

# *nîpawistamâsowin: We Will Stand Up & Storying Violence Unravelling Colonial Narratives in the Stanley Trial*

## Introduction

- On August 9, 2016, a twenty-two-year-old Indigenous man of the Cree Red Pheasant First Nation named Colten Boushie died from Gerald Stanley's gunshot aimed at the back of Colten's head. The altercation occurred on Stanley's rural property on Treaty 6 Territory after Colten and his friends searched for help with their flat tire.
- Gerald Stanley was acquitted of all charges. The hearing captured international attention, raised questions about racism embedded within Canada's legal system and propelled Colten's family to national and international stages in their pursuit of justice.
- Canada's inability to hold Gerald Stanley accountable was not a failure of the criminal justice system but rather represents the success of the criminal justice system in enforcing white settler supremacy.
- In 2019 Tasha Hubbard released the documentary *nîpawistamâsowin: We Will Stand Up*, which honours the lives and stories of Colten Boushie and his family, including Debbie Baptiste (Colten's mother) and Jade Tootosis (Colten's sister). Hubbard's film importantly depicts Indigenous people living joyfully on the prairie landscapes reminding the audience that amidst suffering, there is still joy, family, and culture.

In 2020, Gina Starblanket & Dallas Hunt published the book *Storying Violence Unravelling Colonial Narratives in the Stanley Trial*. The authors position the death of Colten Boushie and the trial of Gerald Stanley in relation to Indigenous histories and experiences in Saskatchewan, "to engage in the politics of which stories were heard and which were ignored during the trial." (Starblanket & Hunt, 2020, p. 119)



1

### **The authors explain:**

"the prairies, and white rural Saskatchewan in particular, are marked by mythical tropes about the virtuousness white people and the righteousness of its political and cultural formation. Indigenous people are outside these myths, except when can be invoked in ways that bolster them." (Starblanket & Hunt, 2020, p. 22)

### **The authors show:**

"As the Stanley case demonstrates, the 'values' held by settlers on the prairies can work to legitimate violence against Indigenous people at societal and institutional levels." (Starblanket & Hunt, 2020, p. 23)

### **In Hunt's and Stablanket's words:**

"Throughout this book, we use the term 'storying' to describe the ways in which narratives, or spoken and written accounts, come alive and function as important political tools. We are indebted to feminists and Indigenous people for drawing attention to the power of storytelling relative to lived experiences." (Starblanket & Hunt, 2020, p. 23, my emphasis.)

- The formation of colonial Canada is based on stolen land, the racialization of Indigenous peoples and the bolstering of white supremacy. Canada's objective is to secure judicial and economic prosperity for white settlers.
- As you read this factsheet, keep in mind what may have been the outcome if, on August 9, 2016, Gerald Stanley had been willing to communicate and help Colten and his friends with the flat tire. (Starblanket & Hunt, 2020, p. 111)

## Terms & Definitions

### Colonialism

- The historic and ongoing dispossession of Indigenous people for settlers to come into possession of their lands.
- The extraction, exploitation, usurpation and dispossession of land and resources.

"Colonialism, both past and present, has relied upon notions of progress, development, and civilization to provide the ideological justification for the extension of settler laws and regulations of Indigenous peoples and their lands."  
(Starblanket & Hunt, 2020, p. 45).

### The Term Settler\*

**The term settler** references people that leave a geographical location and move to another in search of a place with significant opportunities for families and livelihood. The individuals and populations invited to settle in Canada are defined by their suitability - based on their physical appearance and cultural values - to further the societies envisioned by officials (Starblanket & Hunt, 2020, p. 42).

- **Settler Colonial Logics:** a cluster of ideas and beliefs that facilitate the removal and containment of Indigenous peoples and motivate settler claims to lands, waters, skies, and non-human life as their own.
- **Settler Reasoning:** this is a process of reasoning that values the Eurocentric, western, predominantly white, male, middle-to-upper-class conception of subjecthood and humanity. As a result, Indigenous and racialized bodies are outside of settler understandings of humanity. Settler reasoning materializes as a violent form of validating harm to anyone outside settler conceptions of the human.
- **Settler States:** the governing arrangements and their variety of strategies and infrastructure imposed by newcomers. Settler states use constitutional laws to create the cultures and societal values that facilitate violence toward Indigenous and racialized peoples. Settler states do not replace Indigenous societies.

### What is Race/Racism/Racialization?

**Race/Racism/Racialization** depends on language to facilitate the production and dissemination of violent stories and imagery that wrongly depict a fantasy characterization of Indigenous, Black and People of Colour.

- **Race:** is a socially constructed system of categorization and value built on the ideas and presumptions of difference based on visual signifiers and ethnicity.
- **Racism:** actions, thoughts, speech and microaggressions that elicit and justify violence interpersonally and structurally.
- **Racialization:** is the process of codifying bodies with various misconceptions and stereotypes.

**The importance of place:** "Even within a single country, racialization does not operate in the same way across different contexts. Thus, we need to unpack the ways that *generalized* patterns and practices of racism are *locally* enacted."

(Starblanket & Hunt, 2020, p. 53)

## The 1800s - 1900s

- 1867 - Canada was formed, and the Canadian Justice system was established via The Constitution Act.
- 1876 – Treaty 6: The prairie buffalo population had declined due to extermination by settlers. The Indigenous peoples relied on the buffalo for food and suffered from the buffalos' disappearance from the prairies. In response, the Indigenous leaders, worried about the futurity of their people, agreed to meet the Crown's representatives at Fort Carlton and Fort Pitt to negotiate a means of protection for Indigenous peoples. Treaty 6 was a nation-to-nation agreement. The agreement stated that the Crown was required to protect Indigenous peoples and their rights to food, livelihood, education, healthcare, hunting and more in exchange for sharing their land.

Whereas the state and Crown interpreted the treaties as land surrenders, “Many Indigenous people understand treaties as a means of bringing settlers into existing kinship relations, and to teach them about their responsibilities as newcomers to the land.”

(Starblanket & Hunt, 2020, p. 107)

“Each of the numbered treaties contains an iteration of a commitment from Indigenous peoples to maintain ‘peace and order’ between themselves and between Indigenous and settler people. Many have argued that the peace and order clause both affirms the inherent power and ongoing jurisdiction of treaty Chiefs in the administration of law governance, while also imposing limitation on the authority of the Crown.”

(Starblanket & Hunt, 2020, p. 116)

- The British Crown and the Canadian state failed to meet their treaty obligations and responsibilities.

- 1876 – At the same time as the negotiation of Treaty 6, the Canadian government was preparing the Indian Act, which stated that Canada could dictate Indigenous lives. The Northwest Mounted Police pushed Indigenous peoples onto reserves. The written document mistakenly said Indigenous peoples surrendered their lands. Indigenous peoples' sovereignty and rights were ignored. Indigenous leaders wanted to negotiate a better deal; however, the Canadian government's representatives wanted Indigenous peoples away from the upcoming railway, so they used hunger as a weapon, and everyone was starved.
- 1885 – Battleford: This has been the location of racial injustices historically and in the present as the location of *The Crown Vs Stanley* hearing. Historically the town of Battleford was the site of the public hanging of eight Indigenous men who were leaders and warriors resisting the Canadian state's takeover of their lands. These Indigenous warriors were criminalized for protecting Indigenous Peoples' rights. The men were imprisoned, tried in a Canadian court without adequate legal representation, and sentenced to death by hanging. (Hubbard & Tootosis, 2020, p. 11)
- 1885 to 1951 – The Pass System confined Indigenous people to reserves unless an Indian Agent granted permission to leave and re-enter. The pass system normalizes the exclusion of Indigenous peoples from settler society, segregating, policing, and criminalizing the spaces Indigenous people occupy. The Pass System was a contravention of treaty promises.



# Storying Violence: Contextualizing the Prairies

**The mid-1800s:** This time is defined by Canada's maneuvering to separate Indigenous peoples from the land and convert the land into profitable private property as a means to secure settlement and industrial capitalism (Starblanket & Hunt, 2020, p. 41).

## "Canada West"

"Early immigration materials described the prairie west as a vast, unoccupied, fertile hinterland with little, if any, mention of Indigenous populations." Colonial settlements offered property, bounty, independence, industry, and wealth to incoming settlers (Starblanket & Hunt, 2020, p. 33).

The 1800s to the early 1900s immigration campaigns represent prairie settler colonialism in both what they depict and exclude (Starblanket & Hunt, 2020, p. 34). The West was depicted as:

- An unparalleled "land of opportunity," "free of Indigenous peoples," "an environment rich with virgin soil and fertile plains," and "a masculinist heaven, inviting exploration, occupation, and cultivation." (Starblanket & Hunt, 2020, p. 35)
- A background setting for patriarchy and highly gendered and heteronormative ideals of family, home, and domestic life.
- Immigration campaigns invited able-bodies, middle-aged white farmers, and their families to build "his castle" and "exercise control over one's private domain." (Starblanket & Hunt, 2020 p. 37)

**"blanketing the plains":** Extending Canada's political reach and asserting sovereignty across the West through infrastructure such as railroads that facilitated European and American settlement and the dispossession, disciplining and assimilation of Indigenous peoples. (Starblanket & Hunt, Belshaw (2016), 2020, p. 39).

**Structural Racist Spaces:** "It is important to recognize that [Canada's histories, stories and imageries] are not just representative of the intentions of the architects of Canada's national policy, but that they also illustrate the norms, values, expectations, and aspirations that were held by individual settlers and subsequently inherited by their descendants." (Starblanket & Hunt, 2020, p. 43).



## The Hearing: *The Crown Vs Stanley*

Colten Boushie's family and lawyers had no legal representation in Gerald Stanley's court case. Stanley's charges, second-degree murder and manslaughter, were charged on behalf of Canada's Crown counsel. The Crown counsel consisted of Crown attorneys representing Canada during the hearing and acting as the prosecutors. The Crown attorneys failed to communicate with Colten's family and lawyers.

The court case was held in Battleford, Saskatchewan. The Crown counsel denied the request of Colten's family and lawyers for an out-of-province hearing. Colten's family's request was placed in light of the racist comments made after Colten's death.

When the Royal Canadian Mounted Police (RCMP) officers who first arrived at the farm were called to the stand, they shared that the search warrant was delayed 24 hours. This means that for 24 hours, the RCMP officers did not have legal permission to enter Stanley's farm and collect evidence. In other words, for 24 hours, neither Colten, the car, nor the surrounding area were protected from the environment, and further degradation of evidence occurred.

The witnesses, three Indigenous youths, spent 18 hours in police custody before giving their statements. Information about police misconduct with respect to the female Indigenous youth was left out of the court hearing. The questions and discussions directed toward the Indigenous youths reproduced racist, violent misconceptions and stereotypes of Indigenous peoples.

- Stanley's defence heavily relied on normalized racialized associations between Indigeneity and deviance, troublemaking, and terror. These associations shaped the case's outcome (Starblanket & Hunt, 2020, p. 67).
- Fabricated narratives about Indigenous people inform everyday life in the settler colonial context of Canada. Fabricated by settlers and reinstated for centuries, the narratives falsely characterize Indigenous peoples as savages, deficient and deviant.

The Crown counsel denied that racism had anything to do with the case. The words "race," "racism," or "racialization" would not be said in the hearing for its entire two-week duration. To deny that racism and colonialism were factors in Colten's death is to erase the lived experiences of Indigenous, Black and People of colour.

The jury consisted of 12 all-white members. The Crown counsel at the time had the right to dismiss potential jurors without reason. Despite the racism displayed since Colten's death, no one is asked if the jurors were biased toward Indigenous peoples.

No Indigenous people were chosen to be on the jury even though Indigenous people make up 16.3% or roughly 175,015 of the population in Saskatchewan, the second highest population by the province in Canada (Statistics Canada, 2016).

Stanley's lawyer used the "Castle Defence" and "Magic Gun Defence":

- The "Castle Defence" argues that a farmer's property and land is like a castle that must be protected at all costs. The castle is viewed as an extension of the farmer himself; thus, all threats to his property threaten his personhood and incite vigilante-style violence (Starblanket & Hunt, 2020, p. 75). Stanley's lawyer used such a threat to suggest Stanley acted with an element of "self-defence." This defence values property over human life. This defence represents the colonial logic of land ownership and individualism.
- While the "Magic Gun Defence" argues Stanley's gun went off by accident due to a delayed response or hang fire. A gun expert was called to the stand and stated that a hangfire is a rare malfunction.

**A system based on precedent:** "The Canadian legal system operates on the precedents of stories and decision of earlier cases. And since the system was established through colonialism, many of the stories told are those which criminalize and dehumanize Indigenous people. These oppressive narratives impede a fair chance at justice for Indigenous victims." (Hubbard & Tootosis, 2020, p. 12)

**Racism and colonialism are historical and ongoing:** "The historical and present structures of racism and colonialism mark all interactions in the prairies; they do not only exist in select contexts. Racial tensions did not merely surface after Colten's death, but date back to the earliest interactions between Indigenous and non-Indigenous peoples in these spaces." (Starblanket & Hunt, 2020, p. 66)



"One of Colten's supporters is holding up an eagle feather, a symbol of truth. At the request of the jury the judge tells them to stop."

(Hubbard, 2019, 00:44:26 - 00:44:35)

#### References

Belshaw, J. D. (2016) *Canadian History: Post-Confederation*. BCcampus. ISBN 13: 9781989623138

Hubbard, T. (Director). (2019). *nīpawistamāsowin: We Will Stand Up*. [Film]. National Film Board of Canada. <https://www.nfb.ca/film/nipawistamasowin-we-will-stand-up/>

Hubbard, T. & Tootosis, J. (2020). "Foreword." *Storying Violence: Unravelling Colonial Narratives in the Stanley Trial*. Arbeiter Ring Publishing. pp. 9 – 13.

Starblanket, G. & Hunt, D. (2020). *Storying Violence: Unravelling Colonial Narratives in the Stanley Trial*. Arbeiter Ring Publishing.

Statistics Canada. (2016). "Focus on Geography Series, 2016 Census". <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-PR-Eng.cfm?TOPIC=9&LANG=Eng&GK=PR&GC=47>

Zola (@zola\_mtl). (2020). "Justice for Colten". [Image]. Instagram. [https://www.instagram.com/p/CDrUEcfHSwc/?utm\\_source=ig\\_web\\_copy\\_link](https://www.instagram.com/p/CDrUEcfHSwc/?utm_source=ig_web_copy_link)