is rendered homogenous and Indigenous land rights are made incomprehensible within the epistemological structures of colonial capitalism.

Sarita See theorizes the relationship between colonial capitalism and the university through her concept of ‘accumulating the primitive,’ what juxtaposes Marx’s concept of primitive accumulation “with that of the phenomenon of accumulating the primitive – the barbarian, the uncivilized, the savage.”³⁵ Through

her examination of the Philippine collections at the University of Michigan, See interprets the act of university anthropological collecting as “the act of accumulating specimens from ‘primitive economies’ around the world and then transforming that habit of ‘primitive accumulation’ into power/knowledge.”³⁶ What See identifies as ‘accumulating the primitive’ is also applicable to the University of California’s Department of Anthropology. My work aligns with See’s in that I too am attempting to “work out how the economic theory of ‘accumulation by dispossession’ must be adjusted in order to account for the accumulation and display of the racial primitive, a form of representation that is governed by the literal and not by the symbolic.”³⁷ What of the immaterial that is being accumulated in the process of accumulating the material ‘primitive’?

While I have detailed how the UC’s accumulation of Indigenous human remains facilitated and secured U.S. claims to Indigenous lands, this is but one of its multitudinous impacts. What of the obsessive desire to collect and possess Indigenous and Native American human remains? There is a desire, even a lust, that drives the collection of Indigenous bones, a desire to consume and accumulate ‘the Indian’ on a more visceral level. Sarita See proposes that the accumulation of the primitive is “not merely about the imperial desire to reaffirm the superiority of the West” but that rather, “the accumulation of the primitive may have to do with the West’s envy of the primitive – the West’s envy of the primitive’s ostensibly direct access to primitive desires.”³⁸ See considers that perhaps the West’s accumulation of the primitive has to do with a desire for what the West interprets as being a more ‘simplistic’ (i.e.

primitive) relationship with the material world, as in, non-capitalist society. I believe what See is gesturing towards is recognizable within, say for example, what Iyko Day calls the ‘romantic anti-capitalism’ of Anglo-American settler imaginaries of a ‘authentic, noble Indian’ tied to a pristine, untouched wilderness that emerged with the second wave of U.S. industrialization at the turn of the twentieth century.³⁹ I, however, seek to define the spiritual relations that motivate such accumulation of the primitive.

As Coulthard writes, Indigenous land is not only central to Indigenous worldviews, but is *an actual part* of the Indigenous peoples who belong to and with it. This gestures to the profound devastation implicated in the destruction of Indigenous sacred sites and burial grounds, for the violation of the material remains of the dead is not isolated to those dead themselves, or even to their living relatives – rather, this violation is *desecration* because it is profoundly destructive to all life and being as a whole. As See writes, “one could argue that the imperial museum takes the life out of things even as it collects them.”⁴⁰ As Coulthard describes, Indigenous relations with land “deeply inform and sustain Indigenous modes of thought and behavior that harbor profound insights into the maintenance of relationships within and between human beings and the natural world built on principles of reciprocity, nonexploitation and respectful coexistence.”⁴¹ In order to transform land and life into capitalist relations, all other ways of being, knowing, and relating must be eradicated or dramatically subdued. This is achieved through the desecration of sacred lands, for such sacred places are inseparable from the complex cosmologies, worlds, universes,

and multiverses that they constitute – they are one in the same. The destruction of sacred sites/places is the destruction of worlds, cosmologies, and ways of life.

Therefore, the dispossession of Indigenous land and life is inherently also a *spiritual* dispossession.

In describing the U.S. period of bone-collecting, Pawnee historian James Riding In has used the terminology of a ‘spiritual holocaust’ to attest to its devastating assault on Indigenous life and Indigenous relations between the living and the dead.⁴² In doing so, Riding In points out the critical use of desecration (and spiritual violence) as a key method of U.S. conquest and colonization. Drawing from Riding In’s concept of ‘spiritual holocaust,’ I reframe the extensive and widespread institutionalized theft of Indigenous burial grounds and human remains through an analysis of spiritual dispossession in an attempt to account for the spiritual economic relations of capital accumulation and dispossession. How might colonial capitalism accumulate through spiritual violence? And what might such a process of spiritual accumulation entail?

Spiritual Conquest & Spiritual Accumulation

In order to conceptualize a process of spiritual accumulation, I look to scholar Daniel Nemser’s formulation of what he calls the ‘extractive colonial spiritual economy’ of sixteenth-century Spanish colonial silver mines in Potosí (Quechua lands). Spain’s silver mining colonies in the so-called ‘New World’ carried out two colonial projects: the mining of silver through the enslaved labor of Indigenous

peoples and missionary evangelization. At these colonial silver mines, Spanish Jesuit missionaries carried out their own ‘spiritual conquest’ of heathenism, saving Indigenous souls from damnation and populating eternal Christian afterlife (heaven). Nemser demonstrates how the conversion of Indigenous souls to Christianity was inseparable from the economic production of silver wealth through enslaved Indigenous labor, together forming what Nemser calls ‘an economy of conversion.’

The colonial Jesuit missionaries resolved the blatant and troubling contradiction between Spain’s purported Christian faith and its use of extreme violence against Indigenous peoples by conceptualizing Spanish conquest as part of God’s divine plan for Spain. The Jesuit missionaries recognized and understood that the silver and gold of the (so-called) New World incited a tremendously powerful and unprecedented greed within the Spaniards, which incited and drove Spanish conquest in the Americas. This powerful greed materialized in the conquistadors’ unprecedented use of extreme violence against the Indigenous peoples of these lands.⁴³ Yet without the driving force of this greed, there would be no Spanish conquest and no Spanish silver mining in the ‘New World,’ without which there would be no missions and no eternal salvation of heathen souls. Without Spanish conquest, the civilizing word of God would not have reached the hundreds of thousands of heathen ‘savages’ who populated these strange new lands. Through his highly influential 16th century missionary treatise, *De procuranda indorum salute*, Jesuit missionary Jose de Acosta wrote that “If evangelization depends so entirely on

the Spaniards' desire for precious metals, mining must continue despite all human and moral costs."⁴⁴

At the mines, the Jesuit missionaries would convert enslaved Indigenous captives right at the moment where they (the missionaries) believed the soul crossed from life to death. By doing so, the missionaries believed themselves to be 'extracting' the eternal soul of the Indigenous captive for all of eternity. The missionaries of Spain's 16th century colonial silver mines regarded Indigenous peoples to pose a constant threat to the well-being, stability, and order of Christian civilized life *as well* as afterlife, for, as the missionaries so believed, within their being would always lurk the threat of 'savagery.' This savage presence would always linger no matter how hard and how long the friars' devoted themselves to their holy duty, and no matter how deep the conviction with which a neophyte submitted to God's holy authority. For the missionaries, to convert an 'Indian Savage' in life was not sufficient to assure against her potential future apostasy.

In the early years of Spanish conquest in the Americas, Spanish missionaries located the threat of Indigenous idolatry within the sacred objects used in Indigenous ceremonies and rituals; by destroying these objects, the threat was resolved. Yet, by the mid-sixteenth century, shifts in European thought led Spanish missionaries to newly identify the threat of Indigenous idolatry as being located *within* Indigenous corporeality, located *internally* within their physical being. As Nemser describes, this "newfound interiority" presented entirely new ground to be vanquished, a new frontier "that must be subjected to colonial authority."⁴⁵ The missionaries resolved

this issue by converting Indigenous captives to Christianity at the time of their death – a practice which Nemser refers to as a “necropolitical theology for the mines.”⁴⁶

By converting Indigenous captives at the exact moment the soul was believed to cross from the world of the living to the afterlife of death, only then could the soul be *permanently* and *irreversibly* saved (claimed) for eternity; only then, with the death of the physical body, could any future threat of apostasy be permanently vanquished, for only “a dead Indian is incapable of apostasy.”⁴⁷ Thus, the extraction of silver from Spain’s colonial mining projects was intertwined with the extraction of Indigenous eternal souls, wherein life (as labor) and spirit (as eternal soul) are extracted from Indigenous peoples for the accumulation of Spanish colonial empire and Christian afterlife (in the eternal ‘kingdom of heaven’).

Building on Nemser’s analysis, I locate the same extractive colonial economy to be at work throughout the mid-eighteenth to early-nineteenth centuries in colonial Spain’s California mission system. California’s mission system began in 1767, when the Spanish Crown sent soldiers and Franciscan missionaries, led by Franciscan priest Junípero Serra, to establish missions across the Indigenous lands then claimed by Spain as the colonial territory of *Alta California*. While not intended to produce wealth for the Spanish Crown, the establishment of the missions served the explicit purpose of protecting its territorial claims and silver mines to the south (in what is today claimed by Mexico as *Baja California*), in both the immediate present and into the future. Between 1769 and 1823, a network of twenty-one missions had been constructed (along with four military presidios and three civilian settlements) along

the *Alta California* coast, stretching from so-called San Diego to just north of so-called San Francisco.⁴⁸

From its very foundations, the Spanish California mission system was made entirely with the forced (enslaved) labor of Indigenous peoples, from the construction of each mission edifice, to the establishment of each of its massive farms and ranches, to the running of all daily operations.⁴⁹ The Spanish missionaries – and the Spanish military troops that accompanied them – used strategies of coercion, manipulation, force, and kidnapping from nearby Indigenous communities to populate each mission compound. Once Indigenous peoples entered onto the mission grounds, whether by force or out of simple curiosity, they were permanently held captive, including every Indigenous child born at the missions.⁵⁰ From the age of ten, mission captives, were made to labor from sunup to sundown. To compel their labor, mission friars inflicted relentless forms of brutal corporeal and psychological torture. Captives were routinely worked to the point of death, if they did not die first from disease and/or malnutrition.

As more missions were constructed and its population of enslaved Indigenous captives grew, the mission system developed into a massive economic enterprise. By 1805, it had increased its agricultural production thirty-fold, had branched into ranching (adding 30,000 herds of livestock and a dozen sprawling private ranches) and expanded production into goods manufacturing, adding as many new commodity items to its inventory as quickly as Indigenous captives could learn each specific skillset required to make them.⁵¹ Come the turn of the nineteenth century, the

missions produced and sold virtually everything that could be bought in Alta California, all with the enforced labor of its Indigenous captives, who made “even the coffins they were buried in.”⁵²

Yet, for the founder of the mission system, Father Junípero Serra, the objective of the missions was not to economically produce, but to wage what he called, “spiritual conquest”.⁵³ By ‘spiritual conquest’, this meant to claim and accumulate souls with which to populate the heavenly kingdom of Christian afterlife. Serra arrived in California full of divine purpose and an ambition to baptize and save “as many souls as he could find in his lifetime.”⁵⁴ Serra had been selected by José de Gálvez, the Spanish king’s general inspector to Mexico, who had “a burning ambition to secure new lands and riches for Spain.”⁵⁵ With rumors and reports of British, Dutch, and Russian plans to claim the Alta California coastline for their own empires, the king of Spain quickly outfitted Gálvez with an expedition of soldiers and missionaries to occupy Northern California. Gálvez’s appointment of Serra to lead the mission project through California so marked the start of Serra’s spiritual conquest.

At the core of Serra’s spiritual conquest was the act of baptism, what mirrored the ‘colonial conversion economy’ as conceptualized by Nemser, wherein the mission friars performed baptisms on Indigenous captives when on their deathbeds, right at the moment the friars believed the soul to crossover from the world of the living into the afterlife of death.⁵⁶ Baptisms at birth became more standard as new generations of Indigenous ‘neophytes’ were born into mission life, but in either case, Indigenous captives were subjected to constant physical brutality and psychological torture by the

friars on a daily basis, as an everyday condition of mission life. While this brutality was inflicted in order to compel the endless hours of enforced/enslaved labor from mission captives, friars considered the dispersal of such punishments as their sacred duty.⁵⁷ Junípero Serra described the use of whipping and other such forms of corporeal torture as holy acts of “spiritual benefit to all” (acts that included the everyday sexual violation of Indigenous ‘neophytes’ by priests and other guests of the mission friars).⁵⁸ Such acts of violence reflect what Serra meant by the terminology of ‘spiritual conquest’: to conquer both life and afterlife through possession, domination, and control of the eternal spirit. In other words, to *own* the eternal spirit as one’s property.

The ‘success’ of the mission system was not measured by the amount of profits the missions produced, or by the numbers of Indigenous laborers it could procure, but rather by the number of Indigenous eternal souls ‘saved;’ a number that could only be added to the count of those in their possession upon death. For Serra and the other missionaries, Indigenous death was far more important than Indigenous life, as for the friars, “the spirituality of religion was far more important than carnal earthly life,” as explained by Elias Castillo, who writes “Death was the important step toward reaching heaven, an event meant for rejoicing, not bereavement.”⁵⁹

As Serra aimed to baptize ‘as many souls as possible’ in the span of his lifetime, the implementation of spiritual conquest prompted extreme overcrowding into the missions’ hazardously unsanitary conditions, effecting the rampant proliferation and spread of disease. Captives were separated into dormitories

according to binary gender, of which those designated for ‘women and girls’ were kept in particularly horrid conditions and were ill-equipped for inhabitation at any capacity, let alone the actual numbers the friars crammed and locked inside its doors. These living conditions increased Indigenous women’s exposure to disease and resulted in their higher rates of death. This constitutes just one of the many everyday forms of heteropatriarchal violence that structured mission life.⁶⁰

Overall, living conditions at the mission caused over half of the *entire* mission system’s Indigenous population to die each year.⁶¹ The missions’ formidable rate of death, however, raised no alarm or cause for concern among the friars, for they did not consider it a problem. To the contrary, such outrageous amounts of death were cause for celebration, particularly the deaths of Indigenous children, for which the friars especially rejoiced to find their numbers so highly represented among the counted dead. For this meant that each of the missions would have more of their “sons” represented amid the eternal population of God’s ‘kingdom of heaven’.⁶² One death of a baptized Indigenous neophyte equated one soul to ‘represent’ the California missions in the afterlife of heaven; or, put another way, each eternal soul saved by the friars would be accredited to the missions in afterlife. As a process of accumulation, the more souls the missions saved, the more they could claim in the afterlife. The deaths of children were especially valuable as their souls were more innocent of sin than those of adults.

The mission system operated through a ‘colonial spiritual extraction economy,’ wherein spiritual accumulation was tied to material accumulation, and

spiritual conquest was the means of its production. The more Indigenous captives at the missions meant more eternal souls saved and the number of idolaters reduced; more mission captives also meant increased enslaved labor and economic production, which meant further expansion of the mission system and thus, greater capacity to save even more eternal souls. For Spain, the eternal souls of Indigenous neophytes ‘would live forever’ once “harvested” by the missionaries, and thus would clear the way “for further evangelization,” opening up more new grounds to spread eternal life through Christian Spanish empire.⁶³ Thus, as Serra’s missions accumulate eternal Christian afterlife, Spanish empire conquers and accumulates more land, together carrying out a civilizing mission, as divinely willed by God.

This colonial spiritual extraction economy is further mirrored in the economic production of California’s gold mines. Whereas the accumulation of Indigenous death equated and was justified by Spain’s accumulation of eternal souls, it was for both U.S. and Spanish empires that each Indigenous death equated a reduction against the ‘threat’ of ‘Indian Savagery.’ California’s genocide of Indigenous peoples aimed to eradicate the same ‘Indian Savagery’ whose existence posed the same constant threat to the further spread of U.S. empire. For both colonial regimes, the extraction of Indigenous life cleared/clears Indigenous lands of Savagery, further opening up new territory for colonial empire’s claim and more expanses of wild, idle lands to be conquered and put to their ‘proper’ use of economic production. Both the mining economy of Gold Rush era California and the mining economy of colonial Spain were twinned to the extermination of Indigenous life, wherein each Indigenous death

equated one less Indian Savage standing in the way of human civilization's progress and one less impediment to the advancement of Mankind.⁶⁴

Mexican Independence and Mission Secularization

Upon independence from Spain in 1821, the national government of Mexico inherited control over the missions and continued the mission system's colonial extractive economy of Indigenous life (through enforced labor) and Indigenous death (through extermination so as to accumulate the mission property legally deeded to its former captives). Initially, Mexico had intended to dismantle the mission system altogether, but instead they kept it intact out of fear of economic collapse.⁶⁵ Mission Indians thus continued to be held captive and enforced to labor in the missions until 1833, when Mexico finally dismantled the mission system permanently. Mexico's secularization law rendered the mission lands into the property of the Mexican government, which was to then be redistributed back to the Indigenous mission communities it had originally been stolen from.⁶⁶ Instead, Mexico stole these lands for a second time. *Californios*, Mexican nationals, and American settler-invaders began to kill off Indigenous survivors of the mission system so that they could accumulate the lands for themselves, rallying in their call: "civilization is death to the Indian."⁶⁷

In modern secular Mexico, colonial possession and Indigenous dispossession were ideologically legitimized through the use of scientific rationalism. During the latter half of the nineteenth-century, Western social conceptions of the world as based

in the existence of a divine higher power (whose will animated everyday events) increasingly shifted towards secular biological understandings of the world. With this shift in paradigm, settler colonial rationales for Indigenous dispossession relocated to a basis as originating in the rational scientific law of the natural world. Through the swift development of racial science in the nineteenth century, settler colonial land claims and legitimacy of possession were revalidated and reaffirmed through the production of knowledge that positioned Indigenous peoples as biologically inferior, prehistoric relics doomed to inevitable extinction wrought by the progressive evolution of Mankind.

Modern science abstracted and reduced all life into categories of measurement, which could then be ordered, arranged and compared. Western colonial scientific paradigms of empiricism, positivism, and rationalism understand and interpret the world through issues of measurement, including the classification of human societies into systems of representation that can be evaluated, measured, and ranked according to a standard set of criteria. This informed the development of racial science, which used standard scientific methods of measurement and quantification to theorize and affix racial inferiority firmly within the biological world. Racial science categorized Indigenous peoples (and Indigenous knowledges) as being determinately prehistoric, irrational, premodern, and thus, as located outside of Western definitions of (normative, civilized) human status. The rise of racial science rationalized the colonial theft of Indigenous lands by representing Indigenous peoples as belonging to a primitive wilderness that had gone extinct with the progress of civilization and who,

therefore, did not belong in the present time of the modern world. With the production of scientific theories affirming their racial superiority and evidencing the irrefutable 'backwardness' of Indigenous peoples, *Californios* and (white) Mexican nationals rationalized their theft and possession of the former mission lands by equating 'civilization' and 'modernity' with European notions of land use (i.e., for economic production). Therefore, Mexico's extermination of Indigenous peoples was justified and facilitated through the use of such scientific reason to definitively conclude that "civilization is death to the Indian."⁶⁸ In this way, under the secular nation of Mexico, modern colonial property systems were first implemented in California through Indigenous death.

The informal campaigns of Indigenous extermination under Mexico were then inherited by the United States, who, upon replacement as the occupying regime of colonial California, formalized and greatly expanded a state-sanctioned campaign of Indigenous extermination. Like Mexico, the U.S. extermination campaigns rationalized Indigenous genocide as a logical outcome of human civilizational advancement. Indigenous genocide was even deemed by some to be a *moral* act, as necessary for the progress and benefit of all mankind. Yet rather than evidencing a mode of primitive accumulation, the extermination campaigns of Mexico and the U.S. reflect processes of an extractive colonial economy, for twinned to the production of Indigenous death (to accumulate Indigenous lands) was the extraction of Indigenous life through enslaved labor. From the enslaved labor economy of the mission system, *Californios* and Mexican nationals continued to enforce Indigenous labor through the

use of convict lease systems, much like those of the post-Reconstruction South. This too was inherited by U.S. settlers who expanded California's exploited Indigenous labor systems into an 'Indian slave trade' that operated across California. The U.S. increased rates of production and profitability by greatly expanding the slave trade market until it ran (at its peak) across the entire state of California, into the state of Nevada, and across the (newly defined) border into Mexico (which U.S. legislators continued to operate long past the Emancipation Proclamation).

Secular Empire and Spiritual Conquest

The colonial spiritual extraction economy of the California mission system was continued by Mexico and the U.S., who each inherited, adapted, and expanded its production (and continues to be expanded under colonial occupation by the United States). The extractive economic relations with Indigenous life and death facilitated the accumulation of Indigenous lands and resources through enslaved Indigenous labor, Indigenous genocide, and the university desecration of Indigenous burial grounds and the collection of Indigenous human remains. But what of the mission system's accumulation of eternal Indigenous souls? Did this conversion economy simply evaporate upon the secularization of the missions? Does secular empire not also seek to colonize the afterlife? Does secular empire not also wage spiritual conquest? While such questions warrant far deeper inquiry and analysis than are within the scope of this project, what I glean in my nascent consideration of an answer points to matters of property.

Throughout the missions' existence, friars worked strategically to foster Indigenous dependency on the missions for survival, depriving them as much as they could of the skills, knowledges, and abilities they would need to survive in the world.⁶⁹ Mission life was structured so as to create dependency on the missions and to render Indigenous captives completely unequipped for survival beyond the mission walls. In other words, the missions were structured so that the lives of the Indigenous captives were bound to the missions; so that their lives belonged to the missions and to the missions alone. This was perhaps most critically achieved through the act of baptism, which Serra considered to eternally bind his captives to him as his charges, referred to as 'neophytes.' Serra upheld that the baptism of Indigenous captives "granted him the responsibility to deny them liberty, based on his belief that only by shielding the baptized Indians from what he considered the coarseness of normal human life would they ascend to heaven upon their deaths."⁷⁰ By undergoing the ritual of baptism, mission friars considered neophytes' to also give their consent in taking what was an unspoken "vow for life" of total subservience to the friars' authority and will, wherein the act of baptism equivocated the willing surrender of one's liberty to the friars.⁷¹

In other words, mission friars performed baptisms on Indigenous captives with the intent to claim them as their property, as they were performed in the knowledge that baptism would effectively render Indigenous captives *into* mission property – as possessions which belonged to and were owned by the missions for the entirety of both life and death. Indigenous neophyte souls were 'harvested' so that

they would ‘live forever’ as the eternal *property* of the Franciscan friars and the Roman Catholic Church. It is not the souls of Indigenous peoples who ‘live forever’ in this scenario, but the accumulated souls of mission property that do. By cultivating neophytes’ near-total dependency on the missions, friars sought to ensure that Indigenous life would not exist beyond the mission walls, or, put another way, that Indigenous life would not exist outside of the friars’ control. ensure that Indigenous life For without the missions, the Franciscan friars could not protect or save future eternal souls from the damnation of ‘Indian Savagery.’ Thus, by dispossessing Indigenous captives of survival beyond the missions, the friars eradicated future apostasy by ensuring they remain mission property in both life (via captivity and enslavement of the physical body) and spiritual afterlife (via salvation of the eternal soul). By retaining possession over the potential threat of ‘Indian Savagery,’ the colonial world is secured and held intact as it is also (re)produced.

The same process is enacted by the University of California in its excavation of Indigenous burial grounds and collection of human remains. The containment and confinement of the material human remains of Indigenous dead within the university reproduces socio-discursive formations of Indigenous ‘others’ as colonial epistemological possessions, or, to use Aileen Moreton-Robinson’s terminology, ‘white epistemological possessions’.⁷² Through museum display of Indigenous human remains and the attendant university production of racialized scientific knowledge, Western colonial universities like the University of California discursively produced ‘the Indian’ of the anthropological imaginary. A process

which, to quote Moreton-Robinson, “violates the subjectivity of Indigenous people by obliterating any trace of our ontological and epistemological existence.”⁷³ Through displays of Indigenous human remains as representations of colonial meanings, the settler spectator *knows* ‘the Indian;’ Indigenous peoples are discursively produced as the epistemological property of the settler colonial nation. The accumulation of Indigenous human remains by the university is a way of containing the threat of ‘savagery’ by literally possessing the material human remains of ‘savagery,’ as the material property of the museum and as the literal and symbolic property of the white settler nation, as ordered and cohered within colonial systems of representation.

The university and the missions, the friars and the scientists, enact what are essentially the same extractive processes premised in the same rationale and epistemological structures as those of the mission system’s conversion economy and ‘spiritual conquest.’ Returning to the ritual of baptism at the missions, that the Franciscan friars believed the Indigenous captives to be giving their consent to eternal subservience suggests that the friars perhaps regarded the eternal souls of Indigenous peoples as *already* belonging to them, or, at the very least, as not belonging to Indigenous peoples themselves. The friars deemed Indigenous peoples to be incapable of responsibly caring for their own souls, let alone understand what the soul even is.⁷⁴ It is as though the friars perceived the soul to hold an intrinsic value and importance that Indigenous peoples were not able to comprehend, but which the friars could extract and ‘save’ for the greater good of humanity. The friars knew what was good for the soul, unlike the Indigenous body in which the soul lived (or rather, was

trapped). In this way, the friars justified that it was for the neophytes' own good and spiritual health that the friars held them captive and took away their liberty.

At the missions, the eternal Indigenous soul held a sort of purity and value that the Indigenous person – their body and flesh – did not. In the university, the secular 'rationality' of modern scientific thought mirrors this practice, in that it is the same notion but flipped. In the university, it is the material bone and flesh of the Indigenous body that holds an intrinsic value, whereas the Indigenous soul is discarded –as the matter of superstition (in that it doesn't exist).⁷⁵ In either case, the *life* of the Indigenous person is considered to hold no value (except in the *lifeless* form of extractable resource - like labor or data), whereas the Indigenous person – their being, their life in itself – is *ungrievable*. The secular Indigenous body is also deemed to be the inherent, rational, rightful property of Western scientists, because only they are capable of understanding and extracting the valuable knowledge that Indigenous peoples hold.

In discussion of the university's 'accumulation of the primitive,' Sarita See notes how "the professor's habit of 'primitive accumulation' constitutes the obverse of the capitalist ethic of abstention. This time, the 'great old' professor's act of collection, as opposed to the capitalist's act of abstention, is made to be virtuous. For the sake of knowledge – knowledge for knowledge's sake! – [The professor/scientist] heroically traveled and combed the world."⁷⁶ Virtue is accumulated by the university professor in his accumulation of 'the primitive' (Indigenous human remains and cultural/sacred objects) for he accumulates in the noble pursuit of knowledge, to the

benefit and ‘greater good’ of all Mankind. The virtue of his pursuit legitimizes his ownership of the Indigenous body – in both life and death, whereas Indigenous peoples themselves are deemed irrational for protecting the bones of their ancestors, their burial places, and their sacred sites from desecration. For the virtuous scientist, Indigenous peoples are working against their own self-interests by preventing the production of scientific knowledge. In this narrative, it is the Indigenous person’s objection to the theft of their body and their ancestors remains that confirms the fact of their primitive backwardness; for the only acceptable answer, the only *rational* answer, is to hand oneself over.

Through this narrative of civilizational uplift and human progress, the desecration, theft, and destruction of Indigenous burial grounds are rationalized as noble pursuits of knowledge production. Indigenous burial grounds are (re)produced as the rightful property of scientific research, to the benefit of the ‘collective good.’ In this way, the descendants of the stolen dead are now cast as the morally corrupt, as their demands to return the material remains of their stolen ancestors are not only irrational, but greedy and selfish, in that they would deny humanity (white settler-citizenry) of medical and scientific advancement. They are the true thieves, depriving life from *all* of humanity for the selfish purpose of their own ignorant beliefs and primitive attachments to the lifeless bones of the dead.

Just like the colonial scientist, the friar accumulates virtue in the same way. The selfless humble servant of God works for the greater good of humanity. He eradicates the threat of Savagery to save humankind from eternal damnation. He

martyrs himself out of the pure, divine love of God he carries in his heart. His dedication to the higher purpose and ‘charitable’ work of evangelization legitimizes his rightful ownership over the Indigenous body and soul, for he must safeguard the soul as long as it remains in the potential threat of the Indigenous body; only upon Indigenous death will the soul be truly saved. The same justification is made for the colonial theft of Indigenous lands via the ideology of manifest destiny, wherein the spread of colonial empire benefits all of Mankind, for the ‘primitive Savage’ does not comprehend the value of the land, which is to make it economically produce at its greatest capacity, for the higher, noble purpose of capitalist enterprise. The ‘primitive Indian Savage’ leaves his lands idle, letting its potential economic value go to waste. Therefore, the Indian has no rightful claim to land in his degradation of human progress. Therefore, Indigenous lands were and are always *already* the rightful property of the settler colonizer.

The mission system friars and the UC anthropologists all accumulate virtue through the same narrative of civilizational uplift and human progress, a narrative that is reproductive to the colonial extractive spiritual economy, as this narrative continues to rationalize, dispel, and/or erase the presence of genocide and of spiritual conquest. Colonial acts of spiritual conquest and terror are then carried out at the same time as they are erased and made not to exist (as how could one violate that which does not exist?). Instead of recognizing desecration and bone-collecting as the enactment of spiritual terror, it enacts a carceral ordering of space and time, displacing Indigenous peoples from the time of the present and from the place of Indigenous lands. It is in

their very objection to the desecration and destruction of their sacred sites and ancestors' burial places that such colonial desecration affirms the rationality of its enactment. As it is irrational and backwards to oppose and restrict the production of capital and the production of scientific research. Colonial acts of desecration maintain the legitimacy of ownership/possession as based in property title systems and not as based in Indigenous connection and relationship. Settler colonial land claims and legitimacy of belonging are thus reproduced and resecured through the 'rationality' of desecration and excavation, as it enacts destruction of ancestral spiritual connection.

Accumulation of Afterlife

Today, amidst the settler citizenry of the state of California and the United States more broadly, the missions are remembered as benevolent, loving, essentially 'good' institutions. They are celebrated as the foundations of California's (settler-colonizer) heritage and identity. The missions that occupy the historical memory-imaginary of settler California's present stems from the 'mission revival' of the 1890s-1900s, when the missions were rebuilt and "resurrected" into sites of settler colonial nostalgia, as "monuments to a concocted past that featured a loving, cooperative relationship between the friars and Indians."⁷⁷ As monuments of colonial nostalgia, the missions provide a grounding anchor for California settler identity and sense of belonging, as does the historical construction of Junípero Serra as the 'founding father' and 'Apostle' of California.⁷⁸ That these celebratory narratives continue to proliferate reflects a continuation of the spiritual accumulation that began

in the missions - what remains critical to the reproduction of colonial capitalist California.⁷⁹

Since Serra first set foot in (so-called) *Alta California*, the Franciscan friars cultivated myth-narratives about the missions that continue to proliferate in the present day. In their written diaries, letters, annual reports – anywhere that mission life and mission events were documented – the friars carefully crafted a version of mission life that depicted them favorably – a version that would outlive them in colonial memory. In their narrative accounts and record-keeping, the friars omitted and obscured the events of mission life; for example, at each mission, friars recorded the names of Indigenous peoples who disobeyed mission rules and the number of lashes given as punishment, but did not record any of the frequent “beatings and whippings that were a daily regimen for minor infractions.”⁸⁰ In these accounts, Indigenous peoples came to the missions willingly and stayed by choice, as opposed to the frequent kidnapping raids on neighboring Indigenous villages, the near daily escape attempts, and the constant hunting down of Indigenous fugitives. The friars also omitted mention of the foul and squalid living conditions that the neophytes were kept in (especially for women), nor were they identified as a factor in the vicious spread of disease that killed off Indigenous neophytes (especially Indigenous women and infants) and *gentiles* at alarming rates (but from which the friars and soldiers were immune).

Having killed off an estimated 50% of the Indigenous coastal population of (so-called) *Alta California*, the friars feared the impending possibility that they would

be blamed for having caused the extinction of *Alta California's* Indigenous population. In 1820, with the imminence of Mexico's independence from Spain looming on the horizon, Friar Mariano Payéras (*padre presidente* of the California missions from 1815-1819), wrote a letter to his superior in Mexico City in which he "worryingly asked what answer the missions could give if, in the future, California's coastal Indian population disappeared due to the high death rate. Payéras worried blame or 'undeserved reproach' would fall on the friars."⁸¹ Payéras wrote, "I fear that a few years hence on seeing Alta California deserted and depopulated of Indians within a century of its discovery and conquest by the Spaniards, it will be asked where is the numerous heathendom that used to populate it."⁸² Payéras urged for action to be taken "which would free us *for all time* from undeserved reproach...and censures, and would shelter us from slander and sarcasm."⁸³

The friars' preoccupation and anxiety did not so much stem from the fact of their culpability, but rather from the fear of being socially perceived as guilty by colonial society. The friars did not fear the divine judgment awaiting them in afterlife, for they were secure in the measure of their virtue as represented by the number of souls they had personally saved amid the population of Christian heaven. Instead, the friars' feared the afterlife of social memory, and the legacy they would leave behind on earth. While Payéras's letter did not reach the Spanish Franciscan friars in time for them to take action (as upon winning its independence from Spain, Mexico took over operation of the mission system), the narratives written by Payéras and the other mission friars maintained their innocence in the eyes of colonial society to this day.

The friars' worked to ensure their own innocence by writing and circulating myth-narratives that blamed the mission system's genocide of the coastal Indigenous population of (so-called) Alta California on the Indigenous peoples themselves. Writes Castillo, "[Payéras] could not fathom that the filthy conditions within the missions, the cultural shock, lack of nourishment, depression, European diseases, and the severe punishments meted out to the Indians by the friars was actually killing the mission Indians."⁸⁴ Instead, Payéras claimed that the Indigenous mission captives died from "the natural fermentation of the gathering of so many people together into one place who scarcely know innate shame."⁸⁵ They did not, said Payéras, "respect anything more than immediate consanguinity" nor did they "value their health as they should but rather waste it and place it secondary to vile pleasures and whims. They are a people still preserving the bad habits of barbarism and heathenism, and their beliefs and ancient customs are all destructive to their natures and constitutions."⁸⁶ That the cause of their deaths is attributed to the 'barbarism' and 'heathenism' of their beliefs and customs reveals the continuity of such beliefs across the religious and secular colonial worlds.

By circulating these narratives, the friars ensured that the myth of their innocent benevolence would outlive them on earth; thus accumulating virtue in both spiritual and secular afterlife. Thanks to the publication and/or circulation of friars' narratives, like Francisco Palóu's *Relacion histórica de la vida y apostólicas tareas del Venerable Padre Fray Junípero Serra*, the virtuous afterlife of the friars in colonial social memory has thrived for well over a century; what continues to not

only place blame on Indigenous peoples for the terror and devastation inflicted on them, but to regenerate the heroic myth-memory of Junípero Serra and the mission friars. The U.S. “invention” of Junípero Serra as California’s founding father, according to historian Richard Kagan, “can be traced to the last quarter of the nineteenth century ... [coinciding] with the creation of... the state’s ‘Spanish fantasy heritage.’”⁸⁷ Following U.S. invasion and the California genocide of Indigenous peoples carried out by the U.S. extermination campaigns, this period saw the U.S. become flooded with public media (in forms such as reports, articles, fiction novels, plays, paintings, statues) that “presented the missions and their Franciscan founders in laudatory fashion,” and which described “Serra and his fellow Franciscans in heroic terms – even when noting, as some did, that the missionary enterprise in California had a devastating effect on the Indians ... devastation that continued long after California became part of the United States.”⁸⁸

In the U.S., colonial narratives of the missions continued to maintain the friars’ innocence, or, when some acknowledgment was made of the mission systems devastating impact on Indigenous peoples, the friars were still depicted as virtuous, heroic, and free of blame. For example, in Helen Hunt Jackson’s 1883 series on Serra’s life and the history of the California missions, Jackson, despite her “considerable and still-growing knowledge” of the mission friars’ severe mistreatment of Indigenous peoples and the suffering they endured, she still claimed that Serra and the Franciscan friars helped “change in the Indian, from the naked savage with his one stone tool, grinding acorn-meal in a rock bowl, to the industrious

tiller of soil, weaver of cloth, worker in metals, and singer of sacred hymns.”⁸⁹ In what was “arguably the most influential articulations of the bedrock foundations of California’s mission myth,” Jackson identified the conversion of ‘savages’ to Christianity and the eradication of Indigenous cultures to be worth the cost of the mission system’s enslavement and genocide of Indigenous peoples; a cost far outweighed by the benefits of spiritual conquest and spread of Western empire.

Such beliefs about the mission system *still* persist in colonial society to this day, despite the plethora of Indigenous accounts that attest to the truth of the mission system as experienced across generations. In the words of Valentin Lopez, chairman of the Amah Mutsun Tribal Band (who are the direct descendants of the Indigenous peoples enslaved at Missions San Juan Bautista and Santa Cruz), “[y]ou have five, six, seven generations where the Native Americans grew up in slavery...They grew up in brutality, losing their culture, their identity, their self respect and self esteem, losing their knowledge of sacred ceremonies that allowed them to keep balance in their lives, losing the ability to pass on traditional songs and stories. That just tore the Indians down for all those generations, and so our people today are still recovering.”⁹⁰

The reasons for the proliferation of the mission myth-narratives under U.S. colonial occupation, and why they still persist to this day, is expressed clearly by Patrick J. Thomas in his 1877 *Our Centennial Memoir: The Founding of the Missions*: “The Missions of California are the landmarks of its civilization. The struggles of the early missionaries, against the most appalling obstacles, to plant the Cross in a wild and unknown country, are full of interest to those who have profited

by their unexampled heroism.”⁹¹ The mission myths begun by the friars were and still are used by the U.S. as an anchor to the state and nation’s colonial identity. By connecting itself to the missions, the U.S. continues to accumulate futurity from the afterlife of the missions and the friars. The constructed legacies of Serra then carry on in continuity across colonial regimes, flowing into – and giving strength – to the secular colonial present.

These processes of spiritual accumulation can be traced through to the development of the University of California, as is evident in the assault of plaques and buildings bearing the Hearst family name across the UC Berkeley campus; signaling to passersby the virtuous generosity of America’s uber-rich, whose philanthropic investments in the pursuit of higher learning are of selfless benefit to us all. Because of the moral rectitude of notable settler elite, such as Phoebe Hearst, the heroic endeavors of California’s great scientists (such as Alfred Kroeber) were made possible; scientists whose selfless dedication to the pursuit of knowledge (via the accumulation and extraction of knowledge from Indigenous peoples) brings further glory to California and to all of Mankind.⁹² That the man responsible for creating the University of California, state assemblyman and author of the Organic Act, John C. Dwinelle, lamented the closing of the missions under the Mexican government, for the friars, according to Dwinelle, “at least would have preserved these Indian races, if they had been left to pursue unmolested their work of pious beneficence.”⁹³

Conclusion

In 2015, thousands of Indigenous peoples opposed the Catholic canonization of Serra; what brought about a critical tipping point in the mission myths' demise as Indigenous narrative accounts of the missions as experienced by Indigenous peoples were heard on a global stage. In the past few years, California residents have removed statues of Serra from public spaces across the state in San Francisco, Sacramento, Ventura, Los Angeles, and Palo Alto, to disrupt the colonial spiritual terror of the missions' afterlife. While in some cases, state officials themselves have sanctioned and even facilitated the removal of public monuments in homage to Serra, the settler state continues to enforce and police the position of the missions in public memory.

In February of 2021, court hearings began in San Rafael, CA for the Indigenous Peoples Day 5 (IP5), a group of Indigenous women and Two Spirit people who are facing felony charges in relationship to the toppling of a statue of Junípero Serra outside Mission San Rafael on Indigenous Peoples Day of 2020.⁹⁴ The removal of the Serra statue in San Rafael occurred in the context of the groundswell of mass political action against antiblack racism and state violence that followed the police lynchings of Breonna Taylor and George Floyd in 2020.⁹⁵ In the span of a few months, confederate monuments and statues of enslavers were brought crashing down across the (so-called) United States and around the world, at public sites memorializing colonial conquest, genocide, and white supremacy in celebratory forms.⁹⁶ While no other toppling of a Serra statue in California has resulted in persecution, let alone an arrest, Marin County continues to pursue felony charges against the IP5. Furthermore, in response to the IP5's alleged actions, the Archbishop

of San Francisco, Salvatore J. Cordileone, held a press conference at which he decried the toppling of the statue as a “satanic act” and performed an exorcism. “We come together in prayer and in reparation for this act of blasphemy,” said Cordileone. “This sacred site has been *deseccated* and so we know there’s the presence of evil here.”⁹⁷

The spiritual violence of the mission system, represented by Serra’s statue, lives in the continued criminalization of Indigenous spiritual sovereignty and resistance. The criminal felony prosecution of the IP5 (who were the only individuals arrested in what was an otherwise almost entirely white crowd) reflects the continuity of what began as Serra’s ‘spiritual conquest’ across Spanish, Mexican, and U.S. colonial regimes in California. That the state continues to police Indigenous memory and Indigenous narratives of the mission system (and its aftermaths) as experienced by Indigenous peoples across generations attests to the continued investment of the settler state in controlling the public memory of the mission systems. As generations of Indigenous ancestors and their living descendants persist in their resistance to hundreds of years of ongoing colonial spiritual terror, genocide, and dispossession of Indigenous land/life across California’s colonial regimes, the settler state can no longer keep up the delusion of a beneficent colonization of California, as begun by Palóu and the other mission friars. Yet, as the settler state adapts its narratives accordingly to maintain the fiction of its legitimacy by absorbing Indigenous peoples into the nation, it remains unrelenting in its criminalization of Indigenous spiritual autonomy and sovereignty.⁹⁸

The extractive spiritual economy of the mission system persists today, in

forms far more pernicious and profound than as I have identified in this chapter.⁹⁹ Its production continues through settler colonial desecration of the Sacred and the settler state's criminalization of Indigenous defense of the Sacred; as is exemplified in the desecration of Ohlone sacred sites like the West Berkeley Shellmound, which, along with the Indigenous-led campaign to protect it, form the focus of the next chapter.

The extraction of Indigenous life and the production of Indigenous death is continued throughout each colonial regime, deployed through the socio-discursive operation of spiritual conquest. Through desecration, the ontological and epistemological structures of the (white) colonial world are shaped, reproduced, and sustained. By demarcating the Sacred, as 'belief,' 'superstition,' or, what in other words is 'not real.' By demarcating Indigenous ontologies of the Sacred – Indigenous land/life – as 'superstition,' or as what (in other words) is 'not-real,' the colonial world defines itself through the boundaries of 'the real,' thus asserting the Western colonial world as authoritative reality. The 'threat of Savagery,' as a figure of the colonizer's own making, holds the structure of the colonial world in place. It is through the colonial creation of figure of the 'Indian savage' that the colonizer knows himself and secures his world. The 'threat of savagery' is thus, in other words, the threat of ontological collapse. By making 'the savage' into his possession, the Western colonizer in turn possesses himself and discursively produces the (colonial) world as a "white epistemological possession."¹⁰⁰ Thus, by accumulating the eternal soul and the material human remains of 'the Indian,' the colonizer keeps the 'threat of

savagery’ at bay and secures possession of his own life and – through the possession of death – attempts to colonize the afterlife of his death.

¹ A previous version of this sentence began with “If...” instead of “Given that...” out of the misguided desire to appease academia. Yet, I am too strongly opposed to the phrasing of any form of settler colonial violence as a hypothetical.

² Manu Vimalassery, Juliana Hu Pegues, and Alyosha Goldstein, “Introduction On Colonial Unknowing,” *Theory & Event* 19, no. 4 (2016): 6, <https://www.proquest.com/scholarly-journals/introduction-on-colonial-unknowing/docview/1866315123/se-2?accountid=14523>.

³ I build on Daniel Nemser’s conceptualization of colonial extractive spiritual economies as detailed in “Primitive Spiritual Accumulation and the Colonial Extraction Economy[1],” *Política Común* 5 (2014), <https://doi.org/10.3998/pc.12322227.0005.003>.

⁴ University of California scientists were already engaged in the excavation of Ohlone shellmounds prior to the opening of the Anthropology Department. For example, Professor...?

⁵ For more information on the UC’s NAGPRA repatriation status, see: California State Auditor Report 2019-047: “The University of California is Not Adequately Overseeing its Return of Native American Remains and Artifacts,” June 2020. <https://www.auditor.ca.gov/pdfs/reports/2019-047.pdf>; Native American Cultural Affiliation and Repatriation policy,” <https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/curation-and-repatriation/>

⁶ The University of California Regents. “About Berkeley” University of California Berkeley. <https://www.berkeley.edu/about>. Accessed 1/25/21 11:58PM Allegedly this statement can be found in the original California State Constitution of 1849, but this version is inaccessible.

The University of California was and still is funded in part by the profits made off of tens of thousands of acres of stolen Indigenous lands ‘granted’ to the State of California by the federal government for the purpose of establishing a state university, as legislated by the Morrill Land Grant Act of 1862. The Morrill Act intended to develop the nation’s economic and military growth through the establishment of mechanical and agricultural educational programs, and of a trained military reserve in every state; as a condition of enrollment in these universities, male students completed an obligatory two years of military training and service. Today, the UC still profits millions of dollars each year off of the lands it was originally granted by the Morrill Act; for further information, recordings of the University of California Land Grab Forum Part 1: “Unearthing Indigenous Land Dispossession in the Founding of the University of California” can be viewed here: <https://cejce.berkeley.edu/uc-land-grab>

⁷ My use of the term ‘settler-invader’ is informed by Ben Madley’s conceptual useage of ‘invaders’ in *An American Genocide*, which is done with the intention to more accurately

describe and account for the intents and actions characteristic to U.S. Anglo American settlers in California, as opposed to the term ‘settler.’ Alone, ‘settler’ is too passive, as it derives from the verb ‘to settle,’ connoting a peaceful passive act. Benjamin. Madley, *An American Genocide : The United States and the California Indian Catastrophe, 1846-1873* (New Haven: Yale University Press, 2016).

⁸ This included settler-invader John A. Sutter, who in 1839 built a fort near Sacramento in 1839 and soon established a militarized stronghold of white settler-invaders. miners.

⁹ John Umbeck, “The California Gold Rush: A Study of Emerging Property Rights,” *Explorations in Economic History* 14, no. 3 (1977): 197–226, [https://doi.org/10.1016/0014-4983\(77\)90006-7](https://doi.org/10.1016/0014-4983(77)90006-7).

Gray A. Brechin, *Imperial San Francisco: Urban Power, Earthly Ruin*, California Studies in Critical Human Geography ; 3 (Berkeley, Calif: University of California Press, 1999), 29.

¹⁰ Declared via the “Treaty of Peace, Friendship, Limits and Settlement, between the United States of America and the Mexican Republic.” The predominant U.S. historical narrative of why the U.S. declared war on Mexico is said to be because of Mexican ‘invasion’ on U.S. soil – i.e., Texas, which the U.S. had previously squatted and strategically taken over from Mexico.

¹¹ Brechin, *Imperial San Francisco : Urban Power, Earthly Ruin*, 30.

¹² Umbeck, “The California Gold Rush: A Study of Emerging Property Rights.”

¹³ Brechin, *Imperial San Francisco : Urban Power, Earthly Ruin*, 32.

¹⁴ Brechin, 199.

¹⁵ Scholars estimate that around 110,000 to 125,000 Indigenous peoples were killed during the Gold Rush-era genocide of 1849-1872 (Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States*, 129; Madley, *An American Genocide*, 10). Stating numbers and percentages does not portray the magnitude of loss and devastation that was undertaken by the California genocide, nor does it bring dignity or justice to the dead and their living descendants. I ask readers to not let these numbers register as a passing statistical fact, but instead, to reflect on the immensity of these terror projects, the grounds from which the San Francisco Bay Area was built. Quoting Madley: “As anyone who has ever lost a loved one knows; the death of a single person is a profound loss. Recording how many California Indians were killed between 1846 and 1873, is, in part, an attempt to understand the magnitude of the rupture and profound pain caused by their loss: each murder severed personal, familial, and tribal links. Each was a tragedy. When multiplied by thousands during a short period, the impact was nothing less than devastating. In the context of genocide, recording deaths also dignifies the slain and gives voice to the departed.” Madley, *An*

American Genocide: The United States and the California Indian Catastrophe, 1846-1873, 13.

¹⁶ Madley, 97.

¹⁷ *The San Francisco Chronicle* announced the eradication of California's coastal forests in as early as 1876, writing "thus [San Francisco's] wealth levels the forests and builds up the prosperity of the new Pacific Empire, of which she is the true and lawful queen" while the *New York Tribune* printed a celebratory description of the mining industry as violating California's "chastity," whose rape was productive to Western civilization's progress. Brechin, *Imperial San Francisco: Urban Power, Earthly Ruin*, 49.

¹⁸ Richard Walker A., "'California's Golden Road to Riches: Natural Resources and Regional Capitalism, 1848- 1940.'" *Annals of the Association of American Geographers* 91, no. No. 1 (March 2001): 167–99. M. Black, "'Tragic Remedies: A Century of Failed Fishery Policy on California's Sacramento River.'" *Pacific Historical Review* 54, no. 1 (1995): 37–70. B. Busch, *The War Against the Seals: A History of the North American Seal Fishery*. (Montreal: McGill-Queens University Press, 1985). R. Yoshiyama, "'A History of Salmon and People in the Central Valley Region of California.'" *Reviews in Fisheries Science* 7, no. 3/4 (1999): 197–239.

¹⁹ Rosa Luxemburg, *The Accumulation of Capital* (London & New York: Routledge Press, 2003), 338.

²⁰ Karl Marx, *Capital: A Critique of Political Economy, Vol. One.*, trans. Ben. Fowkes, Reprint (London: Penguin Classics, 1990), 775.

²¹ Luxemburg, *The Accumulation of Capital*, 350.

²² David Harvey, *The New Imperialism, The New Imperialism* (Oxford: Oxford University Press, 2005), 101.

²³ Glen Sean Coulthard, *Red Skin, White Masks : Rejecting the Colonial Politics of Recognition*, Indigenous Americas (Minneapolis: University of Minnesota Press, 2014), 7.

²⁴ Although Harvey recognizes the ongoingness of dispossession as requisite to the continued accumulation of capital, he still places Indigenous dispossession in the past, constituting a singular, historic event of primitive accumulation.

²⁵ Coulthard, *Red Skin, White Masks : Rejecting the Colonial Politics of Recognition*, 7.

²⁶ Coulthard, 7.

²⁷ Madley, *An American Genocide : The United States and the California Indian Catastrophe, 1846-1873*, 207.

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- ²⁸ Economists project China's GDP to surpass U.S. GDP by 2024 or at a point in the following 4 – 6 years.
- ²⁹ Madley, *An American Genocide : The United States and the California Indian Catastrophe, 1846-1873*, 207.
- ³⁰ Coulthard, *Red Skin, White Masks : Rejecting the Colonial Politics of Recognition*, 7.
- ³¹ Franz Boas. *Letter to Z. Nuttall, New York, 11 April 1901*.
https://bancroft.berkeley.edu/Exhibits/anthro/3founders3_letter_transcription.html
- ³² In 1894, paleontologist and geologist John C. Merriam was hired as an instructor at the UC, upon which he began leading shellmound excavations that same year. John Campbell Merriam Papers, 1904 – 1934, University of California Department of Anthropology Records, CU-23. The Bancroft Library, University of California, Berkeley.
- ³³ Coulthard, *Red Skin, White Masks : Rejecting the Colonial Politics of Recognition*, 152.
- ³⁴ Pratt, Mary Louise, *Imperial Eyes: Travel Writing and Transculturation*, 2nd ed. (New York: Routledge, 2008), 32.
- ³⁵ Sarita Echavez See, "Accumulating the Primitive," *Settler Colonial Studies* 6, no. 2 (2016): 166, <https://doi.org/10.1080/2201473X.2015.1024382>.
- ³⁶ See, 167.
- ³⁷ See, 167.
- ³⁸ See, 169.
- ³⁹ Iyko Day, *Alien Capital: Asian Racialization and the Logic of Settler Colonial Capitalism* (Durham & London: Duke University Press, 2016).
- ⁴⁰ See, "Accumulating the Primitive," 169.
- ⁴¹ Coulthard, *Red Skin, White Masks : Rejecting the Colonial Politics of Recognition*, 12.
- ⁴² James Riding In, "'Our Dead Are Never Forgotten: American Indian Struggles for Burial Rights and Protections,'" in *They Made Us Many Promises*, ed. Philip Weeks (Wheeling, IL: Harlan Davidson, 2002), 301.
- ⁴³ This is detailed and dispersed by the highly influential 16th century missionary treatise *De procuranda indorum salute*, written by Spanish Jesuit missionary, José de Acosta.
- ⁴⁴ Nemser, "Primitive Spiritual Accumulation and the Colonial Extraction Economy[1]."

⁴⁵ Nemser.

⁴⁶ Nemser.

⁴⁷ Nemser.

⁴⁸ The 21st mission built was Mission San Francisco Solano, in what is present-day (so-called) Sonoma County, California. It is the only mission that was built under Mexico's rule.

⁴⁹ Elias Castillo, *A Cross of Thorns : The Enslavement of California's Indians by the Spanish Missions* (Fresno, California: Craven Street Books, 2015), 27.

⁵⁰ I intentionally use the language of enslavement, kidnapping, and captivity as these are the terms used to describe what was done to their ancestors at the missions by their living descendants. Furthermore, I use this language to affirm Indigenous histories of the mission system and to discredit the gross inaccuracies of colonial historical narratives that continue to circulate as the dominant accounts of the missions history.

⁵¹ Castillo, *A Cross of Thorns : The Enslavement of California's Indians by the Spanish Missions*.

⁵² Steven W. Hackel, "Land, Labor, and Production: The Colonial Economy of Spanish and Mexican California," *California History* 76, no. 2/3 (1997): 116, <https://doi.org/10.2307/25161664>.

⁵³ Brechin, *Imperial San Francisco : Urban Power, Earthly Ruin*, 26.

⁵⁴ Castillo, *A Cross of Thorns : The Enslavement of California's Indians by the Spanish Missions*, 58, 63.

⁵⁵ D. (Daniel) Fogel, *Junípero Serra, the Vatican & Enslavement Theology* (San Francisco: Ism Press, 1988), 50.

⁵⁶ Nemser, "Primitive Spiritual Accumulation and the Colonial Extraction Economy[1]."

⁵⁷ Make reference to counter article claim of brutality at the missions as having reflected missionary social practices to induce spiritual purity – and its debunking as myth via Castillo & others.

⁵⁸ Sexual violence of Indigenous women and girls was facilitated by the friars who granted priests, soldiers, and other officials access to them. Castillo, *A Cross of Thorns : The Enslavement of California's Indians by the Spanish Missions*, 29.

⁵⁹ Castillo, 74.

⁶⁰ Castillo, 139.

⁶¹ Castillo, 75.

⁶² Castillo, 82.

⁶³ Nemser, “Primitive Spiritual Accumulation and the Colonial Extraction Economy[1].”

⁶⁴ My use of the terms ‘Man’ and ‘Mankind’ is in specific reference to Sylvia Wynter’s theorization of the overrepresentation of the human as Western Man in “Unsettling the Coloniality of Being/Power/Truth/Freedom: Towards the Human, After Man, Its Overrepresentation - An Argument,” 2003. See also Katherine McKittrick, *Sylvia Wynter: On Being Human as Praxis* (Durham & London: Duke University Press, 2015).

⁶⁵ Castillo, *A Cross of Thorns : The Enslavement of California’s Indians by the Spanish Missions*, 157–58.

⁶⁶ Castillo, 194. Mission communities were made up of Indigenous peoples from various tribes, who were kidnapped to such extremes that their home communities experienced severe devastation and collapse. Thus, with the ending of the mission system, former captives had nowhere to return to due to the theft of their lands and the destruction of their communities/homes. Furthermore, as new generations were born and brought up entirely within the mission compounds, then raising a new generation after that, and so on, mission compounds formed new Indigenous communities and affiliations, so that some tribal communities of today are descended from communities formed through mission captivity.

⁶⁷ Castillo, 197.

⁶⁸ Castillo, 197.

⁶⁹ Castillo, 129.

⁷⁰ Castillo, 80.

⁷¹ Castillo, 80.

⁷² Aileen Moreton-Robinson, *The White Possessive: Property, Power, and Indigenous Sovereignty*, Indigenous Americas (Minneapolis, Minnesota ; University of Minnesota Press, 2015), 114.

⁷³ Moreton-Robinson, 114.

⁷⁴ I intentionally use the plural here as friars’ did not apply individuality to Indigenous peoples in the sense that (according to Western epistemology) to be an individual – to have personhood – requires that one *own* their being.

⁷⁵ Requiring further consideration is how Western human scientists regarded ‘the modern soul’ or human psyche of the secular Indigenous body. Given that human scientists used the

figure of the ‘Indian savage’ to dispel belief in the (eternal) soul, to what extent were Indigenous peoples discarded in examinations of the ‘modern soul’ (psyche) and to what extent did these questions motivate anthropological investigation of ‘primitive man’?

⁷⁶ See, “Accumulating the Primitive,” 167.

⁷⁷ Castillo, *A Cross of Thorns : The Enslavement of California’s Indians by the Spanish Missions*, 200.

⁷⁸ Castillo, 201.

⁷⁹ For example, inside the Capitol Building at Washington D.C., each U.S. state is represented in the National Statuary Hall Collection through the permanent display of two statues representing the state’s most important historical figures. The two figures selected to represent the State of California are Ronald Reagan and Junípero Serra. The State’s selection of these two figures speaks volumes to the mission system’s enduring role in California’s economic production. In this context, the figure of Reagan is meant to represent the state of California’s enduring economic power and dominance by referencing its mass incarceration industry (what launched the era of mass incarceration on a global level) industry around the world), as was established during Reagan’s governance. By selecting Reagan to accompany Serra, this points to California’s economic and carceral origins in the mission system. Like the mission system, California’s mass incarceration economy is a complex of various institutions that order social life into systems of captivity. I emphasize captivity over enforced labor as I recognize that, for both California’s mission system and contemporary prison system, the fundamental aim is to have total control and possession of life over a specific social group held in captivity (what requires further analysis beyond the scope of this chapter).

⁸⁰ Castillo, *A Cross of Thorns : The Enslavement of California’s Indians by the Spanish Missions*, 137.

⁸¹ Castillo, 154.

⁸² Mariano Payeras, *Writings of Mariano Payeras*, ed. Donald C. Cutter, Publications of the Academy of American Franciscan History. Documentary Series ; 12 (Santa Barbara, Calif: Bellerophon Books, 1995), 227.

⁸³ Payeras, 227.

⁸⁴ Castillo, *A Cross of Thorns : The Enslavement of California’s Indians by the Spanish Missions*, 156.

⁸⁵ Payeras, *Writings of Mariano Payeras*, 226.

⁸⁶ Castillo, quoting Payéras in *A Cross of Thorns : The Enslavement of California's Indians by the Spanish Missions*, 156.

⁸⁷ Richard L. Kagan, "The Invention of Junípero Serra and the 'Spanish Craze,'" in *The Worlds of Junipero Serra*, ed. Steven W. Hackel, 1st ed., Historical Contexts and Cultural Representations (University of California Press, 2018), 227, <http://www.jstor.org/stable/10.1525/j.ctt2050wrm.15>.

⁸⁸ Michael K. Komanecky, "The Public Consumption of Junípero Serra," in *The Worlds of Junipero Serra*, ed. Steven W. Hackel, 1st ed., Historical Contexts and Cultural Representations (University of California Press, 2018), 259, <http://www.jstor.org/stable/10.1525/j.ctt2050wrm.16>.

⁸⁹ Quoted in Komanecky, 261.

⁹⁰ Caitlin Harrington, "The Lesser-Told Story Of The California Missions," March 20, 2016, <https://hoodline.com/2016/03/the-lesser-told-story-of-the-california-missions/>.

⁹¹ Quoted in Komanecky, "The Public Consumption of Junípero Serra," 260.

⁹² Of course, Indigenous peoples have survived Spanish, Mexican, and U.S. colonization and persist in their efforts to erode and debunk these myth-narratives, efforts which continue to gain tremendous momentum. Despite the success of Serra's canonization in 2015, the mass mobilization of organized resistance against the Church's actions and the global expressions of solidarity with Indigenous descendants of mission captives demonstrate the crumbling instability of the mission system's hold. In the past year, statues and monuments to Junípero Serra were torn down as part of the upswell of international resistance to statues and monuments depicting key figures and symbols of white supremacy, conquest, and genocide around the world. Due to more than a century of persistent Indigenous organizing and activism to repatriate and return the UC's stolen Indigenous human remains, the hold of the UC's Anthropology Department is crumbling as well. Not only have Indigenous peoples succeeded in pushing the UC to return tens of thousands of their ancestors' human remains that the UC had stolen and held captive, but even the current Chair of the Anthropology Department has called for the renaming of the Alfred Kroeber building in which it is housed, in recognition of the horrific violence and terrorism perpetrated by Kroeber and the Department as a whole in its production of anthropological research. While the Chair's actions do not equate any kind of actual justice or healing, it nonetheless demonstrates a significant shift towards a new direction.

⁹³ John Dwinelle, *The Colonial History of the City of San Francisco : Being a Synthetic Argument in the District Court of the United States for the Northern District of California, for Four Square Leagues of Land Claimed by That City* (San Francisco: Printed by Towne & Bacon, 1863), 87.

⁹⁴ As of May 2022, these charges are still being prosecuted by the Marin County District Attorney, Lori Frugoli.

⁹⁵ Some of the material in the concluding paragraphs has been previously published in the “West Berkeley Shellmound Statement of Solidarity with the IP5”, authored by Erin Gray, Savannah Kilner, and Claire Urbanski.

⁹⁶ In California, several more statues of Junípero Serra were toppled across the state in the months prior to and following the 2020 toppling of the Serra statue in San Rafael.

⁹⁷ “San Francisco Archbishop Prays God Will ‘Purify’ Site of Toppled Statue,” *The Tablet* (blog), October 21, 2020, <https://thetablet.org/san-francisco-archbishop-prays-god-will-purify-site-of-toppled-statue/>.

⁹⁸ This is exemplified by California Governor Gavin Newsom’s 2019 formal apology to California Indigenous peoples for the state’s “atrocious actions” and genocide. While I do not mean to downplay the significance and importance of Newsom’s apology, especially in that he verbally acknowledged that the state committed genocide, the apology came without any form of material action (such as the return of any amount of the stolen Indigenous lands in U.S. possession or any form of reparations for the U.S.’s enslavement of Indigenous peoples). See: Debra Utacia Krol, “California Governor Apologizes to California Indians - Indian Country Today,” accessed June 29, 2020, <https://indiancountrytoday.com/news/california-governor-apologizes-to-california-indians?redir=1>.

⁹⁹ Missing from this dissertation is what is likely the most critical linkage between the economy of the mission system and the contemporary colonial capitalist economy of California today. Through the scholarship of Caitlin Keliiaa, I am now aware of the California Bay Area ‘outing programs’ that, as an extension of state boarding school policy, contracted Indigenous women and girls to work as domestic laborers in private settler homes during the twentieth century. This exploited Indigenous women and girls labor market emerges out of the gendered structures of the mission system’s enslaved labor economy.

¹⁰⁰ Aileen Moreton-Robinson, *The White Possessive*, 14.

Chapter 3

In Defense of the Sacred:

Property is Desecration, Life is Indigenous Lands Returned

“All of these things that the United States tries to do to squash us have not worked. It’s failed. We still know who we are. We still know how to pray in our own way. We still know where our sacred sites are. And we know how to bring back our language.”

- Corrina Gould, Confederated Villages of Lisjan

“You say you have your burial rights to protect. Well, we have our zoning rights to preserve, too.”¹

- City of Sausalito Councilwoman Violeta Autumn

In April of 2021, the State of California Supreme Court granted full approval for construction to begin of a new luxury condo-retail complex on the site of what is a 5,700-year-old Ohlone sacred site and burial ground known as the West Berkeley Shellmound. Shellmounds are the ancient sacred sites and ancestral burial grounds of the Ohlone peoples, whose homelands are presently occupied by the California San Francisco Bay Area.² The West Berkeley Shellmound is one of the oldest of the 425 known Ohlone shellmounds, radiocarbon dated to 5,700 years in age, and estimated to have once measured 30 feet in height with a diameter stretching to 300 feet.³ Shellmounds are the sacred sites and ancestral burial grounds of the first inhabitants of Berkeley and the greater San Francisco Bay Area, the Ohlone peoples. These

ancient sacred sites, hundreds of which once ringed the San Francisco bay, are deeply significant community gathering places, where Ohlone peoples have held ceremonies, meetings, and celebrations for thousands of years and have been laid to rest over millennia.³ Despite the West Berkeley Shellmound (WBS) being a City of Berkeley landmark and despite being named in 2020 as 1 of the 11 most endangered historic places in the United States by the National Trust for Historic Preservation, the California Supreme Court ruled in favor of the housing development, on the grounds that “any remnants of the shellmound disappeared long ago.”⁴ But the remnants of the WBS did not disappear, they were systematically destroyed by Berkeley settlers for the past 170 years.

Since U.S. invasion and colonization of what is known as California, the shellmounds have been almost entirely destroyed by U.S. settlers. The WBS was destroyed for use as fertilizer and chicken feed for settler farms, as grading material to construct Berkeley’s first roads, and as pavement for Berkeley’s tennis courts. Today, only a few of the 425 known shellmounds are still visible aboveground. However, some of the shellmounds remain semi-intact below ground, including the West Berkeley Shellmound, whose subterranean remains are located beneath Berkeley’s ‘Fourth Street’ upscale shopping and dining district. Paving over what is widely considered to be the heart of the WBS - and its only remaining undeveloped portion – is a parking lot owned by three Berkeley families: the Spengers, Rueggs, and Ellsworths. Due to the construction of the parking lot in the 1970s, these subterranean remains of the WBS have been unintentionally preserved for the past

fifty years. Since 2014, a band of Ohlone people known as the Confederated Villages of Lisjan have been contesting the development proposal, as its construction would entirely desecrate and irreparably destroy what remains of the WBS.

After Berkeley denied fast-track approval to the developers in 2018 via California Senate Bill 35 – which allows developments with 50% or more affordable housing to bypass local city governance protocol – the three families sued the City of Berkeley, ultimately resulting in the 2021 Supreme Court decision that the City of Berkeley had “wrongfully denied a property owner its statutory and constitutional right to proceed with an affordable housing development.”⁵ In the 3-0 ruling, Justice J. Anthony Kline said that, as the City of Berkeley local government has historically failed to meet the housing needs of the area, it “must approve multifamily residential projects in properly zoned urban areas,” unless the development “would require the demolition of a historic structure,” but Kline determined this was not the case for the WBS site: “There is no evidence in the record that the shellmound is now present on the project site in a state that could reasonably be viewed as an existing structure, nor even remnants recognizable as part of a structure.”⁶ In other words, according to the California Supreme Court, the Ohlone West Berkeley Shellmound sacred site does not warrant preservation or protection because whatever historical, cultural, or sacred significance it once held has since been destroyed by California settlement.

Because of the severity of the devastation and destruction of the WBS by California settlers, California settler law maintains that Ohlone peoples hold no legitimate claims to this Ohlone sacred site. What this means is that settler colonial

deseccration of this Ohlone sacred site is precisely what now warrants its further deseccration and total destruction. Under California property law, it is settler colonial deseccration of the WBS site that nullifies the legitimacy of its existence. Given that the city of Berkeley was quite literally built with the human remains of Ohlone ancestors and the remains of this sacred site and, given that it was these same settlers who destroyed the Ohlone shellmounds that then also built California's legal structures, the role of deseccration in the formation and reproduction of California property law comes into question. How are modern U.S. property systems formed through the deseccration of Indigenous sacred sites? How does deseccration reinforce and reaffirm settler rights of property? How might modern property law require such acts of deseccration?

In this chapter, I consider how modern U.S. property systems have been distinctly shaped through settler deseccrations of Indigenous sacred sites (specifically of sacred burial grounds). California property law is formed and shaped through settler interactions with Indigenous sacred burial grounds. Primarily focusing on the occupied Ohlone homelands known as the San Francisco Bay Area, I look to examples such as the West Berkeley Shellmound case to demonstrate how the deseccration of Indigenous sacred sites is a core function of colonial modern property systems in both the state of California and the United States overall. I analyze the particular protocol, processes, rituals and performances enacted by settler government and settler citizenry in its encounters with Indigenous burial grounds and human remains as processes of California property systems. In each case, I demonstrate how

the presence of Indigenous gravesites is used strategically by property developers, property owners, and settler citizens to manipulate property law towards their desired outcomes. Furthermore, I show how California property law has continuously been adapted and revised through these violent and destructive ‘encounters’ with the human remains of Indigenous dead.

In turn, I look to the example of the Sogorea Te’ Land Trust (STLT), an urban Indigenous women-led land trust in Oakland/Huchiun to consider the ways in which Indigenous activists strategically navigate, manipulate, and disrupt settler property law in the context of their greater efforts to return and protect Indigenous lands and life. These Indigenous strategies to reclaim stewardship of land far exceed a dialectical relation with the settler state. Instead, I recognize that the vastly complex and varied modes extending across generations by which Indigenous peoples continue to defend, protect, and reclaim the sacred, are beyond detection and comprehension by the colonial world.⁷

Through the imposition of property title systems, settler colonizers did not merely reorganize property relations, “they did not simply steal a stable, empirical object called ‘land’ from Indigenous peoples. Rather, as they transferred control over the land, they also recoded its meaning, rendering it a relatively abstract legal entity [...] dispossession created an object in the very act of appropriating it: making and taking were fused.”⁸ The transformation of land into property (thinking with Leanne Betasamosake Simpson, Mishuana Goeman, and Joanne Barker’s conceptualizations of land made territory made property) refers to the world-making project of colonial

capitalist relations, in which all ways of relating to and knowing the world are rendered into things which can be possessed, and from which value can be derived.⁹ In this process, all other ways of life, of being, of knowing, are devalued, submerged, and even destroyed. To render land into property is the violent dispossession and transformation of life.

In turn, Indigenous movements to protect the sacred and to return/rematriate Indigenous lands reject, resist, and refuse the possessive extractive logics of colonial capitalism, and are defending and cultivating other ways of relating to and with the earth. Groups like the Sogorea Te' Land Trust are creating and cultivating ways of life on Ohlone homelands that rupture relations of property, that unmake and dismantle the “proprietary logics of dispossession” so characteristic to colonial capitalist life.¹⁰ While Indigenous land stewardship models emerge from, and are grounded in, historical Indigenous knowledges and relationships, they are expansively inclusive in that they offer collective pathways towards otherwise ways of life on earth.

Ohlone Shellmounds & California Settler Invasion

Traditionally, Ohlone shellmounds served as “special gathering [places] for meetings, rituals, dancing, and singing” as well as “for holding mortuary ceremonies when people died.”¹¹ The construction of a shellmound happened gradually over generations, a process reflecting lifeways and relationalities that are entirely inconceivable to Western ontological frameworks. They are composed of the matter of life and of life’s regenerative cycles, containing the burial places (and human

remains) of Ohlone ancestors, as well as ceremonial objects, ash, shells, and other materials.¹² As Corrina Gould has described: “Shellmounds are the burial sites of our ancestors. They are not just village sites, but they are always burial sites. There are some villages that didn’t have burials, but all the shellmounds are burial sites. And as the years and centuries went by, these mounds became huge. They became monuments to the people that lived here in the Bay Area.”¹³ Today, despite the tremendous loss and devastation caused by the violence of Spanish, Mexican, and U.S. colonization over the past 250 years, the West Berkeley Shellmound continues to serve as a community gathering place for meetings, ceremonies, prayers, celebrations, and mourning for Ohlone peoples and Bay Area Indigenous community. Furthermore, the WBS continues to be a major site of community-building across colonial difference, as the struggle to protect the West Berkeley Shellmound continues to grow relations of solidarity and care with communities in struggle around the world.

The WBS along with the other 424 known Ohlone shellmounds have been desecrated, disturbed, pilfered and destroyed by settler-colonizers since U.S. settlers first began to invade California.¹⁴ With the U.S. Gold Rush invasion of Ohlone homelands, the shellmounds were quickly destroyed by rapacious settler greed. U.S. settlers began developing the West Berkeley Shellmound and surrounding area in the 1850s, with the opening of the Pioneer Starch and Grist Mill, followed by the construction of the Central Pacific Railroad in the 1860s. With the completion of the transcontinental railroad in 1869 and the establishment of the University of California

in 1868 (whereupon the Regents authoritatively renamed the area ‘Berkeley’), large amounts of settlers began invading and developing the land. Documented as early as 1853, U.S. settler-colonizers removed the above-ground portion of the WBS by the wagonload, using the material as fertilizer, chicken feed, and as pavement for roads, highways, private residential pathways, and tennis courts, for which the shellmound material was particularly prized for the ‘extra bounce’ it gave. All of the shellmounds were subjected to ransacking by settlers, who took human skulls, bones, and cultural artifacts as trophies for personal collections.¹⁵ By 1909, when University of California anthropologist Nels C. Nelson concluded his mapping of the 425 known shellmounds, he reported that, “not a single mound of any size [was] left in its absolutely pristine condition.”¹⁶ Beginning as early as 1902, the West Berkeley Shellmound was subjected to extensive archaeological excavation by the University of California (UC) over the next fifty-eight years.¹⁷ With the enthusiastic funding of Phoebe A. Hearst, UC anthropologists then undertook the systematic excavation of the shellmounds, until the 1950s, when the last intact portion of the WBS was razed to ground level after the largest of the University of California’s archaeological digs concluded at its site.¹⁸



Figure 2: San Francisco Call, Volume 105, Number 130, 9 April 1909

Today, the remains of the West Berkeley Shellmound are paved over by a parking lot in the center of Berkeley's upscale 'Fourth Street' shopping and dining district. Due to the construction of the parking lot in the 1970s, the remains of the WBS have been preserved for the past fifty years. This parking lot is owned by two Berkeley families: the Ellsworths and the Rueggs.¹⁹ Since at least 1999, the families have contested the existence of the West Berkeley Shellmound within the boundaries of the parking lot property. The boundaries of the WBS have been on colonial record since 1904, when Nels C. Nelson completed mapping of the WBS, which he then amended in 1909 to account for occupational debris found outside of the previously

determined boundaries.²⁰ These boundaries were challenged ninety years later by the Ellsworth family, after the West Berkeley Shellmound was submitted for historical landmark status by the Berkeley Landmark Preservation Commission.

In January of 2000, the WBS was legally made a City of Berkeley landmark, after City staff had failed to schedule the appeal hearing before the 30-day deadline.²¹ In response, according to local media coverage, property owners “cried injustice, and the mayor called the action unfair.”²² Business owners opposed the decision, arguing that there was no evidence of the shellmound under their properties and that “being part of a landmark would hinder their operations,” due to the requirement that property owners get City approval for most new developments on landmarked sites.²³ However, the City stated in a 2001 court filing that they had no intention of prohibiting building on the landmarked area and would only require additional review to “ensure care was taken with any development.”²⁴

Dana Ellsworth, argued against the landmark status on the grounds that the WBS cannot be seen, stating in a 2000 *SF Gate* article: “Buildings are the usual targets of the law, which requires approval of the landmarks commission for changes to the landmark...The mound is no longer a mound, and its remains lie buried beneath a largely flat terrain of streets, buildings, parking lots and railroad tracks.”²⁵ Ellsworth contested the boundaries of the WBS again in 2014, in anticipation of developer West Berkeley Investors (WBI) submitting a proposal to build a five-story luxury condo-retail complex, with 155 apartments, 30,000 square feet of stores and restaurants, and a six-level parking garage on the site of the West Berkeley

Shellmound.²⁶ What ensued was an eight year legal battle, culminating in the California Supreme Court's ruling in 2021 (and its subsequent rejection to hear an appeal on the decision).

The core of the argument taken up by WBI and the property owners has been that the West Berkeley Shellmound does not actually exist within the boundaries of the parking lot property. Using a hired archaeological firm, Archeo-Tech, the WBI-Ellsworth team argued that Nelson's 1909 mapping of the West Berkeley shellmound had been incorrectly determined due to the majority of the shellmound having been destroyed and spread around the city. According to Archeo-Tech, much of the WBS material had been "carted away during development" and "was scattered throughout the surrounding area" therefore making it "difficult to determine whether encountered cultural material is in situ or redeposited."²⁷ Rather than such information warranting greater protection of the WBS site, given the uncertainty of where such sensitive materials may be located, Archeo-Tech, the developers, property owners, and the Supreme Court determined it nullified any grounds for protection.

Furthermore, the WBI-Ellsworth team argued that – whatever the boundaries of the WBS may have once been, they are now insignificant, as the shellmound itself *no longer exists*. According to the logic of the WBI-Ellsworth team and California Supreme Court, the WBS site does not warrant historical landmark protection because it has been so thoroughly destroyed (or rather, "disappeared") that any significance it may have once held – historical, cultural, or religious – has been eradicated along with it. If the material has already been disturbed and 'redeposited' from its original

resting place, then the material is no longer considered historically significant and thus, does not warrant special protection.

In a 2014 *Berkeleyside* article, Ellsworth argued against the WBS's landmark status by stating that "anyone walking past the site today would have no sense of its prehistory...the parking lot as it stands does not indicate anything to visitors about the history of the area."²⁸ What constitutes a legitimate historical landmark, according to Berkeley city residents and officials, is reflected by the numerous Berkeley landmarks that surround the WBS, including the Spenger family restaurant, Spenger's Fresh Fish Grotto, the original 'Spenger family cottage', and even the Spenger's restaurant sign.²⁹ Their value as historical landmarks seems to be self-evident to Berkeley residents, the need for their protective status and preservation being justified simply in that the restaurant "dates back to 1892."³⁰ What makes a site worthy of preservation and protection, then, is its significance to *settler* narratives of their own histories. The criteria for what constitutes a legitimate landmark is legally defined to exclude Indigenous sites of significance, while settler desecration of Indigenous sacred sites ensures the Indigenous claims remain a non-issue into the future.

Desecration as Property

In his groundbreaking 1972 text, *God Is Red*, Lakota philosopher Vine Deloria Jr. argues that one of the most significant differences between Western and Indigenous metaphysics is the centrality of land to Indigenous modes of being, thought, and ethics.³¹ American Indians hold their lands – places – as having the

highest possible meaning, and all their statements are made with this reference point in mind.”³² In *Red Skin, White Masks*, Glen Coulthard expounds that Deloria Jr. “does not simply intend to reiterate the rather obvious observation that most Indigenous societies hold a strong attachment to their homelands, but is instead attempting to explicate the position that land occupies as an ontological framework for understanding *relationships*. Seen in this light, it is a profound misunderstanding to think of land or place as simply some material object of profound importance to Indigenous cultures (although it is this too); instead, it ought to be understood as a field of ‘relationships of things to each other.’”³³

In turn, Deloria Jr. argues that Western Christian ontology is temporally driven, and centers narratives of historical, developmental, linear, progress-oriented time. Deloria proposes that Western knowledge lost its ‘sacredness’ as it became unmoored from space, as holding a sacred center at a particular place enables the people to “relate all historical events within the confines of this particular land, and to accept responsibility for it.”³⁴ Instead, Deloria argues that the West resolved the issue of its territorial dislocation by secularizing itself, “[i]nstead of working toward the Kingdom of God on Earth, history becomes the story of a particular race fulfilling its manifest destiny.”³⁵

U.S. property law is based in English common-law notions of ownership, whose primary objective is “to displace the concept of the prior, and prior ownership, from the juridical sphere.”³⁶ English and American colonizers legitimized their theft of Indigenous lands through the doctrine of *terra nullius* (meaning ‘land belonging to

no one') as a legal mechanism used to establish rights to uninhabited, vacant lands. Of course, these lands were not vacant, they were very much inhabited by Indigenous peoples and have been for thousands of years. U.S. and English settler-colonizers defined and determined ownership of land according to their own notions of land cultivation and use. English conceptions of the 'proper use' of land is the exploitation of land's resources for maximum economic production. Because Indigenous peoples did not relate to land as an abstracted resource to be exploited for economic gain, Anglo colonizers justified that the land was not being used, and thus was unclaimed. They categorized Indigenous inhabitants as sub-human, belonging to the untamed, uninhabited wilderness of empty, unclaimed lands. By Using political and legal narratives that affirmed and centered such notions of ownership as "the sine qua non of civilized life and progress" Anglo colonizers justified the dispossession of Indigenous homelands.³⁷

In her critical work on colonial property law, Brenna Bhandar explains how, in the nineteenth century, modern systems of property "emerged in conjunction with racial thinking that relegated Indigenous people to the margins of civility and deprived them of the status required to be owners of their land."³⁸ Bhandar locates the basis for the co-emergence of modern property law and scientific racism within the shared logic of taxonomy, and the drive to measure, categorize, and order the natural world. The colonization of land and life is facilitated by interpreting and reducing the world into issues of measurement. Through surveying and mapping, land is rearticulated "in entirely different terms (temporally, spatially, and materially) from

what existed prior to the mapping exercise.”³⁹ Through the ordering and arranging of space into lines and grids, land can be quantified, measured, and abstracted into empty, fungible, commodifiable units to buy, sell, or trade. In this way, all land in the world is reduced into a thing, an object; all land in the world is standardized and made the same, meaning that European property systems could be applied and implemented anywhere. The abstraction of land into an empty, fungible commodity erases and severs all prior and non-property relationships with land through the reduction of land to its meaning on paper.

With societal conceptions of the world shifting to secular biological understandings, English and U.S. colonizers shifted their notions of property ownership to forming a more rational scientific basis, from which they could further legitimize their theft of Indigenous lands through the rational science of property law. For example, Bhandar describes how, in nineteenth century Australia, English colonizers imposed a ‘title by registration’ system, upheld as the only legitimate and rational system of property ownership. Quoting Alain Pottage, “Registration extracted land from the network of relations and understandings which formed the ‘local knowledge’ of different communities, relocated it on an abstract geometric map, and deciphered it according to a highly conventionalized topographic code.”⁴⁰ By doing so, English colonizers “radically [negated] what was there before” so that Indigenous claims to land were rendered irrelevant and irrational.⁴¹

In addition to the abstraction of land into property, Indigenous dispossession was also facilitated by using modern scientific paradigms to provide a rational

scientific basis for policies of containment, displacement, and extermination. In the nineteenth century, scientific methods of measurement and quantification were increasingly used to theorize and affix racial inferiority within the biological world.⁴² By classifying human societies into systems of representation that could then be evaluated, measured, and ranked according to standardized sets of criteria, Indigenous dispossession was rationalized by ranking Indigenous peoples as subhuman, prehistoric, and as belonging outside of the modern present. The figure of ‘the Indian’ – as prehistoric, premodern, and primitive – thus represented the adverse of the modern civilized world. As the embodiment of ‘savagery,’ the figure of ‘the Indian’ embodied all that civilization must guard itself against.

The vision for the United States was grounded in liberal ideals of property ownership as “the measure and condition of liberty, freedom, and democracy.”⁴³ The so-called Founding Fathers believed that “government is instituted no less for the protection of property than of the persons of individuals,” declaring that every white male settler citizen would have “life, liberty, and the pursuit of happiness” (as revised from John Locke’s “life, liberty, and property”).⁴⁴ “Property must be secured or liberty cannot exist,” said John Adams, “[t]he moment the idea is admitted into society that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence.”⁴⁵ The founders believed that democracy was achieved by upholding the sacred rights of property, for, as Thomas Jefferson believed, “it was the very act of ownership that created the conditions that allowed democracy to exist.”⁴⁶ Fundamental to the rights

of property is the *security* of one's ownership. As Bhandar writes, "[t]he expectation of being able to use and exploit one's property hinges on [the] ability to be free from the imposition of others' interests...the law must protect the owner from the needs of others and work to diminish the fear of loss by any other means."⁴⁷

The modern liberal state derives legitimacy to authority by protecting the security of ownership via the enforcement of property law. According to Bhandar, "[t]he fear of losing one's property arguably functions as an expression of a fear of losing civilization altogether. Savagery, defined by the lack of respect for property law, is that which property law must guard itself against."⁴⁸ In this light, Indigenous land claims are an affront to the progress of civilization – and to freedom itself.

In the nineteenth century, the U.S. conquest of California deployed a discourse of elimination, wherein Indigenous peoples had to be eradicated for the common good, which was defined as the spread of United States empire. Settler notions of "the irredeemable Savage" as "abject and capable of expulsion" accompanied settler desires for Indigenous lands "as free of encumbrance, malleable and capable of being shaped into a new commodity form."⁴⁹ During the Gold Rush invasion of California, the State of California implemented a 'war of extermination' in order to clear the land of Indigenous peoples and open them up for settlement. In 1851, the first Governor of California, Peter Burnett, declared:

The love of fame, as well as the love of property, are common to all men; and war and theft are established customs among the Indian races generally, as they are among all poor and savage tribes of men, as a means to attain to the one, and to procure a supply of the other. When brought into contact with a civilized race of men, they readily learn the use of their implements and manufactures, but they do

not readily learn the art of *making* them. To learn the use of new comforts and conveniences, which are vastly superior to the old, is but the work of a day; but to acquire a knowledge of the arts and sciences, is the work of generations. Like the people of all thinly populated but fertile countries, who are enabled to supply the simplest wants of Nature from the spontaneous productions of the earth, they are...exceedingly adverse to manual labor. While the white man attaches but little value to small articles...he throws in the way of the Indian that which is esteemed by him a great temptation and a great prize; and as he cannot make the article himself, and thinks he must have it, he finds theft the most ready and certain mode to obtain it...The white man, to whom time is money, and who labors hard all day to create the comforts of life, cannot sit up all night to watch his property; and after being robbed a few times, he becomes desperate, and resolves upon a war of extermination...That a war of extermination will continue to be waged between the races until the Indian race becomes extinct must be expected...the inevitable destiny of the race is beyond the power or wisdom of man to avert.”⁵⁰

The state and federal governments facilitated and institutionalized Indigenous genocide in California in order to eradicate the threat they posed to white security of ownership over Indigenous lands. In this way, Indigenous extermination was foundational to California property law and the formation of its property systems.

Following the Gold Rush invasion and ‘war of extermination,’ as many Ohlone and other Indigenous peoples had to go underground in order to survive, settler-colonizers undertook the particularly aggressive and enthusiastic desecration of the shellmounds. As described earlier in this chapter, settlers demolished the West Berkeley Shellmound for use as construction material; quite literally paving the streets of Berkeley with Ohlone human remains.

With the end of the Gold Rush, what had been motivated by the promise of California as the ‘last frontier,’ the industrial development of California symbolized

to settlers the finality of the modern era and the loss of the previous world. Whereas the extermination wars targeted what Philip Deloria conceptualizes as the figure of an “aggressive exterior Indian Other” (used to justify the theft of Indigenous lands), the post-Gold Rush California romanticized the figure of a ‘noble interior Indian’ that represented the authenticity and purity of the natural world. By identifying with this ‘interior Indianness,’ settlers enacted a sense of belonging to Indigenous lands.⁵¹ As Kevin Bruyneel describes, “[w]ith the dawn of industrialization and urbanization in the late nineteenth and early twentieth centuries in the United States, Indigenous identity provided Americans a means of maintaining authenticity as a people of this land. As socioeconomic transformations brought the pressures of modernity to Americans, they drew sustenance from the ‘noble’ figure of the Indian now outside the boundaries, representing ‘authenticity and natural purity.’”⁵²

As the turn of the twentieth century loomed near, settler cultural production exhibited a nostalgic romanticism for a pure, natural wilderness, symbolized through the figure of the ‘noble Indian.’ Iyko Day argues that the aesthetic movement that emerged in the nineteenth century exhibits “a biologized worldview in its human (and often racial and national) identification with the purity of the natural world, portrayed as the valorized antithesis to the negative influences of urbanization and industrialization.”⁵³ Settler romanticism and identification with ‘authentic Indians’ informed a surging interest in the scientific study of Indigenous peoples. California was spotlighted as a critical hotspot for anthropological investigation, as it was host to “the last vestiges of a dying race.”⁵⁴ In his appeal to the UC Regents to form an

anthropology department, Franz Boas pressed that, “all these tribes are on the verge of extinction...it is only a question of a very few years when their languages, and with them their traditions and the records of their customs, will have disappeared.”⁵⁵

In a report soliciting funding for the UC Anthropology Dept., Frances Ward Putnam wrote, “The University is by this survey carrying on a research of great importance in obtaining a knowledge of the first peopling of the Pacific Coast...a research that is required by anthropologists and by all interested in the early history of man.”⁵⁶

With the enthusiastic financing of Phoebe A. Hearst, the UC’s newly opened Department of Anthropology meticulously undertook the systematic excavation of the shellmounds. According to their logic, this salvage work was urgently necessary in order to ‘capture’ what remained of California’s ‘early man,’ as soon the shellmounds would be lost to the advancement of Western economic progress and industry. Yet, at the same time, this ‘salvage’ work informed both public and legal conceptions of what constituted the ‘proper use’ of Indigenous burial grounds. With the discursive production of Indigenous peoples as a vanishing race of scientific value, the ‘proper use’ of Indigenous burial grounds shifted through the production of scientific knowledge as ‘salvage ethnography.’ This is evidenced by the passage of the 1906 Antiquities Act, which legally rendered all Indigenous burial grounds, human remains, sacred objects, and other cultural materials located on federal lands into property belonging to the U.S. government. The intent of the law was to discourage looting of Indigenous burial grounds by non-scientists, as settlers dug up Indigenous bones and cultural artifacts to sell on what had become a very lucrative market. The

Antiquities Act legally designated the ‘proper use’ of Indigenous burial grounds to be preserved as scientific resources.

Through archaeological excavation, scientific study, and museum display, the UC’s Department of Anthropology abstracted the remains of Indigenous dead into scientific objects, while designating the ‘proper use’ of Indigenous burial ground lands as that of protection and preservation for future scientific study and extraction. Furthermore, by digging into the ground and physically removing the remains of the dead as the proper objects of scientific study, this further effaces the sacred significance of a particular place to a particular people, affirming the abstraction of land into property. By detaching and extracting the relationship between Indigenous human remains and the specific place in which they rest – as being one in the same – anthropologists uprooted Indigenous human remains from a spatial relation with place to a temporal relation. Anthropologists used Indigenous human remains to invalidate the possibility of Indigenous land claims by displacing Indigenous presence into a temporal past, from which settler occupants – as legitimate inheritors of this past – can enact belonging to Indigenous lands.

By upholding the ‘proper use’ of Indigenous burial grounds as that of scientific research, the University of California paved the way for subsequent authorizations of the proper use of Indigenous burial grounds. In 1925, anthropologist W. Egbert Schenk conducted the UC’s last excavation of the Emeryville Shellmound. By this time, UC anthropologists had removed over 700 bodies from the Emeryville Shellmound and relocated their interests elsewhere. Schenk’s final dig marked the

conclusion of the UC Anthropology Department's interest in shellmound excavation (at least for the time being). This conclusion came as the result of the Department's determination that Ohlone culture had "remained static for 3500 to 4000 years," meaning, in other words, that the Ohlone occupied a *dead* space within Man's evolutionary progress through historical time. The UC Anthropology Dept. therefore concluded that any future archaeological excavation work would provide "so little of positive value" that it was not worth the expense of any additional funding and departmental resources.⁵⁷

Following the University of California's devaluation of the shellmounds and the Ohlone peoples buried there, the Emeryville Shellmound was fully razed to the ground, clearing the way for construction of a paint processing factory. For forty-seven years, the Paraffin Paint or 'Pabco' manufacturing plant operated on the site of the Emeryville Shellmound, until its closure in 1972. Following the plant's closure, the Emeryville Shellmound was used as a toxic waste dump for the now abandoned paint factory. In the late 1990s, following the City of Emeryville's approval to construct a massive outdoor mall in place of the abandoned Paraffin Paint plant, cleanup work was begun to remove toxic waste. By this time, the Emeryville Shellmound site had become a "toxic soup," as construction workers described finding "bones rubberized by exposure to arsenic-laced goo," as they dug deeper into the toxic mess.⁵⁸ Throughout the construction of the Bay Street Mall, the remains of about 1,000 bodies were removed. Some were taken along with the surrounding hazardous waste to be incinerated at a toxic waste facility in Texas, while the rest

were removed and reburied in a mass grave at an undisclosed location of the Bay Street Mall, rumored to be located beneath the parking lot behind a Victoria's Secret store.

Previously, the authoritative determination made by UC scientists of the shellmounds and Ohlone human remains as valuable scientific resources translated into settler societal participation in the collection of Ohlone human remains and the desecration of Ohlone shellmounds by means of scientific excavation. Once UC scientists lost interest in the shellmounds and Ohlone human remains, in that they no longer held 'productive value' in the form of scientific knowledge, the 'proper use' of the shellmounds was then authoritatively determined to be that of waste. This immediately translated into, for example, the bulldozing of the Emeryville Shellmound for industrial development and, later on, as the dumping grounds for industrial waste.

Anthropologists had always determined the shellmounds to be waste sites. From their very first investigations of the Bay Area shellmounds, anthropologists identified shellmounds as being giant 'garbage heaps.' The anthropological term used to describe shellmounds, *midden*, originates from the Middle English word *midding*, meaning 'dung hill'.⁵⁹ In his 1965 text, "The Archeology of San Francisco," Robert Suggs described the Emeryville Shellmound as being "in fact, little more than a huge garbage heap," adding as an afterthought that "burials were also made in the discarded shells and debris."⁶⁰ While significant challenges and shifts have since occurred in anthropological research of California, the term *middens* is still

commonly used by anthropologists and persists in the public imagination. In 2014 and 2015, a local news source reporting on the WBS legal battle described the West Berkeley Shellmound as having once been, “a hill-sized pile of shells, bones, tools, soil and even skeletons...made by the primitive peoples who settled near creeks ... [by] discarding the shells and other left-overs of daily life in piles that grew substantially through the centuries;” and again as a “30-foot-high hill of discarded shells, bones and other debris from years of Ohlone activity,” noting as an afterthought that “the mounds also served as burial sites.”⁶¹ Terms like *discarded* and *debris* continue to animate popular imaginings of the shellmounds – and of the Ohlone ancestors buried there – as waste sites. Specifically, by describing Ohlone construction of the shellmounds through language like *discarded* and *debris*, this implies that Ohlone peoples themselves regarded the shellmounds as waste sites. Through the use of such terms, settler society (re)produces narratives of its own innocence. In this way, settler society can absolve itself from bearing any responsibility to the continued devastation of the shellmounds.

The temporal displacement of Indigenous human remains by anthropologists continues to resonate across time. Desecration begets more desecration. Desecration justifies further desecration in the future. In this sense, desecration is an inherent logic of U.S. property systems. In *Theft is Property!*, Robert Nichols details how the United States generated the conditions of its own possibility through the systemic theft of Indigenous lands followed by the retroactive application of legality to its own actions.⁶² As “there is no prior law that can validate founding itself,” Nichols

describes how the United States relied upon measures of illegality and extralegality to steal and acquire Indigenous lands, applying myth-narratives of ‘rationality’ to generate and affirm the legality of its acquisitions.⁶³ Throughout this systemic land theft, Nichols identifies a recursive mechanism at work in U.S. legal structures, through which the U.S. redeems the validity of the conditions that produced its founding by retroactively creating and applying the legality required to justify its massive land theft. The legal structures generated through the theft of Indigenous lands then function in a manner which Nichols describes as a ‘feedback loop,’ as “each iteration is not simply a repetition of the last but builds upon or augments its original postulate.”⁶⁴

For example, Nichols describes how, through the Intrusion Act of 1807, the U.S. used measures of illegality and extralegality to expand its territorial claims through acts of illegal squatting: “These were squatters beyond the territorial bounds of the United States but nevertheless (and somewhat inexplicably) within the reach of the law...Whereas squatters on recognized and claimed U.S. public lands are clearly located within a sphere of illegality—itsself readily cognizable and justiciable by the law—squatters beyond the territorial bounds of the extant state are in a space of extralegality. Their activities are ‘outside’ U.S. law but not necessarily in conflict with it.”⁶⁵ Nichols explains that, here, the slippage between illegality and extralegality is “productive and integral to the dispossessive process,” as the illegality and prohibition outlawing squatting on land not *yet* claimed as part of the United States then “presumptively figures these lands as awaiting incorporation, as potential

but not yet fully actualized public lands.” These lands, located outside the asserted territorial boundaries and jurisdiction of the United States, are in a sense already claimed by the United States, just at a “temporally earlier stage in the recursive process of legitimation by which public lands came to be subsumed beneath settler state law, since even the territory from which the law currently speaks (the settler metropole) is but a previous era’s quasi-legal frontier lands that have been retroactively validated.”⁶⁶ In other words, each subsequent act of theft builds upon and grows its juridical structures, while strengthening the legitimacy of its originary claims to authority and Indigenous lands. This reflects a sort of ‘fake it ‘til you make it’ practice employed by the state, which acts as if “it is a source of publicly validated law until such time that it properly becomes one (a point on the horizon that is, of course, ever receding).”⁶⁷

The desecration of Indigenous sacred sites operates within modern U.S. property systems much like the recursive mechanism feedback loop that Nichols describes. Desecration (of Indigenous sacred sites/burial grounds) supports the abstraction of land into property by destroying and/or removing the remains of the dead and, thus, severing Indigenous relations between land and life, extracting the rootedness of Indigenous relations that are specific to that particular place. By discursively producing Indigenous human remains as objects of scientific property, desecration spatially and temporally displaces Indigenous life from the present and future, making the question of Indigenous land rights both irrelevant and irrational.

Desecration as dispossession secures settler claims to Indigenous lands and nullifies Indigenous land rights into the future.

Today, not only do Ohlone peoples hold no legal claims or rights to their sacred sites, but they also hold no legal claims or rights to *any* part of their homelands. In the San Francisco Bay Area (including San Jose, Santa Cruz, and surrounding suburbs), there are zero federally recognized tribes, while in the state of California, there are over one hundred tribes without federal recognition. In order to maintain its property and economic interests, the settler state must retain control over the number of recognized tribes in order to regulate and limit Indigenous land claims. This is especially true for California and the San Francisco Bay Area, where real estate market values are among the highest in the world. While the complexities of Federal Indian Law and Indigenous land rights in the state of California are too immense to adequately untangle in the space of this chapter, in what follows, I highlight major acts of U.S. legislature that demonstrate the irrevocability of Indigenous dispossession from U.S. property law.

In 1871, the United States ended all treaty relations with Indigenous nations, which Kevin Bruyneel argues marks a temporal shift into the modern era of U.S.-Indigenous relations. In the period following the American Civil War to the turn of the twentieth century, the United States aggressively asserted itself as a nation-empire and a sovereign authority by “drawing Indigenous communities further within U.S. boundaries without fully integrating them” and “[imposing] modern colonial rule over Indigenous nations and tribes.”⁶⁸ On March 3, 1871 an appropriations bill for the civil

administration of Indian affairs was passed which included a rider stating that “hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: *Provided further*, That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe.”⁶⁹ Bruyneel identifies this rider as representing “the discursive, legal, and institutional *imposition* of a time change,” demarcating the modern time from the archaic. “This colonial imposition demarcated that there would be no modern political time for Indigenous tribes and nations, and this action co-constitutively reaffirmed the modern development and the expanding ‘limits’ of the power and purview – the sovereignty – of the American nation and state ‘hereafter.’”⁷⁰

From 1887 to 1934, the United States “explicitly sought to break up communal landholdings and turn tribal citizens into individual private property holders.”⁷¹ Starting with the 1887 General Allotment Act (GAA) or Dawes Act, reservation lands were divided up into individual land holdings according to the number of enrolled males, who were each then allotted a percentage of each holding:

“To each head of a family, one-quarter of a section; To each single person over eighteen years of age, one-eighth of a section; To each orphan child under eighteen years of age, one-eighth of a section; and To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any

reservation, one-sixteenth of a section.”⁷²

Indigenous land claims were thus drastically reduced from what had been communal land holdings into individualized land holdings. The opened up vast amounts of ‘leftover’ lands that were then opened up to American settlers. “Agreements and executive orders based on the GAA framework broke up tribal communal property and transferred it by sale and homesteading to non-Indigenous Americans to such an extent that the total Indigenous territory decreased from 138 million acres in 1887 to about 48 million acres by 1934, when the allotment policy was brought to an official end.”⁷³ The breaking up of communal land holdings into individualized private property holdings bound Indigenous land claims to colonial structures of gender and heteropatriarchal private life, as well as to U.S. structures of tribal citizenship, as males were only eligible to receive a land allotment if they registered on a tribal ‘roll’ of a federally recognized tribe. The GAA “set out a process whereby after the ‘allottee’ has established ‘competency’ as a private property holder and a member of American society, the federal government’s role as a trustee ended, ‘the land became taxable and the allottee became a citizen.’”⁷⁴

The passage of the Indian Citizenship Act (ICA) in 1924 further limited Indigenous land claims by establishing “[t]hat all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: *Provided*, That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.”⁷⁵ What this did, in addition to “first conferring U.S. citizenship on

Indigenous people en masse,” was to then secure Indigenous rights to tribal property. As Bruyneel argues, “[t]he ICA codified what amounted to a form of dual citizenship for Indigenous people who maintained enrollment, and thus citizenship, in a tribe. Because property is held communally by tribes, Indigenous individuals had to be citizens of a tribe to have any right to tribal property. In stating that U.S. citizenship does not ‘affect the right of any Indian to tribal or other property,’ the ICA thus necessarily secured Indigenous claims to tribal citizenship in the very same act that conferred U.S. citizenship.”⁷⁶

Saidiya Hartman’s *Scenes of Subjection* evidences how liberal U.S. discourses of freedom, liberty, and equality “enable forms of subjection seemingly quite at odds with its declared principles, since they readily accommodate autonomy and domination, sovereignty and submission, and subordination and abstract equality. This can be attributed to the Lockean heritage of U.S. constitutionalism, which propounded an ideal of liberty founded in the sanctity of property, and the vision of liberty forwarded in the originary narrative of the U.S. constitution, which wed slavery and freedom in the founding of the nation and the engendering of ‘we the people.’”⁷⁷ As legal scholar Cheryl Harris argues in her seminal work on whiteness as a form of property in law, in the context of the United States, “[p]ossession – the act necessary to lay the basis for rights in property – was defined to include only the cultural practices of whites. This definition laid the foundation for the idea that whiteness - that which whites alone possess – is valuable and is property.”⁷⁸ Harris further explains that the theft of Indigenous lands “was ratified by bestowing and

‘acknowledging the property rights of whites in [Indigenous lands]. Only white possession and occupation of land was validated and therefore privileged as a basis for property rights.’”⁷⁹ Aileen Moreton-Robinson further argues that “the possessive logic of patriarchal white sovereignty was deployed in defining who was, and who was not, white, conferring privilege by identifying what legal entitlements accrued to those categorized as white. At the beginning of the twentieth century, this same logic was operative, making whiteness itself a visible form of property, particularly through immigration laws and those affecting Indigenous peoples.”⁸⁰

As Joanne Barker argues in *Native Acts*, “Into the myriad of social problems resulting from assimilation, the “Indian member” emerged to codify the legal status and rights of Native peoples not merely within federal but tribal law. This codification was deeply embedded within the discourses and ideologies of race, gender, and sexuality about what constituted a culturally authentic Native deserving of the unique legal status and rights reserved for Native peoples within the law.”⁸¹ In order to receive federal recognition status, Indigenous peoples are expected to represent U.S. notions of ‘Native cultural authenticity’ that are formed through colonial discourses of ‘Indianness.’ Barker describes, that the “tribe is made to occupy a decidedly pre-colonial, pre-history of cultural authenticity that allows the United States not only to locate its colonialism and imperialism in the past but to make it a kind of ideological precursor to being recognized in the present. The United States escapes the consequences of its own historical sins by having real Indians situated in a far distant past before colonialism and imperialism mattered and

embodying those cultures and identities today as though colonialism and imperialism have had no substantive or significant long-term consequences. Native peoples are confronted with the impossible task of representing *that* authenticity in order to secure their recognition and rights as sovereigns” (Barker, 35). By deploying recognition, the U.S. then “has realized itself as a fully democratic, humanist, and civil society, rendering historical violence and fraud against Native peoples an unfortunate aberration that the U.S. has evolved progressively past and that Natives just need to ‘get over.’”⁸² To further emphasize, the U.S. it is through this “holding back” of Indigenous political identity that the U.S. “mutually constituted the progress, rule, and rationality of the modern American liberal democratic settler-state.”⁸³

Settler Sausalito and Defense of Miwok Ancestors

In April of 1974, in the city of Sausalito, California, two human skeletons were found buried in shallow graves on a lot of private property owned by a local family. The bodies had been discovered shortly after the family tore down an old house that had sat on the property for seventy years, when the local fire chief (and self-proclaimed amateur archaeologist) dug around in the demolition site, looking for any artifacts that may have been unearthed from the ‘Indian’ burial ground that was well-known to be located there.⁸⁴ Upon discovering the bodies, the fire chief called in Sausalito officials and the Marin County Coroner, who determined the bodies to be of ‘Indian’ descent. According to local news coverage, such ‘discoveries’ of Native American burial sites were nothing new to this neighborhood, as evidenced by one

lifelong resident's description of growing up in the area, "we kids knew years ago where all the [Indian] bodies were buried, they were all over the place around [here]."85

Despite the normalcy of such an event, Sausalito city officials found themselves to be "in a bit of a quandary" regarding the proper protocol to be followed in this situation, for they had never before dealt with "Indian relics found on private property in the middle of a busy commercial neighborhood."⁸⁶ This appears to have been true for all of California, as after conducting extensive research and consultation with universities and government officials across the state, then city manager Pete McKenzie ended his investigation with only "inconclusive answers," determining that there was "no precedent for such a situation."⁸⁷ The 'quandary,' in this case, was due to the indeterminate zoning status of the property on which the bodies had been unearthed, which left the matter of responsibility for the burial grounds unclear. Sausalito residents and city officials intensely debated the matter of what should be done with the Miwok human remains, yet the reason for their passionate stances had nothing to do with respecting the dead; instead, their concerns were entirely about city zoning laws and property rights.

The property on which the Miwok ancestors had been disturbed was, at that time, residentially zoned. It had been recently purchased by a local family, the Elliot's, who had owned and operated their family-run laundry business on an adjacent, commercially zoned lot since 1903. In 1974, the Elliot's closed down the family laundromat after seventy-one years with plans to redevelop the site into a

commercial shopping and office complex. The Elliot's had purchased the residential property lot in order to construct a parking lot so as to meet the parking space requirements mandated by the City. Tearing down the old house on the property lot was their first step taken towards the construction of the parking lot.⁸⁸

Sausalito, along with the entire Marin County area, occupies the traditional homelands of the Coast Miwok and Pomo nations. The city of Sausalito was constructed directly atop the site of the largest ancient Miwok village, Liwanelowa. This was (and still is) common knowledge to many Sausalito settler residents. Despite the demolition being supervised by an archeologist because it was known that “[an] important Indian shellmound” existed in that location and that “possible historical relics” were likely to be found there, City officials were baffled with how to handle the situation.⁸⁹ “Right now,” said McKenzie, “I’m just trying to determine who is responsible for the burial ground and whether it should be excavated now or covered over and preserved for study at some later time.”⁹⁰

Prior to the passage of the 1976 Native American Historical Cultural and Sacred Sites Act, Native American human remains found on public property were legally made the responsibility of the City, whereas Native American human remains found on private property was designated the property of the property owner, who was not legally obligated to disclose the presence of the remains and could do with them as they pleased. In this case, the responsible party was unclear to city officials, as the property on which the bodies had been found, while zoned as residential, was surrounded by commercial zoning, as part of the city’s busiest commercial area.

Additionally, the Elliot's were in the process of amending the property's zoning designation from residential to commercial status, further muddling the appropriate protocol to be followed in this case. Given the shallow burial depth of the bodies and records confirming that the burial ground had been in use at least as recently as 1830, the city would have been in violation of a state moratorium on the "disturbance of any Indian burial area abandoned less than 200 years" by any public agency.⁹¹ Yet, the moratorium provided conflicting and unclear information, so that Sausalito's City Attorney argued that the City was not subject to the moratorium and held no legal obligations to the Miwok human remains.⁹² Whatever the case, the state moratorium did not apply to human remains found on private property, meaning that the Elliot family held no legal responsibility.⁹³ The Elliot family assured the city council that "if the city wishes to excavate the burial ground... any bones and artifacts found at the site will be the property of the city, which will be free to use them in any future Sausalito museum or historical exhibit."⁹⁴

For the City of Sausalito, debates about whether to excavate or preserve the Miwok graves was a matter of the land's 'proper use:' because the Elliot family held the paper title that affirmed and enforced their ownership of the land in which the Miwok ancestors were buried, and because the Elliot family intended to develop their property into a profitable commercial enterprise, their desires held highest precedence, while the Miwok bodies were regarded as either objects of potential value, or as obstacles blocking the property from profitable production. The Elliot's

right to create a revenue producing, profitable business on their property was of far greater higher purpose than respecting an Indigenous burial ground.

The Sausalito debates about what should be done with the Miwok remains are entirely about their potential to inhibit or facilitate settler economic and proprietorial interests. Sausalito officials, archaeologists, and property owners debated the best plan for (or use of) the human remains in accordance with their potential value. Councilwoman Sally Stanford “firmly opposed” excavation due to it being (what she considered) a waste of time and money, yet she “relented when she learned that the archaeological project would hasten” the time to clear the site and construct the parking lot that would service the Elliot’s planned commercial development.⁹⁵

According to local news coverage of the Elliot property case between the years 1974 and 1979, the only voiced concerns of Sausalito residents regarding the possible removal or preservation of the Miwok ancestors’ is in regard to their potential effect on city zoning law. In a June 1974 article on the City’s plans for the human remains, the *Marin Scope* reported that “some strong feeling has [been] expressed on the Council that commercial parking should not be allowed in what is otherwise a strictly residential neighborhood.”⁹⁶ In July of 1979, the same paper reported that local environmentalists and neighboring homeowners expressed heated opposition to preservation of the Miwok burials, as this plan would enable the Elliot’s to construct the parking lot and amend the property’s zoning status, which they argued would “set a precedent of residential lots being converted to parking lots to serve expanding commercial uses” and would develop the area into a “parking lot

row” of high-traffic congestion.⁹⁷ The bones are only related to as objects of property, ownership of which represented potential legal and fiscal outcomes.

No acknowledgement or mention is made of living Indigenous peoples in any of the news coverage or meeting minutes of the case, with the exception of one peripheral and passing comment made by a councilmember who expressed concern about potential upset and legal actions from Native Americans if the graves were dug up, a comment that was quickly brushed aside as a non-issue. In 1975, the first on-record acknowledgement of living Indigenous peoples in relation to the Elliot property case is made, after a seemingly abrupt appearance of “a group of young Indians” that halted a Sausalito City Council meeting in protest, in August of 1975.

As reported in the *Marin Scope*:

“Bowling to the eloquent pleas of a group of young Indians, the City Council backed down last Wednesday night on its plan to grant archaeological excavation rights [after] a group of young Indians entered the picture, many of them descendants of the people who inhabited Marin County and the north Pacific coast 500 or more years ago....They brought a whole new perspective to the parking lot controversy; one nobody had thought of before. ‘How would you like it if the bones of your ancestors were dug up and put in a glass case?’ they asked politely. What could city officials do, faced with that simple question, but hurriedly back off?’ After listening to three men and a woman argue that their ancestors' bones should be left undisturbed in their historic burial place, the Council unanimously passed a motion by Councilwoman Robin Sweeny stating that "in the light of protests of professional archaeologists and, more importantly, of this group of native Indian Americans, we should leave this ground undisturbed.”⁹⁸

The meeting concluded with a proposal “made by the archaeological

community and the property owners, members of the Elliott family, that the site be covered by concrete for a parking lot, thus sealing it off and preserving it for possible future study.”⁹⁹ However, two weeks later, Sausalito residents and City Council picked back up exactly where they left off, their focus unchanged, again arguing over what should become of the Elliot property, as if the disruption had never taken place at all.

While settler Sausalito finally acknowledged the physical existence of living Indigenous peoples, they still determined the matter of rights a matter of property ownership. Despite it being on record that Indigenous peoples were burying their dead in the Marin County area as recently as 1830, the City Council dismissed the possibility of the “young Indians” holding any legitimate land claims or rights in the present by temporally distancing their relation to their disturbed ancestors’ remains, describing them as the descendants of “the people who inhabited Marin County...500 or more years ago.”¹⁰⁰ While incredibly historically inaccurate, nonetheless, by relegating the matter of prior occupancy to a prehistory so distant and so archaic, the question of Indigenous land claims is made a non-issue.

The Sausalito case is particularly revealing given that it occurred in the context of the 1969-1971 Indigenous occupation of Alcatraz Island (located just a few miles off the Sausalito shoreline) and during the height of the American Indian Movement (AIM). The Sausalito case reflects a pivotal moment in settler rights discourse during the ‘self-determination era’. During a 1975 Sausalito City Council meeting, Councilwoman Violeta Autumn said she saw “no reason why a residential

structure on the Pine Street lot couldn't follow the same foundation and utility line patterns as a small house which was demolished there in early 1974.” In response, “Olsen replied that when that house was built in the early part of this century...*the Indians weren't as militant about their burial grounds.*”¹⁰¹ Here, the ‘militant Indians’ emerge as a new problem to be absorbed into the settler property juridical structure.

In 1975, the Sausalito City Council finally voted 3 to 2 in favor of the Elliot’s parking lot proposal, permitting the residentially zoned lot to be rezoned for commercial use. This came after the Elliot family proposed to deed the property to the city for use as a municipal parking lot, stating that they “want to respect the wishes of present-day Miwok Indians who object to their ancestors’ graves being disturbed.”¹⁰² Yet, the Elliot’s simply achieved the outcome they had desired all along, what had motivated them to buy the lot in the first place. The Elliot’s stated that they were “willing to place an 18-car city owned parking lot on the property, landscaped to include a memorial to the Miwok Indians, provided the city will grant the necessary zoning variance.”¹⁰³ All along, the Elliot’s desired to build the parking lot on this property, to support their commercial development plans on their adjacent property. By re-packaging their development plans into a reconciliatory act of respect for the Miwok, they affirm the legitimacy of settler property ownership by performing ‘good’ settler citizenship. This case demonstrate how settler citizenship is performed through desecration of Indigenous burial grounds. Commenting on the controversial change in zoning status that accompanied the parking lot’s construction, the Sausalito City Attorney stated that the city had a “legal right to do so...[as] it is in

the public interest that the Pine Street property be used as a publicly owned parking lot.”¹⁰⁴ Here, the Miwok requests are claimed as part of the ‘public interest,’ yet only to the extent to which they align with the interests of Sausalito property-owning citizens, who determine the parameters of possibility. Indigenous peoples, both living and dead, are treated like chess pieces in this context, manipulated in accordance with the desired outcomes of property development. The presence of Indigenous human remains becomes a vehicle for performances of ‘liberal settler citizenship,’ where the rights of property are upheld while absorbing Indigenous peoples into its juridical structures.

The American Indian Religious Freedom Act

The passage of the American Indian Religious Freedom Act (AIRFA) in 1978 established that “henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.”¹⁰⁵ Yet, as AIRFA only applies to federally recognized tribes, so not only does the United States maintain its authority in determining who is and who is not a ‘legitimate’ American Indian, but also maintains its authority in determining what may or may not be the “appropriate changes necessary to protect and preserve Native American religious cultural rights and practices.”¹⁰⁶

By categorizing Native American ways of life into the category of ‘religion,’ the settler state strengthens the legitimacy of its own authority through liberal rights discourse. In *Formations of the Secular: Christianity, Islam, Modernity*, Asad establishes secularism as a doctrine that establishes a certain conception of the world and as a lens through which the world’s problems are interpreted. Talal Asad critiques the common anthropological assumption of secularism as equating the space of ‘real’ human life that “gradually emancipates itself” from the controlling power of religion. Rather, for Asad, it is secularism which allows such thinking of ‘religion’ as “infecting the secular domain.”¹⁰⁷ Importantly, Asad ties secularism to the rise of a global system of capitalist nation-states (as definitive of modernity); and while secularism is no longer a strictly Western/European concept, given that it is now globally reproduced, it is nonetheless definitive of modernity as an enforced global system through which superpowers like the U.S. can diagnose world issues and prescribe solutions.¹⁰⁸

Asad identifies secular modernity as a hegemonic political goal, neither stable or coherently bounded, whose prominent features are the institutionalization of liberal principles (such as individualism, democracy, human rights) and technologies which generate “new experiences of space and time, of cruelty and health, of consumption and knowledge.”¹⁰⁹ Asad argues that these experiences support the idea of ‘disenchantment,’ “implying a direct access to reality, a stripping away of myth, magic, and the sacred.”¹¹⁰ Categorizing the entirety of Indigenous lifeways, customs and knowledges as ‘religion’ enables the state to position itself as the protector of

Native American lifeways, at the same time that it strengthens U.S. power and control over Indigenous lands. Via ‘religion,’ Indigenous modes of being, thought, and ethics are rendered ‘not-real’ and thus, irrational. Whereas the secular authority of the United States originates in the rational law of the scientific and, thus, ‘real’ world. Via AIRFA, the authority of the United States as validated while Indigenous claims are further discredited.

This is exemplified in the 1987 U.S. Supreme Court case, *Lyng v. Northwest Indian Cemetery Association*. In *Lyng*, “the U.S. Forest Service attempted to complete a logging road through the Six Rivers National Forest in northwestern California, despite the religious use of the area by three Indian tribes. These tribes challenged the construction of the road, arguing that it violated the Free Exercise Clause of the First Amendment.”¹¹¹ “The Court held that there was no constitutional violation because the road would not coerce the tribes into violating their religious beliefs. According to the Court, the case was primarily a dispute over property rather than one of religious freedom.”¹¹² As the Court asserted in its ruling, “the power to decide the future of these sites should remain with the government almost exclusively ...in its capacity as a property owner...any other decision would result in a ‘diminution of the Government's property rights, and the concomitant subsidy of the Indian religion.’”¹¹³ In its conclusion, the Court stated that “[w]hatever rights the Indians may have to the use of the area, those rights do not divest the Government of its right to use what is, after all, its land.”¹¹⁴ In *Lyng*, the Court determined that judicial sacred site protection “is overbroad and would enable tribes to prevent the

development of vast swaths of government land.”¹¹⁵ In other words, the rights of the tribes were invalidated via the logic of (im)proper use, as the protection and preservation of the land would equate the "underuse" of land.

The legal application of AIRFA reflects what Nichols conceptualizes as the state's recursive mechanism at work, for by legally designating itself to be the defender of Indigenous religious freedom, the U.S. affirms the validity of its authority to power, which further affirms the validity of its claims to Indigenous lands. Through the use of secular liberal rights discourse, the U.S. asserts the legitimacy of its own secular modern (and thus, rational) power. By identifying and defining Indigenous life as 'religion,' the U.S. renders what is an issue of dispossession into an issue of religious freedoms. AIRFA is also exemplary of what Bruyneel conceptualizes as 'the temporal order of progress' because it affirms and validates "the progress, rule, and rationality of the modern American liberal democratic settler-state" in its 'protection' of Indigenous religious freedoms while simultaneously further discrediting Indigenous land claims/rights.¹¹⁶ For what the state categorizes as 'religious freedoms' refers to Indigenous ways of life and relational practices with land that threaten the authority of the settler state and the interests of colonial capital.

By secularizing itself and locating the basis of its authority within the rational law of the scientific world, Deloria Jr. writes that "this bond between the secular state and modern science is understood to be the final authority on the 'reality' of the natural world." According to scientific secular modernity, the religious and the sacred are archaic, primitive, and belief-based; in other words, 'not real'. By classifying

Indigenous modes of being, thought, and ethics as “religion,” the protection of any sacred site will always be reduced to a matter of religious belief and therefore a matter of rights. This maintains the position of the U.S. as the final arbiter of what, when, and how these rights should be protected.

The protection of sacred sites will *always* be deemed an irrational use of land when in conflict with the rational needs of economic production and scientific research. In this way, the protection of Indigenous sacred sites is made into a rights-based matter pertaining to a niche identity group’s self-interests. This is exemplified by the West Berkeley Shellmound case at every turn, but especially in the Supreme Court’s ultimate ruling (and rejection of the appeal made by the Confederated Villages of Lisjan) in favor of the retail-condo development. The context for the Supreme Court decision is that, in 2017, California Senate bill SB-35 was signed into law, what established ‘fast track approval’ for housing developments in California that offered 50% or more ‘affordable’ units. Under SB-35, ‘fast track approval’ allows developers to overstep the authority of local city government (and avoid city protocol that would otherwise slow down the development process) in order to rush construction of new housing, as a supposed measure to address California’s so-called housing crisis. Yet, what settler state and local governments refer to as a ‘housing crisis’ has nothing to do with the lack of housing, as there are currently 4 vacant homes per every 1 homeless person in the San Francisco Bay Area; therefore, it is a *houselessness* crisis.

Shortly after SB-35 was enacted, West Berkeley Investors were the first to apply for fast-track approval under the new law, submitting revised development plans for the WBS site that now included the addition of some affordable housing units. Yet, as of 2021, what constitutes affordable housing in the city of Berkeley is based on an annual income of \$80,000 – \$110,000. Furthermore, in addition to the development plans offering far less than the requisite 50% affordable housing units, the plans proposed that such affordable units be constructed in a separate structure with substandard materials. When the City of Berkeley rejected WBI’s application for SB-35, WBI contested the decision as unlawful and threatened to sue the City if the project was not approved within the next 180 days.¹¹⁷ While WBI then closed its involvement with the development, on November 28, 2018, the parking lot owners sued the City of Berkeley as the developers, in place of WBI, stating that “on the basis of state law SB 35, the City of Berkeley cannot deny the 1900 Fourth application and must give developers a green light.”¹¹⁸ The lawsuit eventually made it to the California Supreme Court, who, of course, ruled in favor of the developers. At the time of this writing, the developers are free to begin construction on the WBS site at any time.

The rationale given by the Court was that “the development would serve the urgent public need for affordable housing” and that “the lack of affordable housing in the state is a crisis.” Therefore, the state’s “intrusion into local authority” was justified “in light of the Legislature’s long history of attempting to address the state’s housing crisis and frustration with local governments’ interference with that goal.”¹¹⁹

The protection of the WBS site was deemed irrational by the Supreme Court in the face of a “urgent” housing “crisis.” Again, Indigenous land claims are temporally displaced outside of the present, as though Indigenous spatial relationships are confined to an irrelevant prehistory. A lawyer for the property owners commented that the Court ruling “recognizes that Berkeley violated state law and wrongfully denied a property owner its statutory and constitutional right to proceed with an affordable housing development that is badly needed to help alleviate the state’s and indeed Berkeley’s own affordable housing crisis.”¹²⁰ Through the narrative of public need and liberal rights discourse, the protection of the WBS is made not only irrational, but selfish in its obstruction to what is of immediate benefit to the common good; more so, it is even made to be *harmful* to the public’s well-being.

While the luxury condo-retail development quite obviously will do nothing to alleviate houselessness in Berkeley, it is more that the case has been presented as a matter of rights. In 1974 Sausalito, when Indigenous activists advocated for the preservation of the Miwok human remains via the parking lot proposal (requesting that “a corner be paved over and set aside for an Indian memorial plot”), Sausalito Councilwoman Violeta Autumn retorted: “you say you have your burial rights to protect. Well, we have our zoning rights to preserve, too.”¹²¹ By reducing the desecration and dispossession of Indigenous sacred sites/burial grounds into religious freedoms (or ‘burial rights’), land is again abstracted into property and all prior relationships are nullified.

Even when settler governments establish legal measures to protect Indigenous rights, cyclical processes of desecration continue to ensure Indigenous dispossession. For example, in 2015, the City of Berkeley passed a resolution to implement the United Nations Declaration on the Rights of Indigenous Peoples into its municipal policy, requiring that “free prior and informed consent” be obtained from Indigenous peoples before implementing any measures which may affect them.¹²² In January of 2016, the City of Berkeley passed three additional resolutions, one which formally recognized “the Ohlone Peoples as the original inhabitants of Berkeley;” another “[committing] to work in good faith with representatives of the Ohlone peoples today,” and a third which formally recognizes that the West Berkeley Shellmound is a site “held sacred by Ohlone peoples,” and requires that: “[f]ree, prior and informed consent of the Ohlone and other indigenous peoples of the region should be integral to any alteration planning for the Berkeley Shellmound sacred site, in accordance with the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.”¹²³ That same month, the City of Berkeley issued a permit to EBMUD to dig trenches and install a new water main during development construction just outside the parking lot area. Work began in February and on March 29th, the burial place and human remains of an Ohlone ancestor were disturbed and dug up during the construction of a trench, about 50 feet away from the Fourth Street parking lot. But the City did not tell EBMUD that it was a “culturally sensitive” area.¹²⁴ A second set of Ohlone human remains were dug up on April 30th, 2016.

In response, according to a local news source, Corrina Gould stated: “Enough. Stop. The permit should be revoked immediately and the city of Berkeley should honor the commitment made in January to adopt the United Nations Declaration on the Rights of Indigenous People, which means free, prior and informed consent regarding our traditional village sites.”¹²⁵ EBMUD then temporarily stopped work on the site while an archeologist was brought in to conduct a site assessment, which concluded in the archeologist’s determination that, “the artifacts...were not culturally sensitive since they had been disturbed previously.” The trenching work then resumed and was completed on May 4, 2016.¹²⁶

This returns our attention to the role of desecration in maintaining U.S. property claims and property interests. Such acts of desecration operate within modern U.S. property systems like the recursive mechanism feedback loop that Nichols describes. Desecration (of Indigenous sacred sites/burial grounds) supports the abstraction of land into property by destroying and/or removing the remains of the dead, and thus, severing Indigenous relations between land and life, while eradicating material presence and evidence of the rootedness of Indigenous life and relational practices specific to a particular place. By discursively producing Indigenous human remains as objects of scientific property, desecration spatially and temporally displaces Indigenous life from the present and future, making the question of Indigenous land rights both irrelevant and irrational. Desecration as dispossession secures settler claims to Indigenous lands and nullifies Indigenous land rights into the future.

Conclusion

Through desecration, the juridical processes of settler property systems are forged, which are then expanded and strengthened by each subsequent act of desecration while each originary act of desecration continues to discredit Indigenous land claims into the future.¹²⁷ By categorizing Indigenous rights to their sacred sites as a matter of ‘religious freedoms,’ the United States facilitates the “the ‘incorporation’ of Indigenous peoples and territories into the capitalist mode of production” and ensures “that alternative ‘socioeconomic visions’ do not threaten the desired functioning of the market economy.”¹²⁸ As Indigenous peoples fight to protect their sacred sites/burial grounds, they must *translate* “their complex reciprocal relationship with the land into the equally complex but very different language of ‘property.’”¹²⁹ This has often had the detrimental effect of breaking up Indigenous sovereign structures. As Coulthard argues, “one of the negative effects of this power-laden process of discursive translation has been a reorientation of the meaning of self-determination for many (but not all) Indigenous people in the North; a reorientation of Indigenous struggle from one that was once deeply *informed* by the land as a system of reciprocal relations and obligations (grounded normativity), which in turn informed our critique of capitalism in the period examined above, to a struggle that is now increasingly *for* land understood now as a material resource to be exploited in the capital accumulation process.”¹³⁰

For the Confederated Villages of Lisjan, the battle to protect the West Berkeley Shellmound and attendant efforts to protect and return sacred Ohlone

homelands to Indigenous stewardship has required the navigation of U.S. property systems. What, in doing so, requires that significant and complex reciprocal relations with land must be flattened into colonial concepts of territory, ownership, and property rights. Yet, throughout this ongoing struggle to protect this sacred place, rather than at all constituting a loss of meaning, Ohlone and Indigenous activists have profoundly cultivated and rematriated Ohlone relations of reciprocity with Ohlone lands and, in effect, are transforming the ways that non-Native East Bay residents relate with and understand land (/life) as well.

Today, the West Berkeley Shellmound continues to serve as an important and vital community gathering place of prayer and celebration, not only for Ohlone peoples but for the broader Bay Area Indigenous community as well as many non-Native communities in solidarity with the Lisjan Ohlone. The WBS has become a major and critical site of solidarity and relationship building for communities in struggle against colonialism and settler state violence across the Bay Area and around the world. The site of the West Berkeley Shellmound itself is a place of cultivation, liberation, healing, and care, as relationships of mutual aid and solidarity are grown with other Indigenous struggles working to defend and protect the Sacred, as well as with movements for Palestinian liberation, Black life and liberation, and with peoples struggles in Colombia, India, and all around the world. These struggles are linked and formed together in the ways that Lisjan Ohlone and other Indigenous leaders like Corrina Gould and Johnella LaRose honor the ancestors of the West Berkeley

Shellmound in their invitation and welcoming to gather in prayer and celebration. In the words of Gould:

“The West Berkeley Shellmound has done this amazing thing. All of these people from all walks of life are coming together to try and preserve and protect it. People from all walks of life come there and pray together now. And ceremony and song and bring their own ceremonies there. It’s become a place where people understand their connection to this land and what their relationship should be with the First People of this land. And we’re giving people an opportunity not to push people outside but to bring people inside and to try and figure this out together. We’re creating something way bigger than ourselves. That’s imagining this place of opening a creek again, where water should always flow free, for us to be able to open it up and to sing to that water...the way it should be sung to. To allow children to play and laugh with the water like that is good for the water and...for human beings. Water is alive. To allow us to put our feet on the ground and to dance the way that we’re supposed to dance was an amazing thing. For 200 years we haven’t been able to do that in our own territory.”¹³¹

As an alternative to the luxury-condo development on the WBS site, Corrina Gould and other activists working to protect the WBS have proposed an alternative vision for the site, “[w]e envision a living cultural space — revitalizing cultural traditions, like songs, language and dances.”¹³² The proposal includes a plan to (re)create a shellmound: “a mound that is either the one that we imagine now or to recreate a shellmound so that people can see what they were like [and] to find a place to reinter our ancestors. To give dignity back to those ancestors. But also, to the people that are living today. And not just to the Ohlone people but it gives dignity back to everyone who lives in our territory now. And I think that’s the importance of

doing this work. The importance of a new vision that's there, that we can take people too.”¹³³

The vision for the WBS is already being created in the day-to-day relationships that are formed/forming through this struggle. This is a vision that expands across generations of Ohlone ancestors and their descendants. This is a vision that invites everyone to participate and that believes in our collective ability to be transformed – to learn to relate with land and with one another in ways that are other than as manifested by colonial extraction, destruction, and genocidal desire. As Indigenous relations are not static, nor confined within a vanished past, Ohlone and Bay Area Indigenous peoples continue to co-create ways of life in relational reciprocity with land that exceed the limits of colonial epistemologies. Ohlone knowledges of the sacred are unrecognizable and unknowable to the colonial past, its present, and what remains of its dwindling future.

Indigenous-led movements for liberation which center the sacred allow for a reorientation away from the temporally driven order of settler place. As temporally driven relations are disrupted, place-based relations intentionally emerge. This reorients place to one in which settlers hold no claims to futurity on Indigenous lands. This reorients place to one in which Indigenous place-based ethics are recognized, respected, and upheld. As place is effectively re-made, settler orders are disrupted, and otherwise worlds (continue to) emerge.



Figure 3: Image still from Lisjan Ohlone and Coalition to Save the West Berkeley Shellmound & Village Site proposed alternative for the West Berkeley Shellmound Site.¹³⁴

¹ Sausalito Marin Scope, Volume 4, Number 20, 10 September 1974.

² These nations also include the Coast Miwok, Bay Miwok, Plains Miwok, Southern Pomo, Kashaya, Patwin, Wappo, Yokuts, Mutsun, and several others. The Ohlone themselves are actually several distinct bands, such as the Muwekma, Chochenyo, and Karkin Ohlone. The Confederated Villages of Lisjan Ohlone represents seven distinct Ohlone bands whose homelands make up the central and greater East Bay Area.

³ Kent G. Lightfoot. Comments letter submitted to the City of Berkeley. March 13, 2017. www.shellmound.org

⁴ Frances Dinkelspiel, “Court Rules a 260-Unit Apartment Complex Can Go up at 1900 Fourth St., a Site the Ohlone Consider Sacred,” *Berkeleyside* (blog), April 21, 2021, <https://www.berkeleyside.org/2021/04/21/court-rules-a-260-unit-apartment-complex-can-go-up-at-1900-fourth-st-a-site-the-ohlone-consider-sacred>.

⁵ Lauren Good, “Court Rules Development Can Proceed on West Berkeley Shellmound,” *The Daily Californian*, April 28, 2021, <https://www.dailycal.org/2021/04/27/court-rules-development-can-proceed-on-west-berkeley-shellmound/>.

⁶ Bob Egelko, “Court OKs Housing Development at Site of Ohlone Shellmound in Berkeley,” *San Francisco Chronicle*, April 21, 2021, <https://www.sfchronicle.com/local/article/Court-OKs-housing-development-at-site-of-Ohlone-16118887.php>.

⁷ Here I mean both that they are incomprehensible through colonial epistemological frameworks, but also specifically that they are beyond comprehension from within the colonial world – as in – they are impossible for me, as a settler, to ever fully understand.

⁸ Robert Nichols, *Theft Is Property!: Dispossession and Critical Theory*, Radical Americas (Durham: Duke University Press, 2020), 145.

⁹ See: Mishuana Goeman, “Land as Life: Unsettling the Logics of Containment” (University of Arizona Press, 2015), 71, in Teves et. al., *Native Studies Keywords: Critical Issues in Indigenous Studies* (University of Arizona Press, 2015); Leanne Betasamosake Simpson, *As We Have Always Done: Indigenous Freedom Through Radical Resistance* (Minneapolis & London: Duke University Press, 2017); Joanne Barker, “Territory as Analytic,” *Social Text* 36, no. 2 (2018): 19–39.

¹⁰ Robert Nichols, *Theft Is Property!: Dispossession and Critical Theory*, Radical Americas (Durham: Duke University Press, 2020), 150.

¹¹ Kent G. Lightfoot. Comments letter submitted to the City of Berkeley. March 13, 2017. Accessed www.shellmound.org

¹² The West Berkeley Shellmound, the oldest known shellmound in the Bay Area, is thought “to have functioned as a center for ceremonies, dances and special meetings. Charmstones, abalone pendants and other ritual items have been recovered from the site. Hundreds of human burials have been recorded, as well as ritual burials of coyotes and a California condor.” 2020 Coalition to Save the West Berkeley Shellmound & Village Site. <https://shellmound.org/learn-more/> Accessed September 14, 2020.

¹³ “Indian People Organizing for Change (IPOC) and the Sogorea Te Occupation.” George Cheng, Mayra Herrera, Paula Kahn, So Jeong Yoon with Marissa Friedman. August 2014.

¹⁴ Desecration of Ohlone sacred sites has likely occurred throughout the past 253 years of Spanish, Mexican, and U.S. colonization. However, under Spain and Mexico, what is known today as the Bay Area remained sparsely populated and undeveloped, thus the shellmounds survived relatively unscathed, until U.S. invasion.

¹⁵ Several news articles I found made reference to settler children kicking around Indigenous skulls removed from the mounds.

¹⁶ N C Nelson, “SHELLMOUNDS OF THE SAN FRANCISCO BAY REGION.,” n.d., 12.

¹⁷ Frances Dinkelspiel, “Developer of 1900 Fourth St. Says It Will Sue Unless Berkeley Fast-Tracks Development,” *Berkeleyside*, June 29, 2018, <https://www.berkeleyside.org/2018/06/29/developer-of-1900-fourth-st-says-it-will-sue-unless-berkeley-fast-tracks-development>.

¹⁸ This dig was carried out by the University of California Archaeological Survey under the supervision of archaeologist Robert F. Heizer (then its director).

¹⁹ It used to be co-owned with a third family, the Spenger’s (who owned the landmarked Spenger’s Fish Grotto restaurant), until Dana Ellsworth bought them out in February of 2022.

²⁰ Occupation debris that was spread around the foot of the mound prompted Nelson (1909) to extend the site boundaries to between 5th Street and the Eastshore Highway, and Addison and Delaware streets.

²¹ Charles Burress, “Berkeley Fumbles Shell Mound Landmark Decision,” *SF Gate*, October 21, 2000, <https://www.sfgate.com/bayarea/article/Berkeley-Fumbles-Shell-Mound-Landmark-Decision-3238504.php>.

²² Burress.

²³ See Berkeley Municipal Code 3.24.200.

²⁴ Dinkelspiel, “Developer of 1900 Fourth St. Says It Will Sue Unless Berkeley Fast-Tracks Development.”

²⁵ Burress, “Berkeley Fumbles Shell Mound Landmark Decision.”

²⁶ West Berkeley Investors is the name used for the project by developer Blake & Griggs Properties. Tom Lochner, “Berkeley Shellmound Alternative Proposed by Activists,” *East Bay Times*, March 7, 2017, <https://www.eastbaytimes.com/2017/03/06/shellmound/>.

²⁷ Archeo-Tec, Inc., “A Report on Archaeological Testing Conducted within the Spenger’s Parking Lot, Bounded by University Avenue, Hearst Avenue, Fourth Street and the Tracks of the Union Pacific Railroad, City of Berkeley, Alameda County, California” (Oakland, California, June 2014), https://berkeleyca.gov/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2018-03-08_APP_Archeological%20Resources%20Evaluation%202015_1900%20Fourth.pdf.

²⁸ Kate Darby Rauch, “Development May Come to Spenger’s Lot in Berkeley,” *Berkeleyside*, July 28, 2014, <https://www.berkeleyside.org/2014/07/28/development-may-come-to-spengers-lot-in-berkeley>.

²⁹ Emilie Raguso, “New Beer Garden, Retail Planned on Spenger’s Block,” *Berkeleyside*

(blog), September 25, 2014, <https://www.berkeleyside.org/2014/09/25/beer-garden-retail-parking-planned-on-spengers-block>.

³⁰ Raguso.

³¹ Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, Indigenous Americas (Minneapolis: University of Minnesota Press, 2014), 60.

³² Vine Deloria, *God Is Red: A Native View of Religion* (Colorado: Fulcrum Publishing, 1973), 62.

³³ Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, 61.

³⁴ Deloria, *God Is Red: A Native View of Religion*, 66.

³⁵ Deloria, 68.

³⁶ Brenna Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership*, Global and Insurgent Legalities (Durham: Duke University Press, 2018), 78.

³⁷ Bhandar, 92.

³⁸ Bhandar, 113.

³⁹ Bhandar, 92.

⁴⁰ Bhandar, 93; Alain Pottage, "The Measure of Land," *Modern Law Review* 57, no. 3 (May 1994): 363.

⁴¹ Bhandar, 95.

⁴² Bhandar, 103.

⁴³ Bhandar, 7.

⁴⁴ James Madison, "The Federalist No. 54: THE APPORTIONMENT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AMONG THE STATES" (Yale University Press, 2009), 277.

⁴⁵ John Adams (1851 [1790], 280). Quoted in Harvey M. Jacobs. "Social conflict over property rights: the end, a new beginning, or a continuing debate?" *Housing Policy Debate*. Vol. 20, No. 3, June 2010: 329-349. p.331

⁴⁶ Harvey M. Jacobs. "Social conflict over property rights: the end, a new beginning, or a continuing debate?" *Housing Policy Debate*. Vol. 20, No. 3, June 2010: 329-349. p.332

⁴⁷ Bhandar, 101.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*, 108.

⁵⁰ Peter Burnett, "State of the State Address," *Governors of California - Peter Burnett. Executive Orders.*, January 6, 1851, https://governors.library.ca.gov/addresses/s_01-Burnett2.html.

⁵¹ Philip Deloria, *Playing Indian* (New Haven & London: Yale University Press, 1998).

- ⁵² Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations* (Minneapolis: University of Minnesota Press, 2007), 14.
- ⁵³ Iyko Day, *Alien Capital: Asian Racialization and the Logic of Settler Colonial Capitalism* (Durham & London: Duke University Press, 2016), 15.
- ⁵⁴ I do not know where or what this quote originates from, but it invokes the message of, for example, the photography of Edward Curtis.
- ⁵⁵ Franz Boas, "Letter to Z. Nuttall," April 11, 1901, https://bancroft.berkeley.edu/Exhibits/anthro/3founders3_letter.html.
- ⁵⁶ Frederic Ward Putnam, "Department of Anthropology, University of California," September 1903, 1–2, CU-1 Ctn 33:2a, University of California Department of Anthropology Records.
- ⁵⁷ Sara Stillman, "Discovering the Invisible Bay Street: Uncovering Emeryville's History and Understanding Our Own," Yale National Initiative to Strengthen Teaching in Public Schools, October 4, 2013, https://teachers.yale.edu/curriculum/viewer/initiative_13.04.10_u.
- ⁵⁸ Rick DelVecchio, "Emeryville: Filmmaker Tells Story of Forgotten Indian Burial Ground Disrupted by Quest for Retail," March 25, 2005, <https://www.sfgate.com/bayarea/article/Emeryville-Filmmaker-tells-story-of-forgotten-2690138.php>.
- ⁵⁹ Stephanie Hedgecote, "3rd Annual Shellmound Walk in San Francisco Bay Area" Indian People Organizing for Change. Published Nov 2, 2006, 8:35 PM.
- ⁶⁰ Robert C. (Robert Carl) Suggs, *The Archaeology of San Francisco* (New York: T.Y. Crowell Co., 1965).
- ⁶¹ Emilie Raguso, "Old Maps — Newly Released — Indicate Shellmound Landmark Missed the Mark," *Berkeleyside* (blog), March 28, 2017, <https://www.berkeleyside.org/2017/03/28/old-maps-newly-released-indicate-berkeley-shellmound-landmark-lines-missed-mark>.
- ⁶² Nichols, *Theft Is Property!* 38.
- ⁶³ Nichols. 38.
- ⁶⁴ *Ibid.*, 91.
- ⁶⁵ *Ibid.*, 39.
- ⁶⁶ *Ibid.*
- ⁶⁷ *Ibid.*, 38.
- ⁶⁸ Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations*, 65.
- ⁶⁹ Bruyneel, 72.
- ⁷⁰ Bruyneel, 75.
- ⁷¹ Bruyneel, 83.

⁷² “An Act to Provide for The Allotment of Lands in Severalty to Indians on the Various Reservations (General Allotment Act or Dawes Act), Statutes at Large 24, 388-91,” 1887, Document A1887.

⁷³ Bruyneel, 83.

⁷⁴ Bruyneel, 84.

⁷⁵ Cite Indian Citizenship Act 1924.

⁷⁶ Bruyneel, 94.

⁷⁷ Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York & Oxford: Oxford University Press, 1997), 122.

Further analysis of Hartman and Spillers’ notions of flesh would be crucial to thinking through the relationships between the theft of Black and Indigenous bodies in the development of the human sciences and the spread of U.S. empire.

Hartman exposes how understandings of property and power are embedded in slavery, determining who could be a property owner, and who was property itself, which she argues makes “...race itself a kind of property, with blackness as the mark of object status and whiteness licensing the proprietorship of self.” Hartman continues to explain that it is the excluded and marginalized subjects that produce universality, it is “the denigrated and deprecated, those castigated and saddled by varied corporeal maledictions,” that are “the fleshy substance that enable the universal to achieve its ethereal splendor” (122). Thus, the idea of universal man, of a standard of universal human rights, is inextricable from slavery, its aftermaths, and ongoing relationships of domination and subjugation.

⁷⁸ Cheryl Harris I., “Whiteness as Property,” *Harvard Law Review* 106, no. No. 8 (June 1993): 1721.

⁷⁹ Quoted in Aileen Moreton-Robinson, *The White Possessive: Property, Power, and Indigenous Sovereignty*, Indigenous Americas (Minneapolis, Minnesota ; University of Minnesota Press, 2015), 179.

⁸⁰ Moreton-Robinson, 179.

⁸¹ Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham, N.C: Duke University Press, 2011), 88.

⁸² Barker, *Native Acts: Law, Recognition, and Cultural Authenticity*, 27. Barker continues, “The seamless articulation of Native legal legitimacy to cultural authenticity by recognition, however, marks the racist ideologies and identificatory practices that undergird its function in reinforcing Native subjugation.... ‘Indian tribes’ are (made) *recognizable* and so *investable* with a unique set of rights under constitutional and common law. In order to be recognized as a legitimate ‘Indian tribe,’ Native groups must be recognizable as tribes in federal terms. These conditions are about the effectiveness of U.S. national narrations at maintaining Native dominance on the grounds of U.S. superiority and a Native inferiority that simultaneously codifies Native authenticity as a particular kind of cultural continuity, cohesiveness, and distinction.” (28).

⁸³ Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations*, 71.

⁸⁴ Doris Berdahl. “Parking lot to be hand graded so as not to disturb the dead.” *Sausalito*

Marin Scope, Volume 9, Number 12, 17 July 1979.

⁸⁵ *Sausalito Marin Scope*, Volume 4, Number 20, 10 September 1974

⁸⁶ Doris Berdahl. "What to do with the Indian Burial Site." *Sausalito Marin Scope*, Vol. 4, No. 9, 25 June 1974.

⁸⁷ Berdahl. "What to do with the Indian Burial Site."

⁸⁸ Berdahl. "Parking lot to be hand graded so as not to disturb the dead."

⁸⁹ On May 15, 1979, Nancy August of Petaluma wrote to Public Works Director Norman Wohlschlaeger in the *Sturm Scope* that this "unusually rich archaeological site" had "been so registered since 1907." Berdahl. "Parking lot to be hand graded so as not to disturb the dead."

⁹⁰ Berdahl. "What to do with the Indian Burial Site." *Sausalito Marin Scope*, Vol. 4, No. 9, 25 June 1974.

⁹¹ "Graduate Student Selected." *Sausalito Marin Scope*, July 1974.

⁹² "Excavation Plans Discontinued on Requests By Local Indian Tribes." *Sausalito Marin Scope*, Volume 4, Number 17, 27 August 1974.

⁹³ Graduate Student Selected." *Sausalito Marin Scope*, July 1974.

⁹⁴ Berdahl. "What to do with the Indian Burial Site." *Sausalito Marin Scope*, Vol. 4, No. 9, 25 June 1974.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Berdahl. Parking lot to be hand graded so as not to disturb the dead. *Sausalito Marin Scope*, Volume 9, Number 12, 17 July 1979.

⁹⁸ "Excavation Plans Discontinued." *Sausalito Marin Scope*. 27 August 1974.

⁹⁹ Ibid.

¹⁰⁰ "Council Moves to Accept Parking Lot Offer" *Sausalito Marin Scope*, 13 May 1975

¹⁰¹ Ibid., Emphasis mine.

¹⁰² *Sausalito Marin Scope*, Volume 4, Number 50, 8 April 1975

¹⁰³ Ibid.

¹⁰⁴ "Council Moves to Accept Parking Lot Offer" *Sausalito Marin Scope*, 13 May 1975

¹⁰⁵ *U.S. Statues at Large*, 92:469-70.

¹⁰⁶ *U.S. Statues at Large*, 92:469-70. The full quote reads: "The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices."

¹⁰⁷ Talal Asad. *Formations of the Secular: Christianity, Islam, Modernity*, (Stanford

University Press, 2003). p. 192.

¹⁰⁸ Ibid., 7.

¹⁰⁹ Ibid., 13.

¹¹⁰ Ibid.

¹¹¹ Marcia Yablon. "Property Rights and Sacred Sites: Federal Regulatory Responses to American Indian Religious Claims on Public Land." *The Yale Law Journal* Vol. 113: 1623. 2004, 1630.

¹¹² Marcia Yablon. "Property Rights and Sacred Sites." 2004, 1630.

¹¹³ Marcia Yablon. "Property Rights and Sacred Sites." 2004, 1631.

¹¹⁴ Quoted in Yablon. "Property Rights and Sacred Sites."

¹¹⁵ Yablon. "Property Rights and Sacred Sites." 2004. p. 1631.

¹¹⁶ Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations*, 71.

¹¹⁷ Frances Dinkelspiel. "Developer of 1900 Fourth St. says it will sue."

¹¹⁸ Ruegg & Ellsworth or Rue-Ell Enterprises, and the Frank Spenger Company sued as the developers in place of West Berkeley Investors aka Blake-Griggs Properties. They also used the same San Francisco based law firm previously utilized by WBI. "Property Owners Sue City of Berkeley over SB-35 Permit Denial." Dec 29, 2018.

¹¹⁹ Bob Egelko. "Court OKs housing development at site of Ohlone shellmound in Berkeley." *San Francisco Chronicle*, April 21, 2021. <https://www.sfchronicle.com/local/article/Court-OKs-housing-development-at-site-of-Ohlone-16118887.php>

¹²⁰ Egelko. "Court OKs housing development at site of Ohlone shellmound in Berkeley."

¹²¹ *Sausalito Marin Scope*, Volume 4, Number 20, 10 September 1974

¹²² Berkeley City Council, "HONOR BERKELEY SHELLMOUND INDIGENOUS SACRED SITE, UC BERKELEY RETURN ANCESTRAL REMAINS TO OHLONE PEOPLES," Pub. L. No. RESOLUTION NO. 67,353-N.S. (n.d.).

¹²³ Coalition to Save the West Berkeley Shellmound & Village Site, "Berkeley's Ohlone Commitments," *Shellmound* (blog), 2020, <https://shellmound.org/learn-more/berkeleys-commitments/>.

¹²⁴ Frances Dinkelspiel, "Second West Berkeley Human Remains Discovery Prompts Call to Re-Examine Shellmound Boundaries," *Berkeleyside* (blog), May 11, 2016, <https://www.berkeleyside.org/2016/05/11/second-west-berkeley-human-remains-discovery-prompts-call-to-re-examine-shellmound-boundaries>.

¹²⁵ McLeod, "The Ancestors Call from the Berkeley Shellmound," *Sacred Land Film Project* (blog), May 12, 2016, <https://sacredland.org/the-ancestors-call-from-the-berkeley-shellmound/>.

¹²⁶ Frances Dinkelspiel, “Ohlone Human Remains Found in Trench in West Berkeley,” *Berkeleyside*, April 8, 2016, <https://www.berkeleyside.org/2016/04/08/ohlone-remains-found-in-new-trench-on-berkeleys-fourth-st>.

¹²⁷ Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations*, 71.

¹²⁸ Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, 66.

¹²⁹ Coulthard, 78.

¹³⁰ Coulthard, 78.

¹³¹ Interview with Corrina Gould in Sacred Land Film Project, *A New Vision for the West Berkeley Shellmound*, 2018, <https://www.youtube.com/watch?v=QZoapMtyRsA>.

¹³² Coalition to Save the West Berkeley Shellmound & Village Site, “An Ohlone Vision for the Land,” *Shellmound: Ohlone Heritage Site and Sacred Grounds* (blog), accessed June 30, 2022, <https://shellmound.org/learn-more/ohlone-vision/>.

¹³³ Sacred Land Film Project, *A New Vision for the West Berkeley Shellmound*.

¹³⁴ Coalition to Save the West Berkeley Shellmound & Village Site, “An Ohlone Vision for the Land.”

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