

# Reproductive Violence and Settler Statecraft

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Abstract: Gender-based forms of administrative violence, such as reproductive violence, are the result of systems designed to enact population-level harms through the production and forcible imposition of colonial systems of gender. Settler statecraft has long relied on the strategic promotion of sexual and reproductive violence. Patterns of reproductive violence adapt and change to align with the enduring goals and evolving needs of settler colonial occupation, dispossession, and containment. The U.S. Supreme Court’s recent decision to end the constitutional right to abortion in *Dobbs v Jackson* is but one instance of this larger pattern. We analyze reproductive and obstetric violence and the structural trauma they produce through the lenses of i) historical continuity and ii) the global architectures of neoliberal settler capitalism in order to connect reproductive rights rollbacks in the U.S. with the expansion of reproductive violence across a world connected by colonial globalization.

In April 2022, 26-year-old Lizelle Herrera was arrested after medical staff at the hospital where she sought treatment for an active miscarriage reported the case to local officials as a suspected case of self-induced abortion. Herrera was charged with murder and held in the Starr County jail in Texas on a \$500,000 bail. A spokesperson for the Frontera Fund, a reproductive rights organization for the Rio Grande Valley, said of the case: “Low-income people of color cannot walk into a hospital safely and know that they will be able to be honest with their medical

providers and give them information that might save their life because they might go to jail” (Martinez, 2022). In the wake of the U.S. Supreme Court’s June 2022 ruling in *Dobbs v. Jackson*, which ruled that there is no constitutional right to abortion, Herrera’s case has risen to national attention as an illustration of the precarious legal and medical situations that pregnant people in the U.S. now face. We contend that the situation Herrera faced is not novel to the post-Dobbs era, nor an accidental feature of conservative policy that inflicts traumatic harm as a structural feature of gender-based violence. It is rather one moment in an evolving historical continuum of reproductive violence—the production of which adapts to meet the changing needs of white supremacist statecraft in settler colonial societies.

In 2018, two of us cautioned that the criminalization of women’s adverse pregnancy outcomes and family planning choices was already a ubiquitous and predictable result of gender-based administrative violence in settler colonial societies (Ruíz and Berenstein, 2018). Critical to our argument was the well-documented trail of cases criminalizing suspected miscarriages of women of color and Indigenous women throughout North and South America, including in the United States. The view of reproductive violence we offered hinged on the structural nature of gender-based violence as a system of regenerative and predictive interlocking oppressions that dynamically change to align with the historical goals of settler colonial occupation, dispossession, and settlement. That knowledge of these structures and their goals allows for predictions about the future patterns of harm they are likely to produce was a major contention of our 2018 paper. The rollback of reproductive rights under *Dobbs* is in line with our prediction that such reproductive violence would continue to escalate and expand its reach. If one is tracking the global order of settler colonial capital relations, which produce social marginalization in relation to low-wage labor markets and adjacent institutions, state control of

population-level reproduction should not come as a surprise. In a neoliberal economic context where the supply of low-wage labor is critically short in advanced industrial economies, and where women of color are disproportionately impacted by restrictions in provider access for reproductive health, the *Dobbs* decision marks an unsurprising moment in the colonial history of reproducing reproductive violence to ensure market stabilization through investor confidence in a coming surge in low-wage workers. While all pregnant and pregnancy-capable people are adversely affected by the *Dobbs* decision, particularly in emergency medicine and critical care scenarios, the disproportionate harm at the level of populations will predictably fall on low-income people of color and those who can least afford the travel expenses necessary to work around abortion provider scarcity. In short, our analysis provided a framework in which to understand Herrera's case as one of a continuing historical pattern of cases that highlight the complex infrastructure of gender-based administrative violence in settler colonial societies.

Here, we extend our analysis of gender-based administrative violence to the systems-level processes that ensure the historical continuity, global reach, and lifecourse exposure to reproductive and obstetric violence, particularly among youth of color. To do this, we frame our investigation of reproductive and obstetric violence and structurally produced trauma through the lenses of i) *historical continuity* and ii) the *global architectures of neoliberal settler capitalism* that connect reproductive rights rollbacks in the U.S. with obstetric and reproductive violence across a world connected by colonial globalization. Not only do we reject the ubiquitous normative affect of *surprise* as a response to explicit state endorsement and promotion of reproductive violence—as in the U.S. Supreme Court's reversal of *Roe v. Wade*—we also reject the liberal narrative of the inevitability of *progress* (Seamster and Ray, 2018). To reject the inevitability-of-progress narrative does not mean we ascent to the violence done to us through

state-sponsored promotion of reproductive harms. Our purpose, rather, is to identify the pathways through which violence continues to be reproduced, despite our historical resistance to it, in order to build structural interventions that take better aim at the configurations of power and supporting processes through which reproductive violence is sustained, generation after generation.

### **Constrictions of Reproductive Freedom, Expansions of Settler Governance**

Our investigation begins from an understanding of settler colonialism as not merely a past historical event but an ongoing structure of domination (Said, 1994; Wolfe, 1998; Wolfe, 2006; Gott, 2007; Speed, 2017; Goeman, 2017, Barker, 2017). The structure of settler colonialism has an expansive appetite for land, labor, resources, and capital, and is capable of maintaining itself over time by adapting its administrative systems to continue to meet its needs in the face of liberal social reform. This conception generates recognition that, because of the self-organizing and homeostatic features of settler colonial oppressions, not only do things not necessarily get substantively better after constitutionally-afforded protections or laws are passed, they often invite a political backlash that can leave certain populations worse off than they were before (Anderson, 2016). For example, in the wake of the #MeToo movement, the Trump Administration initiated a series of Title IX rollbacks that significantly reduced the rights of survivors of sexual campus assault. The backlash included changes to the definition of sexual assault that made it harder to classify sexual assault as a crime and that gave institutions greater discretion over what burden-of-proof standards to apply in campus investigations of sexual assault cases and greater flexibility for the nonobservance of rape shield laws. This is one of many examples that reflect a reconsolidation of structural power to entrench and facilitate the right of certain populations to perpetrate sexual violence against others. This example also

reflects the tendency of settler colonialism and the structural oppressions it licenses to re-entrench themselves in the face of political threats.

Promoting sexual violence has always been a strategy of settler statecraft, specifically against Indigenous women, children, and Two-Spirit people, whose lives and bodies vivify Indigenous political traditions via embodied webs of reciprocal relations rooted in mutual respect, non-coercion, autonomy, and sovereignty (Simpson, 2017). In the United States, Indigenous Tribal Nations have historically been legally denied criminal jurisdiction over non-Native people who commit criminal acts on tribal lands, which prohibits Tribal Nations from pursuing accountability for non-Native perpetrators of sexual violence against Native women. In 1978, the U.S. Supreme Court ruled in *Oliphant vs. Suquamish Indian Tribe* that tribal courts cannot exercise criminal jurisdiction over non-Indian defendants, as “Indian tribes do not have inherent jurisdiction to try and to punish non-Indians.” This has had brutal and often deadly consequences for Native women. The vast majority of perpetrators of rape and sexual assault against Native women are non-Native men (Amnesty International, 2007). For decades, non-Native sexual predators, usually white men, have knowingly exploited this legal landscape in order to perpetrate sexual violence against Native women on reservations with impunity (Dunbar-Ortiz, 2015, p. 214).

That sexual and reproductive violence against Native women serves the project of settler statecraft is a guiding principle of the ongoing processes of colonization and colonial genocide that continue to underlie the existence of the United States. In line with this organizing principle of the settler colonial nation-state, Republican members of the United States Congress attempted to preserve this strategy in 2012, when Congress voted on reauthorization of the Violence Against Women Act (VAWA). In addition to reducing services to immigrants without legal

status and opposing the extension of coverage to same-gender couples, the Republican-sponsored House version of the bill differed from the Senate version by specifically *not* including a provision that would repeal a part of *Oliphant* and allow for sovereign Tribal Nations to have jurisdiction over non-Native assailants who perpetrated sexual violence against Native women on tribal lands.<sup>1</sup> As Simpson (2017, p. 107) explains, “A large part of the colonial project has been to control the political power of Indigenous women and queer people through the control of our sexual agency because this agency is a threat to heteropatriarchy . . . Indigenous body sovereignty and sexuality sovereignty threaten colonial power” (p.107). The promotion of systemic sexual violence against Indigenous women, children, and Two-Spirit people is an essential mechanism to disrupt structures of governance grounded in mutual relationships among Indigenous peoples, lands, animal relatives, and other Indigenous Nations—all of which pose a threat to settler governance structures.

Other forms of reproductive violence, such as the large-scale removal of Native children from their homes and nations, have long been cornerstones of settler colonial strategies of Indigenous genocide and spatial removal. The federal policy put in place to stanch the removal of Indigenous children from their communities—and with them the Indigenous futures they

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<sup>1</sup> Subsequent to *Oliphant*, Congress restored Tribal Nations’ criminal jurisdiction over non-Indians who abuse Native people on tribal lands in their 2013 reauthorization of VAWA (Violence Against Women Reauthorization Act of 2013 Section 904, U.S.C 1304 (2018). In 2020, *McGirt v Oklahoma* ruled that since Congress had never disestablished the Creek reservation, the State of Oklahoma did not have jurisdiction to prosecute crimes by Native Americans on that land; only tribal courts and the Federal Government did. The ruling did not affect land ownership, and no land changed hands. However, in 2022, the Supreme Court limited the scope of its earlier *McGirt* ruling in *Oklahoma v. Castro-Huerta*, thereby threatening the ability of Tribal Nations to actually use the tribal criminal jurisdiction restored by Congress in VAWA. The majority opinion, penned by Brett Kavanaugh, stated that “Indian tribes lack criminal jurisdiction to prosecute crimes committed by non-Indians such as Castro-Huerta, even when non-Indians commit crimes against Indians in Indian country” (*Oklahoma v. Castro-Huerta*). To support this interpretation, the Court cited *Oliphant* as precedent.

represent and make possible—is now being actively attacked in court by a white Texas family who is represented pro bono by the law firm Gibson Dunn, which is best-known for representing the interests of oil and gas companies (Yona and Cremins, 2022). The 1978 Indian Child Welfare Act (ICWA), which is currently going before the Supreme Court in the case *Haaland vs. Brackeen*, established minimum standards for the adoption of Native children in the foster care system, the majority of whom had previously been placed both outside their extended families and outside of their Indigenous communities. The law’s challengers argue that it enacts an unconstitutional racial preference (Totenberg, 2022), despite the fact that the United States’ so-called ‘Indian Law’ is not established on the basis of racial preference but on the recognition that the sovereignty of Native nations precedes the settler state. If the U.S. Supreme Court accepts the argument that the ICWA establishes an unconstitutional racial preference and rolls it back, much if not all of Indian Law will go with it. The rollback will leave Indigenous nations in the United States *much* worse off than before the ICWA was passed.

In this political moment surrounding abortion, in many ways, pregnancy-capable people in the United States have also been left worse off than we were before *Roe v. Wade* determined there was a constitutional right to abortion. In our current climate, there is significantly greater willingness to let women and pregnancy-capable people die because of life-threatening issues with their pregnancies, including with pregnancies that are inherently non-viable, like ectopic pregnancies. The State of Tennessee’s 2020 abortion ban passed as a ‘trigger law,’ for instance, offers no exceptions for pregnancies threatening the life of the pregnant person. Instead, it offers only an “affirmative defense” for a doctor who performs a medically necessary abortion to save someone’s life and is then charged with a Class C felony as the law categorizes any performed or attempted abortion (Human Life Protection Act SB 1257, 2019). The category of Class C

felonies in Tennessee includes such crimes as aggravated assault and kidnapping and usually carries a prison sentence of 3-15 years and/or a maximum fine of \$10,000. Predictably, the fact that the law places the burden on the doctor charged with a felony to prove that a life-saving abortion was medically necessary promotes fear among physicians in the state and severely limits the number willing to perform the procedure.

A *New York Times* article entitled “‘They’re Just Going to Let Me Die?’ One Woman’s Abortion Odyssey” followed Madison Underwood’s attempt to get an abortion in Tennessee. After learning from physicians that her fetus had not formed a skull and would survive at most a few hours, if not minutes, after birth, Underwood was further told that the pregnancy was a threat to her own life, because the fetus' brain matter was leaking into the umbilical sac, which could cause sepsis and lead to critical illness or death. Though her doctors recommended she terminate the pregnancy for her own safety, she was unable to find anyone willing to perform the procedure in the state due to the confusing, threatening and quickly changing legal landscape—despite the fact that Tennessee’s abortion ban had not yet gone into effect. We contend that it was a predictable and intended effect of the law to severely reduce the number of physicians willing to perform an abortion in the state, *including when the procedure is necessary for saving a pregnant person’s life*. Pazzanese (2022) notes that, while “Even the staunchest abortion opponents once hedged when it came to saying the law should force a woman to continue a life-threatening pregnancy. But,” she continues, “since the Supreme Court overturned *Roe v. Wade* last month, eliminating “life of the mother” exceptions in abortion bans is no longer seen as politically unthinkable.” Pazzanese cites a recent lawsuit by the Texas Attorney General against the Department of Health and Human Services, which challenges their reminder that doctors perform a life-saving abortion are protected from prosecution under federal law, even in states



that ban the procedure. These examples are indicative of the increased political desire of the forced birth movement to allow women and pregnant people to die when their pregnancies threaten their lives.

The fact that reproductive violence can produce seemingly inconsistent phenomena (such as the willingness to let pregnant people die but also to prevent the termination of pregnancies) becomes explainable when reproductive violence is understood as a structure of settler capitalism. As a structure, it produces differential outcomes that work to achieve the same systems-goal of generating profit and concentrated wealth for white settler polities. The administrative, military, and policy vehicles used to achieve this goal vary widely and adapt in ways that respond to the regional and global multi-sector interests of white polities (e.g., the investor class, the Religious Right, the political elite and donor class, etc.). For example, when weighing the risk of investing against expected rates of return, the investor class requires confidence that government policies and regulations will align with business environments that maximize profit. The investor class often intersects with religious conservatives and the Religious Right, as they do in Morgan Stanley's guide for "faith-based investing" or in the well-known New Covenant Growth Fund and Camco Investors Fund. They also intersect with the elite donor class, as in the Koch-led charitable foundations. Intersecting interests promulgate environments where those most likely to be harmed by policy have the least proximity to white settler wealth. In an inflationary downturn with low-wage worker scarcity, publicly traded companies look to the future for certainty about an incoming supply of workers. Consider the fact that, on the day the U.S. Supreme Court overturned *Roe v. Wade*, the stock market soared, breaking a month-long losing streak with an 800+ point gain and rallying for days afterward.<sup>2</sup>

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<sup>2</sup> For an economic analysis of this dynamic, see Card and Kreuger (1994).

This is an unsurprising dynamic of settler capitalist market relations. Notice also that the settler capitalist labor-market goals of restricting abortion are not actually at odds with the escalating inclination to allow pregnant people to die as a result of preventable medical complications. Forced pregnancy as a mechanism of reproductive violence specifically harms cis women, non-binary people, and trans men. It is a tool of cisheteropatriarchal control and domination that sends a message, especially to women, that they have value insofar as they are producing the next generation of either low-wage workers or of white settler dynastic polities.<sup>3</sup> If they can't produce value, they are of little use to settler capitalist white supremacy and may as well be left to die while new targets for reproductive control are identified.

Two primary features of structures of oppression are their adaptive capacities and their ability to elevate a system's capacity for exponential growth over time. These can be observed in the fact that there is a much greater appetite now to incarcerate people who *do* get abortions, as well as those who have miscarriages, and to publicize these arrests for conservative political gain. Before *Roe v. Wade*, it was not as common in the U.S. to see women prosecuted for homicide because of their pregnancy outcomes. Consider also that colonial courts in Latin America rarely saw prosecutions for the crime of abortion between the 17<sup>th</sup> and 19<sup>th</sup> centuries. However, this changed in later periods in response to greater gains in gender-based rights and reproductive care access (Jaffary, 2012). Similarly, in the U.S., "under the common law, abortions were generally legal; it was not until the early nineteenth century that laws were passed prohibiting the procedure" (Butler, 1977). Prior to the *Dobbs* decision, homicide prosecutions of women for abortions and miscarriages were already becoming more routine in the U.S., as we show in Ruíz and Berenstain (2018). And they are set to become even more common now, as the

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<sup>3</sup> See Ruíz (forthcoming) for an analysis of the intergenerational material and epistemic benefits that accrue to white settler populations in terms of white dynastic formations.

Right continues their efforts to entrench notions like “fetal personhood” and “fetal assault” in policies that pave the way for severely punishing those who lose their pregnancies and further depriving them of bodily autonomy through incarceration, forced medical procedures, and forced institutionalization (Paltrow and Flavin, 2013).

These trends, while urgent and terrifying, are not new developments nor are they the result of increasingly contentious warring between political factions. Rather, they are the most recent iteration of a long-running legacy of reproductive violence that has formed a core branch of institutionalized population control, punishment, and heteropatriarchal domination in the service of white supremacy and settler colonialism since Europeans first invaded, occupied, and colonized the lands and peoples of the Americas. To account for the half-millennium timescale of these trends, we tell a structural story that frames institutions and their outcomes as part of intentionally designed administrative systems whose functions are built around the goals of settler colonialism. We conceive administrative violence in terms of epistemic and institutional systems that structurally produce automated harm and death for certain populations, non-accidentally and by design. Specifically, our analysis considers how administrative systems in settler societies provide the gearwork for enforcing and maintaining forms of oppression, which are themselves oriented toward and structured by the goals of settler colonial white supremacy. Capitalism, ableism, and cisheteropatriarchy are foundational organizing principles of settler administrative systems. They perform essential organizational functions to further the goals of settler colonialism. And, because of the functions of these structures, the violence they produce is predictable and observable, though it also tends to be intentionally excluded from what, in settler societies, is considered “real” violence. And this is not an accident, as Elena Ruíz (2019; 2020) and Anishinaabe scholar Leanne Betasamosake Simpson (2017) have pointed out. As

Simpson notes, these systems are designed to ensure that the violence they produce is unnameable and even unidentifiable.

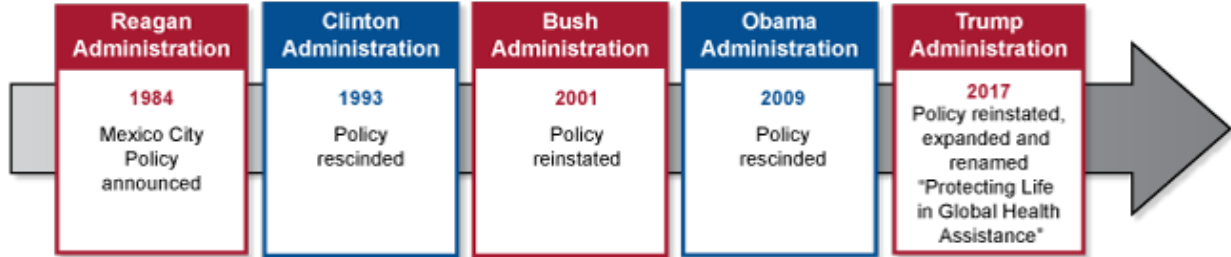
The increasingly explicit state endorsement and expansion of obstetric violence and the structural production of reproductive trauma would not be possible without pervasive, organized structural gaslighting (Berenstain, 2020; Ruíz, 2020; Davis and Ernst, 2019) aimed at those who have long been sounding the alarm about these empirically demonstrable trends of increasing policy and prosecutorial efforts toward reproductive violence. We call attention to this pattern of structural gaslighting and expand more fully on the concept in section 3 of this paper. Scholars such as Shannon Speed (2017; 2019), Sarah Deer (2015), Angela Davis (1983), Dorothy Roberts (1997), and Aida Hernandez-Castillo (2016) have all been warning us for quite some time about the power of systems of oppression to regroup, reorganize, and morph into other forms to escape notice and continue producing structural violence. Their work not only influences the picture that we outline in section three below, it also has clear implications for what is to come.

Efforts to roll back reproductive rights are not without historical precedent. Two significant backlashes to *Roe v. Wade* (1973) should be noted. The *Hyde Amendment* (1976) directly responded to the liberalized abortion laws established in *Roe* by cutting off federal funding for abortion. Title XIX of the 1965 Social Securities Act established the Medicaid program that provides federal assistance for medical treatment of indigent or financially in need persons, including for abortion care. As Davis writes, following the passage of the Hyde Amendment, “Black, Puerto Rican, Chicana and Native American Indian women, together with their impoverished white sisters, were thus effectively divested of the legal right to abortions” (Davis, 1983, p. 206). Prior to the Hyde Amendment, “most state Medicaid programs nominally appear to have reimbursed abortion like any other medical procedure” (National Research

Council). The Hyde amendment prohibited the use of federal funds to pay of abortions through Medicaid. The Amendment passed without exceptions to save the mother’s life, or for incest or rape (later versions restored these exceptions). In 1980, the U.S. Supreme Court upheld the Hyde’s Amendments restrictions in *Harris v. McRae*, leaving it to States to pass legislation to work around the Amendment’s provisions.

Less familiar to most is the *Helms Amendment*, a 1973 amendment to the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)) that prohibits the use of federal funds to pay for abortions or to “motivate or coerce any person to practice abortions” by nongovernmental organizations (NGOs) that receive Federal funds. In 1984, Reagan expanded its reach (through what was known as ‘the Mexico City Policy’) to include any NGO that uses *non-Federal* funds to perform or disseminate information on, or to promote increased access to abortion. Trump significantly expanded on Reagan’s expansion to further include organizations, businesses, or subcontractors that do business with any USAID-funded agency.

Figure 1.1: A timeline of the Helms Amendment



Source: Congressional Research Service. | GAO-20-347

In the aftermath of *Roe*, the immediate rollback to abortion rights took place through global infrastructures of foreign aid that govern family planning services. Today, the U.S. is the world’s largest provider of foreign aid for such services, rendering domestic policy de facto international policy in the 80% of the world where U.S. foreign aid applies to family-planning provider infrastructures (Kumar, 2022). More than half of the global total of annual abortions

occur in countries that receive U.S. family planning aid and where abortion has been decriminalized in at least some circumstances (Kumar, 2022). Consider that today, although Ethiopia has liberalized abortion laws, half of the clinics will not provide one due to U.S. foreign aid restrictions (Ibid.). In a 2019 study published in *The Lancet*, “Findings suggest that curbing US assistance to family planning organizations, especially those that consider abortion as a method of family planning, increases abortion prevalence in sub-Saharan African countries most affected by the policy (Brooks, Bendavid, and Miller, 2019).” The global reach of U.S. policy is critical to consider in the production of reproductive violence. Also critical are the systems-level features that allow such violence to persist throughout the ping-pong reinstatement and rescinding and policy marathon surrounding reproductive violence. Although U.S. President Biden rescinded the Mexico City Policy in January 2021, the Dobbs decision puts that decision in peril.

Traditional policy narratives frame the back-and-forth policy fight over reproductive rights and abortion access as standard operating procedure in two-party representative governance. The most dominant narrative for explaining the increasing severity of policies through time is through narratives of social ‘polarization’ in the political climate of ‘culture,’ sometimes cashed out in racist overtones of ‘tribalism’. In contrast to these narratives, we frame this ping-pong policy pattern through the historical continuity of the global architectures of neoliberal settler capitalism.

Consider the structural relationship of the Helms Amendment to the 35 million unsafe abortions that occur annually across the globe (Kumar, 2022). Kumar notes that these are “among the world’s most significant and most easily preventable public health tragedies.” She further argues that restrictions on abortion access, particularly in places where it is difficult to

access high-quality health care, predictably lead pregnant people to seek out unsafe abortions.

She writes,

In countries that currently accept U.S. family planning aid and where abortion is now legal under some circumstances, more than 19 million unsafe abortions occur annually — more than half of the global total.

These unsafe abortions result in complications requiring medical treatment — ranging from minor bleeding to shock and sepsis — for more than 11.8 million women and girls in those countries every year. And every year, more than 16,000 of the women and girls who have received these unsafe abortions die from more serious complications. Repealing Helms would no doubt save some women from this fate. (Kumar, 2022)

The effects of the Helms Amendment leading to a greater number of unsafe abortions and the deaths that these cause are both predictable and known. Thus, we contend that they are also *non-accidental*, both in the sense of being caused in part by Helms, as well as in the sense of being a deliberately intended effect of Helms — just as the recent move in the United States toward letting people with life-threatening pregnancies die is non-accidental. These also represent the ability of settler colonial governance to reproduce itself not just diachronically but synchronically in an exponential expansion of settler statecraft. Thus, the gender-based administrative violence mandated by settler colonialism displaces and replaces other governance practices worldwide that not only demonstrate greater respect for women and pregnancy-capable people but that lead to lower levels of structural violence and death. This colonial expansion of reproductive violence and control is facilitated by a policy that masquerades as “foreign aid.” This structural gaslighting narrative fits into the long pattern of portraying practices of colonization, including forms of reproductive coercion, as beneficial to those targeted by them (Million, 2013).

### **The Structural Character of Reproductive Violence in Settler Statecraft**

Gender-based administrative violence, including the forms of reproductive violence exemplified here, are, on our account, the result of intentionally designed systems organized to enact structured violence through the production of the colonial system of gender (Lugones, 2007). For instance, settler colonial forms of heteropatriarchy were introduced in the Americas as a strategy for displacing Indigenous peoples from their lands so that white settlers could acquire them and replace Indigenous lifeways with settler lifeways (Simpson, 2017). This is a complex process that requires sophisticated infrastructures to carry out. The institution of heterosexual marriage, for instance, enforces the heteropatriarchal ideal of the nuclear family as the most morally privileged kinship unit and living situation (Collins, 2000). Its purpose was to regulate kinship and reproduction in such a way that would disrupt the many varied Indigenous communal living practices so that a system of land privatization governed by the notion of ‘private property’ could be enforced (Meissner and Whyte, 2017; Rifkin 2010). It was necessary for settler administrative systems to impose a domination-based relationship of ownership to land so that Indigenous land, which encompasses webs of reciprocal relationships far more varied and less violent than the ownership relation that characterizes colonial notions of private property, could be transferred to settlers under a framework of legalized theft. This one example of how gender is used as a tool of administrative violence is part of a repeated pattern from the settler colonial playbook that has been deployed across a range of contexts.

Reproductive and obstetric violence are mechanisms of gender-based administrative violence oriented toward accomplishing settler colonial goals through the establishment of white supremacist heteropatriarchal capitalism. The use of the term “obstetric violence” originated in Latin America by activists wanting to tell a structural story of the patterns of mistreatment, abuse, and non-consensual interventions faced by birthing and pregnancy-capable people at all



stages of reproduction (van der Waal, Mayra, Horn, & Chadwick, 2022). Central to their story was a recognition of the structurally racist and misogynistic dimensions of these patterns, as well as the fact that applying the sometimes-contentious term *violence* to these patterns was necessary to capture the serious and intentional physical, emotion, and sexual harms that were being committed against, especially, populations of Black, Brown, and Indigenous women.

But obstetric violence is by no means unique to Latin America, as reproductive coercion is a central arm of imperialist white supremacist capitalist patriarchy and settler statecraft. As we emphasized in Ruíz and Berenstain (2018), settler colonial systems of administrative violence are not hemmed in by the boundaries of settler nation-states, since the flow of colonial power strategies preceded settler colonial borders. Ongoing patterns of reproductive violence against Latin American women are thus structurally connected to historical and contemporary efforts in the U.S. and Canada to exert coercive reproductive control over Black women, Brown women, and Indigenous women “to sustain cultures of gender-based violence in support of settler colonial configurations of power.” An early example of an intentionally designed system of reproductive violence in the colonies and early United States is the legal doctrine of *partus sequitur ventrum*, which defined the status of a child as free or enslaved depending on the status of their mother. It meant that any child born to an enslaved woman would legally be considered enslaved. This doctrine formed a legal foundation for reifying the intersecting effects of white supremacy, patriarchy, and capitalism on Black women’s bodies (Collins, 2000). Under slavery, white enslavers systematically used sexual violence against enslaved Black women as a form of control and domination (Davis 1983, p. 175), but this legal doctrine also encouraged their use of rape against enslaved Black women by economically incentivizing sexual violence as a tool of white wealth production (Collins, 2000). Thus, white enslavers not only treated Black people as

property, they treated Black women's bodies as units of capital capable of producing additional units of capital. This form of gender-based administrative violence rooted in settler colonial white supremacist capitalist patriarchy created a lasting legacy of white supremacist and state-sponsored coercive control over Black women's fertility and reproduction (Roberts, 1997) that continues to affect Black women's structural vulnerability to sexual, reproductive, and obstetric violence today. The crisis of Black maternal mortality in the United States is but one gruesome yet preventable culmination of these intersecting systems of violence.

On our view, all forms of gender-based administrative violence in settler societies are inextricable from the goals of settler colonial white supremacy. When theorizing colonial violence, it is of paramount importance to recognize that colonialism is an ongoing process, not a past historical event (Arvin, Tuck, & Morrill, 2013; Wolfe, 2006). Indigenous feminist theorists have been at the forefront of the promotion of this understanding of colonialism and its relation to gender-based violence (Maracle, 2015; Denetdale, 2017; Goeman, 2017; Barker, 2017; Speed, 2019). In her book *Incarcerated Stories* (2019), Chickasaw scholar Shannon Speed lays out how the socially organized character of violence against incarcerated Indigenous migrant women today is part of a longer continuum of colonial violence rather than just a consequence of the immediate economic interests of local townships and for-profit policing. A structural understanding of colonialism as a set of intergenerational, self-transformational practices that automate inequality irrespective of who is in power is what we mean by a *historically continuous* view of colonial violence.

When we refer to reproductive violence being endorsed and promoted by 'the state', we are not referring to specific state entities or emissaries—for example, to the many dedicated people in civil service and even in elected public office who know this history of systemic

oppression and how it continues to impact their constituents who desperately need the affordable healthcare, civil rights protections, and critical infrastructure goods that are systematically denied to them. Rather, we are talking about *systems-level properties of settler colonial white supremacy* that make such a task exceedingly difficult as effective and long-lasting measures for social change--as something other than a rollback in the making.

Consider the relationship between reproductive violence and ‘the state’ in the Latin American context, which is characterized by the settler nationhood configuration for ancestral and occupied territories of Indigenous people from Turtle Island and Abya Yala. In this context, the question of state interests in reproductive violence is not how are the two related, but how are they *not*? Matters of reproductive violence are deeply and essentially interwoven with state interests and methods of state-sponsored terrorism. There is always economic interest in subjugating domestic populations in settler societies, and that interest is often tied to foreign economic interests as well. In the South of Mexico, for instance, paramilitary and state-sponsored militarization of Indigenous zones protect extractivist interests and pave the way for private mining megaprojects. Because Mexico has (among other resources) the raw materials needed to build semiconductors and batteries to solve supply chain woes in the U.S., state-sponsored militarization of sexual violence enjoys widespread impunity, and very few resources exist to address it. Neither are there resources to address the structural conditions currently driving a huge spike in early and teen marriages, sexual and domestic abuse, and increasingly restrictive access to teen obstetric care—and this is by design. This is why state terror and sexual violence in all its forms are theorized as part of a reproductive justice platform in the region.

A structural conception of these interrelated forces forms a core part of the massive ‘Green Wave’ (Marea Verde) feminist movement—where women have marched in the millions

for reproductive justice and access to safe and legal abortions while also calling for anti-neoliberal reform and pushing back against normalized gaslighting about state accountability.<sup>4</sup> A critical component of Green Wave feminism is the fight against compulsory motherhood for children and for access to safe abortions for all pregnancy-capable youth. In 2012, pregnant 16-year old Rosaura Almonte Hernández died from leukemia after doctors in the Dominican Republic denied her life-saving chemotherapy so as to avoid causing a miscarriage (Oppenheim, 2012). She could not request an abortion, because the procedure was illegal without exceptions. High-profile cases such as hers helped center the plight of minors and young adults in organized resistance to reproductive violence throughout the region (Amnesty International, 2016)

Children and youth are particularly vulnerable to the harms of medical decision-making guided by conservative social policy. In many cases, the policies in place either ignore or criminalize the underage victim while also closing off accountability pathways for the abuser, leaving many children worse off than before the abuse was brought to the attention of providers through clinical encounters. Consider the case of Paulina del Carmen Ramírez Jacinto, which was brought before The Inter-American Commission on Human Rights in 2002 (Report No. 2107, Petition 161-02). In 1999, when Paulina was just 14 years old, she was raped by an intruder in her home in Mexico. Paulina and her mother reported the rape, yet she was not given any medical attention. Health officials specifically withheld information from her regarding the availability of emergency oral contraceptives. After learning she was pregnant as a result of her rape, she asked for an abortion under a Mexican law that, at the time, decriminalized abortion in

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<sup>4</sup> This complex conception of the state's role in sexual and reproductive violence is reflected in a popular song, "Un violador en tu camino," which means "there's a rapist in your path." So many women and girls know this song that it has been performed all over the world during mass protest events, including in packed stadiums (Pais 2019). Part of the chorus says "the rapist is you. It's the police, it's the judicial system, it's the state, it's the president, the oppressive state is a macho rapist!"

cases of rape “if the incident was duly reported” to the prosecutor’s office. Despite having reported the rape and asked for an abortion, she was coerced by public health officials into a forced birth. Paulina’s case illustrates the wide range of mechanisms that i) generate work-arounds to health equity and reproductive rights in settler colonial societies, ii) the broad reach of reproductive violence across the lifespan, and iii) the role of health interventions in actively producing non-accidental failure of care for members of marginalized populations. We explore these structural mechanisms below via a discussion of recent (2022) semi-structured interviews conducted with mother-child dyads and health professionals in Veracruz, Mexico.

In Mexico, the high incidence of gender-based violence includes high rates of maternal mortality. As such, an increasing number of policies purportedly aiming to prevent maternal mortality have been implemented. However, such policies primarily mandate data collection through questionnaires administered during healthcare appointments about whether pregnant people are facing situations of violence, without providing any additional resources when reporting occurs, thus impugning their purported goal of prevention. This practice of data collection without intervention is further employed in cases in which the pregnant patient is a minor child and her partner or husband is an adult man. This indicates the primary value of such data collection is to enact a form of surveillance by the settler state, as it endorses structural reproductive violence by condoning through tacit approval the institution of child marriage and the corresponding practice of child rape.

Below is an excerpt from an interview with a physician explaining what they have to do to detect if one of their pregnant patients is facing violence:

All minor patients who have a partner who is someone of legal age, are reported to the public ministry, due to everything that is happening right now with violence and femicides. Well, a notice is given to the health jurisdiction, and if a problem arises, then they [public ministry] come. We have had two or three cases of pregnant women in

situations like this. This has to be handled with a lot of discretion, with a lot of privacy, to give her confidence. Because, for example, we have cases in which there are 14-year-old girls with 40-year-old men who don't like to denounce, so they are supposedly fine but in reality they are not. In fact, from the age difference in the couple, it already sounds like something [bad] is happening. So all these things are talked about during the intake consultation. We have to detect and prevent, for example, in the case of violence, more violence during the pregnancy (Fieldnotes, October 2022).

When asked if they were able to detect cases of violence regularly, they responded:

“Well... not too many, but sometimes it's a little alarming, because, I think no woman, particularly no pregnant women, deserves to experience violence. Because sometimes it is not just physical violence, but also psychological, economic. Or for example, when a girl sees a person as a way out and they imagine a better world and then it is not like that and she is disappointed. So we have to detect all of that because we have had patients whose couples infected them with HIV, cases of beatings, cases of alcoholism, cases of sexual abuse. But you cannot intervene there. You simply use the tool [the questionnaire] and give notice [to the health jurisdiction].” (Ibid.)

These responses suggest that the purpose of the information gathered from the questionnaire is for healthcare institutions to detect the violence. But it appears that they do not offer any resources to the people experiencing violence. When asked about what happens when violence is detected, the physician responded:

“A document is added to their medical file. In the event that she [pregnant person] does not want to file a complaint, we already gave notice [to the health jurisdiction], so if something were to happen to the patient we can say, "well, here it is, I did detect it, I did give notice." But the patient keeps the right to report or not.”

“All these issues are very delicate. We have to be very careful. Because right now there are some norms [to prevent] obstetric violence, there are many things that are protecting them [pregnant people], but still sometimes they don't want to report it and we can't judge why they make that decision.”

It appears that public healthcare institutions are committed to detecting violence as a way to protect themselves from liability in the case that further violence, such as femicide, is perpetrated against their pregnant patient. Telling a patient that what they are reporting qualifies as violence, without offering them further resources may also lead to people underreporting violence if they sense that it will create additional problems and vulnerabilities for them. Thus,

this tool allegedly implemented to *detect* violence may actually be a tool to *reproduce* violence through a form of surveillance that is both complicit with and encouraging of child sexual abuse through the reinforcement of structural impunity. The data collection without intervention practices can also be understood in the genealogy of state-sponsored surveillance tactics used to coerce Indigenous mothers to parent their babies in ways dictated by the settler state (Smith-Oka, 2013).

These cases reveal the wide range of phenomena that constitute reproductive violence in settler societies and the myriad ways the state colludes in their perpetration. Decades ago, Angela Davis (1983) laid out the case for why a state would be interested in enacting administrative violence targeted at women's reproduction in the U.S. context. Davis argued that the structures of reproductive violence are formed not just in response to economic and political interests, but to the intimate interrelations between the two. As we show here, these interests also play out at the global scale in ways that reflect their cultural roots in colonialism. In the next section, we consider the narrative mythologies that are invoked to obscure the structural factors producing policies, practices, and self-organizing systems of reproductive violence under settler colonialism.

### **Structural Gaslighting and Reproductive Violence**

Structural gaslighting is defined as any conceptual work that functions to obscure the productive relationship of structures of oppression to the individual and population-level harms they bring about (Berenstain, 2020). All settler colonial structures of oppression require narratives that perform the function of structural gaslighting to justify their systems-level harms and deflect from their root causes. We examine some of the structural gaslighting narratives deployed to obscure the oppression causes of reproductive violence against targeted populations.

To fully understand the ways that settler colonialism invokes myriad forms of supremacy in furtherance of its goals, it is essential to recognize the centrality of ableism and eugenicist policies to settler systems of reproductive violence and intergenerational trauma. Eugenics is at the very center of the story of reproductive violence. In addition to gender oppression, it involves the nexus of ableism, racism and white supremacy, capitalism, xenophobia, and colonialism. Between 1930 and 1970, for instance, more than one third of Puerto Rican women were forcibly sterilized. US colonialism dispossessed the vast majority of the Puerto Rican population, leaving people landless and in poverty. U.S. eugenicists blamed the resulting poverty on overpopulation and seized the opportunity to enact reproductive violence as a matter of policy on Puerto Rican women (Briggs, 2002). This included not just sterilization but medical experimentation. Clarence Gamble, of Procter & Gamble was one of the main proponents of eugenics as a solution to poverty in Puerto Rico (Briggs, 2002). He also argued that reducing the African American birth rate in the U.S. was necessary to address poverty in the American South, which motivated him to fund Margaret Sanger's 1939 "Negro Project" to reduce Southern Black birth rates (Schuller, 2018). This is part of a long history of using controlling images about Black women's mothering and reproduction as a cause of Black poverty to produce structural gaslighting narratives that deflect from the political and economic mechanisms that maintain white supremacy and the capitalist transfer of wealth from Black communities to white ones (e.g. Seamster, 2016; DOJ, 2015; Coates, 2014). While racism, capitalist exploitation, and colonialism are all essential to understanding the history and present of coercive control over reproduction in the Americas, it is those targeted by the violence of these systems who are portrayed as causing their own oppression.



Today, there are laws in 31 states and Washington DC that explicitly allow for the forced sterilization of disabled people (NWLC, 2022). Women with intellectual disabilities are sterilized more frequently than non-disabled women, and they are sterilized at a younger age than nondisabled women. Disabled Black women are sterilized at higher rates than disabled white women. Narratives about reproductive rights that focus solely on gender not only miss these essential structural factors, but in our view, actually function to entrench and reinforce them by hiding them from view. Shelley Tremain (2017) has incisively shown how white feminists and white feminist philosophers traffic in structural gaslighting narratives that not only ignore but actually collude with the systems that enable these forms of racist, ableist reproductive violence and the extermination of disabled peoples more generally.

Those seeking to entrench reproductive violence against targeted populations use similar narrative tactics of structural gaslighting. Because they not only leave out but actively obscure structural factors, we argue that it is a mistake to take their arguments at face value. This is especially true when it comes to the main reasons that opponents of abortion offer for why they want to ban abortion. If abortion opponents were primarily concerned with the so-called loss of fetal life, they would be equally concerned with preventing miscarriages as with preventing abortions. This is because somewhere between 10 and 20 percent of pregnancies end in miscarriage. An important part of reducing the high rate of “loss of fetal life” that comes from miscarriages involves preventing unwanted pregnancy, and the best way to do that is to make birth control free and accessible to everyone who wants it. Of course, that is not something we see the anti-abortion movement working toward; in fact, we see just the opposite. Many in the anti-abortion movement are committed to *limiting* the accessibility and affordability of birth

control.<sup>5</sup> If they sincerely cared first and foremost about reducing preventable loss of fetal life, they would advocate as ferociously for free and accessible birth control as they do for banning abortion.

Another way to determine that abortion opposition has little to do with anything regarding the “sanctity of life” is by looking at how anti-abortion institutions treat life in other cases. Consider the Catholic Church, for instance, which has been a major opponent of abortion because of its purported commitment to the sanctity of human life. Yet the Church’s commitment to the sanctity of human life was nowhere to be found in 1493 when Pope Alexander VI issued papal bulls articulating the Doctrine of Discovery, allowing Europeans to commit genocide against the Indigenous peoples of the Americas to exterminate them from the lands to which the Church legitimized Christian claims of sovereignty (Reid, 2010). Nor from the 1880s to the 1900s when it continued its genocides by removing Indigenous children from their homes and shipping them off to residential schools, which were institutions not only of forced assimilation, but of systematic physical, sexual, emotional, and spiritual abuse with the goal of producing intergenerational trauma (Austen, 2022). The Catholic Church killed thousands of Indigenous children in these carceral institutions. Residential schools are only one of the genocidal tactics the Catholic Church has used in its enactment of settler colonial violence across the Americas. While genocide is incompatible with a commitment to the sanctity of human life, it has been central to the history of the Catholic Church in the Americas. Similar

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<sup>5</sup> The 2014 U.S. Supreme Court decision in *Burwell vs. Hobby Lobby*, for instance, ruled that the contraceptive mandate of the Affordable Care Act violated corporations’ right to religious freedom. The decision, which effectively limits the affordability and accessibility of birth control for workers whose employers no longer cover its costs, was a win for the Religious Right. The decision also may have been leaked to conservative Evangelical leader Rob Schenck by Justice Alito after the former spent months ingratiating himself with court officials and engaging in outreach efforts with conservative Justices Alito, Thomas, and Scalia (Kantor and Becker, 2022)

foundational inconsistencies can be found in much religious anti-abortion strategy and rhetoric. It is imperative to not only remain skeptical about the sincerity of the professed values that abortion opponents offer for violating the bodily autonomy of pregnancy-capable people, but to push back against the terms of the debate they set, as the public acceptances of such terms is essential to abortion opponents' ability to successfully perform structural gaslighting.

This is not to say that religious concerns do not play a role in the political motivations for forced pregnancy and forced birth via abortion restrictions. But it is important to be specific about *whose* religious concerns we are talking about and *what it is* they are concerned with. Some of the most relevant religious concerns that should be attended to are the concerns of the white Christian Right with maintaining and preserving the social order. Anthea Butler's (2021) work demonstrates how white supremacy and heteropatriarchy have long been among the core political commitments of white evangelicals in the United States. The manifestations of these commitments have included using the bible to justify slavery, oppose desegregation and preserve the freedom to racially discriminate, and to promote a gender ideology that upholds cultures of rape and abuse by requiring women's unquestioning subservience to their husbands as both their heads of household and their spiritual leaders. Certain strains of white evangelical Christianity have thus been deeply and lastingly invested in upholding extraordinarily violent forms of social order and domination.

It is important to recognize the close relationship between Christianity and settler colonialism in the U.S. Consider, for instance, the writings of Horatio Robinson Storer, a white Christian physician who, in the mid-nineteenth century, mobilized a group of white male doctors to begin pushing for the criminalization of abortion across the United States. In his anti-abortion opus, he plainly expresses the settler colonial underpinnings of his project. In addition to clearly

stating that abortion jeopardizes women's ability to carry out their essential duties as wives and mothers, he also admonishes that abortion jeopardizes the future of white settler dominance. At the very end of his book, he references the newly depopulated western 'frontiers' and he asks whether these areas shall "be filled by our own children or by those of aliens? This is a question that our own women must answer; upon their loins depends the future destiny of the nation" (1868). The suggestion that cisgender white women are responsible for maintaining the strength of the white settler population—against encroachment by immigrants of color—remains in circulation today. In June 2022, the head of The Conservative Political Action Committee (CPAC), Matt Schlapp, suggested that banning abortion would be an effective strategy to solve the problem of the so-called "great replacement"—a white supremacist conspiracy theory that alleges that immigrants of color are being brought into the United States to "replace" the white population and upset white political power. Schlapp remarked, "If you say there is a population problem in a country, but you're killing millions of your own people every year through legalized abortion every year, if that were to be reduced, some of that problem is solved" (Weinberg, 2022). He went on to admonish, "Start with allowing our own people to live." By "our own people" Schlapp obviously means *white* people. It is not necessarily a mistake to think that banning abortion and criminalizing pregnancy are motivated by religious concerns. Rather, the mistake lies in separating the category of "religious concerns" from the commitments of settler colonialism, white supremacy, and heteropatriarchy. Because, for an increasingly politically powerful minority in the U.S., these *are* some of their core religious concerns (Butler, 2021; Martí, 2020; Kobes du Mez, 2020).

In the Latin American context, these goals and policy agendas are similarly interwoven and ultimately inseparable from the goals of settler colonialism and specifically, neoliberal

formations of settler capitalism. The Evangelical movement in Latin America not only has deep roots in anti-abortion policy; it also has a history of partnering with free-market enterprise and the neoliberal push of the ‘Washington Consensus’ to make foreign economies friendlier to private investment and extractivism. They have been incredibly successful in blurring the lines between these agendas over the last 20 years. Consider the influential work of Capitol Ministries, whose mission is “Making Disciples of Jesus Christ in the Political Area Throughout the World,” It is certainly in concert with the Republican push to pack the courts with judges who will restrict or ban abortion. But what is significant is that, since 1996, they have targeted state legislatures *all over the world*, not only in the U.S., to pursue their economic interests and promote policies of reproductive violence. They use bible study groups to recruit members of Congress and other political officials to do this work, and they are very effective. They currently hold “discipleship ministries” in over 40 foreign federal capitols (Capitol Ministries, 2021). The World Congress of Families is another example of an organization pushing a similar strategic agenda across Eastern Europe, Africa, and Australia, specifically promoting extremist anti-LGBTQ policies under the guise of protecting the “natural” family. This pattern offers ample evidence of where things are headed based on the *infrastructure* alone that these organizations have been successful in building. And it gives enormous reason for concern. Katherine Stewart’s (2020) book *The Power Worshipers* has received a great deal of attention, because it lays out these goals in terms of Christian Nationalism. The larger structural issues of white supremacy, racialized misogyny, dispossession, and rape culture behind religious motivations in the political arena are just as central, however, and require the same amount of critical analysis and attention.

### **Concluding Remarks**

The picture offered here points us towards a politics that takes this adaptive design of colonial violence into account through strategy for policy, action, and resistance – because the architecture of colonial violence seeks to construct a world in which you think you have no options or reasons to keep resisting. That is a message that we explicitly reject. We take our framework to offer serious warnings about the trajectory of increasing levels of administrative violence against intentionally marginalized and subordinated populations. We also emphasize the need to envision and preempt the ways that settler states and their self-organizing systems of reproductive coercion promote, extend, and evolve new and different pathways to create harm and hyper-vulnerability for groups such as youth of color.

Our picture also directs attention to the problematic approach of delinking an understanding of the production of trauma from structural violence. As Ruíz makes clear in her forthcoming book, such an approach, which is characteristic of western mental health care systems, obscures and upholds settler colonialism by compounding the harms it produces for targeted populations such as Indigenous women, women of color, and populations of color more generally. Trauma, rather than being an inevitable risk of human existence that is "built into the very fabric of being in a gambled tradeoff for living self-determined lives" must be understood as an intentionally produced tactic of settler colonial violence aimed at certain populations by design. Medical and mental health professionals who lose sight of this risk colluding in the structural harms of settler colonial white supremacy for targeted populations.

The possibility of ending these forms of violence requires rejecting the narrative of an inexorable march toward progress or justice. This is why we have focused on, and urged the reader to focus on the inevitability of continuing settler colonial reinventions and reincarnations

of reproductive violence. We do this not to promote fatalism about these forms of settler colonial violence but rather to promote a commitment to their fatality.

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