The Commodification of Indigeneity as a Tool for Ongoing Settler Colonization in Canada: A Métis Case Study of *The Heritage Property Act* (1979-80)

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For Kahkeyo ni wahkohmakunak

(All my relations)

"Settler colonialism… arrived on these shores with the authority of the Doctrine of Discovery tucked beneath its arm, settling into our lands and our heads, shaping everything about how we live."

(Krawec, 2022, p. 16)

Abstract

The initial settler colonization of Canada involved the implementation of the settler colonial Doctrine of Discovery on Indigenous lands to make them 'open' for white settlement and ownership, along with capitalism and heteropatriarchy to assert white settler dominance over Indigenous lands, cultures, and bodies. Although it has been over 500 years since first contact between white Europeans and Indigenous peoples in Canada, the ideologies that paved the way for white settlement in Canada are continually reproduced through social institutions, such as the legal system, to maintain settler domination. This thesis explicates the connections between settler colonialism, capitalism, and heteropatriarchy within Saskatchewan and Canadian law to analyze the commodification of Indigeneity as a tool for ongoing settler colonization. Grounded in a Métis feminist theoretical framework, I investigate how and why *The Heritage Property Act* (1979-80) steals and commodifies Indigenous cultural artifacts for settler government profit. Through a critical literature review, case study of the above-mentioned act, and Métis dream-work, I identify two themes: the Settler Timeline and the Commodification of Indigeneity. Importantly, this thesis recognizes that many Indigenous individual and community identities evolve through links between the past and present, which Indigenous peoples reflect on to move into a good future. As such, cultural artifacts are paramount to cultural identity and continuity within Indigenous nations and communities. The findings of this thesis reveal that the ongoing settler conceptualization of Indigenous peoples as uncivil epistemically justifies the commodification of Indigenous cultural artifacts. This thesis also suggests that, just as decolonization within the settler colonial context necessarily requires the repatriation of all lands, it also requires the repatriation of all stolen and commodified Indigenous cultural artifacts.

Keywords: Settler colonialism; commodification; Indigeneity; decolonization

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Introduction

Many Indigenous cosmologies assert that every realm of human life is equal and interconnecting, the individual at the bottom and the cosmos and spirit world at the top, creating a cylinder in which everything is of equal importance and value. Within this worldview, fulfillment of the entire community is most important, while self-fulfillment at the cost of others is discouraged. Indigenous cosmologies directly contrast with the white European colonial hierarchy. Within the white European colonial hierarchy, the individual and self-fulfillment are always at the top regardless of consequence, everything else falling below to create a triangle. Capitalism is largely responsible for creating the European colonial hierarchy because, within the capitalist socio-economic system, all life is mediated by and subordinated to the market, creating a society in which the principles of capitalism regulate and infiltrate all aspects of life (Polanyi, 1944; Wood, 2002). As such, the capitalist principles of individualism, productivity, and wealth-hoarding structure society (Polanyi, 1944). This white European colonial hierarchy is thus also known as the capitalist hierarchy and was the logic implemented along with settler colonialism to facilitate the violent colonization of Indigenous peoples, lands, resources, and cultures in Canada. Furthermore, settler colonialism and the capitalist hierarchy have facilitated heteropatriarchy being inflicted upon and institutionalized within Indigenous communities for nearly 500 years (Green, 2017).

The Canadian government is founded on settler colonialism and the capitalist hierarchy (Tsosie, 2017). As such, every day we live under our capitalist settler colonial government and its laws, violence is maintained and inflicted against Indigenous peoples, with the most violence directed at Indigenous women and Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, and more (2SLGBTQQIA+) peoples. There is no possibility of

reconciliation or decolonization when living under the capitalist hierarchy nor its co-conspirator settler colonialism because Indigenous cosmologies stand in direct opposition to and threaten these logics and the settler colonial order of Canadian society. Therefore, it is imperative to explicate the connections between settler colonialism, capitalism and the capitalist hierarchy, and heteropatriarchy to work toward decolonization. When we can understand the covert workings of the unjust logics of settler colonialism, heteropatriarchy, and the capitalist hierarchy, we will be able to create flight paths away from settler colonial violence and into Indigenous futurities (Simpson, 2017a).

In this thesis, I unravel the aforementioned connections between settler colonialism, capitalism and the capitalist hierarchy, and heteropatriarchy through a case study of *The Heritage Property Act* (1979-80). Ostensibly, heteropatriarchy, settler colonialism through the Doctrine of Discovery, and capitalism come together to justify abuses on Indigenous peoples, one of these abuses being the commodification of Indigeneity for white settler and settler government gain; these three problematic ideologies work together through the eurocentric ideology of civility. This thesis begins with a note about definitions and language, then moves to an overview of my proposed research, a discussion of my theoretical framework, methods, methodology, and positionality, and a review of relevant literature. I then perform a case study on *The Heritage Property Act* (1979-80), followed by a discussion section, employment of Métis dream-work, a discussion of the future, ending with a conclusion.

Definitions & Language

Indigenous & Indian

Throughout my thesis, I use the term "Indigenous" to refer to all the groups in Canada that are commonly referred to as Indian, Native, Aboriginal, First Nations, Métis, and Inuit (Bourgeois, 2015). The term "Indian" is purposely used throughout this thesis to refer to those with official status under Canada's *Indian Act* (1985) (Bourgeois, 2015). This intentional use of "Indian" will strategically expose the operations of settler colonialism in controlling Indigeneity in Canada. Lastly, I do not change language in quoted material to maintain the integrity and full impact of the reference by honouring the authors' original terminology (Bourgeois, 2015).

Settler Colonialism

Settler colonialism is the process whereby a foreign population settles in a new place and displaces and/or attempts to exterminate Indigenous inhabitants in order to form an altogether new society that replicates that of the settler colony's home country and creates settler sovereignty over everything in this new society (Nichols, 2020; Tuck & Yang, 2012). Settler colonialism is achieved through a hybrid of external colonialism, which is the expropriation and extraction of resources from the colonized to the colonizers, and internal colonialism, which is the complete control of people and land within the borders of an imperial nation to guarantee the supremacy of the nation and its white elite (Tuck & Yang, 2012). The goal of settler colonialism is both to colonize the land and appropriate its resources, as well as to settle and claim the land as the colonizer's own, indicating that land is the most important quantity and resource to settler colonizers (Nichols, 2020; Starblanket & Hunt, 2020; Tuck & Yang, 2012; Veracini, 2010). Due to settler focus on land, Indigenous peoples, our relationships with the land, and our ways of life become conceptualized by settlers as obstructions to colonization. Therefore, Indigenous peoples

and our ways of life become targets of colonial erasure and domination to facilitate settler claim to and colonization of land, leading to profound epistemic, ontological, and cosmological violence that is inflicted and reasserted every day of settler occupation (Nichols, 2020; Tuck & Yang, 2012; Veracini, 2010). Moreover, settler colonialism is eliminatory, productive, and possessive in that it simultaneously seeks to eliminate Indigenous peoples and produce settler colonial societies and narratives through dispossession, and this process is constantly reconfigured by settler desire to access and exploit lands regardless of shifting political contexts (Moreton-Robinson, 2015; Starblanket & Hunt, 2020). Settler colonialism thus requires a separate and specific definition because this hybridization of internal and external colonialism manifests in the aggressive and exponential total appropriation of Indigenous life and land (Tuck & Yang, 2012).

Essential for this thesis are two things: one, the manner of settler colonial violence that is central to this thesis is the commodification of Indigenous cultures and lands to ensure settler occupation, ownership, and exploitation; two, when I use the term "settler," I am referring to white settlers who are the primary perpetrators and beneficiaries of ongoing settler colonization in Canada. It is important to note that controversy surrounds who within settler colonial states should be considered a settler. Although Indigenous peoples are the first and rightful inhabitants of this land, racialized people do not benefit from settler colonialism in the same way that white people do. Furthermore, many racialized people's movement to this land has been facilitated by colonialism, such as through the transatlantic slave trade. Therefore, racialized people do not have the same amount of power and thus do not play the same role in the domination of Indigenous peoples and lands as white people do. For these reasons, white settlers are the

primary perpetrators and beneficiaries of ongoing settler colonization, and I thus choose to refer specifically to white settlers when using the term "settler."

Doctrine of Discovery

The Doctrine of Discovery is a fictitious legal construct used extensively by European nations to lay claims of ownership over 'uninhabited' lands or lands occupied by the 'uncivilized' Indigenous peoples of North and South America (Tsosie, 2017). This Doctrine relies on eurocentric settler colonial ideology and the capitalist hierarchy that hold white European Christians as morally superior to the original and rightful inhabitants of Indigenous lands (Assembly of First Nations, 2018; Tsosie, 2017). As a legal construct, this Doctrine employs the binary trope of civilization versus savagery to open Indigenous lands for white European 'discovery' and, thereby, ownership (Tsosie, 2017).

Heteropatriarchy

When using the term "heteropatriarchy," I am referring to the social institutions and systems in which patriarchy, heterosexuality, and cisgenderism are seen as normal and as a natural and essential aspect of being human (Arvin et al., 2013; Lennon & Mistler, 2014). Within heteropatriarchal social institutions and systems, any other social structures or personal identities, such as matriarchy or being queer, are considered abnormal and unnatural, leading to their violent marginalization and oppression (Arvin et al., 2013).

eurocentric

In this thesis, the term "eurocentric" refers to an ontology in which white European and now white Euro-Canadian ways of knowing and doing are privileged above all else and seen as universally superior (Onwuzuruigbo, 2018). The European values that exist within the eurocentric ontology include rationality, efficiency, domination of nature, productivity, civility,

liberalism, and capitalism (Onwuzuruigbo, 2018; Tsosie, 2017). This eurocentric ontology was and still is a central aspect of settler colonialism, utilized to undermine and attack Indigenous ontologies to forward the settler colonial project (Onwuzuruigbo, 2018). I purposefully do not capitalize the term "eurocentric," signaling its shift from a proper noun to an adjective to display the often unquestioned power dynamics in the English language that privilege white European ontology.

Decolonization

When discussing "decolonization" and "decolonizing" in my thesis, I am referring to a term that is separate and distinct from all other social justice-based terms (Tuck & Yang, 2012). My definition of decolonization also refers specifically to the settler colonial state because, as described above, settler colonialism is unique from other forms of colonialism. Decolonization within the settler colonial context necessarily involves recognizing and respecting Indigenous sovereignty and self-determination, repatriation of all lands, and recognizing Indigenous ontologies of land and the natural world (Tuck & Yang, 2012). Most important to this definition is that these avenues toward decolonization must be concrete, not only symbolic (Tuck & Yang, 2012). Decolonization is inevitably unsettling because it requires the complete upheaval of the basic tenants of settler colonialism upon which the Canadian nation state is built: settler ownership, occupation, and exploitation of Indigenous lands. This definition of decolonization thus implies that a decolonial future is an Indigenous future. Through the concrete recognition of inherent Indigenous rights and the repatriation of all lands in Canada, we are working toward First Nation, Inuit, and Métis futurities and away from a future marred by continuous settler domination. In my thesis, I am advancing decolonization by advocating for the repatriation of Indigenous artifacts and objects that the Saskatchewan government has stolen. I am also

advancing decolonization by working toward Métis futurity through my incorporation of Métis ontology and epistemology into the historically white academy. Additionally, I am working to decolonize my writing in this thesis by not capitalizing "act" when referring to *The Heritage Property Act* (1979-80) or any other acts of legislature to de-centre settler colonial legislation.

Capitalism & Commodification

Capitalism is a socio-economic system in which goods and services, principally human labour, are produced in the market for profit (Wood, 2002). Capitalism is naturalized within Western countries as the "natural outcome of human practices almost as old as the species itself," and as the "highest stage of [human] progress" regardless of the fact that it is but one specific social formation (Wood, 2002, pp. 11-12). Within this socio-economic system, all people are dependent on the market to survive because all life is universally mediated by and subordinated to the market, meaning that the principles of capitalism regulate and infiltrate all aspects of life (Polanyi, 1944; Wood, 2002). Since capitalism's raison d'être is profit, production within this system is centered around maximizing profit or profitability (Wood, 2002). Primarily, profitability stems from the constant intensification of the exploitation of human labour, making it a dynamic and shifting system (Wood, 2002). However, in order to continually increase profitability to offset the tendency of the rate of profit to fall, capitalism exploits specific levers other than solely human labour to maintain or restore profitability (Marx, 2000). Some of these levers that capitalism exploits include labour-saving technologies, finding new markets to sell products in, and finding new things to commodify (Marx, 2000). For this thesis, I will focus on capitalist commodification as an avenue for profit.

Within the capitalist socio-economic system, commodification is the inclusion of things such as goods, services, nature, cultures, land, people, and animals in the capitalist market,

thereby transforming them into objects to buy and sell, known as commodities. The capitalist hierarchy subordinates all life to the market in order to maintain or increase profitability, which is demonstrated by the transformation of things not traditionally bought and sold into commodities, thereby commodifying them (Polanyi, 1944; Wood, 2002). Commodification also includes the process of only socially valuing objects, services, etc., if they have value on the market. As such, traditionally valuable things such as mental health or storytelling are only valuable in capitalist society if they can be brought into the market and given a monetary value. Commodification within the settler colonial state creates the circumstances necessary for appropriation since appropriation is the stealing of cultures, aesthetics, or spiritual beliefs and practices of a society or community for profit (Johnson & Underiner, 2001; Root, 1996).

Chapter I:

Overview & Research Question

"Métis women have always held the honoured role of traditional knowledge keepers and have been accorded respect and held in high esteem by the Métis Nation. Colonialist constructs have impacted the traditional roles of Métis women, thereby altering Métis women's roles in their families and communities." (Women of the Métis Nation, 2019, p. 86)

The relationships between capitalism, settler colonialism, and heteropatriarchy in Canada are nuanced and seemingly boundless because they are foundational to the Canadian state's creation and continued existence (Tsosie, 2017). Consequently, there is much more to unpack with these relationships than is possible to do in a master's thesis. However, through analysis of *The Heritage Property Act* (1979-80) in Saskatchewan, I have noticed that the commodification of Indigenous cultural artifacts is a vital facet of Canada's settler colonial project. Thus, through a Métis feminist theoretical lens, I will explicitly critique how capitalism and the capitalist hierarchy uphold heteropatriarchy and the settler colonial logic of the Doctrine of Discovery in Canadian law, which allows for the commodification of Indigenous cultures and lands. I will then apply this critique to *The Heritage Property Act* (1979-80) in the form of a case study.

The Heritage Property Act (1979-80) states that every archaeological and/or paleontological artifact found in or taken from land in Saskatchewan can be legally made property of the Crown, which is the provincial government and sovereign holder of land, and that no person may disturb or dislocate such artifacts without a valid permit issued under the act (Moreton-Robinson, 2015). This act is extremely problematic as the Saskatchewan government

is stealing cultural artifacts from already stolen land with often no disclosure to the communities to whom these artifacts belong. By violating our rights to our cultural artifacts on already stolen land, this act reproduces a common colonial trend of stealing Indigenous artifacts for settler colonial commodification and exploitation, such as what museums do. By applying my critique to *The Heritage Property Act* (1979-80) in a case study, I will draw connections between this act and the commodification of Indigenous cultures and lands. These connections will help me expose how this act, used as a strategic capitalist device by the Saskatchewan government, is upheld by law rooted in the Doctrine of Discovery and heteropatriarchy.

This study will be important to Canadian academia and society in multiple ways. First, exposing and understanding the injustice that underpins *The Heritage Property Act* (1979-80) will help Indigenous and non-Indigenous Canadians understand the violence that this act continues to inflict upon Indigenous communities and cultures in Saskatchewan. Second, demonstrating how one law in Canada perpetuates the commodification of Indigenous cultures and lands will open the door for analyses of other laws that exploit Indigenous peoples in Canada. Third, uncovering the problematic logic that this specific act is rooted in will help create a foundation for exposing similar injustices that form the base of many other Canadian laws. Fourth, by exposing the operations of settler colonial domination in Canada, my thesis will contribute to improving our understanding of this domination and, therefore, our strategies for decolonization. Lastly, creating more scholarship grounded in Indigenous ways of knowing and doing will challenge the long history of the idea of 'objective knowledge' being used to secure settler colonial power and domination. As Foucault (1976/1990) argues, knowledge is the product of people and as such is innately shaped by the biases of people. In creating this scholarship grounded in my lived experiences, I will thereby be working to resist settler colonial

power and domination by refusing to uphold this idea of 'objective knowledge,' which is not real and currently supports the biases of those wishing to uphold settler colonialism. Multiple guiding research questions inspired my final research question for this thesis. The guiding questions that I used when conducting research for this thesis include:

- Does capitalism facilitate the continued existence of the settler colonial Doctrine of Discovery in Canadian law? If so, how?
- How does this settler colonial Doctrine of Discovery facilitate the commodification of Indigenous cultures and lands? And how does this commodification manifest in *The Heritage Property Act* (1979-80)?
- How does *The Heritage Property Act* (1979-80) contribute to upholding Canada's ongoing settler colonial project?
- How is this commodification justified through the conceptualization of Indigenous peoples as uncivilized?
- How does heteropatriarchy fit into this equation?

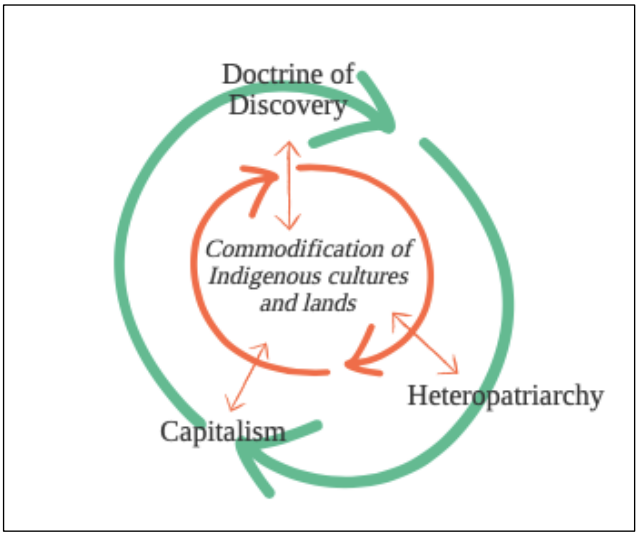
My research question evolved with my research, which is why I left space for my research question to shift and evolve from any and all of these crucial questions. Finally, following many hours of research, I came to my final research question: How does the settler conceptualization of Indigenous peoples as uncivil facilitate the maintenance of the ideologies of the Doctrine of Discovery, the capitalist hierarchy, and heteropatriarchy in *The Heritage Property Act* (1979-80), thereby justifying the commodification of Indigeneity through Saskatchewan law?

As I employ a Métis feminist theoretical lens, I view these issues from my Métis ontology, which understands all aspects of the world as cyclical and interconnected. Therefore, I am beginning this research with the understanding that the settler colonial logic of the Doctrine

of Discovery, the capitalist hierarchy, heteropatriarchy, and the commodification of Indigenous cultures and lands are all part of a relational and cyclical connection. Métis culture and knowledge are oral-based, making this relationship challenging to explain via written words and means that I will never fully capture it in writing (Kovach, 2009). That being said, the way that I see this cyclical and interconnected relationship can be better shown than written. Please see Figure 1 for a better explanation of how I understand the interconnections between the Doctrine of Discovery, capitalism, heteropatriarchy, and the commodification of Indigenous cultures and lands.

Figure 1

Relationship between Canadian oppressions and the commodification of Indigeneity



This thesis is a culmination of a critical literature review, a case study, lived experience, and self-inquiry and -reflexivity. I am working toward promoting settler reflection on the settler colonial laws that commodify Indigenous life. Although this one thesis cannot enact policy change on its own, it is one step closer to justice and the Indigenous future that I am working toward: an Indigenous future where Indigenous communities and nations have control of their

lands again, where settler colonial laws no longer dictate all aspects of our lives, and where all of us are free from our intersecting oppressions and marginalization. In the end, I hope not to find closure to my research; instead, I hope to expose new pathways for exploration, holding another door open for Indigenous research in academia that prioritizes and looks toward Indigenous futurities on Turtle Island, the term some Indigenous peoples use for the lands composing contemporary North America, and globally.

Section 1: Theoretical Framework, Methods, & Positionality

With this thesis, I envision exposing the operations of settler colonial domination and the white eurocentric ontology that runs through *The Heritage Property Act* (1979-80) in order to work toward decolonization. I am not seeking recognition from the settler colonial government but am instead working toward Indigenous futurities and justice in my home province from a Métis specific perspective. Métis identity evolves through our links between the past and the present which we reflect on and rework to move into a better future (Brogan, 1998; Eyerman, 2004; Short, 2011). As such, my Métis specific methodology will lead me into the future that I am actively and responsibly creating. I can see where we have been, I can see where we are, and I will use my Métis feminist theory and methodology to move into a better future.

1.1: Theoretical Framework

I would be remiss if I did not acknowledge the guidance and wisdom that I received from Margaret Kovach's (2009) book *Indigenous Methodologies*. Growing up away from my culture and language, I could not find the language and pieces that I needed to fit my ontology into Western academia. With the guidance of Kovach's (2009) book, the partial creation of my own methodology was possible. Thus, in order to ensure consistency and deep understanding, I must make explicit my theoretical framework (Kovach, 2009).

For this thesis, I will be employing a Métis feminist theoretical framework grounded in my Métis ontology. From teachings that I have received throughout my life, the basic principles of being Métis for me include: reciprocal relationships with humans, animals, and the land; all things in this universe are interconnected and related; we are in constant contact with our ancestors, even if we are not aware of it; and we have the right to remain ka tipaymishooyahk (we who own ourselves) in order to protect ka ishi pimaatishiyaahk (our way of life). By grounding my theoretical framework in these important aspects of my Métis ontology, my research will move above and beyond Western theoretical frameworks by producing knowledge based on my lived experiences as a Métis woman and my connections with my ancestors. Furthermore, my research being based on my Métis ontology will also ensure that I remain responsible and accountable to my Métis kin by enacting my right to continue to breathe life into our collective Métis way of life and to all of my kin on Turtle Island because I am committed to my reciprocal relationships with them. On top of my personal Métis ontology, my theoretical framework will also be informed by other Métis feminist theorists, including Emma LaRocque, Verna St. Denis, and Kim Anderson. Specifically, I will rely on their insights into the realities of being Métis and a feminist, when these two identities are often considered antithetical. Indigenous feminist theory informs my theoretical framework. Although Indigenous scholars often reject the term feminism due to its association with whiteness, capitalism and settler colonialism have forced heteropatriarchy into Indigenous communities and thus must be responded to (Bourgeois, 2017; Green, 2017; Simpson, 2017b); therefore, I must engage with Indigenous feminisms to create the tools necessary to analyze the gendered nuances of settler colonial and capitalist violence against Indigenous peoples in Canada (Arvin et al., 2013; Green, 2017). We can claim feminism as our own by creating Indigenous feminisms that are nuanced

and committed to decolonization (LaRocque, 2017; Ramirez, 2007). As such, through this research, I will be working to hone my own Métis specific feminist analysis through a review of Indigenous feminisms in academia. Moreover, while I privilege a Métis feminist framework, given the close interconnections between Métis ontology and the ontologies of many other Indigenous groups across the globe, there is frequently a strong affinity in our ways of knowing and doing. These intimate interconnections between differing Indigenous ontologies are why I am also drawing on non-Métis Indigenous feminist scholarship.

Decolonial theory also informs my theoretical framework. Due to heteropatriarchy being forced into Indigenous communities, as described above, not all Indigenous epistemologies and ontologies are inherently decolonial. Therefore, I must also make explicit how decolonial theory will inform my theoretical framework. I will use decolonial theory to inform my Métis feminist theoretical framework to expose how eurocentric epistemology is privileged in academia and Canadian law (Kovach, 2009). My use of decolonial theory will also ensure that my research is committed and accountable to working toward a Métis futurity on Turtle Island that demands decoloniality to ensure justice for our specific epistemologies and ontologies (Kovach, 2009). This theoretical framework then informs my choice of methods, enabling me to choose the methods most suited to my Métis feminist methodology.

1.2: Methods, Methodology, & Positionality

At this point, according to teachings I have received, I must abide by an important protocol to share who I am, where I come from, and who my family is. This process is essential for ethical Indigenous methods of inquiry and allows for transparency (Kovach, 2009). Then, in keeping with the Indigenous storytelling methodology that I employ in this thesis, which is explained below, I will situate myself with a story.

On my mother's side of the family, I am Métis from Big River, Saskatchewan, in Treaty Six territory. This side of my family has endured a great deal of trauma and is thus reluctant to discuss our family history. Nevertheless, my grandma often shared teachings and history with me offhandedly, even if she was reluctant to discuss her and her parents' life histories when asked directly. Much of what I know about being Métis has been passed down to me from my grandma, and for her, I am forever grateful. On my father's side of the family, I am Ukrainian Mennonite from Zaporizhzhia Oblast. My father's family has faced hundreds of years of religious persecution, violently forced out of Ukraine, Germany, and Russia due to their religion before settling in Saskatchewan.

My father's family settled in southern Saskatchewan near a place that is now called Diefenbaker Lake. Diefenbaker Lake is a man-made lake created by the construction of two dams: one on the South Saskatchewan River and one on the Qu'Appelle River. In the process of creating the dam on the South Saskatchewan River, a sacred rock known as Mistaseni was blown up, and a sacred gathering place of the Cree and Nakota peoples was flooded (Postmedia News, 2015). Before this dam was built, the Cree and Nakota peoples were pressuring the Saskatchewan government to save Mistaseni (Postmedia News, 2015). However, in the act of state violence, the Saskatchewan government chose to blow Mistaseni up in order to further erase Indigenous histories and ties with the land (Postmedia News, 2015). After Mistaseni was blown up, the dam was built, and the plain was flooded, creating Diefenbaker Lake. In a painful twist of fate, water, the lifeblood of Creation, was used by settlers to drown sacred lands. Thus, for some of my ancestors to occupy and exploit this stolen land, the Cree and Nakota peoples were forcibly removed, their sacred places and connections with the land violently stolen from them.

We are a combination of our histories. We embody our ancestors' stories, experiences, traumas, successes, and atrocities whether we want to or not. For Métis people, to know where you are going, you must know where you are and where you come from. Being both Métis and a descendant of white settler farmers, having to hold these conflicting stories in my physical being has been confusing and often leaves me feeling lost. Thinking about the story of Mistaseni and Diefenbaker Lake often brings me pain and shame. However, these uncomfortable and confusing nuances of settler colonization on Turtle Island are so important to discuss (Settler Decolonization, 2016). When working toward decolonization, these are the histories and stories that need to be told and exposed (Settler Decolonization, 2016). We cannot turn a blind eye to the violence of our past anymore. Being honest with ourselves and others in order to understand where we come from and where we are is one of the first and most important steps for moving forward. Therefore, I offer this story to situate myself. I am the combination of my Métis and white settler ancestors. I hold conflicting ancestry, blood memories, and stories in my DNA, and with the experience of holding that tension comes the ability to hold space for other tensions, such as writing a thesis about forwarding decolonial efforts from within the settler colonial institution that is academia.

My research will be a mixed-methods study incorporating Western and Métis methods. I will begin with an in-depth critical literature review to evaluate the state of relevant literature. To complete this critical literature review, I will study Indigenous theorists, academics, and activists who address the intersections of capitalism, settler colonialism, and heteropatriarchy. First, in my survey of Indigenous academics, I will focus on those who address how capitalism has a tendency to commodify Indigenous cultures and materials, which naturalizes settler colonial violence and reproduces dominant social ideologies that centre and favour white settlers (Tuck &

Yang, 2012). Second, I will review work from Indigenous activists both inside and outside of the academy. Third, I will include several books and other documents important to my research. Finally, I will use the information from this critical literature review to analyze the specific intersections between capitalism, settler colonialism, and heteropatriarchy in relation to the Doctrine of Discovery.

Following this critical literature review, I will operationalize my insights through my theoretical framework, which understands the connections between capitalism, settler colonialism, and heteropatriarchy, to perform a case study of *The Heritage Property Act* (1979-80). I will engage in a close reading of *The Heritage Property Act* (1979- 80) to complete this case study. This process will include analyzing the act's content through my theoretical framework and applying the insights from my critical literature review to examine how capitalism, heteropatriarchy, and the Doctrine of Discovery continue to exist in Canadian law, enabling the ongoing commodification of Indigenous cultures and artifacts. This case study will offer a practical application of my theoretical framework and methodology through a close study of a specific act, thereby creating a potential starting point for others to employ a similar framework for analyzing more Canadian laws that commodify Indigeneity. Included with these Western research methods in my methodology will also be the Métis research method of dream-work.

Métis identity is formed through our memories of and links to the past, bringing them forward for reflection and evolution to ensure our Métis futurity. Regardless of our history and experiences with settler colonization and violence at the hands of the Canadian state, and regardless of family histories of turning away from our Métis identity, it is still very possible to remember and give presence to our collective memories and the memories of our ancestors

(Brogan, 1998). Kim Anderson (2000) explains that “many native cultures teach that we carry the memories of our ancestors in our physical being. As such, we are immediately connected to those who have gone before us” (p. 25). Our ancestors, erased from the Canadian national imagination and sometimes our own family histories, can be re-remembered to “construct new legacies and the hope for a different kind of future” (Desmarais, 2017; Payment, 1990; Short, 2011, p. 47). Thus, dream-work is vital to my Métis methodology.

Dream-work is a method that privileges self-inquiry and self-reflexivity. My dream-work will be done by journaling my dreams throughout the process of writing my thesis. I will then reflect on these dreams in connection with my research to bring forward new insights. With my family history of dream-work, some of us being gifted with ancestors speaking to and guiding us through our dreams, this method is paramount to my Métis methodology. Leaning on a couple of Indigenous researchers who use dream-work as a research method, including Dawn Marsden (2004) and Gladys Rowe (2014), I will employ dream-work by listening to and reflecting on my dreams to inform my knowledge production.

My dream-work will be translated into data by embodied journaling throughout the process of writing my thesis, meaning that I will keep a journal to reflect on this journey’s mental, physical, spiritual, and emotional aspects. I will keep a dream-work journal where I will record the events of my dreams and my feelings about the dreams, and reflect on if or how my ancestors are speaking to me and how these dreams relate to my thesis. Dream-work throughout my research and writing process will allow me to engage in a Métis method of knowledge production in which we must sit with and take space from our learning. In this case, my dream-work through journaling will provide me with the space for embodied reflection and subsequent absorption of my research. I will then use the data from this journal to produce holistic and

decolonial knowledge that is inaccessible through a solely Western methodological approach by returning to my journal at the end of my research and writing processes and identifying and critically reflecting on the insights significant to my thesis. I will be discussing the dreams and insights from said dreams that are culturally and emotionally appropriate to share; by this, I mean that I will respect my family and community's protocols regarding which symbols and themes must stay private, as well as respecting my boundaries regarding what I am emotionally comfortable with sharing. My dream-work, critical literature review, and case study of *The Heritage Property Act* (1979-80) will be told and explored through the methodological practice of Indigenous storytelling. Through Indigenous storytelling in my thesis, I will focus on the interconnectedness of myself, my ancestors, my kin on Turtle Island, my kin around the globe, and the social processes like capitalism and settler colonialism that affect every aspect of our lives.

Staying grounded in a Métis feminist methodology also requires frequent reflection on Indigenous feminisms throughout my research. To do so, I will be reading and reflecting on Indigenous feminist theorists throughout my research process, including Robyn Bourgeois, Emma LaRocque, Joyce Green, and Rauna Kuokkanen. My research must also be grounded in my Métis epistemology and ontology in order to break free from Western knowledge systems. My grounding in my Métis epistemology and ontology will ensure that my methodology and resultant knowledge production will have the potential to help create the ideological impacts that I envision; ideological impacts that force settler reflection on the settler colonial laws that commodify Indigenous lives and cultures, such as *The Heritage Property Act* (1979-80). I envision these ideological impacts on settlers to help shift our society away from Western

ideologies of property, ownership, and heritage and into Indigenous ideologies of reciprocity and community.

I must also acknowledge that I am somewhat limited in my ability to produce and apply a Métis epistemology due to the confines of Western academia, as the academy privileges white eurocentric epistemology and ontology. I am also partially restricted by my limited understanding of Métis culture and knowledges. This limited understanding is an ongoing symptom and outcome of settler colonialism, hindering my ability to grasp the epistemology and methodology I plan to employ fully. I have learned much about being Métis and Métis culture from my grandma and on my own in opposition to much of my family, who most often refuse to talk about our Indigeneity and culture due to past trauma. While the knowledge I hold now is important and will be applied to this study through my epistemology and methodology, it is not knowledge I grew up with. As Kovach (2009) explains, I will face some difficulty applying a Métis epistemology because I am not fluent in Michif. To remedy this limitation, I will be grounding my Métis epistemology in Métis ontology specifically in the above teachings that I am fluent and familiar with, to avoid incongruence between Indigenous epistemologies and Western concepts and paradigms. However, not being fluent in Michif limits the fullness with which I can apply my Métis epistemology and methodology.

My methodology is necessarily always in flux and shifting. I am never done learning, and as someone who did not grow up learning much about Métis protocol, I must remain constantly open and malleable. To ensure that I employ my Métis epistemology and methodology in a good way, I have created a list of questions to continually reflect on throughout my research process:

- What are the Métis protocols that I need to respect?
- How can I best respect these protocols?

- How can I respectfully apply my oral-based traditional knowledges in my written work?
- What should be written and what should not?

These pivotal questions will continue to be asked and reflected on throughout my entire research process, keeping my methodology and knowledge production process open and unending.

In working to create decolonial scholarship, it is imperative for me to push back against the settler colonial project by reclaiming and applying my Métis epistemology in academia. These limitations that are a symptom of settler colonialism, that have ripped my culture from my ancestors and myself, have sometimes caused me to feel 'not Indigenous enough.' By grounding research in and applying my Métis ontology and epistemology while remaining mindful of my limitations, I will no longer allow settler colonialism and its symptoms to pull me away from my Indigeneity and away from bringing my Métis perspective into white spaces.

As stated earlier, I do not hope to 'finish' this project at the end of this thesis. Instead, I will have a large body of research and knowledge that is unending and leaves the door open for other Indigenous researchers. I will thus be working hard to reclaim my Métis epistemology while also honouring traditional knowledges throughout this research process. By remaining cognizant of my limitations and committing to employ my Métis epistemology and methods in a good way paved with honour, respect, and reflection, I produce holistic decolonial research.

Chapter II:

Literature Review

"Discovery, after all, has never been good for those it has uncovered. It inevitably leads to exploitation and death." (Krawec, 2022, p. 27)

Section 1: Introduction

This literature review focuses on understanding better the relationships between capitalism, the settler colonial Doctrine of Discovery, heteropatriarchy, and the commodification of Indigeneity in settler colonial states in order to examine how they work in *The Heritage Property Act* (1979-80). The review begins with a discussion of the foundations of settler colonial law in Canada and a brief discussion of how the Doctrine of Discovery continues to be epistemically rooted in Canadian law, then moves into an in-depth review of the settlement of and implementation of settler law in Saskatchewan, followed by an analysis of the foundational role of anthropology in settler conceptions of Indigenous peoples, and ends with a review of the intricate and tangled links between settler colonialism, capitalism, and heteropatriarchy in Canadian law. Since this literature review focuses on the Doctrine of Discovery, the capitalist hierarchy, heteropatriarchy, and the conceptualization of Indigenous peoples as uncivil in settler colonial law, I had to branch out my review to disciplines outside of policy and law because social systems of oppression do not operate independently.

My review of relevant literature demonstrates that Canadian law implicitly employs settler colonial, capitalist, and heteropatriarchal language and logic to conceptualize Indigenous peoples and cultures as uncivilized and justify the commodification of Indigeneity. These

interconnecting oppressions and their manifestations in Canadian law are thus a crucial issue that requires immediate attention and research in academia. The final section of my literature review discussing current settler colonial, capitalist, and heteropatriarchal ideology in law yielded 19 relevant sources and demonstrates a small but growing body of literature actively researching and critiquing how settler colonialism, capitalism, and/or heteropatriarchy manifest in Canadian laws and how that manifestation leads to ongoing violence against Indigenous peoples in Canada. However, finding such few relevant sources for the section of my literature review that most pertains to my research is worrisome and signals a significant need for my research. Moreover, the 19 sources used for this literature review are all adjacent to my proposed research. I could find only one piece of literature, an article by Shiri Pasternak (2017), that examines the connections between settler colonialism, capitalism, heteropatriarchy, and the commodification of Indigenous cultures and artifacts. This lack of literature explicitly analyzing the important and violent issue of the commodification of Indigenous artifacts in Canada thus illustrates the originality and importance of my research and subsequent contribution to this body of literature.

I will use an Indigenous storytelling methodology in this thesis, as discussed above. As such, the remainder of this thesis will be woven together as a narrative. My Métis grandma taught me that we must know where we have been to know where we are now and where we are going. As I understand it, this teaching means that to understand where we are and where we are going, we must first understand where we began. Therefore, it is imperative for me to start at the beginning to understand the underpinnings of contemporary settler colonial law in Canada.

Section 2: The Beginning

Before confederation and the creation of the Canadian nation state, settlers enforced the logic of white European laws on Indigenous lands and against Indigenous peoples through the

Doctrine of Discovery. Rebecca Tsosie (2017) traces the Doctrine of Discovery in North America from its introduction to its foundation in U.S. and Canadian law. In white European law, the Doctrine of Discovery employs the binary trope of civilization versus savagery to open Indigenous lands for European 'discovery' and, thereby, ownership (Tsosie, 2017). White European philosophers validated the connection between stealing Indigenous lands and civility through political theory by claiming that civilized people deserved the most political rights and therefore have a rightful claim to Indigenous lands and resources through 'discovery' because Indigenous peoples were uncivilized (Tsosie, 2017). Aileen Moreton-Robinson (2015) explains that settler colonialism is a possessive project inextricably tied to the dispossession of Indigenous peoples from their lands. Upon early settlement of settler colonial countries, white Europeans implemented the Doctrine of Discovery, enacting its civilization versus savagery trope to appropriate Indigenous lands, thereby ensuring the settlement of white European colonies and the application of white European laws on Indigenous lands (Moreton-Robinson, 2015; Tsosie, 2017). As such, the Doctrine of Discovery was applied to Indigenous lands in Canada to dispossess Indigenous peoples with the purpose of enforcing white European laws on Indigenous lands and against Indigenous peoples.

At the end of the seventeenth century and into the eighteenth century, the white European capitalist terms of property and ownership and the capitalist hierarchy began being applied to Indigenous lands in Canada. At this time, white Europeans began bridging 'uncivilized' with child-like, with prominent British philosophers John Locke and Georg Wilhelm Friedrich Hegel asserting that a lack of civility in North American Indigenous peoples stemmed from their child-like nature (Tsosie, 2017). Bob Joseph (2018) picks up Tsosie's (2017) thread here, explaining that viewing Indigenous peoples as uncivilized and child-like opened the door for paternalistic

policies that treated Indigenous peoples as wards of the state in need of civilization for their own good. In this way, “it was contended that people were being colonized for their own benefit” (Truth and Reconciliation Commission of Canada, 2015, p. 46). These white European philosophical ideologies, the Doctrine of Discovery, and the capitalist hierarchy ultimately led to the creation and implementation of Canada’s *Gradual Civilization Act* (1857), followed swiftly by the paternalistic *Indian Act* (1985).

Both Gord Hill (2009) and Hanson (n.d.a) demonstrate how the Doctrine of Discovery was first enshrined into policy through *The Gradual Civilization Act* (1857). Although white European settlers had been forcing eurocentric capitalist and heteropatriarchal ontology into Indigenous societies in Canada through Christian missionaries from the seventeenth into the nineteenth century, Indigenous peoples were bravely resisting these assimilation tactics (Grant, 2015). As a result, the white European settlers became aware that they would need more than religious missionaries to forcefully civilize Indigenous peoples and societies for the purpose of enfranchising Indigenous peoples into the settler state to gain unfettered access to Indigenous lands and resources (Bourgeois, 2017). The attempted civilization and enfranchisement of Indigenous peoples into white settler society was first established in law through *The Gradual Civilization Act* (1857). Although *The Gradual Civilization Act* (1857) did not legally enforce enfranchisement, the settler colonial government hoped to encourage Indigenous peoples to give up being Indigenous and relinquish access to treaty rights and claims to land by voluntarily joining settler society (Hanson, n.d.a). By encoding into law white eurocentric ideology that conceptualized Indigenous peoples as too uncivilized to have rights or be citizens and thereby in need of enfranchisement into white settler society, the settler government could also legally justify stealing or ‘discovering’ Indigenous lands and artifacts. Regardless of the ineffectiveness

of *The Gradual Civilization Act* (1857), as only one person voluntarily enfranchised, this act set the scene for upcoming forced assimilation and enfranchisement policy through the *Indian Act* (1985) (Hanson, n.d.a).

From the insights of these theorists, I conclude that by employing the white European philosophical ideology behind the Doctrine of Discovery, namely that Indigenous peoples were uncivilized and therefore in need of forced civilization, *The Gradual Civilization Act* (1857) set this Doctrine and its philosophical ideology as the foundation for all subsequent Canadian laws targeting Indigenous peoples, their lands, and their artifacts. This Doctrine becoming the foundation of more Canadian laws is evident in its consolidation with other pieces of settler colonial legislation into the *Indian Act* (1985) in 1876 (Hanson, n.d.a; Hill, 2009). This pre-confederation Doctrine, which facilitated the creation of the Canadian state, is thus carried on in the *Indian Act* (1985) and much more Canadian policy that exists today.

Sylvia McAdam (Saysewahum) (2015), Pasternak (2017), and Pasternak et al. (2014) trace the connections between the early use of the Doctrine of Discovery and the continued appearance and reappearance of its logic in settler colonial law, demonstrating how the rootedness of Canadian law in the Doctrine of Discovery forcefully inserts the capitalist hierarchy into Indigenous societies. Pasternak et al. (2014) and McAdam (2015) explain that Canadian law's claim to universal jurisdiction continues settler colonization by forcefully applying settler law where Indigenous laws already exist, thereby disrupting and replacing Indigenous laws with white eurocentric settler language and logic. Pasternak et al. (2014) further conclude that the Doctrine of Discovery has remained deeply rooted in Canadian law through its claim to universal jurisdiction over Indigenous lands and maintains the ongoing enforcement of eurocentric capitalist logic and language into Indigenous societies.

On the other hand, Pasternak (2017) outlines the difference between white settler and Indigenous jurisdiction and notions of property, explaining that Indigenous peoples use jurisdiction to implement their proprietary systems with the end goal being care of people and the land, while settlers exercise jurisdiction to implement their proprietary system with the end goal being supply and extraction. When Indigenous and white settler proprietary systems are both applied to the same land, the settler system dominates due to the rootedness of Canadian law in the Doctrine of Discovery (Pasternak, 2017). Pasternak (2017) concludes that white settler proprietary systems "operate as a technology of colonial jurisdiction" by subordinating Indigenous ontologies through the focus on claims *to* property instead of claims *about* settler colonial notions of property (p. 116). This rootedness of Canadian law in the Doctrine of Discovery leads to the conceptualization of Indigenous cultures and peoples as uncivilized because they do not abide by settler colonial, capitalist, and heteropatriarchal logics of property. This rootedness and subsequent infantilizing rhetoric also disallows any questioning of settler colonial notions of property and allows the ongoing commodification of Indigenous cultures and lands, which is the living legacy of settler 'discovery.'

Section 3: The Epistemic Past & Present

For my thesis, I must also understand how the Doctrine of Discovery continues to be epistemically rooted in Canadian law. Geoff Mann (2020), Tsim Schneider and Katherine Hayes (2020), Tsosie (2017), Moreton-Robinson (2015) and Gina Starblanket and Dallas Hunt (2020) examine the epistemic underpinnings of the current settler colonial Canadian state, enabling me to explore how the Doctrine of Discovery is embedded within it.

Mann (2020) examines how political contracts are used in Canada to build nationhood and solidarity in the face of our violent settler colonial past in order to maintain our current

settler colonial state. Mann (2020) explains that neoliberal capitalist political discourse homogenizes the country, assuming that everyone within Canada has the same needs, wants, privileges, and opportunities, thereby homogenizing us into a collective "we." Furthermore, contract is naturalized as an unquestionable underlying social process that is foundational to the state and constructs modern nationhood, which demands a belief in solidarity, creating a distribution of responsibility in which "we" must all take part throughout the duration of the contract (Mann, 2020; Moreton-Robinson, 2015). When a contract such as the constitution 'begins' or 'ends', it is supposed to mark a foreclosure on the past and "our" responsibility to it, thus symbolizing a new beginning (Mann, 2020). Mann (2020) illustrates that because political contracts operate this way in Canadian society, the Canadian constitution itself is integral to maintaining and naturalizing settler colonialism and ignoring inherent Indigenous rights. Although Indigenous rights will always continue to exist, the constitution epistemically foreclosed on Indigenous rights in the settler collective imagination because these rights also existed pre-confederation. Moreover, because the Doctrine of Discovery is fundamental to the Canadian confederation, its legal implementation through the constitution naturalizes it and forecloses any discussion of life and land before white settler occupation and domination.

While Mann (2020) explains how the constitution naturalizes settler colonialism and the ignoring of inherent Indigenous rights, Schneider and Hayes (2020) illustrate how the Doctrine of Discovery is inextricably linked with white eurocentric settler colonial epistemology. According to Schneider and Hayes (2020), the discipline of archaeology maintains the Doctrine of Discovery because archaeological practices require 'proving' Indigenous presence and histories through capitalist settler colonial epistemological understandings of evidence and ownership, such as excavation. By demonstrating how the Doctrine of Discovery is the basis of

the eurocentric settler colonial epistemology that informs archaeology, Schneider and Hayes (2020) expose how this Doctrine is still foundational to eurocentric settler colonial epistemology that informs our settler colonial society. Indigenous epistemologies of place, space, histories, and presence do not require archaeological evidence to 'prove' them (Schneider & Hayes, 2020). However, this study demonstrates that Indigenous existence and histories only exist in the settler collective imagination if they can be 'proven' by settler colonial means.

Tsosie (2017) demonstrates this same process of Indigenous rights being cast from the settler collective imagination through capitalist settler colonial epistemology in the discipline of anthropology. When Indigenous nations and communities request control over lands or cultural artifacts in law, they are forced to 'prove' their existence in a space, that land is sacred to them, or that artifacts or remains belong to them through capitalist settler colonial epistemological understandings of evidence (Tsosie, 2017). Moreover, this 'proof' is often dependent upon the testimonies of settler anthropologists who can 'document' the nation or community's claims, thus relying on settler 'experts' to validate Indigenous oral histories (Tsosie, 2017). Relying on settler 'experts' then epistemically validates capitalist settler colonial epistemology and invalidates Indigenous epistemic frameworks (Tsosie, 2017). Therefore, the Doctrine of Discovery is again linked with white eurocentric settler colonial epistemology by law only recognizing Indigenous existence and histories if 'proven' through the 'discovery' narrative in the capitalist settler epistemic framework.

The Doctrine of Discovery is further epistemically rooted in Canadian law through an emphasis on appropriating and organizing Indigenous lands into private property. One vital technique the settler federal and provincial governments employ to obscure Indigenous land theft and dispossession has been the advancement of only white settler ontology to legitimize white

settler and settler governmental jurisdiction and sovereignty (Moreton-Robinson, 2015; Starblanket & Hunt, 2020). As such, the Canadian and Saskatchewan governments presume that land can be converted into private property and exchanged for money, which is an ontology incommensurate with Indigenous social, legal, and political systems (Starblanket & Hunt, 2020). In this way, the Canadian and Saskatchewan governments can hold ownership over lands in white settler society that could not be 'owned' in Indigenous societies, creating epistemic injustice for Indigenous peoples. As Mann (2020) explains, contracts foreclose on the past and any responsibility to it. Thus, when settlers entered the political contract that is the Canadian constitution to protect their private property, the fact that their private property is Indigenous land is foreclosed on by said contract. Even though all lands in Canada are Indigenous lands, settler private property forecloses the land's ties to and histories with Indigenous peoples in the settler collective imagination and, therefore, any settler responsibility to recognize or respect such ties. Moreover, Moreton-Robinson (2015) identifies that a foundational condition of citizenship in a settler colonial country is that rightful citizenship is defined through eurocentric settler colonial sovereignty and in contrast to Indigenous sovereignties. Therefore, citizenship in Canada, which affords the right to private property, necessitates the dispossession of Indigenous peoples through the Doctrine of Discovery in order to deny Indigenous sovereignties and enable the appropriation of Indigenous lands into settler private property to affirm settler sovereignty as the only valid sovereignty (Moreton-Robinson, 2015).

The Doctrine of Discovery is reinforced by the eurocentric capitalist notion of private property since Indigenous lands were 'discovered' by white settlers, and thus, their government has the authority to convert these lands into private property for themselves. This Doctrine is further strengthened in Canadian law through the denial of Indigenous sovereignties and

legitimation of white settler sovereignty in the use of private property to denote 'true' citizenship. As Moreton-Robinson (2015) states, settler colonialism "can only recognize Indigenous people as being out of nature through private property rights via the prism of citizenship" (p. 121). Therefore, white settler private property defines Indigenous lands through a eurocentric settler ontology that justifies the Doctrine of Discovery in Canadian law in order to uphold Canadian state sovereignty (Moreton-Robinson, 2015).

Understanding the epistemic basis of ongoing settler colonialism and its rootedness in the Doctrine of Discovery helps me understand some of the logic upholding *The Heritage Property Act* (1979-80). If the political contract of the Canadian constitution forecloses Indigenous histories, rights, and perspectives, then the Canadian state can feel justified in allowing the implementation of a provincial policy that steals and disrespects Indigenous cultural artifacts. Moreover, if "we" in the Canadian state have no responsibility to anything that existed or is tied to pre-confederation, there is no problem with stealing and commodifying Indigenous lands and cultural artifacts. The homogenization of everyone in Canada as a collective "we" being upheld by neoliberal capitalist political discourse further explains how settlers and the settler colonial government maintain the Doctrine of Discovery through ideology that asserts that "we" are all part of this state and, therefore, all have rightful access to its land and resources. This homogenization to disguise social hierarchies such as settler colonialism and heteropatriarchy is visible in settler colonial liberal political discourse that blindly claims that "we are all equal citizens of the one nation" (Moreton-Robinson, 2015, p. 137). The Doctrine of Discovery is then further epistemically reinforced through white eurocentric capitalist definitions of citizenship, history, evidence, ownership, and private property, discrediting Indigenous histories and inalienable rights through settler colonial epistemology grounded in all Canadian law.

Section 4: Saskatchewan: A Settler Colonial History

I have just introduced you to the history of how the Doctrine of Discovery has been strategically enshrined into Canadian law. Now we must examine the historical context of Indigenous-settler relations in Saskatchewan within specific Canadian contexts; to understand our present and future, we must know our past.

4.1: Introduction

In Saskatchewan, settlers are taught that white Europeans peacefully and respectfully settled on Indigenous lands in the prairies and that Indigenous peoples consented to the theft of their lands and the termination of their political authority (Starblanket & Hunt, 2020). This fabricated story of peaceful settlement and colonial capitalist development is frequently celebrated as the 'correct,' 'unbiased,' and 'true' version of history in the prairies (Starblanket & Hunt, 2020). White rural Saskatchewan, which consists primarily of farmers, is marked by a settler collective imagination of themselves as virtuous and righteous in their political and cultural formations (Starblanket & Hunt, 2020). In contrast, Indigenous lives are marked as naturally uncivil, exclusionary, and ending (Starblanket & Hunt, 2020). For example, a poll conducted in 2016 called *Canadian Public Opinion on Aboriginal Peoples* found that negative views of Indigenous peoples in Canada were the highest in the prairie provinces (Manitoba, Saskatchewan, and Alberta) (Environics Institute, 2016). However, regardless of a prairie reality marked by anti-Indigenous racism, law and politics are often viewed as immune from the past and present structures of settler colonialism and racism that scar all interactions in the prairies (Starblanket & Hunt, 2020). In this literature review section, I will explore the historical contexts within Saskatchewan and Canada that have led to the specific settler-Indigenous political relations that we see in the prairies today and how law and politics are not immune from them.

4.2: Implementing 'Canadian' Law on the Prairies

Čegà K´iŋna Nakóda Oyáde (2022), known in English as Carry the Kettler First Nation located in southeast Saskatchewan, share valuable insights into the early settlement of the Canadian prairie provinces through chronicling the story of their community. During the last half of the eighteenth century, white settler men increased violence against and hardship within Indigenous communities by scarring the prairies with excessive alcohol, sexually transmitted infections, starvation from fur trade decimation of native animals, and disease (Čegà K´iŋna Nakóda Oyáde, 2022). By the end of the eighteenth century, abuse against Indigenous peoples from white settlers in the prairies was "out of control," and many Indigenous communities relocated from their traditional territories to escape settler violence (Čegà K´iŋna Nakóda Oyáde, 2022, p. 39). This relocation, along with the late eighteenth-century smallpox epidemic greatly depopulating the southern half of Saskatchewan, opened the land for the building of inland fur trading posts and the settlement of more white settlers (Čegà K´iŋna Nakóda Oyáde, 2022; Daschuk, 2013).

Looking forward, Starblanket and Hunt (2020) and Sidney Harring (1998) provide valuable information on the continued white settlement of the prairies into the nineteenth century. Following Canadian Confederation and the creation of the Canadian government in 1867, along with the government's purchase of Rupert's Land from the Hudson's Bay Company in 1868 which doubled the size of the new country, the implementation of law in the newly formed Canada was now referred to as 'Canadian' law despite still being heavily influenced by British law (Čegà K´iŋna Nakóda Oyáde, 2022). Since southern Saskatchewan was opened for white settlement through settler violence and disease prior to the creation of the Canadian state, the government did not initially need to intervene to clear land for prairie settlers. As such, the

Canadian government's initial approach to Indigenous peoples on the prairies was focused on policies meant to leave Indigenous peoples and their connections to land alone since these connections were required for the fur trade (Starblanket & Hunt, 2020). Since the Canadian government mainly left Indigenous peoples alone, Indigenous legal and political systems were also rarely interfered with at this time (Harring, 1998). However, following the shift from mercantile to industrial capitalism, the Canadian government required more land to be converted into private property to make it available for settlement and exploitation (Starblanket & Hunt, 2020). Thus, the Canadian government's approach to Indigenous peoples on the prairies shifted to policies focused on dispossessing and eradicating Indigenous peoples in order to take possession of Indigenous lands.

Starblanket and Hunt (2020) explain that the shift from mercantile to industrial capitalism in Canada coincided with Canadian governmental policies shifting from external colonial policies to settler colonial policies focused on building permanent white settlements in Saskatchewan due to the declining profitability of the fur trade. However, the implementation of policies designed to ensure white settlement and the eradication of Indigenous peoples in the prairie provinces needed epistemic justification. As such, the Canadian government ideologically conceptualized the prairies as in a "state of nature" with uncivil primitive inhabitants in need of civilization (Starblanket & Hunt, 2020, p. 46). Moreover, private property was considered the foundation of civil society (Moreton-Robinson, 2015; Starblanket & Hunt, 2020). Being based on the British government, the Canadian government had no difficulty conceptualizing Indigenous peoples as uncivil to justify settler colonization, as prominent English philosophers such as John Locke and Thomas Hobbes vehemently endorsed Indigenous subjugation due to their 'incivility;' Locke wrote that Indigenous peoples lacked the capacity to understand or own

private property because they ‘roamed’ instead of using the land like ‘civilized’ Europeans, while Hobbes wrote that Indigenous peoples were ‘savages’ living in a ‘state of nature’ and therefore white Europeans had a “perfect right to capture the insufficiently populated lands that they discovered” (Tsosie, 2017, p. 357). This conceptualization of the prairie provinces as a natural landscape with uncivil inhabitants who do not understand private property draws on the Doctrine of Discovery by employing the binary trope of civilization versus savagery discussed above (Tsosie, 2017). This specific vision of what the prairies were prior to white settlement also demonstrates the distinctness of the civilization versus savagery trope that existed and continues to exist in the collective imagination of white settlers in Saskatchewan (Starblanket & Hunt, 2020).

As outlined in the purchase agreement with the Hudson’s Bay Company for Rupert’s Land in 1868, the Canadian government was required to “settle any outstanding issues with Indigenous Peoples” in the former Rupert’s Land (Čegà K´iŋna Nakóda Oyáde, 2022, p. 69). As a result of this purchase agreement, and the capitalist need for and epistemic justification of white settlement on the prairies, the North-West Mounted Police (NWMP) was created in 1873 by Canada’s first prime minister, John A. Macdonald, to secure Canadian sovereignty over the prairies, which ensured the successful white settlement and subsequent privatization of Indigenous lands in the prairies (Harring, 1998; Wente, 2022). As such, a “Canadian Indian policy” was created to deal with Indigenous peoples in the prairies, unlike during the earlier settlement of eastern Canada (Harring, 1998, p. 239). This “Canadian Indian policy” set out to force tribes and nations to cede their lands to the Canadian government through treaties, being forced onto small reserve lands, and ultimately assimilated into white settler society as farmers (Harring, 1998, p. 239). Chiefly, this implementation of the “Canadian Indian policy” was

supposed to take place prior to heavy white settlement of the prairies in order to "bring order to the Canadian west" (Čegà K´iŋna Nakóda Oyáde, 2022, p. 85; Harring, 1998, p. 239). As such, the NWMP were sent out to create the numbered treaties that we see in the prairies today to bring Indigenous peoples within the grasp of Canadian law, given the judicial power to force Indigenous peoples onto reserves by any means necessary (Harring, 1998; Starblanket & Hunt, 2020; Wente, 2022). For context, the numbered treaties are treaties numbered one through 11 created between Indigenous peoples and the reigning British monarch, which expanded the Dominion of Canada into Rupert's Land, now known as Northern Ontario, Manitoba, Saskatchewan, Alberta, and the Northwest Territories.

Many Indigenous peoples in the prairies opposed this imposition of Canadian law on their lands by strongly resisting signing Canadian treaties in order to preserve their political rights (Čegà K´iŋna Nakóda Oyáde, 2022; Harring, 1998). However, the NWMP leveraged the fur trade's decimation of game and fur animals on the prairies to force starving Indigenous communities to sign and adhere to treaties in order to become "British Indians" and receive food rations from the NWMP, effectively forcing these communities under the control of the Canadian government (Čegà K´iŋna Nakóda Oyáde, 2022, p. 89). For example, the chief of the Little Pine Cree band in Saskatchewan resisted signing treaty until 1879, when members of his community were starving enough to leave the community and sign treaty on their own (Čegà K´iŋna Nakóda Oyáde, 2022).

The Canadian government gave the NWMP "extra-ordinary judicial power" to arrest, prosecute, judge, and jail Indigenous peoples under Canadian jurisdiction to force all remaining Indigenous peoples and communities to sign treaty, thereby assuring incoming settlers that they would be protected by Canadian law (Harring, 1998; Starblanket & Hunt, 2020, p. 60). Once

prairie Indigenous communities had been coerced into signing treaties or "given up their land to the queen," the Department of Indian Affairs withheld promised food rations to force Indigenous peoples to relocate to reserves and into a labour-for-pay system "for the sake of the moral effect that it would have on the Indians," as stated by General Vankoughnet (1880), Deputy Superintendent of Indian Affairs (as cited in Čegà K´iŋna Nakóda Oyáde, 2022, pp. 98 & 118). If labour-for-pay or relocation were resisted, Commissioner of Indian Affairs Edgar Dewdney (1882) would remind the starving and often sick Indigenous peoples that "their wretched condition was their own fault" to punish them (as cited in Čegà K´iŋna Nakóda Oyáde, 2022, p. 127 & 139). This forced relocation to reserves served to steal Indigenous lands and prevent violence from U.S. Army border patrols against Indigenous peoples searching for game animals at the Canada-U.S. border, which would have negatively impacted the Canadian government's plan to entice white settler farmers to the prairies (Čegà K´iŋna Nakóda Oyáde, 2022). Evidently, the implementation of Canadian law in the form of treaties on the prairies aimed to force eurocentric capitalist ideals into Indigenous communities and dispossess Indigenous peoples of their lands to facilitate white settlement and Canadian sovereignty.

The initial settlement of the prairies for the fur trade, which was facilitated by the Doctrine of Discovery, created the circumstances necessary for the Canadian government to force Indigenous peoples under their jurisdiction; Canadian eurocentric law prevailed due to the initial implementation of the Doctrine of Discovery on these lands. Moreover, the original implementation and operation of Canadian law and policy concerning Indigenous peoples on the prairies were designed by and for white settlers specifically to turn Indigenous lands into private property, assimilate or eradicate Indigenous peoples, and secure Canadian sovereignty over the

prairies. Therefore, Canadian law and policy were implemented to subordinate Indigenous peoples on the prairies and impose eurocentric ideals of civility and society.

4.3: Settling the Prairies

Following the construction of the Canadian Pacific Railway through Saskatchewan in 1882, the Canadian government officially 'opened' the prairie provinces to white settler farmers (Čegà K´iŋna Nakóda Oyáde, 2022). As such, throughout the late nineteenth and early twentieth centuries, the Canadian government began an advertising campaign to attract white European and American settlers to settle the prairie provinces, hastened by Saskatchewan and Alberta joining the Confederation in 1905 (Waite, 2019). The propaganda used to entice white settlers depicted the prairie provinces as "a vast, unoccupied, fertile hinterland," with no mention of Indigenous occupants (Starblanket & Hunt, 2020, p. 33). These advertisements included four important themes. First, these advertisements were entwined with capitalist logic that marketed this 'uninhabited' land as a way for white settlers to amass wealth with no hindrances or constraints (Starblanket & Hunt, 2020).

Second, the heteropatriarchy endemic to capitalist logics was employed within these government-sponsored advertisements. As explained by Starblanket and Hunt (2020), these advertisements targeting white settlers were extremely heteropatriarchal. The advertisements were imbued with imagery idealizing a nuclear, patriarchal, heterosexual family unit, often showing pictures of men with wives and sons (Starblanket & Hunt, 2020). These advertisements also described the land as "rich virgin soil" and as "fertile plains" that men could call "my land," working to entice white male settlers by invoking prevailing eurocentric masculine ideals, such as ownership of land and women's bodies (Starblanket & Hunt, 2020, pp. 35 & 38). In addition, the popular myth of the "Indian Princess" like Pocahontas that was used to represent healthy

virgin lands ready to be possessed by settler men bolstered the attractiveness of these advertisements to white settler men (Bird, 2001).

Third, white settlers were the only settlers sought by the Canadian government, as demonstrated by the advertisements depicting only white settlers (Starblanket & Hunt, 2020). Lastly, these advertisements underscored the Canadian government's continued commitment to enforcing white eurocentric laws and epistemology on Indigenous lands, claiming that settlers would be "protected by the government" (Starblanket & Hunt, 2020, p. 39). The Canadian government's conviction to give away 'unoccupied' Indigenous lands to white settlers also facilitated the dispossession of Indigenous peoples from lands they have ancestral and ongoing relationships with and the conversion of these lands into private property, thereby enforcing eurocentric capitalist proprietary systems where Indigenous systems already existed (Pasternak, 2017; Starblanket & Hunt, 2020). As such, settler security and protection were assured at the expense of Indigenous political, legal, and social rights (Starblanket & Hunt, 2020).

Ultimately, this propaganda highly romanticized prairie life to prioritize white settlement, which would further "expand the Canadian state's reach as well as its legitimacy across the landscape" (Starblanket & Hunt, 2020, p. 42). The settlement of the prairies was done with the aid of eurocentric scientific racism, claiming that white people were the elite and most civilized race in order to employ the European political theory behind the Doctrine of Discovery: that civilized people deserved the most political rights (Starblanket & Hunt, 2020; Tsosie, 2017). Just as earlier white settlement of Canada had employed this binary trope of civilization versus savagery to make Indigenous lands open for European 'discovery' and thereby ownership, so too was the Doctrine of Discovery being enforced on lands in Saskatchewan to justify white settlement (Starblanket & Hunt, 2020; Tsosie, 2017). Importantly, this propaganda began being

distributed shortly after the *Indian Act* (1985) implementation in 1876, meaning that the Canadian government had more political and legal authority over Indigenous peoples in the prairies than when first settling in eastern Canada (Starblanket & Hunt, 2020).

Paramount to the white settlement of Saskatchewan and the policies surrounding it was an emphasis on converting lands into private property for farmer ownership. Due to Saskatchewan being settled almost exclusively to produce resources for the rest of the country and international export through farming, white settlers were expected to *use* the land in an economically productive manner, exploiting the land in ways Indigenous peoples did not want to (Starblanket & Hunt, 2020). In order to exploit the land for capitalist accumulation, white settlers relied extremely heavily on the expropriation of Indigenous lands, which were then turned into white private property. As stated by Starblanket and Hunt (2020), "not all populations across the various regions of Canada find their livelihoods so intimately dependent upon unthreatened ownership of vast tracts of landscape as do farmers," who make up the majority of the population in rural Saskatchewan (p. 76). Additionally, Sarah Carter (2016) explains that "the white British male settler or frontiersman was the heroic figure, taming the wild frontier into productivity and profitability" (p. xxii). Therefore, the specific settler-Indigenous political relations that initial settlement and policy created in Saskatchewan are tightly intertwined with the eurocentric value of private property, which is demonstrably settler colonial, capitalist, and heteropatriarchal.

On top of the expropriation of Indigenous lands in Saskatchewan for settler farming, Indigenous peoples on reserves in Saskatchewan were also forced to *use* the land in an economically productive manner (Čegà K´iŋna Nakóda Oyáde, 2022). As previously mentioned, food rations were withheld from Indigenous communities in order to force them into relocation and a labour-for-pay system for the federal government (Čegà K´iŋna Nakóda Oyáde, 2022).

Although the Canadian government promised rations if Indigenous communities relocated to their government-dictated reserve lands, once they arrived at their reserves, rations were once again withheld to force the people into labour-for-pay farming on their reserves (Čegà K´iŋna Nakóda Oyáde, 2022). Not only did this coerced farming create profit for the Canadian government, but it also enforced eurocentric ontology into Indigenous communities and onto Indigenous lands by commodifying the natural resources of reserve lands and forcing Indigenous peoples into the labour market (Čegà K´iŋna Nakóda Oyáde, 2022). Thus, the relationship between the Canadian government and Indigenous peoples in Saskatchewan that initial settlement created is coloured by the assimilatory practice of government-forced and coerced farming, which enabled the federal government to generate profit from lands that they could not legally turn into settler private property. Again, we see private property and commodification as central to the white settlement of Saskatchewan and the creation of settler domination.

Due to the unique circumstances present during the settlement of Saskatchewan, private property has been and continues to be central to settler-Indigenous political relations in the province and the maintenance of settler domination. We can see that the eurocentric meaning of private property in Saskatchewan is entangled with settler colonial, capitalist, and heteropatriarchal ideals. As demonstrated above, Indigenous lands were stolen through settler colonial policy and turned into private property for settler Canadian capitalist accumulation. Moreover, those who were to make this private property profitable were white heterosexual men in a nuclear family unit or Indigenous peoples as servants to the federal government (Carter, 2016; Čegà K´iŋna Nakóda Oyáde, 2022; Starblanket & Hunt, 2020). Lastly, since private property was seen as foundational to civil society, Indigenous peoples were conceptualized as uncivil and unable to achieve ‘full citizenship’ by white settlers and the Canadian government

because many did not recognize the eurocentric capitalist obsession with private property. This conceptualization of Indigenous peoples as uncivil justified the continued implementation of the Doctrine of Discovery (Milloy, 2017; Starblanket & Hunt, 2020).

Capitalism created the circumstances that made it necessary for the Canadian government to exile Indigenous peoples from their lands for the purpose of permanent settler occupation and exploitation. To achieve the goal of Indigenous eradication for capitalist gain, the Canadian government employed the settler colonial Doctrine of Discovery by telling settlers that the prairies were 'uninhabited,' and that the few Indigenous peoples who did live on the prairies were "quiet," "inoffensive," and uncivilized (Starblanket & Hunt, 2020, p. 40). The heteropatriarchy endemic to the use of the Doctrine of Discovery worked simultaneously to instill patrilineality through a tunnel-vision focus on giving Indigenous lands to white heterosexual patriarchal families, thereby working to disrupt and invalidate Indigenous matrilineality and matriarchal communities in the prairies. Through this early work by the Canadian government of inviting white settlers onto the prairies and forcing Indigenous peoples into the labour market, the capitalist hierarchy was implemented in the prairies through the application of the Doctrine of Discovery and heteropatriarchy, cementing white capitalist and heteropatriarchal power and domination over Indigenous peoples and lands in Saskatchewan. By enshrining the Doctrine of Discovery onto lands in Saskatchewan, the Canadian government enshrined the capitalist hierarchy onto these lands and made the first step for further enforcement of eurocentric laws where Indigenous laws already exist (Pasternak, 2017).

4.4: Saskatchewan Contextualized, Residential Schools & the 60s Scoop

After the successful attraction of white settlers to Saskatchewan, there have been many policy creations and implementations that signal the continued use of the logic of the Doctrine of

Discovery in Saskatchewan. In order to explore these policy changes and implementations in Saskatchewan, they must be contextualized within social and policy changes in Canada as a whole. This section of the literature review explores the ongoing existence of the logic of the Doctrine of Discovery in Saskatchewan within the context of Canadian policy and society.

Following the successful implementation of the Doctrine of Discovery and the settlement of thousands of white people on the prairies, the Canadian government began increasingly enforcing white eurocentric philosophical ideologies and the capitalist hierarchy through law and policy on the prairies to assimilate Indigenous peoples into white settler society and steal Indigenous lands. One example of such policy and law is residential schools. The first residential school in Saskatchewan, Île-à-la-Crosse Residential School/Métis School, was created in 1821 and became government sponsored in 1889 (Niessen, 2017). The forceful removal of Indigenous children in Canada from their homes and communities was first written into the *Indian Act* (1985) in 1894 and gave Indian Agents the authority to remove Indigenous children aged six to sixteen from their homes if they were "not being properly cared for or educated," according to eurocentric standards, and place them in an "industrial or boarding school" such as Île-à-la-Crosse Residential School/Métis School (Niessen, 2017, p. 17). Subsequently, residential school attendance legislation enforced through the *Indian Act* (1985) ensured that from 1920 to 1951, all First Nations children and some Métis children, if they lived "the Indian mode of life" or did not have white fathers, attended residential schools by giving Indian Agents and the NWMP the power to remove Indigenous children from their homes and communities and place them in residential schools in order to forcefully civilize them into white settler society (Niessen, 2017, p. 48; Wente, 2022). Mandatory residential school legislation in the *Indian Act* (1985) also made it illegal for First Nations and some Métis children to attend any educational institution other

than residential schools and monetarily fined or jailed First Nations and Métis parents who resisted their children being taken to these 'schools' (Hanson et al., 2020; Niessen, 2017).

Residential schools continued using the binary trope of civilization versus savagery, which is foundational to the Doctrine of Discovery, to achieve this forceful civilization. In his exploration of the residential school system, John Milloy (2017) explains the Canadian state's justification for the use of residential schools: "it was the residential school experience that would lead children most effectively out of the 'savage' communities into 'higher civilization' and 'full citizenship.'" (p. 22). On top of having clear capitalist and settler colonial motives, residential school attendance legislation also enforced heteropatriarchy, which is evident in the inconsistent inclusion of Métis children in residential schools based on their proximity to white men.

After the Second World War, settlers in Canada became more willing to look at the atrocities being committed against Indigenous peoples in Canada (McKenzie et al., 2016; Parrott, 2020). As the settler public began seeing the abuses happening in residential schools, the Canadian government began phasing out compulsory residential school attendance to pacify settlers (Hanson, n.d.b). Simultaneously, amendments to the *Indian Act* (1985) in 1951 allowed provinces to provide services to Indigenous peoples if those services were not covered federally (Hanson, n.d.b; McKenzie et al., 2016; Parrott, 2020). This 1951 amendment of the *Indian Act* (1985) ultimately allowed the provinces to have jurisdiction over off-reserve Indigenous child welfare, which ended up including thousands of Indigenous children due to rising urban Indigenous populations beginning in 1961 as a result of the ending of enfranchisement, which had been legally compulsory since 1876 (Crey, n.d.a; McKenzie et al., 2016; Parrott, 2020). The immediate and intergenerational impacts of genocidal policies, including the *Indian Act* (1985)

and residential schools, caused suffering in Indigenous communities, leading to problems surrounding child welfare due to poverty, addiction, high death rates, and abuse (McKenzie et al., 2016; Parrott, 2020; Wente, 2022). As such, instead of committing to supporting Indigenous communities in the aftermath of government-sponsored genocidal policies, from roughly 1961 to the 1980s, the provincial governments chose to forcibly remove Indigenous children from their homes and communities and place them into "normal" white settler homes, known as the 60s scoop (Parrott, 2020; Stevenson, 2017). The residential schools that did continue operating were used more as child welfare institutions in the form of boarding for children stolen from their homes and communities but not yet placed in white homes (Hanson, n.d.b).

As mentioned above, the Canadian governments claimed they were removing Indigenous children from their homes and communities because of child welfare issues (McKenzie et al., 2016). However, the government refused to acknowledge that they were at fault for these issues because of past and present genocidal policies targeted at Indigenous peoples, instead blaming Indigenous peoples for their suffering again, just as Indian Commissioner Dewdney (1882) did in an attempt to punish them for the intended negative outcomes of government policies (Čegà K´iŋna Nakóda Oyáde, 2022). Also not acknowledged by the government were the heteropatriarchal and settler colonial motives being employed to justify stealing Indigenous lands, which led to the forcible removal of Indigenous children from their homes. Ideas of 'proper' child care stemmed from the white eurocentric ideology of civility, meaning that traditional ways of raising children within Indigenous communities, such as land-based practices or community care, were often dismissed as uncivil and inadequate child care, leading to child apprehension (Hanson, n.d.b; McKenzie et al., 2016). Moreover, gendered discrimination in the *Indian Act* (1985), including residential school attendance legislation, facilitated the stealing

of Indigenous children with the rationale that Indigenous women were unfit mothers in order to destabilize Indigenous communities and families (Bourgeois, 2015). The conceptualization of Indigenous women as unfit mothers burgeons from early white settler abuse of Indigenous women, in which settler men dehumanized Indigenous women by claiming that they were incapable of having the same emotional capacity as white women and thus would neglect their children to justify abusing the women. (Bird, 2001). Overall, Indigenous children were often apprehended because of the incongruence between white eurocentric ideals of civility and the traditions of Indigenous communities. Because of the earlier implementation of the Doctrine of Discovery, white eurocentric jurisdiction superseded Indigenous jurisdiction throughout Canada, and Indigenous children were continually apprehended (Pasternak, 2017).

Importantly, this era in Canada of transition from residential schools to provincial jurisdiction over Indigenous child welfare was an important time in the formation of Canadian state sovereignty (McKenzie et al., 2016). Through government policy and practice, nationhood and the white collective imagination of Canada, which included the heteropatriarchal middle-class state citizen and family unit, were actively created and reproduced by the government and Catholic church (McKenzie et al., 2016). The Canadian government and Catholic church successfully conceptualized Indigenous peoples as uncivil and in need of assimilation through residential schools and subsequently adoption into white middle-class homes, further cementing Indigenous peoples as uncivil and white people as rightful civil citizens in the white settler collective imagination (McKenzie et al., 2016). This solidification of settler colonial rhetoric in the white settler collective imagination paved the way for racist and genocidal child ‘care’ practices from the settler colonial federal and provincial governments, thereby harming

Indigenous families and communities by denying Indigenous children their family relationships and cultural frameworks (Green, 2017).

Allyson Stevenson (2017, 2020) explores the 60s scoop in Saskatchewan specifically. In 1967, the Saskatchewan government created and funded the Adopt Indian Métis (AIM) program to promote the adoption of First Nations and Métis children in Saskatchewan into white middle-class settler families (Stevenson, 2017). Saskatchewan was the only province or territory in Canada with a targeted program for transracial adoption that focused on placing Indigenous children into white homes (Stevenson, 2020). AIM was advertised on television, radio, and newspapers across southeastern Saskatchewan, which is white settler farming country, showing videos or pictures of First Nations and Métis children, calling them "unwanted" and the result of "illegitimate births and marriage breakdowns among Indian and Métis people" (Oliver, 1968). Importantly, AIM required little financial investment from the provincial and federal governments, nor any attempt to remedy the underlying factors contributing to Indigenous children coming into provincial care, namely the immediate and intergenerational effects of Canadian government-sponsored genocidal policies (Stevenson, 2017). Noticeably, AIM used propaganda targeted toward white settlers just as propaganda was used to entice white settlers to settle the prairies nearly 100 years prior. Overall, approximately 20,000 Indigenous children in Canada were stolen from their homes and communities during the 60s scoop, and approximately 500 Indigenous children were placed into white homes through AIM, with one in every four adoptions in Saskatchewan being that of an Indigenous child into a white home by 1971 (Oster & Lizee, 2021; Warren, 1971).

Holly McKenzie et al. (2016) explain that government-sponsored apprehension of Indigenous children shifted from compulsory residential school attendance to the practice of

removing children from their communities and placing them into settler homes with foster or adoptive parents. Stevenson (2020) illustrates that these policies worked to "break down communal land-holding on the prairies," with the government's goal being the total assimilation of Indigenous peoples into white settler society and the conversion of Indigenous lands into white private property (p. 17). Bailey Oster and Marilyn Lizee (2021) highlight the shift from the residential school system into the child welfare system in Saskatchewan specifically. Oster and Lizee (2021) explain that although the 60s scoop began in 1961 and AIM in 1967, stealing Indigenous children from their homes and communities is a pattern that began in the early 1800s with residential schools. Moreover, Stevenson (2020) points out that this pattern began in Canada as early as 1620 when the first Recollect boarding school opened in the colony of New France, followed swiftly by the Jesuit experiments. Tricia Logan (2008) supports these analyses, explaining that this pattern of forcibly removing Indigenous children from their families and placing them with white settlers ideologically extends the residential school system by perpetuating the idea that Indigenous peoples, specifically mothers, are unfit parents.

The creation and use of AIM demonstrate how the implementation of the Doctrine of Discovery on Saskatchewan lands made way for further forcible implementation of eurocentric laws and the fusion of the capitalist hierarchy into Saskatchewan policy. The dispossession of Indigenous peoples from their lands to facilitate the conversion of Indigenous lands into white private property for capitalist exploitation led to the creation of residential schools. Notably, Canadian law used the settler colonial and heteropatriarchal notion of 'civility' to justify the removal of Indigenous children from their lands. When the Canadian settler public began objecting to the abuses happening in residential schools, the provincial governments were given authority over Indigenous child welfare. In Saskatchewan, this led to the creation of AIM, which

ideologically and physically continued the residential school system in a new way (Logan, 2008). As Starblanket & Hunt (2020) point out, because Saskatchewan was settled with the intent of eradicating Indigenous peoples, social and political institutions will continue to perpetuate this settler colonial eradication or eliminatory logic in different and new ways. Oster and Lizee (2021) demonstrate that the significance of this continuation of the pattern of forcibly removing Indigenous children from their lands and communities is that it causes these children to lose contact with their families, communities, cultures, and ultimately their identities, thereby purposefully dispossessing Indigenous children physically, mentally, emotionally, and spiritually with the intent of eliminating Indigeneity and stealing lands.

As explained above, conceptualizing Indigenous peoples as uncivilized has allowed the Canadian government to act paternalistically and apply policies, believing that they alone know what is best for Indigenous peoples and lands (Joseph, 2018). The implementation of residential schools and AIM exemplifies the paternalism, which is based on heteropatriarchy, that the Canadian and Saskatchewan governments use when creating policies regarding Indigenous peoples and lands. As Pearl Calahasen states in *Stories of Métis Women* (2021), "The government is a bad, bad parent. They have never been good parents, whether it's through the whole notion of taking the kids from the parents, like my mother was taken away through the residential schools" (p. 146). These policies were administered and operated under the paternalistic eurocentric idea that white government alone could decide the "best interests of the (Indigenous) child" (Stevenson, 2017).

The capitalist need to dispossess Indigenous peoples successfully employed the settler colonial and heteropatriarchal notion of Indigenous incivility to continue the pattern of government-sponsored dispossession. Settler colonial notions of what child care 'should' look

like paired with heteropatriarchal devaluing Indigenous women and matriarchal communities supported the capitalist goal of removing Indigenous peoples from their lands through the dispossession of generations of Indigenous children. The capitalist settler colonial dispossession of Indigenous peoples from their lands through the Doctrine of Discovery not only facilitated the conversion of these lands into white private property, but it also affirmed the conceptualization and definition of Indigenous lands through a eurocentric lens, which justifies settler colonial legitimacy, jurisdiction and ultimately, Canadian state sovereignty (Moreton-Robinson, 2015; Pasternak, 2017).

AIM in Saskatchewan ultimately sought to eradicate Indigenous peoples by forcibly assimilating them into white settler society. Driven by the settler public, every time abuses became too much for the settler public to accept, new ways to eradicate Indigenous peoples were passed in Canadian law, from physical violence to residential schools to the 60s scoop, and currently the millennium scoop. The dispossession and eradication of Indigenous peoples for capitalist gain and the justification of settler colonial jurisdiction and Canadian sovereignty through law have been foundational driving forces behind Canadian and Saskatchewan policies that are upheld by the ongoing use of the logic of the Doctrine of Discovery.

4.5: Saskatchewan Contextualized, 1980s Onward

Although there is an identified link between Canadian policies and the ongoing dispossession of Indigenous peoples due to the continued appearance and reappearance of the logic of the Doctrine of Discovery in settler colonial law, many policies continue to be problematic. The last residential school in Canada, the Gordon residential school, which operated in Punnichy, Saskatchewan, did not close until 1996, the year that I was born (Niessen, 2017). Moreover, as mentioned above, the millennium scoop is a current iteration of assimilatory

Canadian policy. The millennium scoop refers to the continued apprehension of Indigenous children from their homes and communities: an extension of the 60s scoop in present times. The provincial governments continue to justify these apprehensions by referencing issues surrounding child welfare but still refuse to take responsibility for causing these issues through attempted genocide and inadequate policy (McKenzie et al., 2016).

For example, in 2016, the Canadian Human Rights Tribunal (CHRT) found that the Department of Indian and Northern Affairs' provision of First Nations Child and Family Services was inequitable, operated on problematic assumptions about First Nations communities, and employed funding mechanisms that incentivized the removal of First Nations children from their homes and communities (First Nations Child and Family Caring Society of Canada, 2016). In 2018, the CHRT had to order the Canadian government again to comply with this decision because the government had done nothing to remedy their discrimination (First Nations Child and Family Caring Society of Canada, 2022a). In 2021, the federal government challenged the CHRT's findings instead of paying the ordered compensation, but the federal court upheld the CHRT's decision (Stefanovich, 2021). It was not until June 30, 2022, that the Final Settlement Agreement for this case was reached, which still contains some missing elements relevant to whether First Nations peoples will receive the $40,000 in human rights compensation that the CHRT awarded (First Nations Child and Family Caring Society of Canada, 2022b). In October 2022, the Canadian federal government offered to pay $20 billion of the initial $40 billion, or $40,000 per person, that the CHRT awarded First Nations children and families harmed by the Department of Indian and Northern Affairs' provision of First Nations Child and Family Services discriminatory practices (Stefanovich, 2022). The CHRT rejected the Canadian government's offer of half the settlement amount because it did not guarantee the initially

awarded $40,000 compensation and left some children out, including children removed from their communities and placed in non-federally funded placements (Stefanovich, 2022). As of the completion of this thesis, the federal government's plan to finalize the $40 billion compensation plan by the end of 2022 did not succeed as the government has yet to address the CHRT's concerns (Stefanovich, 2022). As stated by Mary SkyBlue Morin in *Stories of Métis Women* (2021), "I quit government jobs because of redneck war whoops, people telling Indian jokes: Indians as wagon burners, circling the wagons, lazy Indians not wanting to work" (p. 174). The Canadian federal government still clearly holds on to eurocentric settler colonial ideology about Indigenous peoples' civility, or lack thereof, and imbues these views into the creation, application, and operation of policies and laws.

Policy decisions in the prairie provinces have continued to be just as inequitable as the federal policy discussed above. For example, in 1983 Manitoba, Justice Berth Wilson ruled that a child's attachment to their foster or protective parent supersedes their cultural needs when considering the "best interest of a child" (*Racine v Woods*, 1983). This case is referenced frequently to keep Indigenous children in white homes, as Canadian courts continually ignore Indigenous children's cultural needs and connections in favour of their foster or protective parents, employing eurocentric ideology to the detriment of the Indigenous child and the benefit of the white parents and governments (Choate et al., 2019). In Saskatchewan specifically, in 2005, Justice Jacelyn Ryan-Froslie of the Saskatchewan Court of Queen's Bench struck down a provincial government policy that required a First Nation to consent before a child from the community could be put up for adoption (*R.C.M.S. v. G.M.K.*, 2005). Again, this case in Saskatchewan demonstrates the ongoing settler colonial ideology in law and its subsequent

undermining of the jurisdiction and governance of Indigenous communities because they are conceptualized as uncivil.

4.6: Conclusion

From this section of my literature review, I conclude that the above-mentioned laws, policies, and policy decisions continue to employ the white eurocentric settler colonial philosophical ideologies, namely the Doctrine of Discovery, the capitalist hierarchy, and heteropatriarchy, that existed during the early settlement of Saskatchewan. The continued dispossession of Indigenous children from their homes, communities, and lands facilitated through Saskatchewan law exemplifies the ongoing capitalist need to eradicate or control Indigeneity in Saskatchewan, supported by the early implementation of the Doctrine of Discovery and its continued ideological existence in law and policy. This literature review also demonstrates how heteropatriarchy works with the logic of the Doctrine of Discovery in Saskatchewan law and policy to invalidate Indigeneity; the continued conceptualization of Indigenous mothers as inherently bad and uncivil parents by extension, conceptualizes white settlers and settler society and culture as civil and the best place for Indigenous children. This conceptualization of Indigenous women as uncivil also serves the purpose of invalidating matriarchal and matrilineal Indigenous communities and validating white settlers stealing Indigenous lands due to their perceived civility in contrast to Indigenous incivility. Political relations in Saskatchewan today are also characterized by a white settler interest in and reliance on private property, which has also been used to conceptualize Indigenous peoples as uncivil. Conceptualizing Indigenous peoples as uncivil and white settlers as civilized enables the continuation of settler colonial policy creation, implementation, and operation in Saskatchewan. Consequently, Saskatchewan's current settler-Indigenous political relations reflect the same

eliminatory and assimilatory logics grounded in settler colonialism, the capitalist hierarchy, and heteropatriarchy that were implemented during the early settlement of Saskatchewan, just manifested in different ways. As we can see, settler security in Saskatchewan is still guaranteed at the expense of Indigenous peoples' rights (Starblanket & Hunt, 2020).

Section 5: Anthropology as a Settler Colonial Tool

From its inception by white European men, the eurocentric discipline of anthropology has subjugated and othered hundreds of Indigenous communities globally, including Egyptians, the Ainu people of Japan, the Baka, Aka, Efé, Ife, and Gyele peoples of Africa, and Indigenous peoples of South and North America (Parezo & Troutman, 2001). By the beginning of the nineteenth century, European anthropology became "*the* central educational paradigm" used to dissect Indigenous cultures and peoples globally, including all Indigenous peoples in North America (Parezo & Troutman, 2001, p. 6, emphasis in original). Specifically, anthropology's original purpose was to catalogue non-white-European cultures in an attempt to understand them (Bird, 2001). This was problematic because European anthropology was created by and for white European men, making it inherently eurocentric, capitalist, and heteropatriarchal (Parezo & Troutman, 2001). This section of my literature review will illuminate how European anthropology has been used as a settler colonial tool to conceptualize people Indigenous to North America as uncivil 'others.'

5.1: Introduction

As discussed earlier, in the seventeenth century, white European philosophers validated white settler claims to land in Canada by asserting that civilized people deserved the most political rights and, therefore, white settlers had a rightful claim to Indigenous lands and resources through 'discovery' because Indigenous peoples were uncivilized (Tsosie, 2017).

Following this initial use of white European philosophy to steal Indigenous lands and subjugate Indigenous peoples, eighteenth and nineteenth-century European science worked to further justify and extend the reach of these European philosophical theories (Tsosie, 2017). Throughout the eighteenth and nineteenth centuries, European scientific theories of race, often turning into scientific racism, made it possible for white European settlers to justify their domination over 'uncivil' Indigenous peoples and lands as well as the creation of settler colonial social and political hierarchies (Backhouse, 1999). By the nineteenth century, anthropology made Indigenous peoples the objects of anthropological experimentation in epistemic and physical contexts (Parezo & Troutman, 2001; Tsosie, 2017).

From this point forward, for clarity, I will refer to European or white settler anthropology simply as "anthropology"; however, I am explicitly referring to the use of European anthropology by white settlers in Canada and the United States when using the term "anthropology." From its implementation in North America, anthropology focused on 'understanding' cultural and racial development on a global scale rather than viewing individuals as members of specific nations or communities with unique cultural histories and experiences (Parezo & Troutman, 2001). As such, anthropology viewed all cultures and non-European nations through a eurocentric lens that worked to serve white European and white settler needs and wants. For example, in the nineteenth century, anthropology held that white European men were the apex of civilization and Africans were the uncivilized bottom of civil development, with Indigenous people sandwiched in-between as uncivil but having the ability to be taught civility by white people (Parezo & Troutman, 2001; Tsosie, 2017). Evidently, anthropology and early European philosophy were based heavily on social hierarchies and the principles of social

Darwinism, which espouses that certain people get social power because they are fundamentally better than others (Parezo & Troutman, 2001; Tsosie, 2017).

Early anthropological work in the nineteenth century performed on Indigenous peoples in North America focused not on understanding Indigenous peoples *as people* but instead worked to catalogue their cultures through "salvage ethnography" (Bird, 2001, p. 63). This anthropological ethnographic work operated under the idea that Indigenous cultures would disappear because white settlers were civilizing Indigenous peoples, hence the need to "salvage" the last bits of Indigenous cultures before they ultimately vanished (Bird, 2001, p. 63; Tsosie, 2017). Importantly, by refusing to see Indigenous peoples as real people and instead treating them as objects of observation that were vanishing, it was clear that,

> The fundamental thesis of the anthropologist is that people are objects for observation, people are then considered objects for experimentation, for manipulation, and for eventual extinction. The anthropologist thus furnishes the justification for treating Indian people like so many chessmen available for anyone to play with. (Deloria, 1988, p. 81)

Because of this intense objectification of Indigenous peoples, anthropologists were free to depict them however they saw fit (Bird, 2001). In North America, white settler anthropologists used their power to construct ethnographic descriptions of Indigenous peoples that served their purposes: white male settler domination over land and people. For example, Thomas Biolsi (1997) examines the career of anthropologist Haviland Scudder Mekeel, who studied the Lakota people in the 1930s, to illustrate how anthropologists used ethnography to confirm their racist preconceived notions. Biolsi (1997) finds that Mekeel went into his anthropological work on the Lakota people searching for "authentic full-blood Indians" in order to study their "primitivism" (p. 136; Bird, 2001, p. 64). As exemplified here, anthropology was used by white male settlers to

bolster their claims to civility while supporting their scientific racism and settler colonial land stealing and forced civilization of Indigenous peoples. As such, ethnographic descriptions of Indigenous peoples from the nineteenth century onward have been plagued with settler colonial rhetoric fabricated to support the creation and maintenance of social and political hierarchies that maintain white settler domination (Parezo & Troutman, 2001; Tsosie, 2017). As stated by Craig Womack (1998), Creek-Cherokee author, "The assumption that everything begins and ends with the white version of reality has everything to do with suppression ... [of] an Indian viewpoint."

5.2: Anthropology & Institutions

White settler anthropologists burglarized Indigenous villages, sacred lands, and cemeteries throughout the nineteenth and twentieth centuries to collect Indigenous peoples' cultural artifacts (Tsosie, 2009). This anthropological stealing led to Indigenous cultural artifacts and remains being kept by white settlers in places like universities or museums (Johnson & Underiner, 2001; Tsosie, 2017). When white settlers control Indigenous cultural artifacts and remains through institutions such as universities or museums, the white settlers who are 'salvaging' these vanishing cultures choose which aspects of the cultures are displayed and how they are displayed (Root, 1996). Thus, white settlers become both the owners and interpreters of Indigenous cultures in the white settler collective imagination, allowing them to maintain the settler colonial rhetoric created by anthropologists as discussed above. In these institutions where white settlers control the narratives surrounding Indigeneity, Indigenous peoples and cultures become 'othered' spectacles used to justify the settler colonial violence employed to create the 'New World,' a white settler society (Jones, 1988).

No international laws regulate museum collections of Indigenous cultural artifacts or remains, so Indigenous peoples have no legal right to repatriation of their cultures or ancestors

across international lines (Tsosie, 2017). Domestically within Canada, laws such as the *Heritage Property Act* (1979-80) prevent Indigenous peoples from the repatriation of their cultural and ancestral belongings. Consequently, when museums or universities *choose* to return stolen Indigenous cultural artifacts or remains, they often take those opportunities to establish "voluntary ethical relationships" between their white settler institutions and the Indigenous nations they are returning artifacts or remains to in order to continue anthropological work with the nations (Tsosie, 2017, p. 364). In these types of relationships, white settler anthropologists have recently been working to open ethnographic theoretical space for Indigenous peoples to be co-producers of knowledge instead of the objects of study and experimentation (Johnson & Underiner, 2001). However, these relationships can never truly be ethical in Canada because of the power imbalance between Indigenous nations and white settler institutions due to the settler colonial foundations of current society (Tsosie, 2017).

When universities or museums *choose* not to return stolen Indigenous cultural artifacts or remains, these artifacts or remains stay under the control of these white settler institutions, and white settlers remain the owners and interpreters of Indigenous cultures in the context of white settler society (Johnson & Underiner, 2001). Specifically, museum curators have the power to interpret and display Indigenous cultures in ways most attractive and palatable to white settlers, making them objects of white consumption (Johnson & Underiner, 2001). Some museums have begun shifting toward decolonial museology, in which museums display Indigenous artifacts from 'contact-zones' and present the perspectives of both Indigenous peoples and white settlers for guests to ponder while also granting Indigenous peoples more access to their ancestral and cultural artifacts and presence within the museums (Neale & Kowal, 2020). However, Indigenous academics have recently highlighted that decolonial museology privileges one

Indigenous epistemology over others by only displaying artifacts for which they can find Indigenous curators who have genealogical authority over them (Neale & Kowal, 2020). Timothy Neale and Emma Kowal (2020) theorize that white settler academics and museologists must be critically self-reflexive and engage with the consequences of whom they recognize, the specific epistemes they recognize, and whom they are responsible for when (re)telling decolonial histories. Problematic with this interpretation is that white settlers still have the job of *recognizing* Indigenous authority over Indigenous cultural artifacts and remains. While universities or museums may allow Indigenous peoples into their spaces to educate settlers on the history and importance of their cultural artifacts or ancestors' remains, the white settler institutions still 'own' and control these artifacts or remains.

Anthropology has created the circumstances necessary for settler colonial rhetoric to continue to define Indigeneity, even in modern universities and museums. In the above examples, we can see that since the nineteenth century, white settler anthropologists have continued to control and manipulate Indigenous cultures for white settler gain. These examples illuminate how settler colonial social and political hierarchies used to maintain white settler domination are created and maintained through anthropology.

5.3: Anthropology & Hierarchies

Fundamental to anthropology is its use to create and maintain social and political hierarchies that hold white settlers, especially men, as naturally superior to all others (Parezo & Troutman, 2001). Through its reliance on social Darwinism, white settler men have used anthropology in North America to create a reinforcing feedback loop in which white settlers indefinitely validate their ontologies because anthropology confirms them as innately more civilized than other races (Parezo & Troutman, 2001; Tsosie, 2017). In many instances in early

North American anthropology, white settler anthropologists employed comparison as a methodology to 'prove' that these social and political hierarchies naturally existed (Parezo & Troutman, 2001). For example, William John McGee, an anthropologist for the Smithsonian Institution, went so far as to gather Indigenous peoples from around the globe and physically order them from most to least racially and culturally civilized, placing white European men at the top of the civility hierarchy (Parezo & Troutman, 2001). White settler anthropologists thus used anthropology to force white settler ontology onto Indigenous lands in North America by using Indigenous peoples as scientific specimens and objects that would justify settler colonial subjugation through "self-celebratory rhetoric" to a white settler public (Parezo & Troutman, 2001, p. 30). As such, anthropology in nineteenth-century North America became a backbone upon which settler colonial, heteropatriarchal, and capitalist hierarchies were created and validated.

Along with the settler colonialism inherent in anthropology are the heteropatriarchy and the capitalist hierarchies, two social and political hierarchies that work with settler colonialism to maintain white male settler domination. The following sections will outline the connections between anthropology, settler colonialism, heteropatriarchy, and the capitalist hierarchy. In addition, these sections will explain how the settler colonial anthropological theory of Indigenous incivility is foundational to the settler colonial, heteropatriarchal, capitalist ideologies we see in modern social and political discourse surrounding Indigenous rights.

5.4: Anthropology & Heteropatriarchy

As demonstrated above, anthropology in nineteenth-century North America was used to create settler colonial social and political hierarchies that characterized Indigenous peoples as uncivil to justify their subjugation and white settlers stealing their lands. Since the primary goal

of North American anthropology was to epistemically construct Indigenous peoples as uncivil in order to place white male settlers atop social and political hierarchies, anthropology attacked all aspects of Indigenous lives and cultures. As such, white settler anthropologists employed heteropatriarchal ideology when examining and judging Indigenous cultures and nations to further their subjugation. Heteropatriarchal ideology in anthropology served to one, facilitate and justify the subjugation and domination of Indigenous peoples in North America by white settlers, and two, uphold white settler imposed social and political hierarchies that position Indigenous peoples as uncivil and white settler men as the most civil and innately better than all others.

First, as mentioned above, anthropology was not used to understand Indigenous peoples *as people* nor their cultures (Bird, 2001). Although S. Elizabeth Bird (2001) argues that white settler anthropologists could not understand Indigenous cultures because of their epistemic framework, I argue that they purposefully misunderstood and took Indigenous cultures and ontologies out of cultural or historical context. First, white settler anthropologists employed settler colonial and heteropatriarchal ideologies in their ethnographies in order to deny Indigenous peoples' sexualities and sexual identities (Bird, 2001). Specifically, white settler anthropologists labelled Indigenous sexualities as uncivil and deficient in comparison to white sexuality (Bird, 2001). This belittling of Indigenous sexualities went so far as Lewis Henry Morgan (1851), a prominent American anthropologist, stating that Haudenosaunee people have no understanding of and cannot even fathom sexual love "between the sexes" that "originates in a higher development" (as cited in Bird, 2001, p. 66). In this quote, Morgan (1851) denies Haudenosaunee sexual and romantic agency and labels them underdeveloped. Morgan (1851) also forces heteropatriarchal ideology onto Haudenosaunee love by denying same-sex love and non-heteronormative gender identities. Commonly in North American anthropology, Indigenous

2SLGBTQQIA+ peoples have been denied agency, their voices ignored, and their experiences dissected by eurocentric white settler anthropologists (Thomas & Jacobs, 1999). For example, anthropologists invented and used the term “berdache” as a derogatory catch-all for Indigenous queerness in North America (Thomas & Jacobs, 1999). Instead of working to understand the nuances of gender and sexuality within Indigenous nations, white settler anthropologists applied their heteropatriarchal epistemology to other and marginalize Indigenous queerness.

Second, anthropology was used to sexually objectify Indigenous women to justify white male settler domination. During the early eighteenth century, would-be anthropologist John Lawson described Indigenous women in North and South Carolina as preferring white men over their community members and as “very serviceable” to white settler men (Washburn, 1964, pp. 46-47). Moving forward, in the mid-nineteenth century Thomas McKenney, the Superintendent of Indian Affairs in the United States from 1824 to 1830, wrote in his ethnography, *History of the Indian Tribes of North America* (1844), that Indigenous women were “trained to servitude from infancy” and existed as “servants rather than the companions of man” (as cited in Bird, 2001, p. 81; Fletcher, n.d.). McKenney’s (1844) anthropological work included conducting experiments to civilize Indigenous peoples by forcing them to Washington to be ‘educated’ by white settlers during his tenure as Superintendent and writing ethnographies about his experiments (Fletcher, n.d.). These anthropological accounts of Indigenous women imply their existence for sexual servitude to both white and Indigenous men. Using anthropological ethnography to objectify and dehumanize Indigenous women with heteropatriarchal and settler colonial ideology enabled white settler men to then justify their abuses of Indigenous women.

Although many Indigenous nations and cultures across North America held women in high regard and made space for varying sexualities and gender identities (Bird, 2001; Krawec,

2022; Simpson, 2017c), white male settler anthropologists purposefully misunderstood and took out of context Indigenous cultures in order to objectify and dehumanize Indigenous peoples. Through the denial of Indigenous sexual agency and the simultaneous sexual objectification and dehumanization of Indigenous women and girls, white settler men "reassured themselves that their own race was indeed the civilized one it aspired to be" (D'Emilio & Freedman, 1988, p. 107). Evidently, heteropatriarchal ideology in anthropology was an integral component of settler colonialism. By strategically denying sexual agency or nonconsensually sexualizing, anthropology made Indigenous peoples into "the sexualized objects of the colonialist gaze" (Bird, 2001, p. 66). The intended consequence of this objectification is both the settler colonial subjugation of Indigenous peoples in North America and the continued maintenance of social and political hierarchies that hold white settlers aloft as the pinnacle of civility.

White settlers enforced heteropatriarchy onto Indigenous lands and nations by using the white settler ontology and ideology inherent in anthropology to dissect and (mis)understand Indigenous cultures, thereby utilizing anthropology as a tool to cyclically confirm white settler civility and Indigenous incivility. In employing anthropology to justify white settler men's abuses and settler colonial land theft, anthropology became not a science but a tool of settler colonialism. The following section will discuss the connection between anthropology and commodification. Since anthropology is a tool of settler colonialism, it works with other ideologies, such as heteropatriarchy, as just demonstrated, to maintain settler colonial social and political hierarchies. As such, anthropology works closely with the capitalist hierarchy, as this hierarchy was used to organize white European society at the time of white settlement in Canada and was therefore deployed to set up white settler society in Canada (Polanyi, 1944).

5.5: Anthropology & The Capitalist Hierarchy

Anthropology employed the capitalist hierarchy in two main ways. First, ethnographic descriptions of Indigenous nations and cultures in North America were imbued with white settler ideology, including the capitalist hierarchy. As such, anthropologists' ethnographic descriptions of Indigenous peoples imposed the capitalist hierarchy into contexts where it did not belong. In this way, white settler anthropologists used capitalist ideology to invalidate and devalue Indigenous cultural traditions. For example, anthropologist McGee described a cultural tradition of the Xawiłł kwñchawaay, or Cocopah, peoples in which they would burn the house of someone who died with their body and give the deceased's possessions to non-relatives (Parezo & Troutman, 2001). Instead of attempting to understand this cultural tradition that differed from his culture, McGee (1904a) wrote in his ethnographic work that this cultural practice made it so that the Xawiłł kwñchawaay "are perpetually impoverished" (as cited in Parezo & Troutman, 2001, p. 16). In this instance, McGee (1904a) is not only misunderstanding Indigenous cultural traditions due to his eurocentric anthropological lens but also pushing capitalist ideologies of individual accumulation and wealth hoarding onto Indigenous communities through anthropology.

McGee (1904b) further states in his ethnographic work about the Xawiłł kwñchawaay that "their early extinction seems inevitable" (as cited in Parezo & Troutman, 2001, p. 16). McGee (1904b) here foretells the death of this entire Indigenous nation because their ontology does not include the capitalist hierarchy. In this way, white settler anthropologists devalued Indigenous cultural traditions while over-valuing white European ontology through anthropology by epistemologically enforcing the capitalist hierarchy in spaces that it did not belong. Using the capitalist hierarchy through anthropology to invalidate Indigenous ontologies and cultural

traditions then excused and justified settler colonialism, in that settlers positioned themselves as the civil 'saviors' that would 'uplift' Indigenous peoples into white settler capitalist society (Parezo & Troutman, 2001).

Second, anthropological exhibits were used to create the circumstances necessary for white settlers to sell Indigenous cultural artifacts or force Indigenous peoples to sell their cultural artifacts (Parezo & Troutman, 2001). In this way, the capitalist hierarchy was forced onto Indigenous peoples and cultures, enabling white settler abuses of Indigenous cultural artifacts for profit. This process commodified Indigenous peoples, cultures, and cultural artifacts by and for white settlers. This next section will discuss specifically how anthropology facilitated the commodification of Indigeneity.

5.6: Anthropology & Commodification

This literature review has thus far demonstrated that anthropology is biased in favour of white settler men as it is foundationally eurocentric, settler colonial, heteropatriarchal, and capitalist. Aside from the epistemic misunderstanding of Indigenous peoples to justify settler colonial abuses, anthropology also worked to commodify Indigeneity for white settler profit.

In some instances, anthropology was not utilized as a scientific discipline but instead used as a way for white settlers to secure profit; the 1904 Louisiana Purchase Exposition (LPE) provides a great example. The 1904 LPE was a 7-month international exposition held in St. Louis, Missouri, which covered more than 12 acres and attracted more than 19 million people (Parezo & Troutman, 2001). Anthropology was only thought to be included in the LPE mere months before the opening because the LPE planning committee feared that they would not entice enough visitors to make a profit (Parezo & Troutman, 2001). The decision to include anthropology led to a hastily created Anthropology Department for the LPE and an anthropology

exhibit was conceptualized, which ended up being one of the main attractions of the exposition (Parezo & Troutman, 2001). In this example, anthropology was not included in the LPE for its purported use in advancing scientific knowledge; it was included to secure white settler profit by enticing tourists. Anthropology's use to entice tourists to spend their money led white anthropologists to discover that they could use anthropology alone to make a profit.

After white settler anthropologists learned that anthropology was interesting enough for people to spend their money to see exhibits, white anthropologists began commodifying Indigeneity as a whole for profit (Parezo & Troutman, 2001). The 1904 LPE further demonstrates how this commodification took place and was normalized. "By 1904, anthropology had secured the status and recognition among all other professions as the authority on non-Western peoples and their arts" (Parezo & Troutman, 2001, p. 6). As such, the 1904 LPE gathered Indigenous peoples from across the world and brought them to live their 'traditional' lives in an anthropological exhibit on the fairgrounds for white entertainment and profit (Parezo & Troutman, 2001). As parts of an anthropological exhibit, Indigenous peoples were forced to live their everyday lives under nearly constant surveillance from white settler anthropologists and tourists (Parezo & Troutman, 2001). White settler anthropologists forced Indigenous peoples to live under surveillance so they could charge tourists to watch Indigenous peoples simply exist; in this way, all aspects of Indigenous life and Indigeneity were commodified (Parezo & Troutman, 2001).

On top of commodifying Indigenous lives, anthropologists determined that they could profit more by selling Indigenous cultural artifacts. The Indigenous peoples who lived in the LPE anthropological exhibit were forced to give up their arts and cultural artifacts in exchange for food and shelter (Parezo & Troutman, 2001). White anthropologists then sold these cultural arts

and artifacts: “The tourists and native peoples witnessed and engaged in the market economy through fabricated trading posts where articles made by the native peoples were commodified, exchanged, and sold” (Parezo & Troutman, 2001, p. 11). This anthropological exhibit successfully enforced the capitalist hierarchy into cultures where it did not belong in order to commodify them for white settler profit. Indigenous peoples were forced to act as the proletariat and labour for their food and shelter, while white anthropologists acted as the bourgeoise by commodifying the products of Indigenous labour and selling them for white settler profit. However, Indigenous peoples owned the means of production, their cultural knowledge and experience. Thus, white settler anthropologists used settler colonial abuse to force Indigenous peoples into producing their cultural arts and artifacts in ways such as dispossessing them from their lands and onto fairgrounds, as was done for the LPE.

Finally, white anthropologists also forced Indigenous peoples into situations where they were forced to sell their cultural artifacts to survive. Often, the economic and political positions of Indigenous peoples were exploited by white anthropologists to either obtain or force the sale of Indigenous cultural artifacts (Trump, 2001). For the Xawiłł kwñchawaay peoples specifically, since the Colorado River was diverted from their traditional territory and made their traditional farming impossible, many were forced into waged labor in the capitalist market (Parezo & Troutman, 2001). As such, the opportunity to get paid at the LPE became an almost impossible offer to refuse (Parezo & Troutman, 2001). However, once at the LPE, many Indigenous peoples learned that they would not be compensated in money but only in transportation and food (Parezo & Troutman, 2001). In order to make money and survive, Indigenous peoples in the LPE were forced to sell cultural artifacts or arts (Parezo & Troutman, 2001). For example, Xawiłł kwñchawaay women were forced to sell their beadwork to make money, while all Indigenous

peoples in the LPE were forced to sell types of cultural capital, including stories, sacred dances or rituals, and music (Parezo & Troutman, 2001). Although Indigenous peoples had, and still have, the agency to choose whether to sell their cultural arts or artifacts, white settler anthropologists purposefully exploited the poor economic and political positions of Indigenous peoples due to settler colonization in order to commodify Indigeneity for white settler profit. In this way, through the purchase of Indigenous cultural artifacts and arts, white settler tourists always remember(ed) their interactions with Indigenous peoples in a commodified state, and anthropologists successfully commodified Indigeneity in the white settler collective consciousness (Parezo & Troutman, 2001).

The LPE serves as a strong case study for analyzing the early use of anthropology to commodify Indigeneity. Although anthropological exhibits such as the LPE would no longer be tolerated in North America, Indigenous cultural artifacts are still commodified through anthropological exhibits in museums when people pay to view them. Indigenous artifacts are also continually commodified in universities that hold them captive, using them for often white settler scholars to study and profit off. As a result of this continual commodification of Indigeneity by dominant settler institutions, the white settler public is taught to view Indigenous peoples through a nationalist, settler colonial, heteropatriarchal, capitalist lens (Parezo & Troutman, 2001).

One of the consequences of employing the capitalist hierarchy in ethnographic depictions of Indigenous peoples to conceptualize them as uncivil is the empowerment of the Canadian government to commodify Indigenous lands. Starblanket and Hunt (2020) and Moreton-Robinson (2015) highlight the connection between conceptualizing Indigenous peoples and lands as uncivil and capitalism. Since Indigenous peoples and lands in Saskatchewan were

conceptualized as uncivil or in a "state of nature," the Canadian government asserted that they had the right to all the lands in Saskatchewan (Starblanket & Hunt, 2020, p. 46). Additionally, private property was seen as foundational to civil society, and thus the Canadian government needed to convert Indigenous lands into private property (Moreton-Robinson, 2015; Starblanket & Hunt, 2020). The implementation of the Doctrine of Discovery, facilitated by the white settler anthropological theory of Indigenous incivility, allowed the Canadian government to invalidate and attempt to eradicate Indigenous peoples in the prairie provinces while commodifying Indigenous lands into private property for white settlers to settle. Creating private property meant profit for the Canadian and Saskatchewan governments, as the *Constitution Act* (1982) gave the Canadian Crown unlimited taxing powers, allowing the provincial government to tax income and private property (Carter, 2022). In the present, Indigenous ontologies and epistemologies of property ownership that exist outside the logic of capitalism, such as communal ownership, are not accorded equal respect or legal recognition because Indigenous peoples are only recognized as civil through the lens of private property and proprietary rights (Moreton-Robinson, 2015). Therefore, the conceptualization of Indigenous peoples as uncivil through anthropology was a vital technique enacted to ensure the commodification of Indigenous lands in Canada.

5.7: Conclusion

Still today, anthropologists are counted as the 'experts' on Indigenous histories, cultures, and cultural artifacts, while the perspectives of Indigenous peoples are often dismissed as not credible, biased, or uninformed, as we will see in the case study of *The Heritage Property Act* (1979-80) (Tsosie, 2017). From its earliest uses by white settler men in North America to its current iteration, anthropology is a settler colonial tool used to epistemically conceptualize Indigenous peoples as uncivil others. Through settler colonial, heteropatriarchal, and capitalist

ideologies, anthropology epistemically and physically maintains social and political hierarchies that laud white men as the peak of civility and Indigenous peoples as uncivil. Therefore, anthropology is foundational to the settler colonial, heteropatriarchal, capitalist ideology we see in modern social and political discourse surrounding Indigenous rights, including rights to cultural artifacts. As Vine Deloria (1988), Lakota historian and activist, markedly states, "behind each policy and program with which Indians are plagued… stands the anthropologist" (p. 81).

Section 6: The 'Incivility' of Indigenous Peoples & Settler Colonial Law

As the above section demonstrates, settler anthropologists employed settler colonial, heteropatriarchal, and capitalist ideologies and hierarchies to conceptualize Indigenous peoples as uncivil to justify settler colonial abuse and land theft. Expressly, settler anthropologists employed the above-mentioned ideologies to help found a settler society that views racial groups, such as white, Indigenous, and Black, through the frames of a civilizational hierarchy, epistemically identical to the physical civility hierarchy that anthropologist McGee laid out (Parezo & Troutman, 2001). This settler colonial theory of incivility applied to Indigenous peoples in North America by white settler anthropologists is foundational to the modern-day social and political discourse surrounding Indigenous rights. The myth that Indigenous peoples were, and still are, inherently uncivil in comparison to white settlers allows the continued application of the Doctrine of Discovery on Indigenous lands and ongoing settler colonial violence against Indigenous peoples. This section will briefly explore how the settler colonial notion of Indigenous incivility grew from an anthropological theory to a 'truth' in the white settler collective imagination. Following that, on par with the law being discussed in this thesis, this section will examine how this notion of Indigenous incivility and its reinforcement of the Doctrine of Discovery plague settler colonial Canadian law relating to Indigenous rights.

The use of anthropology to create and maintain social and political hierarchies is evident in the anthropological depiction of Indigenous peoples in North American as “primitive” and thus uncivil (Biolsi, 1997, p. 136). As discussed above, anthropology drew on the existing settler colonial ideology of civility to further settler colonial, heteropatriarchal, and capitalist motives. Through white male settler use of anthropology, ‘civility’ became the pinnacle of the justification of settler colonial, heteropatriarchal, and capitalist abuses against Indigenous peoples and on Indigenous lands.

Among early white settler anthropologists, the work of forcefully civilizing Indigenous peoples was positioned as the “white man’s burden” (McGee, 1904a, as cited in Parezo & Troutman, 2001, p. 10). Since white settler anthropologists conceptualized Indigenous cultures as less than in comparison to white settler culture, they had no qualms with attempting to destroy them in the name of civility. For example, the final section of the anthropological exhibit at the 1904 LPE was a government-sponsored ‘Indian school,’ similar to Canadian residential schools, which tourists could visit and see the “civilizing” effects of white settler ontology forced on Onyota’a:ka, Lakota, Dakota, Akimel O’odham, and Hinono’eino children (Parezo & Troutman, 2001, p. 10). This school was described by McGee (1904a) as moving Indigenous children from “ignorance toward knowledge, and from helplessness toward competence” and by white settler anthropologist Samuel McCowan when writing to McGee (n.d.) as demonstrating “the most advanced methods of raising our surviving aborigines to the plane of citizenship” (as cited in Parezo & Troutman, 2001, p. 10). As these quotes demonstrate, the white settler anthropological theory of Indigenous incivility wrote off Indigenous ways of knowing and doing because they were incommensurate with white settler ontology. Moreover, McCowan exemplifies how the Doctrine of Discovery works with the settler theory of Indigenous incivility by claiming that

Indigenous peoples do not have citizenship until they are ‘civil’ like white settlers. As already discussed, we saw the impacts of these civilizing efforts in Canada and Saskatchewan through the use of residential schools and the child welfare system.

In the Saskatchewan section of my literature review above, I chronicle the implementation of Canadian laws on Indigenous lands. As discussed in that section, when the Canadian government shifted into settler colonial policies focused on building permanent white settlements in Saskatchewan due to the declining profitability of the fur trade, they needed justification for the dispossession and attempted eradication of Indigenous inhabitants (Starblanket & Hunt, 2020). It is at this point that the Canadian government employed the white settler anthropological theory of Indigenous incivility to facilitate the settler colonization of the prairies by ideologically conceptualizing the prairies as in a “state of nature” with uncivil primitive inhabitants in need of civilization (Starblanket & Hunt, 2020, p. 46). Through this implementation of the theory of Indigenous incivility and its co-conspirator, the Doctrine of Discovery, on the prairies, the conceptualization of Indigenous peoples as inherently uncivil began entering the white collective imagination. This theory of Indigenous incivility and how the Canadian government insidiously placed it into the white settler collective imagination through laws and policies is easily traceable through the Saskatchewan section of my literature review. Therefore, the white settler anthropological theory that Indigenous peoples are inherently uncivil became the basis for many laws and policies regarding Indigenous rights in Canada.

These above examples show a clear line from white settler anthropological use of ‘uncivil’ to its integration into mainstream white settler society. White settler anthropologists used their power to begin implementing aggressive civilization efforts on Indigenous nations through anthropological exhibits. Although anthropologists had a large hand in putting the idea

that Indigenous peoples were uncivil into the white settler collective imagination, it was not solely their doing. Settler colonial governments latched onto this anthropological theory and implemented it to support their settler colonial needs. As explained by Elizabeth Bird (2001), white settler anthropological depictions of Indigenous peoples and cultures as uncivil are "white cultural products" that flowed from eurocentric anthropological practices (p. 64). These white cultural products have continued to inform settler-Indigenous relations in North American social, legal, and political realms of society.

6.1: Epistemic Aspects of Indigenous 'Incivility' in Law

Before we analyze the physical and material consequences of the notion of Indigenous incivility being foundational to many Canadian laws, we must first expose the settler colonial and racist epistemic foundations of Canadian law. Then we must examine how the idea that Indigenous peoples are inherently uncivil and white settlers are innately civil epistemically justifies settler colonial law on Indigenous lands.

Law and politics are not immune to the settler colonialism, racism, and heteropatriarchy employed during the earliest interactions between Indigenous peoples and white European settlers (Starblanket & Hunt, 2020). Since the Canadian legal system was implemented and used as the primary instrument to ensure Indigenous subjugation and settler domination, these problematic ideologies continue to structure Canadian law (Starblanket & Hunt, 2020). Moreover, because the Canadian legal system has employed the logic of the Doctrine of Discovery since its foundation, forcefully applying settler law where Indigenous laws already exist, it will always work to ensure the reproduction of settler government sovereignty over Indigenous lands, peoples, and cultures (McAdam, 2015; Pasternak et al., 2014; Starblanket & Hunt, 2020). The reproduction of settler government sovereignty over Indigenous lands in

Saskatchewan can be seen in the capitalist, individualistic, private property-oriented forms of law that "operate as a technology of colonial jurisdiction" to privilege settler rights over Indigenous political and legal systems (Pasternak, 2017, p. 116; Starblanket & Hunt, 2020). Thus, contemporary iterations of Canadian institutions, including the Canadian and Saskatchewan legal systems and governments, must be understood through their settler colonial, Doctrine of Discovery, capitalist, heteropatriarchal epistemic origins; these epistemic origins remain woven into the fabric of Canadian social, political, and legal life (Starblanket & Hunt, 2020). By understanding the epistemic origins foundational to Canadian law, we can explore how the settler colonial theory of Indigenous incivility epistemically justifies settler colonial law on Indigenous lands.

According to Starblanket & Hunt (2020), Arneil (1996), and Tully (1995), settler colonialism relied and still relies heavily on this notion of white civility to justify the application of white settler epistemology and, thereby, laws on Indigenous lands and against Indigenous peoples. This notion of white civility and Indigenous incivility further justifies white settler regulation and domination of Indigenous peoples and lands through law and policy (Arneil, 1996; Starblanket & Hunt, 2020; Tully, 1995). Starblanket & Hunt (2020) argue that on the current Canadian prairies, white settlers operationalize property, citizenship, and national identity boundaries to "affirm their superiority and authority" over Indigenous peoples by way of comparison (p. 81). Notably, although the anthropological methodology of overtly comparing white people against other races to confirm white superiority has mostly long past, its epistemic remnants endure. Thus, I argue that white settlers on the prairies are operationalizing their white supremacist fantasy that they are inherently civilized in comparison to 'uncivil' Indigenous peoples in an unconscious call-back to the anthropological methodology that created this binary

trope of civilization versus savagery in the first place. The ideas of property, citizenship, and national identity on the prairies are inextricably bound to the notions of white civility and Indigenous incivility supported by the Doctrine of Discovery. The white settler process of comparing themselves to Indigenous peoples to confirm their civility includes the processes of gendering, racializing, and othering Indigenous peoples in ways that protect white settler political and social hierarchies, which subjugate Indigenous peoples (Starblanket & Hunt, 2020).

This process of settlers confirming their inherent civility in contrast to Indigenous incivility is co-constituted by Canadian law and policy, as the Canadian state was built upon Indigenous peoples' legal and political subordination (Starblanket & Hunt, 2020). As explained by Starblanket & Hunt (2020), the Canadian legal system functions based on stories and decisions from earlier cases. However, since the Canadian legal system was built upon settler colonial stories of Indigenous incivility and white supremacy, many stories and previous cases within the law dehumanize and neglect Indigenous peoples (Starblanket & Hunt, 2020). Over time, the notion of Indigenous incivility has become normalized as 'lawful' even when the legal system is clearly discriminatory against Indigenous peoples because this deeply rooted racism has been invisiblized as part of 'normal' Canadian life (Starblanket & Hunt, 2020). It is not surprising that the settler colonial and racist formations of Canadian law have never been meaningfully questioned nor reconfigured by settlers, considering that Canadian law was built by and for white European settlers (Starblanket & Hunt, 2020). Therefore, Canadian law is not universally 'lawful' nor objective, but because it works in the favour of settlers, they often refuse to acknowledge this fact. As with early settler practices on the prairies, the current Canadian legal system still operates with the eliminatory logic of the Doctrine of Discovery brought to Indigenous lands by white settlers. Thus, the Canadian legal system is based on white settler

social and political hierarchies designed to “naturalize and ensure the reproduction of Canadian sovereignty over Indigenous lands and people” (Starblanket & Hunt, 2020, p. 82).

One way the Canadian legal system ensures the reproduction of Canadian sovereignty and the subordination of Indigenous legal and political rights is through epistemic injustice. Settler colonial legal systems, such as the Canadian legal system, are built upon white settler ontology (Tsosie, 2017). As such, the Canadian legal system constantly causes epistemic injustice for Indigenous peoples because its structure that rules on their rights and abilities to receive reparations for historical wrongs is based upon an ontology that disregards Indigenous ways of knowing and doing, as well as often excludes Indigenous peoples from full participation in the epistemic practices of white settler society and culture (Tsosie, 2017). In this way, the Canadian legal system continues to ‘other’ Indigenous peoples and cultures (Tsosie, 2017). As Tsosie (2017) and Gaile Pohlhaus Jr. (2014) explain, white settlers have always conceptualized Indigenous peoples in comparison to themselves and against their ontology. Instead of Indigenous peoples being able to define themselves and have their tribal governments recognized, which are pre- and extra-constitutional, since before confederation, they have been defined by white settlers as ‘deficient’ in comparison to said settlers (Tsosie, 2017). In this way, settlers have used the theory of Indigenous incivility to deny Indigenous peoples their epistemic frameworks in dominant white settler social, legal, and political realms. Here we also see the comparative anthropological methodology still thriving in the Canadian legal system. This epistemic injustice, based on the idea that Indigenous peoples are inherently uncivil, has been used to deny Indigenous rights, such as Indigenous cultural artifacts being stolen, commodified, and appropriated “on the theory that Indigenous cultural property does not merit the same protection accorded to owners or authors and artists within Western society” (Tsosie, 2017, p.

361). This epistemic injustice in Canadian law, which privileges white settler knowledge, has physical and material consequences even with respect to fundamental issues like who deserves to be legally recognized as Indigenous; this will be discussed in length ahead when I examine the *Indian Act* (1985).

To examine a concrete example of how epistemic injustice causes material consequences for Indigenous peoples on the Canadian prairies, we must look at how one aspect of white settler ontology is that private property is foundational to civil society (Moreton-Robinson, 2015; Starblanket & Hunt, 2020). In the Canadian prairies, the law has been used to impose this settler ontological view of the world to cause epistemic injustice against and dominate Indigenous peoples and lands (Erikson, 2011). Since Indigenous peoples were not considered citizens due to the Doctrine of Discovery and their purported incivility, they could not own private property. When the settler Canadian government then imposed a legal system that protected the "liberal individual citizen" and "his right to self-preservation and the pursuit of property," the settler government effectively epistemically constructed Indigenous peoples as "deficient individuals," giving legal rights to only white male settlers (Erikson, 2011, p. 22; Starblanket & Hunt, 2020, p. 61). This example demonstrates how the settler Canadian government viewing Indigenous peoples as uncivil and white settlers as civil epistemically justifies the implementation of settler colonial law on the prairies and causes epistemic injustice and material and legal consequences for Indigenous peoples. The legal consequences were that Indigenous peoples were not considered citizens, the material consequences that Indigenous peoples were unable to own private property and thus were dispossessed from their lands, and the epistemic injustice occurred through the white settler capitalist hierarchy being forcefully applied on lands where it is not part of the Indigenous occupants' epistemes.

Importantly, white settlers viewing Indigenous peoples as uncivilized facilitated them epistemically constructing Indigenous peoples as threats to Canadian national interests (Starblanket & Hunt, 2020). The Doctrine of Discovery worked to initially bar Indigenous peoples from Canadian citizenship due to white settler anthropological and philosophical theories of Indigenous incivility. As such, white settlers were conceptualized by the Canadian government and themselves as the only "proper, rights-bearing citizens" who were thereby civilized enough to enter social contracts that promised freedom and rights (Moreton-Robinson, 2015; Starblanket & Hunt, 2020, p. 82). In this way, a 'truth' in the white settler collective imagination became that only those who could enter social contracts and gain true citizenship, read white settlers, had the nation's well-being in mind and could protect national interests (Moreton-Robinson, 2015; Starblanket & Hunt, 2020).

Indigenous peoples have since been legally afforded citizenship in Canada, causing the settler colonial government to grow anxious about maintaining settler domination and protecting total settler sovereignty. Although the settler Canadian federal and provincial governments allege that Indigenous sovereignties have long been extinguished thanks to the signing of treaties or confederation, these governments still hold anxieties that Indigenous peoples will dispossess white settlers and the settler governments of private property just as white settlers dispossessed Indigenous nations through the use of the Doctrine of Discovery (Moreton-Robinson, 2015; Starblanket & Hunt, 2020). Therefore, any mention of Indigenous sovereignty is immediately recognized as a threat to the settler colonial government and enacts a government response that reproduces homogenizing settler colonial liberal political discourse claiming that "we" are all equal within the Canadian nation state (Mann, 2020; Moreton-Robinson, 2015; Starblanket & Hunt, 2020). This political discourse epistemically constructs Indigenous sovereignties as threats

to Canadian national interests by naturalizing the white settler ontology while conceptualizing Indigenous ontologies as dangerous to the Canadian national interest, thereby causing epistemic injustice against Indigenous peoples. Therefore, Indigenous peoples' rights were and are positioned as inherent threats to the Canadian national interest and settlers (Starblanket & Hunt, 2020). In this way, state violence against Indigenous peoples is naturalized and normalized because it is epistemically conceptualized as being in the best interest of the Canadian nation state (Starblanket & Hunt, 2020). Consequently, the Canadian national interest, or the interests of its "proper, rights-bearing citizens," have and will always depend upon denying Indigenous rights (Starblanket & Hunt, 2020, p. 82).

Although Indigenous peoples in Canada have been legally recognized as Canadian citizens, settlers still often conceptualize of and treat Indigenous peoples as uncivil and unworthy of proprietary rights (Moreton-Robinson, 2015). Therefore, due to the belief that Indigenous peoples are inherently uncivil in the settler collective consciousness, Indigenous political critiques are regularly regarded by settlers and the settler government as threats (Starblanket & Hunt, 2020); infantilized with the assumption that Indigenous peoples are not yet civil enough to understand the need for social contracts in the forms of private property and settler colonial domination.

Section 7: The Present: Settler Colonial Law in Canada

As the above portion of my literature review demonstrates, the logic of the Doctrine of Discovery presently lives on in Canadian law, policy, and governments. This section of my literature review explores how multiple theorists implicitly demonstrate the settler colonial Doctrine of Discovery and capitalist and heteropatriarchal ideologies in current Canadian law. More importantly, these theorists help me demonstrate how these settler colonial, capitalist, and

heteropatriarchal ideologies that conceptualize Indigenous peoples as uncivil or as threats are used to commodify Indigenous cultures and lands.

7.1: Economic Law

Anna Stanley (2016) and Dawn Hoogeveen (2015) explore how Canadian economic policy conceptualizes Indigenous peoples as threats to economic security to justify the continued white settler ownership and commodification of Indigenous lands. Stanley (2016) and Hoogeveen (2015) also illustrate how the settler colonial capitalist ideologies of property and ownership are forced onto Indigenous societies.

Stanley (2016) explores how economic laws in Canada exist to serve capitalist expansion and land commodification by purposefully conceptualizing Indigenous peoples as threats to Canadian economic interests in order to maintain white settler occupation, ownership, and exploitation of Indigenous lands. Stanley (2016) finds that Indigenous sovereignties are conceptualized as threats to national economic security and investment capital in changes made to flow-through share tax incentives introduced by Canada's 2012 multi-year Responsible Resource Development economic action plan. These tax incentives explicitly conceptualize Indigenous sovereignties as threats to mining firms and Canadian economic security by allowing mining firms to raise capital on the basis of tax credits for expenses incurred when working with and around Indigenous sovereignties (Stanley, 2016). These changes made to flow-through share tax incentives are specifically framed as "antidotes" created to protect the "resilience" of the mining sector when interacting and working with Indigenous land protectors and from the negative effect that these interactions have on mining firms' abilities to raise exploration capital (Stanley, 2016, p. 2431). With this analysis, Stanley (2016) demonstrates that Canadian mining laws conceptualize Indigenous sovereignties as threats to the economic security created by

ongoing mining projects by coding Indigenous land protectors as an obstacle that must be overcome by raising capital on the basis of tax credits for expenses incurred when working around Indigenous sovereignties. Stanley (2016) thereby illustrates that Indigenous sovereignties are sacrificed not as a by-product of Canadian economic policies but as a foundational aspect of Canadian laws that uphold economic securities, which is deeply interconnected with ongoing settler colonialism.

Focusing more on the epistemic aspect of economic law in Canada than Stanley (2016), Hoogeveen (2015) examines notions of property by exploring how settler colonial and white eurocentric capitalist understandings of property are embedded within Canada's mining laws to advance the settler colonial project. By ensuring that the debates surrounding free-entry mineral staking and the institutionalization of sub-surface rights remain focused on *who* owns sub-surface minerals instead of *why* the sub-surface and its resources must be subject to ownership, these liberal capitalist ideologies of property are ingrained in the settler collective imagination (Hoogeveen, 2015). Hoogeveen (2015) thus demonstrates that capitalist ideologies of property are naturalized in debates surrounding free-entry mineral staking, allowing for the ongoing normalization of white settler occupation, ownership, and exploitation of Indigenous lands and furthering the settler colonial project in Canada. Like Pasternak (2017), Hoogeveen (2015) illustrates that the commodification of Indigenous lands and resources is naturalized by any questioning of settler colonial notions of property being disallowed through a focus on claims *to* property instead of claims *about* settler colonial notions of property.

While Stanley (2016) demonstrates that economic laws in Canada are fundamentally shaped around conceptualizing Indigenous peoples as threats to Canadian economic interests and security, Hoogeveen (2015) illustrates how settler colonial capitalist ideology is embedded in

Canadian economic law in order to ensure the ongoing commodification of Indigenous lands. These theorists demonstrate that economic law in Canada recapitulates the Doctrine of Discovery by conceptualizing Indigenous peoples as threats due to their purported incivility and employing settler colonial capitalist property ideology to justify stealing Indigenous lands. The white settler government then secures control over Indigenous lands in order to commodify them to make a profit.

Although economic law is dissimilar from heritage property law that I am critiquing, these theorists demonstrate the rootedness of the Doctrine of Discovery in Canadian laws. Moreover, these two theorists demonstrate how capitalist ideology is used to uphold the Doctrine of Discovery in order to steal and commodify Indigenous lands. The critical part of this analysis is that this is not a problem confined to economic law. As I demonstrate below, capitalist ideology and the Doctrine of Discovery are the roots of many Canadian laws.

7.2: Environmental Law

Nicole Gombay (2015) illustrates that Canadian state-imposed conservation efforts are capitalist policies aimed at advancing settler colonialism by prioritizing resource development over Indigenous sovereignties through anti-Indigenous language in the law. The white settler colonial government uses environmental laws in Canada to gain access to and control over Indigenous lands for the purpose of commodification (Gombay, 2015). When these laws frame Indigenous cultural ways of living as dangerous to the environment, such as ‘poaching,’ they reinforce the Doctrine of Discovery into law by conceptualizing Indigenous cultures as threats to the environment to gain access to Indigenous lands. According to Gombay (2015), these laws also work to infantilize Indigenous peoples by asserting that they cannot care for their lands, thereby further entrenching the Doctrine of Discovery. Moreover, these laws insert white

eurocentric capitalist language and logic incommensurate with Indigenous languages and ontologies into Indigenous societies, such as the term ‘poaching,’ to gain access to and commodify Indigenous lands and resources (Gombay, 2015). Similar to Stanley (2016), Gombay (2015) demonstrates that the Canadian government purposefully sacrifices Indigenous sovereignties to uphold the settler colonial order of society through the employment of the ideology of Doctrine of Discovery and capitalist ideology.

The theorists I reviewed above explain how Canadian law’s rootedness in capitalist ideology and the Doctrine of Discovery allow for the continual conceptualization of Indigenous peoples as inherently uncivil. This conceptualization of Indigenous peoples as uncivil then enables the continued commodification of Indigenous lands, resources, and cultures. However, an essential and missing critique from the limited literature that I could find connecting settler colonialism and capitalism in Canadian law is the use and impact of heteropatriarchy in these laws.

7.3: Heteropatriarchy in Law

Robyn Bourgeois (2017), Joyce Green (2017), Emma LaRocque (2017), and Leanne Simpson (2017b) explain that heteropatriarchy is one of the most fundamental aspects of the settler colonial state, used to colonize Indigenous societies by creating gender and sexual hierarchies within capitalist settler colonial society. Bourgeois (2017) furthers this critique of heteropatriarchy’s role in settler colonialism through an Indigenous feminist anti-oppression inquiry into the Missing and Murdered Indigenous Women, Girls, and Two-Spirit peoples (MMIWG2S) crisis in Canada. Through her inquiry, Bourgeois (2017) finds that the ongoing violence against Indigenous women and girls in Canada is a manifestation of the Canadian state’s use of heteropatriarchy to secure, maintain, and justify white settler access to, and

occupation and exploitation of Indigenous lands to maintain settler colonial domination. By demonstrating the connection between heteropatriarchy and ongoing land theft, Bourgeois' (2017) finding will help me uncover the link between heteropatriarchy and laws that steal and commodify Indigenous lands and, by extension, Indigenous cultures. Although these theorists do not directly examine Canadian law, their analyses are applicable to law, as demonstrated by Rauna Kuokkanen (2019).

Kuokkanen (2019) provides an Indigenous feminist critique from a Sámi perspective of Indigenous self-determination in settler colonial states that uphold capitalist ideology and language, including nation, state, and sovereignty. Kuokkanen (2019) argues that institutional Indigenous self-determination efforts are constrained by settler colonial assessments of the threat of Indigenous self-determination and political autonomy to national unity and security. Moreover, Indigenous self-determination is purposefully sacrificed and often directly attacked when it conflicts with the needs of the settler colonial state, which echoes what Starblanket and Hunt (2020) prove in their analysis of settler-Indigenous relations in Saskatchewan and what Stanley (2016) and Gombay (2015) demonstrated in Canadian economic and environmental law (Kuokkanen, 2019). Through this critique, Kuokkanen (2019) conclusively finds that Indigenous self-government institutions fail to protect Indigenous women, girls, and 2SLGBTQQIA+ peoples by rooting their logic and language in capitalist and settler colonial ideology. By basing their logic in capitalist settler colonial ideology, the heteropatriarchy endemic to these logics is unintentionally reproduced, directly harming Indigenous women, girls, and 2SLGBTQQIA+ peoples. Although this harm is often unintentional on the part of the Indigenous self-government institutions, it is an intentional and purposeful part of settler colonialism. As such, Kuokkanen (2019) demonstrates that capitalist, settler colonial, and heteropatriarchal ideologies and

language are infused into all aspects of law in settler colonial countries, even those created by and for Indigenous peoples.

Although I briefly discussed the *Indian Act* (1985) above, all the literature that I could find examining heteropatriarchy and settler colonialism specifically in Canadian law focuses on the *Indian Act* (1985). As a reminder, the *Indian Act* (1985) applies to First Nations people in Canada who have official status. However, the *Indian Act* (1985) does not apply to Inuit or Métis people, and not all First Nations people in Canada have official status. Bourgeois (2015, 2017), Hill (2009), Renya Ramirez (2007), and Hanson (n.d.a) illustrate how the *Indian Act* (1985) forced heteropatriarchy into Indigenous communities through the specific gender bias written into it. Bourgeois (2017) specifically examines the use of heteropatriarchy to attack matriarchal and matrilineal Indigenous communities to ensure the vulnerability of Indigenous women and children and secure ongoing settler colonial domination. The *Indian Act's* (1985) core legal definition of who is Indian has historically been defined through men, thereby imposing white eurocentric patrilineality and heteropatriarchy into Indigenous communities, many of which were traditionally matriarchal and matrilineal (Bourgeois, 2017). The *Indian Act's* (1985) attack on matriarchal Indigenous communities was also heightened through the imposition of democratically elected band council governance on reserves and the subsequent prohibition of Indian women's participation in these elections or service on the band councils from 1876 to 1951 (Bourgeois, 2017).

The *Indian Act* (1985) also targeted matrilineal Indigenous communities by controlling who was legally considered Indian based on patrilineality. Prior to 1985, the *Indian Act* (1985) made it so that Indian women lost their status when they married non-Indian men and refused to grant status to Indigenous children with non-Indian fathers (Bourgeois, 2015; Hanson, n.d.a;

Hill, 2009). In 1985, the *Indian Act* (1985) was amended with Bill C-31, making it so that women who lost their status between 1951 and 1985 could now have it reinstated; however, women with reinstated status could only pass it on for one generation (Hanson, n.d.a). The gender discrimination of this amendment was fought by Sharon McIvor, who won, leading to the implementation of Bill C-3 in 2011, which afforded women with reinstated status the same rights as men and thus the ability to pass on status for two generations (Conn, 2020).

The Bill C-31 amendment of the *Indian Act* (1985) in 1985 also deemed fathers to be legally non-Indian if their paternity is unknown or unstated on a child's birth certificate, disallowing the child from obtaining Indian status (Nerland, n.d.). Although this policy amendment regarding unstated or unknown paternity has been legally challenged for unconstitutional gender discrimination because it forces women to bear the brunt of 'proving' that they are Indian, it has not yet been declared unconstitutional (Nerland, n.d.). However, in 2017, Dr. Lynn Gehl was legally granted status despite not knowing whom her paternal grandfather was, setting a strong precedent for other Indigenous women to gain status despite unstated or unknown paternity (Nerland, n.d.).

Following McIver's and Gehl's challenges against the *Indian Act* (1985) and the subsequent implementation of Bill C-3, Stéphane Descheneaux challenged the still discriminatory Indian registration provisions of the *Indian Act* (1985). Descheneaux's challenge was successful, leading to the 2019 implementation of Bill S-3 to amend the *Indian Act* (1985) to remedy additional gender discrimination, including eliminating the 1951 cut-off rule (Assembly of First Nations, 2019). Although Bill S-3 addressed issues of inequity that it was designed to address, its application remains inequitable due to its settler colonial foundations. For example, many Indigenous women have indicated that Canadian government staff have not been trained to

answer questions about how to prove Indigenous ancestry when formal documents are not available, which is the case for many people considering the Canadian government's attempted genocide of Indigenous peoples, thus making applying for Indian status difficult or impossible (The Native Women's Association, 2022). This focus on eurocentric capitalist understandings of evidence and 'proof' also has the effect of discounting Indigenous family oral histories, teachings, and lineages, as they are often recorded and passed down in ways that do not fit these eurocentric capitalist standards required by the *Indian Act* (1985) (The Native Women's Association, 2022).

While all three of these legal battles signal a shift in the *Indian Act* (1985) toward gender equity, this paternalistic and settler colonial act is still imbued with heteropatriarchy, as evidenced by the unwillingness of Ontario's Court of Appeal to declare the proof of paternity policy to be unconstitutional and this act's continued fixation on patrilineality (Nerland, n.d.). Moreover, despite these changes to the *Indian Act* (1985), the act remains fundamentally inequitable and settler colonial as it impedes First Nations' rights to self-determination and to determine community membership (The Native Women's Association, 2022).

The intense legal regulation of who is Indian ensures that the settler colonial Canadian government has physical control over status Indians and non-status Indigenous peoples and their lands (Bourgeois, 2015). This control of Indian status has caused the forceful enfranchisement of Indigenous women and children into the settler colonial Canadian state, which enabled and continues to enable state-sponsored trafficking of Indigenous women and children away from their lands, opening these Indigenous lands and their resources for white settler 'discovery' and thereby occupation, exploitation, and commodification (Bourgeois, 2015). This state-manufactured vulnerability of Indigenous lands and resources for the benefit of settlers was

further accomplished by the *Indian Act* (1985) through the enforcement of heteropatriarchal and patronizing compulsory residential school attendance legislation. This residential school attendance legislation, enforced through Indian Agents backed by the *Indian Act* (1985), trafficked Indigenous children with the rationale that Indigenous women were unfit mothers in order to destabilize Indigenous communities and families who protected and cared for their lands (Bourgeois, 2015). The use of heteropatriarchal logic within the *Indian Act* (1985) thus works to control Indian status and to traffic Indigenous women and children for white settler land occupation, ownership, and exploitation.

These theorists expose how gender bias was written into the *Indian Act* (1985) to specifically target matriarchal Indigenous societies and conceptualize matriarchal Indigenous cultures as threats to the heteropatriarchy that upholds the settler colonial Canadian state (Hanson, n.d.a; Hill, 2009; Ramirez, 2007). Bourgeois (2015, 2017) additionally exposes how this heteropatriarchy within the *Indian Act* (1985) facilitates the trafficking of Indigenous women and children to ensure settler ownership, exploitation, and commodification of Indigenous lands and resources. The implementation of heteropatriarchy into the *Indian Act* (1985) and consequent entrenchment of heteropatriarchy into Indigenous communities, as explained by these theorists, again demonstrates the strategic use of heteropatriarchy in Canadian law to establish and maintain white settler colonial occupation, ownership, and exploitation of Indigenous lands.

With these existing critiques of heteropatriarchy, it is difficult to draw direct connections between heteropatriarchy, the Doctrine of Discovery, and the commodification of Indigenous cultures and lands in law. However, heteropatriarchy seems to bolster capitalist and settler colonial ideologies and their maintenance in Canadian law. This examination of the *Indian*

Act (1985) demonstrates how heteropatriarchy in law forces white eurocentric capitalist ideology into Indigenous communities and cultures and onto Indigenous lands. Moreover, Bourgeois' (2015) demonstration of how heteropatriarchy in the *Indian Act* (1985) was and still is used to steal Indigenous lands and resources for settler colonial exploitation and commodification parallels earlier discussion of the use of the Doctrine of Discovery in law to do the same, indicating a link between heteropatriarchy and the Doctrine of Discovery. However, considering the above sections of this literature review, it is clear that the settler colonial notion of Indigenous incivility allows heteropatriarchal ideology, which is endemic to settler colonial and capitalist social formations, to infiltrate Canadian law and support the capitalist hierarchy and the Doctrine of Discovery.

7.4: Conclusion

The ideology of the Doctrine of Discovery is still alive and well in current Canadian law. By imbuing Saskatchewan law with the settler colonial notion of Indigenous incivility, the settler Saskatchewan government has facilitated the settler Saskatchewan public epistemically conceptualizing Indigenous peoples as inherently uncivil in their collective imagination. This viewing of Indigenous peoples as inherently uncivil within Saskatchewan law and the Saskatchewan white settler collective imagination allowed and continues to allow white settler lawmakers to deny Indigenous peoples' rights and normalize these human rights abuses in the minds of the white settler public; human rights abuses like the commodification of Indigenous cultures and lands as demonstrated above. This section of my literature review has demonstrated that the capitalist hierarchy, the settler colonial Doctrine of Discovery, and heteropatriarchy are inextricably entangled in Canadian law, connected by the settler colonial notion of Indigenous incivility.

Section 8: Literature Review Conclusion

This literature review has explicated the relationships between capitalism, the settler colonial Doctrine of Discovery, heteropatriarchy, and the commodification of Indigeneity in the settler colonial Canadian state, the Saskatchewan political climate, and Canadian and Saskatchewan law in order to examine how they work in *The Heritage Property Act* (1979-80). Importantly, this literature review has demonstrated that the settler colonial notions of Indigenous incivility and white civility are central to the continued operation of settler colonial, capitalist, and heteropatriarchal ideology in Canadian law and Saskatchewan laws such as *The Heritage Property Act* (1979-80).

The work examined in this literature review traces a solid line from the first use of the Doctrine of Discovery to its ongoing existence in current Canadian law. However, from the limited sources that I could find that explore the current connections between settler colonialism, capitalism, heteropatriarchy, and the commodification of Indigenous lands or cultures, none specifically investigate laws encompassing Indigenous artifacts or cultures. Thus, my research is filling a gap in the existing literature by exploring these connections concerning the commodification of Indigenous cultures and artifacts through *The Heritage Property Act* (1979-80). My research also fills a gap in the existing literature in multiple other ways. First, of the limited literature that I could find regarding the connections between capitalism, settler colonialism, heteropatriarchy, and current law, only Kuokkanen (2019) and Bourgeois (2015) examine the important role of heteropatriarchy as a function of capitalism and settler colonialism in law outside of the *Indian Act* (1985). Second, although I have included my analysis of the Doctrine of Discovery, none of these articles explicitly examine how the continued existence of the Doctrine of Discovery in Canadian law facilitates the settler colonial commodification of

Indigenous cultures and artifacts. Third, this small amount of existing research does not account for the Métis experience. By grounding my research in my Métis roots, I will be filling another gap in existing Canadian literature.

Chapter III

Case Study: *The Heritage Property Act* (1979-80)

(Decolonize Springfield, 2022)

Considering all the information in this thesis until this point, especially the specific Indigenous-settler relations in Saskatchewan that plague settler colonial Saskatchewan law, we will now move into a case study of *The Heritage Property Act* (1979-80). Instead of a full, in-depth analysis, I will focus on the most relevant sections of this act. Therefore, I will point out portions of the act that are important to this thesis and subsequently analyze them and why they are happening. Since *The Heritage Property Act* (1979-80) is a law full of dense legalese, I will simplify the legalese into more accessible terms in this case study.

Section 1: Introduction to the Act

The Heritage Property Act (1979-80) is a provincial statute that defines itself as "An Act to provide for the Preservation, Interpretation and Development of Certain Aspects of Heritage Property in Saskatchewan, to provide for the continuance of the Saskatchewan Heritage Foundation and to provide for the naming of Geographic Features" (p. 5). Overall, this act's main purpose is to find, acquire access to, 'protect,' and maintain things that it designates as "heritage property," which is defined as archaeological objects, palaeontological objects, "any

property that is of interest for its architectural, historical, cultural, environmental, archaeological, palaeontological, aesthetic or scientific value," and any site where these types of objects or artifacts may be found (*The Heritage Property* Act, 1979-80, p. 6).

The Heritage Property Act (1979-80) established the Saskatchewan Heritage Foundation, which is an agent of the Crown, corporation, and granting agency that provides grants to other corporations, municipalities, groups, and individuals who are "working to preserve our heritage" (Saskatchewan Heritage Foundation, n.d.). This foundation is made up of seven to 15 members appointed by the Lieutenant Governor in Council, and at least three of the members fulfill the duties of the foundation's review board. (*The Heritage Property Act*, 1979-80, ss 5.3, 1-2). The Saskatchewan Heritage Foundation's review board reviews public objections to proposed bylaws to designate, alter, or demolish heritage property (*The Heritage Property Act*, 1979-80, s 5.1, 2). There are no regulations about the race or gender of the people who make up the foundation's members.

Two significant points about the Saskatchewan Heritage Foundation are that it generates revenue and can invest that revenue. Since this foundation is a corporation, it generates revenue and can hold money made from solicited donations, bequests, or gifts relating to heritage property or initiatives (*The Heritage Property Act*, 1979-80, s 5.2, e). The Foundation can also invest any or all of its money in any security or class of securities, which are either stocks or bonds, for investment in the general revenue fund, which is the main fund that receives government revenue and is available to the Legislative Assembly for public services of Saskatchewan (Government of Saskatchewan Ministry of Finance, 2020; *The Heritage Property Act*, 1979-80, s 7.1, a). The Saskatchewan Heritage Foundation can also dispose of and reinvest any of its investments to make a profit (*The Heritage Property Act*, 1979-80, s 7.1, b).

Notably, the foundation is allowed to hold money made through these investments (*The Heritage Property Act*, 1979-80, s 7, d). Moreover, because the foundation is an agent of the Crown, all of its property, including money and heritage property, are property of the Crown (*The Heritage Property Act*, 1979-80, s 5.5, 2). In this context, being property of the Crown means that the Saskatchewan provincial government owns whatever is being discussed.

Section 2: Operation of the Act

An essential distinction in *The Heritage Property Act* (1979-80) is that both municipalities and the provincial minister responsible for the act can designate heritage property. For clarification, the "minister" of *The Heritage Property Act* (1979-80) is the member of the provincial government who holds responsibility for the act. A municipality "includes a band under the Indian Act (Canada) that is permitted to control, manage and expend its revenue moneys pursuant to section 69 of that Act" (ss 2, k-l). A "Band" or "Indian Band" in Canada is a governing group of Indigenous people instituted by the *Indian Act* (1985) and defined by the *Indian Act* (1985) as a "body of Indians… for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart" and is declared a band by the Governor-in-Council (c. I-5; Crey, n.d.b). Under *The Heritage Property Act* (1979-80), the council of a municipality may designate "as a Municipal Heritage Property, any heritage property that is not subject to any other designation pursuant to this Act" (s 11, 1, a). At the same time, the minister may designate, with any terms and conditions, anything within the province as Provincial Heritage Property (*The Heritage Property Act*, 1979-80, s 39, 1). The line "any heritage property that is not subject to any other designation pursuant to this Act" means that if the minister decides to designate something within a municipality as Provincial Heritage

Property, the minister's decision trumps municipal claim to and control over said heritage property (*The Heritage Property Act*, 1979-80, s 11, 1, a).

The Heritage Property Act (1979-80) controls who can access and change designated Provincial Heritage Properties. As soon as the minister issues a notice of intent to designate Provincial Heritage Property, "no person shall destroy, alter, restore, repair, disturb, transport, add to, change or move, in whole or in part, real property designated… or remove any fixtures from any such property" (*The Heritage Property Act*, 1979-80, s 41, 1). The minister can hear requests to access Provincial Heritage Property but "may refuse to grant his consent… subject to any conditions that he considers advisable" (*The Heritage Property Act*, 1979-80, s 44, 2). The minister can, by order, "specify the terms, times and conditions under which the public shall have access to any Provincial Heritage Property owned by the Crown" (*The Heritage Property Act*, 1979-80, s 58, 1, d). The minister can also make regulations about the conditions under which Provincial Heritage Property must be kept, stored, and displayed by the Crown or other private groups or individuals (*The Heritage Property Act*, 1979-80, s 58, 2, b). Moreover, anyone who discovers sites containing archaeological or palaeontological objects previously unknown to the government is legally required to notify the minister within 15 days (*The Heritage Property Act*, 1979-80, s 71, 1).

When Provincial Heritage Property is to be designated, the only notice that the minister must give the affected community is to publish a notice of intention in one issue of a newspaper in general circulation in the area of the heritage property (*The Heritage Property Act*, 1979-80, s 39, 1). If a member of the public wishes to object to the designation of Provincial Heritage Property, they must serve the minister a notice of objection within 30 days of the announcement to designate the Provincial Heritage Property, explaining the reason for the objection (*The*

Heritage Property Act, 1979-80, ss 39, 2 & 40). Following serving an objection, the review board holds a public hearing to consider the objection (*The Heritage Property Act*, 1979-80, s 14, 1). During this public hearing, anyone present has the right to present evidence to the review board in support of the objection; however, the review board is not "bound by the rules of evidence, but may receive and accept any evidence that [they] consider appropriate" (*The Heritage Property Act*, 1979-80, ss 14, 6-7). The review board will then recommend whether the provincial government should acquiesce to the objection or not within 30 days of the hearing. Nonetheless, "failure of the review board to report within [30 days] does not invalidate the hearing or the report" (*The Heritage Property Act*, 1979-80, s 15, 3). If the review board disagrees with the objection, the minister will "proceed with the designation… as if no notice of objection were made" without further hearing or notice (*The Heritage Property Act*, 1979-80, ss 43-43, a).

The Heritage Property Act (1979-80) regulates the 'conservation' of designated Provincial Heritage Property. The minister can legally authorize any person as an officer, which is someone appointed to help enforce this act, to enter any lands in order to inspect a site that the minister is considering designating as heritage property, survey or examine existing heritage property, or carry out work required to preserve the heritage property (*The Heritage Property Act*, 1979-80, ss 62, 1-a, ii). If entry to the minister or authorized officer is refused, the minister can apply to the Court of Queen's Bench without notice and receive an order authorizing their entry to "any land, premises or other place" (*The Heritage Property Act*, 1979-80, s 62, 2). Moreover, if the minister thinks that an individual or group's action may alter or damage heritage property, the minister can ask that person or group to write and submit a report assessing the effects of the activity on the heritage property (*The Heritage Property Act*, 1979-

80, ss 63, 1, a-b). The minister can also deny access to heritage property or order a municipality or other authority to withhold people from accessing heritage property "until the person has, to the satisfaction of the minister, complied" with submitting the assessment (*The Heritage Property Act*, 1979-80, s 63, 2). Authorized officers under *The Heritage Property Act* (1979-80) have the power to ask people for permits to access or alter Municipal or Provincial Heritage Property, and the person to whom this request is made must "immediately comply" (s 72, 1). The officer may also seize any tools from any person they assume to be committing an offense against this act (*The Heritage Property Act*, 1979-80, s 72, 2). Lastly, the officer can legally take anything held by a person they believe violates this act, such as designated heritage property (*The Heritage Property Act*, 1979-80, s 72, 3).

Sections 66.1, 1 and 2 of *The Heritage Property Act* (1979-80) state that "every archaeological object or vertebrate palaeontological object found in or taken from land in Saskatchewan on or after November 28, 1980 is deemed to be the property of the Crown" and that "every palaeontological object, other than a vertebrate palaeontological object, found in or taken from land in Saskatchewan after the coming into force of this section is deemed to be the property of the Crown." For context, "vertebrate palaeontological object" means the skeletal remains, or the traces of activity of a vertebrate animal that lived prior to January 1, 1885 (*The Heritage Property Act,* 1979-80, ss 66 a-b). Additionally, all buried human skeletal remains not found in a recognized cemetery are automatically property of the Crown (*The Heritage Property Act*, 1979-80, s 65, 1). Furthermore, all excavated or naturally exposed Indigenous skeletal remains post-dating 1700 A.D. are to be made available "to the Indian Band Council nearest the discovery site" only after "scientific examination or any use for research or educational purposes that the minister shall decide" (*The Heritage Property Act*, 1979-80, s 65,

3). This act further states, “No person shall remove, excavate, or alter any pictograph, petroglyph, human skeletal material, burial object, burial place or mound, boulder effigy or medicine wheel except as authorized by a subsisting permit from the minister” (*The Heritage Property Act*, 1979-80, s 64, 2).

Regarding penalties for not following this act, anyone who does not follow the act or orders given under it “is guilty of an offence” (*The Heritage Property Act*, 1979-80, s 73, 1). If the guilty party is a corporation, they are liable to a fine of no more than $250,000 (*The Heritage Property Act*, 1979-80, ss 73 a-b). If the guilty party is an individual, they are liable to a fine of no more than $5,000, imprisonment for no more than six months, or both a fine and imprisonment (*The Heritage Property Act*, 1979-80, ss 73 a-b). In addition, if a person is convicted of damaging Provincial Heritage Property, they owe the money necessary to restore the heritage property to the minister (*The Heritage Property Act*, 1979-80, s 73, 2). Lastly, if the minister decides that a designated Provincial or Municipal Heritage Property is blocking “a development project that is of major significance to and benefit for the people of Saskatchewan,” the minister can exempt the property from its heritage designation so the development project can proceed (*The Heritage Property Act*, 1979-80, s 71.1, 1).

Section 3: Analysis of the Act

This analysis of *The Heritage Property Act* (1979-80) will concern how its use and application affect Indigenous peoples and their access to cultural artifacts. Specifically, I will analyze how the capitalist, settler colonial, and heteropatriarchal ideologies underlying this act affect Indigenous peoples’ access to and control over their ancestral cultural artifacts and ancestors’ remains, as well as how this act enacts the Doctrine of Discovery and contributes to the commodification of Indigeneity in Saskatchewan.

First, the Saskatchewan Heritage Foundation, operating as a corporation and an agent of the Crown, demonstrates the capitalist, settler colonial, and heteropatriarchal ideologies underpinning this act and how inextricably entangled these ideologies are in Saskatchewan law. Since the Saskatchewan Heritage Foundation is a corporation that exists in accordance with *The Heritage Property Act* (1979-80), it generates and holds revenue which it invests in stocks and bonds to make a profit (s 7.1, a). Moreover, all funds held by The Saskatchewan Heritage Foundation are property of the Saskatchewan provincial government. Even in instances where the conversion of Indigenous artifacts into private property for the Saskatchewan government is not directly creating profit for the Foundation, this act and the Foundation are creating the circumstances necessary to bring Indigenous artifacts into a capitalist property relationship through commodification, thereby facilitating the ongoing dispossession of Indigenous cultural artifacts. Therefore, the Saskatchewan Heritage Foundation is evidence of the capitalist ideology underlying *The Heritage Property Act* (1979-80), as it accords the creation and maintenance of a Foundation that profits off the designation and control of "heritage property" in Saskatchewan or employs this designation to commodify Indigenous cultural artifacts and facilitate ongoing dispossession.

Municipalities, which include "Indian Bands" per the *Indian Act* (1985), can control 'heritage property' within their community by having it designated as Municipal Heritage Property (c. I-5). However, the minister of *The Heritage Property Act* (1979-80) can override their claim to Municipal Heritage Property and convert it into Provincial Heritage Property, thereby making it property of the Crown. If a federally recognized Indigenous community were to formally object to the designation of anything in their community as Provincial Heritage Property, the Saskatchewan Heritage Foundation's review board would hold a hearing for this

objection. However, the lack of notice for the designation of Provincial Heritage Property limits the ability of the public to object to proposed designations. Furthermore, the Foundation's review board sticks to the eurocentric definition of 'evidence' when accepting evidence during an objection hearing and is further not required to acknowledge or consider evidence submitted by the public. The review board is also not bound to any deadline when ruling on the objection hearing, and if they disagree with the objection, the minister is not required to give any notice that the heritage property designation will be carried out.

This lack of notice, adherence to eurocentric definitions of evidence and identity, and lack of accountability make attempting to stop an artifact or land from being designated as Provincial Heritage Property under *The Heritage Property Act* (1979-80) extremely difficult for communities. These aspects of this act are problematic for Indigenous communities for multiple reasons. First, the minister of *The Heritage Property Act* (1979-80) can enter any Indigenous community in Saskatchewan and designate anything in their community as Provincial Heritage Property with almost no recourse. Second, the act perpetuates settler colonial definitions of Indigenous identity because only Indigenous communities deemed as "Indian Bands" by the *Indian Act* (1985) are recognized as municipalities, thereby affirming settler colonial definitions of who holds legitimate authority (c. I-5). Lastly, the review board's adherence to the eurocentric definition of "evidence," which is based on anthropology, disallows Indigenous community members from submitting evidence such as oral histories, dismissing them as not credible, biased, or uninformed (Tsosie, 2017). Settler colonial 'evidence' also maintains the Doctrine of Discovery by requiring 'proof' of Indigenous oral histories through capitalist settler colonial epistemological understandings of evidence and ownership (Schneider & Hayes, 2020).

Here we see the settler colonial, capitalist, and heteropatriarchal ideologies endemic to Saskatchewan law. As discussed in the literature review section of this thesis, the *Indian Act* (1985) removed thousands of Indigenous women and children from their communities and removed their Indian status (Bourgeois, 2017). As such, *The Heritage Property Act's* (1979-80) designation that only federally recognized "Indian Bands" count as municipalities that can control heritage property denies many Indigenous women access to their cultural and ancestral artifacts. Only including federally recognized "Indian Bands" also means that Indigenous communities only count as municipalities as far as their government 'given' land. During settler colonization, white settlers forced Indigenous peoples off of their traditional lands in order to secure white settler colonial occupation, ownership, and exploitation of Indigenous lands. The *Indian Act* (1985) then legally forced Indigenous communities they designated as "Indian Bands" onto small tracts of their original traditional territories, now known as reserves, and white settlers and the white settler government stole the remaining Indigenous lands. As such, including only federally recognized "Indian Bands" as municipalities in *The Heritage Property Act* (1979-80) means that the Saskatchewan government is free to steal Indigenous artifacts and remains from all other non-federally recognized Indigenous lands.

Although Indigenous peoples have traditional territory throughout the entire province of Saskatchewan, and thus Indigenous artifacts and remains can be found throughout the province, this act only notifies legally recognized "Indian Bands" of artifacts or remains found within their federally recognized lands. This recognition of only "Indian Bands" as municipalities means that *The Heritage Property Act* (1979-80) is free to steal Indigenous artifacts and remains from all non-reserve lands in Saskatchewan, minus settler private property, without notifying the Indigenous peoples whose traditional territory the artifact or remains were found in. Moreover,

Indigenous artifacts found on private settler property, if not designated as Provincial Heritage Property by the minister, become the property of the settler who found them. *The Heritage Property Act* (1979-80) only recognizing "Indian Bands" also means that the Saskatchewan government can steal Métis ancestral artifacts and lands with absolutely no notice to Métis communities. Although Métis people can be recognized as "Indians" under the *Constitution Act* (1982, s. 91, 24), they do not have any legal rights to land like "Indian Bands" do under the *Indian Act* (1985), and thus are not considered municipalities under *The Heritage Property Act* (1979-80) (*Daniels v. Canada*, 2016). This act's perpetuation of settler colonial definitions of Indigenous identity therefore directly harms Métis peoples and communities in Saskatchewan.

The focus on upholding the eurocentric definition of 'evidence' in this law, along with its lack of accountability for itself as a white settler institution, exposes its settler colonial roots. Indigenous ways of knowing and doing are not considered grounds for dismissing the designation of something as heritage property, and the settlers who enforce this law are not held accountable to any communities objecting to the Saskatchewan government stealing their artifacts or lands. Therefore, *The Heritage Property Act* (1979-80) demonstrates how white settler anthropological ideologies, such as eurocentric capitalist 'evidence,' have ongoing negative impacts on Indigenous communities in Saskatchewan.

Lastly, the Saskatchewan Heritage Foundation being a corporation and agency of the Crown, indicates that the capitalist hierarchy underlies *The Heritage Property Act* (1979-80) and its foundation. Writing into *The Heritage Property Act* (1979-80) that this foundation can invest the revenue gained from designated heritage property and make a profit, subordinating Indigenous rights to the market in pursuit of institutional financial success (Polanyi, 1944), demonstrates how the capitalist hierarchy is foundational to *The Heritage Property Act* (1979-

80). This capitalist hierarchy is also evident in the minister's ability to designate anything as Provincial Heritage Property, the review board's lack of accountability to those who object to the designation of Provincial Heritage Property, and the use of the capitalist notions of 'property' and 'ownership' throughout the entirety of *The Heritage Property Act* (1979-80).

As explored in the literature review above, the capitalist notions of 'property' and 'ownership' are incommensurate with most Indigenous cosmologies and were forced onto Indigenous lands and into Indigenous communities through settler colonization (Parezo & Troutman, 2001). In using the capitalist notions of 'property' and 'ownership' throughout this act, the Saskatchewan government is causing epistemic injustice for Indigenous peoples by forcing them to use the capitalist settler colonial framework to attempt to access their ancestral and cultural artifacts or lands that have been designated as heritage property. Moreover, the minister can designate Municipal Heritage Property controlled by "Indian Bands" or other non-designated lands or artifacts belonging to Indigenous peoples as Provincial Heritage Property with little to no accountability or recourse available to Indigenous communities, making these lands or artifacts property of the Saskatchewan government and controlled by the Saskatchewan Heritage Foundation which profits off them.

Let us examine a current example of *The Heritage Property Act* (1979-80) being used to convert Indigenous lands into property of the Saskatchewan government with no accountability. In 2022, the Saskatchewan government employed *The Heritage Property Act* (1979-80) to designate Lower Hudson House, an important burial ground and trading centre for First Nations and Métis people in Saskatchewan in the late eighteenth century, as heritage property (Dayal, 2022). Anything within 100 kilometers of Sturgeon Lake First Nation is within their jurisdiction (Dayal, 2022). Although the Lower Hudson House is only 22 kilometers away from this First

Nation, they were not consulted about this designation, with a descendant of the Sturgeon Lake chief during this House's use stating, "It's the typical colonial paternalistic mentality" (Dayal, 2022). The Saskatchewan Métis Nation was consulted and indicated clear disapproval of the designation to no avail (Dayal, 2022). Regardless of the lack of consultation with Sturgeon Lake First Nation, Philip Parr, who worked to achieve this designation, stated that the "ship has sailed" on any further input or consultation from Indigenous community members (Dayal, 2022). Therefore, the Lower Hudson House is henceforth property of the Saskatchewan government and controlled by the Saskatchewan Heritage Foundation, which will profit from it, including the conversion of the House into a tourist attraction, which the treaty commissioner of Saskatchewan greatly fears (Dayal, 2022). Considering the above example, *The Heritage Property Act* (1979-80) is irrefutably stealing and commodifying Indigenous artifacts and lands without accountability, demonstrating the entanglement of settler colonialism, capitalism, and heteropatriarchy in the Saskatchewan Heritage Foundation, in accordance with *The Heritage Property Act* (1979-80).

Second, *The Heritage Property Act's* (1979-80) control of heritage property and punishment of those who do not cede to this control demonstrates the settler colonial and capitalist ideologies inherent in this law. *The Heritage Property Act* (1979-80) gives the Saskatchewan government the legal right to deny Indigenous peoples access to their ancestral lands or artifacts that are designated heritage property. This act gives the Saskatchewan government the legal right to control how, when, and if Indigenous peoples can use their ancestral artifacts or lands designated as heritage property. Hypocritically, *The Heritage Property Act* (1979-80) allows the minister or an appointed officer free access to Indigenous artifacts or lands designated as Provincial Heritage Property, even when the minister or officer

are settlers. This hypocrisy is not surprising, however, given that the *Indian Act* (1985) states that the legal title to reserve lands 'given' to Indigenous peoples by the federal government is still in the hands of the British monarchy. This act also allows the Saskatchewan government to steal Indigenous remains for 'examination,' 'research,' or 'education' while hypocritically stating that no one can remove or alter human remains or any evidence of Indigenous peoples prior to settler colonization.

In forcing Indigenous artifacts, lands, and remains under government control and dictating how they must be handled and that non-Indigenous groups can display them, *The Heritage Property Act* (1979-80) continues the controlling and commodification of Indigenous artifacts, as demonstrated in the anthropology section of my literature review. The punishment of people who do not comply with *The Heritage Property Act* (1979-80) through monetary fines or imprisonment further demonstrates the ongoing capitalist need to eradicate or control Indigeneity in Saskatchewan, as identified in my literature review. Moreover, the minister having the ability to exempt any designated heritage property for "a development project that is of major significance to… the [settler] people of Saskatchewan," such as neighbourhoods or recreation centres, further illustrates the capitalist hierarchy intrinsic to *The Heritage Property Act* (1979-80) (s 71.1, 1; Canwest Commercial and Land Corporation, n.d.; Larson, 2021). Notably, *The Heritage Property Act* (1979-80) is written through the logic of and ideologically maintains the Doctrine of Discovery in Saskatchewan, extending settler jurisdiction into Indigenous communities by using conservative legislation as a tool of settler colonization. Enshrining in this provincial law that any artifacts or lands that are *discovered* to be of value to settlers or the white settler government of Saskatchewan must be reported to the government so that they can be

made the legal property of the Crown continues the same logic that early white settlers employed with the Doctrine of Discovery to steal Indigenous lands.

Therefore, this analysis demonstrates that *The Heritage Property Act* (1979-80) is a piece of Saskatchewan legislation that enacts the same eliminatory and assimilatory logics grounded in the settler colonial Doctrine of Discovery, capitalism, and heteropatriarchy that were implemented during the early settlement of Saskatchewan. Significantly, *The Heritage Property Act* (1979-80), creating a corporate foundation that funnels profit made from the control of Indigenous artifacts and lands to the Saskatchewan government, demonstrates how the Doctrine of Discovery in law creates the circumstances necessary for Indigenous artifacts to be commodified, notwithstanding the profit made by private groups such as museums that this act permits to display and charge for access to Indigenous artifacts. Starblanket & Hunt (2020) point out that settler security in Saskatchewan is always guaranteed at the expense of Indigenous peoples' rights; *The Heritage Property Act* (1979-80) is another example of this larger trend. The ideas of property and national identity, as in provincial identity, that exist within this act are bound to notions of white civility and Indigenous incivility supported by the Doctrine of Discovery, which protects white settler political and social hierarchies that deny Indigenous peoples' legal and political rights (Starblanket & Hunt, 2020).

Chapter IV:

Moving Forward: Discussion & Métis Methodology

"The stories we tell today will inform those of tomorrow." (Starblanket & Hunt, 2020, p. 13)

"Dreaming is a fact of human existence. Everyone has dreams, whether we remember them or not." (Marsden, 2004, p. 68)

Section 1: Discussion

Why does *The Heritage Property Act* (1979-80) continue the settler colonial, capitalist, and heteropatriarchal ideological trends that subordinate Indigenous rights and uphold white settler social and political hierarchies? How does the settler colonial notion of Indigenous incivility in the literature review play into this process? How does this lead to the commodification of Indigeneity? The discussion section will explore these questions by addressing my thesis statement; that it is the settler colonial notion of *civility* that brings together heteropatriarchy, the capitalist hierarchy, and settler colonialism in the form of the Doctrine of Discovery and allows these ideologies to work together to justify abuses of Indigenous rights through the commodification of Indigeneity for white settler and settler government gain.

1.1: Introduction

From the literature review, I have identified two themes illuminating why *The Heritage Property Act* (1979-80) continues settler colonial, capitalist, and heteropatriarchal ideological trends and how the settler colonial notion of civility is at the heart of the cyclical relationship between these three ideologies in law. The first theme, called the "Settler Timeline," is the

tendency of white settler institutions to create false narratives about the histories of Indigenous peoples and settlers in Canada, which leads to white settlers unrealistically conceptualizing Indigenous peoples as inauthentic unless they are 'real Indians' who are locked in the pre-confederate past. The 'real Indian' myth in the settler timeline is a white fantasy that works to deny modern Indigeneity while assuaging white settler guilt. The second theme that answers the above questions is called the "Commodification of Indigeneity". This section will first explore the settler timeline theme and 'real Indian' myth, followed by the commodification theme, using these themes to demonstrate how the settler colonial notion of civility ties together the Doctrine of Discovery, capitalist hierarchy, and heteropatriarchy within *The Heritage Property Act* (1979-80), enabling the commodification of Indigenous cultural artifacts.

1.2: The Settler Timeline & the 'Real Indian'

Stories are told every day by the white settler government and its laws concerning Indigenous rights and how to treat Indigenous bodies, lands, cultures, and artifacts. For example, *The Heritage Property Act* (1979-80) tells a story that it is okay for the Saskatchewan government to expropriate Indigenous artifacts and lands from their rightful stewards for settler profit. This story told through *The Heritage Property Act* (1979-80) does not exist in isolation; it is one of many stories that exist within the settler timeline and are created and maintained purposefully to protect white settler domination (Krawec, 2022). As Patty Krawec (2022) states, "Somehow in this history, the very people who created the problem are transformed into the ones who saved us… These histories become central truths… Your collective memory is filled with stories about cooperation and communities" (pp. 14-15). This section will explore the stories told and enforced by the settler timeline that position white settlers as saviour protectors of an Indigenous culture lost to the past, which employ the settler notion of Indigenous civility to enact

capitalist, settler colonial, and heteropatriarchal ideologies that epistemically justify laws like *The Heritage Property Act* (1979-80). “Remember… storytelling is not neutral” (Krawec, 2022, p. 15).

In the Saskatchewan section of the literature review, Starblanket and Hunt (2020) explain how settlers are taught that the settler colonization of the prairies was a peaceful and consensual process in which Indigenous peoples willingly terminated their legal and political rights because settlers were inherently better and more civil. In the Epistemic Past and Present section of the literature review, Mann (2020) demonstrates that the settler collective imagination views the Canadian constitution as foreclosing on all Indigenous rights and histories. Mann (2020) further implies that the homogenization of a collective “we” in the Canadian state by neoliberal capitalist political discourse maintains the Doctrine of Discovery through ideology that asserts that “we” are all part of this state and, therefore, all have rightful access to its land and artifacts. Mann’s (2020) assertion is echoed by Starblanket and Hunt (2020) in their analysis that because early Saskatchewan was conceptualized as in a “state of nature,” occupied by uncivil and sometimes dangerous inhabitants, white settlers entered social contracts such as the Canadian constitution in order to ensure the protection of their private property within ‘civil’ society as a citizen. (p. 46). Lastly, the final three sections of the literature review and the case study of *The Heritage Property Act* (1979-80) demonstrate how the Doctrine of Discovery is epistemically enforced in Canadian law through white eurocentric capitalist understandings of history, evidence, and ownership, which discredit Indigenous histories and inalienable rights. The settler fantasy that settler colonization on the prairies was peaceful, combined with the epistemic conceptualization of Indigenous rights as solely existing in the pre-confederate past and settler rights to Indigenous lands and artifacts as absolute in the post-confederate settler collective

imagination set the stage for white settlers and settler institutions such as the government, academia, and museums, to never question settler assertions to rights over Indigenous artifacts and lands. Moreover, the eurocentric capitalist understandings of history, evidence, and ownership that are foundational to Saskatchewan law create epistemic injustice for Indigenous peoples attempting to assert their rights by forcing a white settler epistemic framework through law onto Indigenous lands and artifacts.

In this way, the settler timeline is a settler fantasy about the settlement of the prairie provinces. This settler fantasy dreams that white settlers came to the prairies and demonstrated their inherent civility compared to Indigenous incivility, thereby convincing Indigenous peoples to give up their rights and live in a white settler society. Since settlers dream that Indigenous peoples gave up their rights pre-confederation, the Canadian Confederation cemented in the settler collective imagination that Indigenous peoples' rights were legally gone, and settler rights and jurisdiction were legally universal. With the dream of universal settler jurisdiction came the settler entitlement to all things above, below, on, and within Indigenous lands, including Indigenous bodies, lands, cultures, and artifacts. The Canadian constitution also allows settlers to believe that they have a right to be on Indigenous lands as "proper, rights-bearing citizens" and that settler colonialism and racism are foreclosed to the pre-confederate past, unconnected to our current realities. (Starblanket & Hunt, 2020, p. 82). The white settler epistemic framework being foundational to Saskatchewan law, then, works to continually reinforce white settler epistemes and subjugate Indigenous epistemes, justifying the continued settler belief that Indigenous peoples and cultures are inherently uncivil and only valid in the past.

This ongoing conceptualization of Indigenous peoples as inherently uncivil is key to the settler timeline and the maintenance of settler colonial law. Starblanket and Hunt (2020) explain

that white settler beliefs about what civility looks like shape Indigenous peoples and cultures in the settler collective imagination as always inhabiting an uncivil state that is earlier on the evolutionary scale in comparison to white settler culture and society. This comparison allows eurocentric governance systems and settler law to be understood as the only legitimate political formation and locks Indigenous peoples and cultures in the past as uncivil (Starblanket & Hunt, 2020). The settler timeline is used to enforce and re-enforce white settler social and political hierarchies and deny Indigenous legal and political rights. The settler timeline also affects the development of Canadian national identity. As discussed in the Saskatchewan section of the literature review, Canadian government policy and practice in the 1950s helped solidify settler colonial rhetoric, including the notion of civility, into the settler collective imagination and Canadian national identity (McKenzie et al., 2016). Prior to the 1950s, it was this settler timeline that sentimentalized and reified the 'truth' of peaceful prairie settlement in settler minds, helping to entrench this settler fantasy timeline further and assuage settler guilt (Bird, 2001). Presently, calls for Indigenous perspectives in white settler institutions, such as law, academia, and museums, serve to use Indigenous peoples to affirm the 'truth' of the settler timeline in the settler collective imagination (Starblanket & Hunt, 2020), which is demonstrated in the examination of including Indigenous perspectives in museums in the Anthropology section of the literature review. This inclusion of Indigenous perspectives affirms the settler timeline while also maintaining white settler social and political hierarchies by 'proving' that Indigenous peoples are successful in white settler society while also forcing Indigenous peoples into positions in which they are still heavily influenced and commodified by settlers, forcing them to shrink or give up their epistemes.

This analysis moves us to the critical sub-section of the settler timeline theme, the 'real Indian' myth. In using the settler colonial notion of civility through law to lock Indigenous peoples and cultures in the past, settler understandings of who is Indigenous and who is not are thereby also stuck in the past. Importantly, the settler conceptualization of who is a real Indian is not based on factual accounts of Indigenous lives and cultures pre-contact; instead, it is based on settler caricatures of pre-contact Indigenous cultures and lives often written by early white settler anthropologists (Parezo & Troutman, 2001; Starblanket & Hunt, 2020). Therefore, settler understandings of Indigenous peoples and cultures are based on white settler ethnographic descriptions of Indigenous peoples that are written through a eurocentric lens aimed at misunderstanding Indigenous cultures to justify capitalist land theft and heteropatriarchal abuse of Indigenous women and girls. Bird (2001) explains that early anthropological ethnographic descriptions of Indigenous peoples and cultures became the basis of modern-day depictions and understandings of how Indigenous peoples *should* look and act. We can trace the beginnings of the real Indian myth to early white settler anthropological work in which these anthropologists sought "authentic full-blood Indians" to study their "primitivism" (Biolsi, 1997, p. 136; Bird, 2001, p. 64). This real Indian myth can also be seen in early anthropological displays forcing Indigenous peoples to live in ways that would "embody what [white settler anthropologists] considered characteristics of traditional Indianness" (Parezo & Troutman, 2001, p. 15).

As explained in the Anthropology section of the literature review, these anthropological depictions of Indigenous peoples and cultures as uncivil or primitive 'real Indians' are white cultural products (Bird, 2001). And these white cultural products have continued to inform the settler timeline through their use to deny modern Indigeneity in the place of settler-conceptualized 'real Indians.' These white cultural products make settlers conceptualize the 'real

Indian' through a racialized and gendered lens, including believing that Indigenous men must act wise and stoic, Indigenous women must be either the "Indian Princess" or the "Squ*w," Indigenous sexualities and relationships are either non-existent or uncivil, and that all Indigenous peoples must be brown with long hair, clad in traditional regalia, living in teepees, and constantly engaging in settler depictions of 'traditional' ceremonies (Bird, 2001, p. 78; Wente, 2022). Importantly, these ethnographic descriptions "effectively places Native cultures into a kind of time warp" (Bird, 2001, p. 63). I argue that Indigenous peoples have never emerged from this time warp, or the settler timeline, in the settler collective imagination in the prairies. Due to the settler timeline, modern Indigenous peoples are often not recognized as real Indians by settler institutions such as law, which justifies the denial of their rights. It is important to remember, however, that being a 'real Indian' is not about whether someone is Indigenous, but whether they conform to the settler fantasy of what a 'real Indian' should be, look, and act like.

So, why does this real Indian myth need to exist? Indigenous claims to land and artifacts prevent complete settler sovereignty (Starblanket & Hunt, 2020) because they shatter the illusion that the settler timeline creates. Therefore, white settlers must continually assert stereotypes about what constitutes a real Indian to dismiss and delegitimize Indigenous claims to their inalienable rights. The real Indian myth also works to maintain the theory that Indigenous peoples are inherently uncivil and white settlers are innately civil in the settler collective imagination. This conceptualization of Indigenous incivility allows the white settler government to assert that they cannot trust modern Indigenous peoples with the cultural artifacts, remains, and lands of 'real Indians,' because real Indians and modern Indigenous peoples are unrelated in the settler timeline. This conceptualization of modern Indigenous peoples as not related to 'real

Indians' is illustrated by two critical court cases on Turtle Island: the first in Canada and the second in the United States.

In *Delgamuukw v. British Columbia* (1991), Wet'suwet'en and Gitksan hereditary chiefs claimed ownership of and jurisdiction over separate portions of 58,000 square kilometres in British Columbia, Canada. The province of British Columbia counterclaimed that the Wet'suwet'en and Gitksan peoples have no right to the territories they claimed and that they should instead be suing for monetary compensation from the Canadian federal government (*Delgamuukw v. British Columbia*, 1991). The trial judge, Justice Allan McEachern, discounted Wet'suwet'en and Gitksan oral histories, song, dance, and ceremony entered as evidence of their historical use and ownership of the territories, stating that they were unreliable as evidence of historical occupation on their own and could only be used to confirm historical occupation in conjunction with "other admissible evidence" such as archaeological finds (*Delgamuukw v. British Columbia*, 1991). Moreover, Justice McEachern refused to acknowledge Wet'suwet'en and Gitksan pre-contact social and legal institutions, stating that their oral histories were "romantic" because they had no institutions since "they more likely acted as they did because of survival instincts" (*Delgamuukw v. British Columbia*, 1991). In the final ruling, Justice McEachern dismissed Wet'suwet'en and Gitksan claims to the land and granted the British Columbia government unfettered access to 'unoccupied' or 'vacant' land (*Delgamuukw v. British Columbia*, 1991).

Following this ruling in British Columbia, *Delgamuukw v. British Columbia* (1997) was appealed and brought to the Supreme Court of Canada. In this appeal, the Supreme Court overruled Justice McEachern's initial decision in British Columbia, ruling that oral histories are admissible as evidence in Canadian courts and confirming that "the laws of evidence must be

adapted in order that this type of evidence [oral histories] can be accommodated and placed on an equal footing with the types of historical evidence that courts are familiar with, which largely consists of historical documents" (*Delgamuukw v. British Columbia*, 1997). Moreover, Justice J. A. Lambert noted on appeal that "the appellants" oral evidence should be weighed, like all evidence, against the weight of countervailing evidence and not against an absolute standard so long as it is enough to support an air of reality" (*Delgamuukw v. British Columbia*, 1997). Although the Supreme Court of Canada overturned Justice McEachern's original racist decision, the inclusion of oral histories in Canadian courts laid out in *Delgamuukw v. British Columbia* (1997) does not ultimately shift settler colonial domination within Canadian law. As the quotes above demonstrate, Indigenous oral histories in Canadian law are to be comparable to eurocentric capitalist understandings of history and evidence, such as historical documents, and will be weighted the same as all evidence only if they uphold "an air of reality" with settler judges ruling on what constitutes "reality" (*Delgamuukw v. British Columbia*, 1997). The inclusion of oral histories in Canadian law, as advised by *Delgamuukw v. British Columbia* (1997), thereby does not effectively subvert the settler timeline because it still requires modern Indigenous peoples to 'prove' their connection to past 'real Indians' through a eurocentric epistemic framework. Thus, this sanctioned inclusion of Indigenous oral histories in Canadian law continues the settler colonial project through epistemic injustice by forcing eurocentric epistemology on Indigenous epistemes and ontologies, maintaining a legal system in which Indigenous peoples are compelled to work within a eurocentric epistemic framework in order to be recognized as real Indians.

Following this Canadian case came *Bonnichsen v. United States* (2004), in which 9000-year-old skeletal remains washed up out of the Columbia River and were claimed by a local

Indigenous nation. The Unites States court dismissed Indigenous oral histories, claiming that they did not show "where historical fact ends and mythic tale begins;" thus, the government did not return the remains to the nation (as cited in Tsosie, 2017, p. 363). However, following DNA testing, the remains were found to be genetically similar to the modern Indigenous nation claiming them (Tsosie, 2017). Imperatively, since the settler timeline asserts that real Indians and their cultures are gone, white settler institutions now position themselves as the saviors who need to 'protect' what is left of real Indian cultures (Johnson & Underiner, 2001). In doing so, white settler institutions, such as museums and governments, successfully position themselves as the owners of Indigenous cultural artifacts and lands.

This discussion highlights how the heteropatriarchy, the Doctrine of Discovery, and the capitalist hierarchy that are endemic to the settler timeline and conceptualization of the 'real Indian' are tied together by the notion of civility. First, discussing heteropatriarchy, since the settler timeline is eurocentric and therefore views patriarchy as fundamental to society, it conceptualizes Indigenous cultures that are matriarchal or matrilineal as uncivil and invalid in white settler society (Bourgeois, 2017). Many Indigenous women were also legally and socially conceptualized as not real Indians due to the heteropatriarchy in the *Indian Act* (1985). Since thousands of Indigenous women and children lost their Indian status due to this heteropatriarchal law, they could be conceptualized legally and socially as no longer 'real Indians' in the settler timeline. This heteropatriarchy then informs the settler timeline by depicting Indigenous women as not real if they do not live up to the Indian princess myth or as sexually available and disposable in white settler society if they are 'real Indian' squ*ws. The heteropatriarchy within the settler timeline then allows Saskatchewan law to deny Indigenous women their rights

because they either do not count as real Indians since they do not have Indian status or are not valuable to the province or the Canadian state because they are uncivil Indians.

The application of heteropatriarchy within the settler timeline in law is evident in the *Indian Act's* (1985) discrimination against Indigenous women and the impact that it has through other laws. In Saskatchewan, heteropatriarchy in the settler timeline is visible in *The Heritage Property Act* (1979-80). As the case study of *The Heritage Property Act* (1979-80) explains, this act's designation that only federally recognized Indian Bands count as municipalities denies many Indigenous women access to their cultural and ancestral artifacts because they have been historically denied Indian status and access to their lands. Undoubtedly, the historical denial of Indian status to Indigenous women is also tied to their purported incivility.

In denying Indigenous women status and depicting them as the 'Indian princess' or the 'squ*w,' the settler colonial state constructs itself as the pinnacle of civility in the settler timeline by invoking Indigeneity through comparative methodology to conceptualize itself as civil, lawful, and masculine in opposition to the "savage and prior other" (Simpson, 2016). For example, many Indigenous women were depicted by early white settler anthropologists and fiction book writers as the doomed but noble 'Indian princess' who would 'selflessly' leave their communities and cultures to help and marry white settler men, like the settler story of Pocahontas (Bird, 2001). Often in fiction, however, the 'Indian princess' turns out to be a white woman held captive by an Indigenous nation who is finally 'liberated' by marrying a white settler man (Bird, 2001). These white settler men would write this Indian princess myth in comparison to their "more degraded sisters" or "squ*ws," thereby conceptualizing actual Indigenous women as not valuable to white settler society or the settler state (Bird, 2001, p. 78 &

80). As explained by Bird (2001), “these noble Indian maidens or exotic white captives have all the trappings of exciting ‘Indianness,’ but usually side with whites and aid their white lovers against the intemperate savagery of their compatriots” (p. 80). The settler timeline thereby conceptualizes ‘real Indian’ women as people who either willingly gave up their culture and denounced their communities to join white settler society and thereby not receive Indian status or as uncivil “degraded” “squ*ws” who could receive Indian status but were doomed to “represent the tragedy of their vanishing race” (Bird, 2001, p. 73). This heteropatriarchal conceptualization is happening today in the MMIWG2S crisis, in which the settler public is ignoring ‘real Indian’ women who are going missing or being murdered because, in the settler timeline, real Indian women are either the princess who has chosen white settler society and is therefore no longer an Indian or the sexually available and socially worthless squ*w who is doomed and deserving to go extinct.

Moving on to the Doctrine of Discovery, by creating a fantasy of who counts as a real Indian, white settlers and settler institutions are free to deny modern Indigenous peoples’ rights. By conceptualizing most real Indians as long gone, the Saskatchewan government can justify stealing and commodifying Indigenous artifacts, lands, and remains through *The Heritage Property Act* (1979-80). The real Indian myth also reinforces the Doctrine of Discovery by conceptualizing Indigenous peoples as uncivil. When the Saskatchewan government steals Indigenous lands, artifacts, or remains in the name of ‘preservation’ or ‘protection’ under *The Heritage Property Act* (1979-80), it demonstrates that it does not trust modern Indigenous nations in the province with their cultural artifacts because it does not consider them real Indians. Moreover, even if an Indigenous nation or community were able to prove, according to eurocentric capitalist understandings of history, evidence, and ownership, that an artifact was

theirs, the myth of the real Indian being inherently uncivil would preclude any chance of them gaining control over their cultural or ancestral artifacts because the legal rights of real Indians no longer exist within the settler timeline. This use of *The Heritage Property Act* (1979-80) to deny 'real Indian' rights is evident in the example given in chapter three, in which the Saskatchewan government took possession of the Lower Hudson House even though it was within the jurisdiction of Sturgeon Lake First Nation (Dayal, 2022). Lastly, the Doctrine of Discovery lives on in the settler timeline through the white settler dream of universal jurisdiction over Indigenous lands. We can see this present in *The Heritage Property Act* (1979-80) as the minister is allowed to enter, or appoint anyone to enter, any lands at any time in the name of heritage property preservation; since 'real Indian' rights stopped existing at Confederation and everything became the property of a collective "we," Indigenous lands no longer belong to Indigenous peoples in the settler timeline.

Moving on to the capitalist hierarchy, we can see how the settler timeline justifies settler ownership, occupation, and exploitation of Indigenous lands for profit and that Indigenous rights are subordinated to the market. The settler timeline and the myth of the real Indian within it allow the Saskatchewan government to steal Indigenous artifacts, remains, and lands for profit. By conceptualizing Indigenous rights and 'real Indians' as legally and physically gone, and modern Indigenous peoples with connection to 'real Indians' as inherently uncivil, the Saskatchewan government can epistemically justify positioning itself as the owner and 'protector' of what is left of 'real Indian' culture through *The Heritage Property Act* (1979-80). In this way, the Saskatchewan government creates the circumstances necessary to commodify and profit from owning and controlling Indigenous artifacts, lands, and remains.

The settler timeline appears and constantly reappears in Saskatchewan law because, as explained above, the white settler epistemic framework is foundational to Saskatchewan law. Moreover, since the settler collective imagination is part of the white settler epistemic framework, it is also foundational to Saskatchewan law. *The Heritage Property Act* (1979-80), therefore, employs the settler timeline and its real Indian myth to engineer the stealing and commodification of Indigenous artifacts by enacting the notion of Indigenous incivility, which consolidates the Doctrine of Discovery, heteropatriarchy, and the capitalist hierarchy to justify this human rights abuse. This discussion now brings us to the second theme, the Commodification of Indigeneity.

1.3: The Commodification of Indigeneity

As explained by Starblanket and Hunt (2020), we can understand how colonialism operates by looking at the relationships between the colonial state and the types of commodities it works to access, own, and exploit. In settler colonial states, such as Canada, the commodity sought for exploitation is land and all resources attached to land through unfettered settler access to Indigenous lands (Starblanket & Hunt, 2020). However, these colonial-commodity relationships differ slightly across different settler populations and geographies within even the same settler colonial state (Starblanket & Hunt, 2020). As explored in the Saskatchewan section of the literature review, social and political settler-Indigenous relations in Saskatchewan have been and are still characterized by white settler obsession with private property, which has also been used to conceptualize Indigenous peoples as uncivil. As such, settler colonialism transpires materially in Saskatchewan through the white settler government commodifying Indigenous lands and resources by turning them into private property and thus facilitating the white settler ownership, occupation, and exploitation of Indigenous lands and resources. This specific

colonial-commodity relationship in Saskatchewan can be seen in *The Heritage Property Act* (1979-80), as this act makes it legal for the Saskatchewan government to commodify Indigenous lands, remains, and artifacts by making them the private property of the Crown.

The capitalist hierarchy is visible within this colonial-commodity relationship on the prairies, as Indigenous rights to their lands and artifacts are subordinated to the Saskatchewan government's need to make a profit. Moreover, this colonial-commodity relationship demonstrates the continuation of the ideology of the Doctrine of Discovery, as *The Heritage Property Act* (1979-80) maintains this discovery narrative by claiming that all things *discovered* of 'provincial importance' are the property of the Crown. This relationship between the settler colonial Doctrine of Discovery and the commodification endemic to the capitalist hierarchy demonstrates how these two ideologies are enlaced through law and policy. The operation of settler colonialism in Saskatchewan can be understood by examining what the government chooses to commodify. This commodification furthers the settler colonial project by continually denying Indigenous inalienable legal and political rights. Thus, the Doctrine of Discovery and the capitalist hierarchy are inextricably connected within settler colonial law in Saskatchewan.

This commodification also serves a more insidious purpose. In settler colonial countries such as Canada, early white settlers had to form new identities along with a new settler society away from their home countries (Nichols, 2020). However, these settlers often stole Indigenous cultural symbols and artifacts out of context to create their 'new' identities, which appropriate Indigeneity while disallowing Indigenous peoples from meaningful social and political participation in white settler society (Hunt, 2018; Starblanket & Hunt, 2020). Since these appropriated Indigenous cultural symbols and artifacts are taken out of context and used by white settlers through their eurocentric epistemology, they recreate and reinforce the real Indian myth

discussed above, as white settlers are the ones interpreting what counts as Indigeneity in their society. Paramount to this white settler appropriation of Indigeneity is its connection to commodification. As per my definition of commodification at the beginning of this thesis, appropriation necessarily involves the commodification of cultural symbols and artifacts (Root, 1996). Moreover, appropriation by white settlers in the settler colonial context is equivalent to theft because Indigenous nations are not consulted about the use of their cultural symbols and artifacts for white settler profit (Johnson & Underiner, 2001). In this way, white settlers pull Indigenous cultural symbols and artifacts out of context and into the white settler epistemic framework and settler timeline to one, define Indigeneity in a way that precludes Indigenous social and political participation, two, maintain the notion of Indigenous incivility by locking in these stolen cultures as evidence of past primitive peoples, and three, appropriate them for the purpose of commodification and white settler financial gain. "As always seems to be the case, we [Indigenous peoples] were useful as objects… but not as people. Our humanity only got in the way of the desire for our aesthetic" (Wente, 2022, p. 83).

This appropriation is facilitated by Saskatchewan law, as exemplified in *The Heritage Property Act* (1979-80). Since the settler timeline is foundational to Saskatchewan law, this new settler identity based on the commodification of Indigeneity will continually pop up in law. As we saw in *The Heritage Property Act* (1979-80), Indigenous cultural symbols and artifacts are stolen, or appropriated, by the Saskatchewan government and legally kept and displayed by private non-Indigenous institutions such as museums, facilitating their use for white settler profit. In this way, *The Heritage Property Act* (1979-80) perfectly exemplifies how the commodification of Indigenous artifacts is one foundational aspect of the settler colonial project in Saskatchewan, and it is the settler colonial notion of civility that makes this possible. By

conceptualizing Indigenous peoples and cultures as uncivil and white settler culture as inherently civilized, white settlers and settler institutions are able to justify this appropriation and commodification. As explained by Mary Elizabeth Fullerton (1986), the "construction of the cultural other" happens at the cost of "the exclusion of the native speaker," which is "a symbolic erasure linked to programs of physical exclusion and genocide" (as cited in Johnson & Underiner, 2001, p. 52). By constructing Indigeneity as uncivil through the white settler timeline, Indigenous voices in society and policy are rejected and silenced, invoking the same eliminatory and assimilatory logics grounded in settler colonialism, the capitalist hierarchy, and heteropatriarchy that were implemented during the early settlement of Saskatchewan.

Lastly, epistemically, the commodification of Indigeneity in law is naturalized and sometimes even celebrated due to the settler timeline for two reasons. First, since white settlers in Saskatchewan believe that the private property afforded to them as Canadian citizens means that they have morally rightful access to all Indigenous lands, artifacts, and resources, they also believe that Indigenous peoples do not deserve the same protections unless they choose to conform to white settler 'civil' society by giving up their inherent rights (Starblanket & Hunt, 2020). In this way, white settlers and the settler Saskatchewan government can justify the commodification of Indigenous cultures and artifacts. It is a double-edged sword; if Indigenous peoples fight for their inherent rights to their cultural artifacts, they are conceptualized as uncivil peoples who cannot be true members of Saskatchewan society. However, if Indigenous peoples give up their rights in order to conform to white settler Saskatchewan society, they then legally cannot fight for their rights because they have been amalgamated into white settler society. Therefore, the commodification of Indigeneity is normalized by treating this commodification as a natural part of society and Indigenous peoples as the outliers to 'normal' white settler society.

This process also helps affirm the notion of white civility in the Saskatchewan and Canadian national identities.

Second, as discussed above, white settlers foreclose Indigenous histories and cultures into a pre-confederate past that they believe has no bearing on today. As such, the only reality that settlers accept, even if it is a fantasy, is the settler timeline in which the capitalist hierarchy and, thereby, commodification have always existed. In this fantasy, Indigenous peoples willingly gave up their rights to white settlers, including their rights to their cultural artifacts, because settlers are inherently more civil. As such, the appropriation and commodification of Indigenous cultural artifacts became a necessary and natural part of social and political life. Commodification is often brought up as natural and positive in connection with post-confederate settler-Indigenous relations. For example, museologists often claim that the post-confederate use of Indigenous artifacts and remains for scientific research has benefited the collective "we," including Indigenous peoples (Scarre, 2009). In 2004, the British Museum claimed that:

> The study of human remains… in museum collections also help advance important research fields such as the history of disease, changing epidemiological patterns, forensics, and genetics. Challenging theories about human evolution are being developed… for example, the likelihood that there is no genetic basis for modern concepts of race. (as cited in Scarre, 2009, p. 73)

Not only does this viewpoint naturalize the use and commodification of Indigenous remains in museums, but it also reaffirms the settler timeline in which modern Indigenous peoples are no different from white settlers and therefore have no legal rights over settlers to their lands, ancestors' remains, and cultural artifacts. In this way, the commodification of Indigeneity goes uncontested while it discards Indigenous epistemic realities from the settler collective

imagination (Johnson & Underiner, 2001). This aspect of the settler timeline naturalizes and reinforces the commodification of Indigenous cultural artifacts and the incivility of Indigenous peoples and cultures while ignoring shifting and modern Indigenous identities in favour of 'real Indians' who no longer exist in the settler collective imagination. Therefore, the settler timeline and its 'real Indian' myth support the commodification of Indigeneity, and specifically Indigenous cultural artifacts. These two themes are then upheld in Saskatchewan law, as exemplified by *The Heritage Property Act's* (1979-80) commodification of Indigenous cultural artifacts for white settler government profit.

1.4: Conclusion

Sneja Gunew (1993) states, "The person who *knows* has all of the problems of selfhood. The person who is *known* seems not to have a problematic self" (as cited in Bird, 2001, p. 91, emphasis in original). Moreton-Robinson (2015) further writes, "the 'native' is an epistemological possession who is already known first by the white sailors and now academics" (p. 110). White settler appropriation, commodification, and control of Indigenous identity have denied Indigenous peoples' personhood in the settler timeline. When Indigenous peoples are not seen as whole dynamic persons, it is easy for settler institutions such as the Saskatchewan government to deny their rights. The 'real Indians' that white settlers *know* in their settler timeline are not real people at all. In denying modern Indigeneity, white settlers and settler institutions like law, academia, and museums are denying modern Indigenous rights, such as the inalienable right to control their cultural and ancestral artifacts without them being nonconsensually commodified.

Therefore, *The Heritage Property Act's* (1979-80) commodification of Indigenous cultural artifacts is epistemically justified by the Saskatchewan government to the settler

Saskatchewan public through the law's upholding of the settler timeline and the real Indian myth. The settler colonial Doctrine of Discovery, capitalist hierarchy, and heteropatriarchal ideology that exist in *The Heritage Property Act* (1979-80) and facilitate the human rights abuse against Indigenous peoples of stealing and commodifying their cultural artifacts are bound together by the notion of civility; that being a white settler equals inherent civility and being Indigenous equals inherent incivility. The capitalist hierarchy necessitates the capitalist, settler colonial Doctrine of Discovery, and heteropatriarchal ideologies in *The Heritage Property Act* (1979-80) in order to justify this white settler commodification of Indigenous artifacts. Therefore, although the capitalist hierarchy drives the ongoing need for these problematic ideologies, they ultimately work together to maintain white settler social and political hierarchies that ensure Indigenous subordination to maintain white settler domination through occupation, ownership, and exploitation of Indigenous lands and cultural artifacts.

Section 2: Métis Dream-Work

Although my dream-work is technically a method of analysis, I chose to include it after my analysis and discussion sections that stemmed from a Western methodological process. I did not want to fully integrate the Western and Métis methodologies because it would not have done the dream-work justice. This section will include an introduction to my Métis dream-work methodology, followed by my analyzing dreams. To respect cultural protocol, I will not be detailing or narrating my dreams; instead, I will synthesize and discuss the themes and symbols from my dreams that are meaningful to this thesis. This section will end with a conclusion about the importance of this methodology to this thesis and my work. For this analysis, I discuss and analyze dreams I recorded from November 2021 to November 2022, which occurred while writing the bulk of this thesis.

2.1: Introduction

The importance of dreams in every community and family unit is different. In some Indigenous communities, dreams are important parts of their epistemes and are brought up, examined, given new meanings, and positioned within the community's ontology (Marsden, 2004). In some communities, dreams act as common-sense knowledge, which everyone has and that inform everyday life (Marsden, 2004). In some Indigenous communities, dreams as a way to access inner spaces of new knowledge are so important that people manipulate their external environment in hopes that dreams might happen (Ermine, 1995). However, in white settler society, "dreams are marginalized as fanciful distractions from the real-world, they are internally invalidated" (Marsden, 2004, p. 56). By including dream-work in this section, I am working to subvert white settler social and political norms in my analysis of a white settler social and political system that is not working for Indigenous peoples but is working exactly as intended for white settlers. As famously stated by Audre Lorde (1984), "the master's tools will never dismantle the master's house" (p. 106).

I cannot tell you the direct emotional, spiritual, and mental impacts of having one's cultural artifacts or ancestors' remains stolen by *The Heritage Property Act* (1979-80) because it has not happened to me. Although my family and community have had our lands and culture stolen by the Canadian and Saskatchewan governments, I was not alive for much of it and, therefore, cannot fully recount. However, as explained in my methodology section, my family has a history of dream-work, and my grandma believed it would be passed down to some of us. As someone who has not had a dreamless sleep since I can remember, I have been lucky enough to receive this gift. Therefore, I can engage in dream-work to explore the feelings and experiences of myself and my ancestors as they pertain to the issues discussed in this thesis.

Bringing the history of settler colonization in Saskatchewan and settler colonial law top of mind through this thesis has brought about some interesting dreams worth interpreting in this thesis. However, I implore you to remember that this analysis comes from my and my Métis family's experiences with dream-work and is not up for debate within Western academia. I am sharing this method to deepen my analysis and make this thesis more meaningful for myself and hopefully other Indigenous kin, not for it to be (mis)understood through a eurocentric epistemic framework that has harmed and continues to harm my ancestors, myself, and my kin. As Marsden (2004) explains, the most important shift needed to make dreaming a research method in academia is to accept that dreams are a valid form of knowledge-making. Regardless of whether Western science fully understands the mechanisms behind dreams, the information relayed to us within dreams is still valuable and valid according to the sense it makes to you, your family, and your community (Marsden, 2004). That is why I am not here to use medical or psychological evidence to convince you, the reader, of why dream-work is a valid methodology; dream-work is an inherently valid and vital methodology because it is important to myself, my family, and my community. In this way, I am moving toward a personal journey of decolonization within academia, which moves beyond solely identifying the impacts of settler colonialism and into spaces of change (Kovach, 2009; Rowe, 2014).

2.2: Dream-Work Exploration

One teaching I received when learning about Métis dream-work is looking for patterns. Consistently reoccurring people, places, symbols, or experiences are patterns trying to bring your attention to something important. Out of the patterns I identified in my dreams over the past year, the most reoccurring and compelling pattern was dreams of pregnancy and a baby. As someone

who does not have children and has never been pregnant, these frequent dreams seemed out of place for me because they were realistic imaginings of something I had never experienced.

I interpret these pregnancy and baby dreams to symbolize my thesis, a project culminating at the end of three years of hard work. More than just a thesis, this project is deeply personal because of the dream-work and because I am working to convey the harm that settler colonial governments have committed against Indigenous communities in Saskatchewan. Throughout this process, I have feared the mental, emotional, spiritual, and work-related repercussions that could arise from this deeply personal and spiritual work completed in an environment as hostile as Western academia. These dreams demonstrate the interconnectedness between myself and my thesis and how harm to myself would cause harm to my work and vice versa. In this way, my dreams of pregnancy and a baby illuminate the ways in which the epistemic violence often inflicted against Indigenous epistemes by Western academia is deeply infiltrating. These dreams thus remind me of the importance of grounding my Métis methodology and ontology within family and community and not relying on a historically violent institution to validate them. In this way, I can employ my methodology in a good way that benefits myself, my work, and those to come after me.

Another pattern I identified in my dreams, coalescing from multiple symbols coming together, is settler colonial violence. To elucidate this theme, I will discuss the multiple symbols that make it up. First, I had multiple dreams in which I was trapped or forcibly confined in a basement. Second, I had multiple dreams about dying and death. Third, two reoccurring symbols revealed in the same or congruent dreams were gendered and racialized violence. As per the teachings I have received, I interpret these dreams to all stem from experiences with settler colonial violence.

The reoccurring pattern of being trapped in the basement symbolizes my ancestors' and family members' experiences with settler colonialism in Saskatchewan. Settler colonialism is a social system that subordinates Indigenous peoples; in my dreams, this subordination is represented physically in my being stuck underground in a basement. The desperation that I felt in trying to escape the basements because I knew that escape was connected to my physical and spiritual liberation echoes the desperation, fear, and anger that my Indigenous ancestors felt when the Saskatchewan and Canadian governments stole their culture and lands. Moreover, the gendered and racialized violence that I experienced in my dreams represents the gendered and racialized violence that myself and my female and queer ancestors have faced and continue to face under a social system that does not value us and actively ignores us, as visible in the MMIWG2S crisis.

These dreams exemplify the prices that Indigenous peoples pay for the protection of white settler domination in law. Settler state institutions, such as law, deny Indigenous peoples justice and often hide the violence that Indigenous peoples face when interacting with these institutions (Starblanket & Hunt, 2020). Since Saskatchewan law was designed with the rights and protection of only white settlers in mind and upholds the settler timeline, it continues to function as an integral part of settler colonialism that normalizes violence and human rights abuses against Indigenous peoples in Saskatchewan (Starblanket & Hunt, 2020). Not only do my dreams symbolize my and my Indigenous ancestors' subordination in the image of the basement, but they also demonstrate the fear, anguish, and sometimes death that my ancestors faced at the hands of white settler colonialism. This death can be interpreted in multiple ways; it could mean the death of our connection to our traditional territory, it could symbolize the death of the spirits held within our stolen ancestral artifacts, it could also symbolize the feelings of ancestors whose

remains have been stolen by the settler colonial Saskatchewan government or whose burial grounds have been desecrated. I accept all of these interpretations, but the most poignant to me are the feelings that I had when I awoke from one of these dreams and the feelings that I still have when I think about it; it was so powerful that it affected my physical body in that it made me physically numb, and I awoke scared that I was already dead. The absolute fear that existed in my spirit in that moment, and which has not fully left since, is the fear of my ancestors and family members who have faced gendered, racialized, and capitalist violence at the hands of the settler colonial Saskatchewan government and its "proper, rights-bearing citizens" (Starblanket & Hunt, 2020, p. 82).

These dreams remind me of the sheer importance of my work in this thesis. Thus, I am here again to remind you that although I write this thesis through a storytelling methodology, it is not just **stories**. We are **real people** that white settlers refuse to acknowledge because we do not fit into their settler timeline. These violences that I speak on are **real violence** that cause **real suffering**. This thesis is not solely for the completion of a master's degree. This thesis is excruciatingly personal and meaningful work about real people; I implore all readers to remember this.

Following many dreams recounting settler colonial violence, I had a few dreams representing ancestral and family love. I dreamt of past ancestors and family members visiting me, supporting me on a journey. Within these dreams, I felt embraced by patient and understanding love, which was extremely powerful following the many painful dreams I discuss above. This symbol of ancestral and familial love demonstrates to me that I am on the right path, no matter how scary or painful it can be. These dreams renewed some motivation and assured me that I am on the right path.

The last theme I will share with you is the theme of personhood, or lack thereof. I had multiple dreams in which I was ignored, dismissed, or blamed for my pain. These dreams came shortly after finishing the discussion section of my thesis and parallel the section's conclusion. Instead of being recognized as an autonomous individual, I was dismissed and treated as incompetent or ignorant. Similarly, settler colonialism in law has denied Indigenous peoples their rights and personhood. In this way, settler institutions have an easier time assuming that Indigenous peoples are incompetent or uncivil, blaming Indigenous peoples for the hardships they face, and acting as though they, the settler colonial government, know what is best for Indigenous peoples without their input. These final dreams that I am sharing were gifted to me so that I may experience on a smaller interpersonal level the pain that my Indigenous ancestors experienced being ignored and dominated on societal, legal, and political levels.

2.3: Conclusion

Dreams in many different cultures mean many different things. In my Métis family, dreams are ways in which ancestors and spirits can speak with you, interact with you, and give you important messages. I have shared some of the meanings I make from my dreams based on teachings I have received. However, it is essential to acknowledge that I will not always fully understand what my dreams are sharing with me because I still have more to learn and because sometimes, we must sit with dreams for months or even years before we can make sense of them. For this reason, there are some dreams that I did not share in this thesis because it would be culturally irresponsible. Moreover, this practice of dream-work would often happen in ceremony and be shared verbally, not written down as I have done here. This oral transmission of dream-work knowledge is vital because it necessitates relationships between those engaged in the dream-work together. I trust those engaging with my thesis will consider their relationship to

myself, my family, and my community now that they have engaged with one of our epistemes. However, due to the inability to ensure a relationship with the readers of this section, some dreams have been omitted due to their sensitive nature and the negative impact that sharing them non-verbally would have.

Dream-work can be one of the most crucial methods for Indigenous peoples to facilitate healing, decolonization, and resurgence (Rowe, 2014). With my dreams, I have illuminated where we have been and where we are in order to light the way to where we are going. Importantly, this "we" includes me, my family, and my ancestors. From the teachings that I have received, my dreams cannot inform me of the feelings and experiences of those not related to me; this is why such a personal thesis topic was necessary for me to engage in Métis dream-work methodology.

My dreams have delineated themes and symbols of protection, fear, liberation, pain, anger, love, and personhood. The themes and symbols within my dreams have allowed me to better understand and illuminate for you, the reader, some of the impacts of white settler colonial law being perpetuated by the Saskatchewan government. My dream-work has afforded me a deeper emotional and spiritual connection with my ancestors and family members who have faced settler colonial violence in Saskatchewan and allowed you a deeper and more meaningful insight into the impacts of the violences I speak on in my thesis. The social, legal, and political subjugation faced by Indigenous peoples at the hands of Saskatchewan law, as demonstrated in my case study of *The Heritage Property Act* (1979-80), is not solely symbolic or epistemic; it is real violence that affects real people.

As Rowe (2014) and Marsden (2004) remind me, this knowledge is not "my" knowledge. The knowledge stemming from this dream-work is a collective creation and therefore deserves

collective ‘ownership’ (Marsden, 2004). Without the teachings that I received from my grandma and the gift of dream-work that I received from my ancestors, this knowledge creation would be impossible. Moreover, to move this inward knowledge my dreams gift me into praxis, I must share this knowledge with broader communities (Rowe, 2014). Therefore, dear reader, I share this collective knowledge with you in hopes that you use it in a good way to support Indigenous decolonization and resurgence within and outside of academia.

Chapter V:

The Future

"I truly believe we all have a story to tell, and that these stories can help people in ways that we do not always see" (Oster & Lizee, 2021, p. 233)

I have demonstrated where we have been through an outline of Canada's and Saskatchewan's settler colonial pasts. I have investigated where we are today through an exploration of settler colonialism in Canadian law and a case study and analysis of *The Heritage Property Act* (1979-80) in Saskatchewan. Now I will explore where we are going. However, one more aspect of where we are needs investigating before I can discuss the future: the educational institution. Remember, we must know where we have been to know where we are now and where we are going.

Section 1: Education as a Settler Colonial Institution

For a complete understanding of where I am now, I will briefly discuss the academic or educational space in which I situate myself. "The failure of the [Canadian] educational system is multigenerational, and this poses a barrier to its own evolution that is rarely addressed" (Wente, 2022, p. 34). Therefore, I must explicate the foundations of education as a settler colonial institution to fully situate myself in order to discuss the future in a good way.

Referring to the Anthropology section of my literature review, remember that by the early nineteenth century, anthropology became "*the* central educational paradigm" also used to make settler profit (Parezo & Troutman, 2001, p. 6, emphasis in original). Remember also that the 1904 LPE was a for-profit exposition positioned as an opportunity to educate the settler public

while making a profit, just as human remains were positioned in the British Museum in 2004 (Parezo & Troutman, 2001; Scarre, 2009). Astoundingly, the LPE was called the "University of the Future" by the president of Colorado College, an educational institution that still exists today (Parezo & Troutman, 2001, p. 5). The exposition was referred to as such because it worked to educate the general public about Western ideas of progress, read white civility, and how settlers were developing and colonizing Indigenous peoples and lands for their own good (Parezo & Troutman, 2001).

As already discussed, the final section of the LPE anthropological exhibit was a government-sponsored 'Indian school' that forced white settler ontology into Indigenous children's lives while forbidding them from practicing their cultures (Parezo & Troutman, 2001). At the same time, Indigenous women were brought into the school to sell their cultural arts to tourists as a way for the anthropologists to further demonstrate their civilization efforts "by the contrast between aboriginal handicraft and that of the trained pupils," as explained by McGee (n.d.) (as cited in Parezo & Troutman, 2001, p. 10). While the Indigenous women sold their cultural arts, the Indigenous children at the Indian school were forced to demonstrate their learned manual labour skills, such as sewing, furniture making, blacksmithing, and washing clothes (Parezo & Troutman, 2001). Settler anthropologists again used comparison as a method to convince the settler public that Indigenous ways of life and culture were inferior and less civilized than white settler culture and society. As stated by McCowan (1904), the exhibit ended at the "apex of civilization" (as cited in Parezo & Troutman, 2001, p. 15). On top of demonstrating the inherent eurocentrism within anthropology, this information exposes how the settler notion of Indigenous incivility, the Doctrine of Discovery, heteropatriarchy, and the capitalist hierarchy are foundational to education in white settler states. Just as the LPE

employed the notion of Indigenous incivility to implicitly justify their settler colonial and heteropatriarchal abuses against Indigenous peoples for profit under the guise of education, exactly 100 years later at the British Museum, the same ideologies are being employed to justify similar abuses. As discussed in the Saskatchewan section of my literature review, education has been used as a tool for colonization and forceful civilization, such as residential schools. However, in this context, abuses happen in the name of education, meaning that education is an umbrella under which settler colonial, capitalist, and heteropatriarchal ideologies and abuses can hide.

Thus, I want to again mention John Locke, who is briefly discussed at the beginning of my literature review. Modern-day education is based heavily on John Locke's theories about the human mind and self (Meyerhoff, 2019a). Locke theorized that education was a means by which individuals could learn to discipline their bodies through the internal government over bodily functions such as crying, bleeding, sex, and digestion (Meyerhoff, 2019a). In this way, Locke believed that education could provide individuals' minds with complete control over their bodies. However, Locke developed this theory for white European, heterosexual, cisgender, wealthy boys and men (Meyerhoff, 2019a). Moreover, Locke envisioned his model of liberal managed education to transform the subjects of education "from emotional softness (associated with femininity) to emotional hardness, from incivility to civility, from idleness to industriousness, and from being uneducated to becoming educated" (Meyerhoff, 2019a, p. 155). Also, this education would happen only through the relationship between the educator and the educatee, not in relation to peers or community members (Meyerhoff, 2019a). Locke's educational theories eventually became institutionalized through grading, exams and courses, a practice central to education today (Meyerhoff, 2019a). Grading first began at Yale University in

the late eighteenth century as a disciplinary technique used to control ‘unruly’ or ‘rebellious’ students (Meyerhoff, 2019, p. 162), coinciding with some of the earliest white settler anthropological ethnographies about Indigenous peoples.

I must remind you that Locke asserted that Indigenous peoples in North America were uncivil and child-like (Tsosie, 2017). Moreover, Locke (1997a) wrote that “perhaps without books we should be as ignorant as the Indians, whose minds are as ill-clad as their bodies” (p. 367). Locke (1997b) also referred to Indigenous peoples as “savages” in need of “civility” and denigrated their agricultural capabilities in contrast with European methods of agricultural ‘improvement’ (p. 145; Meyerhoff, 2019a, p. 158). Locke was also a defender of private property and opposed to communal ownership, calling those who defended communal ownership “traditional, backward, primitive, and closer to nature” in contrast to those promoting private property as “improved, modern, progressive, socialized” (Meyerhoff, 2019b, p. 124), thereby associating Indigenous ontologies with incivility. Locke demonstrates his commitment to the capitalist socio-economic system in his theory of labour, which asserts that by mixing one’s labour with the world, oneself is extended out into the world, and, therefore, part of the world becomes one’s property (Meyerhoff, 2019a). Additionally, Locke prescribed violent beatings for girl children who were being educated in order to instill obedience in them because he believed girls were innately obstinate and insolent (Meyerhoff, 2019a). Therefore, the theory that modern-day educational institutions are based on is an inherently capitalist, settler colonial, and heteropatriarchal theory. As Eli Meyerhoff (2019a) states, “Institutionalized modes of violence continue as the often hidden underside of education” (p. 162).

Due to modern education’s theoretical background, disguising settler colonial, capitalist, and heteropatriarchal abuses and ideologies under the education umbrella in Canada happens

frequently. First, it happens in the eurocentric racist portrayals of Indigenous peoples in mainstream public-school curriculum, such as the Niagara-region school that sent home a racist worksheet calling Indigenous children "little Indians" in September 2022 (Nickerson, 2022; Whitely, 1997). Second, in the insistence on teaching and requiring eurocentric ways of knowing and doing that are considered 'civilized' in all schools from kindergarten to graduate school, such as only working in English or French, an insistence on learning from books and journal articles instead of experiential learning, and the focus on writing papers or exams to demonstrate knowledge (Bird, 2001). Lastly, as fully explored in the Anthropology section of my thesis, abuses in the name of education occur in the use of educational 'research' as a guise for barging into, applying eurocentric epistemes on, and speaking over Indigenous communities (McGee, Jan 1904, as cited in Parezo & Troutman, 2001, p. 19). This last point is poignantly demonstrated in my case study of *The Heritage Property Act* (1979-80) in which Indigenous remains legally only have to be returned to their communities *after* "any use for research or educational purposes" authorized by the Saskatchewan provincial government (s 65, 3).

This exploration of Locke's educational theory based on his eurocentric, capitalist, settler colonial, heteropatriarchal ontology serves to situate modern-day educational institutions and explain why they are the perfect institutions to covertly maintain settler colonial, capitalist, and heteropatriarchal ideologies. Since my thesis is situated in a modern-day settler colonial educational institution, it is necessary to examine why modern educational institutions continually employ and protect the same ideologies they did 100 or even 200 years ago. Since education is an umbrella often used to protect the maintenance of problematic ideologies, it is no wonder that this protection narrative extends from the epistemic to the physical realm in the white settler 'protection' of Indigenous artifacts and remains in the name of education. In this

way, education can justify the commodification of Indigeneity. For example, Indigenous cultural arts and artifacts have been explicitly commodified for the purpose of educating the settler public about the value of Indigenous cultures to settler society; in speaking on this, Carter Meyer (2001) states that “Indian cultures were put on sale as a means of educating the public” (p. 206).

By examining the theoretical and ideological foundations of modern-day educational institutions, I am better able to situate myself and my research. Education is often used as a guise or umbrella under which settler colonial, heteropatriarchal, and capitalist ideologies are produced, reproduced, and protected. This analysis can now help me determine where I am going; the future.

Section 2: Pockets of Co-Resistance into Decolonial Indigenous Futurities

There is an inherent tension in working toward decolonization from within academia since it is a settler institution that has been and continues to be very harmful to marginalized populations. However, creating pockets of resistance is one way forward. Simpson (2017a) argues for constellations of co-resistance as place-based relationships that create flight paths away from settler colonialism and into Indigenous futurities. Along these same lines, I argue for pockets of resistance or co-resistance within settler colonial institutions, such as academia, that can support decolonial efforts. By facilitating an understanding of the covert workings of the Doctrine of Discovery, heteropatriarchy, and the capitalist hierarchy in settler colonial law, as well as by including Métis methodology to further the development of Indigenous methods in academia in a future-oriented approach to research, my thesis can help us create flight paths away from settler colonial violence and into Indigenous futurities (Simpson, 2017a). Furthermore, creating pockets of resistance from within institutions can help secure Simpson’s (2017a) identified flight paths into Indigenous futurities.

I identified pockets of co-resistance as crucial to my fight for decolonization through the process of writing this thesis. I have made connections within my educational institution, many thanks to the incredible support of my thesis supervisor, that I can now see are pockets of co-resistance in which we help each other work toward decolonization and emancipation from the marginalizing ideologies and hierarchies that are settler colonialism, capitalism, and heteropatriarchy. From my connection with my supervisor, who helps me understand how to navigate being Indigenous within an educational institution and holds me accountable, to the connection with a non-Indigenous professor on my thesis committee with whom I met bi-weekly to discuss in-depth issues of decolonization, to connections with the students and staff at our First Nations, Métis, and Inuit Student Centre who cheer me on, help me learn, and provide a safe space. All of these pockets of resistance and co-resistance within my academic life provide the spaces for Indigeneity to blossom even though we operate from within a settler colonial institution. These pockets of resistance and co-resistance give me the confidence to employ Métis methodology, working to subvert the settler colonial control over research methodologies within academia, in hopes of holding another door open for Indigenous research in academia that prioritizes and looks toward Indigenous futurities on Turtle Island.

When discussing the future, I am vying for three things. First, this thesis demonstrates that the Doctrine of Discovery facilitates the commodification of Indigeneity through *The Heritage Property Act* (1979-80) in Saskatchewan due to settler colonial, heteropatriarchal, and capitalist ideologies that are drawn together by the theory of Indigenous incivility in Saskatchewan and Canadian law. Therefore, Indigenous futurity necessarily includes analyzing how these three problematic ideologies are held together by the theory of Indigenous incivility in other Canadian laws. The research done in this thesis is a framework that can be applied to

examine how these ideologies exist in the writing and operation of other laws concerning Indigenous rights in Canada. However, I am not advocating for research on Indigenous lives that is based on the individualism inherent to capitalism. Instead of privileging productivity or work to accumulate capital (whether it be financial, social, or cultural), I am advocating for the privileging of the work it takes to build relationships and communities of mutual support within and outside of academia to co-create research in a good way; after all, Indigenous methods are inherently relational (Kovach, 2009; Rowe, 2014; Starblanket & Hunt, 2020).

This discussion brings me to my second point; in terms of Indigenous futurities in academia, we must continue to find pockets of resistance and co-resistance. Although the end to settler colonialism and the creation of good settler-Indigenous political and social relations necessitates the dismantling of settler colonial institutions such as law and academia (Starblanket & Hunt, 2020), I do not foresee that happening quickly. Moreover, as I call for continued research in academia above, I assert here that this must happen with the support of other Indigenous, Black, and Brown colleagues from within academia. Attacking settler colonialism and working toward decolonization from within should not be taken on alone, as it is mentally, physically, emotionally, and spiritually taxing work. As such, pockets of resistance and co-resistance that necessarily involve support, care, understanding, and accountability enable work, such as this thesis, that challenge ontologies, epistemes, and ideologies foundational to institutions that have facilitated and maintained violence and oppression against Indigenous, Black, and Brown peoples and the maintenance of white settler social and political hierarchies, and ultimately white settler domination on Turtle Island.

Therefore, I am instead using this thesis to work toward Indigenous futurities in academia that challenge settler colonial law, as it facilitates Indigenous subjugation. As Jesse Wente

(2022) writes, “storytelling is… one of our best weapons in the fight to reclaim our rightful place” (p. 6). The stories that I have untangled and rewound in this thesis will hopefully inform the stories that are told about Indigenous peoples in Saskatchewan, changing the narrative from paternalistic settler colonialism to decolonization moving forward. I am not seeking recognition from the settler colonial institutions that I have outlined cause harm to myself and my kin. Instead, I seek to make myself, my family, my community, and my pockets of resistance and co-resistance feel proud, supported, and seen. I see you. Your Indigeneity is valid even if white settlers tell you it is not; they often only know a fantasy that fits into their settler timeline. You are more than an “Indian,” you are more than a fantasy, you are more than an obstacle; you are the culmination of all of your ancestors’ love and strength, and you are needed.

Third, decolonization in the context of this thesis requires the repatriation of Indigenous cultural artifacts that the Saskatchewan government has stolen. As evidenced in my case study, discussion, and dream-work, the stealing and commodification of Indigenous artifacts by the Saskatchewan government have devastating epistemic, ontological, physical, spiritual, and emotional consequences for Indigenous peoples in Saskatchewan. As long as settler institutions maintain control over Indigenous artifacts, settlers remain the owners and interpreters of Indigenous cultures in settler society. Therefore, there is no chance of escaping the settler timeline, the ‘real Indian’ myth, or the commodification of Indigeneity while settler institutions continue to position themselves as the ‘protectors’ of Indigenous cultures. Thus, just as decolonization within the settler colonial context necessarily requires the repatriation of all lands, it also requires the repatriation of all stolen and commodified Indigenous cultural artifacts, as proven in this thesis.

Chapter VI:

Conclusion

"People have always shared ideas and borrowed from one another, but appropriation is entirely different from borrowing or sharing because it involves the taking up and commodification of… cultural, and more recently, spiritual forms of a society. Culture is neatly packaged for the consumer's convenience." (Johnson & Underiner, 2001, p. 52)

Through a critical literature review and case study, this thesis employs a Métis feminist theoretical lens to analyze how the commodification of Indigenous cultural artifacts in Saskatchewan law supports ongoing settler colonization in Canada. Specifically, this thesis demonstrates how and why *The Heritage Property Act* (1979-80) maintains and reproduces the settler colonial Doctrine of Discovery, the capitalist hierarchy, and heteropatriarchal ideology through the conceptualization of Indigenous peoples as uncivil. This infantilizing rhetoric disallows any questioning of settler colonial notions of property and allows the ongoing commodification of Indigenous cultures and lands, which is the living legacy of settler 'discovery.'

My critical literature review has outlined the foundations of settler colonial law in Canada, how the Doctrine of Discovery continues to be epistemically rooted in Canadian law, the settlement of and implementation of settler law in Saskatchewan, the foundational role of anthropology in settler conceptions of Indigenous peoples as uncivil, and the intricate and tangled links between the Doctrine of Discovery, capitalism, and heteropatriarchy in Canadian law. The literature review demonstrates that the settler colonial theory of Indigenous incivility is

central to the continued operation of the Doctrine of Discovery and capitalist and heteropatriarchal ideologies in Canadian and Saskatchewan laws. My case study exposes the operations of settler colonial domination and the white eurocentric epistemology that run through *The Heritage Property Act* (1979-80). In identifying the themes of the Settler Timeline and settler myth of the 'real Indian,' and the Commodification of Indigeneity, my discussion section outlines how settler colonial, capitalist, and heteropatriarchal ideologies are tied together by the notion of Indigenous incivility to facilitate the commodification of Indigeneity through Saskatchewan law. My Métis perspective and methodology within this thesis enable more profound and meaningful reflection on the realities of the findings of this thesis.

Although I originally hypothesized that the capitalist hierarchy upholds the settler colonial Doctrine of Discovery and heteropatriarchy in *The Heritage Property Act* (1979-80) and other Canadian laws, this thesis illustrates that these three logics are consolidated into a cyclical relationship by the settler colonial notions of Indigenous incivility and white civility, which allow for and justify the commodification of Indigeneity, much like Figure 1 shows. These three ideologies work together to maintain white settler domination of Indigenous lands, cultures, and bodies. Although the pursuit for profit stemming from the capitalist hierarchy does drive some instances of commodification in law, such as the commodification of Indigenous artifacts in *The Heritage Property Act* (1979-80), the settler theory of Indigenous incivility makes the Doctrine of Discovery and heteropatriarchy inextricable from the capitalist hierarchy in a mutually reinforcing cyclical relationship. These three problematic ideologies then work together to facilitate settler domination and abuse against Indigenous peoples, which in the case of this thesis is the commodification of Indigenous cultural artifacts.

Moving forward, I advocate for three things:

1. More holistic and relational research examining how the settler colonial Doctrine of Discovery, the capitalist hierarchy, and heteropatriarchy, which are brought together by the notion of Indigenous incivility, commodify Indigeneity in the writing and operation of Canadian laws concerning Indigenous rights in Canada. For example, the lack of international laws that regulate museum collections of Indigenous cultural artifacts and remains; what laws regulate museums? And how do these laws support or prevent the commodification of Indigeneity within museums?
2. The creation and maintenance of pockets of resistance and co-resistance that support Indigenous decolonial efforts in academia.
3. The repatriation of Indigenous cultural artifacts that the Saskatchewan government has stolen from their communities.

The deeply personal and spiritual work I have completed in this thesis helps me remain ka tipaymishooyahk to protect ka ishi pimaatishiyaahk. Thus, reader, I will leave you with this: Emily dishinihkaashoon. Mistahi-sîpîhk d'ooshchiin. Ni ooshtaa lii marayn. Maarsii poor toon taan. My name is Emily. I am from Big River. I am making waves. Thank you for your time.

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