– ARTICLE –

SOVEREIGNTY, INDIGENEITY, AND BIOPOWER:
THE CARCERAL TRAJECTORIES OF CANADA'S FORCED REMOVALS OF INDIGENOUS CHILDREN AND THE CONTEMPORARY PRISON SYSTEM

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ABSTRACT

For seven generations, the Canadian settler state sought to take Indigenous children from their parents and home communities, to a network of residential schools, where the goal of the state and the four main Christian churches was to destroy all that was Indigenous in these children. A key state purpose was to make Indigenous peoples disappear, along with their sovereign rights to land, language, spirituality, and governance. As this system wound down, Indigenous children were forced into foster and institutional 'care', a process known as the '60s Scoop'. These forms of child incarceration are linked to extremely high rates of Indigenous imprisonment in Canada's settler colonial justice system. In this article we deploy Michel Foucault's understanding of biopower to explore the history and intent behind the Indian Residential Schools (IRS) system, the 60s Scoop, and the prison system in Canada.

INTRODUCTION

For seven generations, the Canadian settler state sought to take a large proportion of Indigenous children from their parents and home communities, forcibly removing them to a network of Indian Residential Schools (IRS), where a central goal of the state and the four main Christian churches was to destroy all that was Indigenous in these children. A key purpose was to make Indigenous peoples disappear, along with their sovereign rights to land, language, spirituality, and governance. As this system wound down, Indigenous children were forced into foster, adoptive, and institutional 'care', a process known as the '60s Scoop'. These forms of child incarceration have a causal link to extremely high rates of Indigenous imprisonment in Canada's settler colonial justice

system. Deena Rymhs has observed that 'The personal histories of indigenous people in Canada are so heavily entangled in carceral institutions that it is difficult to discuss the former without the latter' (2008, 2). In this article we explore the histories and intentions behind the IRS system, the 60s Scoop, and the prison system, deploying Foucault's notion of biopower in order to understand how Canada historically and contemporaneously has sought to discipline Indigenous peoples and make them disappear through biopolitical acts.

This article is divided into three sections. The first explores Foucault's work on biopower and emphasises how we might understand Canada as a historico-political field. The second part examines the IRS system as an example of a space imbued with biopower, which has both constructed Indigenous subjectivity and functioned to regulate Indigenous lives. Complementing this examination is an overview of the 60s Scoop, where the practice of removing children from their homes essentially continues into the present day in the child welfare system. Finally, we examine the contemporary incarceration of Indigenous peoples as a biopolitical space wherein Indigenous peoples are either made into more productive individuals or remain excluded from white, settler society. We argue that each of these institutions is connected with the strategic wielding of biopower on behalf of the Canadian state. We should also be clear however, that Indigenous peoples have been resilient in the face of these oppressive systems and people, and we note the rise of an Indigenous resurgence throughout the country, epitomised in movements such as Idle No More.

THEORETICAL FOUNDATIONS

The work of French political theorist Michel Foucault offers critical insights that can be applied to the form and function of the power relations between the Canadian state and Indigenous peoples. His account of governmentality has been instrumental in critiques of the IRS system as a totalising institution used by the settler state as a tool of aggressive assimilation (Million 2000). Further, Foucault's notion of heterotopia, understood as places and spaces that act both to mirror and distort reality, has been applied to the Canadian Museum of Civilization. Miranda Brady (2013) recently observed that the museum offered a politically motivated reflection of the IRS system which tacitly suggested that this period of history is over, and obscured the continued legacies of the system. Accordingly, Foucauldian thought has been prominent in our conceptualisations of the social control which has emanated from the state. In keeping with this tradition, we argue that the exercise of what Foucault calls biopower has been intrinsic to the strategies and mechanisms of the Canadian settler colonial state used to govern the social and biological processes of

Indigenous peoples.

Foucault places his argument regarding biopower in historical context, tracing a genealogy from the deductive power to seize 'things, time, bodies, and ultimately life itself' exercised by the pre-modern sovereign, to the emergence of biopower within the modern state (1978, 136). To Foucault, the most visible manifestation of the pre-modern form of power was the sovereign king or monarch, who possessed the right to '*take* life or *let* live' (p.138). Imbued with this power, the sovereign could endanger the lives of his or her subjects – for example, in requiring them to defend the sovereign in war – or terminate the lives of subjects when they transgressed the laws of the sovereign (p.135). 'Power in this instance was essentially a right of seizure: of things, time, bodies, and ultimately life itself; it culminated in the privilege to seize hold of life in order to suppress it' (p.136). Critical to this type of power was the execution of power in the form of public displays of torture or carceral punishment; the sovereign perceived the violation of law as an act of war and thus an act which necessitated the reassertion of power (Foucault 1977, 49).

Foucault then discusses biopower, a form of power which emerged in the modern state following the deductive model of power deployed in the pre-modern age (Foucault 1978, 136). This new power focuses not on suppressing life with the threat or realisation of death, but rather, encompasses the right to '*foster* life or *disallow* it to the point of death' (p.138). Power here works 'to incite, reinforce, control, monitor, optimize, and organize the forces under it: a power bent on generating forces, making them grow, and ordering them, rather than one dedicated to impeding them, making them submit, or destroying them' (p.136). As such, power is no longer something repressive but something that seeks to manage the growth and care of populations. Biopower manifests itself in two mutually-reinforcing forms. The first, the 'anatomo-politics of the human bodies', is 'centered on the body as a machine: its disciplining, the optimization of its capabilities […] the parallel increases of its usefulness and its docility, [and] its integration into systems of efficient and economic control' (p.139). The second form, which Foucault calls biopolitics, 'focused on the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes: propagation, births and morality, the level of health, life expectancy and longevity, with all the conditions that can cause these to vary' (p.139). These two different mechanisms, the disciplining of the body and the regulation of the population, functioned in tandem to constitute a modern form of power, biopower. The sites of biopower vary considerably, Foucault posited, as it is 'present at every level of the social body and utilized by very diverse institutions (the family and the army, schools and the police, individual

medicine and the administration of collective bodies) [; biopower] operated in the sphere of economic processes, their development, and the forces working to sustain them' (p. 141).

Key to the emergence of biopower is an analysis of how race and war related both to sovereignty and broader arguments around power. In *Society Must Be Defended*, Foucault (2003 [1997]) explains how war is not only a physical act but also a discourse that is relied upon in the formation of states. Specifically, he shows how war-making increasingly centralised authority while war simultaneously became foundational to discourses that were used to explain the power of this centralised authority (p. 267). At the end of the sixteenth century, we began to see a challenge to this discourse of sovereign absolutism through the writings of Coke, Lilburne, and Boulainvilliers, who demonstrated how 'it was war that presided over the birth of States: not an ideal war – the war imagined by the philosophers of the state of nature – but real wars and actual battles; the laws were born in the midst of expeditions, conquests, and burning towns; but the war continues to wage within the mechanisms of power, or at least to constitute the secret motor of institutions, laws, and order' (pp. 267–68). Foucault defines this shift as the creation of a historico-political field, which 'is constituted by certain elements: a myth of sovereignty, a counter-narrative and the emergence of a new subject in history' (Moreton-Robinson 2006, 390). In France, for example, we see the creation of a counter narrative through the refutation of 'the myth of the inherited right to rule, [when] Boulainvilliers' history of the nobility advanced the idea that because of their investments in participating in war they too had rights' (Moreton-Robinson 2009, 63). Here, then we see the possibility of 'a discourse in which truth functions as a weapon to be used for a partisan victory' (Foucault 2003, 270).

Furthermore, we see a hierarchy of subjects within this discourse. Foucault explains that war 'divides the entire social body, and it does so on a permanent basis; it puts all of us on one side or the other' (2003, 268). In France, this change was exemplified by new forms of subjectivity, specifically, one which is tied intimately to the notion of superior and inferior races. Foucault states that 'when at the end of the sixteenth century and the beginning of the seventeenth, there appeared new political forms of struggle between the bourgeoisie on the one hand and the aristocracy and the monarchy on the other, it was, logically enough, the vocabulary of race struggle that was used to describe [these conflicts]' (2003, 101). In France, the historical myth, the counter-narrative, and the creation of subjects are all present. In the eighteenth century, a shift occurred in the types of binaries used when 'race surface[d] as a biological construct […] because disciplinary knowledges came into being and regulatory mecha-

nisms were developed to control the population' (Moreton-Robinson 2009, 63). Foucault writes that racism emerged at this point, when 'a whole politics of settlement (peuplement), family, marriage, education, social hierarchization, and property, accompanied by a long series of permanent interventions at the level of the body, conduct, health, and everyday life, received their color and their justification from the mythical concern with protecting the purity of the blood and ensuring the triumph of the race' (1978, 149). In this way, power becomes a productive force, resulting in the production of particular types of knowledge about race, life and health that are applied to the facilitation of 'normal' subjectivities.

In some Indigenous writing, biopower is viewed as having created Indigenous subjectivities. For example, Brendan Hokowhitu (2013) shows how biopower has been used to produce some Indigenous subjectivities and de-authenticate others. Specifically, he shows how in Aotearoa New Zealand 'the modernized urban Indigenous subject has become a corrupted and inauthentic form of Indigeneity due to its devolution from traditional culture and space. Thus, it is unworthy of being a Treaty Partner' (p.362). Despite the majority of Māori residing in urban spaces maintaining and identifying with their tribal heritage (p.357), they remain constructed as inauthentic and post-colonial subjects and, consequently, worthy of fewer rights and less recognition from the state (p.370). Importantly, Hokowhitu notes how Māori urban and tribal groups ultimately 'enabled the debate to be framed by a single-truth-seeking ideology […] [which is] detrimental to the broader vision of Indigeneity as it permitted the regulation of difference within the space of an "authentic reality"' (p.368). Thus, Hokowhitu articulates how colonial regimes of truth discipline Indigenous peoples and thereby hinder self-determination efforts. Similarly, Moreton-Robinson (2009) demonstrates how the production of Indigenous subjectivities by and through the settler state circumscribes Indigenous sovereignty. Within the Australian context, she observes that 'patriarchal white sovereignty pathologies itself through the tactics and strategies it deploys in subjugation. Deceit, neglect, blame, abuse, violence and denial become tactics and strategies of war to subjugate the Indigenous enemies and their counter claims of sovereign rights' (p.77).

We suggest that similar discursive strategies and the operation of biopower can be observed in the Canadian context. Like other settler colonial states, Canada's sovereignty was built on the myth of *terra nullius*: that the land belonged to no one and, further, that 'Indigenous peoples never believe in owning property and, therefore, Europeans weren't stealing anything' (Vowel 2016, 237). This myth itself was crucial to justifying the theft of land and resources

by white colonisers. A number of Indigenous theorists have, therefore, sought to counter claims of settler sovereign rights, asserting rightly that Indigenous sovereignty was never surrendered (Cardinal 1977; Palmater 2015; Vowel 2016).

Furthermore, through colonisation, historically specific forms of subjectivity were produced, namely, the Indigenous person. In colonised states, an assumed innate racial hierarchy positioned white settlers as superior to Indigenous peoples. In Canada we also see the internalised stratification of Indigenous subjectivities within Indigenous communities. As Episkenew notes, some feel as though it is natural to position 'the settlers at the top, the Status Indians very low down, and the Métis and non-Status Indians at the bottom' (2009, 82). As an administrative classification of the federal government, Indigenous peoples have no control over status (Vowel 2016, 26), and allocating status is a tool the state uses to demarcate (and thus control) supposedly 'inauthentic' and 'authentic' Indigenous people and consequently grant differentiated rights and privileges. This classification is similar to that of iwi (*tribe, people*) in New Zealand, which likewise designates and provides rights to authentic, 'traditional' Indigenous subjects; although whakapapa (*genealogy*) is primarily used to determine who is a member of which iwi, this does not fall to the government (Hokowhitu 2013, 365). Canada as a political entity can then be seen as a historico-political field, marked by continuous efforts to protect whiteness from Indigeneity through biopower in an effort to defend society and make war in modern forms, from the residential school system onward to the prison system today.

INDIAN RESIDENTIAL SCHOOLS

The IRS system grew out of European settler population expansion and Indigenous population contraction during the nineteenth century. The Indigenous population declined to 1 per cent relative to the settler population (Truth and Reconciliation Commission 2015a), and the changing demographic balance had a strongly negative effect on Indigenous peoples. The Truth and Reconciliation Commission (TRC) avers that as 'the Indian Department and the churches were becoming ever more closely allied, they began to treat Aboriginal people as colonized people whose lives it was their responsibility to control and change, rather than as independent, self-governing nations' (2015c, 56).

In Section 91 (24) of the *British North America Act*, which created the dominion of Canada, the federal government gave itself the power to enact legislation for 'Indians and lands reserved for Indians'. This allowed the government to begin a process of dissolving Indigenous governments and outlawing Indig-

enous cultures and ceremonies, while taking land and stripping Indigenous peoples of their political, legal, and economic power. The government also arrogated the power for itself to define who was or was not an 'Indian', and they could strip Indigenous peoples of their Indian 'status' at will. Canada's first Prime Minister, John A. Macdonald, was clear that Indigenous peoples were to be considered less than adults, describing the government's role as akin to 'guardianship as of persons underage, incapable of the management of their own affairs' (TRC 2015a, 106–108).

The TRC outlines a process from the 1880s in which the federal government acted to 'jail First Nations leaders, disarm them, control their movements, limit the authority of their governments, ban their spiritual practices, and control their economic activities' (2015a, 131). The IRS system was established in the same period and modelled, as the TRC notes, 'on schools for delinquent and criminal youth, [which] represented a betrayal rather than a fulfillment of the Treaty promises to provide on-reserve education' (p.130). While educational systems throughout the western world were coercive and often violent and abusive, Indigenous children were particularly targeted in Canada, as Grant Charles and Mike DeGagné note: 'throughout Canadian history it was only Aboriginal children who over an extended period of time were required to live in institutions because of their race' (2013, 346).

A larger climate of legal suppression made it exceedingly difficult for Indigenous parents to resist the coercive nature of the system. An illegal pass system was introduced by Indian Affairs in 1885, and the following year, in contravention of the treaties, pass books were distributed to Indian agents, and Indigenous peoples were forbidden from leaving their reserves without permission (TRC 2015a, 127–28). In 1927, an amendment to the Indian Act made it illegal for Indigenous peoples to hire lawyers in pursuit of land claims (Miller 2004, 17), and until 1960, Indigenous peoples with status did not have the right to vote federally, which meant they were essentially voiceless in terms of Canadian politics and disenfranchised in the settler electoral system. They could not vote in provincial elections in Quebec until 1969.

The IRS system, run by the federal government and the four main Christian churches, dates officially to 1883, when the federal government partnered the Anglican and Catholic churches in opening three 'industrial schools' in the prairie provinces (TRC 2015a, 83). These schools operated from the 1880s to the 1970s, with the last of them closing only in 1996 (Haig-Brown 1998, 31–32). At least 150,000 children passed through 139 schools, while the government was fully aware of the political ramifications of the schools as a means of

quelling Indigenous political resistance to colonisation. Children would act as hostages, with one official remarking in 1886 that 'it is unlikely that any Tribe or Tribes would give trouble of a serious nature to the Government whose members had children completely under Government control' (TRC 2015a, 167). Consequently, the IRS were part of an effort to wage a modern war against Indigenous peoples. As Foucault elaborated, this war is waged 'by a race that is portrayed as the one true race, the race that holds power and is entitled to define the norm, and against those who deviate from that norm, against those who pose a threat to the biological heritage' (2003, 61). In the Canadian context, white settlers emerged as the norm – thus necessitating the re-subjugation of Indigenous peoples in order to safeguard society.

Central to the operation of educational and religious institutions for Indigenous peoples was the concept of original sin, which was integral to the creation of the subjectivities of Indigenous peoples through colonisation. Indigenous peoples were seen as sinful, deviant, and abnormal, and needed to be subjected to rigorous control. Here, the main biopolitical goal of the IRS system, to foster non-Indigenous life, comes to light. As the TRC reports,

> The churches and religious orders that operated the schools had strong and interrelated conceptions of order, discipline, obedience, and sin […] The approach to discipline in schools was based in scripture: corporal punishment was a biblically authorized way of keeping order and of bringing children to the righteous path. (2015a, 519)

Indeed, the government intended to end the separate existence of Aboriginal peoples as Aboriginal peoples. In 1887, John A. Macdonald argued, 'The great aim of our legislation has been to do away with the tribal system and assimilate the Indian people in all respects with the inhabitants of the Dominion, as speedily as they are fit for the change' (Miller 2004, 191). Duncan Campbell Scott, Deputy Minister of Indian Affairs, expressed similar sentiments in 1920: 'I want to get rid of the Indian problem […] Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department' (TRC 2015d, 57). The TRC observes, 'The goal was assimilation: the end of special status for First Nations people, the effective dissolution of the reserves, and the termination of the Treaties (if there were no Indians, there could be no Treaty responsibilities)' (2015b, 13–14). Therefore, we contend that the schools themselves were premised upon biopower, and the institutions sought to defend settler society against itself and regulate Indigenous lives in ways we explore below.

BIOPOWER, DISCIPLINE, AND CONTROL IN THE IRS SYSTEM

In order to manage Indigenous peoples, in a very real sense adults were treated like children, and children were treated like criminals. Models for the IRS system were overtly penal in orientation. For example, the nineteenth-century reformatory in Citeaux, France, took in boys under sixteen who had been found guilty of criminal offences, and used physical abuse and hard labour to discipline and 'reform' them. In addition, the Catholic Oblate missions modelled many early schools on the French 'Durieu system', named for the Oblate leader Paul Durieu. Describing the thinking and methodology behind this form of educational system, historian J. R. Miller notes that the Oblates 'employed methods of total control over mission Indians for the purpose of effecting a permanent conversion to Christian religious values and practices'. Thus, 'The Durieu system aimed at eradicating all unChristian behaviour by means of strict rules, stern punishments for transgressors, and use of Indian informers and watchmen or proctors to ensure conformity and to inflict punishments as necessary' (Miller 1996, 91). Miller notes commonalities between the Durieu system and the type of carceral educational institutions established by the Anglican Church Missionary Society, which in the mid-nineteenth century set up highly controlled schools in what is now British Columbia (p. 91).

Regardless of the models upon which the schools were based, biopower functioned in the IRS through both violent and non-violent forms of disciplining the body. Numerous practices were physically brutal. Traditional braids were cut, hair was shorn, and traditional clothing and all personal articles were taken. Understanding the high level of coercion in the IRS system and reflecting a Foucauldian analysis, the Assembly of First Nations (AFN) described the schools as 'total institutions.' That is, institutions in which 'all activities of the children – eating, sleeping, playing, working, speaking – were subject to set time tables and to regulations determined by staff comprised of supervisors and teachers who, for the most part, belonged to a variety of Christian denominations'. Comparing the IRS to penitentiaries, the AFN highlighted the difference between the almost complete control wielded by adult staff and the almost total powerlessness of their young charges (AFN 1994, 3–4). In addition, the use of corporal punishment was widespread, as was the incidence of verbal, emotional, physical, and sexual abuse (see Milloy 1999, ch. 5–7; Miller 1996, ch. 11). Thus, the schools made every effort to discipline the physical bodies of Indigenous children in order to mould them into something controllable and knowable and, importantly, something which would not threaten the life of the white population.

Furthermore, in the IRS system, we see numerous efforts to regulate the body through the internalisation of the coloniser's ways of being and knowing. For instance, children were baptised, and their Indigenous names were replaced with British or French Christian ones (TRC 2015a, 599–600). Letters between parents and children were also tightly controlled, with frequent censorship (pp. 604–605). Furthermore, the suppression of Indigenous languages and their replacement with those of the colonisers was government policy (TRC 2015d, 57-58). Some school principals also sought to control marriage, encouraging or discouraging marriages, while parental wishes about whether or not their children should marry were largely disregarded, because parents and children alike were perceived as wards of the state (pp. 654–56). Beyond this, residential schools sought to bombard Indigenous children with white culture, language, and values.

In New Zealand, Native Schools operated for nearly a century and were designed along parallel lines. State-run Native Schools made a similar effort to re-subjectify Indigenous children through assimilation into European culture, with a focus on eradicating the Māori language and replacing it with English (Timutimu, Simon, and Matthews 1998, 111). Ngareta Timutimu, Judith Simon, and Kay Morris Matthews explain how extensive these strategies of re-subjectification were: 'To assist in achieving its "civilizing" goals the Department saw it as important not only to place European buildings in Maori settlements but also to appoint European families to serve as teachers in the Native Schools and, "especially, as exemplars of a new and more desirable mode of life"' (1998, 111).

Likewise, in promoting the merits of residential schooling in 1958, one Catholic Oblate leader stressed the totalising influence of removing children from their communities. While day schools would mean that Indigenous children would still be 're-exposed to their native culture, however diluted, from which the school is trying to separate them', residential schools would 'surround its pupils almost twenty-four hours a day with non-Indian Canadian culture through radio, television, public-address system, movies, books, newspapers, group activities, etc.' (TRC 2015b, 19).

Numerous Survivors of the IRS system have described how these processes of subjectification impacted on them at the time. One recalled: 'I was lost. I felt like I had been placed in a black garbage bag that was sealed. Everything was black, completely black to my eyes and I wondered if I was the only one to feel that way' (TRC 2012, 22–23). Others have reflected on the long-term impacts of these practices in schools which sought to inculcate respect and admiration for

whiteness and the idea that Indigenous people were inferior to white colonists (Parada and Wehbi 2017, 10–11). Some suggest that Indigenous communities are significantly fragmented as a consequence of these internalisations. For example, communities are often split between church adherents and those following a 'traditional' life style (Quesnel 2011). Others still have reflected on how the IRS system created a cultural, spiritual, and linguistic limbo-land for large numbers of Survivors. A considerable body of evidence has been gathered on this topic, particularly on the problems of intergenerational trauma and the many social problems that have resulted from IRS experiences (Woolford 2009, 85). Through the IRS system, the Canadian state undertook population control against the perceived threat of Indigeneity, via both physical and internalised discipline.

In many ways, the IRS system deployed the tools and necessary elements of biopower. The system itself was predicated upon the subjectification of Indigenous peoples as abnormal, delinquent, and in need of salvation in comparison to the superior white settlers. The children were thus placed in residential schools, schools which Foucault might have classified as institutions 'within the social body which make the discourse of race struggle function as a principle of exclusion and segregation and, ultimately, as a way of normalising society' (2003, 61). In an effort to protect the integrity and primacy of the white settler, students were physically and mentally disciplined and re-subjectified in order to be useful to the Canadian settler state. Furthermore, doing so would thereby end the special status of First Nations people and dissolve their cultures in order to be rid of the Treaty responsibilities of the state, an occurrence common throughout settler colonial states.

60S SCOOP AND PRESENT-DAY CHILD WELFARE

The goal of removing Indigeneity from mainstream society was furthered by the 60s Scoop; the mass removal of Indigenous children from their families into the child welfare system, in most cases without the consent of their families or bands. This process occurred primarily from the mid-1960s to the mid-1980s. At the Scoop's peak, one in four status Indian children were separated from their parents for all or part of their childhood, with the number of Indigenous children taken totalling between 16,000 and 20,000 (Fontaine, Dan, and Farber 2013). Many children were even shipped to the United States, resulting in Alston-O'Connor's suggestion that 'The long-term implementation and destructive intergenerational impacts of Canadian government policies during the Sixties Scoop are consistent with the United Nations definition for cultural genocide' (2010, 55). Metis children were also targeted in large num-

bers alongside First Nations children. Of the 60s Scoop, the TRC has observed that 'By 1980, 4.6% of all First Nations children were in care; the comparable figure for the general population was 0.96%'. They also observe that the Scoop pursued similar government policy goals to the IRS system but used different means, and was thus 'in some measure simply a transferring of children from one form of institutional care, the residential school, to another, the child-welfare agency' (2015b, 147–48).

The practice of removing Indigenous children from their communities continues, and currently there are more Indigenous children in care now than there were Indigenous children in residential schools in any given year. Indigenous children and families are significantly more likely to have interactions with the child welfare system, as they are over-represented in each stage of child welfare decision-making. Indigenous families are four times more likely to be investigated by child welfare organisations than non-Indigenous families (Sinha *et al.* 2013). The over-representation within the investigation stage itself suggests that the normalising of Indigenous peoples as delinquent has disseminated into new spaces as Foucault suggested, specifically into the contemporary social work sphere. In addition, 48 per cent of the 30,000 children placed in out-of-home care in Canada identify as Indigenous (Aboriginal Children in Care Working Group 2015, 7).

The impact of placement in out-of-home care is significant for both the children and their families. Youth in the child welfare system in Canada have higher incidences of mental health problems, behavioural issues, and low self-esteem (Fraser *et al.* 2015, 67). Former foster children have lower levels of education than the Canadian population at large and earn approximately $326,000 less income over their lives in comparison to the general population (Aboriginal Children in Care Working Group 2015, 12). In addition, the ability of children who are placed in out-of-home care to maintain their cultural heritage and identity is a significant concern (Blackstock, Trocmé, and Bennett 2004, 902).

The 60s Scoop and its legacies in the current child welfare system can be seen as examples of the exercise of biopower. They signal an effort by the Canadian state to defend society from Indigenous peoples, who have been and continue to be constructed as abnormal or dangerous. As Suzanne Fournier and Ernie Crey note, 'The white social worker, following hard on the heels of the missionary, the priest and the Indian agent, was convinced that the only hope for the salvation of the Indian people lay in the removal of their children. Adoptive families were encouraged to treat even a status Indian child as their own, freely

erasing his or her birth name and tribe of origin, thus implicitly extinguishing the child's cultural birthright' (1997, 84). Similarly, Indigenous ways of knowing are denigrated, with practices related to Indigenous ways of child rearing, such as 'custom adoption' or community involvement in the upbringing of a child, constructed as inadequate in comparison to the ideal of the nuclear Anglo family (82). Indigenous parents became constructed as lesser parents, who were incapable of taking proper care of their children. These messages ultimately legitimised the removal of children from their families and formed normalising discourses which became internalised within the young adoptees.

The severe consequences of this internalisation of the norm of inadequacy have been brought to light. Shandra Spears, for example, writes about the significant effect on her identity of being adopted into a white household, 'Having no Native women in my life, I had no way of knowing that I was a beautiful Native girl. I didn't even know that I was Native. There was no Native "mirror" that reflected my beauty; only a white mirror that reflected my difference'. Spears continues, 'Having no one to tell me that I was worth protecting, I "knew" that I was worthless and bad' (2011, 129). This experience has resulted in long-term problems that she terms the '"Adoptee Syndrome", a collection of shutdown and self-destructive behaviours […] very much like that of a bird who has fallen from the nest or a person who is so seriously ill that she or he can no longer eat' (p.132). These effects are the outcomes of the functioning of both traditional disciplinary power and biopower on Indigenous subjectivities. They are based on colonial discourses of Indigenous parents being unfit and unable to adhere to Euro-centric parenting norms. These discourses are foundational to a biopolitical strategy which sought to eliminate Indigeneity from society, so as to make settler life 'healthier and purer' (Foucault 2003, 255), and to create a form of settler normativity. The impact of this functioning of biopower is long-lasting and has been linked to present-day incarceration, a system in which Indigenous peoples are significantly more likely to be placed in comparison to non-Indigenous peoples.

INCARCERATION

Across settler colonial states, there are significant discrepancies between Indigenous and non-Indigenous incarceration rates, and Canada is little different. In January 2016, Indigenous adults accounted for one-quarter (25 per cent) of the inmate population in federal penitentiaries, even though Indigenous peoples comprise only 4.3 per cent of the total population (Correctional Investigator Canada 2016, 43). Similarly, in provincial/territorial correctional facilities, Indigenous adults accounted for 24 per cent of admissions (Reitano 2016, 4).

The over-representation of Indigenous peoples is especially pronounced for females, who represent 35 per cent of admissions to federal or provincial/territorial correctional services, while males account for 23 per cent (Reitano 2016, 4). Indigenous youth are also disproportionately affected: while they constitute 6 per cent of the youth population, they make up 30 per cent of youth in custody (Corrado, Kuehn, and Margaritescu 2014, 40).

As well as the concerns associated with over-representation, the treatment of Indigenous peoples in Canadian correctional facilities is a critical matter. A recent study by the Office of the Correctional Investigator Canada (CIC) found that Indigenous peoples accounted for 30 per cent of all use of force incidents in penal institutions (2016, 31). These incidents occur when verbal interventions fail, 'leading, in some cases, to some unhelpful or even punitive response options, up to and including the use of inflammatory agents, physical handling or restraints, disciplinary charges or placement in a segregation or observation cell' (p.19). These escalations reflect a critical element of the modern carceral prison. Foucault noted, 'There remains, therefore, a trace of "torture" in the modern mechanisms of criminal justice – a trace that has not been entirely overcome, but which is enveloped, increasingly, by the non-corporal nature of the penal system' (1977, 16). While punishment of the mind is the most crucial form of torture within the carceral system, physical torture remains ever present. Indeed, while in custody, Indigenous peoples are significantly more likely to experience egregious acts of physical and mental violence.

The disproportionate incarceration of Indigenous peoples has long been the subject of government inquiries at the provincial and federal levels of government. The disproportionate rates of incarceration were first recognised in 1975 (Treasury Board Secretariat 1975). Twenty years after this acknowledgement, the Royal Commission on Aboriginal Peoples concluded that the criminal justice system was still failing Indigenous people (1996, 39–43), recognising the interrelation between the lasting impact of colonisation and assimilation and the over-representation of Indigenous peoples in prison. Indeed, numerous scholars have sought to understand better the correlation between the intergenerational effects of the IRS system and the broader carceral systems that criminalise Indigenous subjects. For example, a recent study by Amy Bombay, Kimberly Matheson, and Hymie Anisman demonstrates the significant impact the IRS and other injustices against Canada's Indigenous peoples have had, in that 'relative to non-IRS adults, the IRS offspring reported greater cumulative childhood abuse, neglect, and indices of household dysfunction (e.g., being raised in a household affected by domestic violence, substance abuse, criminal behaviour, and mental illness)' (2014, 326). The over-representation

of Indigenous peoples in prison has been an ongoing reality for Indigenous communities, and has been an acknowledged concern of the Canadian state and academics for over forty years. We suggest that the way the prison system and the IRS compound health and social inequalities is intimately linked to colonial continuities in the subjectification of Indigenous peoples as abnormal and the need to reform such individuals through the institutionalised use of biopower.

In response to these critiques and inquiries, institutions at the federal and provincial levels have undertaken various revisions of and made additions to their criminal policies and procedures (see Boyce this issue). At the federal level, the Parliament introduced Bill C-41 1995, 'which provided that when sentencing, "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders"' (Jeffries and Stenning 2014, 451). This provision resulted in the establishment of the Gladue Principles, which contend that social history factors, such as the impact of the residential school system, and systemic background factors, such as poverty, a lack of education, substance abuse, and poor living conditions, should be considered when sentencing and classifying Indigenous offenders (Jeffries and Stenning 2014, 451). Though the Principles have the potential to address the over-representation of Indigenous peoples in the criminal system, their impact is disputed. A recent study noted that the influence of the Principles on the sentencing of Indigenous offenders was minimal as they had no impact on the sentencing decisions of judges (Welsh and Ogloff 2008, 509). Likewise, the Correctional Investigator of Canada found that, despite previous policy directives to apply the Gladue Principles to correctional decision-making, they remain insufficiently applied in sentencing (2016, 43). Indeed, the significant increase in the number of Indigenous detainees in federal and provincial corrections facilities demonstrates the negligible impact of the Gladue Principles and the failure of state initiatives to address the society-wide stigmatisation of Indigenous peoples and the drive to re-subjectify Indigenous peoples.

Other methods of addressing the over-representation of Indigenous peoples in the Canadian criminal justice system have also been urged. For example, some have called for the establishment of Gladue Courts, specialised courts which would render judicial decisions sensitive to the Gladue Principles and the colonial history of Canada and take into account alternative programmes and treatments which are more in line with Indigenous principles (Roberts and Melchers 2003, 215). Another alternative is circle sentencing, a practice which 'is conceptually derived from some First Nations governance practices

in which community decisions are made collectively by elders and other community members sitting in a circle, each making some contribution to debate' (Jeffries and Stenning 2014, 456). However, despite the acknowledged failure of the present judicial system to respond to the over-representation of Indigenous peoples within its confines and the numerous potential legal solutions, Indigenous peoples remain concentrated within the penal system.

Foucault offers insight into the reasons for such a penal concentration. The inscribing of norms on Indigenous bodies remains consistent, wherein they are constructed as delinquent and in need of discipline to become docile (Foucault 1977, 138). This docility is facilitated in order to protect the perceived superior, white society from the abnormal, specifically, Indigenous subjectivity. We suggest that the heightened physical abuse of Indigenous peoples in Canada's prison system represents an effort to discipline Indigenous peoples violently in order to re-subjectify them into mainstream, white, society. Thus, in the prison system we see the anatomo-politics of the human body come into action, as the prison system itself, with its supervision, segregation, and ordering of time, attempts to create a mechanised body, one which is disciplined, optimised, and docile in order to be re-subjectified in the normal order (p. 172); in this case, white settler colonial society.

CONCLUSION

The colonial institutions of the Canadian settler state have disrupted and destroyed the lives and communities of many Indigenous peoples since the state was created 150 years ago. In this history, we can identify numerous institutions imbued with biopower which have sought, by physical and internal means, to render Indigenous bodies less threatening to white mainstream and normal society. For example, the Indian Residential Schools were designed to use violent and non-violent forms of discipline in order to eliminate Indigenous peoples as peoples through their individualisation, separation and seclusion, and internalised subjectivity based on settler norms. We can add to these more general institutions, like day schools, prisons, and social services, which, due to their continued penalties for what is deemed to be delinquency and abnormality, function as means of Indigenous destruction. We can also look more broadly at the long-term social and health effects of living in a colonial society, which are not specifically related to any purpose-built or general institution.

Within a larger study of colonialism and the methods of settler management of Indigenous lives, Foucault's work on biopower allows us to understand better how the various institutions of the state discipline and punish Indigenous peo-

ples for simply being Indigenous (Foucault 1978, 139). Settler colonial studies suggests that settlers are mainly interested in land and resources, and primarily see Indigenous peoples as obstacles to settlement. Yet the history of totalising control in the residential schools, the 60s Scoop, and the carceral system demonstrates that something much more productive and devastating is at work. By this we mean a strong desire on the part of settler institutions to contain and re-subjectify Indigenous identities and either reform or destroy them.

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NOTES

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