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Settler Legal Ecologies: The Colonial Governance of Nature

Irus Braverman

University at Buffalo School of Law, The State University of New York, Buffalo, New York, USA; email: irusb@buffalo.edu

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Abstract

Settler ecologies are the processes by which settler administrations imagine, construct, govern, discipline, and police nature, nonhuman animals, and Indigenous or otherwise marginalized communities. This article focuses on the role of law in constituting and advancing settler ecologies. It examines how legal regimes animate the colonial administration of nature across multiple geopolitical settings, including Palestine-Israel, the United States, Australia, South Africa, and Kenya. Drawing on these diverse observations, the article identifies three central legal technologies of settler ecologies: juxtaposition, which refers to law's capacity to generate and stabilize oppositional categories; frontier ecologies, which detail how doctrines such as *terra nullius* and legal instruments like protected areas expand and cement law's reach into new materialities; and hyperlegality and criminalization, which transform the violence of conquest into a routinized apparatus of environmental governance. Together, these three legal technologies of settler ecologies trace a continuum—from law's work of ordering and differentiation, through its territorial projection, and finally to the bureaucratic governance of life. The article concludes with just legal ecologies, exploring how Indigenous, local, plural, and more-than-human legalities might unsettle the premises and start to heal the traumas of settler ecologies, while affirmatively offering other ways of living with the earth. Throughout, the article illustrates that settler ecologies are not peripheral to law but foundational to law's material conditions and conceptual underpinnings.

INTRODUCTION: SETTLER COLONIALISM AND THE GOVERNANCE OF NATURE

Settler ecologies are the impactful and multifaceted processes by which settler administrations imagine, construct, govern, discipline, and police nature, nonhuman animals, and Indigenous or otherwise marginalized communities (Braverman 2023). Such ecologies are not simply by-products of colonial expansion but foundational to its endurance, providing the infrastructures, rationalities, and justification that sustain the settler state. At a time of accelerating climate breakdown and biodiversity loss, it is arguably more urgent than ever to reflect on how settler ecologies extend and exacerbate violence toward both humans and "more-than-humans" (Lorimer & Hodgetts 2024). Settler ecologies, we are reminded, are not historical residues but living formulations of sociolegal and ecological violence.

This article focuses on the role of law in constituting and advancing settler ecologies. Deploying property doctrines, environmental designations, and administrative classifications, settler laws transform ecological relationships into governable objects and categories, naturalizing conquest by making land, life, and movement legible as technologies of management. The work of reconfiguring land into property, wilderness into state parks, and lively organisms into useful categories to save, manage, or extinguish is never complete—it is an ongoing coproduction between law and environmental science that enables the regulation of life and death in the settler colony. Although scholarship in anthropology, geography, Indigenous studies, and political ecology has illuminated how environmental imaginaries underpin colonial and capitalist expansion and extraction (e.g., Crosby 2004, Davis 2007, Enns & Bersaglio 2024, Tsing 2015, Whyte 2018a), the constitutive role of legal norms and administrative structures in these processes remains relatively undertheorized. This article proposes that, more than merely codifying ecological thought, law enables, stabilizes, and normalizes it.

Specifically, the article examines how settler legal systems, and especially property, international, and environmental regimes, animate the colonial administration of nature. Studying multiple geopolitical settings, including Palestine-Israel, the United States, Australia, South Africa, and Kenya, I suggest that the legal ordering of the natural world under settler colonialism operates through a remarkably persistent set of technologies. The article traces three core legal technologies of settler ecologies. The first is law's capacity to generate and stabilize juxtaposed categorical divides, with a special focus on the bifurcation between human and nonhuman, native and invasive, wild and domestic, and settler and native. The second highlights how principles such as *terra nullius* and the doctrine of discovery, alongside legal designations of nature such as protected areas, cement law's reach into new and expansive territories, what I refer to as "frontier ecologies." The third captures the regulatory apparatuses with which the settler state transforms the violence of conquest into routine environmental governance through hyperlegality and criminalization. Together, these three legal technologies of settler ecologies trace a continuum—from law's work of ordering and differentiation, through its territorial projection and expansion, and finally to the mundane bureaucratic governance of life and death.

In tracing these operations, the article situates settler ecologies within the broader legacies of colonial legalities, attending to their more-than-human expressions, revealing how these legal forms endure and change through environmental rationales, and examining how they are embedded in natural landscapes that persist across time and place. In conclusion, the article discusses the project of decolonizing legal ecologies, considering how Indigenous and more-than-human legalities might unsettle the premises and start to heal the traumas of settler ecologies, while affirmatively offering other ways of living with the earth. Throughout, I emphasize that settler ecologies are not peripheral to law but foundational to its material and conceptual underpinnings. I start by examining the genealogy of the concept of settler ecologies.

SETTLER ECOLOGIES: A GENEALOGY

The concept of settler ecologies draws on and extends a growing body of scholarship that explores the interface of ecological thought and colonialism. Crosby's (2004) study of what he refers to as "ecological imperialism" was one of the earlier examinations of this interface and focused on how introduced species and diseases underwrote European conquest. A flurry of discussions ensued, each producing a slightly different conceptual analysis—including Davis's (2007) "environmental colonialism," Lunstrum's (2014) "green militarism," Bahng's (2020) "settler environmentalism," Qumsiyeh & Abusarhan's (2020) "environmental Nakba," Saro-Wiwa's (2000) "ecological genocide," and finally, Koot et al.'s (2022) "green Apartheid." While describing overlapping phenomena, each of these concepts illuminates particular aspects of the nature–colonialism nexus. Risking an even further fragmentation of the relevant literature, my own project, entitled *Settling Nature: The Conservation Regime in Palestine-Israel* (Braverman 2023, p. 7), deploys the concept "settler ecologies" to convey "both the structural as well as the plural and dynamic components of the colonial administration of nature as configured through scientific modes of knowledge and practices." The project draws on ethnographic work with Israeli nature officials conducted over the course of more than a decade to examine how the analytic of settler ecologies extends the study of settler colonialism beyond humans.

Because settler colonialism is constitutive of what is meant by settler ecologies, analyses of the latter are necessarily grounded in the former. Whyte delineates the stakes of the settler colonial project while emphasizing the importance of ecology for its operation. For Whyte (2018b, pp. 134–35), settler colonialism refers to processes whereby

> at least one society seeks to move permanently onto the terrestrial, aquatic, and aerial places lived in by one or more other societies who already derive economic vitality, cultural flourishing, and political self-determination from the relationships they have established with the plants, animals, physical entities, and ecosystems of those places.

Defining settlers as the members of such "societies who are moving in or have already done so" and Indigenous as the societies who are already living there, Whyte (2018b, p. 135) describes settler colonialism as "a type of injustice driven by settlers' desire, conscious and tacit, to erase Indigenous peoples and to erase or legiti[mize] settlers' causation of such domination." Simultaneously, settlers have often brought their own ecologies—typically European flora and fauna—with them, resulting in mass extinctions of local species (Crosby 2004, Enns & Bersaglio 2024).

The emerging literature on settler colonialism, which culminated in the recent proposal to rename the Anthropocene as the Settlerocene (Steele & Veracini 2025), identifies three elements that set the settler colonial project apart from classic colonialism: its myopic focus on land, its enduring structure, and its pervasive logic of elimination toward the native (Wolfe 1999; 2006, p. 388; Veracini 2010). Emphasizing the role of land, Said (1993, p. 93) argues that "to think about distant places, to colonize them, to populate or depopulate them: all of this occurs on, about, or because of land." Read alongside settler colonial theory, Said's insistence on the importance of land helps clarify how colonial dispossession extends into the present, shaping the enduring social and environmental inequalities that scholars and activists continue to document (Gilio-Whitaker 2019, Tuck & Yang 2012, Whyte 2018b). Such systems of oppression, which include "settler colonialism, patriarchy, imperialism, capitalism, and white supremacy, among others, often converge to mutually reinforce the subjugation of peoples, animals, lands, and waters" (Layden et al. 2025, p. 33).

In *Settling Nature*, I identify two parallel mechanisms of settler ecologies: the sovereign enclosure of land, which typically takes the form of protected nature reserves and parks, and the

biopolitical protection of certain fauna and flora alongside the necropolitical removal of protection from other organisms (Braverman 2023). The first mechanism has been deployed extensively in myriad geopolitical settings, highlighting the notion of a pristine wilderness devoid of humans to explain and justify the establishment of national parks across the globe (Lunstrum 2014, Peluso 1993). Under this colonial mindset, the African continent (Anderson & Grove 1987, p. 4) and tropical islands (Grove 1996) were configured as "unspoiled Eden" (Lunstrum 2014, Neumann 2004a, Peluso 1993). Such an Eden, just like the "wilderness" sites of the first national parks in the United States, "had to be created before it could be protected" (Spence 1999, p. 4; see also Jacoby 2014, Neumann 2004b, Warren 1999) in a process that often entailed the displacement of local and Indigenous communities (Brockington 2002). Dunn (2009, p. 436) documents, along these lines, how "vast sections of the African continent [were] established as centrally controlled protected spaces in the name of the Western cultural practice of conservation."

Because land is so central to its operation, legal protections of territory have been essential for securing the settler state. The Israeli national park system is illustrative of this process. To date, nearly 25% of the total land mass in Palestine-Israel has been designated as nature reserves or national parks. The state of Israel currently boasts a stunning 530 nature reserves and national parks—and the numbers are on the rise (Braverman 2023, p. 2). The uptick in park designations is not unique to Palestine-Israel. The Protected Planet Report of 2024 provides the first official global evaluation of progress toward the commitment to "protect and conserve" 30% of the Earth's lands and waters by 2030, and the even more ambitious "Half-Earth" project aspires to put 50% of the planet's land and water into reserves (Layden et al. 2025, p. 42). In countries with colonial legacies, the designation of protected areas has often come at the expense of local and native communities (Adams & Hutton 2007). As I discuss shortly, settler societies have used *terra nullius* claims that the lands to be occupied are empty and ready for improvement by settlers as a justification for the dispossession of long-established local communities, on the one hand, and for settler projects of restoration, on the other hand (Kedar et al. 2018).

In addition to changes in property designations that pertain directly to land, settler ecologies also operate through biopolitical regimes of protection and necropolitical regimes (Mbembe 2003) of "unprotection" toward more-than-human bodies. Pitching land wars as acts of nature, settlers have simultaneously used nonhuman animals and plants as weapons of dispossession and repossession. In the United States, for example, European settlers were affiliated with sheep, cattle, pigs, and horses (Anderson 2006, Cronon 2003) and proceeded to exterminate species closely tied with Indigenous lifeways, such as bison (Taschereau Mamers 2020). Over the years, settler societies have also established affinities with wild animals, and especially huntable species on the brink of extinction. In Palestine-Israel, for example, complex conservation projects have been launched that centered on reintroducing into the natural landscape wild animals that allegedly roamed the area during biblical times (Braverman 2023). As proxies of the settlers and wild extensions of state agency, such organisms figure in displays of military power, underscoring the tight coproduction of nature, nation, and militarism. Initiated in the 1990s, Israel's captive breeding project for griffon vultures has relied on an intensive surveillance system to monitor the birds' populations far beyond Israel's sovereign borders, reflecting an imperial logic later mimicked and accelerated by Israel's air force (Braverman 2023, pp. 223–29).

Whereas Zionist ecologies have protected organisms deemed desirable, Palestinians have come to be associated with what Israel has classified over time as "problem" species: black goats, camels, olives, hybrid goldfinches, and feral dogs, among others. Two results ensued. First, such undesirable organisms have become targets of restrictive movement regimes—and when defying such proscriptions, the Zionist state has confiscated, quarantined, and even exterminated them. Second, the state of Israel has deemed Palestinian communities as responsible for the ecological decline

in the region, advancing politics of blame and criminalization (Braverman 2023). As Davis (2007, p. 58) explains, from their perspective "settlers bear no blame for the impacts because they are unfolding in the domain of 'Nature'... as if they occur independently of human interventions." Ecological warfare is thus different from other human conflicts. "Indeed, it is not recognized as a conflict at all" but is part of the natural order of things (Davis 2007, p. 58).

Along these lines, in their study of Laikipia, Kenya, Enns & Bersaglio (2024) identify five transformations that occur through settler ecologies: the elimination of undesirable wild species to enhance productive landscapes, the rewilding of degraded areas with preferred species, the selective repeopling of wilderness to create ostensibly inclusive spaces and capitalize on biocultural diversity, the rescue of endangered or injured animals to generate moral legitimacy, and the extension of settler ecological control through the scaling up of wild spaces (Enns & Bersaglio 2024, p. 9). Although this list of transformations was derived from a close study of Kenya's histories of conservation, pastoralism, and ecotourism, it is nonetheless applicable to other settler ecologies. Such thematic parallels between diverse geopolitical contexts reveal "how the repertoire of legal techniques used to appropriate land and the philosophical rationales underlying them are not, necessarily, infinite in number" (Bhandar 2018, pp. 31–32).

LEGAL TECHNOLOGIES OF SETTLER ECOLOGIES

Law constitutes and sustains settler ecologies, codifying colonial priorities and hierarchies of life and death and projecting these hierarchies onto the natural landscape through property, administrative, and environmental regimes. Nonetheless, law has rarely been at the forefront of the scholarship on settler ecologies. This article begins to remedy this absence by inquiring about the role of law in the making and maintenance of settler ecologies.

I start by examining property regimes, and Western private property law in particular, through the prism of settler ecologies. A central concern of Western property law is land. For Marxist political ecologists, land regimes and the fixity of territory explain why the state functions as the core unit of modern capital (Moore 2015, Parenti 2014). Drawing on Wolfe's (2006, p. 387) assertion that under settler colonialism "land is necessary for life," Bhandar's (2018, p. 25) work highlights the centrality of land, and of property regimes developed to control and manage land, to the settler colony's very existence and survival. In her words, "not only was property law the primary means of appropriating land and resources, but property ownership was central to the formation of the proper legal subject in the political sphere" (Bhandar 2018, p. 4). As Fitzpatrick (1992, p. 83) observes, property law is "integrally associated with the mythic settling of the world—with its adequate occupation and its bestowal on rightful holders, the Occidental possessors and owners." Others have emphasized the entanglement of land and race. Land is crucial to one's capacity to appropriate in the first place, Bhandar argues in this context, foregrounding race—alongside gender, sexuality, class, and so forth—as the principal regime of differentiation in the formation of modern property law (see also Harris 1993, Park 2022).

In addition to its centrality in racialized property regimes, the colonial mindset underpins international law and governs its contemporary operations (Anghie 2005). Third World Approaches to International Law have criticized the Eurocentrism of international law and its privileging of the Global North (e.g., Mutua 2000). Yet even these accounts arguably underexplore the colonial dimensions of international environmental law, reflecting the persistent anthropocentrism so common within broader critical legal theory. My ethnographic research, for instance, documents how the love of birds transcends national borders—a sentiment instrumentalized through international treaties that extend the civilizing mission into a global regulation of avian migration (Braverman 2023). Such global regulation often exacerbates rather than alleviates national anxieties and regional conflicts: griffon vultures and other raptors with Israeli markings have

elicited accusations of espionage by neighboring countries (Braverman 2023; see also Kim 2022, Youatt 2022). Furthermore, declensionist narratives that blame Indigenous and local communities for the decline in protected bird species often accompany the enforcement of migratory bird treaties and are also pervasive in other environmental treaties, illustrating how international environmental laws continue to perpetuate colonial logics. A growing body of critical ocean law scholarship similarly recognizes these colonial underpinnings of international environmental law, examining how blue growth agendas advance comparable legacies of blaming the native (e.g., Burns 2022).

Another way of viewing law's role in settler ecologies is through a Foucauldian lens. Drawing on Foucault's "governmentality," Agrawal (2005; see also Fletcher 2017, Luke 1999) deploys the term environmentality to capture how, by internalizing and reproducing conservation rationales, Indian locals have become environmental subjects who think and act through categories of colonial power. In his study of British colonial forest regimes in the Himalayan foothills, Agrawal (2005, p. 7) argues that the ecological mindset affects "the very thoughts and experiences of persons; authoritative figures, as within a community or family; or, as importantly, one's own self." Relatedly, several studies have shown that colonial impositions of language have alienated locals from the moral and ecological orders that used to structure their own relationship to land (Ngũgĩ 1986). Ecological management thus operates not only through state laws and institutional mechanisms but also through the environmental disciplining of self and subjectivity.

This article aims to identify and better understand the legal technologies of settler ecologies—namely, the juridical mechanisms through which the colonial order is inscribed onto and embodied within the land and her more-than-human cohabitants. In what follows, I discuss three such technologies—juxtaposition, frontier-making, and hyperlegality and criminalization—each tracing distinct yet interrelated ways through which law animates and sustains settler ecological regimes. This list is by no means exhaustive.

ECOLOGICAL JUXTAPOSITION AS A LEGAL TECHNOLOGY

Settler orders typically operate through the categorical pitting of identities and entities against one another. This article is most concerned with how such oppositional logics are mapped onto natural entities. As Ghosh (2021, pp. 57–58) observed, "the Western idea of 'nature' is the key element that enables and conceals the true character of biopolitical warfare. . . . Indigenous people faced a state of permanent. . .war that involved many kinds of other-than-human beings and entities."

Importantly, settler ecologies deploy legal warfare to advance their colonial agendas. Legal ecological regimes not only reflect but also create and reinforce such juxtapositions of wild against domestic, invasive against native, human vis-à-vis nonhuman, land versus water, and settler against native, which are simultaneously projected onto the landscape, naturalizing and normalizing these dualities and bestowing the authority to govern them. The juxtaposed legal ecological categories in turn generate ownership rights and protections, claims to resources, and stigmatization. The wild–domestic divide, for instance, determines whether a species would be governed under agricultural or environmental laws, the invasive–native distinction grants the state the right to either kill or protect organisms, and the human–nonhuman separation demarcates the boundaries of personhood and legal standing (but see Braverman 2026a). More than enforcing ecological categories and divisions, law produces, essentializes, normalizes, and enhances them, cementing these distinctions into statutes, regulations, management procedures, and administrative routines.

The study of legal ecological bifurcations and their codification reveals the processes through which anthropocentric juridical binaries are projected onto animals, plants, and the natural landscape. Plumwood (1994) explores how dualisms such as those between nature and culture and

reason and emotion sustain hierarchies of domination that extend from gender and race to species and ecology. Operating through zoning, licensing, and protected status designations, law is arguably a central instrument through which settler colonialism manifests and materializes in the natural environment. Povinelli's (2016) notion of geontopower—a form of governance structured by the Western juxtaposition between life and nonlife—is instructive here. Settler law transforms this ontological split into a jurisdictional one, leveraging the juxtaposition between the vital and the inert to assert control over the more-than-human world.

The use of natural entities amplifies the power of juxtapositions as legal technologies. As I explain elsewhere, "more-than-human forms of life such as plants and animals are easily personified and so their binary properties can be radicalized, making the work that they do as proxies—and as totemic displacements—even more effective" (Braverman 2023, p. 124). My work documents, accordingly, how the state of Israel has recruited a range of species—fallow deer, gazelles, wild asses, griffon vultures, and cows—as soldiers in a more-than-human war against the goats, camels, olives, *akkoub* (a thistle-like, edible plant), and hybrid goldfinches that have become affiliated with Palestinians (Braverman 2023). The flora and fauna are deployed as instruments of ecological warfare, their alignment on one side or the other rendered all the more powerful because they are not typically conceived as participants in human wars.

This ecopolitical warfare has been made possible through the authority of law. Israeli statutes such as the National Parks, Nature Reserves, National Sites and Memorial Sites Law of 1998; the Forests Ordinance of 1926; and a web of zoning and planning laws and regulations empower conservation managers, ecologists, inspectors, veterinarians, and military officials to administer and enforce protections and prohibitions. Legal frameworks that distinguish native from invasive and wild from domestic instantiate the settler state's territorial claims and ecological hierarchies.

Such ecojuridical juxtapositions have been abundant in myriad settler colonial contexts. As Ritvo (1989) shows, British settlers saw local animals as defective and sought to replace them, wherever possible, with the more "productive" European breeds of cows, hogs, and sheep (see also Anderson 2006, Novick 2023). The presence of European animals in various settler colonial settings has been mobilized to recreate the imagined biblical landscape, in the case of the state of Israel, and the longed for English countryside, in British colonies. Such Edenic imaginaries were not merely aesthetic but also juridical, preparing the grounds to reclassify existing ecologies as expendable. In the 1830s and 1840s, fierce attacks on kangaroos, wombats, and wallabies were justified through their categorization by Australian laws as nuisances to be eliminated so as to make way for the spread of pastoralism and other profitable economic pursuits (Ritvo 1989). More recently, extermination campaigns targeting dingoes have deployed similar terminology. Rose (2011, p. 69) argues, accordingly, that

> dingo deaths are one ripple in the larger pattern of destruction that calls us to ask: Is eco-reconciliation nothing more than a wild and crazy dream? Is it necessary that all animals become either pets or enemies? Is there no room for the companionability of others who share with us the glories of life without being beholden to us in any particular way?

For Indigenous communities, who regard these newly stigmatized animals as spiritual beings and kin, such legal designations have sanctioned both ecological and cultural devastation. Often based on similar colonial juxtapositions, Indigenous communities have faced slaughter at the hands of settlers around the globe (Laidlaw 2024).

Settler laws have also authorized the drainage and diversion of waterways, declaring "unproductive swamps" as state property. These settler projects have impeded the migration pathways of animals for whom settlers could see little use, but who were central to Aboriginal lifeworlds (Greenaway 2024). From the 1860s onward, the Acclimatization Society of Victoria (Australia)

sought to further civilize the environment and deepen its connections with the colonial metropole by importing and introducing a range of European birds, such as skylarks, thrushes, and blackbirds, under permits and protective legislation (Farley 2022). Over time, the priorities have shifted, and with them the specific identity of the natural entities that fit into each category. As Farley (2023, p. 258) observes, "Though many introduced species enjoyed legal protection when first imported to Australia in the mid-nineteenth century, increasing settler nationalism around the turn of the century saw the emergence of a strong preference for native over non-native fauna in settler culture." In the twentieth century, anxieties over nonwhite migration became entangled with ecological fears about non-native, foreign, and invasive species, thereby reproducing and even intensifying econationalist discourses (Coates 2007). This ecocolonial project has been made possible by evolutionary science, which provides its rationalizing backbone (Hage 2018).

Similar bifurcated dynamics occurred in other settler colonial settings (Shinozuka 2022). But whereas the identities of the animals in the juxtaposed categories often shifted, the administrative infrastructure that relied on such juxtapositions remained intact, reaffirming law's commitment to ecological warfare. In South Africa, the logic of racialized bifurcations found concrete manifestation in environmental laws. Land once managed through communal tenure was reframed as state-controlled nature, and local African presence was recast as an ecological threat (Duffy 2014, Neumann 1998). Proclaimed under the National Parks Act of 1926, Kruger National Park consolidated state authority over vast tracts of land formerly used and inhabited by Indigenous and Black communities (Carruthers 1995). In the Pafuri region of Kruger, the Makuleke people—a Tsonga-speaking community who farmed and fished along the Limpopo–Luvuvhu confluence—were forcibly removed in 1969 when their land was incorporated into the park (Dlamini 2020). Similarly, conservation statutes and game reserve proclamations, such as the Sabi Game Reserve of 1898, enclosed Indigenous homelands within wilderness zones while legally restricting subsistence hunting and land use (Beinart & Hughes 2007). Finally, legislative instruments such as the Native Administration Act of 1927 and later the Group Areas Act of 1950 empowered the South African state to relocate "natives" when deemed to be in the general public interest (Dubow 1995).

In various countries, forest designations have served a similar purpose to parks and game reserves. In his novel *Wielding the Ax*, Sunseri (2009) traces the historical transformations in Tanzania from the nineteenth century to the present through the lens of the forest. Beginning with African chiefs and forest spirits, both known as "ax wielders," and ending with international conservation experts who wield scientific knowledge to control forest access, Tanzania's history of forestry can be read as a microcosm for Sunseri's examination of colonial rule and its postcolonial continuities.

By converting Indigenous territories into legally defined spaces of parks, reserves, and forests and through categorizing local populations as trespassers or poachers, state laws have further reinforced the juxtapositions between wild and domestic and between native and settler. This has resulted in what Büscher & Ramutsindela (2016) refer to as "green violence"—the process of justifying dispossession as environmental protection. In this context, conservation laws operate as an extension of South Africa's apartheid governance, producing what Dlamini (2020) calls "colonial wilderness."

These multiple geopolitical contexts showcase how, based on juxtapositions, settler ecologies convert differences into spatial, administrative, and punitive environmental regimes. Categorizing both humans and other-than-humans into juxtaposed entities of governable versus ungovernable, protected versus unprotected, and grievable versus killable, settler laws proclaim and normalize the conditions of their own authority (Braverman 2023, Lopez & Gillespie 2015). This classificatory logic is not confined to the past: Bifurcated classifications, protections, and prohibitions continue to govern the relationship between settler societies and the more-than-human world.

FRONTIER ECOLOGIES AS A LEGAL TECHNOLOGY

Alongside the pervasive use of juxtapositions by settler ecological regimes, international law has deployed the doctrine of *terra nullius* to describe a territory that is not under the sovereign authority of any state and thus available for "discovery." The *terra nullius* doctrine was applied repeatedly across myriad settler colonial sites, its underlying logic constituting a fundamental premise of colonial property law since the eighteenth century. More than an idea, *terra nullius* functioned as a legal mechanism for translating environmental imaginaries of wilderness and vacancy into enforceable claims of ownership. Where the doctrine of discovery authorized jurisdictional claims by European powers, *terra nullius* supplied the environmental and ontological predicate for those claims, converting land into governable spaces. Working alongside the doctrine of discovery, *terra nullius* created and then materialized the frontier by rendering land available for the expanding settler state, while commensurate laws of cultivation and improvement defined the frontier as productive and civilized.

Rasmussen & Mendoza (2023) trace the history of what they refer to as the "conservation frontier" in Patagonia, highlighting how protected areas became vehicles to consolidate disputed national borders. In their words, "The imaginary of sublime wilderness created a new frontier effect around which novel projects of territorialization could reshape and expand the existing conservation estates in Argentina and Chile" (p. 323). Similarly, in the second half of the twentieth century, Hawai'i expanded and developed its state parks system in an effort to enhance public leisure and natural resource conservation (Hobart 2025). Conservation has become a technology for facilitating development, or, as West (2006) puts it in her ethnographic account of conservation as development in Papua New Guinea, "Conservation is our government now."

Court cases from several settler colonial contexts reveal the process of frontier-making. In the United States, *Johnson v. M'Intosh* (1823) enshrined the doctrine of discovery into property law, reducing the Indigenous relationship to land to mere occupancy under federal sovereignty. This decision established the core principle by which European "discoverers" (and their successor states) gained ultimate title to lands in the Americas. The Homestead Act of 1862 and the Dawes Act of 1887 further codified this transformation by legally rewarding those who rendered land "productive." This decision, more recently reaffirmed by Justice Ruth Bader Ginsburg in the Supreme Court case *City of Sherrill, New York v. Oneida Indian Nation of New York* (2005), remains binding law in the United States. Similar patterns emerge in Canada, where the Dominion Lands Act of 1872 and *St. Catherine's Milling & Lumber Co. v. The Queen* (1888) established crown title over "unoccupied" lands, thereby creating a legal frontier for agricultural and extractive settlement. In Australia, *Mabo v Queensland (No 2)* (1992) overturned the *terra nullius* doctrine after acknowledging its centrality to colonial possession and dispossession for more than two centuries.

In Palestine-Israel, frontier legalities continue to operate through statutes such as the Absentees' Property Law of 1950 and the Land Acquisition Law of 1953, which have reclassified Palestinian lands as abandoned and transferred them to the settler state. Environmental designations carried out under the Forests Ordinance of 1926 (from the British Mandate) and the National Parks, Nature Reserves, National Sites and Memorial Sites Law of 1968 further extended the frontier logic by transforming inhabited or cultivated Palestinian spaces into legally protected forests, parks, and reserves.

Similarly, in Kenya under British colonial rule, legal instruments such as the Crown Lands Ordinance and the Registration of Documents Acts were used to declare "waste and unoccupied" land as crown land and to impose a property regime modeled on English law. The new colonial law subordinated customary tenure so that Africans increasingly came to occupy the position of tenants of the crown, holding occupancy or user rights, while ultimate title rested with the colonial

state (Okoth-Ogendo 1991). Finally, in Hawai'i, the expansion of public parks dovetailed with the enactment of land use laws in the 1960s that skewed heavily toward agriculture and conservation tourism, promoting "the subtext that there was money to be made in 'natural' and 'ancient' beauty" (Hobart 2025, p. 4).

Across these examples, settler ecologies have relied on legal mechanisms not only to seize and redistribute the frontier but also to define the very ecological categories that the frontier would depend upon (e.g., wild, natural, and civilized or cultivated), thereby justifying and naturalizing settler occupation and elimination (Braverman 2023). Such legal mechanisms have produced not only new territories but also new ways of seeing. Accordingly, anthropologist Tsing (2003, p. 5102) argues that the frontier is not "a place or even a process, but an imaginative project capable of moulding both places and process" (see also Said 2000, p. 184).

Finally, for American historian Turner, writing in 1893, the frontier denoted the nation-making power of American democracy. Separating civilization from wilderness, the frontier line was "the most rapid and effective Americanization" on the continent, according to Turner (1893; see also Paxson 1924). The frontier, by its very definition, lies beyond the control of the state and even beyond civilization (Kemp 1999, Shafir 1989). Hence, the process of territorial incorporation into the state inevitably results in the death of the frontier (Lavi 2013). Like settler colonialism (Veracini 2008, pp. 366–68), the frontier, too, aims toward its own obliteration as the successful end goal of the civilizing mission. But whereas for Turner the frontier operated by pushing wilderness away through settlement, settler ecologies operate in the reverse: designating protected areas, natural reserves, and endangered species that institutionalize frontier logic for settler conservation rather than for settlement. The frontier, already emptied of Indigenous people and increasingly also devoid of wild animals (what I refer to elsewhere as "animal nullius"; see Braverman 2023, 2024), has become a space for nature management regimes: sprawling assemblages of rules, designations, and licenses through which settler sovereignty naturalizes itself.

HYPERLEGALITY VERSUS ILLEGALITY: CRIMES AGAINST NATURE

Law functions not only as a tool for the direct enclosure of land and for the remaking of landscapes but also as a form of management that follows and consolidates enclosure. Following territorial incorporation, a conservation regime rapidly emerged whereby every plant, animal, and ecologically relevant practice has become legible through legal norms. This preoccupation with the rule of law and the drive to render life exhaustively legible and governable has manifested in the settler state's intensive use of what I call "hyperlegality": the excessive and expedient enactment and enforcement of laws and regulations (Braverman 2023, p. 98). At the other end of this hyperlegality lie the settler state's radical practices of illegality and its flagrant disregard of the law. The oscillation between law's overperformance and its willful absence—between hyperlegality and illegality—is arguably a defining feature of settler ecologies.

In Palestine-Israel, property and environmental laws have been instrumental in producing hyper (and hypo) legal landscapes. Detailed statutes, case law, and regulations pertaining to national parks and nature reserves in particular have resulted in the dispossession of Palestinians from massive land tracts. As I document in *Settling Nature*, such designations, and the intricate network of decrees and regulations that ensue, subject Palestinian people and their lands to multiple overlapping legal restrictions that render daily subsistence practices, such as herding or foraging, nearly impossible (Braverman 2023, p. 261). Simultaneously, settler outposts and shepherd farms—many of which are illegal even under Israeli law—enjoy the state's protection and financial support and are often legalized retroactively. Increasingly, the divide deepens between the hyperlegality imposed upon Palestinian ecologies and the state's tolerance toward the illegality of Zionist settler

ecologies. Palestinian environmental practices—grazing, planting, harvesting, or foraging—are cast as crimes against nature, justifying the state's legal intervention, whereas vigilante Israeli settlers, imagining themselves as the new natives and as the land's true ecological stewards, take the law into their hands in the name of nature protection (Braverman 2023, 2026b).

Settler logics that involve the criminalization of local and Indigenous communities also structure the ecological regimes in other settler states. In South Africa, the Game Laws Amendment Act of 1911 and the National Parks Act of 1926 declared vast tracts of land off limits to African communities, reclassifying customary hunting and grazing as poaching and trespass (Carruthers 1995, Neumann 1998). Similarly, conservation laws in Kenya's Laikipia parks forged a racialized ecological order: The settler was cast as a protector of wilderness and the African as its destroyer (Enns & Bersaglio 2024). The poacher thus became the quintessential figure through which the settler state stabilizes its underlying racial hierarchies and continues to justify militarized conservation. Anti-poaching units, often staffed by private military contractors, patrolled parks and reserves with legal immunity (Duffy 2014, Lunstrum 2014), a process often referred in the literature to as "green militarism" (Büscher & Ramutsindela 2016; see also Davis 2010, Kuletz 1998, Lunstrum 2014, Woodward 2004).

Similarly, in the United States, the creation of Yellowstone National Park in 1872 depended on the expulsion and criminalization of the Shoshone and Bannock hunting communities, whose subsistence activities were reframed as environmental crimes (Jacoby 2014, Spence 1999). The Lacey Act of 1900 as well as the Migratory Bird Treaty Act of 1918 extended this criminalization by redefining Indigenous hunting as illegal poaching. At the same time, settler hunting has been celebrated as scientific management (Dunlap 1988). In Hawai'i, midcentury park development did the work of Kānaka Maoli removal and erasure "by neutralizing, democratizing, and institutionalizing park space: state-funded leisure areas for *all* radically precluded Indigenous placemaking" (Hobart 2025, p. 2, emphasis in original). Perceiving themselves "as traditional fisherfolk who wanted to live a simple life," residents of one Indigenous community inside the newly designated park promoted the idea of a "living park," but their status as squatters prevailed, and they were forcefully evicted from their homes (Hobart 2025, p. 6).

Along these lines, Canadian provisions such as the Indian Act of 1876 subjected Indigenous land use to extraordinary bureaucratic oversight, whereas settler agricultural and extractive activities on nearby lands proceeded with minimal regulation. In Australia, the National Parks and Wildlife Act of 1974 (NSW) prohibited Aboriginal burning and hunting practices in the name of conservation (Trigger 2008). Finally, the Kenyan Wildlife Conservation and Management Act of 2014 criminalized any unauthorized entry into declared national parks, displacing Indigenous customary and ancestral ties by declaring the land as state protected. Part XI of the Act prescribed enhanced penalties for violations. Across diverse jurisdictions, then, legal ecologies have created hyperregulated Indigenous spaces alongside deregulated, and even illegal, settler frontiers, simultaneously overgoverned for the Indigenous population and under a state of exception for the settlers.

CONCLUSION: TOWARD JUST LEGAL ECOLOGIES

The emerging literature on settler colonialism is quite rich, but research into the ecological dimensions of this intersection—what I refer to as "settler ecologies"—is still sparse. This contribution has attempted to demonstrate that law is not only central to but also part and parcel of settler ecologies in that it enables, mediates, and justifies colonial dispossession, extraction, and resettlement. The question I turn to in conclusion is whether law might also enable, mediate, and justify decolonizing ecological practices. In what follows, I envision what such ecologically just legalities might look like.

As I argue elsewhere, the combined frameworks of environmental justice and settler colonial critique offer a "holistic analytical platform from which we might start working toward decolonized futures for all living beings" (Braverman 2021, p. 9). If settler ecologies are legal formulations structured through categorical distinctions, frontier logics, and hyperlegal administration, then the project of decolonizing legal ecologies must begin with a rethinking of legality itself. Decolonizing legal ecologies, in this sense, is not a single alternative project but an ongoing assemblage of ecojuridical practices that refuse the dualisms, extractivism, and systemic stigma and exclusions upon which the administration of settler ecologies depends, instead offering life-affirming futures. Todd (2017) reminds us along these lines that "understanding how settler colonialism structures itself in the lands, waters, and atmosphere that it invades gives us the power to refract its efforts and assert something liberatory in its place." Such a refractive practice would entail active and plural forms of coexistence. By proposing a common world that recognizes the agency of nonhumans and their legitimacy as subjects, Stengers's (2010) notion of "cosmopolitics" provides one entry point into such a revision. Cosmopolitics challenge the very assumption that law is a uniquely human prerogative, resonating with multispecies and Indigenous scholarships that treat nonhuman entities as subjects with agency and as kin (Stengers 2010, Todd 2017). Working within the cosmopolitical framework, legal categories would cease to function as tools of separation and juxtaposition—between human and nonhuman, nature and culture, settler and native, and life and nonlife—instead becoming multitudes (Stengers 2010; see also Haraway 2003). Plurality, in both thought and practice, is a precondition for decolonizing law.

Büscher & Fletcher's proposal for what they refer to as "convivial conservation" extends this revision deeper into the sphere of conservation. Their critique of mainstream conservation identifies how even ostensibly apolitical environmental practices reproduce capitalist and colonial logics through marketization, securitization, and exclusion (Büscher 2021, Büscher & Fletcher 2020). In their stead, convivial conservation advances a postcapitalist and postcolonial vision of conservation. Applying this vision to the domain of law, the goal of decolonizing conservation is to live with nature rather than to control it via protected areas, state licenses, and species rescue regimes—all hallmarks of frontier laws and hyperlegalities. Collective custodianship, shared sovereignty, and reparative ecological jurisprudence would instead promote convivial conservation. Such legal strategies resonate with decolonial experiments in Latin America's plurinational constitutional frameworks, where Indigenous legal orders are increasingly recognized as commensurate with the state and where the rights of nature (e.g., *Pachamama*) are taking constitutional form (Escobar 2020).

Abolition ecology, a field that has garnered attention from abolition geographers, further pushes this transformative potential. Drawing on Gilmore (2018, 2022), Heynen & Ybarra (2021, p. 22) have defined abolition ecology as an effort to dismantle the systemic violence that ties environmental destruction to racial and colonial domination. They describe this project as seeking to "enrich, expand and extend the logics (and thus possibilities) of the political ecology and environmental justice literature with a capacious understanding of abolition geography and its commitment."

In legal scholarship, abolition is still largely confined to carcerality and centers on criticism of the prison industrial complex (e.g., Akbar 2018). This article urges sociolegal scholars to extend the abolition framework to property, environmental, and nature conservation regimes. As a starting point, abolition legal ecologies would inquire how we might unmake and remake the institutions and apparatuses that govern ecojuridical spaces, classifications, and subjects. Such an inquiry directly challenges the hyperlegal regimes that criminalize Indigenous, Black, pastoral, and other marginalized communities in the name of environmental protection. Instead of offering patchy reforms, abolition legal ecologies unlearn the state's authority over territory, decommodify

ecological relationships, and cultivate what Gilmore (2022) calls "life-affirming infrastructures." The shift from carceral to abolition legal ecologies arguably mirrors the movement from settler to more-than-human legalities (Braverman 2018), where kin and care replace punishment and exclusion as the coordinates of decolonized ecological governance.

Finally, Whyte's work on Indigenous environmental and climate justice complements such visions for decolonizing legal ecologies. For Whyte, decolonized futures must include the restoration of Indigenous governance. Environmental harm, in his analysis, is not only the degradation of ecosystems but also the disruption of relationships among humans and more-than-humans. This disruption can be redressed only under Indigenous law and leadership (Whyte 2018b). Liboiron (2021, p. 11; quoting from Byrd; Hobart 2025) likewise cautions that mainstream environmentalism, even in its justice oriented variants, often "propagates and maintains the dispossession of Indigenous peoples for the common good of the world." Promoted in the name of this common good, environmental solutions to pollution, for example, assume access to Indigenous lands and the ability to produce value for settler societies (Beer 2025, Liboiron 2021). Decolonial ecologies would require not only different outcomes but also different processes that start by identifying Indigenous epistemologies of land, water, and kinship and recognizing them as law. Achebe (1958) provides a glimpse into such an Indigenous jurisprudence whereby land, animals, and ancestors form part of a sacred order of governance. In contrast to frontier and *terra nullius* logics, such more-than-human legalities treat land as sentient and human–nature relationships as reciprocal.

Combined, cosmopolitics, convivial conservation, abolition ecology, and Indigenous environmental justice provide not a unified program—indeed, "there *must* be a solidarity without a universal We" (Liboiron 2021, p. 24)—but a set of overlapping invitations for multiple, and imbricated, projects. Such projects would bring law's alleged universality "down to earth" (Latour 2018), redistributing agency among human and nonhuman actors and centering visions of justice, reciprocity, and solidarity. Each of these projects, if applied, would effectively reframe the key legal technologies of settler ecologies, offering distinct but non-exclusive points of entry: Cosmopolitics would unsettle the juxtapositions that structure colonial legalities; convivial conservation would disrupt frontier logics of expansion, extraction, and securitization; and abolition ecology would dismantle structural hyperlegalities and the criminalization of Indigenous life.

Finally, decolonized ecological futures can only emerge when law is reenvisioned as a multispecies practice of world-making. For this to happen, sociolegal scholars must reconsider not only what law regulates in the natural world but how legality itself is constituted through human–nature relationships. The task ahead is thus methodological as much as it is conceptual: to develop ethnographic, archival, and other methods that would trace law's material manifestations in natural entities and landscapes, to foreground Indigenous and other subaltern legal orders as living jurisprudences, and to extend the application of legal pluralism beyond the human. If the first part of critical environmental law reveals the colonial and capitalist scaffolding of settler ecological governance, then the second and important counterpart must attend to law's potential as a decolonial and anticolonial practice. Decolonizing settler legal ecologies requires not the abandonment of legality but its reimagining as a process of healing among the plural entities that compose the world. To decolonize settler ecologies is therefore to decolonize legality itself.

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