The Journal

On Politics is a peer-reviewed academic journal published by the University of Victoria Undergraduates of Political Science. It aims to encourage and facilitate undergraduate scholarship by providing students and recent graduates with a unique opportunity to have their work published in a formal medium. The editors of *On Politics* are drawn from the undergraduate student body and the journal publishes writing from a variety of theoretical perspectives, both intra- and interdisciplinanry.

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Foreword

Mary Heeg, Editor-in-Chief

In this Spring 2020 issue of *On Politics*, I am proud to present an excellent group of papers representing both the depth and scope possible in undergraduate scholarship. Though they touch on a wide array of subject matter, all the papers in this issue consider the ways in which the—often coercive—power of the state shapes our lives.

The issue begins with an essay by Moira Louw which illustrates how the policies which return trafficked women to their countries of origin are shaped primarily by the beliefs and interests of governments and NGOs, rather than the desires of the women themselves. Louw shows how the influence of states leads to outcomes that often conflict with the desires of the women in question. Next in the issue, Sophia Anderson illustrates how patterns of Russian migration to the Arctic have been shaped for centuries by the push and pull of the central state.

This journal concludes with three papers that examine the coercive role of the state in relation to Indigenous peoples. Kate Korte demonstrates how the Canadian and Australian prison systems, and through them the state, inherently conflict with Indigenous understandings of justice. Next, Zac Toni's examination of the applicability of the 'resource curse' to the Alberta oil economy highlights how government policy and the actions of the resource industry enact 'slow violence' against Indigenous people—again demonstrating the often-unwanted effects of state power on people's lives.

In the issue's concluding essay, Paula Rasmussen argues that the relations between colonial states and Indigenous peoples are inherently non-consensual. In addition, Rasmussen ends on a somewhat hopeful note. She argues that certain literature on consent and colonialism indicates that re-conceptualizing consent and including it as a principle of decolonization may provide a means to "[transform] colonial formations of power."

Going "Home:" A Critical Assessment of Return Policies for Trafficked Women in Asia

Moira Louw

Introduction

Governments, non-governmental organisations (NGOs), and international organisations around the world are engaged in the "fight" against the trafficking of women for sex. Asia is a particularly prominent place of focus, where women are seen to be more vulnerable to exploitation. On the surface, fighting for the freedom of these women seems like a noble cause. But as this paper will show, contradictions exist between policies on returning trafficked women to their countries of origin and the lived experiences of these women. My research will answer the following question: *how do governments and NGOs build policies and programs to return trafficked Asian women, and what does return mean for these women?* I will argue that the current practice of returning trafficked women to their countries of origin is problematic due to the rationale of return policies and the gap between practices which allegedly protect women's rights and what these women actually want.

Much of the scholarly literature on trafficked women in Asia begins from the assumption that rescuing them and returning them home is the most desirable outcome. As a result, more involvement by governments and NGOs to regulate the migration of these women is seen as positive.[1] This paper is a starting point for thinking more critically about return policies, so I situate my research in the growing literature on anti-trafficking programmes and the way in which they can "isolate, imprison, and further

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[1] Marina Tzvetkova, "NGO Responses to Trafficking in Women," *Gender and Development* 10, no.1 (2002): 60-68, www.jstor.org/stable/4030684.

marginalise women" who are labelled as trafficked after being rescued.[2]

Background

Concerns about women trafficked for sex began in the late nineteenth century and this trafficking was initially characterised as "new" or "white" slavery. Between the nineteenth and twentieth centuries, anti-trafficking campaigners shifted their focus from white "Western" women to non-white women from developing countries. In the twentieth century, economic development and globalisation increased the supply of low-wage labour, so more women moved across international borders in search of work. This in turn increased international attention to trafficking. By the late twentieth century, influential organisations such as the United Nations (UN) passed resolutions focused on human trafficking and violence against women, and the "fight" against trafficking became prominent throughout the world.[3]

Trafficking is a contested term. The definition adopted in the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*[4] reflects a compromise between nations which disagree on whether sex trafficking includes all or only forced prostitution.[5] As O'Brien, Hayes, and Carpenter write, trafficking is usually equated with sexual

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[2] Diya Bose, "'There are no Victims Here": Ethnography of a reintegration shelter for survivors of trafficking in Bangladesh," *Anti-Trafficking Review,* no.10 (2018): 3, doi: 10.14197/atr.201218109.

[3] Erin O'Brien, Sharon Hayes, and Belinda Carpenter, *The Politics of Sex Trafficking: A Moral Geography* (London: Palgrave Macmillan UK, 2013), 2-6. doi: 10.1057/9781137318701.

[4] Office of the United Nations High Commissioner for Human Rights, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, New York, 2000. https://www.ohchr.org/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf.

[5] O'Brien, Hayes, and Carpenter, *The Politics of Sex Trafficking,* 6.

exploitation in the United States[6] and in the past twenty years has been constructed as being similar to traditional understandings of slavery.[7] Disputes over the harm of sex work have also led to sex trafficking "emerging in policy and scholarly discourse as distinct to trafficking for other forms of labour."[8] As O'Brien, Hayes, and Carpenter write, the exploitation of migrant labour should be viewed on a continuum, rather than as a dichotomy between "illegally smuggled" and "forcibly trafficked."[9] I therefore adopt their definition of trafficking as being part of a "larger story of travelling for work."[10] In addition, "trafficking victim" is often applied to people who would not self-identify as such.[11] Because the use of the term "victim" assumes that trafficked individuals have no agency,[12] I will refrain from using it to describe trafficked women.

Rationale of Return Policies

I.   Value Judgments

The words chosen by governments and NGOs to describe trafficked women often reveal whether they believe prostitution to be inherently exploitative. These assumptions about the perceived harm of sex work heavily influence understandings of the nature, causes, and solutions to human trafficking and have strong policy implications.[13] I will not attempt to argue for a particular view of prostitution but rather will highlight how this affects government and NGO policies on returning trafficked women in Asia.

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[6] Ibid., 59.

[7] Ibid., 102-103.

[8] Ibid.

[9] Ibid., 105.

[10] Ibid., 108.

[11] Ibid., 122.

[12] Xiang Biao, "Return and the Reordering of Transnational Mobility in Asia," in *Return: Nationalizing Transnational Mobility in Asia* ed. Xiang Biao, Brenda S. A. Yeoh, and Mike Toyota (Durham and London: Duke University Press, 2013), 11. Accessed online through the UVic Library Website.

[13] O'Brien, Hayes, and Carpenter, *The Politics of Sex Trafficking,* 9.

There are two key perspectives in the debate on trafficking. The first is the abolitionist or anti-prostitution view. This perspective starts from the value judgment that sex in the context of prostitution is morally harmful, relying on claims that "fallen" women need to be "rescued."[14] It often assumes that because "migrating for sex work sometimes leads to exploitation … all migration for sex work is wrong."[15] This is often the view of religiously based groups such as International Justice Mission (IJM), an organisation which is heavily involved in American policy initiatives.[16] The United States Trafficking in Persons (TIP) Report, the importance of which will be discussed later, shows that the United States government sees prostitution as an illegitimate industry.[17] The second perspective views sex work as labour, so women who choose to work in the sex industry are not victims, but rather individuals with agency.

Whether governments and NGOs adopt the first or second perspective has serious implications because data collection is often influenced by assumptions about the moral harm of sex work. Data collection has become politicised, leading to an overestimation of trafficking for sexual exploitation.[18] Policies have also been based on unreliable or unsubstantiated information, or on "true stories" of trafficking victims,[19] which illicit an emotional response from the public and politicians. As O'Brien, Hayes, and Carpenter write, this makes it more likely that decisions will be made based on principle rather than fact.[20]

II.   Bureaucratic Logic

The second main factor which influences the return of trafficked women is what Mongia calls "bureaucratic logic."[21]

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[14] Ibid., 32-36.

[15] Ibid., 23.

[16] Ibid., 35-36.

[17] Ibid., 122.

[18] Ibid., 82.

[19] Ibid., 97.

[20] Ibid., 100.

[21] Radhika Mongia, *Indian Migration and Empire: A Colonial Genealogy of the Modern State* (Durham and London: Duke University Press, 2018), 56-84.

Her discussion of the dimensions of the migration control system in India are reflected in the policies on the return of trafficked women in Asia today.

The first dimension is the logic of examination and surveillance. Mongia writes of the "increased scrutiny, multiplying forms, and incessant record keeping" by every official at all levels of the bureaucratic hierarchy in India.[22] The process by which the International Organization for Migration (IOM) returns trafficked people to Indonesia is an example of how the disciplinary state seeks to monitor, organize, survey, and infiltrate everything.[23] The return process begins when a local NGO encounters a potential "victim" and contacts IOM.[24] The migrant fills out a standardized questionnaire which is sent to the IOM head office and reviewed by the head of the Counter Trafficking Unit. If the migrant is cleared as a "victim," money is sent to the NGO or government agency to escort the individual to a recovery center (for women, this is often a police hospital). Migrants then undergo medical and psychological evaluations and STI tests before being escorted to an NGO in their home province. Throughout the process, returnees are closely monitored by partner NGOs through evaluation visits. As Lindquist writes, the return process is strictly controlled: migrants are escorted back to their home villages and the process offers "a very limited range of choices and in a sense demobilizes migrants."[25]

Certain figures also become "nodal points" within a network of emigration control.[26] In India, the emigrant was a minor feature in the overall structure.[27] The same is true for trafficked women in Asia today, who are the subjects of migration

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[22] Mongia, *Indian Migration and Empire,* 64.

[23] Ibid., 58.

[24] Johan Lindquist, "Rescue, Return, in Place: Deportees, "Victims," and the Regulation of Indonesian Migration," in *Return: Nationalizing Transnational Mobility in Asia* ed. Xiang Biao, Brenda S. A. Yeoh, and Mike Toyota (Durham and London: Duke University Press, 2013), 134. Accessed online through the UVic Library Website.

[25] Lindquist, "Rescue, Return, in Place," 135.

[26] Mongia, *Indian Migration and Empire*, 62.

[27] Ibid., 65.

regulation. As Lindquist writes, "the figure of the trafficking victim allows actors to avoid more complicated political issues such as labor rights and freedom of mobility that might threaten liberalism's uncompromising distinction between free and unfree labor."[28] This relates back to the assumptions that trafficked women could not have chosen this for themselves.

Additionally, in a disciplinary state certain spaces become key sites of state intervention. Today, borders are the "most significant spatial locations of migration control."[29] Mongia's description of the regulations governing the lives of indentured Indians sounds eerily similar to the rules which previously trafficked women must follow before they can return home. Just as every part of emigrants' days were determined for them,[30] so too women in shelters run by NGOs like the National Women's Association (NWA) in Bangladesh must follow strict rules.[31] The women housed by the NWA have very little capacity to determine their own schedules, because everything is decided for them by the organisation, which also limits the type of work women can pursue. They are not allowed to work as taxi drivers because this violates gender norms. They also cannot work in beauty salons because according to the NWA, this could lead them back into trafficking.[32]

The last dimension of the migration control system is an increasing concern with the body in terms of health, disease, or mortality.[33] Mongia writes that this concern about the emigrant's body "would come to rival, indeed even partially eclipse, the concern with consent and the emigrant's will."[34] In the case of trafficked women, this concern is expressed by states and NGOs which claim to "protect" and "rescue" women from both physical and moral harm. As Mongia writes, the implicit logic of the

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[28] Lindquist, "Rescue, Return, in Place," 138-139.
[29] Mongia, *Indian Migration and Empire*, 67.
[30] Ibid., 70-71.
[31] Bose, "'There are no Victims Here.'"
[32] Ibid.
[33] Mongia, *Indian Migration and Empire,* 62.
[34] Ibid., 74.

migration control system is that a proper set of rules can produce the outcome of "wellbeing" and diminish exploitation and abuse.[35] But despite government and NGO claims about saving and protecting victims, this does not in fact make their migration safer.[36]

Lindquist looks at the regulation of Indonesian migration and writes that "the desires of individual migrants become irrelevant in this process as protection and regulation converge in the expansion of pastoral forms of power."[37] The desire for return is taken for granted and assumed to be unproblematic. This affects the regulation of transnational migration, where home becomes "an empty signifier" which is understood by state administrative definitions as a safe haven or the place where a migrant belongs.[38] As Mongia points out, "disciplinary power is humble, almost unnoticeable."[39] This may partly explain why governments and NGOs have been able to create problematic policies regulating the return of trafficked women in Asia with few strong voices opposing them.

III.   International Standards and Norms

In the post-Cold War era, the return of trafficked people came to be based on the belief that the state is the "natural and neutral institution that every person should belong to."[40] This was pushed by organisations such as the UN High Commissioner for Refugees[41] and in the past few decades, many international conventions and protocols have been adopted to guide the responses of governments and NGOs according to international standards. Although human rights legislation often claims to be apolitical, it can reinforce the primacy of the nation-state while restricting the legislation which governments can adopt on the return of trafficked women. Return programs also allow both

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[35] Ibid., 82.
[36] O'Brien, Hayes, and Carpenter, *The Politics of Sex Trafficking,* 200.
[37] Lindquist, "Rescue, Return, in Place," 129.
[38] Ibid., 123.
[39] Mongia, *Indian Migration and Empire,* 83.
[40] Biao, "Return," 12.
[41] Ibid.

sending and receiving states to increase their sovereign power in relation to migrants, thus creating tension between migrants and alliances of states.[42]

The United States Trafficking Victims Protection Act and the UN Trafficking Protocol were adopted in 2000 and legitimized trafficking as a problem that needed intervention.[43] As Lindquist writes, the struggle against trafficking has become institutionalized globally. And even though actors pursue different agendas, the general focus is on how migrants become victims in the migratory process.[44] Overwhelming attention is given to the forced trafficking of young women and children into prostitution, who become the "iconic subjects of modern forms of slavery."[45] Calls to find and free these individuals are widespread, and their return "home" is expected to immediately follow their rescue.[46]

The United Nations *Recommended Principles and Guidelines on Human Rights and Human Trafficking* states that, where possible, the return of trafficked people should be voluntary and that "trafficked persons shall be offered legal alternatives to repatriation in cases where it is reasonable to conclude that such repatriation would pose a serious risk to their safety and/or to the safety of their families."[47] But whether this is adhered to in practice is up for debate. Take for example the practices of the Counter Trafficking Unit at IOM. Although IOM states that victims do not have to return home, victims with nowhere to be "reintegrated" are not accepted by the program.[48] As Lindquist writes, programs like these need to be understood as

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[42] Ibid., 15.

[43] Lindquist, "Rescue, Return, in Place," 132.

[44] Ibid., 133.

[45] Ibid.

[46] Ibid.

[47] Office of the United Nations High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, New York, 2002, 2. https://www.ohchr.org/Documents/Publications/Traffickingen.pdf.

[48] Lindquist, "Rescue, Return, in Place," 128.

part of an "emerging transnational logic concerning trafficking, and in extension the regulation of human mobility."[49]

The United States has positioned itself as a leader in anti-human trafficking efforts[50] and is especially influential on the policies of Asian governments. It provides funding for trafficking programs around the world and established the annual Trafficking in Persons Report to rank nations according to how well they prevent and prosecute trafficking.[51] Countries which fall into the Tier 3 category run the risk of having the United States government impose sanctions on them.[52] In 2004, for example, Thailand was listed on the Tier 2 watch list because it did not comply with minimum standards. The government responded by increasing measures to protect victims and developed repatriation and reintegration programs according to the standards set by the United States.[53] The Thai prime minister explicitly announced that the law would be amended to ensure that victims are "protected."[54]

In addition to the United States legislation, the UN's *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*[55] has a large amount of influence on return policies globally. As of 2019, 175 states are party to it and it is one reason why human trafficking has been put on national agendas. The other reason is an increased concern over security and migration.[56] Security concerns became increasingly related to migration in the early twenty-first century, which led to

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[49] Ibid., 133.

[50] O'Brien, Hayes, and Carpenter, *The Politics of Sex Trafficking,* 14.

[51] Ibid.

[52] Ratchada Jayagupta, "The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Meong Subregion," *International Migration* 47, no.2 (2009): 241. doi:10.1111/j.1468-2435.2008.00498.x.

[53] Jayagupta, "The Thai Government's Repatriation and Reintegration Programmes," 242.

[54] Ibid.

[55] Office of the United Nations High Commissioner for Human Rights, *Protocol to Prevent, Suppress and Punish Trafficking in Persons.*

[56] O'Brien, Hayes, and Carpenter, *The Politics of Sex Trafficking,* 7.

an increased focus by governments on irregular migration, human smuggling, and trafficking as key political issues.[57] As a result, trafficking discourse has become part of a larger debate about migration.[58] As O'Brien, Hayes, and Carpenter write, this has created a hierarchy of people who are deemed "deserving" of Western protection: sex trafficking victims are at the top, because they are viewed as the innocent victims of harmful experiences while "illegal" migrants are at the bottom because they are viewed as undesirable and potentially harmful.[59]

The wide use of "return" by governments, NGOs, and the media has also created a hegemonic framework which naturalizes return and "home."[60] This is based on the assumption that everyone loves home and is safe there.[61] As Biao writes, "return is assumed to be unproblematic for all migrants."[62] This sense that return is natural and desirable helps increase the legitimacy of return policies.[63] Due to the consensus in the international realm about how to solve issues of trafficking, states now have an obligation to repatriate human trafficking victims and admit the returned.[64] As Biao writes, "where there is no point of return, there is no solution."[65] But contrary to commonly held beliefs, many women who migrate internationally are not coerced into doing so.[66] Most of them end up working in non-sex industries and those who do end up in the sex industry are often aware that they will be doing sex work prior to leaving. However, these women are "incomprehensible in the political realm"[67] and their desires are therefore ignored.

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[57] Ibid.
[58] Ibid.
[59] Ibid., 8.
[60] Biao, "Return," 15.
[61] Ibid.
[62] Ibid., 16.
[63] Ibid.
[64] Ibid., 14-15.
[65] Ibid., 12.
[66] O'Brien, Hayes, and Carpenter, *The Politics of Sex Trafficking,* 200.
[67] Ibid.

Returned Women

Although the return of trafficked women is meant to restore normalcy, returnees' experiences are often traumatic.[68] Even more commonly, return may be undesirable for the women themselves. In Butalia's "Women," we read of Zainab, a young Muslim girl who was abducted while her family was moving to Pakistan during the partition of India. She was sold to a man with whom she eventually fell in love and had two children. Several years after Partition, a search party looking for abducted women found Zainab and forced her to return to her family against her will. There are many stories like Zainab's from that time in India and Pakistan's history. [69]

In 1949, the governments of India and Pakistan ratified the Abducted Persons Recovery and Restoration Ordinance Act which sought to recover as many women who had been abducted during partition as possible.[70] Many women protested the Act and refused to return home when they were found. According to pervasive understandings of the safety of "home" this was impossible for the Indian and Pakistani governments to understand. But many of these women did not want to return to poverty and felt ashamed going back to their families.[71] Those who allowed themselves to be rescued or were forcibly recovered faced many struggles upon their return. Often, their families did not want them back. Women who had children were considered to be violated. Pregnant women were either required to give their children up for adoption or get a state-funded abortion.[72] Although these stories are decades old, they are very similar to those of trafficked women who are returned to their countries of origin today.

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[68] Biao, "Return," 12.

[69] Urvashi Butalia, *The other side of silence: voices from the partition of India* (London: Duke University Press, 2000), 101. https://hdl-handle-net.ezproxy.library.uvic.ca/2027/heb.04612.

[70] Butalia, *The other side of silence,* 117.

[71] Ibid., 118-119.

[72] Ibid., 127.

As Pandey, Tewari, and Bhowmick write, when trafficking victims in India are returned home, it is presumed that they are returning to their "rightful place."[73] The authors find that women who are tricked into trafficking are eager to return to their family but that those who left home because they needed to earn money to support their family are not eager to return.[74] While the latter group did not resist integration, they did not want to return to the same state of poverty which initially pushed them into trafficking. Some women wanted to rejoin the brothel because their lack of education and skills left them with no other means to make money to support themselves and their families.[75] Because employment options in India are limited for semi-literate people and those who are unskilled in the formal market sector, women who can make money through prostitution see it as a viable economic option.[76] Pandey, Tewari, and Bhowmick share the example of a woman whose husband is dead and whose son needs an operation: the woman says "I was working on my own will, and please let me go there [there refers to the brothel]."[77] Trafficked Indian women are often sent directly back to their homes without consideration for the conditions to which they will be returning.[78] Social stigma and fear of family rejection are two major factors which causes them to resist return. Unfortunately, independent living is rarely an option in India, where the extended family structure is common.[79] Upon their return, previously trafficked women no longer get rehabilitation assistance. Essentially, the responsibility and obligation of government for returned women ends.[80] Because state and civil

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[73] Sonal Pandey, Hare Ram Tewari, and Pradip Kumar Bhowmick, "Reintegration as an end of Trafficking Ordeal: A Qualitative Investigation of Victims' Perceptions," *International Journal of Criminal Justice Sciences* 13, no.2 (July-December 2018): 449. doi:110.5281/zenodo.2658088.

[74] Pandey, Tewari, and Bhowmick, "Reintegration as an end of Trafficking Ordeal," 451.

[75] Ibid.

[76] Ibid., 452

[77] Ibid., 451.

[78] Ibid., 457.

[79] Ibid., 456.

[80] Ibid., 449.

society assistance in India is weak, the family is the central source of support and safety.[81]

Jayagupta writes about the challenges faced by previously trafficked women from neighbouring countries who have worked in Thailand's commercial sex industry. Some are sent to detention centres while others go through mandatory repatriation and reintegration programs provided by their country of origin and NGOs. Many women return to bad economic conditions and must face social stigma in their communities.[82] As is the case in India, these factors are part of the reason why some trafficked Thai women do not want to reunite with their families at all. Many do not understand the repatriation and reintegration process and there is no mechanism to get feedback on the programme from returnees.[83] In addition, there is no good follow-up program once women return to their families, many of whom leave soon after arriving. There is also a lack of privacy at the centres which provide the programs, and women have said they feel like they are in detention centres, not safe shelters.[84] In addition, the skills training received at the centres are not necessarily those which are in demand in the communities to which women will return.[85]

In Nepal, women who have been involved in prostitution are considered "soiled" and unacceptable.[86] One survivor who had returned from an Indian brothel said that in Nepal, a prostitute's value is like an irreparable "broken egg."[87] Women who returned were assumed to be carrying HIV, and as a result

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[81] Ibid., 458.

[82] Jayagupta, "The Thai Government's Repatriation and Reintegration Programmes," 238.

[83] Ibid., 246.

[84] Ibid., 246-247.

[85] Ibid.

[86] Chandra Kant Jha and Jeanne Madison, "Antecedent and sequalae issues of Nepalese women trafficked into prostitution," *Journal of International Women's Studies* 12, no. 1 (2011): 81. https://link.gale.com/apps/doc/A261869836/ITBC?u=uvictoria&sid=ITBC&xid=04767656.

[87] Jha and Madison, "Antecedent and sequalae issues," 80.

were rejected and ostracised by their families and communities.[88] In Dahal, Kumar, and Swahnberg's study, they find that most previously trafficked Nepalese women return to the sex trade in order to hide from their family and friends, who in some cases were involved in the initial trafficking.[89] Jha and Madison share the story of Anita, who was abused by her parents and drugged by her aunt, who then sold her to pimps.[90] In addition, the seclusion and lack of opportunities for returnees begins the process by which they are victimized. The returnees in Dahal et al.'s study shared that when they were released from their shelters, they did not feel prepared to reintegrate into society. They were often unaware of their options for future help, lacked occupational skills, and felt too disempowered to share their concerns. In order to escape stigmas and stereotyping, returnees often chose to work far from their places of origin, where their identities would not be known.[91]

Although the experiences of trafficked women who have been returned to their countries of origin in Asia are diverse, they face several common challenges which make their reintegration difficult and at times impossible. As Lindquist writes, the sustainability of return depends on the economic capital which migrants lacked when they left in the first place.[92] By focusing solely on return—and not on the economic conditions which caused someone to leave in the first place—governments and NGOs opt for a band-aid solution, without addressing the root causes of the problem. It is therefore unsurprising that return is not desirable for all trafficked women, although government and NGO policies rarely take their desires into account when they

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[88] Ibid., 81.

[89] Pranab Dahal, Sunil Kumar Joshi, and Katarina Swahnberg, "'We are looked down upon and rejected socially': a qualititative study on the experiences of trafficking survivors in Nepal," *Global Health Action* 8, no.1 (2015). doi:10.3402/gha.v8.29267.

[90] Jha and Madison, "Antecedent and sequalae issues," 84.

[91] Dahal, Joshi, and Swahnberg, "'We are looked down upon and rejected socially.'"

[92] Lindquist, "Rescue, Return, in Place," 137-138.

activate procedures to return these women to their places of origin.

Conclusion

This paper has looked at the rationale of governments and NGOs in developing policies to return trafficked women to their places of origin and the lived experiences of some of these women. It has argued that there are serious problems with the rationale which guides these policies and the way in which they are implemented. The paper has not attempted to recommend how governments and NGOs should address the return of trafficked women in Asia. Rather, it has tried to understand the rationale used to create policies and has raised questions about whether these policies are indeed helpful. The trafficking of women for sex is an issue which governments, NGOs, and individuals are quick to rally around. But it is a much more complex issue than many realize. My hope is that this paper will help people think more critically about what it is that guides legislation on return and that merely returning trafficked women to their places of origin is not necessarily the best solution.

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Russian Arctic Population Fluctuation, 1921-2010: Coercively Driven by Government (In)Stability and Policy

Sophia Anderson

Introduction

The Russian Arctic consists of approximately half of the total circumpolar Arctic land, as well as a third of the total Russian landmass. Its sheer size makes Russia an influential Arctic actor, and the Arctic an important region within Russia. From the outset of the Soviet period, the Russian Arctic has experienced massive population fluctuation driven by governmental stability and policy. With the New Economic Policy of the 1920s and the subsequent Five Year Plans under the Stalinist regime, mass industrialization of the Arctic took place, which replaced the sporadic exploratory ventures that had characterized the Tsarist Russian experience in the North. Such industrialization brought about the economic incentivization and forced relocation of millions of Russian citizens to the Far North, where they would often remain for the rest of their lives. Almost immediately relocation became centred around "company towns", essentially purpose-built towns, which concentrated on one economy or resource, and offered the large majority of available employment in the town.

Russian Arctic population fluctuation dependent on governmental policy proved a pattern that was repeated both with the death of Stalin and again with the fall of the Soviet Union. Under this pattern the Russian Arctic became the ground for a unique dichotomy of economic opportunity and voluntary abandonment. Governmental instability proved a decisive factor in the abandonment of the Arctic, which occurred en masse in the immediate fall of the Soviet Union. Despite these population shifts, the Russian Arctic has remained the preeminent Arctic

power in terms of population and economy for the entire period considered in this study. Through an exploration of the aforementioned century-long pattern, this paper will consider each of these population shifts as contributing to a larger narrative of coercive Russian Arctic population growth. Such logic reveals that the fluctuation of Russian Arctic populations can be identified as almost entirely dependent on the role of centralized government.[1]

Methodologies

In defining the "Russian Arctic" for the purposes of this paper, I have followed the lead of most scholars who study the Russian Arctic and used, not the Arctic circle or the Arctic Human Development Report Arctic, but the fifteen administrative districts defined by Soviet and Russian governments to be "The North".[2] This definition is also used throughout the scholarship by scholars assessing census data. They use it given the difficulty inherent in attempting to carve up the "Northern" districts along other delineation lines and fit those definitions within state-

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[1] This paper is intended only to discuss population fluctuation of non-Indigenous Russians. Indigenous populations throughout the period of this analysis have remained largely stable, meaning they have had a negligible effect on region-wide population trends. Andrey Petrov names this a "demographic stalemate" which became clear around the 1970's—a curious situation of population stability despite declining fertility and high mortality. Additionally, scholars working with census data have noted that Indigenous population numbers have been lost or overlooked in censuses due to their transient existences, and as a result of Soviet policies of attempted assimilation through census data, discussed later in this paper through a brief analysis of Francine Hirsch's *Empire of Nations: Ethnographic Knowledge and the Making of the Soviet Union.* For a thorough analysis of Arctic Russian Indigenous population movement throughout the period, see "Lost Generations? Indigenous Population of the Russian North in the Post-Soviet Era" by Andrey N. Petrov.
[2] There are in fact 16 of these districts as defined by Russian and Soviet governments, but the 16th is anomalous in that it touches the Southern border of Russia, and is not anywhere near the Arctic Circle. Most Russian Arctic scholars have disregarded this district in their analysis, as will I.

conducted censuses. Each of these fifteen districts exist within, touch, or come very close to touching the Arctic Circle set at 66.5° N. Such geographical reality generates difficulties in naming this study an "Arctic" study, given it does consider non-Arctic regions within its scope. In particular, the few times I compare Russian and Soviet populations with the populations of other Arctic states must be understood as potentially comparing different states' or organization's versions of the Arctic. However, I have striven to keep these comparisons to a minimum, focusing rather on Soviet and Russian Northern populations. An attempt to directly consider the population of the Russian Arctic by any other 'Arctic' parameters is a project beyond the scope of this paper, due to the lack of existing data and analysis.

Much of my research, as well as the research I have drawn upon, has focused on Soviet and Russian censuses from 1897 to 2010. In *On the Use of Soviet and Russian Censuses for Research* Richard Clem discusses several of the issues inherent in relying too much upon these censuses. These potential issues include irregularities in census conduction, which would reoccur at periods of time varying from 6 to 20 years, further contributing to the irregularities which have sprung from lack of reliable censuses surrounding regime change.[3] Additionally, the coercive nature of the Soviet government itself is an issue, as the government has attempted to justify its policies through census numbers. For example, Francine Hirsch discusses the attempted molding of "Major Nationalities" through the 1926 census and onwards in her book *Empire of Nations: Ethnographic Knowledge and the Making of the Soviet Union.* Hirsch argues that in order to centralize government and for ease of ruling, Soviet census-takers attempted to define large nationalities as broadly as possible. This would allow them to include as many people as they could in one group, and attempt to assimilate those

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[3] Ralph S. Clem. "On the Use of Soviet and Russian Censuses for Research." in *Research Guide to the Russian and Soviet Censuses,* ed. Ralph S. Clem, 19. Ithaca: Cornell University Press, 1986. https://www.jstor.org/stable/10.7591/j.ctt1g69xfv.

who fell outside of their definitions.[4] The implications inherent in using censuses for policy justification are highlighted by the existence of the 1937 Soviet census.[5] This census was conducted and then subsequently declared illegitimate by Stalin when the results showed cumulative population decline, a condemnation of the Soviet policies of collectivization, famine, and forced labour.[6] These issues must all be accounted for when basing research on Soviet and Russian census results. The authors that I have used in my research have each accounted for the specific issues which concern their topics and arguments, and I have attempted to be judicious in doing the same in my further research.

The Tsarist Arctic

Historic Russian Far North and Far East exploration and control under the Tsarist Empire was sporadic.[7] Despite the relative success of projects such as the Russian America Company in present-day Alaska, consistent and profitable Russian Arctic exploration was limited by the massive distance and the unpredictable nature of the environment, which often forced *zimovka,* or "Wintering" when ships would become trapped in the ice.[8] The massive distances, as well as differences in culture and lifestyle between the Western cities and the Far North and Far East, turned the Russian process of "conquering" their far reaches into a colonization project rather than a natural extension of Russian sovereignty.[9] During the First World War and the Russian Civil War, the North enjoyed incredible autonomy, almost entirely due to its distance from Moscow; an

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[4] Francine Hirsch. *Empire of Nations: Ethnographic Knowledge and the Making of the Soviet Union.* Ithaca: Cornell University Press, 2005, 134.
[5] Lee Schwartz, "A History of Russian and Soviet Censuses," in *Research Guide to the Russian and Soviet Censuses,* ed. Ralph S. Clem. Ithaca: Cornell University Press, 55. https://www.jstor.org/stable/10.7591/j.ctt1g69xfv.
[6] Schwartz, "A History of Russian And Soviet Censuses," 55.
[7] Paul R. Josephson, *The Conquest of the Russian Arctic,* Cambridge: Harvard University Press, 2014, 20-21. Retrieved from DeGruyter.
[8] Ibid., 4.
[9] Ibid., 23-24.

independent government in Arkhangelsk persisted into 1920, when it was finally defeated by the Bolsheviks in the civil war.[10] Additionally, it was incredibly sparsely populated, with 1.8 million people living in the North in 1926, the date of the first Soviet census. These 1.8 million people represented less than 2% of the overall Russian population, and three-quarters were located in the northwest, in close proximity to large population centres such as Leningrad.[11] The last Russian census to occur during the Russian Empire, in 1897, indicates that 1.9% of Russians lived in the Arctic.[12] Such numbers reveal and emphasize the low levels of expansive settlement which had occurred during the Tsarist empire. Furthermore, they demonstrate population stability over a period of nearly 30 years, a marked contrast to the subsequent years of frenetic Soviet control.

The Soviet Arctic, 1921-1953

Although Vladimir Lenin's New Economic Policy began implementation in 1921, large scale Arctic population growth was not identifiable in the 1926 census. The true driver of Arctic growth in the early Soviet period was Joseph Stalin's Five Year Plan-adjacent gulag system. The 1959 census truly indicated the success of Stalin's gulag centred Soviet Arctic relocation program, demonstrating a growth to 4.6 million people.[13] The

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[10] Ibid., 8.

[11] Timothy Heleniak, "Migration and Population Change in the Russian Far North in the 1990s," in *Migration and Change in the Circumpolar North: Issues and Contexts* eds. Lee Huskey and Chris Southcott, 62. Edmonton: University of Alberta Press, 2010.

[12] Ibid., 89. A census had been conducted by the Bolshevik government in Moscow in 1920, but due to the civil war, it omitted the entire Far East, the Northern Caucasus, and Crimea. Therefore, following the example of the large majority of Russian Arctic scholars I have encountered during my research, I am discounting this census from consideration about fluctuating Russian populations.

[13] Terrence Armstrong, "Northern Communities in the Soviet Census 1989," *Polar Record* 26, no. 156 (January 1990): 43. The 1959 census was in fact the third census conducted since 1926, however the 1937 census was declared illegitimate by the Stalin government mere months after it was conducted,

driver behind the population growth was twofold, with economic incentives encouraging volunteers to move to the North, as well as criminal labour exploitation through gulag camps, comprising mostly political criminals. However, even "many of those who came voluntarily did not have much choice where to go either".[14] Therefore, although the movements of these two groups must necessarily be considered separately in this analysis, they can both be understood to exist under the umbrella of coerced relocation.

The gulags, essentially forced labour camps, were a hallmark of Joseph Stalin's Soviet government. The camps were an effective tool for removing dissenting political opposition from Soviet centres of influence; gulags were used chiefly to "fill… seemingly empty spaces… with cheap labour dedicated to securing the landscape, identifying resources, developing them, and shipping the booty in one form or another to the privileged people who lived in Moscow and Leningrad".[15] Therefore, gulag populations provided not only free labour but also contributed to the colonization project of the Russian Arctic by existing as a tangible expression of Soviet sovereignty over the Arctic. The large majority of gulag prisoners were not hardened criminals but poets, playwrights, political dissidents and ordinary citizens suspected of harbouring ill-will towards the Communist Party.[16] In addition, gulags were supposedly going to be used as "re-education centres", wherein political dissidents could learn to become proper Stalinist subjects and subsequently be reintegrated

because the policies of collectivization, famine and forced labour had produced lower population numbers than expected. The 1939 census is often disregarded by scholars because only ten pages of preliminary results were released to the public. Additionally, the 1959 census, which occurred 6 years after the death of Stalin, accurately portrays the total effect of gulag-driven in-migration over the entire gulag period.

[14] Alla Bolotova and Florian Stammler, "How the North Became Home: Attachment to Place among Industrial Migrants in the Murmansk Region of Russia," in *Migration and Change in the Circumpolar North: Issues and Contexts* eds. Lee Huskey and Chris Southcott, 197, Edmonton: University of Alberta Press, 2010.

[15] Josephson, *The Conquest of the Russian Arctic,* 118.

[16] Ibid., 116-117.

into society. The idea of gulag's acting as re-education centres likely deliberately never came to fruition, with released gulag prisoners often forced to establish themselves outside the walls of their old prison, contributing to the growth of prison towns.[17]

The gulag system originated on the Solovetskii Archipelago, near the city of Arkhangelsk in the Northwestern part of Russia.[18] The Arkhangelsk gulag was the first gulag, and the first Arctic gulag. It was established in 1923 to house prisoners who would be used as labourers for the building of a canal to the Baltic Sea.[19] These large-scale projects, known as "hero projects", "became emblematic of Stalinism", and were most often completed by gulag prisoners.[20] The creation and growth of gulags over the Stalin era contributed massively to the growth of the Russian Arctic population.[21] Such remarkable growth was the result of large numbers of prisoners continually flowing into the gulag system, as poor living conditions and brutal forced labour would often kill thousands of men per project completed. For example, the aforementioned White Sea-Baltic Canal project is reported to have killed as many as 300,000 prisoners in the twenty-one months it took to complete.[22] The project's massive mortality rate, coupled with the continual influx of prisoners, emphasizes the sheer numbers of Soviet citizens being sent to the gulags in order to keep up this upwards population trend. The gulag system was largely a Stalin-era project and drove Arctic population growth until the 1950s. The

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[17] Genevieve Parent, Nikolay Shiklomanov and Dmitry Streletskiy, "Living in the New North: Migration to and from Russian Arctic Cities," *Focus on Geography* 55, no. 3 (Fall 2017): 88. Accessed through Gale.

[18] Josephson, *The Conquest of the Russian Arctic,* 118-119.

[19] Ibid.*,* 119. This particular project would not in fact approved by the Council of Labor and Defence until 1931, and was not completed until 1933. Although many such large projects had been planned by Bolshevik officials under Lenin, and gulag work force infrastructure was already beginning to be established, it was with Stalin's ascendance that they were actually approved and completed. Prisoners at the Solovetskii camp were used for construction projects in and around the camp in the years preceding.

[20] Ibid.

[21] Ibid., 123.

[22] Ibid., 125.

1959 census indicated a Northern population of 4.6 million, in large part a result of gulag populations.[23] With the ascendancy of Nikita Khrushchev, the gulag system would falter and "voluntary" in-migration of workers would replace it as the driver of Arctic population growth.[24]

The Soviet Arctic, 1953-1989

The volunteer workforce in the Soviet North was quickly organized into "company towns" around which an entire community was organized for the same economic purpose.[25] These industries were often in the mining sector, although other major economic activities such as shipbuilding were also represented. Despite the centrality of the volunteer force to this project, the Stalin-era government continually supplemented these towns with gulag labour. This decision had led many of the gulags to be built near or within the company towns.[26] When gulag prisoners were released, they usually did not abandon the North but rather settled in the towns outside their prison walls and became part of the working population. They did this, not due to a lack of desire, but rather due to a lack of ability and resources to facilitate departure. Josephson names these processes as central to the growth of the Soviet Arctic into the first "urban Arctic" in the world—a designation which remains true to this day.[27] Furthermore, it helps to explain how Arctic population growth continued unhindered through the transition from gulag-driven population growth to voluntary worker growth in the 1950s and 1960s. The volunteer population had been offered economic

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[23] Armstrong, "Northern Communities in the Soviet Census 1989," 43.
[24] Josephson, *The Conquest of the Russian Arctic,* 163-165.
[25] Josephson*, The Conquest of the Russian Arctic,* 238. "Volunteers" or "the volunteer population" shall refer in this paper to Russian citizens who emigrated to the Arctic independently of gulag imprisonment. This designation is not intended to imply "volunteering" in terms of doing work without pay—indeed, the large majority of the volunteer population followed economic incentives North, or were deceived into moving North.
[26] Ibid., 123-124.
[27] Ibid., 241.

incentives during the Stalin era, but due to the government's ability to rely on gulag populations, these incentives were not nearly as extensive as those that would be offered in the Khrushchev and Leonid Brezhnev eras.[28]

With the death of Stalin, the previously witnessed rapid gulag growth stagnated.[29] The stagnation resulted directly in a diminishing of continual labour imports into the North. As a result, the Soviet government under Nikita Khrushchev began offering improved incentives such as a higher wage, an earlier retirement age, housing benefits—such as single flats—and increased disability benefits for those willing to move to the North to work.[30] The new incentives became known collectively as the "Khrushchev reforms". Consequently, Arctic cities became populated with "free workers", who were nonetheless often coercively convinced to emigrate to the North by promises of added benefits compared to the rest of the population. Additionally, although the free workers were labelled by the Soviet government as voluntary migrators to the North, there exist "examples of people not even knowing that they were going to the North—they thought they were moving to Leningrad and ended up in the Murmansk region instead".[31] Thus, the positive idea of voluntary migration to the North in the post-Stalin era eroded further. Many of those moving to the North in the post-Stalin era were young people immediately out of "secondary or higher education," who were looking for the increased benefits associated with living and working in the North.[32] By facilitating the in-migration of a higher-skilled population the Soviet government helped to create a culture of higher-than-average education centred in the Russian North, comparative to the rest of the country's population. The concentration of higher-educated workers in the North would have severe repercussions during the

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[28] Ibid., 239.

[29] Josephson, *The Conquest of the Russian Arctic,* 259.

[30] Bolotova and Stammler, "How the North Became Home," 203.

[31] Ibid., 204.

[32] Ibid., 203.

massive out-migration of the 1990s.[33] During the Khruschev and Leonid Brezhnev eras Arctic population growth shifted from being driven by gulag intake to "volunteer" in-migration. Despite the change in primary growth driver, population growth in fact increased in magnitude throughout the three decades that Khruschev and Brezhnev were in power.

After the death of Brezhnev, Yuri Andropov and Konstantin Chernenko ruled for a combined total of 28 months from November 1982 to March 1985. Those two years proved too brief a period for either to have a tangible effect on Soviet Arctic population policy. The policies of Mikhail Gorbachev, Chernenko's successor, impacted the Soviet Arctic considerably, but will be discussed more appropriately in consideration of the post-Soviet Arctic. Ultimately, the last census of the Soviet era, conducted in 1989, showed a total Arctic population of 9.8 million, the peak census-recorded population of the Russian Arctic.[34] Those 9.8 million people represented, at the time, far more than half of all circumpolar Arctic citizens.[35]

The Post-Soviet Arctic

On the eve of the collapse of the Soviet Union, the Russian Arctic population had reached its pinnacle. With the fifteen Northern administrative districts representing 6.9% of the total Russian population in 1989, Arctic population growth had outpaced total Russian growth in the last decade of the Union by 28% to 9%.[36] However, out-migration had already begun to outstrip in-migration sometime between 1986 and 1989. By the time of the next Russian census, the Arctic population had fallen

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[33] Bolotova and Stammler, "How the North Became Home," 203.

[34] Olga Khoreva, Roman Konchakov, Carol Scott Leonard, Aleksandr Tamitskiy and Konsantin Zaikov. "Attracting skilled labour to the North: Migration loss and policy implications across Russia's diverse Arctic," *Polar Record* 54, no. 5-6 (September 2018): 325. https://doi-org.ezproxy.library.uvic.ca/10.1017/S0032247419000019.

[35] Ibid.

[36] Armstrong, "Northern Communities in the Soviet Census 1989," 43.

once more.[37] The reason that the change in net-migration occurred before the actual fall of the Soviet Union was due to Mikhail Gorbachev's policies of *glasnost* and *perestroika*, wherein small amounts of private enterprise were allowed to grow in Russia, and limited criticism of government action was permitted.[38] Gorbachev's policies have been described as allowing a measure of democratic capitalism into the communist system, and can therefore be considered a bellwether for what would occur following the collapse of the Soviet Union. Consequently, although no censuses were conducted between 1979 and 1989, it stands to reason that the true peak of Russian Arctic population occurred in that period. Nonetheless, the total collapse of the Soviet Union in the early 1990s led to the massive out-migration that characterized the Russian Arctic experience throughout the decade.

Similar to the interruptions in censuses between 1897 and 1926 resulting from the overthrow of Tsarist Russia, there were no censuses conducted between 1989 and 2002 after the fall of the Soviet Union.[39] The interruption caused by the collapse of the Union introduces an issue when attempting to understand the immediate visceral effects triggered by the collapse in the Russian Arctic population. However, data from the 2002 census coupled with continual trends which emerged in the 2010 census provide enough data to observe and analyze the vast out-migration which took place almost immediately following the fall of the Soviet Union. With a total population of 9.8 million in 1989, the population would fall to 8.3 million by the census of 2002.[40] The "company towns," once so successful in the Soviet era in terms of rapid growth of infrastructure and expansion of Arctic economy, would play a large part in the region's downfall. Given the monopoly the state held over the town economy, and

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[37] Heleniak, "Migration and Population Change in the Russian Far North in the 1990s," 63.
[38] Ibid.
[39] Heleniak, "Migration and Population Change in the Russian Far North in the 1990s," 61.
[40] Ibid., 63.

consequently over the employment of the majority of citizens, the introduction of a free market wreaked havoc on employees.[41] While some were able to find higher-paying jobs within the same industry, others were left stranded without the steady subsidized income they had relied upon their entire lives.

Smaller company towns in the North were often wholly abandoned, not only in favour of the South but also in favour of larger Northern cities, such as Murmansk.[42] Such rural abandonment without total abandonment of the Arctic refines the discussion of economic opportunity and voluntary abandonment, showing that--although Russians began to abandon small towns in the Arctic voluntarily--many were not completely abandoning the Arctic. A further discussion of factors that prompted Arctic-dwellers to remain in the North following the Soviet collapse will occur later in this paper. Despite the trend of urban migration within the Arctic, of the fifteen districts considered Northern by this study, ten districts suffered population loss greater than 10% of their 1989 total by 2002.[43] Some cities in the Far Northeast, such as Chukhota and Magadan lost more than 50% of their 1989 population.[44] Overwhelmingly, well-educated people were the ones who had the means and opportunities to leave, which created an intellectual vacuum in the Russian North. Even in normal circumstances intellectual vacuums prove incredibly difficult to recover from, and its severity was exacerbated in the midst of continued out-migration.[45] The Russian Arctic population had already been disparately well-educated compared to the rest of the country, making such abandonment even more ruinous for the potential rehabilitation of Arctic economies. The sudden

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[41] Timothy Heleniak, "Out-Migration and Depopulation of the Russian North during the 1990s," *Post-Soviet Geography and Economics* 40, no. 3 (May 2013): 168. https://doi.org/10.1080/10889388.1999.10641111.

[42] Parente, Shiklomanov and Streletskiy, "Living in the New North," 77-78.

[43] Khoreva et. al, "Attracting skilled labour to the North," 326, 335.

[44] Ibid.

[45] Heleniak, "Out-Migration and Depopulation of the Russian North during the 1990s," 166. See also, Josephson, "Rediscovering the Arctic" in *Conquest of the Russian Arctic*, Khoreva et. al. "Attracting skilled labour to the North: Migration loss and policy implications across Russia's diverse Arctic regions."

disappearance of a state-held monopoly, in conjunction with the inability of Boris Yeltsin's transitional government to effectively control Arctic economies, led to rapid depopulation of the Russian Arctic which has continued to this day.

While the Gorbachev and Yeltsin eras were characterized by nominal disregard of the Arctic, with the turn of the century and the ascendancy of Vladimir Putin, Russian Arctic policy returned to something remarkably similar to post-Stalin policy.[46] Nonetheless, even economic incentives could not compensate for the fact that living in the Russian Arctic had suddenly become vastly more expensive than it had been under the Soviet system.[47] A lack of subsidized transportation, and the general liberalization of prices contributed to the rapid increase in the cost of Arctic living.[48] Additionally, due to the decentralization of government, many of the "Northern" benefits have "now either been eliminated by newly privatized companies or go unpaid.".[49] Putin's focus on Arctic economies led to a return to pre-1989 levels of Gross Domestic Product output from the Russian Arctic in 2009.[50] Despite Putin's efforts, the same increase was not seen to occur in the region's population levels, which have continued to fall and are expected to return to 1979 levels by 2026.[51] Olga Khoreva et. al. have identified several key areas where government energies should be focused in order to stem the flow of Arctic out-migration. These include "education, skills training and improved social infrastructure" as key issues.[52] Additionally, Khoreva et. al. place focus on securing the in-migration of a young population as pivotal for the future of the Russian Arctic.[53] However, unless implemented properly and without coercive

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[46] Parente, Shiklomanov and Streletskiy, "Living in the New North," 78.
[47] Heleniak, "Out-Migration and Depopulation of the Russian North during the 1990s," 156.
[48] Ibid.
[49] Ibid.
[50] Parente, Shiklomanov and Streletskiy, "Living in the New North," 77.
[51] Heleniak, "Migration and Popular Change in the Russian Far North in the 1990s," 89.
[52] Khoreva et. al., "Attracting skilled labour to the North," 324.
[53] Ibid.

additions, these policies have the potential to become just another chapter in the pattern of coercive Russian population growth in the Arctic.

Conclusions

Explicitly contradictory positions to the positions I advance in this paper have not been widely promoted by Russian Arctic scholars. The thesis that governmental control has characterized Russian Arctic population change is widely accepted. However, Alla Bolotova and Florian Stammler introduce an element of emotion and attachment to place in their article "How the North Became Home: Attachment to Place Among Industrial Migrants in the Murmansk Region of Russia". Through a study conducted from 2006 to 2008 in the Murmansk region, Bolotova and Stammler attempted to discover what factors caused Northern dwellers to remain in the North following the collapse of the USSR—explicitly stating that they "omit those who want to leave the North" in their analysis.[54] The authors name contribution to the creation of place as the mechanism through which such attachment forms, both of and to industrial and natural environs. Additionally, similar age and nostalgia contributed to now-septuagenarian attachment to place along with simultaneous desire to help their children leave.[55]

The generational break exemplified by these long-term Arctic dwellers emphasizes the dichotomy of abandonment and economic opportunity inherent in the Northern Russian experience. These long-term, although first generation, Northern residents reflect fondly on their entrepreneurial youths in the Arctic, while encouraging those younger than them to seek their fortunes elsewhere.[56] Throughout the article, the authors do not reject the empirical fact that Arctic out-migration is continuing. However, they conclude by stating that "responses of northern residents to recent programs of state-induced relocation become

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[54] Bolotova and Stammler, "How the North Became Home," 194.
[55] Ibid., 208.
[56] Ibid.

better understood if we consider (these) complex processes".[57]
This echoes the call made by Khoreva et. al. for increased social
services and adds interesting nuance to their conclusion that
increased in-migration of a younger population is necessary for a
shift in Arctic population fluctuation patterns.[58]

Having analyzed Russian Arctic population fluctuation
from 1921 to 2010, we can come to the conclusion that Arctic
population growth and decline has been primarily driven by the
coercive policies of centralized government through the last
century, and further encouraged and exacerbated by lengthy
periods of instability. This narrative was introduced with the
relative northern autonomy which characterized the Tsarist and
Civil War eras. It was then entrenched by the massive population
boom which began in the mid-1920s as a result of Bolshevik
centralization of power and emphasis on collectivization of
people and economy. Coercive Arctic population growth would
continue for most of the remainder of the century, initially
through gulag incarceration and then economic incentivization.
The seven-decade long continual population increase that
occurred throughout the Soviet era would be broken by the
massive voluntary out-migration that occurred in the wake of the
collapse of the Soviet Union.

The influence of Vladimir Putin has characterized the
Russian experience in the 21st century, which has resulted in a
shoring up of resources and the restructuring of government. The
policies of concentration of resources and re-centralization of
government propelled the Russian Arctic in its re-emergence as a
place of coercive opportunity and potential growth. Despite
operating in a capitalist system, Putin's government has employed
a continuation of Soviet-era economic incentives for Arctic-
dwellers. However, due to the incompatibility of Soviet-era
incentives with a free market system, these have largely failed to
entice citizens to the Arctic in the same way they did under the
Soviet system. While the Russian government remains committed

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[57] Bolotova and Stammler, "How the North Became Home," 218.
[58] Khoreva et. al., "Attracting skilled labour to the North," 324.

to incentivizing Arctic migration, steady out-migration has continued, leading to continual decline in the Arctic population. Russia's Arctic population is expected to fall to 7.8 million by 2026, a return to the levels recorded in the 1979 census. Such numbers represent a validation of the fact that coercive, effective centralized government policies and the lack thereof have and continue to be the primary driver of Russian Arctic population fluctuation.[59]

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[59] Heleniak, "Migration and Population Change in the Russian Far North in the 1990s," 89.

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Prisons as Colonial Institutions and Indigenous Visions of Justice in Canada and Australia

Kate Korte

Indigenous visions of justice have existed since before the nations of Canada and Australia, and before institutions of settler colonialism came into form. From its onset, settler colonialism sought to erase those Indigenous visions. Prisons in Canada and Australia were part of a process of colonial institution-building. Prison systems are inherently contradictory to Indigenous visions of justice that acknowledge connections to community and emphasize a holistic framework based on self-determination.[1] Whereas Indigenous people often emphasize the importance of living with the land and within a community, prisons seek to separate people from their lands and place them in state-controlled facilities where visitation is strictly limited. This disconnect between Indigenous ideas of justice and the prison system is pertinent given the disproportionate representation of Indigenous people in prisons in settler-colonial states.

Three central ideas emerge from examining the Canadian and Australian prison systems in relation to Indigenous visions of justice. First, the prison system neglects the Indigenous view of the law and state as violently imposed. Second, sentencing and courts adopt an individualistic view of Indigenous identity where identity is only seen as relevant if and when it specifically relates to the crime the offender committed. To exemplify this second point, I will look to the *Gladue* case from the Supreme Court of Canada. Lastly, I will discuss how restorative justice models still

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[1] Chris Cunneen, "Criminology, Criminal Justice and Indigenous People: A Dysfunctional Relationship? The John Barry Memorial Lecture, University of Melbourne, 25 November 2008.," *Current Issues in Criminal Justice* 20, no. 3 (2009): 323.

face the complicated issue of defining community with an Indigenous lens. Together, these three central points show how the current prison system counters Indigenous visions of justice. Drawing on Kaiser-Derrick and Blagg, I argue that, in Canada and Australia, the prison system perpetuates colonial norms and thus further subjects Indigenous people to the settler-colonial state. I will argue that the current prison system has yet to redress the fundamental disconnect between Indigenous beliefs and settler-colonial methods of punishment. Although some examples of restorative justice have attempted to do so, the prison systems in Canada and Australia remain a colonial project.

There is a breadth of scholarship devoted to addressing the disproportionate representation of Indigenous people in prisons, but the issue is often framed as a problem of criminality rather than a product of settler colonialism.[2] This view assumes that the reason more Indigenous people are in prison is because Indigenous people are criminals. Reframing the issue of high rates of incarceration for Indigenous people allows comparatively high incarceration rates to be seen as a facet of settler colonialism. First, this paper will employ Wolfe's concepts of settler colonialism and logic of elimination to situate prisons in settler-colonial states.[3] Davis's concept of the prison industrial complex can add to Wolfe to connect settler colonialism to prisons in a systemic manner.[4] After briefly examining the historical underpinnings of the current prison system, this paper will ask how, if at all, the prison system can be changed to incorporate Indigenous visions of justice. Considering both Canada and Australia from a settler-colonial approach necessarily involves generalizing the unique experiences of Indigenous peoples in these states. This is often a shortcoming of many settler-colonial academic approaches. However, delving into the intricate and

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[2] Eileen Baldry and Chris Cunneen, "Imprisoned Indigenous women and the shadow of colonial patriarchy," *Australian & New Zealand Journal of Criminology* 47, no. 2 (2014): 276-79.

[3] Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of genocide research* 8, no. 4 (2006): 387-409.

[4] Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003).

differing relationships Indigenous nations have with the criminal justice system is beyond the scope of this paper.

When describing Canadian and Australian prisons, it is crucial to place these institutions within a settler-colonial context. This allows prisons to be tied to the historic and continued presence of colonialism, while also emphasizing the logic of elimination inherent in settler colonialism. Wolfe defines settler colonialism as "inherently eliminatory but not invariably genocidal."[5] In this manner, settler colonialism has both productive and destructive aspects. Settler colonialism seeks to produce new systems through imposing their governance models and concepts of civilization onto the existing nations—often deeming them uncivilized.[6] This is particularly pertinent to the Australian and Canadian cases because the lands which those states claim today were originally colonized by Western European powers. These powers that colonized Canada and Australia sought to set up settlements and develop a society where the societies of Indigenous people already existed.[7] Canada and Australia, in their own ways, have adopted the logic of elimination in their treatment of Indigenous peoples and continue to reinforce setter colonialism through their respective institutions. In this manner, settler colonialism is destructive in its implicit effort to displace Indigenous systems on their land. This process means that settler colonialism continues to this day, even though Western European powers no longer have a substantial role in governing these territories.

Although Davis focuses on the U.S. context, her theory of the prison industrial complex is highly applicable to settler colonialism. Davis argues that prisons can be understood as institutions whereby the state further ingrains systemic racism[8]. In this view, prisons are used by the state to establish norms around disobedience and criminality. Davis connects prisons to race, gender, and class. Her historical and intersectional approach

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[5] Wolfe, 387.
[6] Ibid., 338.
[7] Wolfe, 390-2.
[8] Davis.

describes how black people in America continue to be racialized and criminalized through the prison system, which Davis believes replicates slavery.[9] For example, Davis discusses the 13th Amendment, which abolished slavery in the U.S. unless slavery was punishment for a crime. With this amendment, Davis describes how "former slaves, who had recently been extricated from a condition of hard labour for life, could be legally sentenced to penal servitude."[10] In combination with Jim Crow laws that specifically sought to criminalize black people, Davis argues the prison system became a prison industrial complex. This interpretation directly counters the assumption that an increase or disproportionality of a certain demographic in prisons is a product of more crime. Rather, the prison industrial complex shows prisons as "driven by ideologies of racism and the pursuit of profit."[11] The connections to capitalism are more nuanced for public prison systems outside of the U.S., but the central point behind the prison industrial system still applies—prisons are not merely a place to punish criminals for crimes, but rather an avenue for ingraining ideas around race and gender through the notion of criminality.

Davis briefly touches on Native Americans in her analysis, but other scholars have utilized her concepts to link the prison system to colonialism. Baldry and Cunneen specifically relate Davis' historical and intersectional approach to colonialism in Australia. The authors agree with Davis, stating, "systems of punishment, which differentiated between the colonizers and the colonized, were foundational to the colonial state."[12] Blagg identifies that a key difference within the settler-colonial context is that the state itself is incongruous to Indigenous ways of life in Canada and Australia. Davis views state-based equality between races as important.[13] However, Blagg finds that equality would be

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[9] Ibid, 28-9.
[10] Ibid.
[11] Ibid, 83.
[12] Baldry and Cunneen, 281.
[13] Harry Blagg, *Crime, Aboriginality and the Decolonisation of Justice,* (Alexandria: Federation Press, 2016).

an insufficient remedy in settler-colonial states because the state is fundamentally inapplicable to Indigenous visions of justice.[14] Although Davis does not delve into these connections between colonialism and the prison industrial complex heavily, her concepts assist in framing the current prison system as a product and perpetuator of racist, capitalist, and gendered norms. Davis' concept of a prison industrial complex highlights the systemic historical progression and continuation of settler colonialism through the prison system in Canada and Australia.

Cunneen explains that an Indigenous approach to justice in Australia, as in Canada, is usually holistic with an emphasis on self-determination, the role of Indigenous Elders, and modes of healing in sentencing.[15] The way Aboriginal people in Australia have been punished and penalized directly counters these understandings of justice. In 1871, an Australian law disallowed public executions for non-Indigenous offenders but permitted the public execution of Aboriginal people. The drafters of the law reasoned that Indigenous people were "lacking requisite levels of civilization" and "were seen to only understand spectacles of physical punishment."[16] This law remained in place well into the 20th century, with Western Australia repealing it in 1952.[17] In Perth, Rottnest Island was used as a penitentiary for Aboriginal peoples between 1838 and 1931.[18] Most of the prisoners there were from Kimberely, thousands of miles away, and charged for defending their traditional lands. While being inherently colonial, the prison system also ingrained gendered understandings of Aborignal women as "victims of male violence, of primitive rituals, of unrefined lust," and British men as "heroic rescuers."[19] The prison system rests on these assumptions and continues to reinforce them today. Baldry and Cunneen see a patriarchal colonial perspective replicated in the 2007 Northern Territory

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[14] Ibid.
[15] Cunneen, 335.
[16] Baldry and Cunneen, 283-4.
[17] Ibid.
[18] Blagg, 17.
[19] Baldry and Cunneen, 290.

Intervention, which perceived Aboriginal women and children as "hapless victims" and "traditional Aboriginal men" as to blame for abuse and violence.[20] While much has changed since the 1870s, the core tenets defining the prison system remain colonial.

As with Australia, the prison system in Canada operated under the belief that Indigenous offenders needed more serious modes of punishment. Chartrand states Indigenous people were thought to be "predisposed to diseases" and easily reformed because of their "weak constitutions."[21] In 1870, at the same time as the law surrounding public executions was passed in Australia, Chartrand quotes the Director of Penitentiaries in Canada stating

> Negroes and Indians cannot bear confinement long in the prison until they are seized with the disease [scrofula]...The Indians, more especially can scarcely spend the full period of the shortest sentence for which they can be sent to the penitentiary.[22]

In addition, Canadian prisons in the early 20th century operated with patriarchal and religious perspectives. Hannah-Moffat cites The Nickle Commission of 1921, a government-mandated report on women at the Kingston Penitentiary, as voicing concern for "women convict's 'innate' flirtatious habits and male inability to resist."[23] This was seen as a danger to the men incarcerated alongside them. Nickle affirmed that staff should focus on the morality of incarcerated women, or "curing the soul."[24] In doing so, Hannah-Moffat finds that the Nickle Commission asserted religious views of the ideal woman as modest and chaste. Since

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[20] Ibid.

[21] Vicki Chartrand, "Unsettled Times: Indigenous Incarceration and the Links between Colonialism and the Penitentiary in Canada," *Canadian Journal of Criminology and Criminal Justice* 61, no. 3 (2019): 73. https://www.muse.jhu.edu/article/730512.

[22] Ibid.

[23] Kelly Hannah-Moffat, *Punishment in Disguise: Penal Governance and Canadian Women's Imprisonment* (Toronto: University of Toronto Press, 2001) 82-3.

[24] Ibid, 85.

their creation, prisons in Canada and Australia have embedded colonial and patriarchal ideas institutionally.

Statistically, in both Canada and Australia, Indigenous people are disproportionately represented in the prison system. As of 2017, 27% of those admitted to federal correctional services were Aboriginal despite Aboriginal people only being 4.1% of the population. For provincial or territorial correctional services, that figure is 28%.[25] In Australia, the figures are almost identical. In 2012, twenty-seven percent of the total prison population was Indigenous, while Indigenous people are only 2% of the general population.[26] The amount of Indigenous people in prisons is rising in both countries, and rising at a higher rate than that of non-Indigenous offenders.[27]

Given that Indigenous people make up over a quarter of the prison population, the question remains: does the prison system incorporate Indigenous visions of justice? With the settler-colonial context acknowledged above, I proceed to engage with the ways in which the discursive backing of the Canadian and Australian prison system is decidedly settler colonial. There are three main ways in which Indigenous visions of justice are at a disconnect with the settler-colonial prison system: first, by inherently imposing laws from a state that is alien to Indigenous people; second, by adopting an individualistic understanding of Indigenous identity; and third, by failing to adapt community-based models of restorative justice to Indigenous views. Herein, the prison system is defined broadly as the entire criminal justice system, including courts and sentencing procedures. I deliberately use the term "prison system" to incorporate Davis' idea of the prison as a systemic project and to separate "justice" from the prison system. The government terms the prison system the "criminal justice system"; however, calling the prison system the

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[25] "Adult and youth correctional statistics in Canada, 2016/2017," Correctional Services Canada (CSC), Updated June 19, 2018. Accessed December 3, 2019, https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54972-eng.htm.

[26] Baldry and Cunneen, 278-9.

[27] Ibid; Correctional Services Canada, "Correctional statistics in Canada".

criminal justice system assumes the system itself is just.[28] I hope to indicate that the system is not just towards Indigenous offenders as it does not incorporate their visions of justice but rather enforces settler-colonial ideas.

The prison system serves to impose laws on Indigenous peoples and communities, furthering the logics of colonialism and ignoring the ability of Indigenous peoples to have laws and systems they determine and control. Blagg shows how Aboriginal Australians view the law itself as alien to them and imposed without consent.[29] For Indigenous people, "it is precisely their identity as Aboriginal people and attempts by the state to eliminate, restructure, and constitute this identity that is the core issue."[30] The state is tied to colonial violence and attempting to penalize Indigenous offenders under colonial laws inherently carries connections to violence. Indigenous women specifically draw connections between crime, the state, and violence. Monture-Angus, a Mohawk woman, states that her "experience of violence transcends [her] gender and also includes [her] experience of the state."[31] In 2006, Nancarrow studied two task forces on violence against women in Queensland—one Indigenous and one non-Indigenous. Nancarrow found Indigenous women "strongly rejected the criminal justice system as an appropriate and effective response to domestic and family violence, and non-Indigenous women embraced the justice system as the best response."[32] In this sense, Indigenous people do not see the justice system as a source of justice for them. Rather, the laws represent another facet of the settler colonial state.

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[28] "About the criminal justice system review," Department of Justice, Government of Canada, Updated August 26, 2019, Accessed December 4, 2019, https://www.justice.gc.ca/eng/cj-jp/tcjs-tsjp/index.html.

[29] Blagg, 8.

[30] Ibid, 3.

[31] Patricia Monture-Angus, *Thunder in my Soul: a Mohawk woman speaks* (Toronto, Brunswick Books, 1995), 171.

[32] Heather Nancarrow, "In Search of Justice for Domestic and Family Violence: Indigenous and Non-Indigenous Australian Women's Perspectives," *Theoretical Criminology* 10, no. 1 (2006): 87-89. doi:10.1177/1362480606059986.

In both the Australian and Canadian context, the differences and specific needs of Indigenous people are undermined by the system's preference for individualizing offenders and thus disregarding colonialism as crucial to current realities. Monture-Angus argues that "Indigenous people cannot be reduced to individualistic understandings" as colonization is directly important to the supposedly individual factors, like mental illness and alcoholism.[33] Likewise, Hannah-Moffat sees individualization as problematic because "individuals, as opposed to the state, are increasingly expected to be responsible and accountable for their own risk management and self-governance."[34] Although scholars tend to agree that colonialism contributes to the disproportionate rates of incarcerated Indigenous people, the courts and criminal justice systems still maintain an individualized approach. This approach tends to consider Indigenous identity only in terms of its relevance to the specific case and the offender's culpability.[35]

To illustrate the effects of individualizing sentencing for Indigenous offenders, Kaisser-Derrick looks to a key Supreme Court decision—*R. v. Gladue.* In 1996, a major amendment to the Canadian *Criminal Code* reformed the sentencing process and placed prisons as a last resort.[36] *Gladue* elaborated on how this applies to Indignenous people. In the *Gladue* decision, the judges acknowledge the discrimination Indigenous people often face in prisons. *Gladue* finds Indigenous people are "less likely to be 'rehabilitated'" as prisons are "culturally inappropriate."[37] Justices Cory and Iacobucci declared overrepresentation of Indigenous people to be a "national crisis," and further stated that restorative justice should be given greater consideration,

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[33] Monture-Anugs, 81.

[34] Margaret Shaw and Kelly Hannah-Moffat, *An Ideal Prison?: Critical Essays on Women's Imprisonment in Canada* (Nova Scotia, Fernwood Publishing, 2000), 39.

[35] Kaiser-Derrick, *Implicating the System: Judicial Discourses in the Sentencing of Indigenous Women*, (Manitoba, University of Manitoba Press, 2019), 9.

[36] Ibid, 16.

[37] Ibid, 23-4.

especially for Indigenous offenders.[38] The purpose of the original amendment to the criminal code, the Justices affirm, is "to treat aboriginal offenders fairly by taking into account their difference."[39]

Because the *Gladue* case still emphasized individualized sentencing, some have misinterpreted this ruling to require a causal link between the individual's specific background and their current offence.[40] In a subsequent Supreme Court decision, *R. v. Ipelee, Gladue* was clarified to acknowledge the complex and interrelated continuing effects of colonization as context for the judge's reasoning in sentencing, not merely as a reason for a specific crime committed.[41] The clarification in *Ipeelee* still places fundamental emphasis on the individual offender, stating that *Gladue* requires "individualized assessment of the relevant factors and circumstances … of the person standing before them."[42] *Ipeelee* clearly stated "Canadian criminal law is based on the premise that criminal liability only follows from voluntary conduct … the reality is that [Aboriginal offenders'] constrained circumstances may diminish their moral culpability."[43] Even with this clarification in place, judges still interpret *Gladue* as requiring linking an Indigenous person's specific crime with their identity as an Indigenous person for it to be relevant.

Williams studied judges post-*Gladue*, finding that sentencing courts use "a simple narrative that constructs Aboriginal families as incubators of risk, Aboriginal communities as containers of risk, and the prison as a potential source of healing."[44] For example, in the case of Ashley Toews, a member of the Hagwilget First Nation, Justice Ball cited the *Gladue* case but emphasized that Toews has "never lived on a reserve."[45]

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[38] Ibid, 16.
[39] Ibid.
[40] Ibid, 25.
[41] Ibid, 25.
[42] Ibid, 27.
[43] Ibid., 52-3.
[44] Ibid, 84.
[45] Ibid.

Toews' grandmother moved off the reserve to seek greater opportunity for her family. Justice Ball did not contextualize Toews' life circumstances within colonization, but rather only as they were applicable to her individual background and crime.[46] In another case involving Diane Serré, an Algonquin woman, Justice Aiken cited Serré's father's Aboriginal heritage as potentially relevant to his alcohol dependency, but concluded Serré had "not personally suffered from many of the systemic problems that have plagued Aboriginal peoples in Canadian society" and thus deemed her Algonquin identity less relevant to her case.[47] Although the *Gladue* and *Ipeelee* cases clarified how an individual's Indigenous identity could affect their sentence, Williams displays a harsh reality by exemplifying these cases. Indigenous offenders are considered Indigenous only insofar as it relates to their personal circumstances, which disregards the collective aspect of Indigenous identity and the influence of colonialism. If the individual's Indigenous identity is not seen to be relevant to the court, the caution in *Gladue* that recommends community-centred models for Indigenous offenders is not yielded. However, *Gladue* and *Ipeelee* still represent an important step in acknowledging that Indigenous offenders have different ideas of justice, which *Gladue* ties to community-centred models.

Because Indigenous visions of justice often emphasize community and relationships, restorative justice is often presented as a model that could incorporate Indigenous understandings and practices within the broader prison system.[48] The Government of Canada defines restorative justice as "providing an opportunity for the parties directly affected by the crime – victims, offenders and communities – to identify and address their needs in the aftermath of a crime."[49] In Australia and Canada, however, the actual application of restorative justice models is complicated.

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[46] Ibid, 125.
[47] Kaiser-Derrick, 126.
[48] Blagg, 67.
[49] "Restorative Justice" Government of Canada. Department of Justice. Updated September 6, 2018. Accessed December 3, 2019. https://www.justice.gc.ca/eng/cj-jp/rj-jr/index.html.

Regardless, Blagg specifically notes that Canada presents a better context than Australia for integrating restorative justice models into the existing prison system.[50] This is echoed by Canadian scholars; Dickson-Gilmore and La Prairie call a combination of restorative justice, circle sentencing, and healing programs the "holy trinity" of Indigenous justice reform."[51] The *Gladue* and *Ipeelee* decisions cite restorative justice often and emphasize the culturally inappropriate nature of Canadian prisons. As the concept of community may differ for Indigenous offenders living in urban areas, *Gladue* specifically motivates a "broad definition of community" in restorative justice sentencing.[52] Indigenous women's groups opposed the preference for community-based sentencing in *Gladue* as it made a sweeping judgement about Indigenous communities. Murdoca states "community-based legal mechanisms did not have any cultural relevance to certain communities" and may be dangerous for victims of domestic violence.[53] Blagg emphasizes "Aboriginal customary law cannot simply be collapsed into restorative justice."[54] The concern posed by Blagg and Murdoca emphasizes the need for restorative justice models to consider a complex and Indigenous definition of community.

　　　Restorative justice models proposed in Australia often place the white community as the definition for the offender's community, not the Indigenous community. This presupposes a false dichotomy between the state as bad and the white community as good which is inconsistent with an Indigenous view of both the state and the community as bound to settler colonialism.[55] Restorative justice is seen by Indigenous people to still reflect Western and Eurocentric ideas, when it is imposed by the settler-colonial state.[56] Indigenous people live in communities created by colonialism, so much so that restorative justice's aim

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[50] Blagg, 67.

[51] Ibid., 71.

[52] Kaiser-Derrick, 23.

[53] Ibid, 23.

[54] Blagg, 62.

[55] Ibid, 67.

[56] Ibid, 62.

of mending relationships cannot ignore the complicated relationship Indigenous people have with the broader white community, or the sheer inapplicability of community-centred models to certain Indigenous communities, victims, or offenders.

Overwhelmingly, the prison system remains a colonial project. Wolfe and Davis emphasize how institutions, over time, operate with a specific motivation. Examining prisons within the context of settler colonialism allows prisons to be connected to the broader institutions of settler colonialism and a history that precedes the construction of prisons themselves. In Canada and Australia, prisons present a clear example of Wolfe's logic of elimination as they continue to attempt to reform and rehabilitate offenders under Western understandings. Specifically, this is manifested through three central themes in the prison system. First, the state's laws are imposed on and foreign to Indigenous people. Second, the prison system treats offenders as individuals—often ignoring their Indigenous connections and identity unless it specifically relates to the crime committed. Third, the way the prison system understands community-based models of punishment is fundamentally inconsistent with the Indigenous view of the state as imposed and the community as linked to colonialism. The complicated application of restorative justice illustrates this. For Indigenous peoples, restorative models are an imperfect attempt to incorporate Indigenous visions of justice. The current prison system remains a colonial project that still operates with the idea that a settler-colonial power knows what is best for Indigenous people. The irony persists— Indigenous people are disproportionately represented in the prison system, yet the system is disproportionately non-Indigenous in its approach.

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Conflict, Capture, and Inequity:
A Case for the Resource Curse in Alberta

Zac Toni

Introduction

In both formal and colloquial discourse, Alberta's identity has become inseparable from oil. One may occasionally hear the terms "Oilberta," "Saudi Alberta," or the "Texas of Canada."[1] Alberta has been blessed with a wealth of natural resources; however, it has also been cursed with ongoing controversies over how such resource wealth has been developed, administered, and distributed. This begs the question: is Alberta succumbing to the woes of the *resource curse*? Or are supposed 'liberal democracies' in the Global North immune to such a phenomenon?

In this paper, the resource curse will be investigated beyond economic symptoms in an effort to understand the more comprehensive social and political consequences of the curse. More precisely, do high resource rents in Alberta inhibit democracy, encourage conflict, and/or erode institutional capital? The structure of this paper will be to (1) define the resource curse and the framework applied in this research; (2) define 'good governance' measures; (3) briefly illustrate some features of Alberta's political economy before and after oil dependency; (4) illustrate the effects of oil development on public equity; (5) illustrate how corruption and private oil interests have 'captured' some public institutions; and (6) illustrate how the resource curse leads to a type of 'violent conflict' which is neglected by the current discourse. All things considered, Alberta's once progressive democracy has been considerably weakened by a

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[1] Meenal Shrivastava and Lorna Stefanick, *Alberta Oil and the Decline of Democracy in Canada* (Edmonton, AB: AU Press, 2015).

dependence on oil and gas development, which can be understood through socio-economic, institutional, and political indicators; thus, the resource curse is not entirely limited to rentier states nor the Global South.

Resource Curse Definitions and Framework

Broadly speaking, the resource curse can be defined as "the adverse effects of a country's natural resource wealth on its economic, social, or political well-being."[2] However, there are several qualifications for the resource curse beyond mere resource abundance. Resource abundance does not necessarily lead to poor political, social, or economic outcomes, as the experiences of some successful resource-based national economies have shown.[3] It is generally believed that *point-source* natural resources (resources extracted from a narrow geographic or economic base) such as fossil fuels and minerals are more prone to the *curse*.[4] These point-source resources tend to lead towards concentrated revenue and production patterns, while other natural resources such as agriculture tend to have diffuse revenue flows.[5] Furthermore, though the degree of economic dependency on a *point-source* natural resource is certainly important, it is not always the only variable involved which leads to the resource curse. Some scholars tend to describe the resource curse as a principally economic phenomenon, where "Countries with oil, mineral or other natural resource wealth, on average, have failed to show better economic performance than those without, often

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[2] Michael Ross, "What have we Learned about the Resource Curse?" *Annual Review of Political Science* 18, no. 1 (May 2015), 240.

[3] Terry Karl, "Understanding the Resource Curse," In *Covering Oil: A Reporter's Guide to Energy and Development*, Edited by Svetlana Tsalik and Anya Schiffrin, New York: Open Society Institute, (Aug 2005), 21-29.

[4] Jonathan Ishlam et al., "The Varieties of Resource Experience: Natural Resource Export Structures and the Political Economy of Economic Growth," *The World Bank Economic Review* 19, no. 2 (2005): 143.

[5] Syed Mansoob Murshed, "When Does Natural Resource Abundance Lead to a Resource Curse?" International Institute for Environment and Development, Environmental Economics Programme, (Mar. 2004): 1-3, https://ideas.repec.org/p/ags/iieddp/24137.html.

because of undesirable side effects."[6] In contrast, many scholars are more inclined to include broader implications for the resource curse, namely social and political symptoms beyond hampered growth and the crowding-out effect.

The resource curse literature seems to almost exclusively revolve around rentier states in the Middle East and North Africa region (e.g. Libya, Saudia Arabia, Iran, Qatar), other African states (e.g. Nigeria, Angola), and some Latin American states (e.g. Venezuela).[7] The (petroleum) resource curse rhetoric surrounding these states typically focuses on how petroleum dependency "tends to make authoritarian regimes more durable, increase certain types of corruption, and helps trigger violent conflict in low- and middle-income countries."[8]

A nuanced application of the *resource curse* framework to the case of Alberta reveals a striking insight: the resource curse is responsible for *slow violence* (described later) in contrast to the narrow rhetoric of *violent conflict* which typically entails firefights and/or confrontations leading to bloodshed. In contrast to status quo analyses of the resource curse among countries in the Global South, a broader understanding of the resource curse is necessary to exemplify how Alberta has fallen victim. Nevertheless, this broadening of the scope of the resource curse to include a more holistic understanding of *violent conflict* will not dilute the merit of its past methodological approaches. This paper will illustrate how and why the concept of *slow violence* carries both theoretical and practical merit for scholars of the *resource curse*.

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[6] Jeffrey Frankel, "The Natural Resource Curse: A Survey," Philadelphia University of Pennsylvania Press, 2012, 1.

[7] Hazem Beblawi, "The Rentier State in the Arab World," *Arab Studies Quarterly* 9, no. 4 (Oct. 1987): 383-398.

[8] Michael L. Ross, "What have we Learned about the Resource Curse?" *Annual Review of Political Science* 18, no. 1 (May 2015): 239.

'Good Governance' Definitions and Measures

There is no single or exhaustive definition of *good governance* or a clear boundary of its scope that justifies a universal consensus; the flexibility of the term has both advantages and disadvantages (OHCHR). For operational sake, the Office of the United Nations High Commissioner for Human Rights (OHCHR) definition will be applied. The OHCHR asserts that the concept typically encompasses:

> full respect of human rights, the rule of law, effective participation, multi-actor partnerships, political pluralism, transparent and accountable processes and institutions, an efficient and effective public sector, legitimacy, access to knowledge, information and education, political empowerment of people, equity, sustainability, and attitudes and values that foster responsibility, solidarity and tolerance.[9]

These aspects of *good governance* are inseparable from the objectives of political and economic liberalism which is so highly valued in much of the world. Other liberal international institutions and organizations have somewhat differing notions, many less exhaustive than the OHCHR's definition (such as the World Bank's definition). Only the OHCHR framework will be applied here.

Political Economy of Alberta Before and After Oil

Today, Alberta is often called the "Texas of Canada" in colloquial discussion—such rhetoric tends to revolve around cowboy culture, dry prairies, conservative values, and indeed the oil and gas industry. One aspect of this notion, namely conservatism, seems to have developed alongside oil and gas development. The Social Credit party gained power in 1935 and

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[9] United Nations Human Rights Office of the High Commissioner, Good Governance and Human Rights: What is Good Governance. n.d. https://www.ohchr.org/EN/Issues/Development/GoodGovernance/Pages/Good GovernanceIndex.aspx.

enjoyed a sweeping majority until 1971. From 1924 to 1936 the Turner Valley oil field became Canada's largest oil-producing region; then came the 'Oil Column Era,' which lasted from 1936 to 1946, this period saw Turner Valley reach its peak production following the discovery of a major oil reserve underneath the natural gas reservoirs.[10] What is particularly striking about the next unfolding decades is not the rise of conservatism, but the decline of the rule of law, transparent and accountable processes, political empowerment of voters, sustainability, and public equity. When Alberta joined Canada in 1905 it was a focal point of Canadian leftist thought for decades to come:

> Labour in Alberta mobilized around the railway and coal mining… much of the pressure to create the current Canadian welfare state came from progressives located in the Prairie Provinces… [and] the women's rights movement had its first success in these provinces, which in 1916 were the first to grant women the franchise for vote.[11]

Alberta has the lowest unionization rate in Canada at 23.1 percent, compared to the Canadian average of 28.4 percent, and the leader, Newfoundland and Labrador at 36.1 percent.[12] Furthermore, the departure from progressive politics is well embodied in the province's regressive tax models, as described below.

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[10] Alberta Culture and Tourism. Energy Heritage: Conventional Oil. Turner Valley Period: 1914-1946, n.d., http://history.alberta.ca/energyheritage/oil/the-waterton-and-the-turner-valley-eras-1890s-1946/turner-valley-period-1914-1946/default.aspx.

[11] Shrivasta and Stefanick. *Alberta Oil and the Decline of Democracy in Canada*, 11.

[12] Statistics Canada. Unionization Rate, Canada and Provinces, 2016. Chart 4. CANISM table 282-0220. https://www150.statcan.gc.ca/n1/daily-quotidien/170908/cg-a004-eng.htm

Oil and Equity

Equity is a critical pillar of good governance in liberal democracies and, in recent decades, income inequality has not stacked up well for Alberta in comparison to the rest of Canada. A study published in 2012—while oil prices were high—reports that "Alberta's top 1 percent are by far the wealthiest in the nation, while at the bottom Alberta has the most intense poverty."[13] From 2001 to 2015 Alberta had the only flat income tax in Canada at 10 percent while every other province had a progressively higher tax that increases with income; this means lower-income Albertans paid higher income tax than other Canadians, while Albertans near the top income range paid far less than the wealthy in other provinces.

Suddenly, there was a major disequilibrium in the global oil market and the price of oil collapsed in 2014, primarily as a result of the American shale boom and Saudi Arabia's refusal to cut supply—that year—global supply grew 2.5 times as fast as demand.[14] As a result, 2015 in Alberta saw tens of billions of dollars in energy investment cancelled, the energy industry collectively lost $600 million in the first three months, and 25 000 oil patch jobs were lost.[15] Due to the significant decline in oil rents captured by Alberta, the province faced a huge budget shortfall which forced the legislature to abandon the flat tax. Interestingly, the price of oil began to regain value in April 2018, rebounding to over $53 US (Western Canadian Select) per barrel. With this in mind, the United Conservative Party (UCP)—established in 2017—voted in May 2018 to reinstate the flat tax in their party platform. Furthermore, it was initially the Progressive

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[13] Diana Gibson, A social policy framework for Alberta: Fairness and justice for all. Alberta College of Social Workers, & Canadian Electronic Library (Firm). (Edmonton, Parkland Institute, 2012), 7.

[14] Daniel Yergin. "The Struggle Behind Oil's Ups and Downs." *Wall Street Journal*, May 17, 2017. https://www.wsj.com/articles/the-struggle-behind-oils-ups-and-downs-1494976842

[15] Tracy Johnson, "1 Year after the Crash Started, What Does the Future for Oil Look like?" CBC/Radio Canada, June 2015. https://www.cbc.ca/news/business/alberta-and-the-oil-crash-1-year-later-1.3126945

Conservatives in 2014 (the party has since merged with the Wild Rose party to form the UCP) who proposed the progressive tax system during the oil bust. Thus, these tax reform policies are evidently not premised on ideology, but rather the global price of petroleum and the inability of the government to budget public funds sustainably.

Similarly, equity in the oil hub town of Fort McMurray is also at the mercy of the 'crowding-out effect.' More specifically, the aspect of 'crowding out' where:

> High wages offered by resource sector industries can serve to draw away scarce labor from other sectors of the economy, making it difficult for them to compete. The same high wages can create disincentives for education, entrepreneurship, and innovation in other sectors effectively degrading the pool of human capital that may be necessary to develop other sectors of the economy.[16]

Today, the municipal governments, schools, hospitals, and the service sector have great difficulty retaining their workers since jobs in the oil sands—and indirect trade jobs in the oil sands such as plumbing and pipefitting—tend to be among the most lucrative jobs on the continent.[17] A significant portion of these jobs outside of the oil industry, especially low-skill occupations, have employers scrambling to acquire workers through the Temporary Foreign Worker Program, which is notorious for its lack of rights in comparison to Canadian citizens.[18]

Corruption and the Deep State

One of the most common and potent threats to democracy (particularly, good governance) since the rise of global capitalism

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[16] Brenda Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," *World Development* 74, (Oct. 2015): 428.

[17] Tony Clarke. *Tar Sands Showdown: Canada and the New Politics of Oil in an Age of Climate Change* (Toronto: J. Lorimer & Co, 2008), 184-185.

[18] Shrivasta and Stefanick, *Alberta Oil and the Decline of Democracy in Canada*, 13.

is the ability of private interests to capture public institutions. An institution is 'captured' when its "decisions, actions, or resources are consistently directed away from the public interest toward a private interest, through the intentions and actions of that interest."[19] In the discourse of the 'resource curse' nearly all discussion of institutional and regulatory capture comes from authoritarian regimes in the Global South. However, it is evident that institutions in Alberta related to the oil and gas industry, such as (but not limited to) the Alberta Energy Regulator (AER) and Alberta Environment (AE), have been captured by the petroleum industry's interests. To begin, the legislation establishing AER removed previous references to protecting the public interest and weakened the quasi-judicial arm's length nature of the regulator.[20]

Researcher Kevin Taft illustrates the institutional and regulatory capture in his outline of a 2013 court case against the AER. An oil sands company named Southern Pacific wanted to expand their operation and required more water, they applied to AE for a permit to increase water extraction from the MacKay river, which they claimed to have a negligible effect on water flows. However, two regional environmental NGOs had reason to believe this would dry up the river so they applied to AE to voice their concerns and appeal the application. AE denied their applications which prompted the NGOs to take the regulator to court over improperly administering the law.[21] The trial uncovered a concerning briefing note created for the deputy minister of the AE which recommended the two complaints be dismissed because "they are now less inclined to work cooperatively" with the industry and the government, and one of the groups had published "negative media on the oil sands." The judge revealed that the briefing note had been used for the past three years as a template for keeping uncooperative groups out of

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[19] Paul Quirk, "Preventing Regulatory Capture: Special Interest Influence and how to Limit it," *Perspectives on Politics* 15, no. 1 (Mar. 2017): 235-236.
[20] Kevin Taft, *Oil's Deep State: How the Petroleum Industry Undermines Democracy and Stops Action on Global Warming in Alberta, and in Ottawa* (Toronto: James Lorimer & Company Ltd., Publishers, 2017), 190.
[21] Ibid., 191.

the process. AE violated the very legislation it was created to protect—the Water Act and the Environmental Protection and Enhancement Act. During the past several years, key employees had been switching occupations from the energy regulator, to the environment regulator, and then to private positions for the oil sands. This layered interlinking is crucial to understanding how the oil sands captured Alberta's institutions, because the interlinking of individuals facilitates the interlinking of institutions.[22] While this institutional capture may be less pronounced than in rentier states, it is equally significant because "capture is rarely an all-or-nothing affair; rather, it happens by degrees."[23]

Violence and the Resource Curse

Institutional capture in Alberta is further intertwined with another symptom of the resource curse: violent conflict. However, the case of the oil sands is exemplary as to how the discourse of the resource curse tends to apply too narrow of a framework for what constitutes *violent conflic*t. Violent conflict is highly conspicuous in some oil dependent states, especially those with ethnic divisions, such as Nigeria[24] or in the Persian Gulf.[25] The resource curse is also conducive to other forms of violence that are not as glaringly vicious as a civil war or an armed firefight. As an illustration, a more subtle version of ethnic violence can be seen throughout the oil sands of Alberta, it is a long term conflict that does not entail firefights. Specifically, the conflict against Indigenous peoples who traditionally reside over the oil sands can best be described through the lens of 'slow violence.' Slow violence can be defined as "a violence that occurs gradually and out of sight, a violence of delayed destruction that is dispersed

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[22] Ibid., 189.

[23] Ibid., 108.

[24] Eyene Okpanachi, "Confronting the Governance Challenges of Developing Nigeria's Extractive Industry: Policy and Performance in the Oil and Gas Sector," *The Review of Policy Research* 28, no. 1 (Feb. 2011): 25.

[25] Hossein Askari. *Conflicts in the Persian Gulf: Origins and Evolution*. First ed. (New York, NY: Palgrave Macmillan, 2013).

across time and space, an attritional violence that is typically not viewed as violence at all."[26]

Statistics Canada reports that the well-being of Indigenous communities in the prairie provinces is in the bottom one-third percentage of the Indigenous population altogether; further, many of the highest disparities between the well-being of non-Indigenous and Indigenous people were located in Northern Alberta.[27] The Athabasca region is the largest oil sand deposit in Alberta and spans over the traditional territory of eight First Nations and Métis communities. While the marginalization and oppression of Indigenous people in Canada has a long history, the ongoing oppression of Indigenous people in and around the oil sands has become increasingly intertwined with the development of oil and gas production. Throughout Canadian history, Indigenous people were viewed as 'problems' rather than allies to frontier development.[28] Clearly, Indigenous rights to land and resources in Canada have remained highly contentious since European settlement.

For the Indigenous groups of Alberta, the central way of ensuring an equitable distribution of resource rents—from settler-frontier resource extraction—is to safeguard traditional rights and title at all levels of Canadian government.[29] However, in 1930, the Natural Resource Transfer Agreement (NRTA) handed over total ownership and management of provincial lands and natural resources from the federal to provincial governments. The NRTA is in clear violation of Treaty 8 (1899), especially as a result of its reassured legitimacy under section 35 of the Constitution Act of 1982. This historical undermining of Treaty 8 is one example of

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[26] Rob Nixon, *Slow violence and the environmentalism of the poor* (Cambridge, Mass: Harvard University Press, 2011), 2.
[27] Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," 429.
[28] Tina Moffat and Ann Herring, "The Historical Roots of High Rates of Infant Death in Aboriginal Communities in Canada in the Early Twentieth Century: The Case of Fisher River, Manitoba," *Social Science & Medicine* 48, no. 12 (June 1999): 1821-1832.
[29] Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," 430.

how point-source natural resource reliance by the province has led to a destitution of provincial good governance, namely political pluralism. Nearly one century after the NRTA, "Alberta's provincial legislation provides no real guidance on if or how to acknowledge and protect treaty rights."[30] For example, further disregard for political pluralism, human rights, and the rule of law can be seen in the 2003 Amendment to the Public Lands Act, which Ross argues

> further entrenched the rights of corporations to public lands by limiting access of Indigenous peoples and others to roads and other resource corridors; it essentially created a system of 'open access' to crown lands in which Indigenous peoples have become marginalized.[31]

The boreal forest ecosystem of the Athabasca oil sands region remains as the socio-economic basis of subsistence and livelihood for these First Nations communities, as well as the foundation of cultural traditions and spiritual beliefs.[32] In this light, it seems logical to understand Alberta's oil dependence as a cause of both physical, spiritual, and cultural violence. Further evidence of *slow violence* in the Athabasca region can be identified through the dramatic increase in cancer rates among Indigenous communities as a result of oil sands development and consequent land and water contamination.[33] Indigenous communities reliant on the Athabasca basin have faced a rapid spread of previously unheard of cancers and other unheard of diseases—such as lupus and rheumatoid arthritis—which have been proved to be a result of oil spills and tailing pond leakages

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[30] Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," 430.

[31] Michael Ross, "The Political Economy of the Resource Curse," *World Politics* 51, no. 2 (Jan. 1999): 298.

[32] Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," 426.

[33] Ross, "The Political Economy of the Resource Curse," 297-322.

(namely, Syncrude and Suncor) into their waterways, affecting fish and other wildlife.[34]

On the other hand, Canada is the only International Energy Agency (IEA) member country with growing Indigenous oil production.[35] Nevertheless, it is important to understand that many of these arrangements have emerged, not as a result of the altruism of government, but through litigation or threatened litigation on the part of Indigenous groups and communities.[36] Under the result of destroyed and contaminated lands and restricted access within the context of a denial of Treaty rights, it is evident that oil development has exacerbated conflict between Indigenous people, colonial settlers, and the provincial/federal governments. Now, this conflict is perceived to be far less graphic than a firefight conflict. This seems to be a considerable issue within the narrow frame of the *resource curse*. Broadening the *resource curse* theory to include 'slow violence' is imperative because framing is concerned with

> making a piece of information more noticeable, meaningful, and memorable for audiences... while simultaneously direct[ing] attention away from other aspects… so framing in a text is really the imprint of power- it registers the identity of actors or interests that competed to dominate the text.[37]

Incorporating slow violence within the *resource curse* framework will entail a more comprehensive understanding of the possible consequences of the curse, particularly within settler-colonial states. This challenge to the *resource curse* can help us rethink

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[34] Clarke, *Tar Sands Showdown: Canada and the New Politics of Oil in an Age of Climate Change*, 193-194.

[35] Shrivasta and Stefanick, *Alberta Oil and the Decline of Democracy in Canada*, 7.

[36] Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," 430.

[37] George Tackach, *Tar Wars: Oil, Environment and Alberta's Image*, First ed. (Edmonton, Alberta, Canada: The University of Alberta Press, 2017), 33.

what both environmental and Indigenous activism looks like; by understanding that the definition of violence over time and space is not constant and is subject to many epistemologies and world views.

Conclusion

In sum, several symptoms of the resource curse have been present in Alberta for the past several decades. It cannot be argued that liberal democracies in the Global North are immune to the paradox of the resource curse. While the resource curse does not occur to the same degree as rentier states in the Global South, oil and gas dependency still presents serious dangers to democracy and good governance in Alberta. A once progressive democracy, Alberta has considerably fallen victim to institutional capture by private oil interests, facilitated through ambiguous institutional responsibility and a layered interlocking of individuals working with the energy regulator, the environmental regulator, and the petroleum industry. This institutional capture is certainly less pronounced than in many rentier states. However, "capture is rarely an all-or-nothing affair; rather, it happens by degrees."[38] The conflict between the Alberta government and the petroleum industry against Indigenous communities in and around the oil sands presents a nuanced insight to the rhetoric surrounding *violent conflict* within the discourse of the resource curse. While there is no civil war or firefight being fought in Alberta, the *slow violence* taking place upon Indigenous people is undeniably immoral. This calls for the inclusion of 'slow violence' into the contemporary discourse of the resource curse. All things considered, the insights previously mentioned present the need for further inquiry by resource curse scholars to investigate the ongoing and nuanced symptoms of the curse in Alberta and other oil dependent regions of the Global North.

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[38] Taft, *Oil's Deep State: How the Petroleum Industry Undermines Democracy and Stops Action on Global Warming in Alberta, and in Ottawa*, 108.

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Consent Culture in Settler-Colonial Contexts: Examining the Coercive Nature of Colonial Processes and the Transformative Potential of Consent-Based Solidarity

Paula Rasmussen

According to *Project Consent*, the international non-profit campaign that aims to combat sexual assault and advocate for survivors of sexual violence, true "consent" must be informed, specific, enthusiastic, freely given, continuous, and reversible.[1] In the era of #metoo politics, and with "consent culture" on the rise globally, most campuses across Canada now require students to take some form of consent training, in an effort to combat sexual violence.[2] However, despite the value of this conversation, its rise to prominence in mainstream media raises the question: what is missing from this conversation? In an interview, Leslie Spillet, a Cree-Métis professor in Indigenous Development at the University of Manitoba, argues that "consent culture is not possible in a colonial system."[3] Similarly, a document produced out of a partnership between the Women's Earth Alliance and the Native Youth Sexual Health Network called "Violence on The Land, Violence on Our Bodies," highlights that conversations around "consent" in North America cannot be had without first understanding Indigenous peoples' free, prior, and informed consent (FPIC) over their territories, as well as a recognition of

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[1] Project Consent, "Humans For Consent," 2014. https://www.projectconsent.com (Accessed December 8, 2019).

[2] Meghan Collie, "'No means no' consent training overlooks nuances of sex: experts," *Global News,* September 19, 2019, https://globalnews.ca/news/5917554/sex-consent-training-canada/

[3] Leslie Spillet and Cyndy Baskin, "Consent culture isn't possible in a colonial system," *Femifesto,* August 11, 2016, http://www.femifesto.ca/consent-culture-isnt-possible-colonial-system/

the specific ways in which colonialism has impacted Indigenous "traditional cultures of consent."[4]

Many thinkers engaging in decolonial/post-colonial scholarship, both Indigenous and non-Indigenous, have either directly or indirectly engaged with the concept of "consent," particularly by examining this concept in relation to colonial histories and contemporary colonial injustices. This paper argues that an examination of the literature reveals that colonial relations can definitively be characterized as inherently *non-consensual*. On the other hand, some of the literature suggests that, in the context of setter colonialism, a re-conceptualization and re-deployment of "consent," as a central pillar of decolonization, co-resistance, and Indigenous resurgence, offers a way out of colonialism and represents a promising method of transforming colonial formations of power.

Before engaging in a discussion regarding how the literature reveals the non-consensual nature of colonialism, this paper acknowledges that colonial relations are more than merely "non-consensual." As the literature illustrates, the structure of settler colonialism is, in fact, inherently *violent*, and, as Wolfe claims, depends upon the "elimination of the native" through processes of genocide and assimilation.[5] However, this paper focuses specifically on the ways in which the absence of informed, specific, freely-given, continuous, and reversible *consent* in settler-colonial contexts has led to the perpetuation of colonial injustices, the subjugation of Indigenous peoples, and the subordination of Indigenous ways of knowing and being. This paper utilizes the literature to examine questions of consent in relation to three projects of settler colonialism: land dispossession, capitalist exploitation, and the perpetuation of Western cultural hegemony. It then examines what the literature suggests with regard to how 'consent' can be incorporated into

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[4] Erin Marie Konsmo and AM Kahealani Pacheco, "Violence on the land, violence on our bodies," *Women's Earth Alliance Native Youth Sexual Health Network* (2014): 16

[5] Patrick Wolfe, "Settler colonialism and the elimination of the native," Journal of genocide research, 8, no. 4 (2006): 389.

decolonial theory and practice, and re-conceptualized in the context of a radical "delinking" from coloniality.[6]

Firstly, the dispossession of Indigenous land in settler-colonial contexts has both historically, and contemporarily, occurred without the consent of Indigenous peoples. As Byrd and Rothberg reveal, the settler states in North America never "achieved a proper or robust form of consent from the Indigenous political subjects" during the time that European settlers were establishing trade relations with Indigenous populations.[7] Furthermore, when nominal consent for Indigenous dispossession was obtained, for instance through the process of treaty-making, it was often not *informed* or *continuous.* To the colonial powers, the treaty process was interpreted as a one-time transaction, which was based on the premise that Europeans held ultimate dominion over the territory that they had "discovered" rather than as an ongoing and consent-based relationship.[8] Furthermore, as Wolfe indicates, even existing treaties could easily be revised or abrogated in order to serve the needs of the colonial power, signalling the lack of *continuous* consent granted by Indigenous peoples.[9] In their discussion of decolonization and the dispossessing nature of settler colonialism, Tuck and Yang highlight how settler colonialism operates by utilizing both "external and internal forms of colonization" simultaneously.[10] They claim that, through processes of imperialism, dispossessed people from abroad are "brought onto seized Indigenous land through other colonial projects."[11] These other colonial projects include enslavement, military and labour recruitment,

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[6] Walter D. Mignolo and Wanda Nanibush, "Thinking and engaging with the decolonial: A conversation between Walter D. Mignolo and Wanda Nanibush," *Afterall,* 45 (2018): 25.

[7] Jodi A. Byrd and Michael Rothberg, "Between subalternity and indigeneity: Critical categories for postcolonial studies," *Interventions*, 13, no 1. (2011): 8.

[8] Wolfe, "Settler colonialism," 391.

[9] Ibid., 400

[10] Eve Tuck and Wayne K. Yang, "Decolonization is not a metaphor," *Decolonization: Indigeneity, education & society,* 1, no. 1 (2012): 7.

[11] Ibid., 7.

displacement, and migration.[12] These dispossessed peoples become implicated in settler colonialism and the dispossession of Indigenous lands through external colonial processes. Significantly, these processes do not involve the consent of these peoples, which illustrates the limitations of claims that equate enforced migration with the processes of settler colonialism.

Related to the discussion of land dispossession, the literature suggests a lack of consent in relation to profit-driven development on Indigenous land, especially in the contemporary settler-colonial context. As McEwan suggests, although the principle of "free, prior and informed consent" (FPIC) has been recognized and enshrined in international law, there is still a persistent lack of proper consultations with Indigenous peoples whose lands are exploited for resource extraction.[13] Furthermore, as Kuokkanen claims, Indigenous communities are "under increasing pressure to conform to the global market economy in the form of profit-driven development projects such as logging, mining, hydro, and oil and gas developments in Indigenous communities."[14] She highlights the diminishing possibilities for Indigenous peoples to practice traditional subsistence economic activities in a society that is dominated by the logic of capitalism.[15] She further asserts that, despite the resiliency of subsistence economies in many Indigenous communities, many people have internalized the belief that there is "no alternative" to global capitalism.[16] This assertion illustrates how Indigenous peoples have not consented to living under the conditions of capitalism. Instead, they have either been convinced that there are no alternative options available to them (consent that is not *informed*) or, despite explicit attempts to withhold their consent,

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[12] Ibid., 30.

[13] Cheryl McEwan, *Postcoloniality, decoloniality and development* (London: Routledge, 2018), 27.

[14] Rauna Kuokkanen, "Indigenous economies, theories of subsistence, and women: Exploring the social economy mode for Indigenousgovernance," *American Indian Quarterly,* 35, no. 2 (2011): 217.

[15] Ibid., 219.

[16] Ibid., 215.

have been forced to engage in the capitalist economy as a means of survival (consent that is not *freely given*).

Moreover, the literature illustrates the various, and sometimes nuanced, ways in which Western cultural hegemony is maintained in settler colonial contexts through processes and interactions that are devoid of Indigenous consent. As McEwan claims, colonized peoples become subordinate through a process of "hegemony," which, as Antonio Gramsci highlighted, involves the dominance of one group over others, achieved through a combination of *coercion* and *consent*.[17] In this process, consent is achieved through the dominant group associating itself with "moral and intellectual leadership in a society."[18] The assertion of Western moral and intellectual leadership in settler-colonial contexts has led to the hegemony of Eurocentric perspectives, heteropatriarchy, and white supremacy.[19] As Simpson argues, Western education is imposed on Indigenous peoples through the state-run education system, without any requirement of informed consent from Indigenous students.[20] Furthermore, she claims that Indigenous scholars are often forced to adopt "privileged Western theories, epistemologies or knowledge systems" in order to be recognized or be taken seriously within the academy.[21] These claims illustrate how even the methods of 'coming to know' among Indigenous peoples are affected and undermined by enforced processes of colonialism.

Additionally, Simpson highlights how the processes of settler colonialism have undermined Indigenous peoples' ability to build consensual, reciprocal, and respectful relationships with non-human nations, such as the "plant nations, animal nations, and the spiritual realm."[22] Similarly, Belcourt argues that

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[17] McEwan, *Postcoloniality,* 22.

[18] Ibid., 23.

[19] Leanne Betasamosake Simpson, *As we have always done: Indigenous freedom through radical resistance* (Minneapolis: University of Minnesota Press, 2017): 89.

[20] Ibid., 162.

[21] Ibid., 13.

[22] Ibid., 56.

colonialism requires the "simultaneous exploitation or destruction of animal and Indigenous bodies."[23] Belcourt further claims that animals, specifically those that are affected by "forced human-animal proximity" should be re-conceptualized as colonial subjects.[24] These claims illustrate the importance of expanding the realm of consent to include non-human subjects.

Lastly, Simpson highlights how heteropatriarchy has been imposed on Indigenous nations through the introduction of the gender binary and the implementation of a system that rewards Indigenous men for embracing white masculinity.[25] Indigenous nations have not provided their free and informed consent to live under a system of heteropatriarchy. Furthermore, Indigenous women have not consented to being involved in a Western feminist struggle that does not centre their distinct concerns as Indigenous peoples. As Arvin, Tuck, and Morill argue, "allying one's self with feminism should not require consenting to inclusion within a larger agenda of whiteness."[26] According to these authors, gender and women's studies must refuse the erasure of Indigenous women, but also "do more than include" Indigenous voices in feminist discourse.[27] A conversation about the relationship between settler colonialism and 'consent culture' would not be complete without an acknowledgement of the various forms of non-consensual intimate, sexual, and violent actions that continue to be carried out against Indigenous bodies, especially the bodies of Indigenous women, girls, and Two Spirit and queer (2SQ) peoples.[28] The violence perpetuated against Indigenous bodies is clearly exemplified by the epidemic of murdered and missing Indigenous women and girls, the non-

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[23] Billy-Ray Belcourt, "Animal Bodies, Colonial Subjects: (Re)Locating Animality in Decolonial
Thought," *Societies,* 5, no. 1 (2015): 3.
[24] Ibid., 5.
[25] Simpson, *As we have always done,* 89.
[26] Maile Arvin, Eve Tuck, and Angie Morrill, "Decolonizing Feminism: Challenging Connections between Settler Colonialism and Heteropatriarchy," *Feminist formations* (2013): 11.
[27] Ibid., 17.
[28] Simpson, *As we have always done,* 31.

consensual extraction of children from their parents, and the coerced sterilization of Indigenous women in Canada.[29] In an interview, Leslie Spillett claims that "you cannot have consent culture within a colonial system" for two central reasons. Firstly, Indigenous women in settler-colonial contexts are largely ignored by mainstream media narratives about consent, despite being disproportionately affected by sexualized and gender-based violence. Secondly, modern 'consent culture' does not recognize that Indigenous women had alternate consent cultures prior to colonization, which often included "sexual freedom and warranty over their own personal space and collective space."[30]

The literature on settler-colonialism reveals the inherently non-consensual nature of colonial domination; however, it also suggests how 'consent' can be incorporated into relationships of decolonial and anti-oppressive solidarity. Smith argues that if oppressed peoples, specifically people of colour and Indigenous peoples, build their alliances not solely based on their shared victimization, but also "where they are complicit in the victimization of others," there will be more potential to build the necessary power to end colonial subjugation *and* white supremacy.[31] Furthermore, in episode 13 of the *Henceforward* podcast, Tuck and Walcott explore the links between settler colonialism and anti-blackness. Tuck asserts that she is "not interested in a relationship in which [non-Indigenous] people are trying to become indigenous to a place." She claims that "a relationship needs to be mutually-consensual and I do not consent to that being somebody's endgame."[32] This statement reveals the importance of basing relationships of solidarity upon a foundation of consent. As Simpson illustrates throughout her book, *As We*

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[29] Ibid., 75, 89.
[30] Spillet and Baskin, "Consent culture," 2.
[31] Andrea Smith, "Heteropatriarchy and the three pillars of white supremacy: Rethinking women of color organizing," *Transformations: Feminist pathways to global change* (2015): 72.
[32] Eve Tuck and Rinaldo Walcott, Episode #13 - A Conversation Between Eve Tuck and Rinaldo Walcott, *The Henceforward,* May 17, 2017, http://www.thehenceforward.com/episodes/2017/5/17/episode-13-a-conversation-between-dr-eve-tuck-dr-rinaldo-walcott

Have Always Done, relationships of co-resistance, based upon reciprocity, respect, and *consent*, have the potential to counter the violence and injustice of colonialism.[33] For example, Simpson argues that knowledge production requires "complex, committed, *consensual* engagement" and that consensual knowledge sharing among Indigenous peoples represents an act of radical resurgence.[34] However, on the other hand, she highlights the fact that Indigenous groups will not always consent to sharing their knowledge with certain people, and this must be respected.[35] This claim reveals that in order for consent to be authentic, there must be a real possibility of withdrawing it. Furthermore, in their discussion of intimate acts of queer decolonial praxis, Hunt and Holmes claim that these "intimate geographies create meaningful opportunities to enact "consensual allyship" which requires ongoing dialogue and relationship-building."[36] They challenge the white settler narrative founded on "good intentions" by claiming that "solidarity and allyship are great in theory but when imposed they replicate the same oppression we're resisting."[37] They further claim that when settler allies speak on behalf of Indigenous peoples without seeking their consent, they center whiteness and reinforce colonial hierarchies in the process.[38] Ultimately, they illustrate how consent-based relationships offer a potential way out of colonialism by asserting that "consensual allyship in our homes and intimate relationships can provide meaningful and important ways to put our decolonial queer politics into action."[39]

This paper has argued that an analysis of 'consent culture' in relation to processes of colonialism reveals the various ways in which colonialism can be characterized as inherently non-consensual. The literature illustrates that the absence of consent in

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[33] Simpson, *As we have always done,* 212.
[34] Ibid., 165.
[35] Ibid., 16.
[36] Sarah Hunt and Cindy Holmes, "Everyday decolonization: Living a decolonizing queer politics," *Journal of Lesbian Studies,* 19, no. 2 (2015): 167.
[37] Ibid., 168.
[38] Ibid., 162.
[39] Ibid., 168.

settler-colonial contexts has perpetuated various colonial projects, including dispossession, capitalist expansion, Western hegemony, and heteropatriarchal violence. However, the literature also reveals that relationships of solidarity, when built on a foundation of authentic, freely-given and continuously-negotiated consent, have the potential to fundamentally transform colonial relations. Although this paper does not provide an in-depth account of what these relationships of solidarity would specifically entail, it argues that a foundation of consent is an important first step toward overcoming the hierarchies that are deeply embedded in contemporary settler-colonial relations.

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