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**The Land in Land-grant: Unearthing Indigenous
Dispossession in the Founding of the University of
California**

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Abstract: The Morrill Act of 1862 established agricultural and mechanical arts colleges by granting public lands to states to promote the liberal and practical education of U.S. citizens of average means. The resulting land-grant university movement brought liberal ideals to (white, male, Christian) Americans by reducing geographic and class barriers to education, while also serving settler colonial interests via redistribution of Indigenous lands and institutionalization of agricultural knowledge production that has entrenched white supremacy. In this paper, I draw on recent scholarship by Lee and Ahtone (2020) to look at the question of land itself in relation to the Indigenous communities who were dispossessed, with a focus on the University of California. I explore the possibilities and limitations of data on the University of California's specific land dispossessions, and how they might serve existing efforts by California Indian communities to rematriate land, obtain reparations from the state, and decolonize the university.

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Introduction

The federal Morrill Act of 1862 established agricultural and mechanical arts colleges by granting public lands to existing states “in order to promote the liberal and practical education of the industrial classes” (National Archives and Records Administration 1862). The land-grant university movement is lauded as the first major federal funding for higher education and for having brought the ideals of equality and opportunity to (White, male, Christian) Americans through “the leveling of geographic and class barriers to higher education” (Cooper 1999). In recent years, however, several scholars have exposed a nefarious side of “democracy’s colleges” (Ross 1942): their role in serving U.S. settler colonial interests via Indigenous land dispossession and dominant, capitalistic knowledge production (paperson 2017; Stein 2017; Nash 2019, Lee 2020, 2020a, 2020b, Lee and Ahtone 2020).

In this paper, I first discuss how the Morrill Act applied settler-colonial epistemology to powerfully (if ironically) intertwine the expansion of private property with public education through the land-grant system. I then look at question of land itself in relation to the Indigenous communities who were dispossessed, drawing on recent scholarship that traces the sale of each land-grant parcel to historic tribal territories. Next I turn to the specific case of land sales that benefited the founding of the University of California (hereafter also called UC, or the University). Finally, I explore the possibilities and limitations of data on UC’s specific land

dispossessions, and how they might serve existing efforts by California Indian communities to rematriate/repatriate land, obtain reparations from the State,¹ and decolonize the University.

Settler-Colonialism and the Morrill Act

Settler-colonialism is a system of “removal and erasure of Indigenous peoples in order to take the land for use by settlers in perpetuity” (Morris, 2019). Removal and erasure are performed through genocide, and compulsory relocation, labor, and assimilation. Asserting territoriality is key to the settler-colonial project (Wolfe 2006, 388), and, as Glenn states, settlers achieve this “by imposing a modernist property regime that transforms land and resources (sometimes including people) into ‘things’ that can be owned” (2015, 57).

Between May and July, 1862, Congress passed the Morrill Act alongside the Pacific Railway Act and Homestead Act. This trio of legislation were part and parcel (pun intended) of the doctrine of Manifest Destiny, the belief that White, capitalist settler expansion across America was divinely justified and inevitable.² As with the earlier Indian Removal Act—the 1830 state-sponsored relocation and genocide of southeastern tribes—Manifest Destiny embraced John Locke’s notion of property as a “natural right” for all (again White, male, Christian) citizens. According to Locke “God and his Reason commanded [Man] to subdue the Earth, i.e. improve it for the benefit of Life, and therein lay out something upon it that was his own, his labour” (1978, 20). Under the influence of Lockean thought, the federal government did not recognize the legitimacy of Native American relationships to land, as they were not regimes of

¹ Throughout this paper I use the term State (with a capital “S”) to mean California.

² The term Manifest Destiny was first coined in 1845 by John L. O’Sullivan in the newspaper *The United States Magazine and Democratic Review* (O’Sullivan 1845, 2).

private property-based agriculture, as practiced by colonizers. Racism sealed the deal. And against this backdrop, U.S. public higher education was born.

Agriculture, forestry, and extractive industries such as mining were and are lynchpins of U.S. conquest. The spread of European-style agriculture in particular, with its dependence on sedentary, permanent land occupation, was fundamental to U.S. nation-state formation. As Christopher Mayes says, “Food has been vital to the settler-colonial project, as a necessary means of survival, but also an avenue through which the land was possessed and a culture cultivated” (2018, 2). The Morrill Act powerfully combined westward settler expansion and “the cultivating of culture” by literally attaching distribution of land for private ownership to the funding of universities designed to spread formal knowledge production in agriculture and the mechanic arts.³

Patrick Wolfe describes settler-colonialism as “a structure not an event,” whereby invaders “come to stay” (2006, 388). It is an ongoing set of relations, upheld in the always already present by economic, political, and cultural practices—including universities. In a 1997 report, the Advisory Council on California Indian Policy stated that “institutionalized injustice...has affected every aspect of Indian life in California” (2). From founding to the present day, the University of California has been one of the institutions that has participated in, and benefited from, this structure. la paperson argues that the specific epistemological “prioritization of settler-colonial technologies—agricultural and mechanical engineering, not to

³ The “mechanic arts” in relation to the Morrill Act are usually defined as engineering and other fields that require expertise of machinery. This follows on the medieval definition as weaving, blacksmithing, war, navigation, agriculture, hunting, medicine, and the *ars theatrica*. See <https://www.yourdictionary.com/mechanic-arts> and <https://www.definitions.net/definition/mechanic+arts>.

mention military tactics—reflects how land-grant universities were commissioned as part of the empire-self-making project of the United States” (2017). Margaret Nash adds that “settler-colonialism needs more than agriculture. It also requires labor, transportation, a banking system, and political stability. Land-grant colleges had the potential to help with all these things” (2019, 440 and 445). It is important to recognize not only land-grant institutions’ specific historic role in both physical and philosophical settler expansion, but the ongoing benefits these universities derive from settler-colonialism as a structure. The benefits are material, such as continued financial returns from the endowments set up through sale of Indigenous lands, and intellectual, such as the chronically recapitulated discourse of land-grant university service to the public good. I return to the question of knowledge production later. Next I look at how land itself formed the settler-colonial core of the land-grant university project.

In the popular imagination, the original Morrill Act⁴ simply provided land on which states could build schools. In reality the story of the granted land is more complicated. 30,000 acres were given per representative and senator of each state and territory in the form of scrips (vouchers worth 160 acres each) to buy “public land,” which was land that the federal government claimed through dispossession of Native Americans. The states and territories were then mandated to sell this land to fund the construction and maintenance of new colleges of agriculture and mechanic arts or expand an existing institution. Since states in the eastern

⁴ In this paper, I use “Morrill Act” to mean the first Morrill Act of 1862. Two additional Morrill Acts—passed in 1890 and 1994—funded the Historically Black Colleges and Universities and Tribal Colleges respectively. Neither of these consecutive acts involved granting of land. The structural and ongoing unequal support of universities that serve Black and Native populations is a topic of other areas of my research.

portion of the U.S. no longer had much public land—due to a longer history of settler-colonial occupation—they were given scrips for land in states and territories farther to the west (and because eastern states were more populated, they had more representatives in Congress and thus received greater land designations). Over all, about 79,500 parcels in 24 states and territories ranging in geographic location from Wisconsin to California was sold to fund 52 present-day universities across 47 states.⁵ The recently acquired State of California became the largest supplier of land sold via Morrill scrips: 1,764,842 acres were sold, primarily in the 1860s through 1880s, to benefit 32 institutions across 27 states (about 16.5% of the approximately 10,685,000 total acres sold via the Morrill Act) (Lee 2020).

Western states and territories sold land within their own borders rather than via vouchers for land elsewhere. Again, even in western states it is important to emphasize that the universities weren't simply established on plots of so-called public land, but via the *sale* of lands all over the state. Investment in direct capital via construction or repair of buildings was specifically banned by the Act. Instead, the earnings from the sales:

Shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished...and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college. (National Archives and Records Administration 1862)

⁵ In Massachusetts, Kentucky, Mississippi, South Carolina, and Virginia the original Morrill Act funded the establishment of two land-grant universities. In the latter four southern states, one of the institutions was designated as a segregated college by the Second Morrill Act of 1890. This second act funded 19 Historically Black Colleges and Universities but did not include land scrips. Lee and Ahtone do trace four 1890 institutions that benefited from land sales in the original Morrill Act, though they received a smaller proportion than the historically White universities. According to Lee and Ahtone, Oklahoma funded its first agricultural university via other laws, though it too is considered an 1862 land-grant. Alaska and Hawai'i also have land-grant universities that are considered 1862 institutions, even though they did not receive land scrips per se from the original Morrill Act.

The long-term financial benefit to universities was extraordinary. Lee and Ahtone show that in 1914 (the last year for which detailed records exist) the collective value of the endowments raised from Morrill Act parcels, sold and unsold, was \$22.8 million, which they adjusted for inflation to be \$596 million in 2020 dollars.⁶

Native Americans received paltry financial reward for the lands that became “public.” Via treaties, congressional acts, executive acts, and other agreements, the federal government only paid \$397,250 to tribes for the parcels of land subsequently sold through the Morrill Act (Lee 2020). Due to the California Land Act of 1851 (which served to dissolve pre-statehood land claims) and failure of the federal government to ratify treaties with California Indians, Indigenous people *did not receive a cent* for the land sold to fund UC’s endowment.

The Case of the University of California

California was granted 150,000 acres in land scrip—30,000 per 5 congressional representatives and senators. The “160-acre parcel” image is connected in the American imaginary to small families of settler farmers. In fact, the vast majority of Morrill Act scrip nationwide, including that which funded the University of California, was sold to a few speculators who were among the richest men in the United States. Many of these individual hoarders were in bed with the new California state government. For example, Isaac Friedlander, who together with his business partner, William Chapman, were the largest land speculators in California, was appointed to the first Board of Regents of the University of California. This body

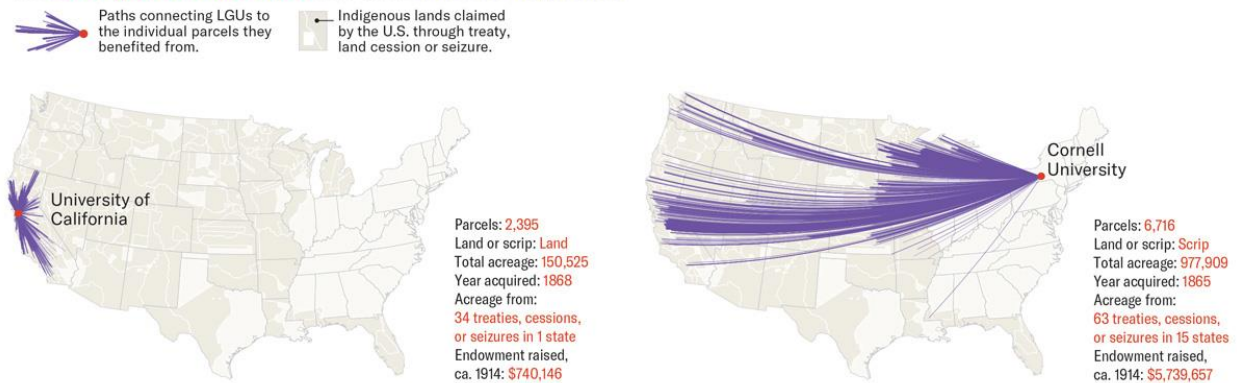
⁶ When adjusted for the years each university was assigned its endowment, Lee and Ahtone estimate the figure at approximately \$490 million in 2020 (2020b, 7). Some original Morrill Act scrip is still held by states to the present day. According to Lee and Ahtone, “Today, more than 500,000 acres unwillingly donated by tribal nations to land-grant colleges remain held in trust for at least 12 universities. In fiscal year 2019 alone, those lands produced more than \$5.4 million in revenue for colleges” (2020, 15).

was established in 1868 and charged with administering California's agricultural college scrip. Friedlander himself bought 196,000 acres of land in California with Morrill Act scrip from various states (Gates 1961, 110).

The Morrill Act at first stipulated that only surveyed land could be sold. Since most surveyed federal land in California was already bought up, the State successfully petitioned congress to allow the sale of reserved railroad grant and unsurveyed lands to benefit the university (Nevada and Oregon received this exception as well) (Gates 1961, 111). Gates explains that the amendment resulted in the UC Regents having control of the most desirable tracts of public land left in California. The State's Morrill Act scrip therefore increased in value over that of other states (remember 27 states in total were using scrip to sell California land). The Regents took advantage by raising the minimum price of land to \$5.00 per acre, "just double the highest price any federal lands were bringing at the time" (Gates 1961, 112). This savvy business move is visible in the size of the University of California endowment accrued from the sale of Morrill Act lands; in 1914 the endowment was worth \$740,146—the seventh largest among the state Morrill Act endowments (Lee 2020). Adjusted for inflation, this is worth \$19,104,278 in 2020.⁷ Again, Indigenous Californians received *zero* payment for the 150,000 acres sold for the benefit of the University of California.

⁷ I cross-checked the figure with several online inflation calculators on April 19, 2020. See for example <https://www.bls.gov/data/>. Inflation differs from the actual value of the endowment, which is tied to investments.

Two **land-grant universities** and their **Morrill Act parcels**.



SOURCES: Andrews 1918; GLO, BLM; Royce 1896-1897; USFS; USGS; Natural Earth.

Map by Margaret Pearce. In Lee, Robert, and Tristan Ahtone. 2020. "Land-Grab Universities." *High Country News* (March).

Where exactly was this land? A couple months after I started this paper, by the kind of research miracle one can only hope for, Robert Lee and a team of scholars released “Land-Grab Universities” in *High Country News*, a database and series of articles that traces more than 99% of the specific parcels distributed through the Morrill Act for the benefit of the entire land-grant university system. Over two years Lee’s team searched “land patent records, congressional documents, historical bulletins, archival and print resources at the National Archives, state repositories, and special collections at universities, digitized historical maps and more” (Lee and Ahtone 2020, 1) to identify the Morrill Act parcels and compare them to Indigenous land cessions.⁸ The team went further by connecting the financial dots: juxtaposing payments—if any—for Indigenous title to the principle raised for university endowments by the sale of Morrill Act land and scrip. They made the data publicly available as CSV and shapefiles in the *Morrill Act of 1862 Indigenous Land Parcels Database* so that it can be used to investigate

⁸ I had started down this investigatory road for the University of California specifically, looking at the same Bureau of Land Management General Land Office (BLM GLO) digital records that Lee’s team used, along with State of California and University of California physical archives. They undertook a far more comprehensive project across the full land-grant system.

particular threads, such as all land sales tied to a specific university, or universities tied to a specific tribe.

I am now working with Andy Lyons, Program Coordinator for the Informatics and Geographic Information System (GIS) Statewide Program at University of California Agriculture and Natural Resources (and ESPM PhD, 2012), to use ArcGIS software to map land cessions that benefited the University of California.⁹ From Lee's database, I extracted 2,395 Morrill Act parcels connected to UC. Andy Lyons is in the process of matching the shapefiles for these parcels with those of the historic land cessions in ArcGIS to make a visual overlay with tribal lands. We are also adding a map layer from native-land.ca, a well-respected Indigenous-led digital mapping platform of contemporary Native communities.

What Does Mapping Do (and Not Do)?

Lee's scrupulous archival work and open-access data enables us to create a cadastral map of Morrill Act parcels sold for the benefit of the University of California and overlay it with a Western political map of conceptions of Indigenous territoriality across specific historic periods. But what do these particular cartographic representations mean?

First, it raises questions about the naming and "placement" of California Indians. To identify Indigenous land, Lee's team used 67 maps produced by Charles Royce and presented to the Smithsonian in 1896-97 under the title "Indian Land Cessions in the United States, 1784-1894." The Royce maps do not account for lands seized without treaty, and therefore did not

⁹ By coincidence, in fall 2019 Andy Lyons, Lucy Diekmann, Jennifer Sowerwine, and Jason Lam of the UCANR Diversity, Equity, and Inclusion Alliance, had also begun tracing Morrill Act land sales in California, using the BLM GLO database. We learned of each other's work when Robert Lee published his data. This convergence speaks to the zeitgeist of U.S. institutions of higher learning seeking to expose and wrestle with how Black slavery and Indigenous slavery, genocide, and dispossession underpin their foundations.

cover much of California. Lee et al. also used maps from “Indian Land Areas Judicially Established” by the Indian Claims Commission and “Historic Native American Territories in California” from the *Handbook of North American Indians*, Vol. 8 (both resources from 1978) to complete the picture for California specifically. Lee’s data shows over 96% of the 2,395 University of California parcels to be on lands seized via the unratified treaties of 1851-52; about 3% was taken without agreement in 1865, by executive order in 1874 (with 1% of the parcels unidentified). These parcels are linked to about 125 individual tribal names, as they were listed in the sources described above. Lee offers the caveat that “the names appear as they do on Royce’s schedule from the nineteenth century [or in the case of California, from the 1978 sources]. Many of the names are no longer in use. Some are considered offensive” (2020b, 5).

Naming is politically contentious. For example, most of the names listed in Lee’s database do not appear on native-land.ca, which speaks to a several potential disconnects: such as that between Native self-naming and invader state naming; between Native understandings of territoriality and invader state mappings of Native territoriality; and between changing territoriality pre-contact, through 250 years of three invading states, and in contemporary time. Heizer points out, for example, that in 1850 when President Millard Fillmore appointed three commissioners to “negotiate” the (unratified) treaties for land cession in California:

None of the Commissioners had any knowledge whatsoever of California Indians or their cultural practices, especially those regarding land ownership and use. As treaty-makers they were under orders to make certain arrangements with California Indian tribes...Every group met with is listed as representing a “tribe.” (1972, 4)

With a lack of cultural competence (including language barriers) the colonial statesmen put into official record names that have had lasting impact on Indigenous communities’

relationships to the federal and California governments. Ohlone activist Corrina Gould explains that prior to the American period, the Spanish forced multiple Northern Californian coastal Indigenous groups together onto the Missions and named them “Coastanoan,” when in fact they were many communities with distinct languages, identities, and creation stories. Today many of those groups identify as Ohlone, but “even within language territories in Ohlone area there was never one overarching tribe...there are multiple tribes who have always lived on the same land and have responsibility to different pieces of that land” (Native American Student Development 2020).

California’s history of Native dispossession is unique due to three consecutive settler-colonial governments: the Spanish from 1769 to 1821, the Mexican from 1821 to 1846, and the American from 1848 – present (with California statehood established in 1850). Each invader asserted different systems of ownership claims over Native land and particular practices to decimate Indigenous communities (Castillo, n.d.).¹⁰ The transfer of lands from the U.S./California government to private title via the Morrill Act is a late stage in this history of appropriation and violence, and therefore does not reveal the full process by which lands became American “public” property in the first place. One could argue that a deeper disentanglement of this layered colonial history is necessary if one is to attach significance to the specific land parcels sold for the benefit of the founding of the University of California.

It is clear that whether through inherited benefits of prior colonial rulership or U.S.-specific policies, the State legislature’s passing of the 1868 Organic Act to Create and Organize

¹⁰ In using strong language such as “decimate” and “destroy” to describe the physical and structural violence settler-colonialists used to ravage Indigenous communities, I also acknowledge and honor the continual presence and resilience of California Indians, who have always resisted and survived colonization.

the University of California was situated on the tail end of a suite of state and federal acts specifically aimed at destroying California Native lives. These include: the 1850 Act for the Government and Protection of Indians, which, despite its benign-sounding name, forced California Indians off their traditional territories and into servitude, and stole children from their families; the “war of extermination” ordered by first California governor Peter Burnett and enacted through the 1851-1859 “Expeditions against the Indians,” which funded local militias to kill Indigenous people; and the unratified federal treaties with 18 tribes negotiated between 1851-1852 (see Advisory Council on California Indians 1997, and Johnston-Dodds 2002). Heizer describes the treaties as such: “Taken all together, one cannot imagine a more poorly conceived, more inaccurate, less informed, and less democratic process than the making of the 18 treaties in 1851-52 with the California Indians. It was a farce from beginning to end” (1972, 5). These “treaties,” as described above, displayed no understanding of Indigenous conceptions of self-identity or relationships to land and would have relocated tribal bands onto approximately 7.5 – 8.5 million acres out of California’s approximately 101.7 million total acres.¹¹ Even with this small fraction of proposed reservation land, the California legislature strongly opposed the treaties and they were never signed into federal law. The unratified treaties were another means by which Native land became “public”:

Contemporaneous with the initiative to negotiate treaties with the California tribes, Congress had passed the Land Claims Act of 1851, which provided that all lands in California, the claim to which was invalid or not presented within two years of the date of the Act, would pass into the public domain.” (Advisory Council on California Indian Policy 1997, 3)

¹¹ Johnston-Dodds states 7.5 million acres (2002, 23) and the Advisory Council on California Indian Policy states 8.5 million acres (1997, 4). Total California acreage derived from the U.S. General Accounting Office (1996, 20).

Tribes were not officially notified that the treaties had not been ratified until 1905. While the process of creating the treaties and identifying reservation land was fraught, had they been ratified, the treaties would have resulted in official U.S. and California recognition of sovereign tribal governments and the legal relationships that entails. Proposed reservation lands were in areas that generally overlapped with land sold under the Morrill Act.¹²

California's three-part settler-colonial history resulted in drastic spatial reconfigurations of Native communities. As an ongoing structure, the U.S. nation-state continues to dispossess Indigenous Californians, with different effects on individual communities. There are currently 109 federally-recognized tribes in California, and 55 unrecognized tribes.¹³ Dozens of tribes and bands have never been federally-recognized and were denied any sort of land restitution in L.A. Dorrington's report that prescribed purchase of land for homeless California Indians in 1927. And 44 tribes lost federal recognition in 1958 through the California Rancheria Termination Act. While many Rancherias have restored federal recognition through litigation or legislation, and other tribes have sought recognition, this process is expensive, bureaucratically onerous, and reveals deep issues in settler-colonial state relationships to Indigenous communities. As Winnemem Wintu Chief Caleen Sisk says, "It's a broken, black-hole process. It's not like filling out an application for a loan for a car and then you don't get it. You're sending in an application to people to apply to be who you say you are. What if they say you're not those people? Then who are you?" (Wiley 2019).

¹² See details of proposed reservation locations in Heizer.

¹³ The number of unrecognized tribes cited varies depending on who is doing the counting. The figure here is from the Native American Heritage Commission, the State of California body responsible for identifying and cataloging California Indian cultural resources.

Within this context of the structure of the California-U.S. settler-colonial state, Lee's data provide an unprecedented and stupendous level of cartographic knowledge on the connection between University of California land sales and Indigenous territories (at least those conceived by Western cartographers in the late 19th century). But we should be reflective on the meanings we attach to this specific information. The data do not question hegemonic conceptions of land ownership and use. Western cartographic mapping has been used as a tool of dispossession and oppression since settler-colonial invaders' first contact with Native Americans, in no small part through enforcing private property regimes that disregard Indigenous ways of being in relationship to land (Middleton 2010, Bryan 2012, Goemen 2013). These maps are caught up in ongoing struggles for tribal sovereignty and dictate "where we expect to find Indians" (Bryan 2012, 2). Cadastral and other Western cartographic maps *can* serve Indigenous Californian communities, such as they have for Mountain Maidu claims for allotment lands (Middleton 2010), yet academics must fundamentally question the ways of seeing land that mapping entails. Middleton challenges scholars to ask:

How does the 'helpful' cartographic researcher know when places and dynamics are best left unmapped? When is mapping colonial and when is it liberatory? Is the map a tool that can be used democratically across the community, or does it simply become a valuable representation that will support some community member's claims over others, based upon their differential ability to access and use it? When does the map simply serve to enhance the researcher's credibility by showcasing his or her technical skills?" (Middleton 2010, 379-80)

The terms participatory mapping, counter-mapping, un-mapping, and (re)mapping have all been raised to open up cartography to the possibilities of doing justice for Indigenous concepts of territoriality and place (Peluso 2011, Bryan 2012, Goemen 2013). For example, Goeman offers the challenge of (re)mapping to assert a spatial justice for Native communities

that is not bound by “the pitfalls of recovery or a seeming return of the past to the present” (2013, 4) that reliance on Western hegemonic forms of mapping might lead to. Instead she suggests that (re)mapping centers Native discourses that embrace fluid, paradoxical, and ever-changing concepts of space and relationships to land and other people. As alluded to in the Middleton quote above and further explained by Bowers and Carpenter (2011), for some California tribes sacred spaces are protected by covenants that are upheld through privacy: to speak of such places, let alone pinpoint them on geographic maps, would be disrespectful. Justice can also mean respecting what is best not mapped.

What Next? Institutional Unsettling

Susan Stein describes the “indirect but dependent” relationship between land-grant universities and the broad project of settler-colonial conquest, executed through the ideology of Manifest Destiny:

The U.S. government’s land accumulation throughout the nineteenth century helped to create the conditions of possibility for land-grant colleges and universities in what I describe as an *indirect but dependent* relationship. Although Indigenous lands were not accumulated by the state for the express purpose of funding land-grant institutions, without them the government would not have been able to grant land as parcels or scrip that were then sold to fund the institutions as per the provisions of the 1862 Morrill Act. (Stein 2017, 8, emphasis in original)

Indeed, if we look at the specific details of land sales in the decade following passage of the Homestead, Pacific Railway, and Morrill Acts (along with other acts), transfer of title under any specific legislation is rather helter-skelter. In the case of California, speculators ruthlessly gobbled up land via any number of legislative acts. For example, William S. Chapman bought 631,000 acres across the state, with 208,000 acquired through the Morrill Act scrip of various states (Gates 1961, 108). As Lee and Ahtone state, “Hundreds of treaties, agreements, and

seizures bulked up the U.S. public domain. After surveyors carved it up into tidy tracts of real estate, settlers, speculators, corporations, and states could step in as buyers or grantees, grabbing pieces according to various federal laws” (2020, 5).

On one hand, the specificity of the sale of lands that benefited the University of California is rather random, as it cannot be separated from the general frenzy of federally-authorized land-grabbing in the late 1860s. However, I argue that tracing the history of UC’s specific history of profit from stolen Indigenous lands is important because of the University’s role as an institution of knowledge production for the common good. As a public university whose mission is *“to serve society as a center of higher learning, providing long-term societal benefits through transmitting advanced knowledge, discovering new knowledge, and functioning as an active working repository of organized knowledge”* (UC Office of the President n.d.), it is vital to continuously examine just which “society” and what “knowledge” UC benefits. The UC Office of the President-produced 150 Anniversary celebratory website declares that “On March 23, [1868] Gov. Henry Haight signed the charter that created UC, setting in motion the bold idea that college should be available for everyone” (UC Office of the President 2018). The article continues that the founding of the university “[set] in motion the audacious idea that California should have a great public university—one that would serve equally the children of immigrants and settlers, landowners, and industrial barons.” Native Americans are notably excluded, and the emphasis on just which populations the university would “serve equally” aligns with Stein’s argument that the land-grant movement “helped solidify a colonial template of state-facilitated capital accumulation” (Stein 2017, 2). The UC Office of the President and UC Agriculture and Natural Resources websites do not complicate the oft-told “democracy’s

colleges” version of the Morrill Act story; the website of the Berkeley College of Natural Resources, which serves as UC’s original land-grant arm, doesn’t either.

I hope that the Land-Grab University data can do more than just “complicate” the University of California origin story. To seriously engage with a process of decolonizing the university, the conversation needs to move beyond what Tuck and Yang call “settler moves to innocence”: “strategies or positionings that attempt to relieve the settler of feelings of guilt or responsibility without giving up land or power or privilege, without having to change much at all” (Tuck and Yang 2012, 10). And yet, UC hasn’t even taken the first step of a public, institutionally-supported acknowledgement of Indigenous dispossession. In 2018 the UC Berkeley Native American Student Development Office issued a Statement of Acknowledgement that describes the benefit every member of the UC Berkeley community derives from ongoing occupation of “the territory of Huichin, the ancestral and unceded land of the Chochenyo Ohlone, the successors of the historic and sovereign Verona Band of Alameda County” (Native American Student Development 2018). The statement further challenges the University to be more accountable to Indigenous peoples. The same year, the Associated Students of the University of California, the UC Berkeley student governing body, passed a resolution requiring that the first senate meeting of each semester begin with an Ohlone land acknowledgement (Associated Students of the University of California 2018). Note that both these efforts were student-led. While conversations are underway, UC Berkeley’s administrative leadership and academic departments—let alone the Regents of the University of California as a whole—have yet to adopt land acknowledgements. UC could follow the Australian model, for example, where each page of every university website includes

Acknowledgement of Country, and where since 2010 the Chair of the House has opened each session of Parliament with a verbal acknowledgement (Parliament of Australia n.d.). The University of California land acknowledgement could include the communities on whose territories the UC campuses sit as well as Indigenous peoples across the state whose land was sold to fund UC's endowment.

Moving beyond words, the University of California could offer financial restitution to Indigenous communities, working with the California Native American Truth and Healing Council created by Governor Gavin Newsom in 2019 (State of California Executive Department 2019). UC could offer free tuition in perpetuity on all its campuses to California Indian students, under a "Turtle Island Act" that mirrors the language of the Morrill Act in creating a fund that "shall remain forever undiminished." South Dakota State University, for example, is using its Morrill Act endowment to fund Native American student scholarships and collaborative research with tribal organizations (South Dakota State University n.d.).¹⁴ From Morrill Act endowment funds, UC could also pay annual land taxes to tribes on whose traditional territories Morrill Act parcels were sold. The taxes could be modeled on the Sogorea Te' Land Trust's Shuumi Land Tax, a voluntary annual fee paid by institutions (such as UC Berkeley) that

¹⁴ The South Dakota State University Wokini Initiative website uses language of Indigenous sovereignty by describing the program as a "collaborative and holistic framework to support American Indian student success and Indigenous Nation-building." It also states that the funding "will be through private donations to the SDSU Foundation and revenue generated by land as part of the South Dakota Permanent Trust Fund. Much of that land exists in the western part of the state and was claimed in 1887 by the federal government as part of the Dawes Act, assigning 160,000 acres to the state of South Dakota to support its new land-grant college and agricultural experiment station." While this language is in the passive tense and sanitizes Indigenous dispossession, it is more than other land-grants universities have put forth. See <https://www.sdstate.edu/wokini>.

operate on Chochenyo and Karkin Ohlone land. The tax supports the Land Trust's work to acquire and cultivate land and community resources (Sogorea Te' Land Trust n.d.).

UC could go further by rematriating/repatriating actual land to California Indian communities. The University of California is not among the dozen land-grant institutions still in possession of physical land connected to the Morrill Act. UC does, however, have substantial real estate holdings all over the state, in both real and endowment properties (UC Office of the President 2019). Land rematriation/repatriation is not an easy process, and risks duplicating colonial property regimes.¹⁵ There is precedent, however, for this challenging and necessary work in UC's decades' overdue movement to finally fulfill obligations under the federal and California Native American Graves Protection and Repatriation Acts (NAGPRA and CalNAGPRA). At the time of writing this paper, Version 3 of the UC Native American Cultural Affiliation and Repatriation Policy was under review (UC Office of the President 2020).¹⁶

Returning to the University of California's mission as an institution of knowledge production and dissemination, UC could elevate Indigenous epistemologies by creating a requirement for all undergraduate students to take a Native American Studies course. UC Berkeley, for example, currently has an American Cultures requirement "to critically engage in important issues within the United States by helping students develop a deeper understanding of race, culture, and ethnicity in the context of American society" (University of California, Berkeley n.d.). This new requirement would stem from the State's specific legacy of genocide

¹⁵ See for example Robin Turner (2016) on the South African context.

¹⁶ The draft policy includes a mind-boggling four-page flowchart of the repatriation process with the note that it was added per request by tribes and the Native American Heritage Commission to make the policy clearer. The policy's language and format raises questions in this author's mind about the use of hegemonic tools that favor the University. I do not have sufficient background on the development process of the UC Native American Cultural Affiliation and Repatriation Policy to comment on varying views of the current draft policy.

and dispossession of Indigenous Californians and the financial benefit from Native land upon which the University was founded and continues to operate. System-wide enrollment in Native American Studies classes would bolster these departments at each UC campus.

Tuck and Yang argue that decolonization requires an “ethic of incommensurability, which guides moves that unsettle innocence” (2012, 35). I attempted here a few preliminary suggestions on how UC might act in response to the new data on Morrill Act parcels sold to benefit the founding of the University. I recognize that some of these recommendations stem from liberal, capitalistic modes of thinking that critical Indigenous studies scholars may eschew (Coulthard 2014; Moreton-Robinson 2016; Simpson 2017). I do not claim any authority on this matter. Rather, I urge the University of California to authentically listen to the needs and goals of different California Indian communities—each with unique cultural relationships to land, and specific histories of dispossession in relation to the State and the University—to learn what purpose, if any, the new Land-Grab University can serve. As per any group of academics, individual Indigenous communities will not necessarily have a unified vision among their members, or with other tribes, as to what this knowledge means. Let’s welcome this epistemological unsettling.

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This paper was written on the territory of xučyun, the ancestral and unceded land of the Chochenyo speaking Ohlone people, the successors of the historic and sovereign Verona Band of Alameda County. This land was and continues to be of great importance to the Muwekma Ohlone Tribe and other familial descendants of the Verona Band.¹⁷

Works Cited

Advisory Council on California Indian Policy. 1997. "Final Reports and Recommendations to the Congress of the United States Pursuant to Public Law 102-416." Accessed April 11, 2020. <https://www.standupca.org/reports/Advisory%20Council%20on%20CA%20Indians%201997.pdf/view>

Associated Students of the University of California. 2018. "SR 17/18-089 The Associated Students of the University of California Formal Recognition of Stolen Ohlone Land." Accessed May 5, 2020. <https://docs.google.com/document/d/17rgmvH9TteULpziBXH05hKpXw5snDhNqxluiborVoiQ/e/dit#heading=h.gjdgxs>

Bowers, Amy, and Kristen A. Carpenter. 2011. "Challenging the Narrative of Conquest: The Story of Lyng v. Northwest Indian Cemetery Protective Association." SSRN Scholarly Paper ID 2020681. Rochester, NY: Social Science Research Network.

Bryan, Joe. 2012. "Unmapping Indian Country: Maps, the Law, and the Geography of Justice." Proceedings of the 37th Annual Federal Bar Association Indian Law Conference. Pojoaque Pueblo, NM, April 19-20, 2012.

Burnett, Peter. 1851. "State of the State Address." Accessed April 11, 2020. https://governors.library.ca.gov/addresses/s_01-Burnett2.html

California Executive Department. 2019. "Executive Order N-15-19." Accessed May 9, 2020. <https://www.gov.ca.gov/wp-content/uploads/2019/06/6.18.19-Executive-Order.pdf>.

¹⁷ See <https://cejce.berkeley.edu/ohloneland>

California Legislature. 1850. "An Act for the Government and Protection of Indians." Accessed May 9, 2020.

<http://faculty.humanities.uci.edu/tcthorne/notablecaliforniaindians/actforprotection1850.htm>.

———. 1868. "Organic Act to Create and Organize the University of California: Chapter 244." Accessed April 24, 2020.

<https://oac.cdlib.org/view?docId=hb6w100756;NAAN=13030&doc.view=frames&chunk.id=div0001&toc.depth=1&toc.id=div0001&brand=oac4>

———. 1958. "California Rancheria Termination Act: Public Law 85-671." Accessed April 24, 2020. <https://www.govinfo.gov/content/pkg/STATUTE-72/pdf/STATUTE-72-Pg619.pdf>.

Castillo, Edward D. n.d. "California Indian History – California Native American Heritage Commission." Accessed April 11, 2020. <http://nahc.ca.gov/resources/california-indian-history/>.

Cooper, David D. 1999. "Academic Professionalism and the Betrayal of the Land-Grant Tradition." *American Behavioral Scientist* 42 (5): 776–85.

Coulthard, Glen Sean. 2014. *Red Skin, White Masks*. Minneapolis, MN: University of Minnesota Press.

Dorrington, L.A. 1927. "Letter to U.S. Commissioner of Indian Affairs Regarding Homeless California Indians." Accessed April 24, 2020.

https://digitalcommons.csumb.edu/hornbeck_usa_3_d/56/

Gates, Paul W. 1961. "California's Agricultural College Lands." *Pacific Historical Review* 30 (January): 103–122.

Glenn, Evelyn Nakano. 2015. "Settler Colonialism as Structure: A Framework for Comparative Studies of U.S. Race and Gender Formation." *Sociology of Race and Ethnicity* (January): 52–72.

Goeman, Mishuana. 2013. *Mark My Words: Native Women Mapping Our Nations*. *Mark My Words*. Minneapolis, MN: University of Minnesota Press.

Gomez, Cynthia, and James Ramos. 2015. "Native American Heritage Commission Report for July 1, 2015 through June 30, 2016." Native American Heritage Commission. Accessed April 24, 2020. <http://nahc.ca.gov/wp-content/uploads/2019/04/NAHC-Annual-Report-2014-2015.pdf>

Heizer, Robert F. 1972. "The Eighteen Unratified Treaties of 1851-1852 between the California Indians and the United States Government." Archaeological Research Facility, Department of Anthropology, University of California, Berkeley.

Johnston-Dodds, Kimberly. 2002. *Early California Laws and Policies Related to California Indians*. Sacramento, CA: California Research Bureau, California State Library.

- Lee, Robert. 2020. "Morrill Act of 1862 Indigenous Land Parcels Database." *High Country News*.
- . 2020a. "Further Reading on HCN's Land-Grants University Investigation." *High Country News* (March).
- . 2020b. "How We Investigated the Land-Grant University System." *High Country News* (March).
- Lee, Robert, and Tristan Ahtone. 2020. "Land-Grab Universities." *High Country News* (March).
- Locke, John. 1978. "Of Property." In *Property: Mainstream and Critical Positions*, edited by C.B. MacPherson, 15–28. Toronto, Canada: University of Toronto Press.
- Mayes, Christopher. 2018. *Unsettling Food Politics: Agriculture, Dispossession and Sovereignty in Australia*. London; New York: Rowman & Littlefield International.
- Middleton, Elisabeth Rose. 2010. "Seeking Spatial Representation: Reflections on Participatory Ethnohistorical GIS Mapping of Maidu Allotment Lands." *Ethnohistory* 57 (3): 363–87.
- Moreton-Robinson, Aileen, ed. 2016. *Critical Indigenous Studies*. Tuscon, AZ: University of Arizona Press.
- Morris, Amanda. 2019. "What Is Settler-Colonialism?" *Teaching Tolerance*. Accessed April 12, 2020. <https://www.tolerance.org/magazine/what-is-settlercolonialism>
- Nash, Margaret A. 2019. "Entangled Pasts: Land-Grant Colleges and American Indian Dispossession." *History of Education Quarterly* 59 (4): 437–67.
- National Archives and Records Administration. 1862. "Morrill Act (1862)." 1862. Accessed April 11, 2020. <https://www.ourdocuments.gov/doc.php?flash=false&doc=33&page=transcript>
- "Native-Land.ca | Our Home on Native Land." n.d. Accessed April 18, 2020. <https://native-land.ca/>.
- Native American Student Development. 2020. "Indigenous United: Ohlone History with Corrina Gould Pt. 1." Accessed April 19, 2020. <https://soundcloud.com/indigenousunited>.
- . 2018. "NASD | Campus Climate, Community Engagement & Transformation." Accessed May 5, 2020. <https://campusclimate.berkeley.edu/students/ejce/nasd>.
- O'Sullivan, John. 1845. "Annexation," *The United States Magazine and Democratic Review*, Volume 17, 1-5.

paperson, Ia. 2017. *"A Third University Is Possible" on Manifold @uminnpress*. Minneapolis, MN: University of Minnesota Press.

Parliament of Australia. n.d. "Acknowledgement of Country and Prayers." Accessed May 5, 2020.

https://www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/Practice7/HTML/Chapter8/Acknowledgement_of_country_and_Prayers.

Peluso, Nancy Lee. 2011. "Whose Woods Are These? Counter-Mapping Forest Territories in Kalimantan, Indonesia." In *The Map Reader*, edited by M. Dodge, R. Kitchin and C. Perkins, 422–29. Hoboken, NJ: John Wiley & Sons, Ltd.

Ross, Earle Dudley. 1942. *Democracy's College: The Land-Grant Movement in the Formative Stage*. Ames, IA: The Iowa State College Press.

Simpson, Leanne Betasamosake. 2017. *As We Have Always Done*. Minneapolis, MN: University of Minnesota Press.

Sogorea Te' Land Trust. n.d. "Institutional Shuumi | Sogorea Te' Land Trust." Accessed May 7, 2020. <https://sogoreate-landtrust.org/shuumi-land-tax/institutional-shuumi/>.

South Dakota State University. n.d. "Wokini Initiative." South Dakota State University. Accessed May 7, 2020. <https://www.sdstate.edu/wokini>.

Stein, Sharon. 2017. "A Colonial History of the Higher Education Present: Rethinking Land-Grant Institutions through Processes of Accumulation and Relations of Conquest." *Critical Studies in Education* (December): 1–17.

Tuck, Eve, and K. Wayne Yang. 2012. "Decolonization Is Not a Metaphor." *Decolonization: Indigeneity, Education & Society* 1 (1): 1-40.

Turner, Robin. 2016. "Lasting Legacies: Contemporary Struggles and Historical Dispossession." *Comparative Studies of South Asia, Africa and the Middle East* 36 (2): 275-292.

UC Office of the President. 2018. "UC 150th Anniversary Timeline." UC 150th Anniversary Timeline. 2018. Accessed April 10, 2020. <https://150.universityofcalifornia.edu/>

———. 2019. "University of California Real Property Report." Accessed May 9, 2020. <https://www.ucop.edu/real-estate-services/resources/real-property-data/index.html>.

———. 2020. "Curation and Repatriation of Human Remains and Cultural Items." Accessed May 9, 2020. <https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/curation-and-repatriation/index.html>.

———. n.d. “UC’s Mission.” Accessed April 10, 2020. <https://www.ucop.edu/uc-mission/>.

University of California, Berkeley. n.d. “Courses | The American Cultures Center.” Accessed May 9, 2020. <https://americancultures.berkeley.edu/students/courses>.

U.S. General Accounting Office. 1996. “Land Ownership: Information on the Acreage, Management, and Use of Federal and Other Lands,” RCED-96-40 (March). Accessed April 11, 2020. <https://www.gao.gov/products/GAO/RCED-96-40>.

Wiley, Hannah. 2019. “What Is a ‘California Indian Tribe’? How a Proposed Law Unearthed a Decades-Old Wound.” *The Sacramento Bee*, August 5, 2019.

Wolfe, Patrick. 2006. “Settler Colonialism and the Elimination of the Native.” *Journal of Genocide Research* 8 (4): 387–409.

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