

1 Pateman, Carole, and Mills, Charles W., Contract and Domination, Cambridge/Malden 2007.

2 Mitropoulos, Angela, Contract and Contagion: From Biopolitics to Oikonomia, *Wivinahoe / New York / Port Watson* 2012; Federici, Silvia, Caliban and the Witch: Women, the Body and Primitive Accumulation, Brooklyn, NY 2004, pp. 63–68; Robinson, Cedric, Black Marxism: The Making of the Black Radical Tradition, Chapel Hill / London 1983.

3 Marx, Karl, *The Ethnological Notebooks of Karl Marx*, transcribed and edited by Lawrence Krader, Assen 1974.

What is knowledge value and how is it acquired by ethnographic and other historicized and contemporary, racialized museum collections? Knowledge value is an acquisition value among those such as rarity value, socio-historical value, conditioned value, authenticity and provenance value, narrative or affective value, and artistic value. These values are determined by museums while considering the potential of what can be commodified through a so-called “object’s” (referred to as an Ancestor’s or Ancestors’) acquisition as a form of property accumulated and maintained within collections.

In contextualizing the logics underpinning values determined within acquisitions of objectified human and nonhuman Ancestors, it is important to determine what “knowledge” means in the context of collections within global nation-states whose colonial histories led and continue to lead to the extraction of Indigenous and racialized Ancestors, while examining how value is accumulated and commodified through labor and exchange in the museological economic circuits. Through the application of an emergent approach in thinking about what knowledge means in the context of museums or archives, it can be understood that northern Eurocentric and biblical etymologies of knowledge are embedded within the logics of acquisition criteria which determine capitalist values extracted from laboring “objects.” These values conflict with various Indigenous and racialized ways of being and knowing which understand that those determined by museums as “objects,” “artifacts,” and “remains” are alive and agential beings. Furthermore, British and Judeo-Christian biblical etymologies attribute sexual power to *knowledge* and this accumulation and commodification of sexualized power is what determines the fetishization of objectified embodiment and the transiting or carcerality of sexualized labor powers. By examining how sexual and racial contracts¹ function through the construction of property, contract theory supports an understanding of how an acquisition of knowledge value is made extractable from Ancestors (as cultural “objects”) within collections, safeguarded and enforced by State laws that eternize property. Compliance with these State laws as such enforces a means of continually extracting, accumulating, transiting, exchanging, (re)productive laboring² and consuming that which is deemed art or material culture.

In a close reading of unpublished notes by Karl Marx edited as *The Ethnological Notebooks of Karl Marx*, Lawrence Krader transcribes annotations by Marx (that Marx ascertained from publications, accounts, and letters by anthropologists and ethnologists Lewis Henry Morgan, John Budd Phear, Henry Sumner Maine, and John Lubbock).³ This influence that nineteenth-century colonial anthropology and ethnology had on Marx reinforces my argument regarding the obtainment and containment of Indigenous and racialized knowledges within collections through sexualized-racialized (re)productive labor power and the categorical logics

4 *It includes: The National Gallery of Canada Corporation, the Canadian Museum of Civilization Corporation (now referred to as the Canadian Museum of History Corporation together with the Canadian War Museum Corporation who presently operate under the same President and Chief Executive Officer), the Canadian Museum of Nature Corporation, the National Museum of Science and Technology Corporation (renamed the Canada Science and Technology Museum Corporation), while later incorporating the Canada Aviation and Space Museum, the Canada Agriculture and Food Museum, the Canadian Museum of Immigration at Pier 21, and the Canadian Museum of Human Rights.*

5 Gray, Robin R., “*Repatriation and Decolonization: Thoughts on Ownership, Access, and Control*,” in *Gunderson, Frank, Lancefield, Rob and Wood, Bret, eds., The Oxford Handbook of Musical Repatriation, Oxford 2018, pp. 1–16.*

6 Simpson, Audra, “*On Ethnographic Refusal: Indigeneity, ‘Voice’ and Colonial Citizenship*,” *Junctures, no. 9, December 2007, pp. 67–80; Tuck, Eve and K. Wayne Yang, “R-Words: Refusing Research,” in Humanizing Research: Decolonizing Qualitative Inquiry with Youth and Communities, Thous and Oakes, CA 2014, pp. 223–247*

7 Njoku, Johnston A. K., “*African Arts in the Academe: Some Thoughts on the Politics of Exhibition*,” in *African Arts: Refusing Research*, no. 2, 1994, pp. 63–68, p. 65.

8 In the Etymology Dictionary it is stated that an early twelfth-century Old English source accredits the prefix know- with knowleche, knaweleche, craweleche, or the “acknowledgment of a superior, honor, worship.” Online Etymology Dictionary, <https://www.etymonline.com/word/knowledge> (accessed March 20, 2020).

of organized containments as forms of carcerality.

In 1967, the National Museums of Canada Corporation (NMC) was formed.⁴ Under the “Purpose” and the “Capacity and powers” of the Canadian Museums Act of 1990, it is exemplified that such an organizational system within the nation-state of Canada legally frames how property and power are wielded by Canadian national museums through the construction of Crown corporations which are afforded a status of “natural persons” enabling them to usurp power through ownership laws. Robin R. R. Gray details how Indigenous laws and protocols unique to every person, family, community, and nation are inordinately disregarded by Western museums containing Indigenous Ancestors.⁵ These museums maintain the power to collect through a compliance to colonial nation-state laws rather than a respect for and application of Indigenous-led or Indigenous-centered museological approaches informed by the persons, families, communities, and nations related to the Ancestors housed within collections.

Throughout this essay, I will refer to examples of how incarcerated Ancestors and their kin refuse⁶ complete consumption as “objects” in collections while expressing agency in their own “eloquence of silence.”⁷ I will argue that museums accumulate, produce, replicate, traffic, and consume knowledge value from embodiments of Indigenous and racialized Ancestors as “objects” incarcerated in collections or via knowledges extracted from their kin as outmates.

Knowledge as Sexualized Power

In various northern European etymologies, definitions on the word “knowledge”⁸ are distinguishable from different Indigenous and racialized ways of knowing and being that are relationally worlded.⁹ While contemporary North American understandings of knowledge are arguably an abstraction of societal memories through its contexts within

9 “From late 14c. as ‘capacity for knowing, understanding; familiarity;’ also ‘fact or condition of knowing, awareness of a fact;’ also ‘news, notice, information; learning; organized body of facts or teachings.’ Sense of ‘sexual intercourse’ is from c. 1400. Middle English also had a verb *form*, *knolechen* ‘acknowledge’ (c. 1200), later *find out about; recognize*, and ‘to have sexual intercourse with’ (c. 1300); compare *acknowledge*. “‘knowledge,’ ‘knowledge,’ Online Etymology Dictionary (note 8). Andrea Smith (2005) points to a similar etymology of “‘know’ within a biblical context translated from Hebrew which connects the *knowing* of a person to sexual relations. Smith, Andrea, Conquest: Sexual Violence and American Indian Genocide, *Durham* 2005, p. 119.

10 *German and Dutch kennen (to know) connotes sexual intimacy.* Adler, George J., A Dictionary of the German and English Language, *New York* 1884, p. 327. See also: van Rijh, C.J., Dutch-English and English-Dutch Dictionary. In the New Spelling, *Gouda* 1908, p. 125.

11 “lock,” Online Etymology Dictionary, https://www.etymonline.com/word/lock?ref=etymonline_crossreference#etymonline_v_12371 (accessed March 20, 2020).

12 Communicative transference refers to Marx’s comment on things (including knowledge and love) being communicated or given but not bought or sold. Marx, Karl, *The Poverty of Philosophy*, *London* 1971 [originally 1846-1847].

13 Marx 1971 (note 12), p. 30.

hegemonic power dynamics of worship, superiority, sexual¹⁰ or marital settlement and enclosure (*lock*),¹¹ its foundation within northern European logics of fetishization and confinement are embedded within institutional reasonings for justifying the desire to obtain and secure knowledge.

If knowledge, within northern European or Judeo-Christian contexts, are accumulations of sexualized power and labor force, gated by various means of enclosure and institutionalized dissemination, how do Ancestors labor or produce fetishized value through embodiment while incarcerated in collections? Marx argues that a communicative transference¹² of knowledge and love (among other values, morals, and standards) precedes a systemization of commerce and (im) material exchange. Marx implies that during the period after the Middle Ages leading into the Age of Enlightenment:

[T]here came a time when everything that men had considered inalienable became an object of exchange, of traffic and could be alienated. This is the time when the very things which till then had been communicated, but never exchanged; given, but never sold; acquired, but never bought— virtue, love, conviction, knowledge, conscience, etc.—when everything short, passed into commerce. It is the time of general corruption, of universal venality, or, so to speak in terms of political economy, the time when everything, moral or physical, having become a marketable value, is brought to the market to be assessed at its truest value.¹³

Marx’s speculation that fluctuating values, morals, or standards of love and knowledge were never exchanged prior to the development of capitalism is a naïve form of reductive and deterministic logic, but it must be kept in mind that *The Poverty of Philosophy* is an earlier text, written twenty years prior to the maturation of *Capital*, vol. I (1867). Sex work and other labors existed prior to currency exchange and were/are not only exclusive to religious, political, and military organizations who accumulate(d) knowledge power. As will become clear in Marx’s notes on Morgan’s interpretations of kinship, “love” and “knowledge” have long been

¹⁴ Horkheimer, Max and Theodor W. Adorno, *Dialectic of Enlightenment: Philosophical Fragments, Stanford 2002 [originally 1947]*, p. 2.

¹⁵ Horkheimer and Adorno 2002 (note 14), p. 2.

¹⁶ Tuck and Yang 2014 (note 6), p. 224.

¹⁷ Tuck and Yang 2014 (note 6).

¹⁸ Pateman, Carole, *The Sexual Contract, Cambridge/Malden 1988.*

¹⁹ Hobbes, Thomas, *Leviathan: the Matter, the Forme, & the Power of a Common-wealth Ecclesiastical, London 1651; Locke, John, Two Treatises of Government, London 1689; Rousseau, Jean-Jacques, The Social Contract and Discourses, London/Toronto/New York 1923 [1762]*

²⁰ Mills, Charles W., *The Racial Contract, Ithaca NY 1997.*

²¹ Pateman and Mills 2007 (note 1).

²² Pateman and Mills 2007 (note 1).

²³ Mitropoulos 2012 (note 2).

²⁴ p. 24.

exchanged as byproducts of marital and other sexual arrangements. Exchanges of “love” and “knowledge” may also precede conscious agreements or formalized sexual and racial contracts, passed among relations without contract. Arguably, autonomous sex workers/entrepreneurs embody great power in knowledges that are continually desired by religious, political, and military organizations who wish to accumulate such powers for their own motives.

In Horkheimer and Adorno’s post-World War II determination on knowledge, “[p]ower and knowledge are synonymous”¹⁴ and “at the disposal of entrepreneurs regardless of their origins,”¹⁵ and according to Eve Tuck and K. Wayne Yang, “Knowledge of self/Others became the philosophical justification for the acquisition of bodies and territories, and the rule over them. Thus, the right to conquer is intimately connected to the right to know (‘I know, therefore I conquer, therefore I am.’).”¹⁶ In Horkheimer and Adorno’s assertion that knowledge is power, a re-reading of Tuck and Yang’s quotation would equate to “the right to conquer is intimately connected to the right to” power,¹⁷ yet not everyone is afforded that right, would want to exercise that right, or would adhere to the colonial legal systems that decree and enforce such a right. Resistances continually exist and thrive beyond the recorded chronicles of conquer narratives.

In *Contract and Contagion: From Biopolitics to Oikonomia*, Angela Mitropoulos makes clear that sexual contracts¹⁸ and therefore social contracts¹⁹ of which racial contracts²⁰ and racial-sexual contracts²¹ are embedded in a right to extract and accumulate power, transit/exchange power, and amass the surplus of (re)productive labor-forces. Mitropoulos summarizes:

[A] history of the wage contract cannot proceed without a consideration of the shifting terms of the sexual contract; just as it is not possible to read classical theories of social contract without coming across persistent attempts to mark the divergence of the wage contract from slavery (as with Locke and Rousseau), or the preoccupation with correlating or distinguishing the political contract from the marriage contract (as in the debate between Robert Filmer and Hobbes)²²

Mitropoulos exemplifies a social contract of statehood with Abraham Lincoln’s conflation that the Union is “a family composed by ‘regular marriage,’ which is to say, one without the possibility of divorce”²³ through a sustained *oikonomics* defined as “the ways in which a politics of the household—domesticity and genealogy—are crucial to the organization of intimate forms of self-management, but also the conflations of nation, race and sexuality

24 Mitropoulos 2012 (note 2), p. 38. “Racial Capitalism,” in Critical Ethnic Studies, vol. 1, no. 1. 2015, p. 77; Robinson 1974 (note 3), pp. 95–106. **30** Morgan, Lewis Henry, *Ancient Society or Researches in the Lines of Human Progress from Savagery through Barbarism to Civilization, Cleveland/New York 1963 [1877]*, <https://archive.org/details/ancientsocietymorganmodel2up> (accessed July 24, 2020). **31** Morgan 1963 [1877] (note 30), “Chapter I. Ethnical Periods,”

25 Federici 2004 (note 2), p. 66. **26** Federici 2004 (note 2), p. 65–66. **27** Melamed, Jodi, “Racial Capitalism,” in Critical Ethnic Studies, vol. 1, no. 1. 2015, p. 77; Robinson 1983 (note 2). **28** Federici 2004 (note 2). **29** Marx 1974 (note 3), pp. 95–106. **30** Morgan, Lewis Henry, *Ancient Society or Researches in the Lines of Human Progress from Savagery through Barbarism to Civilization, Cleveland/New York 1963 [1877]*, <https://archive.org/details/ancientsocietymorganmodel2up> (accessed July 24, 2020).

with re/production that continue to define the reach and limits of contractualism.”²⁴

Silvia Federici situates (re)productive labor within a context of how relative surplus value is accumulated through originary accumulation.²⁵ From Federici’s analysis of reproductive labor, we can understand how etymological fetishization of knowledge is predicated upon how racialized and sexualized contracts are integral to the enforcement of laboring “objecthood.”²⁶ To a greater extent, scholarship on racial capital²⁷ and feminist Marxism²⁸ has focused on Marx’s section “Part Eight: So-called Primitive Accumulation” in *Capital, vol. 1*. Given that the focus of this study is in analyzing museological and collection practices of acquisition, Marx’s ethnological notebooks shed considerable light on how Marx formulated his thinking on property ownership, reproductive labor, and the commons.

In part three of *The Ethnological Notebooks of Karl Marx*, Marx annotates the writings of anthropologist Lewis Henry Morgan. Marx determines acquisitions of power by comparing various sexual contract systems in the form of marriages, dowries, and the dynamics of economic exchange within household, family, clan, and tribal structures throughout the world that he culminates into a successive grouping in order to trace a rise of property in what he calls the “Sequence of Institutions Connected with the Family”²⁹ in part three, chapter six within five stages (charting promiscuous intercourse, family structures, organization upon the basis of sex, increases of influence, and the rise of property) which were directly influenced by Morgan. Marx uses anthropological and ethnological missionary letters and publications as his method of analyzing property ownership while comparing matriarchal and patriarchal structures of power.

Among the texts abstractly noted by Marx was Morgan’s *Ancient Society or Researches in the Lines of Human Progress from Savagery through Barbarism to Civilization* (1963 [1877]), which Morgan chronicles. Morgan sets up logical vertices of so-called “progression” from what he calls savagery to barbarism to civilization and this is derived from ethnological “knowledge” that he and other anthropologists have extracted from Indigenous and racialized peoples.³⁰ From Marx’s ethnological notes based on anthropologists like Morgan, it is ascertainable that his ideas on class (proletariat) have never been inseparable from race (as Cedric Robinson asserts in *Black Marxism*). Abstract categories of primitivization are found throughout Marx’s notes, directly drawn from Morgan’s systemization of savagery to barbarism to civilization. Morgan’s idea of ethnological “progression” is derived from seven research criteria—*subsistence, government, language, family, religion, house life and architecture, and property*³¹—based on Enlightenment views of sovereignty in which man progressively gains control over nature (materials of potential extraction). Morgan’s methodological thesis derives its knowledge from the development of technology (many of which are considered as objects) and from conjugal relations, which supports

32 Morgan 1963 [1977] (note 30). **33** Njoku 1994 (note 7), p. 65. **34** Gray 2018 (note 5), pp. 4–5. **35** Gray 2018 (note 5), pp. 4–5. **36** Gray 2018 (note 5), pp. 4–5. **37** Gray 2018 (note 5), p. 5. **38** Gray 2018 (note 5), p. 4. **39** Gray 2018 (note 5), p. 4. **40** Appadurai, Arjun, “Museum Objects as Accidental Refugees,” *Historische Anthropologie*, vol. 25, no. 3, 2017, pp. 401–408, p. 402.

the argument that an etymology of the word knowledge and “to know” are based on sexual contracts.³²

Returning to the museum as a site in which Indigenous and racialized Ancestors (deemed primitivized “objects” and “artifacts”) dwell within collections, it can be understood how such abstractions in the pursuit of property ownership, knowledge production, and commodification have little to do with the life and communities Ancestors relate. As Johnston A. K. Njoku emphasizes:

It is one thing for museum exhibits to give accurate descriptions of the content, style, form, and other visual aspects of African art objects, but it is quite another thing to relate objects to the African conceptualizations, cultural expectations, aesthetic traditions, and meanings.³³

In the context of Turtle Island, Robin R. R. Gray similarly imparts that Indigenous peoples “are the original creators of their knowledge expressions and have unique laws and protocols that govern their relationship to cultural heritage.”³⁴ Not only is there inaccuracy in research and knowledge production that lacks community-led or community-centered approaches³⁵ or with respect and in an adherence to culturally specific laws and protocols; as Gray argues, nation-state property laws administer and control rights of access, care, and return of Ancestors in collections (defined as human remains, modified remains, objects and artifacts through non-Indigenous logics embedded in State laws). “Through intellectual property laws like copyright, a researcher arbitrarily gains ownership of knowledge when it becomes documented and transformed into a knowledge product in the form of a manuscript, a film, a photograph, or in this case an audio recording and its metadata.”³⁶ The scope in which property rights bear a totalizing apprehension of control over Indigenous peoples “resulted from the appropriation of Indigenous cultural heritage—lands, resources, knowledge, objects—into the property of a settler entity such as a researcher, an institution, the state, or the commons.”³⁷ Yet, Gray reveals that “in most countries around the world copyright laws have not allowed, and do not provide space, for the incorporation of Indigenous customary laws, systems of property, or notions of property ownership (Torsen and Anderson 2010).”³⁸ Therefore, the return of Ancestors who had become property by definition of State laws are reliant upon negotiation³⁹ and allied politics of individual museum staff or institutions.

Replication of Knowledge

“The materiality of … objects is tied up with their pedagogical value, for what they can show, teach and illustrate.”⁴⁰ In order for the potential of knowledge value to be utilized within a collection (from a Westernized perspective) there needs to be a conduit or container in which the power of knowledge

41 Robinson, Dylan, Hungry Listening: Resonant Theory for Indigenous Sound Studies, Minneapolis 2020; Gray 2018 (note 5), p. 13. **42** Gray 2018 (note 5), p. 8. **43** Gray 2018 (note 5), p. 8. **44** Gidwani, Vinay, Capital, Interrupted: Agrarian Development and the Politics of Work in India, Minneapolis 2008. **45** Gidwani 2008 (note 44), p. 236. **46** Njoku states in full that “I personally see in African art objects a body of knowledge and ideas held hostage in glassy or wooden cubicles, some nailed to walls in museums.” Njoku 1994 (note 7), p. 65. **47** Appadurai 2017 (note 40), p. 407. **48** Appadurai 2017 (note 40), p. 407.

is accumulated, exchanged, consumed, and monetized. The materialized recording of a song⁴¹ or story, a two-dimensional rendering, a three-dimensional “object,” a filmic depiction, or any material representation can be considered as a vessel or conduit of value, labor, and exchange within collections and archives. Material representation of accumulable and commodifiable value need not necessarily be “authentic” in order to produce value or labor. As Gray states, “In many cases, an institution will debate the terms of access and control, and this can result in the digital return of songs, borrowing arrangements for masks and regalia, or replica transfers of totem poles, for example.”⁴² Often, it is the prerogative of museums to negotiate an exchange rather a full return of Ancestors without a replacement and maintenance of cultural value and, therefore, economic value.

Navigating vastly different Indigenous protocols and ways of knowing necessitates an approach in implementing museum guidelines or policies on a specific basis per each nation or community.⁴³ This poses a challenge to capitalistic and nation-state logics pertaining to law where homogenization is preferential in reducing both the potential for error (one protocol befitting every situation) and cost efficiency.

Knowledge value, sociohistoric value, narrative value, affective value, and artistic value are all *authenticated* by way of a relationship between community members (as relatives of this Ancestor) in the transference⁴⁴ of accumulated ways of knowing to a museum’s collection in order to maintain a degree of conditioned value (the potential for eternal value within collection). Vinay Gidwani imparts that the commodification of knowledge is “a politics of translation that is at once a politics of transportation.”⁴⁵ Njoku reinforces this assertion of trafficking by Gidwani when he relates African Ancestors in museums to being “held hostage.”⁴⁶ In German museums with colonial collections such as Ethnologisches Museum Berlin, one of the Staatliche Museen zu Berlin, Arjun Appadurai likens trafficked Indigenous and racialized Ancestors that were amassed through Germany’s colonization to “accidental refugees.”⁴⁷ “[T]he objects that have ended up in German custodianship did not come to Germany willingly or by their own volition. Like all objects discovered through conquest, collection and curation in the great museums of the West, they are accidental refugees.”⁴⁸ Appadurai cites an account by Viola König referencing Indigenous Ancestors from the Americas in the Dahlem catalogue. König states that:

Prince Maximilian zu Wied brought this robe of bison hide, along with 15 others, back with him to Germany from his expedition along the upper reaches of the Missouri. Between 1832 and 1834, in the company of the painter Karl Bodmer, he had travelled across the west of North America and, in the process, had assembled a large number of botanical, zoological, and ethnological specimens.

49 König, Viola, PrestelMuseum Guide, *Ethnologisches Museum Berlin*, Munich 2006. Cited by Appadurai 2017 (note 42), p. 402.

50 Taylor, Howie, “Ending the Silence around German Colonialism,” 2016, <https://www.opendemocracy.net/en/transformation/telling-truth-about-germans-colonial-history/> (accessed July 23, 2020).

51 Kant, Immanuel, Anthropology from a Pragmatic Point of View, edited by Hans H. Rudnick, Carbondale and Edwardsville 1996 [1785], p. 4.

52 Vémeulen, Han F., Before Boas: The Genesis of Ethnography and Ethnology in the German Enlightenment, Lincoln and London 2015, p. 374.

53 Pateman and Mills 2007 (note 1).

54 Smallman, Etan, “181-year-old corpse of Jeremy Bentham attends UCL board meeting,” Metro, 2013, <https://metro.co.uk/2013/07/12/181-year-old-corpse-of-jeremy-bentham-attends-ucl-board-meeting-3879586/> (accessed May 1, 2020); Marmoy, C. F. A., “The Auto-Icon of Jeremy Bentham at University College, London,” in *Medical History: An International Journal for the History of Medicine and Related Sciences*, vol. 2, no. 2, 1958, pp. 77–86.

55 Bentham, Jeremy, A Fragment on Government, Oxford 1891 [1776], pp. 93–94.

As early as 1844, he had sold part of his ethnological collection to the Prussian Royal Art Chamber in Berlin ... ⁴⁹

In his article “Ending the Silence around German Colonialism,” Howie Taylor argues,

If more people were aware of Germany’s colonial history, they argue, perhaps they would be aware of the structural processes of racial othering and alienation that continue in both German and its relationship to the “outside” of Europe.⁵⁰

The development of racialized classification in German Enlightenment philosophical traditions was influenced by early anthropology and ethnology and can be greatly attributed to anthropologists, such as Johann Friedrich Blumenbach, and the philosopher Immanuel Kant,⁵¹ who was not only credited with introducing the word “race” into German texts but also taught anthropology in Germany.⁵²

Immortalizing Carceral Objecthood

Racial-sexual contracts,⁵³ agreements, or contractual relationships are the basis on which knowledge becomes acquired by institutions. Exchanging cultural value for another value through repatriation and deaccession clauses are common tactics employed by natural history and ethnographic museums across the world to rationalize an unwillingness to relinquish the accumulation of Indigenous and racialized peoples’ knowledges. Such common argumentation put forward by museums emphasizes their investments in performing cultural services to the general public through a dissemination of knowledges or the advancement of scientific and artistic research. This logic of an inherent right to accumulate and disseminate all knowledges, and that everyone should have access to all knowledges, has been an underlying justification for colonial imperialism.

By peculiar contrast, an example of a conscious will to perform labor for all perpetuity is Jeremy Bentham’s own “auto-iconic” mummification where his remains are on permanent display at University College, London, and on which he continues to attend board meetings after his death, which was in 1832.⁵⁴

Innocuously, Bentham’s “greatest happiness system of morals and legislation” (1891 [1776])⁵⁵ included panopticon theory, the establishment of

56 Naffine, Ngaire, "When Does the Legal Person Die? Jeremy Bentham and the 'Auto-Icon,'" *Australian Journal of Legal Philosophy*, no. 25, 2000, pp. 79–95, here, p. 80. **57** Naffine 2000 (note 56), p. 80. **58** Naffine 2000 (note 56), p. 81. **59** Naffine on Bentham's Cartesian thinking: "Bentham, along with the English common law, subscribed to a view of legal status at the end of human life, which reflected a form of Cartesian mind-body dualism;" Naffine 2000 (note 56), pp. 80–81. **60** Here, Naffine states: "The organisation of legal concepts into persons and property is ... to be found in Justinian's Institutes in his division of law into that of persons, things and actions"; Naffine 2000 (note 56), p. 80.

the first British police force, and the construction of Millbank Prison which was to be the first semipanoptic national penitentiary where carceral labor was performed and inmates were shipped to and from British colonies. Bentham, a proponent of carceral labor, willingly consents to his own objectification as a mummified object of fetish and display knowing that his spirit may continue to perform social and intellectual labor in the afterlife. While this example may seem anecdotal, it reinforces a certain gravitas in which Bentham had invested in his proponents of carceral labor and in those who continue to support his ideas and systems while pointing to legal double standards on animacy, agency, and human remains as property. As Ngaire Naffine states, "Law's ambivalence about the legal significance of death extends to the physical remains of the person. It has been repeatedly stated that, although the corpse is not to be treated as a legal person, nor is it to be regarded as its conceptual obverse, property."⁵⁶ Naffine reifies that "the human body seems to be neither legal thing nor legal person, which means that it exists in a sort of legal limbo."⁵⁷ In sum, Bentham's Will and Testament rendered him the legal proprietor of his body but as a human body cannot be legally considered "property," his body is neither legally a "thing" nor "object"; thus, his legal subjecthood within his body is considered agential to a certain degree. "[B]entham regarded the dead body as almost akin to property and certainly as not a manifestation of the person. Although the will transcended death, the moral and legal person did not remain in their so-called 'remains'."⁵⁸

This surfaces a major contradiction. Why then are Indigenous Ancestors considered property within collections when their bodies were never self-Willed and yet are arguably still alive according to many Indigenous laws? While the majority of Indigenous and racialized peoples Ancestors' had no Will and Testament or entitlement to contacts, their bodies were excavated and extracted and had become property (of individuals, of the State, and of institutions) without their consent. Meanwhile, Indigenous and racialized Ancestral human remains abound within museum collections throughout the Americas, Australia, New Zealand, and Europe. Furthermore, Indigenous laws have always remained and are continually exercisable; therefore, the subjecthood and agency of Ancestors should also legally be considered in having equal rights to those of Bentham's assertion (not necessarily as Bentham proved through one's own Will and Testament) and to legal representation (in vocalizing on their behalf) should a pursuit of their rights be addressed within an arena of nation-state law (such as those exemplified by Bentham's Cartesian logic⁵⁹ and within nation-state law's foundations of persons and property within the Roman Justinian Code).⁶⁰

In the context of the United States, Naffine refers here to Lewis M. Simes: "In the Anglo-American system of law, the dead have neither rights nor duties. ... We may appoint a guardian ad litem to protect the expectant

61 Simes, Lewis M., Public Policy and the Dead Hand, *Ann Arbor* 1955, p. 1. **62** Simes 1955 (note 61), p. 88. **63** Government of Canada, “Museums Act,” 1990, <https://laws.justice.gc.ca/eng/acts/M-13.4/page-1.html> (accessed July 24, 2020). **64** Government of Canada, “Agent status and Crown corporations,” 2019, <https://www.canada.ca/en/treasury-board-secretariat/services/guidance-crown-corporations/agent-status-crown-corporations.html#Met> (accessed April 24, 2020). **65** Government of Canada 1990 (note 63). **66** Mills in Pateman and Mills 2007 (note 1), p. 9. **67** Pateman and Mills 2007 (note 1), p. 109. **68** Government of Canada 1990 (note 63). **69** This “right” to dispose can be further traced to chapter II, section no. 4 “Of the State of Nature,” Locke, John, *Second Treatise of Civil Government*, 1690, <https://www.marxists.org/reference/subject/politics/locke/ch02.htm> (accessed April 20, 2020).

interests of the unborn. There is no guardian ad litem for the deceased because he has no interest.”⁶¹ However Simes then concedes that “though death eliminates a man from the legal congeries of rights and duties, this does not mean that his control, as a fact, over the devolution of his property has ceased. A legal person he may not be; but the law still permits his dead hand to control.”⁶²

Canadian Crown Corporations as Natural Persons

According to the Museums Act of 1990, all Canadian museums that are federal Crown corporations are mandated to continue to collect material cultures, while legally bound by Canadian nation-state governance to accumulate and disseminate knowledges⁶³ as property of the Crown via a system of rights that define a Crown corporation as an *agent* of the Crown.⁶⁴ This conference of agent status is peculiarly defined within legal terms under “privileges of a natural person”⁶⁵ whereby a Crown corporation is legally afforded the equivalent rights and status of a natural person. As Charles W. Mills explains regarding Hobbes’s famous description in Leviathan of the commonwealth as “an Artificial Man; though of greater stature and strength than the Naturall,”⁶⁶ onward through the work of his successors Locke, Rousseau, and Kant, the emphasis is on the artificial, that is humanly created, character of the society and the polity.⁶⁷ Here is a prime example of how a Crown corporation legally operates as an artificial man.

Outlined in the “Purpose” of the Bill C-49, as pertaining to the Canadian Museum of History covered under the Museum Act, Section 8 states that, “The purpose of the Canadian Museum of History is to enhance Canadians’ knowledge.”⁶⁸ This Canadian federal mandate to “enhance Canadians’ knowledge” is executed through an exercising of the “Capacity and powers” further outlined in section 9(1) of the act:

In furtherance of its purpose, the Canadian Museum of History has, subject to this Act, the capacity of a natural person and, elsewhere than in Quebec, the rights, powers and privileges of a natural person. In particular, the Canadian Museum of History may

- (a) collect objects of historical or cultural interest and other museum material;
- (b) maintain its collection by preservation, conservation or restoration or the establishment of records or documentation;
- (c) sell, exchange, give away, destroy or otherwise dispose⁶⁹ of museum material in its collection

70 Government of Canada 1990 (note 63).
71 Locke 1690 (note 69).
72 Mills in Pateman and Mills 2007 (note 1), p. 110. **73** Charles W. Mills states that “the original contract theorists had overt or tacit racial restrictions on who counted as a full ‘person’ with equal rights” Pateman and Mills 2007 (note 1), p. 110.

and use any revenue obtained from that disposal to further its collection;

- (d) lend or borrow museum material on long- or short-term loan;
- (e) organize, sponsor, arrange for or participate in travelling exhibitions, in Canada and internationally, of museum material in its collection and from other sources;
- (f) undertake or sponsor any research related to its purpose or to museology, and communicate the results of that research;
- (g) provide facilities to permit qualified individuals to use or study its collection;
- (h) promote knowledge and disseminate information related to its purpose, throughout Canada and internationally, by any appropriate means of education and communication;
- (i) establish and foster liaison with other organizations that have a purpose similar to its own;
- ...
- (l) acquire property by gift, bequest or otherwise, hold that property in trust or otherwise and expend, invest, administer and dispose of that property;
- ...
- (o) lease or otherwise make available any of its facilities to other persons;⁷⁰

In order to understand what is meant by a federal Crown corporation having the rights of a “natural person” one must turn to “Chapter II: Of the State of Nature” in the *Second Treatise of Civil Government* by John Locke. Locke opens this chapter with the statement:

To understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man.⁷¹

As can be comprehended from this troubling statement, certain men are deemed “naturally in ... a state of perfect freedom,” while others are not free but under subjugation,⁷² possession, and at risk of innumerable consequences including but not limited to, labor and disposal as ordered by these *natural persons*.⁷³ Herein, it can be understood that

74 In reference to “natural treasures” described in the Canadian Museum of History’s 2017-2018 annual report. “Annual Report 2017-2018,” Canadian Museum of History, <https://www.historymuseum.ca/1/annual-report-2017-2018/the-corporation-and-its-governance#tabs> (accessed April 28, 2020).

75 Nye, Joseph S., Soft Power: The Means to Success in World Politics, New York 1990.

76 As Simone Brown states: “Dark Matters takes up blackness, as metaphor and as lived materiality, and applies it to an understanding of surveillance. I work across multiple spaces (the airport, the plan of the Brooks slave ship, the plan for Jeremy Bentham’s Panopticon, Internet art) and different segments of time (the period of transatlantic chattel slavery, the British occupation of New York City during the American Revolution, post- 9/11) to think through the multiplicities of blackness. This method of analyzing surveillance and the conditions of racial blackness brings historical documents, art, photography, contemporary popular film and television, and various other forms of cultural production into dialogue with critical race scholarship, sociological theory, and feminist theorizing.” Brown, Simone, Dark Matters: On the Surveillance of Blackness, Durham 2015, pp. 7-8.

77 Brown 2015 (note 75), pp. 7-8.

78 Brown 2015 (note 75), pp. 8-9.

contemporary Canadian nation-state laws continue to function under Lockean parameters established within the Age of Enlightenment and by successive authority of the British Crown and while Canadian federal Crown corporate museums may operate to a certain degree at arm’s length of the Government of Canada, they are still very much a depository of the State and its accumulated “national treasures”⁷⁴ and in construction of national narratives promoted abroad that portray Canada as culturally diverse while garnering *soft power*.⁷⁵

The accumulation of such knowledges and the commodification of knowledge value by the federal government and the Crown are not only “treasures” to be garnered, but as argued earlier, they are trafficked and incarcerated beings transferred between institutions or organizations that shared purposes.⁷⁶ The question of *surveillance*⁷⁷ also comes into focus when considering who or what is being prioritized by museums or archives in the collection of information? As Simone Brown argues:

[R]ather than seeing surveillance as something inaugurated by new technologies, such as automated facial recognition or unmanned autonomous vehicles (or drones), to see it as ongoing is to insist that we factor in how racism and antiblackness undergird and sustain the intersecting surveillances of our present order.⁷⁸

79 Medina, José, The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and Resistant Imaginations, Oxford 2013. **80** Tuck and Yang 2014 (note 6), p. 225. **81** Robinson 2020 (note 41), p. 171. **82** Simpson 2007 (note 6); Tuck and Yang 2014 (note 6). **83** Robinson on the work of Peter Morin. Robinson 2020 (note 41). **84** Early, James, “The Re-communalization of a Jamaican Kumina Drum,” Folklife, 2014, <https://folklife.si.edu/talkstory/2014/re-communalization-of-a-jamaican-kumina-drum> (accessed January 10, 2020). **85** Robinson 2020 (note 41), p. 173.

Should State museums and archives collect, for example, objects such as protest materials created and/or used by Indigenous land defenders and environmental groups or other civil rights activists from BIPOC (Black, Indigenous, People of Color) communities including 2SLGBTQIA+ (two-spirit, lesbian, gay, bisexual, trans, queer, intersex, asexual, etcetera) folks? Does this information serve a dual purpose of national security?

Epistemic Resistances within Archives and Collections

*Epistemic resistances*⁷⁹ within and outside of archives and collections are those relations between familial inmates and outmates, between Ancestors on the inside and their kin or allies on the outside.

Refusal, and stances of refusal in research, are attempts to place limits on conquest and the colonization of knowledge by marking what is off limits, what is not up for grabs or discussion, what is sacred, and what can't be known.⁸⁰

Epistemic resistances and refusals within carceral spaces such as museum collections and archives thus become interventions of an abolitionist basis. Within museum spaces where surveillance, documentation, and control are regulatory, we can refuse which knowledges we choose to share (given the context of the who, where, and why present), and we can also refuse to be continually disconnected from our Ancestors who are held captive with collections, vaulted away from the public or permanently on display in an awakened state of belabored spectacle within glass vitrines such as those used by the Museum of Anthropology at University of British Columbia (MOA). As Dylan Robinson states, “spaces of visiting serve as a forum for intergenerational teaching and learning and move us away from normative settler cultures of display and hungry perception.”⁸¹ In what ways might we visit our Indigenous and racialized Ancestors in museum collections while limiting, refusing,⁸² or intervening⁸³ with requests that our visits be documented by museums, so that we may reconnect with Ancestors while they continue to be locked away, awaiting *re-communalization*.⁸⁴ As Robinson cautions:

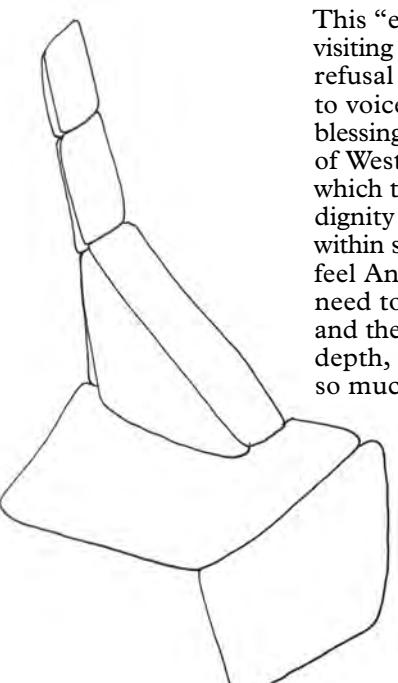
I do not dismiss the potential for dialogue and visiting to incite action, yet the potential is high for these moments to simply serve as new spaces for extractive knowledge gathering, and for the spectacularization and essentialization of visiting when Indigenous talk is put on display within exhibitions. Such instrumentalizations undermine the efficiency of visiting as a sovereign political practice.⁸⁵

86 In reference to “singing to our auntie” as part of Cultural Graffiti by performance artist Peter Morin while visiting Pocahontas’s gravesight in Gravesend, England, together with Dylan Robinson. *Robinson 2020* (note 41), p. 170. **87** Robinson 2020 (note 41), p. 169. **88** Njoku 1994 (note 7). **89** Njoku 1994 (note 7), p. 65. **90** *Million, Dian, “Felt Theory: An Indigenous Feminist Approach to Affect and History,” in Wicazo Sa Review, vol. 24, no. 2, 2009, pp. 54–58.*

In visiting public monuments at outdoor spaces, one finds ways of intervening and curtailing the amount of knowledge is shared with non consenting voyeurs and eavesdroppers such as in the way artist Peter Morin may choose to cup his hands around his mouth and privately speak or sing⁸⁶ to Ancestors. As Robinson reflects on visitations to Pochahontas’s gravesight and Mungo Martin’s totem pole together with Morin in England: “We were visiting with kin, reassuring our ancestors that ‘we are still here. We have not forgotten you. You are not alone, though you may be far from home.’”⁸⁷

Within institutional spaces such as the museum, we may create opportunities to visit where Indigenous museum staff or guest artists, curators, Elders, and other community members take care of and ceremonially feed Ancestors, clean the spaces in which they rest, or listen to their whispers and advocate on their behalf.⁸⁸ Johnston Njoku echoes such a need for community engagement in the care of African Ancestors:

When I, for example, read some of the labels describing African arts, I see objects that want to be heard. And somehow I hear and feel the eloquence of silence. As a matter of fact, when I recognize colors and look closely at the remnants of food crumbs on certain artifacts, they remind me of possible ritual contexts in which some of these items may have been associated with in their natural environments. In that reference, I cannot but imagine that, if they are the reifications of deities in African traditional sense, some of these objects are really starving.⁸⁹



This “eloquence of silence” that Njoku hears when visiting African Ancestors in museums reframes how refusal operates through subalterneity. The inability to voice one’s agency can be both a curse and a blessing. The silence of Ancestors has been the excuse of Western sciences not to listen to other ways in which they communicate their will. Njoku speaks to a dignity in silence and of what can be heard and felt within silence. If we listen carefully, we can hear and feel Ancestors expressing what they need (such as a need to be fed). Life passing between an Ancestor and their visiting kin (outmates) in a museum convey depth, dignity, fortitude, indignation, longing, and so much more through their *felt*⁹⁰ connection.

Nested Sovereignty of Objectified Ancestors

“Like Indigenous bodies, Indigenous sovereignties and Indigenous political orders prevail within and apart from settler governance. This form of ‘nested sovereignty’

91 Simpson, Audra, Mohawk Interruptus: Political Life Across the Borders of Settler States, *Durham* 2014, p. 11.

92 Haidy, Treasured Possessions: Indigenous Interventions into Cultural and Intellectual Property, *Durham* 2013, p. 151.

93 Geismar, “1 U.S. Code § 1. Words denoting number, gender, and so forth,” Cornell Law School Legal Information Institute, <https://www.law.cornell.edu/uscode/text/1/1> (accessed April 28, 2020).

94 Appadurai 2017 (note 40).

95 “1 U.S. Code § 1. Words denoting number, gender, and so forth,” Cornell Law School Legal Information Institute, <https://www.law.cornell.edu/uscode/text/1/1> (accessed April 28, 2020).

96 Cokwell, Renata and Carr-Wilson, Savannah, “Legal Personality of Natural Features: Recent International Developments and Applicability in Canada,” Environmental Law Clinic, University of Victoria, 2017, http://www.elc.uvic.ca/wordpress/wp-content/uploads/2018/05/2017-02-03-LegalPersonalityNatural-Features_web-version.pdf (accessed April 28, 2020), p. 3.

has implications for the sturdiness of nation-states over all.”⁹¹ Audra Simpson’s term “nested sovereignty” applies to ways in which sovereignties are exercised within parallel systems of governance, where Indigenous laws and governances are simultaneously nested and alongside hegemonic colonial laws and governances.

As Haidy Geismar describes in the context of how the agency of (Ni-Vanuatu and Māori) taonga is exercised during the auctioning of Ancestors, “in the case of copyright in Vanuatu, the commoditization of taonga at auction has engendered a particular form of political and economic intervention, making the marketplace a site of resistance to processes of commodification.”⁹² Photographs of Ancestors as described within Geismar’s text by Māori activist Ken Mair are: “real to us. ... We just don’t see ourselves for sale.”⁹³ Therefore, the donation, transfer, or sale of agential and lived Ancestors to and from collections are not only forms of incarceration but according to the logics of nation-state laws, forms of contemporary trafficking and indentured (contracted) or undocumented⁹⁴ labor. If a Canadian federal Crown corporation such as a museum is by law deemed a natural person with the right to possess, labor, traffic, or destroy Ancestors, then such a natural person may too be triable in a court of law. Loaning (trafficking or transiting) or possession of an agential Ancestor without consent would be considered under legal parameters as a form of kidnapping and hostage, and the destroying of an Ancestor would be considered a form of homicide. A similar argument can be made by looking at the legal definition of a person within the United States under the “Rules of Construction,” whereby persons can be defined as “corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.”⁹⁵ If such a person is also definable as a society, then any member of that society (an Indigenous or racialized Ancestor who are recognized as kin to their communities) would also be recognizable as a person or a citizen (under a subversive logic of applied anthropocentric nation-state law). “The concept of legal personality is a convenient legal fiction that allows non-human entities to hold legal rights, and requires them to fulfill corresponding legal responsibilities to others.”⁹⁶ Another strategy is the non-anthropocentric line of legal argumentation pertaining to the Rights of Nature which are becoming increasingly implemented in various countries throughout the world including Aotearoa (New Zealand), India, and Ecuador. In the preamble of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 of Aotearoa it states:

To Waikato-Tainui, the Waikato River is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River) is at the heart of the relationship between the tribe and their ancestral river ...⁹⁷

A tupuna is not defined as a human Ancestor but rather a river being. Yet, within the following Crown acknowledgments of New Zealand, passage 17(g) states that “to Waikato-Tainui, the Waikato River is a single indivisible being” which means that to the Waikato-Tainui nation, Waikato River is a being but it does specify that settler New Zealanders need to acknowledge the river’s agency and beingness according to conflicting nation-state laws and philosophical pretenses. Such an impasse is overcome through the Waikato River’s legal right to representation (by way of acquiring the status of a legal person) whereby they may have council representing their voice within New Zealand Crown law.

Under the Act, Te Awa Tupua is represented legally by the office of Te Pou Tupua. ... Te Pou Tupua is intended to be ‘the human face of Te Awa Tupua and act in [its] name,’ and it must ‘act in the interests of Te Awa Tupua and consistently with Tupua te Kawa values.⁹⁸

This example illustrates how issues of a similar vein present ongoing challenges for Indigenous nations fighting for the return of Ancestors within the bounds of Lockean nation-state legal systems that cease to fully capacitate Indigenous ways of relating and the laws integrated with holistic worlding.

Knowledge gleamed from archives, collections, and documentation pose different challenges. As Audra Simpson and Eve Tuck and Y. Wayne Yang assert, methods of refusal can be both creative and generative forms of research: refusals can teach us what is appropriate to learn and why for whom certain knowledges are meant to be shared as well as the responsibilities of carrying those teachings; refusals also work to protect and maintain a balance in natural law and all of Creation.

Encountering sparse, abstract, inaccurate, and fetishistic documentation about Ancestors in collections are not forms of knowledge production that create meaningful relationships with communities built on honesty, integrity, trust, and respect. And while we can actively choose methods of generative refusal that can safeguard our knowledges from being extracted, accumulated, and consumed while asserting our voices and what stories we wish to share within these spaces, I am also reminded of the work of BIPOC researchers and archivists who rely upon as much knowledge as can be gleaned, however false or discriminatory it is, in order to figure out how to best honor Ancestors, many of whom are undocumented and trapped within archives or collections waiting to reconnect to their communities and go home. What ceremonies need to be done on their behalf given each specific context?

Even the most supportive museums committed to the centering of Black, Indigenous, and POC voices cannot guarantee space for agency without risk of (re)capture when

embedded in systems of documentation, archive, and collection. The museum, by definition, as distinguished from an art space, has a collection as its foundational backbone. With that in mind (that collections are at the heart of museums) there are many contemporary BIPOC artists that create meaningful and inspiring works within them and for a museum audiences, some of whom choose to allow their works to be collected. From a Haudenosaunee perspective, what kind of works of art might be created and consciously collected that embody the Seven Generation⁹⁹ teachings which account for their continual impact on future generations? As artists and makers, are we prepared for the potential of our spirits to be awoken in the afterlives, to be called upon to labor again for those down below who seek a connection with us and what we left behind?

99 Haudenosaunee Confederation website on the Seven Generation teachings related to traditional values, "Values," Haudenosaunee Confederation, <https://www.haudenosauneeconfederacy.com/values/> (accessed May 21, 2020).

