

***HOW BEAR LOST HIS TAIL: AN INDIGENOUS PERSPECTIVE ON INCLUSIVE DELIBERATIVE  
DEMOCRATIC THEORY AS APPLIED TO THE CANADIAN SOCIETAL CONTEXT***

by

Matthew Norris

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**Examining Committee:**

Dr. Sheryl Lightfoot

---

Supervisor

---

Supervisory Committee Member

---

Supervisory Committee Member

---

Dr. Mark Warren

---

Additional Examiner

**Additional Supervisory Committee Members:**

Supervisory Committee Member

---

Supervisory Committee Member

## Abstract

There exists a deep societal divide in Canada between Indigenous and settler societies. A divide which has continuously reared its head through demonstrations of violence, rage, or impassioned dismissal of the pursuit of justice for historical wrongs. As Indigenous voices for justice rise, Canada's federal and provincial governments respond with policy and legislative change to address Indigenous unrest. Despite the introduction of numerous policies, legislation, and initiatives in an attempt to appease Indigenous voices, Canada has continuously failed to address the foundations of Indigenous calls for justice and has failed to address the disparities between Indigenous communities' and non-Indigenous communities' quality-of-life indicators, which in turn are a direct ramification of the injustices perpetuated against Indigenous peoples to which they demand recognition, recompense and reconciliation. When viewed through the lens of deliberative democratic theory the existence of deep societal division and the continual marginalization of particular social groups, appears counterintuitive when one considers the concentrated effort to promote their political inclusion, equality and publicity of Indigenous groups. In investigating this occurrence this thesis will conduct a review of Iris Marion Young's model of deliberative democratic theory with a specific focus on Young's four pillars of deliberative democratic theory for the pursuit of social justice, followed by an engagement with Frantz Fanon's work on the psycho-afflictive disorders settler-colonial societies inflict and are reliant upon. By doing so this thesis will argue that settler colonialism creates, entrenches and makes invisible the systems which are responsible for the social delineations between us and them, between settler society and Indigenous societies, and between have and have nots.

Further I argue that deliberative democratic theory, through its varied social justice mechanisms, is incapable of addressing the fundamental and structural mechanisms colonialism has created, which ensure the marginalization, disempowerment and dispossession of Indigenous peoples, systems on which the legitimacy of the colonial state relies. To overcome such shortfalls, Young's pillar of 'reasonableness' must be actively pursued through a commitment and concrete action to unearth and challenge the foundations of settler-colonialism and to refute the divisionary policies on which the polity that is Canada has been built.

## Lay Summary

When applied to polities infected with an unexposed and unrecognized history of settler colonialism, deliberative democratic theory will be unable to produce legitimate political decisions to respond to Indigenous calls for justice. Further, not only will such decisions fail to make significant inroads in achieving social, economic or political change, but they will lack the necessary legitimacy resulting in civil unrest and the furtherance of the social schism between settler and Indigenous societies. To truly unite a polity, provide legitimacy to political decision making and to promote empathy and mutual relationships built on trust and reconciliation, the very foundations, of settler colonialism and the colonial polity, now entrenched and made invisible, must be unearthed, challenged and refuted to the revolution of the status quo.

**Preface**

This dissertation is original, unpublished, independent work by the author, Matthew Norris.

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I would also like to acknowledge the staff and leadership at the Union of BC Indian Chiefs and the Indigenous Chiefs and leaders throughout BC. Their passion and drive for the recognition of Indigenous title and rights continues to inspire.

Finally, I would like to thank my family, my friends, my parents, Debby and Ken Norris, my partner, Lesley Paterson and my pup, Alfie. Their ever-presented insistence that I “get to work” and their unbelievable patience, understanding and support has been invaluable in reaching this milestone.

**How Bear Lost His Tail and Began to Hibernate**

|  |                                       |
|--|---------------------------------------|
| Maskwa kahkiwonitaht oshwi               | Kakohskopiyit osoy iksekwat.          |
| Kayâs Maskwa osoy eki kinîwak            | Osoy îkipwaskati                      |
| ekikatowas'cik.                          | Wesakachek es'psit ociptaw.           |
| Wesakachek pimohtew wâsâ askiy. Wîya     | Maskwa osoy kîskiptan aspin kohspit   |
| enohtekatet. Wesakachek kiwâpamew        | maskwa osoy kîskow.                   |
| maskwa enôcikinosewew sîpîh. Wesakachek  | Wesakachek ehitaht inohteketeyan eka  |
| tepwâtew nesimis, âhsamin kinosew.       | âhsamin kohksî ohma kespi'en.         |
| Maskwa itwew, "namoya, kîya kâsontin     | Kahke kitimahkehitowin pimîtsohamowk. |
| kinosew.                                 |                                       |
| Wesakachek itwew, "mesimis, kihtwâm      |                                       |
| kiwîwâpamitin."                          |                                       |
| Ehko Pipoh. Wesakachek kiwâpamew         |                                       |
| maskwa enatonahk mîciwin. Maskwa         |                                       |
| nâmoya kinôcikinosewew. Sîpîhwa ekwa     |                                       |
| sâkahikana âhkwatihkî. Wesakachek itwew, |                                       |
| "Âstom Maskwa kiskinowahamâtin pipohn    |                                       |
| nôcikinosewin                            |                                       |
| Wesakachek sakehikani etoktahew. Wîya    |                                       |
| wâte ochitâw ekwa otasionew apî kisoy    |                                       |
| kepakstâwehin. Maskwa ehapit kinowes.    |                                       |
| Pisînipat.                               |                                       |

A long time ago, all bears had long beautiful bushy tails and did not hibernate. Creator made them that way.

Wesakachek walked around the world.

On his walk Wesakachek spotted a bear fishing in the river, he realized how very hungry he was. So, he called him nesimis (younger siblings), and asked, "Will you share some of the fish with me". The bear replied, "No, get your own fish. This is for me and my family."

Wesakachek begged. Finally giving up, he said to the bear, "Nesimis, one day I will see you again."

The following winter, all the rivers and lake froze. On his walk Wesakachek spied the bear looking for something to eat, unable fish. Wesakachek said to the bear, "I can help you catch some fish. Come with me and I will show you how".

So he took the bear to a lake. Cut a hole in the ice and taught the bear how to ice fish,

by sticking his long beautiful bushy tail in the hole. He told the bear to sit there until the bear could feel a heaviness on his tail.

He told him when it got very heavy, to pull, because his long beautiful bushy tail would be full of fish.

The bear sat and sat and waited for this tail to feel heavy.

After some time, the bear fell asleep.

All of a sudden, the bear awoke with a start to realize his tail was heavy.

He pulled, and he pulled but couldn't lift his tail out of the ice. The bear thought with excitement "Oh boy have I ever got a good meal! There are so many fish on my tail."

He called for his brother Wesakachek to come and help him. Wesakachek told him to give his tail a mighty pull. And so the bear did.

The bear tumbled over and over landing on the side of the lake. Looking down expecting to see his dinner the bear was

surprised to see nothing. No fish and no tail.

To his surprise the bear realized it had broken off. Looking back the bear saw the end of his tail sticking out on the ice.

Wesakachek said to him "that is for not sharing the fish with me last summer. From now on, till the end of time, all bears' tails will be short and stubby."

But Wesakachek did feel sorry for the bear and told him that from now on he would no longer need to look for food in the winter, that from here, the bear would sleep all winter long in his den.

So, that's why bears sleep all winter and have short tails. And that's why you should always share and respect the needs of your neighbors.

.....

*"How Bear Lost His Tail and Begun to Hibernate" was gifted to me by Cree Elder Lena Ouellet, with whom I worked to translate into the Cree you see above. For those Cree speaking readers, I hope you can forgive me for the rough translation you see here, this was done in the early days of my Cree education, and I still have much to learn about my language. Tan'si.*

## 1 Introduction

*“There is a darkness that exists in this country,” said Chris Murphy, lawyer for the Boushie family. “I believe we are going to have to feel our way out of it.”<sup>1</sup>*

On August 9<sup>th</sup>, 2016, Colten Boushie, a 22-year-old Cree man from the Red Pheasant First Nation in Saskatchewan, was killed by Gerald Stanley, a 56-year-old white man, settler and farmer. Stanley was charged with second-degree murder but on February 9<sup>th</sup>, 2018, he was found not guilty by an all-white Saskatchewan jury. The events leading up to Boushie’s death and the subsequent acquittal of Stanley resulted in nationwide protests, outrage and the perpetuation of clear societal divisions between Indigenous and non-Indigenous communities within Saskatchewan and throughout the country. The country was divided. Indigenous communities and organizations labeled the killing as a racially motivated murder, the culmination of years of racial tensions and the dehumanization of Indigenous peoples throughout the province and the country, permitted by a flawed justice system which inherently favoured settler society. Opposed to these views, Saskatchewan farmers and settler supporters united calling the killing justified due to violent and criminal nature of the remote Indigenous communities throughout the province. Rage and threats of violence continued to percolate and grow in intensity until the Boushie family called for peace. Indigenous organizations and communities throughout the country expressed deep distrust in Canada’s

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<sup>1</sup> Quenneville, Guy and Jason Warick. “‘Shout of ‘murderer’ in courtroom after Gerald Stanley acquittal in Colten Boushie Shooting.” *CBC News*. 9 Feb. 2018 Web. 10 July 2018.

ability to address the concerns of Indigenous peoples, while the Boushie family continues its calls for justice.

Colonialism, specifically settler colonialism, creates, entrenches and makes invisible the systems which are responsible for the social delineations between us and them, between settler society and Indigenous societies, and between have and have nots. Deliberative democratic theory, through its varied social justice mechanisms, is incapable of addressing the fundamental and structural mechanisms colonialism has created, which ensure the marginalization, disempowerment and dispossession of Indigenous peoples, systems on which the legitimacy of the colonial state relies.

This thesis will argue that the circumstances leading to Boushie's death, the acquittal of Stanley, and the outrage and indignation which gripped Canada during and following the trial are direct consequences of the imposition of a settler-colonial state upon pre-existing Indigenous societies. In addition, this thesis will argue that the reliance of contemporary Indigenous communities upon a governance structure premised on principles similar to those espoused by deliberative democratic theory has been unable, in its 150 years of existence, to remedy the racist ideals and societal divide on which settler colonialism relies.

This thesis will seek to prove that deliberative democratic theory, as articulated by Iris Marion Young, a professor of Political Science at the University of Chicago, specializing in deliberative democratic theory, feminist social theory, justice and social difference, is ineffective in advancing social justice issues and overcoming instances of grave marginalization and disempowerment as present in societies derivative of settler colonialism. To prove this, I will use Frantz Fanon's analysis of the psycho-inhibitive relationships colonialism imposes, and

the impact of these relationships upon the psyches of settlers and Indigenous peoples. Further, I will prove how the suggested avenues of justice and reconciliation, as posed by Young, do not address the foundational, structural and historic impositions upon which colonialism was created.

## **2 Argument**

I argue that colonialism, specifically settler colonialism, creates, entrenches and makes invisible the systems which are responsible for the social delineations between us and them, between settler society and Indigenous societies, and between have and have nots. Further I argue that deliberative democratic theory, through its varied social justice mechanisms, is incapable of addressing the fundamental and structural mechanisms colonialism has created, which ensure the marginalization, disempowerment and dispossession of Indigenous peoples, systems on which the legitimacy of the colonial state relies.

## **3 Methodology**

I will begin with a summary of Young's democratic theory of justice, including a brief engagement with the various pillars of deliberative democratic theory which Young proposes as mechanisms for the pursuit of social justice. I will then follow with an engagement with Frantz Fanon's work on the psycho-afflictive disorders settler-colonial societies inflict and are built upon. By doing so, I hope to begin to flush out the inadequacies of Young's arguments by

demonstrating their lack of engagement with the psychological impacts Fanon describes. I will follow with a brief overview of the purpose and impacts of the colonial regime in Canada, with the aim of applying a Fanonian lens to the impositions of settler colonialism within the Canadian state. I will then provide an overview and an application of Young's proposed deliberative democratic model and process to qualify their ability to address and overcome such instances of social injustice and divide between Indigenous and non-Indigenous communities. I will proceed with a discussion on Canada's attempts and failures to address these societal gaps and the continued oppression of Indigenous societies by the Canadian state and settler society, thus drawing conclusions into the shortcomings of Young's theory. This thesis will then conclude with the application of my arguments in an analysis of the circumstances and the national schisms leading up to and following the Stanley trial in February 2018.

#### **4 Literature Review: Deliberative Democratic Theory and the Canadian State**

Two strains of democratic theory are widely accepted by political theorists: the aggregative model and the deliberative model. Both models rely on the rule of law, aggregate societal preferences when consensus and broad consultation is too costly or impossible, and include various mechanisms requiring the freedoms of speech, assembly, and association, among others.

Young's model of deliberative democratic theory as found in her book *Inclusion and Democracy* (2000), along with the mechanisms and arguments she presents, mirror the many

processes Canada has taken to appease Indigenous demands for justice, wherein social difference is viewed as a political resource which must be recognized and accounted for to achieve a just result. Young argues that “a model of deliberative democracy implies a strong meaning of inclusion and political equality which, when implemented, increases the likelihood that democratic decision-making processes will promote justice.”<sup>2</sup> Central to Young’s model is the idea that through inclusive democratic practices, dissonant perspectives and viewpoints will engage each other. Through natural empathetic means and efforts of individuals and groups “to persuade one another of the justice and the wisdom of their claims,”<sup>3</sup> contenders will arrive at consensual decisions based on compromise, thus providing legitimacy to state policy decisions. Additionally, Young’s theory extends beyond traditional norms of deliberations which “implicitly value certain styles of expression as dispassionate, orderly, or articulate”<sup>4</sup> which tend to favour exclusionary practices and thus reinforce systems of oppression and marginalization.

Social justice issues that affect Indigenous peoples within the Canadian settler-colonial state include oppressive and marginalizing social structures inherent to systems of colonization and settler colonialism, including systems of dispossession, discriminatory public policy, poor access to education, prejudiced child apprehension policies, culturally unresponsive judicial systems, and systemic attempts to destroy Indigenous cultures, identities and connection to the land and title. These systems of oppression and marginalization, though often historically

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<sup>2</sup> Young, Iris Marion. *Inclusion and Democracy*. New York: Oxford University Press, 2000. P. 6

<sup>3</sup> Young, 6

<sup>4</sup> Young, 6-7

imposed, continue to impact First Nations, Inuit and Métis peoples throughout Canada in present day. As a result of these systems, Indigenous people in Canada consistently show increased rates of incarceration<sup>5</sup>, higher levels of poverty<sup>6</sup>, lower levels of education<sup>7</sup> and literacy rates<sup>8</sup>, devastatingly high levels of youth suicides<sup>9</sup>, increased chance of being victim to violence<sup>10</sup>, the existence of health afflictions not common or expected in countries with a level of GDP and overall quality of life indicators as Canada<sup>11</sup>, communities with constant boil water advisories<sup>12</sup> and often debilitating lack or inflated cost of basic goods which ensures an oppressive quality of life gap between Indigenous populations and non-Indigenous populations<sup>13</sup>.

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<sup>5</sup> “In 2015/2016 Aboriginal adults were overrepresented in admissions to provincial and territorial correctional services, as they accounted for 26% of admissions while representing about 3% of the Canadian adult population.” Reitano, Julie. *Adult Correctional Statistics in Canada, 2015/2016*. Canadian Centre for Justice Statistics. 01 March 2017.

<sup>6</sup> “In 2010, the median after-tax income for Aboriginal people was just over \$20,000 compared to \$27,600 for their non-Aboriginal counterparts.” (Statistics Canada. *2011 National Household Survey: Data Tables*. Statistics Canada. 2011. Web.

<sup>7</sup> “In 2011, almost half (48%) of Aboriginal people aged 25 to 64 reported they had a postsecondary qualification. By comparison, about two thirds (65%) of non-Aboriginal people in the same age group had a postsecondary qualification, a difference of 17 percentage points.” Statistics Canada. *Aboriginal Statistics at a Glance: 2<sup>nd</sup> Edition*. Statistics Canada. 24 December 2015.

<sup>8</sup> “The Aboriginal population across Canada scored an average of 260 in literacy, which was lower than the average score of the 274 for the non-Aboriginal population.” Statistics Canada. *Aboriginal Statistics at a Glance: 2<sup>nd</sup> Edition*. Statistics Canada. 24 December 2015.

<sup>9</sup> “Suicide rates are five to seven times higher for First Nations youth than for non-Aboriginal youth.” Health Canada. *Suicide Prevention*. Health Canada. 27 March 2018. Web.

<sup>10</sup> “In 2009, 12% of Aboriginal people reported being the victim of at least one non-spousal violent crime, more than double the proportion of non-Aboriginal peoples (5%).” Statistics Canada. *Aboriginal Statistics at a Glance: 2<sup>nd</sup> Edition*. Statistics Canada. 24 December 2015.

<sup>11</sup> Dubé, Dani-Elle. “In Canada, tuberculosis is long gone – unless you’re aboriginal.” *Global News*. 24 March 2014. Web.

<sup>12</sup> “Two-thirds of First Nations have been under at least 1 water advisory between 2004 and 2014.” Levasseur, Joanne and Jacques Marcoux. “Bad water: ‘Third World’ Conditions on First Nations in Canada.” *Canadian Broadcasting Corporation*. 14 Oct 2015. Web.

<sup>13</sup> “The cost of living is higher than in urban centres across Canada. The cost of groceries will likely be at least double what you pay elsewhere.” Government of Canada. *Nursing Careers: Life in a remote and/or isolated First Nations Community*.” Government of Canada. N.d. Web:

These debilitating circumstances have shaken the status quo of the Canadian state and have resulted in increased levels of civil disobedience, debilitating stoppages in the extractive resource industry, powerful shows of public demonstration in streets throughout the country and countless millions of dollars spent in Canada's courts. Conversely, this period has also been witness to "an unprecedented degree of recognition for Aboriginal 'cultural' right within the legal and political framework of the Canadian state,"<sup>14</sup> largely due to the leadership and activism of Indigenous communities, organizations and individuals. This contradiction between high levels of oppression and social marginalization and high levels of political recognition appears to be counterintuitive when viewed from the perspective of deliberative democratic theory. Young's model appears to contradict this observation by suggesting that the existence of an unprecedented recognition of an 'Indigenous group identity', alongside an unprecedented level of accommodation and recognition of cultural distinctiveness and political autonomy of Indigenous nations, indicates that the existence of oppressed or marginalized groups, or the experience of oppression and marginalization, should be minimized. This contradiction between Young's theory and the specific circumstances of Canadian society questions the applicability of Young's theory to colonial states. This contradiction also leads us to question if deliberative democratic theory has the means to overcome and effectively address such instances of deep social injustice which exist so prominently throughout Canadian society.

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<sup>14</sup> Coulthard, Glen. *Red Skin White Mask*. Minneapolis, MN.: University of Minnesota Press, 2014. P. 2

#### 4.1 Literature Review: Young

Young's theory relies heavily on "democratic discussion and decision-making [...] as a process in which differentiated social groups should attend to the particular situation of others and be willing to work out just solutions to their conflicts and collective problems from across their situated positions."<sup>15</sup> It would be reasonable to assume that Young perceives the possibility of overcoming such instances of social injustice through the crucible of public communication. To analyze the applicability of this argument, it is necessary to further engage with each of Young's proposed mechanisms within her deliberative democratic theory as a means to pursue social justice through the engagement of social difference as a political resource in pluralistic democratic systems: inclusion, political equality, reasonableness and publicity.

Young's theory differs from other theorists' conceptions in her conviction that deliberation presents a means to overcome social injustice in societies divided by large social differences, while other theorists<sup>16</sup> "assume [a societal] commonness [or unity] as a prior

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<sup>15</sup> Young, 7

<sup>16</sup> Michael Walzer, for example, argues that the effective social critic locates and appeals to a community's prior 'shared understanding' in leveling her or his criticism. (Walzer, Michael. *the Company of Critics: Social Criticism and Political Commitment in the Twentieth Century*. New York: Basic Books, 1990. A People has a core of shared values and traditions, he says, which can be renewed and reinvoked to motivate reflective social critique and action. As referenced by: (Young, 41)

"David Miller argues that only the sense of commonality provided by nationality can support the trust and mutual respect necessary for deliberation to begin. Miller, David. *On Nationality*. Oxford: Oxford University Press, 1995. P. 96-8)." As referenced by: (Young, 41)

Jane Mansbridge suggests that a participatory democratic forum that relies on discussion applies only in contexts where people already share many goals, interests, and premises, and much life experience. Where these are not shared, she suggests, and adversary democracy is more appropriate. (Mansbridge, *Beyond Adversary Democracy*)." (Young, 41)

condition of deliberation, or [...] as a goal.”<sup>17</sup> Young uses a broad definition of social difference, including those differentiated by gender, race, sexuality, national origin, religion, and class.<sup>18</sup> Young suggests that “there are at least two problems with the assumption that deliberative democracy must proceed on the basis of common understanding. First, in pluralist societies we cannot assume that we sufficiently share understanding to which we can appeal in many situations of conflict and solving collective problems”<sup>19</sup>, and second “the assumption of a common good or shared understanding prior to or as a condition of political communication is that it obviates the need for the transformations from self-regarding to enlarged thought which [she] argues is an important aspect of a discussion-based model of democracy.”<sup>20</sup> I believe that Young’s assertion that “circumstances of pluralism, appeals to supposedly shared understandings... exclude or marginalize some people or groups,”<sup>21</sup> is particularly relevant to the context of the Canadian settler-state, where central to Indigenous and non-Indigenous conflicts is a fundamental difference in worldviews and ethical-belief systems. The assumption of, or attempts at achieving, a shared understanding has acted to marginalize and oppress the worldviews and perspectives of the least powerful, least numerous and least influential participant<sup>22</sup>, and in the case of the settler-colonial state, the numerous and diverse perspective of Indigenous peoples throughout the country.

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<sup>17</sup> Young, 40

<sup>18</sup> Young, 81

<sup>19</sup> Young, 41

<sup>20</sup> Young, 42

<sup>21</sup> Young, 41

<sup>22</sup> Young acknowledges the tendency of one worldview to dominant as “definitions of the common good are likely to express the interests and perspectives of the dominant groups in generalized terms.” (Young, 43)

This leaves one to consider the following questions: despite the lack of a shared understanding or commonality throughout a settler-colonial state, as divided by processes of colonialism, do mechanisms of deliberation allow for pluralist societies to “transcend their subjective, self-regarding perspectives on political issues by putting aside their particular interests and seeking the good of the whole”<sup>23</sup>? Is the goal of transcending differences, as means to pursue unity and a common good, a normatively beneficial goal? Is this even a feasible goal, given a vast historical context of oppression and marginalization?

#### **4.2 Literature Review: Young – *Inclusion***

Central to Young’s model, and the engagement of social difference as a political resource in the pursuit of social justice, is the concept of political inclusion. Young argues that “the scope of a polity ought to correspond to the scope of relations across which obligations of justice extend”<sup>24</sup>; by this, Young effectively emphasizes the necessary inclusions of all impacted individuals to the democratic decision-making process. To do so, Young proposes a system in which differentiated social segments engage with one another to offer proposals as how to best solve problems by presenting arguments through which they aim to persuade others: “Participants arrive at a decision not by determining what preferences have greatest numerical support, but by determining which proposals the collective agrees are supported by the best

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<sup>23</sup> Young, 42

<sup>24</sup> Young, 9

reasons.”<sup>25</sup> This inclusionary principle is widely accepted amongst democratic theorists to provide democratic decisions with normative legitimacy.<sup>26</sup> This would theoretically appear to limit socially differentiated groups’ public demonstrations of distrust and rage by allowing for increased levels of political participation and thus greater recognition of rights and instances in an effort to pursue democratic decision to rectify issues of injustice. As Young states, “inclusion allows for maximum expression of interests, opinions, and perspectives relevant to the problems or issues for which a public seeks solution.”<sup>27</sup>

Inclusion increases the chances that those who make proposals will transform their positions from an initial self-regarding stance to a more objective appeal to justice, because they must listen to others with differing position to whom they are also answerable. Even if they disagree with an outcome, political actors must accept the legitimacy of a decision if it was arrived at through an inclusive process of public discussion. The norm of inclusion is therefore also a powerful means for criticizing the legitimacy of nominally democratic processes and decisions.<sup>28</sup>

This focus on the inclusionary principle to deliberative argument would theoretically act to limit both external and internal exclusions: external exclusion being the prohibitive participation of certain individuals representing disparate viewpoints and opinions, and internal exclusion being the privileging, both consciously and unconsciously, of certain styles or means

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<sup>25</sup> Young, 23

<sup>26</sup> On this theory a norm is valid if it is the result of free discussion and agreement under circumstances of inclusive equality. Jurgen Habermas *Moral Consciousness and Communicative Ethics*. (Young, 52)

<sup>27</sup> Young, 24

<sup>28</sup> Young 52

of expression and communication. The inclusionary principle extends to previously unaccepted and non-traditional views of democratic participation, including public protest, mass demonstrations, roadblocks, non-participation, and emotive speech, including the recognition of disparate viewpoints and the political organizations exposing such views. This is of critical importance as all of these oft-dismissed forms of political participation have been mainstays in the formulation and expression of Indigenous discontent and action in Canada. Indigenous peoples have relied upon these forms of political participation due to the fact that more acceptable formal means of engagement have been and continue to be denied to them by the settler-colonial state and society, and to deny these means effectively limits the participation and impedes any societal movement to a more just polity.

In limiting exclusions, Young calls for the recognition and inclusion of these previously unaccepted and overlooked forms of political participation into the deliberative democratic system. It can be suggested that Canadian society has been witness to an unprecedented growth in the voicing of Indigenous concerns and opposition through these ‘unconventional’ means, and through the growth of Indigenous representative organizations nationally, regionally and locally.<sup>29</sup> Indigenous protest, roadblocks, demonstrations, sit-ins and occupations have been a mainstay in Canadian politics and continue to be a regular feature throughout the country. Indigenous protests and resistance to the imposition of colonial policies began in large part in the late 1800s when it became apparent to Indigenous

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<sup>29</sup> Including such organizations as the National Assembly of First Nations, Inuit Tapiriit Kanatami, the Métis National Council, and particularly to BC the BC Assembly of First Nations, the Union of BC Indian Chiefs, and the First Nations Summit.

communities that Canada did not intend to uphold the spirit or intent of the early agreements and Treaties which guided early engagements between Indigenous and settler communities.

The political activism of Indigenous peoples became particularly evident and widespread in 1969 and the early 1970s, when Indigenous peoples mobilized into political representative organizations to oppose the Federal Government of Canada's imposition of the white paper policy on Indians, released in June of 1969<sup>30</sup>, whereby Canada proposed to absolve themselves of any responsibility for Indigenous peoples throughout the country.<sup>31</sup> Additionally and of particular relevance, 2012 and 2013 saw the rise of the Idle No More (INM) movement. The INM movement consisted of numerous, grassroots-organized protests, marches and rallies across the country, raising awareness of Indigenous issues pertaining to resource rights, Indigenous nationhood and the protection of Indigenous lands, territories, and cultures.<sup>32</sup> Indigenous protest and activism continues to be a form of political expression by which Indigenous peoples participate in the deliberative dialogues occurring throughout the country, as a means to have a voice in matters where they are often only afforded silence and ignorance.

Young's proposed mechanisms to ensure the minimal internal exclusion of impacted socially differentiated groups have been, more or less, implemented within Canadian society through the active participation of Indigenous peoples in non-traditional forms of political expression. Not only are Indigenous protests, rallies, and emotive expression of political

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<sup>30</sup> Canada. Statement of the Government of Canada on Indian Policy. Presented to the first session of the 28th Parliament by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development. Ottawa: Queen's Printer, 1969.

<sup>31</sup> UBCIC, *A Declaration of Indian Rights: The BC Indian Position Paper*. Vancouver: UBCIC, 1970.

<sup>32</sup> Idle No More. "The Vision". *Idle No More*. Web. Accessed Nov 2017.

opinion present within and throughout Canadian society, but the messages and goals of such actions are vehemently debated and discussed throughout public life, through media outlets and within national, regional, local and Indigenous political leadership, and are permitted as normative forms of political participation.

Beyond limiting internal exclusion, Young also prescribes measures to reducing external exclusion, a topic commonly discussed amongst theorists, and which necessarily requires the limitation of wealth or position influencing the ability of individuals or groups to participate<sup>33</sup> in the democratic decision-making process, which may be overcome through the creation of democratic institutions and mechanisms necessitating high levels of transparency, accountability and access. Similar mechanisms have been found in the Canadian system with respect to Indigenous participation by limiting the access of wealth to political parties<sup>34</sup>, placing maximum limits on campaign spending<sup>35</sup>, the diversification and weighing of electoral districts<sup>36</sup>, the emancipation of Indigenous voters in 1960<sup>37</sup>, focused electoral program outreach to remote Indigenous communities<sup>38</sup>, funding of a national independent Indigenous

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<sup>33</sup> Young, 55

<sup>34</sup> Though not yet fully realized in federal politics, many of the provinces have implemented campaign finance rules cracking down on cash-for-access fundraising. Jurisdictions are split evenly on whether corporations and unions can donate money. (Annett, Evan and Tu Thanh Ha. "Political Donations in Canada: A Guide to the 'Wild West' vs. the Rest." *The Globe and Mail*. 12 November 2017. Web)

<sup>35</sup> See: Elections Canada. "Candidates' Election Expenses Limits Calculated as if an Election were to be held on November 15, 2017." Election Canada. N.d. Web.

<sup>36</sup> See Canada. *Canada's Electoral Map is Changing: Redistribution at a Glance*. Redistribution Federal Electoral Districts. 2012. Web

<sup>37</sup> On March 31, 1960, Section 14(2) of the *Canada Elections Act* were repealed to grant the federal vote to status Indians. See Leslie, John F. "Indigenous Suffrage". *The Canadian Encyclopedia*. 31 March 2016. Web

<sup>38</sup> See Elections Canada's Indigenous Voters Guide in Indigenous languages for the 2015 Federal Election. (Elections Canada. *My Voter's Guide (Indigenous Languages Editions)*. Elections Canada. March 2015. Web)

news program<sup>39</sup>, national and regional support for Indigenous governmental organizations<sup>40</sup> and numerous social welfare programs aimed at reducing the socio-economic disparities between Indigenous and non-Indigenous groups<sup>41</sup>.

Regarding the much more subtle internal exclusions, Young theorizes three modes of communicative attention necessary to mitigate such internal exclusions, or the unconscious favoring of certain modes of expression and participation within a deliberative system: greeting, rhetoric and narrative.

*Greeting*, or in political contexts public acknowledgment, is a form of communication where a subject directly recognizes the subjectivity of others, thereby fostering trust;

*Rhetoric*, the ways that political assertions and arguments are expressed, has several functions that contribute to inclusive and persuasive political communications, including calling attention to points and situating speakers and audience in relation to one another; and

*Narrative* also has several functions that counter exclusive tendencies and further argument. Among other functions, narrative empowers relatively disfranchised groups to assert themselves publicly...<sup>42</sup>

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<sup>39</sup> See: Canada, Department of Canadian Heritage. *Northern Aboriginal Broadcasting – Aboriginal Peoples’ Program*. Department of Canadian Heritage. N.D. Web.

<sup>40</sup> See: Canada, Indian and Northern Affairs. *Summative Evaluation of Consultation and Policy Development and Basic Organizational Capacity Funding: Final Report*. Indian and Northern Affairs Canada. 16 Feb. 2009.

<sup>41</sup> See the list of programs funded by the Department of Indigenous Services Canada: <https://www.aadnc-aandc.gc.ca/eng/1425576051772/1425576078345>

<sup>42</sup> Young, 53

Young's suggested modes of expression can be seen in the speeches of Canadian politicians and their recognition of Indigenous territories, in the 2016 Federal Ministers' mandate letters<sup>43</sup> highlighting the singular importance of a renewed relationship with Indigenous peoples, in Prime Minister Stephen Harper's official apology on behalf of the Canadian state to Indigenous survivors of the Indian residential school system<sup>44</sup>, in the 94 Calls to Action of the 2015 Truth and Reconciliation Commission, in the 2016 Murdered and Missing Indigenous Women Inquiry, in Minister Carolyn Bennett's statements on Canada's unqualified enactment of the *United Nations Declaration on the Rights of Indigenous Peoples*, in the Federal Government's announcement of a Ministerial Working Group on the reform of laws and legislation pertaining to Indigenous peoples following ten principles of engagement,<sup>45</sup> and in the renaming of geographical landmarks to honour Indigenous positionalities<sup>46</sup>. Indeed, as stated by Coulthard *Red Skin, White Masks*, "over the last three decades, a global industry has emerged promoting the issuing of official apologies advocating 'forgiveness' and reconciliation' as an important precondition for resolving the deleterious social impacts of intrastate violence, mass atrocity, and historical injustice."<sup>47</sup>

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<sup>43</sup> Canada. Prime Minister Justin Trudeau. "Ministerial Mandate Letters." 12 Nov. 2015. August, 2017

<sup>44</sup> Canada. Prime Minister Stephen Harper. "Statement of Apology – to former students of Indian Residential Schools." 11 June 2008.

<sup>45</sup> Canada. *Principles respecting the Government of Canada's relationship with Indigenous Peoples*, July 19, 2017. August 2017.

<sup>46</sup> i.e the renaming of the 'Georgie Strait' to the 'Salish Sea in 2010, and the renaming of the Queen Charlotte Islands to Haida Gwaii in 2009.

<sup>47</sup> Coulthard, 106.

### 4.3 Literature Review: Young – *Political Equality*

Equally necessary to Young's ideals of inclusion is her reliance upon a notion of *political equality*, or the need to include all members of a society on equal terms, with all having equal effective opportunities to express their interest in common<sup>48</sup>: to be free from domination, oppression and marginalization. In an ideal deliberative democratic process, no individual shall be in position of coercion over another. This ideal of *political equality* ensures that decisions and results of a deliberative process are based upon the rational decisions of an inclusive polity following the voicing of all differing and affected positions have been heard, understood and accounted for. Young posits that if differently positioned individuals recognizing their political equality "mutually acknowledge their differences, and thereby mutually acknowledge that co-operation between them requires aiming to make each understand the others across those differences, then they are more likely to maintain co-operation and occasionally arrive at rough-and-ready provisional agreement."<sup>49</sup> In the pursuit of political equality, Young believes that all forms of political expression need to be treated equally:

Some theorists of deliberative democracy maintain a Platonic distinction between rational speech<sup>50</sup> and mere rhetoric, and in doing so they often denigrate emotion, figurative language, or unusual or playful forms of expression. Rational speech, on

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<sup>48</sup> Young, 23

<sup>49</sup> Young, 44

<sup>50</sup> "A rational democracy, Thomas Spragens claims, will engage the mind rather than ignite the passions. (Spragens, Thomas. *Reason and Democracy*. Durham, NC: Duke University Press, 1990) As James Bohman points out, in his theory of discourse ethics Habermas also aims to distinguish rational speech from rhetoric, the first of which has a communicative and the second a strategic function." (young, 63)

this view, the speech to which deliberative democracy should be confined, consists of universalistic, dispassionate, cultural and stylistically neutral arguments that focus the mind on their evidence and logical connections, rather than move the heart or engage the imagination.<sup>51</sup>

This denigration of emotive forms of expression and communication actively exclude the frustrations, voices and perspectives of differing social groups who have found themselves continuously left out of the deliberative process<sup>52</sup>. “The ideal of disembodied and disembedded reason that it presupposes is a fiction. What such privileging takes to be neutral, universal and is a passionate expression carries the rhetorical nuances of situated social positions and relations, which social conventions do not mark as rhetorical and particular in the same way that they notice others”<sup>53</sup>, and thus rhetoric and other emotive expressions must be included as valid aspects of political discourse.

In the Canadian context, these frustrations and emotive expressions of political desire were born out of an acute resentment and belief that the Canadian democratic system failed to represent and include the perspectives of Indigenous communities, thus resulting in mass demonstration of civil unrest, as can be seen in tumultuous ‘Indian summer’ of 1990, and the 78-day armed ‘standoff’ beginning on July 11, 1990, between the Mohawk nation of Kanesatake, the Quebec provincial police, and the Canadian armed forces, known as the ‘Oka

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<sup>51</sup> Young, 63

<sup>52</sup> “Amy Gutmann and Dennis Thompson allow that ‘impassioned and immoderate speech’ can be consistent with the aims of deliberative democracy, and are sometimes important for calling attention to issues and claims.” (Young, 64)

<sup>53</sup> Young, 63

Crisis.’<sup>54</sup> Young maintains that such “rhetorical moves often help to get an issue on the agenda for deliberation.”<sup>55</sup> The culmination of these actions forced Canadian society into discussions on Indigenous issues, eventually resulting in the federal government establishing the Royal Commission on Aboriginal Peoples to appease the voices of the unsatisfied Indigenous communities, thus demonstrating that rhetoric and emotive expressions of dissatisfaction, anger, and resentment can allow for the construction and positioning of diverse perspectives in the deliberative sphere to be heard and gauged.<sup>56</sup> Further examples of Indigenous frustrations, disappointments and outright anger with federal policies and initiatives resulting in impactful political activism can be seen in the 1981 Constitution Express, wherein the Union of BC Indian Chiefs, an Indigenous representative organization founded in 1969, mobilized trainloads of outraged Indigenous people to travel from British Columbia to Ottawa to successfully lobby Prime Minister Pierre Trudeau to guarantee the inclusion of Indigenous peoples’ right to self-determination in the Canadian Constitution.

#### 4.4 Literature Review: Young – *Reasonableness*

Young’s third pillar of her inclusive deliberative model necessary to promote social justice in a democratic system extends to her notion of *reasonableness*: “In the context of the model of deliberative democracy, [Young] take[s] reasonableness to refer more to a set of

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<sup>54</sup> Coulthard, 115-116

<sup>55</sup> Young, 66

<sup>56</sup> Farrell, Thomas B. *Norms of Rhetorical Culture*. New Haven: Yale University Press, 1993. Ch. 5

dispositions that discussion participants have than to the substance of people's contributions to debate.... *reasonableness* is their willingness to listen to others who want to explain to them why their ideas are incorrect or inappropriate."<sup>57</sup> Under this principle, all decisions, agreements and viewpoints should be open to challenge; underlying this belief is Young's assertion that "only if participants believe that some kind of agreement among them is possible in principle can they in good faith trust one another to listen and to persuade one another."<sup>58</sup> This idea of *reasonableness* is particularly problematic in the Canadian context; often, issues at the basis of deliberation between divergent Indigenous claimants and the more numerous and powerful settler society are to seek restitution for the very fundamental wrongs colonialism imposed and continues to imperceptibly uphold. The very nature of colonialism leads both claimants to a deliberative position where both are unable to waiver on their claims, often appearing in direct contradiction of one another, and often speaking at cross purposes. Colonialism has made this notion of *reasonableness* inherently more complicated and has divided what is perceivably reasonable to very disparate poles.

A strict definition of reasonableness, as one defined by Cohen in *Deliberation and Democratic Legitimacy*, limits the discussion of a collective problem to participants without prior norms or unquestionable beliefs.<sup>59</sup> This would appear to further limit deliberative decision-making to issues where deep colonial conflict does not exist, and would thus dismiss the existence of many Indigenous cries for justice. This dismissal can too often be derided as

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<sup>57</sup> Young, 24

<sup>58</sup> Young, 24

<sup>59</sup> Cohen, Joshua. "Deliberation and Democratic Legitimacy", in Alan Hamlin and Philip Pettit (eds), *The Good Polity*. London: Blackwell, 1989. P. 22-3

unreasonable, unfeasible, and therefore irrational. A universal ideal of *reasonableness* is too high of a requirement to place on issues of deep and historical injustice, injustices which have invisibly formed and continue to act upon societal actors. The very nature of colonialism too heavily divides colonial society into settler and Indigenous poles that any criteria of a universal reasonableness excludes any discussion on issues of great historical injustices, as too often what is determined as “reasonable” is defined by the majority, and in this case, the majority is the colonizer. While Young has a valid argument in that the inclusion of disparate perspectives and the equal weighing of arguments and opinions act to bring issues to the public’s attention in way that is recognizable, a reliance on a universal “reasonableness” factors the judgement of the majority, which in the Canadian context, represents the settler interest, and thus has the added effect of “erasing” historical wrongs through the national settler narrative.

This erasure can be seen in the reluctance and recalcitrance of Canadian society to accept and implement broad-stroke Indigenous self-determination in regard to issues that will fundamentally upset the Canadian status quo, by transferring authority and jurisdiction over matters which pertain to Indigenous title and rights, including lands, resources, governance and others. This can be seen in the widely-accepted failure of the Province of British Columbia’s Treaty process<sup>60</sup>, the failure of Canada to implement, without qualifications, the *United Nations Declaration on the Rights of Indigenous Peoples* in its entirety<sup>61</sup>, and Canada’s failure to acknowledge Indigenous title and the right to free prior and informed consent in relation to resource and infrastructure development within Indigenous territories.<sup>62</sup> Too often, notions of

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<sup>60</sup> See: Alfred, Taiaiake. *Deconstructing the British Columbia Treaty Process*. University of Victoria. Aug. 2000.

<sup>61</sup> UBCIC. *UBCIC to the UN: Canada Continues to Violate our Title and Rights*. Press Release, 02 May 2018.

<sup>62</sup> Ibid.

“reasonableness” have been used at provincial and federal negotiation tables to dismiss calls for justice from individual Indigenous Nations in their claims to nationhood and Indigenous title, as often these issues are perceived to be in direct contravention of the existence and operation of what has become the norm of Canadian society and structure.

#### 4.5 Literature Review: Young – *Publicity*

Young’s final pillar for her inclusive deliberative model rests on her notion of *publicity*. Essentially, Young argues for the deliberative communication at the basis of democratic decision making to not be limited to official and formal arenas of debate,<sup>63</sup> but rather shall be seen to take place in the public sphere,<sup>64</sup> and thus needs to be focused around issues of the common good.<sup>65</sup> Young “advocate[s] a ‘decentred’ conception of politics and society. According to this concept, we cannot conceive of the subject-matter of democracy as the organization of society as a whole.”<sup>66</sup>

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<sup>63</sup> “a model of deliberative democracy often implicitly assumes what Jurgen Habermas calls a ‘centered’ image of the democratic process (Habermas, *Between Facts and Norms*, 296-307). In this image a single deliberative body, say a legislature or a constitutional convention, can take the society as a whole as the object of its deliberations, and discuss the best and most just way to order its institutions and make its rules.” (Young, 46)

<sup>64</sup> See Lefort, Claude. *The Political Forms of Modern Society*. Cambridge, Mass.: MIT Press, 1986. Chptrs. 9 and 10; see also Mouffe, Chantal. ‘Democratic Citizenship and the Political Community’, in *The Return of the Political*. London: Verso, 1993.” (Young, 46)

<sup>65</sup> According to Thomas Spragens, the idea of the common good functions for the public reason of democracy as the ideal of truth functions in theoretical disciplines. The idea of the common good can be interpreted simply as the addressing of problems that people face together, without any assumption that these people have common interests or common way of life, or that they must subordinate or transcend the particular interests and values that differentiate them.” (Young, 40)

<sup>66</sup> Young, 46

This pillar is a simple addition and a foundational practice to many conceptions of deliberative democratic theory. Issues of social injustice must be the point of discussion on the societal level, and if any forward momentum to rectifying issues of injustice is to be deployed, it must come from a genuine interest of the public if the psychological damage of colonialism is to be addressed and ultimately healed. The reliance on deliberative discussion occurring at the societal level should equally allow us to determine the efficacy to which social justice policy is genuine in its attempt to heal social injustice while at the same time providing a measure of its success. Social deliberation in the Canadian context between Indigenous and non-Indigenous individuals and groups have led to an unprecedented level of recognition and acknowledgement of Indigenous existence and rights within Canadian society. Surely, we must see an equally unprecedented level of acceptance and empathy between these disparate and often conflicting social groupings?

Unfortunately, the unprecedented levels of political recognition and support have not appeared to bleed into everyday public discussions to the same degree. This may be a result of the physical separation of many Indigenous and non-Indigenous communities in remote and rural areas. Yet in urban centres, progress to more inclusive and empathetic decisions remains stalled. In the last few years alone, we have been witness to numerous public displays of racially-based violence and prejudice, including an outburst of racialized rhetoric at a community meeting regarding the permitting of private dock space in 2015 Pender Harbour townhall meeting,<sup>67</sup> to the pro-residential school remarks of Conservative Senator Lynn

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<sup>67</sup> Gleeson, John. "Pender residents let loose over dock plan." *Coast Reporter*. 2015 June 18. Web. August 2017.

Beyak,<sup>68</sup> dismissal of Indigenous title and rights at the highest political levels, including Canada's resistance to fully implement the *United Nations Declaration on the Rights of Indigenous Peoples*, and the social dialectic around the trampling of Indigenous Nations rights when permitting major resource projects, including BC Hydro's Site C Dam project, the Kinder-Morgan Trans Mountain Expansion Project, and Petronas' Pacific Northwest Liquefied Natural Gas refinery and port. These issues exist alongside a multitude of other injustices, including Canada's decision to appeal the Specific Claims Tribunal decision supporting the Williams Lake Indian Band's assertion that they were wrongfully displaced<sup>69</sup>, the infamous Starlight Tours that involved the Saskatoon Police Service abandoning Indigenous men to die in freezing winter conditions<sup>70</sup>, Canada's continue discrimination against Indigenous children in care<sup>71</sup> and the continuing crisis of murdered and missing Indigenous women throughout Canada<sup>72</sup>.

#### 4.6 Literature Review: Young – Summary

Young's four pillars of inclusion, political equality, reasonableness and publicity, are the basis for Young's deliberative model of argument. Young contends that if these four conditions

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<sup>68</sup> Galloway, Gloria. "Senator defends pro-residential school comments amid further criticism". *The Globe and Mail*. 2017 March 16. Web. August 2017.

<sup>69</sup> UBCIC. *Canada's Application for Judicial Review of Independent Tribunal Ruling Succeeds in Denying Justice for Williams Lake Indian Band*. Press Release. 4 Mar. 2016.

<sup>70</sup> Brass, Mervin. "Starlight Tours". *Canadian Broadcasting Corporation*. 02 July 2004. Web.

<sup>71</sup> See: First Nations Caring Society. *Victory for First Nations Children: Canadian Human Rights Tribunal Finds Discrimination Against First Nations Children Living On-Reserve (Information Sheet)*. First Nations Caring Society. 26 January 2016.

<sup>72</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls. *Our Women and Girls are Sacred: Interim Report*. National Inquiry into Missing and Murdered Indigenous Women and Girls. 2017. Web.

are provided for, social deliberation can represent the crucible in which issues of social injustice may be discussed,<sup>73</sup> allowing for society to creep towards a more just order. Central to Young's model of deliberative democratic theory is the role of argument as constituting the primary form of political communication. Young defines 'argument' as "the construction of an orderly chain of reasoning from premises to conclusion."<sup>74</sup> Ruled by her four principles, Young argues in a manner similar to Chantal Mouffe's idea of 'agonistic pluralism,' that pluralistic societies may achieve a just political order: "A pluralistic democratic order is based on a distinction between 'enemy' and 'adversary'. It requires that, within the context of the political community, the opponent should be considered not as an enemy to be destroyed, but as an adversary whose existence is legitimate and must be tolerated. We will fight against his ideas but we will not question his right to defend them."<sup>75</sup> This struggle between opposing positionalities engages Young's concept of social difference as a political resource for achieving justice.

Further, Young argues that "political claims asserted from the specificity of social group position, and which argue that the polity should attend to these social differences, often serve as a resource for rather than an obstruction of democratic communication that aims at justice"<sup>76</sup>:

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<sup>73</sup>"Here I appeal to Habermas' notion of communicative action. Habermas theorizes communicative interaction, that is, language as practice, as itself a process implicitly guided by regulative norms of respect and reasonableness TO be sure, humans are horrible selfish, irrationally hateful, and violent. Everyday communication, however, also frequently exhibits a desire on people's part to understand one another and affirm that we understand one another's meanings and intentions, and this effort of co-ordination is no small achievement. See Habermas, *The Theory of Communicative Action*. (Young, 38)

<sup>74</sup> Young, 37

<sup>75</sup> Mouffe, Chantal. *The Return of the Political*. London: Verso, 1993. Chptr. 4. For such an 'agonistic' view of democratic politics, see also Connolly, William. *Identity/Difference*. Ithaca, NY: Cornell University Press, 1993; Brown, Wendy. *States of Injury*. Princeton: Princeton University Press, 1995; and Honig, Bonnie. *Political Theory and the Displacement of Politics*. Ithaca, NY: Cornell University Press, 1993. (Young, 49)

<sup>76</sup> Young, 82

A strong communicative democracy, [Young] conclude[s], needs to draw on social group differentiation, especially the experience derived from structural differentiation, as a resource. A democratic process is inclusive not simply by formally including all potentially affected individuals in the same way, but by attending to the social relations that differently position people and condition their experiences, opportunities, and knowledge of the society. A democratic public arrives at objective political judgement from discussion not by bracketing these differences, but by communicating the experiences and perspectives conditioned by them to one another. Communication of the experience and knowledge derived from different social positions help correct biases derived from the dominance of partial perspective over the definition of problems or their possible solutions.<sup>77</sup>

The problem with the aforementioned instances of the so-called progress of the Canadian polity in advancing social justice issues as they pertain to Indigenous populations is that the vast majority of policy decision in the pursuit of inclusion and political equality are not only imposed upon Indigenous peoples without their free, prior and informed consent, but are often developed unilaterally without significant participation or adequate representation of Indigenous peoples. Often these policies represent a watering down of Indigenous demands to be appetizing for the general public as an attempt to incorporate an Indigenous perspective in common political dialogue, largely in an effort to appease Indigenous discontent but often doing little to address the fundamental issues Indigenous voices are calling for, namely the

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<sup>77</sup> Young, 83

acknowledgement of and compensation for Canada's colonial history, the reconstitution and elevation of Indigenous Nations to an established Nation-to-Nation relationship with the Canadian state, and the recognition of Indigenous title and rights. By ignoring these issues, attempts to address the social divide in Canadian society and the marginalization of Indigenous peoples fail to address the structural issues of oppression that colonialism was and continues to be dependent upon.<sup>78</sup> The intent of Young's formulation of inclusion, equality, reasonableness and publicity is to create a theoretical 'level playing field' for all people effected to deliberate inclusive and just paths forward based on rationale and empathetic decision making.

Unfortunately, the 'level playing field' that has uncritically been purposed is the playing field of the colonizer to which Young wants to elevate Indigenous actors to, without fundamentally addressing those systems of oppression and marginalization which have been in place for decades and have now, for the most part, been rendered undetectable, thus attempting to render "consistent Indigenous assertions of nationhood with the state's unilateral assertion of sovereignty over Native peoples' lands and populations."<sup>79</sup>

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<sup>78</sup> Ample evidence exists to support this assertion, including the publications of numerous Indigenous Representative Organizations in their opposition to many of these policies including Canada's failure to implement the recommendations of the Royal Commission on Aboriginal Peoples in their entirety (Assembly of First Nations. "Royal Commission on Aboriginal People at 10 Years: A Report Card". AFN, 2001.) Canada's failure to implement the standards and principles of the *United Nations Declaration on the Rights of Indigenous Peoples* (UBCIC. "UBCIC to the UN: Canada Continues to Violate our Title and Rights". UBCIC Press Release, 2018 May 02), Canada's unilateral decision to split the Department of Indigenous and Northern Affairs, into the Department of Crown Indigenous Relations and the Department of Indigenous Services Canada, and Canada's failure to provide adequate resources to ensure the success of the National Inquiry into Murdered and Missing Indigenous Women (Murdered and Missing Indigenous Women's Coalition. "Open Letter from supporters of an inclusive, Indigenous-led and community-driven National Inquiry into MMIQGT2S to Prime Minister Trudeau". 2017 August 08).

<sup>79</sup> Coulthard, 107

## 5 Literature Review: Fanon

Based on the arguments and observations of Fanon, it can be suggested that what is required is the inversion of the 'playing field,' for the first to become last and the last to become first, essentially a psychological healing of the colonial mindset. Without this, Young's theory falls apart; her notions of 'reasonableness' become unattainable and untenable. The colonial imperial project that is Canada is built upon the societal construct of a social and racial divide, with deep socio-economic impacts between colonizers and the colonized that continues to be reproduced and reinforced today and is entirely structural to the status quo that undergirds Canadian society.

The colonial mindset equally affects the conscious and unconscious worldview of the colonizer and the colonized alike in different ways, fundamentally shifting the normative conception of self and as a result, societal and economic relations held by both parties. This colonial mindset is a direct result of the psychological impacts and trauma caused by the imposition of a colonial regime built upon racialized and gendered notions of the civilized and the savage, progress against primitiveness, whiteness against otherness. This colonial legacy continues to fundamentally impact contemporary identity politics and has created deep societal and economic divides between the colonizer and the colonized. The processes and mechanisms proposed by Young, as a result of not addressing the initial societal and economic divide created by and foundational to colonial regimes, instead of acting to bridge these differences, reinforces and recreates these systems of oppression.

The failure of Young's model of deliberative democracy lies in its inability to address conflicts bred of significant and historical colonial divide. Through an exploration of Fanon on the psychological impacts to both the psyches of the colonized and the colonizers as a result of imperial colonial regimes, it can be demonstrated that although Canadian society has made efforts to address Young's proposed mechanisms for the pursuit of social justice and equality, deliberative democratic frameworks have been unable to overcome social divisions by not fully addressing settler colonialism's transformation of colonial and colonized psyches on which Canadian society is founded. Further, by trying to address social inequality and marginalization through deliberative democratic mechanisms without first addressing the foundation of colonial domination, these mechanisms act to further entrench the very societal and economic divisions they seek to overcome.

### **5.1 Literature Review: Fanon – *Societal Division***

In his books *Black Skin White Masks* and *The Wretched of the Earth*, Frantz Fanon argues that fundamental to the colonial imperial mission is a socially constructed divide based upon notions of Western superiority with the goal of separating Indigenous peoples from their land, their culture, and ultimately, their self-worth. The colonial imperial agenda is to "separate the natives from the Europeans, territorially, economically and politically, and to allow them to set up their own civilization under the control and authority of the Whites, but with minimum contact between the races. The aim is to reserve land for the natives and force the majority of

them to live on it... Economic competition would be eliminated and the groundwork would be laid [for the prosperity of the colonizer and the colony]’.”<sup>80</sup>

This separation of the Indigenous population from the colonial inhabitants was often paired with race-based policies legitimizing the often-forced assimilation and destruction of Indigenous cultures, supported by the belief in the inferiority of Indigenous societies. This inferiorization is the “native correlative to the European’s feeling of superiority,”<sup>81</sup> a feeling of superiority which is inclusive of culture, religion, language, and often even extending to include physical characteristics and inherent ability. This socially constructed ranking of races causes Indigenous peoples to question their own identities and paradigms. The Indigenous person is now labelled as Indian, as ‘Other’ and as inferior:

The Indigenous persons, is now ‘Indigenous’ “because of the white man; and if, at a certain point in his history, he has been made to ask the question whether he is a man, it’s because his reality as a [person] has been challenged. In other words, [the Indigenous person] start[s] suffering from not being a white man insofar as the white man discriminates against [him/her]; turns [him/her] into a colonized subject; robs [him/her] of any value or originality; tells [him/her] that [they] are a parasite in the world, that [they] should toe the line of the white world as quickly as possible, and ‘that [they] are brute beasts; that [they] are a walking manure, a hideous forerunner of tender cane and silky cotton, that have no place in the world.”<sup>82</sup>

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<sup>80</sup> Fanon, Frantz. *Black Skin, White Masks*. New York, NY.: Grove Press, 1952. P. 73.

<sup>81</sup> Fanon, BSWM, 73

<sup>82</sup> Cesaire, *Notebook of a Return to My Native Land*, trans. Rosello and Pritchard, *as found in* Fanon, BSWM, 78

As colonial societies begin to entrench themselves and reject the elimination or relocation of Indigenous groups as being too cost-prohibitive, policies of assimilation can begin to further impose the psychological damage of the settler-colonial state. It is important to note that though colonial policies of assimilation and separation are entirely different in their enactment, both policies hold the same intent: to separate Indigenous peoples from their lands and open those lands to development from settler society, furthermore, it is vital to understand that both policies are structured on a belief in the superiority of western society and the inferiority of Indigenous ones. From this point on the Indigenous person is “confronted with the dilemma ‘whiten or perish,’”<sup>83</sup> as their culture, identity and way of life are relegated as inferior and targets for elimination now that their bodies cannot, at least not through state-sanctioned policies.

## **5.2 Literature Review: Fanon – *Entrenchment of the Divide***

The transition from bodily elimination and relocation is no act of mercy, but rather an economic analysis. The imposition of colonial rule is always, in some form, met with Indigenous resistance or revolt; facing opposition, the colonial agenda transitions to a war on Indigenous psyches and identities through a concentrated effort to instill the superiority of Western values over Indigenous ones.<sup>84</sup> This effort to quell Indigenous revolt by espousing, once again, the superior characteristics of Western society results in lasting societal implications.

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<sup>83</sup> Fanon, BSWM, 80

<sup>84</sup> Fanon, TWE, 8

The result of these processes is the establishment of a deep societal divide built upon notions of racial superiority and inferiority. The very historical record of a colonial society reflects the superiority of the colonizer and the inferiority of the colonized; For as Fanon describes, it is “the colonist [that] makes history. His[/her] life is an epic, an odyssey. He is invested with the very beginning: “We made this land.” He[/her] is the guarantor for its existence: “If we leave, all will be lost, and this land will return to the Dark Ages.” Opposite him[/her], listless beings wasted away by fevers and consumed by ‘ancestral customs’ composing a virtually petrified background to the innovative dynamism of colonial mercantilism.”<sup>85</sup>

The dynamic between us and them, the colonized and the colonizer, superior and inferior, continues to occur, representing an immovable social obstacle, against which colonial society will continue to butt its head until the colonized replace the colonists or the colonist successfully eliminates, either physically or psychologically, the existence of the colonized. Thus, the psychological impact of settler colonialism creates an ongoing societal conflict where “the inferiorized one believes he has to enhance his standing, and the other is determined to keep his own superiority.”<sup>86</sup> Fanon argues that the colonized justifiably blames the colonizer for their continued marginalized position socially, economically and politically, and endeavors not to become the colonizer, but to enact their autonomy, their right to self-determination, and their sense of self prior to the imposition of the colonial regime.<sup>87</sup>

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<sup>85</sup> Fanon, TWE, 15

<sup>86</sup> Fanon, BSWM, 186

<sup>87</sup> Fanon, TWE, 16

This divide does not rest solely on the shoulders of the colonized, but rather, is shared by the descendants of the colonizers. The colonizers' belief in the superiority of all aspects of Western civilization, including government, religion and race, becomes entrenched and invisible, yet the position of the colonizer is pitted against and reliant upon the position of the colonized. The dominance of colonial society is dependent upon the marginalization of the Indigenous societies whose rightful claim to the land and resources present a consistent threat to the foundations on which colonial rule is built. This relationship continues to require the colonizer to dominate the colonized as a necessary condition to maintain their perceived rule and to validate their beliefs in the superiority of Western civilization, values and ideals.<sup>88</sup> By accomplishing this goal, "colonialism attempts to defuse nationalist demands by manipulating economic doctrine. At the first signs of a dispute, colonialism feigns comprehension by acknowledging with ostentatious humility that the territory is suffering from serious underdevelopment that requires major social and economic reforms.... But sooner or later colonialism realizes it is incapable of achieving a program for socio-economic reforms that would satisfy the aspiration of the colonized masses."<sup>89</sup> As Fanon argues, the social divide created by and foundational to settler colonialism has been made entrenched and invisible to subsequent future generations on which it continues to impose societal constructs of superiority and inferiority. Decolonization, or the breakdown of this social divide, must result in the birth of a dual consciousness – "the consciousness of the colonized that *it is their due* and the consciousness of the capitalist powers that effectively *they must pay up*."<sup>90</sup>

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<sup>88</sup> Fanon, TWE, 17

<sup>89</sup> Fanon, TWE, 146

<sup>90</sup> Fanon, TWE, 59

### 5.3 Literature Review: Fanon – Summary

In summary, some of the arguments presented by Frantz Fanon, in his book *Black Skin, White Mask* and *The Wretched of the Earth* may be presented as such:

1. The foundational rationale for settler colonial conquest was the attainment and subjection of foreign lands to house and resource western civilization;
2. To justify these land grabs in light of previously existing Indigenous societies, the west would convince themselves of their superiority in all aspects of humanity, be it spiritually, scientifically, culturally or physically;
3. Partnered with social constructs of western superiority where imposed notions of Indigenous inferiority and savagery;
4. As time progressed and colonies become established societies, these notions of superiority and inferiority become entrenched and often invisible and thus have developed and established a deep societal divide between the colonizer and the colonized;
5. This divide, the colonizer believes, must be reinforced and actively engendered to maintain the status quo of not only their own lives and the society they have developed and maintained ownership over but to safeguard said society from a fall into the blackness and regression that Indigenous society represents; and

6. This divide, apparent to the colonized, is one the colonized actively fights and revolts against. Constantly reminded of their 'inferiority' they have not come to believe it, and thus continually challenge it.

It is my contention that this conflict born of deep societal divide, and foundational to the settler colonial project, may only be overcome in one of three end results: first, the colonizers succeed where their ancestors have failed in the elimination of the Indigenous identity, either physically or through a slow and difficult assimilatory process, as seen in many countries, including Canada; second, the colonized release themselves from their psychological bonds, rejecting the impositions of colonial rule and ejecting the colonizers; or finally, the third option, and one which I posit is represented internationally by the principles and standards affirmed by the *United Declaration on the Rights of Indigenous Peoples*, is the public, political and societal rejection of the foundations of colonialism and the adoption of a recognition of the other as equal, inclusive of their worldviews, identities and being, thus representing a psychological acknowledgement necessary to decolonize the state and reject the societal division on which settler colonialism generated.

## **6 Argument: Fanon and Young in Practice – Canadian Context**

This argument, through Fanon's work, can be taken as both a refutation of Young's work but also as supporting some of Young's foundational principles. Ultimately, when confronting

socially differentiated and disparate social groups, Young's four pillars of inclusion, political equality, reasonableness, and publicity do appear to present a means to overcome such differences; the exception to this rule are those societies foundationally constructed upon systems dependent upon and consistently reinforcing and rendering invisible, deep social divide housed within the very psyches of its members. For it is within societies such as this, namely settler-colonial societies, wherein Young's pillar of 'reasonableness,' supporting her deliberative democratic theory and her mechanisms to overcome instances of social injustice, fractures and falls. When a society is fundamentally structured on the dispossession and imposed inferiority of one it later purports to represent and the constructed superiority of its majority, the two parties will never naturally come to recognize each other, respect one another, nor find the arguments of the other 'reasonable' nor 'acceptable', as often by this stage the mechanisms which have informed the societal and economic divide are therein made invisible and are self-perpetuating. In societies such as these, "reasonableness" must be actively pursued with the implementation of mechanisms, policies and programs challenging the colonial and divisionary policies resulting in the brake down of our natural ability to empathize and relate with divergent social groups. Empathy must be restored if social justice provisions are to be achieved and realized.

Societal conflict will continue to exist, and embolden those from both sides of the divide, until such a time that the foundation of this divide is confronted and destroyed. Once racialized notions of inferiority and superiority are challenged, and actors recognize each other as equals, alongside their systems of governance, spirituality and worldviews, only then will they perceive each other's arguments as 'reasonable' and only then will Young's pillars of

inclusion, political equality, reasonableness, and publicity allow for deliberation on a societal level. To further elucidate this argument, I will look to apply this argument to the Canadian state and its own history of colonial imperialism.

Despite the increase in social justice initiatives within Canadian society, Indigenous peoples continue to be marginalized and oppressed with a significantly lower quality of life than their non-Indigenous counterparts. Previously, I have provided details into how one may interpret the enactment of Young's pillars within Canadian society and I have posed the question, as to why do we continue to observe the continual marginalization of Indigenous peoples politically, socially and economically, within a state that seems to be implementing the deliberative democratic pillars that should act to minimize the oppression of one differentiated social group when compared with another within the same polity. To answer this question, I will provide a brief overview of the settler colonial history of the Canadian state to argue that the psychological impacts Fanon argued, outlined previously, were foundational to the establishment of what we now call Canada and continue to inform contemporary dialogue amongst Indigenous and non-Indigenous communities alike. To elucidate the colonial mindset and the societal divide it has created within Canada, I will be relying on the arguments of Frantz Fanon as presented previously.

### **6.1 Argument: Canada's Colonial Foundations and the Birth of Societal Division**

The short colonial history of Canada was fundamentally built upon a settler colonial notion of how a 'Western' society ought to look and behave. I define settler colonialism as the

imposition of a Western society and population on the territory of pre-existing Indigenous societies while being structured on the belief in the superiority of a dominant group's characteristics, culture and lived-experience over that of another, resulting in either the forced segregation and elimination of the 'other' or the forced imposition of these beliefs through mandatory and violent assimilation of the 'other' physically, culturally, psychologically and spiritually into the dominant society, all of which have the ultimate goal of clearing the Indigenous peoples from their lands and resources for the occupation of settler society. Without the physical or ideological existence of an Indigenous culture or society, settler society would have successfully eliminated any challenge to their domination and authority over the land.<sup>91</sup> Colonialism has attempted to remove such a threat by using various tactics, including the disconnection of youth from their teachings through "daycare centres, land-claims legislation, and the current massive development projects, religious and governmental residential schools, [all of which have caused extensive damage to Indigenous] knowledge systems and to personal autonomy."<sup>92</sup>

The ideological basis at the foundation of settler colonialism in Canada is one of racial difference, primitivism and a belief in the superiority of one over another. This belief effectively separated and elevated the 'European' colonist sense of self over that of the Indigenous populations. This constructed societal dynamic existed throughout pre-confederation Canada, as seen in the European notions of *Terra Nullius* and the Doctrine of Discovery through which

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<sup>91</sup> Alfred, Taiaiake. *Wasáse: Indigenous pathways of action and freedom*. Ontario: University of Toronto Press, 2005. P. 56.

<sup>92</sup> Legat, Alice. *Walking the Land, Feeding the Fire: Knowledge and Stewardship Among the Tłı̨chǫ Dene*. Tucson: University of Arizona Press, 2010. P. 200

Europeans, and particularly the Christian Church, legitimized the colonization of non-European territories throughout the world, and further that these notions which fundamentally separated the colonizers from the colonizer were not only fundamental to the initial colonization of what has become Canada and thus came to inform initial Aboriginal policy, but additionally, continues to inform contemporary Indigenous policy today.

The settler colonial agenda in Canada mirrored the steps and impacts Fanon describes. When the colonial agenda of what is now Canada is examined, one can clearly see comparison to the colonial agenda Fanon described, namely that this land was colonized with the initial objective of attaining territory and resources for the West. Beginning in the sixteenth century, European nations began their conquest of much of the world; European settlers sailed from the Western continent to explore, settle and conquer foreign lands and establish colonies in the pursuit of territory, natural resources and forced labour for the benefit of their home nation. “Colonies were established to be exploited economically. The benefits of empire could come directly as taxes, as precious metals, or as raw materials for industries in the homeland,”<sup>93</sup> and often at the expense of the Indigenous occupants.

Though initially reliant on substantial and often positive partnerships between settler colonies and Indigenous societies, including strong treaty relationships, military alliances, trade relationships and relations of mutual benefit, the further establishment, growth and independence of Western colonies necessitated the acquisition of lands and resources which

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<sup>93</sup> Truth and Reconciliation Commission of Canada. *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*. Library and Archives Canada, 2015. P. 16-17

required the forced removal of Indigenous populations,<sup>94</sup> often resulting in either expansionary wars or the establishment and breaking of Treaties and agreements.<sup>95</sup>

To morally justify the extermination or forced removal of Indigenous populations, European nations, in alignment with Fanon's argument, invented numerous and elaborate racial and religious socially-constructed biases purporting the superiority of the Western world. This purported superiority was largely elaborated on two basic concepts: one, the Christian God has given the Christian nations the right to colonize the lands they 'discovered' as long as they converted the Indigenous populations; and two, the Europeans were bringing the benefits of civilization (a concept that was intertwined with Christianity) to the 'heathen.'<sup>96</sup> Foundational to both concepts were the psychological and social positioning of the Western world over those of Indigenous societies.

Further, just as Fanon argued, the conception of the moral, racial, and cultural superiority of the West was solidified in the eyes of the settlers. Beginning in 1493, Pope Alexander VI issued four "papal bulls" granting most of North and South America to Spain. These "papal bulls" shaped the political and legal arguments that have come to be known as the "Doctrine of Discovery," which was used to justify the colonization of the Americas in the sixteenth century.<sup>97</sup> Inherent to the "Doctrine of Discovery" was the idea that "the lands being

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<sup>94</sup> "The mere presence of Indigenous people in these newly colonized lands blocked settler access to the land. (Wolfe, "Settler Colonialism," 388.) (As found in TRC, 17)

<sup>95</sup> To gain control of the land of Indigenous people, colonists negotiated Treaties, waged wars of extinction, eliminated traditional landholding practices, disrupted families, and imposed a political and spiritual order that came complete with new values and cultural practices. (Wolfe, "Settler Colonialism," 388, 391, 399.). (As found in TRC, 17)

<sup>96</sup> TRC, 17

<sup>97</sup> Elliot, *Empires of the Atlantic*, 11, 23; Pagden, *Spanish Imperialism*, 14. As found in TRC, 18.

claimed were *terra nullius* – no man’s land – and therefore open to claim.”<sup>98, 99</sup> The societal construct of European superiority was reified by this Doctrine and the imposition of the claim of *Terra Nullius*, for by these concepts settlers did not recognize Indigenous societies’ claims to the territory. Further, the settlers perceived an Indigenous presence simply as an occupation of the land, an occupation likened to that of wild animals, and thus did not recognize Indigenous peoples as human, as possessive of rights, or of a civilization or societal organization on par to Western society.<sup>100</sup>

One may award merit to Fanon’s argument and its application to the Canadian context, for not only was colonization focused on attaining new territories and resources, but to do so, in the removal of the Indigenous populations, Western societies relied upon a conviction in the superiority of Western civilization and the inferiority of Indigenous ones. This perception of Indigenous societies as primitive in nature, barely surpassing that of the wild animals, further justified the colonial mission by reinforcing “the belief that the colonizers were bringing civilization to savage people[s] who could never civilize themselves. [Thus] [relying] on a belief

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<sup>98</sup> TRC, 18

<sup>99</sup> “Harman Verelst, who promoted the colonization in the eighteenth century of what is now the southern coast of the United States, wrote that “This eighteenth century of what is now the southern coast of the United States, wrote that “this Right arising from the first discovery is the first and fundamental Right of all European Nations, as to their Claim of Lands in America.” (H. Verelst, “Some Observations on the Right of the Crown of Great Britain in the North West Continent of America,” PRC co 5/283, f.5, quoted in Armitage, David. *The Ideological Origins of the British Empire*. Cambridge: Cambridge University Press, 2000. P. 192.)

<sup>100</sup> Wood, *Origin of Capitalism*, 111. (TRC, 18)

of racial and cultural superiority.”<sup>101, 102</sup> Thus, I contend that through the societal construct of European superiority and supported by notions of *Terra Nullius* and justified through papal bulls and the *Doctrine of Discovery*, the imperial colonial mission in Canada was fundamentally reliant on the creation of a social divide between settler society and Indigenous nations.

## 6.2 Argument: Canada’s Indian Policy Reinforces the Divide

As settler society began to expand and develop its independence from Great Britain, early settler governments aggressively pursued Treaties and other means to remove Indigenous Nations from the land and its resources to foster the society’s own growth. The negotiations of these Treaties, were often marked by fraud and coercion. To this day many First Nations continue to take Canada to court to live up to the intent and principles which framed the negotiations of these Treaties.<sup>103</sup> Many of these Treaties were marred by the Canadian Government’s reliance on negotiation provisions which called for First Nations to ‘cede, release,

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<sup>101</sup> “European writers and politicians often arranged racial groups in a hierarch, each with their own set of mental and physical capabilities. The ‘special gifts’ of the Europeans meant it was inevitable that they would conquer the lesser peoples. Beneath the Europeans, in descending order, were Asians, Africans, and the Indigenous peoples of the Americas and Australia. Some people held that Europeans had reached the pinnacle of civilization through a long and arduous process. In this view, the other peoples of the world had been set back by such factors as climate, geography and migration.” (TRC, 18)

<sup>102</sup> TRC, 18

<sup>103</sup> (For coercion, see: Ray, Arthur J. *An Illustrated History of Canada’s Native People: I have lived here since the world began*. Toronto: Key Porter, 2010. P. 151-152. For fraud, see: Upton, L. F. S. “The Origins of Canadian Indian Policy.” *Journal of Canadian Studies* 8, no. 4 (November 1973): 51–60. For failure to implement Treaties, see: Sprague, D. N. *Canada’s Treaties with Aboriginal People*. Winnipeg: University of Manitoba, Faculty of law, Canadian Legal History Project, 1991. P. 13. For taking land without Treaty, see Fisher, Robin. *Contact and Conflict: Indian–European Relations in British Columbia, 1774–1890*. Vancouver: University of British Columbia Press, 1992.) (TRC, 5)

surrender and yield' their claims to their lands and to Title.<sup>104</sup> The intent of these clauses and the government's approach to Treaty negotiation was to assimilate Aboriginal people into broader Canadian society, for Aboriginal peoples, once the Treaties were finalized, to have ceased to exist as a distinct people with their own governments, cultures, and identities.<sup>105</sup> In other parts of the country, when Treaty negotiations proved to costly or difficult, Canada relied on the forced relocation of First Nations' reserves from agriculturally valuable or resource-rich lands onto remote and economically marginal reserves.<sup>106</sup> The result of these forced relocations and fraudulent treaties was the occupation and the establishment of Western settlements on prime lands while regulating the Indigenous populations to land of little value and of little interest to the settlers, justified by the false beliefs that due to their primitive nature the Indigenous peoples first had no claim to the land, and second had no use for it, in the same way the 'advanced' Western societies had. These policies were but the first step to separate and marginalize Indigenous peoples physically and economically.

If we are to follow Fanon's argument, one should expect, in pursuit of the colonial objective of seizing Indigenous' lands for exploitation, now that the colonial objectives have been determined and the justification for the removal of Indigenous societies exist within the

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<sup>104</sup> Miller, J. R. *Compact, Contract, Covenant: Aboriginal Treaty Making in Canada*. Toronto: University of Toronto Press, 2009. P. 164-165.

<sup>105</sup> TRC, 25

<sup>106</sup> (For example, from Saskatchewan, see: Miller, J. R. *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*. Second edition. Toronto: University of Toronto Press, 2000. P. 222; Stonechild, Blair. "The Indian View of the 1885 Uprising." In *Sweet Promises: A reader on Indian-White Relations in Canada*, edited by J. R. Miller, 259-76. Toronto: University of Toronto Press, 1991. P. 263; Wiebe, Rudy. "Mistahimaskwa." In *Dictionary of Canadian Biography Online*. [http://www.biographi.ca/en/bio/mistahimaskwa\\_11E.html](http://www.biographi.ca/en/bio/mistahimaskwa_11E.html) (accessed 19 July 2018)." (TRC, 5)

civilizing mission of the West, for Canada to then prescribe to processes and policies to reinforce and establish the ongoing subjection and psychological imposition of Indigenous inferiority into and over Indigenous societies, while maintaining and bolstering Western superiority. Indeed, much of this is true: Canada quickly came to assert control over the Indigenous peoples and lands in all aspects of daily life. From the very onset, Canadian policy was focused on the creation of cultural, racial and economic divisions to first segregate and remove the Indigenous population from lands of interest and from settler establishments, and then to impose socially constructed notions of Indigenous inferiority and western superiority to proselytize Indigenous peoples into abandoning their culture and identity in favour of Western ideals, and thus abandoning any claims to the land or territory they previously occupied. When the removal of Indigenous people failed, or proved too difficult or costly, the Canadian society relied upon the forced assimilation of Indigenous people into 'white' society, often based on the elimination of what settler-society had deemed as an inferior and primitive culture. Rather than accomplishing their goals of homogenizing Canadian society, by not addressing the hierarchical and racist assumptions and psycho-afflictive impacts of colonialism, as described by Fanon, the imposition of assimilatory policies on Indigenous societies further entrenched racial division and societal conflict.

The division between settler and Indigenous societies and the elevation and prioritization of European culture informed much of Indigenous policy over the last 150 years. Indian policy in Canada has had three primary goals, most of which, to some degree, continue to inform today's Indigenous policy: (1) to separate Indigenous peoples from the land; (2) to separate Indigenous peoples from the culture and languages so fundamental to their identity;

and (3) to assimilate Indigenous peoples into dominant Canadian society. These goals resulted in four destructive contemporary Indian identity laws and policies: the *Indian Act*, the Indian Residential School System, and the Sixties Scoop, all of which either still exist today or have had far-reaching consequences into the lived experiences of today's Indigenous communities. The Truth and Reconciliation Commission of Canada (TRC) was tasked with acknowledging some of these policies and their assimilatory goals, namely the Indian Residential School System, alongside its impacts and consequences and can be used to provide insight into these various policies.

The TRC found that Canada's Indigenous policies and its goal of assimilating Indigenous peoples to the point where Indigenous societies and Nations would cease to exist as culturally and socially distinct peoples, thus negating their claims to nationhood and the land and resources, constituted an act of cultural genocide. The TRC defines *Cultural Genocide* as:

The destruction of those structures and practices that allow the group to continue as a group. States that engage in cultural genocide set out to destroy the political and social institutions of the targeted group. Land is seized, and populations are forcibly transferred and their movement is restricted. Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And, most significantly to the issue at hand, families are disrupted to prevent the transmission of cultural values and identity from one generation to the next. <sup>107</sup>

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<sup>107</sup> TRC, 5

The TRC found that “in its dealing with Aboriginal people, Canada did all these things.”<sup>108</sup>

Necessitated by Canada’s historic Treaty process, Canada introduced the 1867 *Indian Act* to determine which Indigenous individuals were eligible to claim their Treaty Rights. The *Indian Act*’s membership policy further divided settler and Indigenous groups without addressing the historical inequities and racial divides critical to the settler colonial mission in Canada. The *Indian Act* legislated race as a legal identifier based upon measures of blood quantum or blood percentage.<sup>109</sup> Further, the *Indian Act*’s reliance on patrilineal descent has resulted in the significant reduction in the amount of Indigenous people legally recognized as such and has attributed to damaging levels of culture and language loss.

By determining who was legally an Indigenous person (a “status’ Indian), and thus eligible for the rights and benefits allocated to this legal identity, this act unilaterally granted the colonizer the ability to determine the identity of the colonized and to impose statistical and eventual elimination of the Indigenous identity, thus reinforcing a societal divide based on the inferiority of the colonized and the superiority of the colonizers. The *Indian Act* imposed complex rules governing how ‘status’ was granted. These rules were largely based in Western patriarchal notions favouring the position of the father over that of the mother, and it is these determinants which resulted in large percentages of the Indigenous population being separated from their communities and cultures, primarily impacting Indigenous women and their descendants, severing their claim to financial support of their Nation’s governments and from the social support of their communities.

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<sup>108</sup> TRC, 5

<sup>109</sup> AFN-INAC, *First Nations Registration (Status) and Membership Research Report*. July 2008. P. 4

The federal construction of Indigenous identity further defined an Indigenous identity-claim as irreconcilable with characteristics associated with Western civilization. To this extent, any legally recognized Indian would lose their recognized status once they obtained a university degree, became a professional such a doctor or lawyer, or entered the armed forces. Until 1969, legally recognized Indigenous people were unable to vote in all provincial and federal elections, unless the individual voluntarily enfranchised by ceding their claims to Indigenous and Treaty rights,<sup>110</sup> once again illustrating Canada's imposed belief that Indigenous society is incompatible with Western civilization and was unworthy of even this basic human right.

Further, individuals who were forcibly enfranchised lost the ability to grant status onto their own children, thus allowing for the eventual statistical extinction of Indigenous people as a legal category, additionally perpetuating the eventual elimination of a more fundamental Indigenous identity, one based in shared notions of community, culture, land and language.

Beyond Indigenous identity legislation, the *Indian Act* undermined "the Aboriginal right to self-government [...]. The *Indian Act* gave the federal government the authority to veto decisions made by band councils and to depose chiefs and councillors. The Act [allowed Canadian society to restrict] First Nations farmers' ability to sell their crops and take out loans. Over the years, the government also assumed greater authority as to how reserve land could be disposed of: in some cases, entire reserves were relocated against the will of the residents. The

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<sup>110</sup> "First Nations people were unwilling to surrender their Aboriginal identity in this manner. Until 1920, other than women who involuntarily lost their Indian status upon marriage to a non-status individual, only 250 'Indians' voluntarily gave up their status. (Miller, *Skyscrapers Hide the Heavens*, 255.)

*Indian Act* was a piece of colonial legislation by which, in the name of ‘protection,’ one group of people ruled and controlled another.”<sup>111</sup>

Through this Act, “Canada replaced existing forms of Aboriginal government with relatively powerless band councils whose decisions it could override and whose leaders it could dispose,<sup>112</sup> [...] disempowered Aboriginal women, who had held significant influence and powerful roles in many First Nations, including the Mohawks, the Carrier, and Tlinget,”<sup>113 114</sup> and denied “the right to participate fully in Canadian political, economic, and social life to those Aboriginal people who refused to abandon their Aboriginal identity.”<sup>115</sup><sup>116</sup> Culturally, “Canada outlaw[ed] Aboriginal spiritual practices, jailed Aboriginal spiritual leaders, and confiscated

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<sup>111</sup> TRC, 26

<sup>112</sup> For an example, see: *An Act to amend and consolidate the laws respecting Indians*, Statutes of Canada 1880, chapter 28, section 72, reproduced in Venne, *Indian Acts*, 75.

<sup>113</sup> For examples, see: Brown, Judith. “Economic Organization and the Position of Women among the Iroquois.” *Ethnohistory* 17 (1970): 151–167; Fiske, Jo-Anne. “Fishing Is Women’s Business: Changing Economic Roles of Carrier Women and Men.” In *Native Peoples, Native Lands: Canadian Indians, Inuit and Metis*, edited by Bruce Cox, 186–198. Ottawa: Carleton University Press, 1987; Klein, Laura. “Mother as Clanswoman: Rank and Gender in Tlingit Society.” In *Women and Power in Native North America*, edited by Laura Klein and Lillian Ackerman, 28–45. Norman: University of Oklahoma Press, 1995.

<sup>114</sup> TRC, 5

<sup>115</sup> *An Act for the gradual enfranchisement of Indians*, Statutes of Canada 1869, chapter 6, reproduced in Venne, *Indian Acts*, 11.)”

<sup>116</sup> TRC, 5

sacred objects.”<sup>117</sup> <sup>118</sup> Most prominently were Canada’s bans on the west-coast Potlatch and the Prairie Thirst Dance or “Sun Dance”<sup>119</sup> <sup>120</sup>

In 1920, the federal government amended the *Indian Act* to give it the power to strip individuals of their status against their will. In explaining the purpose of the amendment to a parliamentary committee, Indian Affairs Deputy Minister Duncan Campbell Scott said that “our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question, and no Indian Department that is the whole object of the this Bill.”<sup>121</sup> The other major element in this bill empowered the government to compel parents to send their children to residential schools. “Residential schooling was always more than simply an educational program: it was an integral part of a conscious policy of cultural genocide.”<sup>122</sup>

Central to Canada’ Indigenous policy and the attempted assimilation of Indigenous peoples into the body politic was Canada’s Indian Residential School System. This system was built upon notions of Indigenous inferiority and legislated the removal of Indigenous children from their parents and from their culture to be educated as assimilated into Europeans society

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<sup>117</sup> For an example, see: *An Act further to amend “The Indian Act, 1880,”* Statutes of Canada 1884, chapter 27, section 3, reproduced in Venne, *Indian Acts*, 93

<sup>118</sup> TRC, 5

<sup>119</sup> For the banning of the Potlatch, see: LaViolette, Forrest. *The Struggle for Survival: Indian Cultures and the Protestant Ethic in British Columbia*, Toronto: University of Toronto Press, 1961. P. 41-42; Cole, Douglas, and Ira Chaikin. *An Iron Hand Upon the People: The Law Against the Potlatch on the Northwest Coast*. Vancouver: Douglas and McIntyre, 1990. P. 16-17, 95. For the banning of the Thirst Dance, see: Pettipas, Katherine. *Severing the Ties that Bind: Government Repression of Indigenous Ceremonies on the Prairies*. Winnipeg: University of Manitoba Press, 1994. P. 53-54, 95-96.

<sup>120</sup> TRC, 25

<sup>121</sup> Library and Archives Canada, RG10, volume 6810, file 470-2-3, volume 7, Evidence of D.C. Scott to the Special Committee of the House of Commons Investigating the Indian Act amendments of 1920, (L-2)(N-3).

<sup>122</sup> TRC, 25

in religious-run boarding schools. In justifying the government's residential school policy, Canada's first Prime Minister, Sir John A. Macdonald, told the House of Commons in 1883:

When the school is on the reserve the child lives with its parents, who are savages; he is surrounded by savages, and though he may learn to read and write, his habits, and training and mode of thought are Indian. He is simply a savage who can read and write. It has been strongly pressed on myself, as the head of the Department, that Indian children should be withdrawn as much as possible from the parental influence, and the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men.<sup>123</sup>

These measures were part of a coherent policy to eliminate Indigenous peoples as distinct peoples and to assimilate them into the Canadian mainstream against their will. Deputy Minister of Indian Affairs Duncan Campbell Scott outlined the goals of that policy in 1920, when he told a parliamentary committee that:

Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic."<sup>124</sup> These goals were reiterated in 1969 in the federal government's *Statement of the government of Canada on Indian Policy* (more often referred to as the "White Paper"), which sought to end Indian status and terminate the Treaties that the federal government had negotiated with First Nations.<sup>125 126</sup>

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<sup>123</sup> Canada, House of Commons Debates (9 May 1883), 1107-1108

<sup>124</sup> Library and Archives Canada, RG10, volume 6810, file 470-2-3, volume 7, Evidence of D.C. Scott to the Special Committee of the House of Commons Investigating the Indian Act amendments of 1920, (L-2)(N-3).

<sup>125</sup> Canada. *Statement of the Government of Canada on Indian Policy*. Presented to the first session of the 28th Parliament by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development. Ottawa: Queen's Printer, 1969. Pg. 20-24 of pdf.

<sup>126</sup> TRC, 5-6

At the foundation of the Indian Residential School System was an assumption that European civilization and Christian religions were superior to Indigenous cultures. In the residential schools, Indigenous children were banned from using Indigenous languages, wearing cultural clothing, practicing Indigenous spirituality and were additionally denied the opportunity to speak with family or with their siblings.<sup>127</sup> Indian Residential Schools were a mainstay of Canadian Indigenous policy until the 1980s, with the last school being closed in the late 1990s. Elucidating the cultural bias these school operated under are the following statement from officials associated with the Residential School System:

John House, Principal of the Anglican school in Gleichen, Alberta, became involved in a campaign to have two Blackfoot chiefs deposed, in part because of their support for traditional dance ceremonies.<sup>128</sup>

J.O. Plourde, Roman Catholic Official, 1947, told a federal parliamentary committee that since Canada was a Christian nation that was committed to having “all of its citizens belonging to one or other of the Christian churches,” he could see no reason why the residential schools “should foster aboriginal beliefs.”<sup>129</sup>

J.E. Andrews, Principal of the Presbyterian school in Kenora, Ontario, 1953: “We must face realistically the fact that the only hope for the Canadian Indian is eventual assimilation into the white race.”<sup>130</sup>

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<sup>127</sup> Canada, House of Commons Debates (9 May 1883), 1107-1108

<sup>128</sup> TRC, NRA, Library and Archives Canada, RG10, volume 7936, file 32-104, J.W. House to G.H. Gooderham, 26 January 2941. [OLD-004156-0001]

<sup>129</sup> Canada. Parliament. Special Joint Committee of the Senate and the House of Commons appointed to examine and consider the Indian Act. Minutes of Proceedings and Evidence, 1946–1948. P. 1474.

<sup>130</sup> TRC, NRA, The Presbyterian Church in Canada Archives, Toronto, ON, ACC. 1988-7004, box 46, file 1, “Cecilia Jeffrey Indian residential School,” J.C.E. Andrews, 1953, 36. [NCA-009046].

Albert Southard, Principal of the Gordon's Reserve school in Saskatchewan, 1957:

"change the philosophy of the Indian child. In other words, since they must work and live with 'whites' then they must begin to think as 'whites'."<sup>131</sup>

Oblate André Renaud, 1958 argued that when students at day schools went back to their "homes at the end of the school day and for the weekend, the pupils are re-exposed to their native culture, however diluted, from which the school is trying to separate them." A residential school, on the other hand, could "surround its pupils almost twenty-four hours a day with non-Indian Canadian culture through radio, television, public address system, movies, books, newspapers, group activities, etc."<sup>132</sup>

Through reading the above quotes, it is clear that those individuals who built, funded, and operated the schools justified for this destructive intrusion into the lives of Indigenous families with a strong belief in the inferiority and savagery of Indigenous societies and in the civilizing mission of the West. Further, one can see how politicians saw the civilizing mission of these schools as means to bypass their commitments to Indigenous peoples and mitigate any challenges they may present to the status quo. In this way the schools were an integral part of the colonization and assimilation of Indigenous people.<sup>133</sup>

Thus, the residential school system represents a much more overt attempt by federal authorities to eliminate any pre-existing Indigenous identity, primarily targeting those aspects of an Indigenous experience including self-respect, cultural knowledge, language use,

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<sup>131</sup> TRC, 7-8

<sup>132</sup> Renaud, André. "Indian education today." *Anthropologica* (1958): 1-49. P. 30.

<sup>133</sup> TRC, 15

connection to land, connection to family and connection to community. With the last residential school closing in 1996, the immediate and generational effects of such an oppressively violent policy is still reverberating through Indigenous communities today, further compounding the threat to an Indigenous identity introduced by the *Indian Act*.

A final example of an oppressive Canadian Aboriginal policy is in relation to what has become known as the Sixties Scoop, which provides further evidence of the Canadian federal government's intent to divide and eventually eliminate Indigenous culture due to its perceived inferiority by proponents of Western civilization. The Sixties Scoop, as it is known colloquially, was Canada's Aboriginal child welfare policy, where Canada actively removed Indigenous children from their families and cultures and prioritized the removed children's placement in non-Indigenous families.

Throughout the 1960s, Indigenous children were drastically overrepresented within the child welfare system, wherein "it was common practice... to 'scoop' from their mothers on reserves almost all newly born children,"<sup>134</sup> often without permission or warning, and to place these children into the care of non-Indigenous families far from the child's own community, culture and parents. Similarly to the Residential School system and the *Indian Act*, the aftereffects of the Sixties Scoop continues to have significant effects on how Indigenous children and adults view themselves and come to be accepted as Indigenous persons within Indigenous and, importantly, non-Indigenous communities.

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<sup>134</sup> Johnston, Patrick. Personal email communication with Raven Sinclair, December 8, 2005. As quoted and cited in Sinclair, Raven. "Identity lost and found: Lessons from the sixties scoop." *First Peoples Child and Family Review*. 3(1), 2007: 66.

Canada's colonial history and its past and current Aboriginal policy follows closely the argument presented by Fanon. The colonization of Canada was largely focused on the acquisition of land and resources for the colonizing empire. To acquire these lands, the forced removal of the Indigenous societies became necessary. To justify the elimination or forced removal and relocation of Indigenous societies, the colonizers constructed ideals of western superiority and Indigenous inferiority resulting in the civilizing mission of the West, as represented by a series of papal bulls informing the *Doctrine of Discovery* and the concept of *Terra Nullius*. This psychological divide, based on socially-constructed notions of a racial hierarchy, paved the way for race-based policies beginning with the dishonourable dealings of Canada in relation to the historic Treaties. To maintain their control and dominance over the lands and resources of Canada, Canada imposed Aboriginal policy to eliminate any aspects of Indigenous identity or Nationhood, once again framed by notions of a racial hierarchy. This can be seen in the reasoning and objectives of such policies and legislation as the *Indian Act*, the Indian Residential Schools System and the child welfare policies of the 1950s and 60s.

### **6.3 Argument: Fanon and Young in the Canadian Context – Summary**

The resulting impact of settler colonialism in Canada is the entrenchment of a deep societal divide with profound economic, social, and political fallout, resulting in the wide-spread marginalization and oppression of Indigenous peoples throughout the country. As discussed earlier, and as suggested by Fanon, the continued oppression and marginalization of Indigenous peoples has led to deep-seated emotions ranging from profound depression, helplessness and

unworthiness, to concentrated expressions of rage and hatred, and a strategic and concreted desire to achieve recompense and justice for the crimes perpetuated against them. This outrage has manifested itself at different times throughout Canadian history in mass protest, political activism and Indigenous mobilization demanding justice for the historical wrongs the Canadian state has imposed on Indigenous nations. These constant and unwavering calls for justice have forced Canada to make certain concessions to Indigenous peoples to appease their outrage and to mitigate the potential threat Indigenous unrest is perceived to pose to the status quo and the economic viability of a country so dependent upon the land and the resource industry it supports. Canada has sought to appease this outrage through several legislative initiatives, policies and operational practices, many of which are aligned with Young's pillars of deliberative democratic theory, and many of which have been outlined previously. It is significant to note that none of these initiatives have adequately addressed the foundations on which the Canadian society has been built, namely the racial oppression and marginalization of pre-existing Indigenous nations to seize their lands and resources for the benefit of the settler society.

Because of this, the deep societal, racial and economic divide continues to fester and grow. Such policies have permitted non-Indigenous society to feel liberated, to release their guilt of the historical wrongs of their ancestors, thus making the initial and continuing denial of the humanity of Indigenous peoples invisible and uncontested. By not addressing these fundamental building blocks of settler colonialism in Canada, efforts to "level-the-playing-field" across the political, economic and social spheres, have failed. This divide becomes apparent when issues of 'national' interest become pitted against the Rights of Indigenous Peoples, most

notably in relation to extractive resource projects including the Kinder Morgan Trans Mountain Expansion pipeline project (KM TMX) and the BC Hydro Site C Dam project.

Herein, we can find Fanon's argument at play once again. To quell the uprising and revolt of Indigenous groups who challenge the foundations of Canadian society and the existence of these projects, the Canadian government introduces appeasement policies which act as a façade to address the concerns of Indigenous opposition without fully addressing the fundamental concerns raised by Indigenous groups which fundamentally challenge the status quo of colonialism in Canada. It is not to say that these initiatives are without merit or without the support of Indigenous Peoples, but rather that these initiatives, by not addressing the foundations of colonialism, have not only failed to address and rectify the social and economic divide in Canada, but assuage settler guilt and further remove Canadian society from the need to address the foundations of colonialism, and thus risk losing the legitimacy required to stymy social unrest and outrage. This effectively makes these foundations invisible, bolstering settler arguments that "First Nations... have milked this issue to their decided advantage."<sup>135</sup>

Examples of such initiatives are not limited to but include: the enfranchisement of Indigenous Peoples in 1960, the funding of Indigenous Representative Organizations in 1964,<sup>136</sup> the development and implementation of Indigenous-focused federal departments in 1966, the

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<sup>135</sup> Excerpt dated March 30, 2017 from anonymous comments and letters sent to and posted by Senator Lynn Beyak in support of her defense of Indian Residential Schools: Russell, Andrew. "Sen. Lynn Beyak publishes 'outright racist' comments about Indigenous people on her Senate website." *CBC*. 03 January 2018. Web. 14 Aug 2018. For additional examples see the response of Thunder Bay's Mayor, Keith Hobbs, after Ontario Human Rights Commission highlighted racism against Indigenous people in Thunder Bay in an annual report: Prokopchuck, Matt. "Thunder Bay mayor says he takes 'offence' to Ontario human rights commission report, comments" *CBC*. 11 July 2018 Web. 14 August 2018.

<sup>136</sup> Canada. Indian and Northern Affairs. *Summative Evaluation of Consultation and Policy Development and Basic Organizational Capacity Funding*. 19 Feb. 2009.

enshrinement and protection of the Indigenous peoples rights in Section 35 of the Canadian Constitution in 1982, an acknowledgment and commitment from Canada to renew its relationship with Indigenous peoples in 2015, and the on-going legislative review of Laws, Legislation and Policy pertaining to Indigenous peoples, by the Attorney General of Canada and Minister of Justice, Jody Wilson-Raybould from 2017 onward. Herein I suggest that these appeasement policies, as implemented from the top-down, and by not addressing the foundations of colonialism in Canada, cannot heal the societal divide which currently exists in this country, and further, has the potential to reinforce it.

## **7 Case Study: The Death of Colten Boushie and the Acquittal of Gerald Stanley**

This social, racial, economic and psychological divide has never been more apparent during and succeeding the year and a half stretching from August 09, 2016, when Colten Boushie was shot and killed by Gerald Stanley, and Stanley's subsequent acquittal in February 2018. The year and a half between the death of Colten and the acquittal of Gerald, and the months following these events, have borne witness to divisive public outrage, nationwide protest, racially charged outbursts and threats of violence throughout province of Saskatchewan and the country. The uncontested facts are as follows: "On Aug. 9, Colten and his friends set out from the Red Pheasant reserve, about 150 km west of Saskatoon, for a day of swimming and drinking. The car they were riding in had a flat tire and they pulled into the yard

of a local farmer named Gerald Stanley. What happened next is uncertain, but one thing is clear – Colten wound up dead.”<sup>137</sup>

The events of Colten’s death and the factors leading to the jury’s decision to acquit highlights the deep societal, colonial divide existing in Canada. This divide has been manifested in the different camps and interpretations of the factors and events leading to Colten’s death and to the processes allowing for the acquittal of Gerald Stanley, these divergent perspectives have been summarised as such: “(1) that either Colten was the victim of a racially motivated killing [and the killer was tried and acquitted by a flawed justice system which was fundamentally designed by and for settler society to the marginalization of Indigenous peoples] or (2) Colten’s friends were trespassers and thieves who met swift, vigilant ‘justice’ [and the justice system of Canada acted appropriately without bias to achieve a just resolution].”<sup>138</sup>

Through the provision of this tragic example, it can be shown that, despite the arguable implementation of three of four of Young’s pillars of democratic deliberative theory (Inclusion, Political Equality, and Publicity) through the legislation, policies and practices outlined previously, Canada has clearly been unable to overcome and bridge this deep societal divide colonialism has imposed, largely a result of the inability of Young’s theory to impose the fourth pillar of reasonableness onto a flawed society which has been unable to engage with its colonial foundations. The foundations of colonialism, as identified by Fanon, including the relegation of Indigenous peoples to a sub-human classification, the imposition of systems of poverty

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<sup>137</sup> Friesen, Joe. “The night Colten Boushie died: What family and police files say about his last day, and what came after.” *The Globe and Mail*. 20 Oct. 2016. Web. 10 July 2018.

<sup>138</sup> Ibid

resulting from the relocation and land and resource grabs, as well as the normalization of these systems without restitution or compensation, continue to inform and divide society today. This can be shown in the analysis of the arguments on both sides of the Colten Boushie case.

### **7.1 Case Study: Colten Boushie: Canada's Societal Divide Today**

On August 19<sup>th</sup>, 2016, Gerald Stanley was charged with the second-degree murder of Colten Boushie. Farmers in Saskatchewan unified their voices, calling for individuals to support Stanley for being unlucky enough to have been confronted with an unfortunate circumstance that could have happened to anyone. Supporters of Stanley laid their defense of his actions to the justifiable protection of private property from theft by members of the neighbouring Indigenous communities. Such feelings of resentment and even fear of their Indigenous neighbours were bolstered by an RCMP press release which linked the death of Colten to a recent surge in thefts in the area,<sup>139</sup> providing “just enough prejudicial information for the average reader to draw their own conclusions that the shooting was somehow justified,”<sup>140</sup> Bobby Cameron, chief of the Federation of Sovereign Indigenous Nations, said in a statement. This sentiment led to an outpouring of racist remarks against Indigenous peoples across social media and public messaging boards: “On one Facebook group, the Saskatchewan Farmer’s Group, people posted derogatory comments about the victim. Some even cheered and expressed support for the accused shooter. ‘Poor f—ker is going to be put through hell just

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<sup>139</sup> Ibid

<sup>140</sup> Ibid

because he shot a Native I'm sure," wrote one person, whose Facebook profile says he's a farmer from Kelvington, Sask."<sup>141</sup> The racist vitriol which poured out of such groups, which clearly saw themselves as diametrically opposed and separate from their Indigenous neighbours, rose to such a point that both the Assembly of First Nations and the Premier of Saskatchewan Brad Wall called for an end to the flood of racist comments on social media directed at Indigenous peoples.<sup>142</sup>

During the climax of this divisive rhetoric, the threat of violence loomed heavy over the province: "Local news was flooded with stories of farmers arming themselves for the harvest season [,] including Facebook pages featuring photos of farmers carrying firearms, [thus requiring] the Royal Canadian Mounted Police (RCMP) Superintendent [to hold] a press conference to ask residents to put their guns away"<sup>143</sup> and to keep the peace. Such a message to "keep the peace" was echoed and reinforced by the Boushie family. A message which Kimberly Jonathan, a vice-chief with Saskatchewan's Federation of Sovereign Indigenous Nations, in a meeting with Minister Ralph Goodale, cited as being responsible for the prevention of more bloodshed, which was a very real possibility as tension between Indigenous and non-Indigenous communities continued to rise.<sup>144</sup>

Meanwhile, Indigenous groups condemned the killing as a race-motivated shooting without cause, an unnecessary tragedy indicative of a colonial history premised on the violent

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<sup>141</sup> Fontain. Tim. "Sask. Chiefs accuse RCMP of fueling racial tensions in wake of deadly shooting." *CBC* 12 Aug. 2016. Web. 10 July 2018.

<sup>142</sup> Friesen

<sup>143</sup> Ibid

<sup>144</sup> Ibid

and dehumanizing treatment of Indigenous peoples. As reported by the *Globe and Mail*, Alvin Baptiste, Colten's uncle, recalled, "There's a history of this in Battleford. It goes back to the 1880s.<sup>145</sup> We have hidden racisms in this town. First Nations people never get a fair shake in the justice system at all."<sup>146</sup> Not only does this statement recognize the violence and oppression which Canada has employed in its treatment of Indigenous, but it demonstrates the continued impact such policies have on the psyches of Indigenous peoples, manifesting in a severe and justifiable mistrust of and reticence to rely on Canada's 'impartial' judicial system to provide justice for Indigenous peoples, for as Fanon observed Indigenous peoples maintain their thirst for justice, once again furthering the gulf between Indigenous and settler society in Canada. Mistrust of Canada and its systems were not limited to the justice system; the RCMP faced numerous criticisms and calls to reform as they were reported to have, after the death of Colten, treated the Boushie family as if they were criminals themselves rather than a grieving mother and siblings. The Boushie family reported being subjected to a search of their home, to callous and undignified behaviour, being told to "pull themselves together" after grieving over the news of their family, and being accused of being intoxicated, all moments after hearing about the death of a cherished family member.<sup>147</sup> The actions of the RCMP were callous, and lacked the basic empathy and recognition of shared humanity one should expect.

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<sup>145</sup> In 1885 eight Indigenous men were hung in North Battleford, convicted of crimes after the Northwest Rebellion, wherein the Métis led by Louis Riel and an association uprising of Crees and Assiniboines rebelled against the Canadian Government to protect their rights, and lands.

<sup>146</sup> Friesen

<sup>147</sup> Ibid

On February 9<sup>th</sup>, “the public gallery at Mr. Stanley’s trial in Battleford, Sask., was split along racial lines: First Nations family and friends on one side, Mr. Stanley’s family and friends on the other.”<sup>148</sup> An all-white jury, by which Stanley’s attorney purposely excluded all potentially Indigenous jurors, acquitted Gerald Stanley of second-degree murder for the killing of Colten Boushie. The announcement of the jury’s verdict was met with emotional and angry shouts of “murderer”<sup>149</sup>. Leading up to the acquittal Indigenous representatives and community members expressed deep concern and little faith in the ability of the Canadian justice system to arrive at a just conclusion for what they saw as a racially motivated killing, especially given the likelihood of a favourable ruling for Stanley given a long-standing allowance for the defense to preclude any jury members who may show bias, and in the case of this trial, to preclude any jury member who appeared to be Indigenous. For Indigenous peoples, the verdict was a continuation of the status quo, the reification of Canada’s failure to address the foundations of colonialism and to bridge the societal divide resulting in ongoing tension and the brutalization of Indigenous peoples across the country. For Stanley and his supporters, the decision was just and fairly given, the jury did not require Indigenous representation, Indigenous people did not require special considerations for a distant historical past already rectified and accounted for, the killing of an Indigenous youth was ruled to be justified to protect one’s own property just as one would put down a rabid animal. As Robert Jago so aptly observed:

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<sup>148</sup> Richards, Liam. “Colten Boushie and beyond: A primer on the aftermath of Gerald Stanley’ acquittal.” *The Globe and Mail*. 13 Feb. 2018. Web. 10 July 2018.

<sup>149</sup> Quenneville, Guy and Jason Warick. “‘Shout of ‘murderer’ in courtroom after Gerald Stanley acquittal in Colten Boushie Shooting.” *CBC News*. 9 Feb. 2018 Web. 10 July 2018.

To find Gerald Stanley guilty, would be to find him responsible for his actions – actions which resulted in the death of Colten Boushie, an Indian. But we don't do that in this country. White Canada is not responsible for what has happened to Indians. The school that teaches you to run, teaches you that you're the good guys, and that everything that has befallen our Indian race was inevitable, it came on us like a force of nature. Who can blame you for a flood or an ice storm? Who can blame you for tainted water, or blame Gerald Stanley for just doing what any of you would do in the same situation? The jury decided that blame, as always, belonged to the Indian, for trespassing on this farm and putting himself in harm's way.<sup>150</sup>

Following the verdict, history repeated itself. Indigenous peoples, communities and political leaders were outraged, calling for an inquiry and review into the Canadian judicial system and jury selection processes which has consistently failed to represent them,<sup>151</sup> and once again Canada responded with commitments to appease Indigenous outrage with the application of band-aid approaches without fundamentally committing to healing the infection beneath the wound. Justice Minister Jody Wilson-Raybould stated "Indigenous underrepresentation on juries, and the peremptory challenges used to dismiss potential Indigenous jurors in the Stanley trial, is "definitely something that we will look into."<sup>152</sup> Prime

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<sup>150</sup> Jago, Robert. "The Fear of the "Indian: In newspapers, films, TV, and books, white Canadian are taught to see Indigenous peoples as animals." *CanadaLand*. 10 Feb. 2018 Web. 10 July 2018.

<sup>151</sup> Friesen

<sup>152</sup> Richards.

Minister Justin Trudeau also spoke in the House of Commons about Indigenous underrepresentation on juries and reconciliation, saying Canada needed to do better.<sup>153</sup>

## 7.2 Case Study: Application of Argument

To summarize, the tragic death of Colten Boushie and the acquittal of Gerald Stanley holds significant application to this thesis's argument. The conflict derived from these tragic events and the consequential fallout throughout the province of Saskatchewan and the country of Canada provides a clear example of the societal and economic divide that Canada created and continues to perpetuate. It is not a coincidence that this divide exists along racial lines, as visibly demonstrated in the jury box of the trial of Gerald Stanley, such a division was necessitated by the very colonial mission on which Canada was born and on which the continued survival of the state, as we know it, relies. Such a guttural and near sub-conscious "us-versus-them" mentality, as featured prominently in the arguments and vitriol espoused by Gerald Stanley and his supporters, is demonstrably reliant on the very denial of the human nature of Indigenous peoples as seen within the Doctrine of Discovery and the notion of *Terra Nullius* by which Canada justified the theft and exploitation of Indigenous territories. I would further argue that constant imposition of top-down appeasement policies, as discussed previously and as proposed by Canada as a solution to these circumstances, by not addressing the foundations of colonialism, only acts to further entrench such social, racial and economic

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<sup>153</sup> Ibid.

divisions, and normalize them to the point in which settler society no longer believes the fury of Indigenous peoples when demanding restitution and recompense is rational or reasonable. It is here that we may see how Young's theory of deliberative democratic theory, particularly her reliance on the pillar of reasonableness, is no longer feasible when applied to societies with deep societal divides resultant from historically imposed division, oppression and marginalization, now made invisible or "unreasonable" to one party.

The anger felt and expressed by non-Indigenous communities is perceived as righteous, as settler society has been taught to not have played a role in the lived reality, oppression and marginalization of Indigenous peoples. By not addressing the foundations of colonialism and their impacts, settler society reinforces the foundational ideals of settler colonialism, that Indigenous peoples are inferior and unworthy of empathy, that the social and economic conditions and circumstances confronting so many Indigenous communities are not in fact a result of colonial practices and policies, but rather due to their own deficiencies. This sentiment featured prominently throughout the seven months of 2016 and early 2017:

John Nездoly, who is from Shellbrook, Sask., says there is anger across Saskatchewan's non-Indigenous farming communities. Crime waves, Mr. Nездoly said, stoke the hostility toward First Nations. "It is overdue," he said. "I'm surprised there hasn't been a lot more of them." "The First Nations come on to our property and they steal," he said. "they don't work, they are always looking for handouts. The perception that they got, they earned."<sup>154</sup>

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<sup>154</sup> Tait, Carrie. "Saskatchewan's racial divide: The death of a young man, allegedly shot by Gerald Stanley, has exposed the tensions between the First Nations communities and their neighbours in the province. But to the

Unfortunately, the actions proposed by Canada to address the outcry of Indigenous voices for justice will fall critically short of implementing substantial change to address the foundational mechanism resulting in such a deep and divergent social divide. Canada's proposed actions to review the judicial system and Indigenous representation on juries does not consider nor rectify the impacts colonialism has had on Indigenous peoples in Canada. For example, Red Pheasant, Colten Boushie's community, like many Indigenous communities across Canada, has higher rates of poverty, lower levels of education and suffers a higher unemployment rate when compared to its surrounding communities<sup>155</sup>:

Statistics Canada's 2011 National Household Survey reflects the stark differences: 43 per cent of Red Pheasant residents were unemployed, compared with 6.7 per cent in its entire census division; household income on the reserve in 2010 was \$19,091, compared with \$60,434 everywhere else; and a large swatch of the reserve's residents lack education. Saskatchewan has the highest rate of [Indigenous peoples] in correctional services, at about 74 per cent, despite representing only 12 per cent of the adult populations. These types of statistics underlie Saskatchewan's racial tensions. Depending on the vantage point, the numbers justify the covertly racist suggestion that [Indigenous peoples] are more likely to commit crime and work little or they reflect the institutional bias towards [I]ndigenous residents.<sup>156</sup>

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indigenous population, who have faced racism for years, his death comes as no surprise." *The Globe and Mail*. 19 Aug. 2016. Web. 10 July 2018.

<sup>155</sup> Ibid.

<sup>156</sup> Ibid.

The tragic murder of Colten Boushie lends weight to the arguments of Fanon, as presented. For the outrage and calls for justice from Indigenous peoples, communities and leaders, outlined previously, allows one to observe their deep and profound distrust in a supposedly unbiased system, as well as a deep understanding that the foundations of colonialism are currently active and informing current affairs, and, until addressed, will further marginalize and oppress their voices and struggles for justice. The playing field between Indigenous and non-Indigenous communities will never truly be leveled until such a time that these foundations are overturned.

Where this is of relevance to Young's theory of deliberative democratic mechanisms to overcome instances of social injustice, is that the societal deliberations on these conflicts are inherently along Indigenous-settler divisions and do not engage with the fundamental racial hierarchy introduced by settler-colonialism. Further, by not doing so, they reify and reinforce these very divisions by making their origins invisible. Additionally, as outlined previously, many of Young's suggested pillars or mechanisms to pursue social justice are in place within Canada, namely Young's pillars of inclusion, and publicity; yet, this ongoing social divide strains Young's final pillar of reasonableness and, as a result, political equality. Rather than proceeding with strong public deliberations, using social difference as a resource to pursue just and legitimate solutions, deliberation without reasonableness, as in the specific situations mentioned previously, recreates and entrenches such existing societal divides. Canada's appeasement policy, rather than lessening the social divide, acts to reinforce it. Such policies have led to much of the non-Indigenous populations feeling threatened by the 'pandering' of Canadian institutions to Indigenous 'special interests'. When confronting these issues, a common cry can

always be heard calling still for the ‘assimilation of the Indigenous communities’ and for the ‘rule of the majority’<sup>157</sup>. It appears with the further introduction of appeasement policy façades; these cries grow louder and more emboldened as the colonizer majority finds their positions of superiority slowly eroded but never entirely at risk. The colonizer calls for the end of ‘race-based’ politics and for the assimilation of Indigenous special interests into the body politic of Canadian society. Under the burden of settler colonialism, how can one party or another satisfy Young’s pillar of ‘reasonableness’ when one lacks the recognition of the other, their worldview and their lived experience as equal to your own, when the foundations of their society, the one governing the rules of deliberative engagement, is founded upon social constructed notions of the superiority of one and the inferiority of another, and has acted for numerous years to reinforce and make invisible this racial hierarchy?

When this societal hierarchy is left unquestioned and unresolved, Fanon’s argument holds true, societal conflict continues to perpetuate along social divisions, where the Indigenous community recognizing their marginalized position seek recompense and restitution for the historic injustices that have been imposed upon them. Meanwhile the colonizer, recognizing the rising tide of unrest threatening the foundations of colonial society, makes paltry offerings to stem the tide. Thus, the conflict continues, until a time that the colonized

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<sup>157</sup> For an example of Canadian’s fear over the realization of Indigenous Rights, see the debate around implementing the standards of free, prior and informed consent as found within the *United Nations Declaration on the Rights of Indigenous Peoples*. “Free, prior and informed consent is not a right of anyone in our parliamentary democracy; our representatives thrash out the necessary compromises. Making all Canadian laws consistent with UNDRIP, as C-262 demands, would not just give Aboriginal Canadians rights not enjoyed by other Canadians, it would concede to small groups of them an absolute veto on many issues of resource development,” writes Harry Swain and Jim Baillie. (Swain, Harry and Jim Baillie. “The Trudeau government signs on to give Aboriginals veto rights nobody else has.” *Financial Post*. 26 January 2018. Web 14 August 2018.)

replaces the colonizers, the colonizers subsume or eliminate the colonized identity and claim, or until the colonizers and the colonized address the racial inequities and psychological trauma foundational to settler colonialism and Canadian society.

## **8 Conclusion**

Through this thesis, I have sought to answer this question: why in Canadian society, despite the apparent existence of many of Young's deliberative democratic pillars to achieve resolution to instances of social injustice, do Indigenous communities consistently show a lower quality of life when compared to their non-Indigenous counterparts? Herein, I have argued that Young's deliberative pillar reliant on a societal commitment to 'reasonableness' cannot be met within societies possessive of deep societal divides resulting from the psychological trauma associated with settler colonialism. To do so, I have provided an overview of Young's deliberative democratic mechanisms, her four pillars of engagement (Inclusion, Political Equality, Reasonableness and Publicity), and these four pillars' applications within the Canadian societal context. I have suggested that it is the pillar of 'reasonableness' which fractures and fails when applied to the Canadian context, and I have provided the arguments of Fanon to illustrate the psychological trauma settler colonial regimes impose as a fundamental cornerstone to their establishment. In doing so, I have summarized Fanon's arguments regarding the phases and impacts of colonialism as such: (1) the foundational rationalization for

settler colonial conquest was the attainment and subjection of foreign lands as a means to house and resource Western civilization; (2) to justify these land grabs in light of previously existing Indigenous societies, the West would convince themselves of their superiority in all aspects of humanity, be it spiritually, scientifically, culturally or physically; (3) European superiority was necessarily partnered with social constructs of Indigenous inferiority and savagery; (4) as time progressed and colonies become established societies, these notions of superiority and inferiority become entrenched and often invisible, and thus have developed and established a deep societal divide between the colonizer and the colonized; (5) the colonizer comes to believe that this divide must be reinforced and actively engender in order to maintain the status quo of not only their own lives and the society they have developed and maintained ownership over but to safeguard said society from a fall into the blackness and regression that Indigenous society represents; and (6) this divide, apparent to the colonized, is one the colonized actively fights and revolts against, constantly reminded of their 'inferiority' they have not come to believe it, and thus continually challenge it.

Following this disposition of the psychological impacts of settler colonialism, I have sought to demonstrate how these phases have manifested within the Canadian state, both historically and contemporarily with a brief engagement with the colonial history of Canada, the *Doctrine of Discovery*, the Treaties, and the *Indian Act*, the Indian Residential School System and the Sixties Scoop. I have continued with a discussion on the lasting impacts a history of colonialism has had on the state of Canada alongside the state of deliberative democratic practice within Canadian society. I concluded with a discussion and application of the tragic death of Colten Boushie and the acquittal of Gerald Stanley for his death, alongside the deep,

violent and divisional societal conflicts which resulted. Thus, I argue that if a society rife with divide, separated by notions of imposed racial hierarchy, entrenched and made invisible by colonial imperialism, does not engage, challenge and overthrow the foundational ideals that the society was built upon, said society will never realize the deliberative mechanism of ‘reasonableness’ that is so necessary to the just and acceptable management of conflict born by societally differentiated groups, as argued within Young’s deliberative democratic theory.

Until such a time that foundations of colonialism in Canada, namely its reliance on creating imposed racial hierarchies to justify the removal of Indigenous peoples from their lands and resources, is brought to light, addressed, and made right, deep societal divide will continue to exist in this country. This divide will not only continue to oppress and marginalize Indigenous peoples but will continue to fuel their outrage and anger while solidifying the indignation and resolute stubbornness of settler society to the further entrenchment of this divide far into the future. Canada and Indigenous peoples must be prepared to address and overturn the colonial legacy of this country and to share the responsibility and authority to govern these lands and resources together. Only then will the barriers of this colonial society be brought down, allowing for Young’s fourth pillar of reasonableness to be fully realized, and to allow for both sides of the societal divide to empathize and recognize one another as human beings, and only then will Bear find his tail and prosper throughout the year.<sup>158</sup> This requires the complete refutation of the status quo and the obliteration of the foundations on which the Canadian colonial mission has worked so hard to build and reinforce. Once these foundations are dug up, overturned and demolished will Indigenous and settler society be able to embrace

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<sup>158</sup> See preface for “How Bear Lost His Tale”

the recognition of one another as equals. One of these avenues may exist in the full and unqualified implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*. This Declaration contains many of the principles and standards with which this paper espouses, namely the recognition of Indigenous peoples as equal and upholding their basic human rights, inclusive of the right to self-determination and free, prior and informed consent, to which all human beings hold. The recognition of these basic rights, would go great lengths to upturn the foundations of colonialism in pursuit of more just relations across the Canadian state, proclaiming to the world that we are all here to stay and we must find a way to co-exist as equals.

*“Colonialism is incapable of procuring for colonized peoples the material conditions likely to make them forget their quest for dignity. Once colonialism has understood where its social reform tactics would lead it, back come the old reflexes of adding police reinforcement, dispatching troops, and establishing a regime of terror better suited to its interests and its psychology.”<sup>159</sup>*

*“This is what I said to the investigators,” Mr. Baptiste began. “I told them we want equal justice. This is our land, this is their land. We have to share it, and I want equal justice for us, for my nephew.”, as reported by Joe Friesen for the Globe and Mail.*

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<sup>159</sup> Fanon, TWE, 147.

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**Appendix: Biography**

Matthew Norris is a member of the Lac La Ronge Indian Band, and Policy Analyst for the Union of BC Indian Chiefs (UBCIC). He is a Masters student in the University of British Columbia's Political Science Program and a graduate from Department of Political Science and the First Nations Studies Institute at UBC. Matthew works and lives on the unceded territories of the Squamish, Musqueam and Tseil-Waututh First Nations. His current research, within the field of political theory, focuses on avenues of Indigenous resurgence within deliberative democratic institutions, with a particular emphasis on the role of civil disobedience and self-empowerment in achieving transformative change within marginalizing and oppressive colonial institutions, alongside the impact these institutions have on Indigenous identities and sense of self.