

**Dissertation – Indigenous Women and Girls and the Canadian Anti-Human
Trafficking Approach
By: Rachele Lamont
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Abstract

While Canada has made significant steps in developing and implementing a national anti-trafficking response, it has incorporated colonial structures and practices that do not help in identifying, protecting, and assisting Indigenous women and girls as victims of domestic sex trafficking. This paper will explore how the colonial structures and patterns of control, oppression, sexism, patriarchy, and sexual violence have been reproduced and sustained within Canada's current national anti-trafficking approach, thus placing Indigenous women and girls in high-risk positions of being overlooked, becoming, and remaining victims of domestic sex trafficking within this country.

Table of Contents

Abbreviations	5
Chapter 1: Introduction	6
Introduction	6
Main Research Question and Subsidiary Questions	8
Concepts	8
Outline of Paper	11
Chapter 2: Literature Review	15
Chapter 3: Methods, Theoretical Framework, and Limitations	19
Methods	19
Theoretical Framework	20
<i>Post-Colonial Theory</i>	20
<i>Indigenous Gendered Approach</i>	21
<i>Anti-Foundational and Interpretive Approach</i>	21
Limitations	22
<i>White Settler Perspective</i>	22
<i>Reference to Indigenous Women, Girls, and People</i>	23
<i>Data Collection</i>	23
<i>COVID Restrictions</i>	23
<i>Limited Assessment of Canada’s National Anti-Trafficking Response</i>	24
Chapter 4: Mechanisms of Canada’s National Anti-Trafficking Approach	25
Legislation	25
Human Trafficking National Coordination Centre	27
Federal Human Trafficking Task Force	28
National Action Plans	29
Chapter 5: Colonial Structures and Practices of Control and Oppression and Canada’s National Anti-Trafficking Response	31
The Creation and Normalization of the Colonial Structures and Practices of Control and Oppression	31
<i>The Creation of the NWMP</i>	32
<i>Dispossession and the NWMP</i>	34
<i>The Pass Act and the NWMP</i>	34
<i>Residential Schools and the NWMP</i>	35
<i>Incarceration of Indigenous Women and the Criminal Justice System</i>	36
<i>Presumption of Criminality</i>	37
<i>Criminalization Linked to Socio-Economic Conditions</i>	38
<i>Violence and Law Enforcement</i>	38
Structures of Control and Oppression and Canada’s National	

Anti-Trafficking Response	39
Chapter 6: Colonial Structures and Practices of Sexism, Patriarchy, and Sexual Violence and Canada’s National Anti-Trafficking Response	42
The Creation and Normalization of the Colonial Structures and Practices of Sexism and Patriarchy	42
<i>Traditional Roles of Indigenous Women</i>	42
<i>Victorian Notions of Gender Roles, Womanhood, and Purity Standards</i>	44
<i>The Indian Action – Denial of Indigenous Woman Status</i>	45
The Normalization and Justification of Sexual Violence against Indigenous Women and Girls	47
<i>Sexist Stereotypes of Indigenous Women and Girls</i>	47
<i>Indigenous Femininity and the Notion of Prostitute and Prostitution</i> ..	48
<i>Current Images and Stereotypes of Indigenous Women and Girls</i> ...	50
Colonial Structures of Sexism, Patriarchy, the Normalization of Sexual Violence and Canada’s National Anti-Trafficking Response	51
<i>The Ideal Victim versus the Squaw and Natural Prostitute</i>	52
<i>The Deserving Victim</i>	53
Conclusion	54
References	56

Abbreviations

NGO – Non-governmental organization

NWAC – Native Women’s Association of Canada

NWMP – North West Mounted Police

MMIWG – Missing and Murdered Indigenous Women and Girls Final Report

OWJN – Ontario Women’s Justice Network

RCMP – Royal Canadian Mounted Police

WNCCEIB – Western North Carolina Citizens for an End to Institutional Bigotry

Chapter 1: Introduction

Canada has a historical and ongoing legacy of colonization that has contributed to Indigenous women and girls being intentionally formed into a population that has been and continues to be extremely susceptible to domestic sex trafficking. As a result of colonial actions such as dispossession, containment on reserves, residential schools, cultural genocide, and the Indian Act, the lives of Indigenous females have been brutally and severely devalued and diminished (Hunt, 2010, p. 27-28; Sikka; 2010, p. 207-208; Sethi, 2019, p. 231; Bourgeois, 2015, p. 1441-1463; Nonomura, 2020, p. 8-11; Public Safety Canada, 2013, p. 9; Lamont, 2020, p. 4). Colonization has created a racial hierarchy that has forced Indigenous women and girls into subservient positions of racial inferiority that has aided in stripping them of their cultural teachings, heritage, traditional roles, value, and identity (Sikka, 2010, p. 207-208; Sethi, p. 231; Bourgeois, 2015, p. 1441-1463; Nonomura, 2020, p. 8-11; Lamont, 2020, p. 4). It also created an ideology that has objectified and commodified Indigenous women and girls, thus forming the perception that they are sexually violable and expendable (Sikka, 2010, p. 207-208; Hunt, 2010, p. 27-28; Bourgeois, 2015, p. 1441-1463; Nonomura, 2020, p. 8-11; Public Safety Canada, 2013, p. 9; Lamont, 2020, p. 4). This initial act of colonization has morphed and continues as a destructive legacy that has been linked to present-day social realities of Indigenous female poverty; vulnerability to sexual and physical violence, dysfunctional and / or violent families and institutions; being under-educated, under-employed, and unemployed; struggling with addictions, homelessness, inadequate, and unstable housing; and high rates of mental and physical health issues (Bourgeois, 2015, p. 1439-

1440; Hunt, 2010, p.28-29; Nonomura, 2020, p. 8-15; Sethi, 2019, p. 231-235; Sikka, 2010, p. 208-209; Lamont, 2020, p. 4).

Colonization has created too many structures and practices that have contributed to Indigenous women and girls currently being in increased danger of being sex trafficked domestically resulting in a long-term societal pattern and heritage based upon their oppression, increased vulnerability, perceived disposability, and forced invisibility. This pattern and heritage has been deeply ingrained, normalized, and accepted into Canadian society as seen by a national apathy and resistance to acknowledge, address, and resolve these colonial structures and patterns that have resulted in the continuation of Indigenous women and girls being overlooked and positioned as a population susceptible to domestic sex trafficking (Sikka, 2010; Hunt, 2010; Sethi, 2019; Bourgeois, 2015; Nonomura, 2020; Public Safety Canada, 2013, p. 9; Lamont, 2020, p. 5).

Despite the work and effort Canada has put into the development of their national anti-trafficking response, Indigenous women and girls currently make up over 50% of the estimated victims of domestic human trafficking for the purposes of sexual exploitation despite making up only 4% of Canada's total population (Joy Smith Foundation, 2020; Bourgeois, 2015, p. 1429; Sethi, 2019. p. 228-229; Sikka, 210; Hunt, 2010, p. 27-28; Lamont, 2020, p.5). Therefore, Canada's present-day anti-trafficking approach demonstrates deficiencies and struggles as it continues to build off, reproduce, and sustain many colonial structures and patterns that assists in overlooking, under-identifying, ignoring, and continuing to place Indigenous women and girls in high-risk, vulnerable positions to become and remain victims of domestic sex trafficking in this country (Lamont, 2020).

Main Research Question and Subsidiary Questions

This paper is structured around and seeks to provide a starting point in answering the question of how Canada's current national anti-trafficking approach reproduces and sustains colonial structures and practices that overlooks and places Indigenous women and girls in high-risk positions of becoming and remaining victims of domestic human trafficking for the purpose of sexual exploitation within Canada. In order to do this, this paper will also need to focus on and answer the following questions: (1) What is Canada's current national anti-trafficking response specifically regarding domestic sex trafficking; (2) What structures and practices of colonization were created by Canada historically and through its ongoing legacy towards Indigenous women and girls; (3) How does Canada's current national anti-human trafficking approach reproduce and sustain these structures and practices of colonization?

Concepts

For this paper, the following concepts are defined and used as follows:

Aboriginal and Indigenous – is a collective umbrella term for First Nations, Métis, and Inuit people in Canada. This term incorporates hundreds of distinct and diverse Indigenous People (or Nations) who have their own political organizations, economies, cultures, languages, and territories (MMIWG Final Report, 2019, p. 59; Joseph, 2018, p. 12; Swiftwolfe, no date, p. 5). For the purposes of this paper, the term "Indigenous" will be used.

First Nations – a term that came into use in the 1970s to replace the word “Indian” (Human Rights Watch, 2013, p. 22). It refers to the descendants of the original inhabitants of Canada who are part of unique cultural and linguistic groups that differ across the country. They also hold a distinct legal status in Canada (Sethi, 2019, p. 227; MMIWG National Action Plan, 2021, p. 3).

Inuit – refers to Indigenous people from the Arctic North regions of Canada, Greenland, and Alaska and found in every province and territory in Canada (Swiftwolfe, no date, p. 5; MMIWG National Action Plan, 2021, p. 3; Human Rights Watch, 2013, p. 22).

Métis – refers to people of mixed European and Indigenous ancestry who formed their distinct cultural, collective consciousness, and nationhood in the provinces of Manitoba, Saskatchewan, Alberta, parts of Ontario, British Columbia, the Northwest Territories, and northern United States (Swiftwolfe, no date, p. 5; MMIWG National Action Plan, 2021, p. 3; Government of Canada, 2020; Human Rights Watch, 2013, p. 22).

Indian - the term used in the 1876 *Indian Act* defining who was considered to be Indigenous by making them a status Indian or not. It is not a term used anymore unless a community has made that choice for their name (Joseph, 2018, p. 10-11; Human Rights Watch, 2013, p. 22). For this paper, the word “Indian” will only be used in *Chapter 6: Indian Act – Denial of Indigenous Women Status* because of its legal and historical context.

Indigenous People – refers to Indigenous nations who had / have their own political organizations, economies, cultures, languages, and territories (MMIWG Final Report, 2019, p. 59; Joseph, 2018, 12; Swiftwolfe, no date, p. 5).

Indigenous people – refers to individuals who are Indigenous.

Colonialism – “a policy or set of policies and practices where a political power from one territory exerts control in a different territory. It involves unequal power relations.” (FemNorthNet, 2016, p. 1). It is not an event that happened in the past but a structure that was created resulting in a legacy of intergenerational trauma, socio-economical marginalization, and the increased vulnerability of Indigenous People (MMIWG Final Report, 2019).

Settler Colonialism – “is a distinct type of colonialism that functions through the replacement of Indigenous populations with an invasive settler society that, over time, develops a distinctive identity and sovereignty. In Canada, this was perpetuated through the forced disconnection of Indigenous Peoples from their land, culture, and community.” (Nonomura, 2020, p. 8).

Settler – refers to people of European descent who immigrated to Canada and engaged in settler colonialism. Their descendants share in that heritage.

Domestic Human Trafficking – when the entirety of this crime occurs within Canadian borders and excludes the crossing of international border.

Sexual Exploitation – “any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.” (United Nations, 2017, p. 6).

Sex Trafficking – is human trafficking for the purposes of sexual exploitation.

Sex Industry – “activities that involve selling sexual services or fantasies for money or payment in kind. Such services may include: exotic dancing, erotic massages, phone sex, escort services, pornography, and street work / prostitution.” (Seshia, 2005, p. 5 – 6)

Victim / Survivor – is used interchangeably in this paper to refer to sex trafficked and / or sexually exploited individuals.

Outline of Paper

The following section provides details on the chapters that compose this paper:

Chapter Two: Will provide a literature review based on a variety of secondary sources that depicts how the Canadian government, its federal departments and agencies, and law enforcement have been the defining and dominant voices in directing

the narrative of what domestic sex trafficking and sexual exploitation is and has been in Canada. This section will discuss how Canada's national anti-trafficking response has been developed with very limited input from the voices, knowledge, and experience of front-line workers, victims, survivors, and Indigenous cultural groups. It also reflects on how these identified groups have been challenging this "norm" and changing the national discourse on this subject through the creation of platforms to showcase their research, expertise, and profound insight.

Chapter Three: Will begin by providing a description of the research methods employed for this paper. It will focus on identifying the research method strategy and the process used to collect, examine, and analyze relevant sources of information. It will then provide an explanation of the theoretical framework utilized in this paper, placing an emphasis on a post-colonial theory, an Indigenous gendered approach, and an anti-foundational and interpretative approach. It will also highlight this paper's limitations by emphasizing my white settler perspective, the use of the language of "Indigenous women and girls" and Indigenous People, data collection, COVID restrictions, and the implication of a word count limitation.

Chapter Four: Will provide a concise overview of the four core components that make up Canada's anti-trafficking approach. It will first focus on the legislation outlining the six specific human trafficking offences added to Canada's Criminal Code while providing a succinct explanation of Canada's legal definitions of human trafficking and exploitation. It will quickly explore some of the unique and challenging aspects connected

to each of these definitions. Next, it will provide a short explanation on the Human Trafficking National Coordination Center highlighting why it was created, what it is, its six priorities, and some successes and challenges it has had. Then, it will transition to the Federal Human Trafficking Task Force clarifying who can be members, its purpose, and some inclusivity challenges it has had. Lastly, a summary of Canada's two National Action plans will be given highlighting their emphasis of the four international pillars, the addition of the new pillar of empowerment, and challenges these National Action Plans have faced in regards to funding and Indigenous People.

Chapter Five: Will look at how the colonial structures and practices of control and oppression were established and maintained through the initial act and ongoing legacy of colonization. For the initial act, attention will be placed on why the NWMP and the criminal justice system were created and how both were used as weapons against Indigenous people through the specific examples of dispossession, the Pass System, and residential schools. It will then move into the colonial legacy of these two structures and practices by showing how, throughout current Canadian history, law enforcement and the criminal justice system has been used to control and oppress Indigenous women and girls through incarceration and police brutality. Lastly, it will connect this to Canada's current national anti-trafficking approach and how it supports and sustains these two colonial structures due to a justified mistrust and unwillingness of Indigenous females to seek protection and help from law enforcement and the criminal justice system therefore keeping them in positions of becoming and remaining potential victims of domestic sex trafficking.

Chapter Six: Will look at how the colonial structures and patterns of sexism and patriarchy were established by first providing a brief overview of the traditional roles Indigenous women had in their communities and how they were dismantled through the introduction of the Victorian notion of gender roles, womanhood, and purity standards and by the denial of their status through the Indian Act. It will then focus on how the creation and regularization of a sexist and patriarchal structure and pattern paved the way for the normalization of sexual violence against Indigenous women and girls through the use of the “squaw” stereotype and the conflation of Indigenous femininity with the notion of prostitute and prostitution. Lastly, it will connect this to Canada’s current national anti-trafficking approach and how it reproduces and maintains these specific colonial structures and practices by focusing on how Canada’s image of the “ideal victim” has been pitted against the stereotype of the “squaw” and “natural prostitute”, consequently, keeping Indigenous females outside the realm of the “deserving victim” and from being identified and protected as victims of domestic sex trafficking.

Chapter 2: Literature Review

Since signing the Palermo Protocol in 2000 (Government of Canada: Department of Justice, 2019; Government of Canada, 2019), Canada has taken intentional and deliberate steps to formulate and enact a national anti-trafficking response that is meant to prevent and protect victims who are either trafficked to Canada and / or within its borders (Public Safety Canada, 2013; Government of Canada, 2019; Public Safety Canada, 2018; Roots, 2013, p. 28-31; Kaye and Winterdyk, 2014, p. 24-28, Bourgeois, 2015, p. 1430-1438; Lamont, 2020, p. 1-2). Yet, in light of these developments and continuing efforts, Canadian Indigenous women and girls are still extremely vulnerable to becoming and remaining victims of domestic sex trafficking. Academic studies alongside RCMP and government reports are beginning to show that this group is over-represented in the visible sex industry and in domestic sex trafficking across various regions in Canada (Sethi, 2019, p. 228-229; Bourgeois, 2015, p. 1428-1430; Public Safety Canada, 2013, p. 9; Hunt, 2010, p. 27-29; RCMP, 2014; Lamont, 2020, p. 1-2).

The dominant voice in defining and directing the narrative of what domestic sex trafficking and sexual exploitation is and has been in Canada has been the Canadian government, its federal department and agencies, and law enforcement. The narrative they have projected is one of Canada mainly being a transit and destination country rather than a country of origin for potential victims. This has resulted in a lot of national attention and efforts directed towards border controls and migration regulations (Cha, 2018; Public Safety Canada, 2012; Public Safety Canada, 2019; RCMP, 2010; RCMP, 2014). With regards to domestic human trafficking, Canada continues to downplay the ability of Canadians being victims by emphasizing that it occurs and involves international victims

even after they have crossed into Canada and then moved throughout the country for the purposes of exploitation (Department of State, 2020, p. 143-147; RCMP, 2010; RCMP, 2014; Public Safety Canada, 2012). While true that some international victims are moved from location to location throughout Canada after their arrival, this does not change the fact that this should primarily be considered a case of international human trafficking and not double dip by labelling it domestic trafficking as well.

The Canadian government, its federal department and agencies, and law enforcement have also been the driving force and main voice in determining, designing, and leading Canada's anti-trafficking response. In this role, they have been able to decide priorities, develop the national strategy and its key components, assemble support mechanism to steer it, and delegate responsibilities and focuses to trusted partners (Cha, 2018; Department of State, 2020, p. 143-147; Gonzalez, 2021; Kaye and Hastie, 2015; OWJN, 2018; Public Safety Canada, 2012; Public Safety Canada, 2012; Public Safety Canada, 2019).

While the role and function of the government, its federal department and agencies, and law enforcement is a necessary and needed aspect of Canada's current national anti-trafficking approach, the heavy reliance on these federal sectors has limited its effectiveness and scope by minimizing the role, expertise, and voices of NGOs, faith-based groups, and other civil society actors (Lamont, 2020, p. 6-7).

As reported by front-line service providers, organizations, and agencies that deal directly with human trafficking victims, most cases are and will never be reported to the police because of mistrust of authorities, fear of deportation, language barriers, lack of mobility, fear, shame, lack of knowledge of host country's laws, and threats from the

trafficker (Public Safety Canada, 2018b, p. 4; Kaye and Winterdyk, 2014, p. 36). Most human trafficking experiences are therefore falling outside the scope, boundaries, and interaction with the government, its federal department and agencies, and law enforcement. As one government official stated “[W]e could be missing a lot of the picture and a lot of them (human trafficking victims) are afraid of the government. So, the social agencies are probably getting a bigger picture than the enforcement agencies” (Kaye and Winterdyk, 2014, p. 36). While the civil sector has been given sporadic opportunities to speak and share insights into the objectives of the national strategy, gaps, and challenges through several round tables in three major urban centers and online surveys, their presence, expertise, knowledge, and voice is sorely missing in Canada’s national anti-trafficking response (Public Safety Canada, 2013, p. 10-11; Public Safety Canada, 2018b, p. 1, 8, 11-12; Government of Canada, 2019, p 12, 13; Lamont, 2020, p. 6-7).

Over the past few decades, more and more Indigenous scholars and advocates, NGOs, academics, and specialized inquiries are adding their voices, knowledge, expertise, and research to the growing national discourse centering around Canada’s national anti-trafficking response and Indigenous People. Seeking to explain and educate government, law enforcement, and mainstream society on why Indigenous women and girls are highly vulnerable and susceptible to domestic sex trafficking, intentional, insightful and weighty research has been conducted on the risk factors that increases their vulnerability, methods of their recruitment, and the additional layers of complexity that legislation adds to this through its confusing and vague legal definitions (NWAC, 2014; Bougeois, 2015; Bougeois, 2018; MMIWG Final Report, 2019; Kaye and Winterdyk, 2014; Nonmura, 2020; Hunt, 2010; Lamont, 2020, p. 8-9). Further significant strides and

important accomplishments have been achieved through papers and reports demonstrating how the devastating impact and legacy of colonization has contributed to and continues to place Indigenous females in high-risk positions of becoming and remaining victims of human trafficking for the purposes of sexual exploitation in Canada (NWAC, 2014; Bougeois, 2015; Bougeois, 2018; MMIWG Final Report, 2019; Kaye and Winterdyk, 2014; Nonmura, 2020; Hunt, 2010; Simpson, 2017; Kaye, 2017, Joseph, 2018). These research projects and their findings assist in creating spaces for the colonized voice, perception, and truth to be shared thus helping to decolonize the narrative about what domestic sex trafficking in Canada is and has been. They also push for the formation of more platforms for those outside of the government, its federal department and agencies, and law enforcement in order for them to be included in determining, designing, and leading Canada in its national anti-trafficking response. This paper seeks to join those voices and this purpose while contributing to this growing body of work.

Chapter 3: Methods, Theoretical Framework, Limitations, and Concepts

Methods

This research employed an evaluatory social research strategy that explored and assessed Canada's national anti-trafficking response and how it reproduces and sustains structures and practices of colonization that continues to overlook and place Indigenous women and girls in high-risk positions of becoming and remaining victims of domestic sex trafficking within this country. Based upon a qualitative research method approach, the research process included the collection, examination, and analysis of relevant published literature, scholarly journal articles, government publications and reports, final reports from commissioned inquiries, NGO reports and publications, policy documents, RCMP reports, legislation, grey literature, websites, and newspaper articles. The literature search was restricted to dates ranging from 2000 to 2021, though exceptions were made based on relevance. For initial data collection, the following databases were utilized: Nottingham's online library, JSTOR, Google Scholar, Government of Canada Publications, Hein Online Library, and bibliographies from multiple literature publications and scholarly journal articles. Research was conducted from May 1, 2021 to July 16, 2021. The initial data collection was based on a combination of the following areas of interest:

- *Population*: Indigenous; Indigenous People; Indigenous people; Aboriginal; First Nation, Métis; Inuit; Canada
- *Colonization – Historical and Contemporary*: dispossession; forced migration; reserves; Indian Act; residential schools; Sixties Scoop; Millennial Scoop;

incarceration poverty; inter-generational trauma; sexual violence; loss of traditional roles; racial and gendered hierarchies; police brutality and violence

- *National Anti – Trafficking Response*: Canada; RCMP; Law Enforcement; Human Trafficking Legislations; National Strategy/ies; National Action Plans; Federal Human Trafficking Task Force; Human Trafficking National Coordination Centre
- *Issues*: Human Trafficking; Domestic Sex Trafficking; Sexual Exploitation

Search results were examined for appropriate and pertinent documents that were collected for review and analysis based upon themes, these areas of interest, and the primary research question and its subsidiary questions. This research strategy, process, and implementation followed Canada’s Tri-Council Ethical Principles (Government of Canada, 2019).

Theoretical Framework

For the purposes of this research, the theoretical framework draws on the following theories and approaches:

Post-Colonial Theory

Post-colonial theory centres around the idea that academic systems of knowledge and imperial historical narratives have been produced and rooted in colonial powers, mindsets, and voices at the expense of the experiences, narratives, and voices of those victimized by the structures and practices of colonization. As a theory, it attempts to switch the focus from the colonizer to the colonized emphasizing their point of view and

how the experience of colonization has led to certain ways of thinking and structures (Nair, 2017; Post-Colonial Theory, No Date). This approach directed this research by its attempts to be informed and directed by the voices, experiences, and narratives of Indigenous People, as those who were colonized, to demonstrate the creation and lingering colonial patterns and structures that exist and have been included within Canada's national anti-trafficking response.

Indigenous Gendered Approach

An Indigenous gendered approach is based upon examining the different encounters of Indigenous women and girls and recognizing that their collective knowledge makes them experts about their own lives and their lived colonial experiences (Bougeois, 2015, p. 1439-1454; Ferland, et al., 2012, p. 1). This approach directed this research by attempting to listen to and elevate their voices, experiences, and narratives in its findings while exposing the need to decolonize elements of Canada's national anti-trafficking response.

Anti-Foundational and Interpretive Approach

This research adopted an anti-foundational, interpretive approach that advocates for the current Canadian anti-trafficking response to expand past a "one solution for all" mentality and methodology that is based heavily upon the government, its federal department and agencies, and law enforcement. Throughout this paper, it will be used to demonstrate how certain contextual, historical, and social contingencies that are unique to Indigenous women and girls, intersect with domestic sex trafficking while highlighting

the gaping holes in the Canadian anti-trafficking approach. These holes need to be acknowledged, taken into consideration, addressed, and changes made to the national anti-trafficking response if it is going to protect Indigenous women and girls from domestic sex trafficking (Lamont, 2020, p. 11).

Limitations

Although this paper underlines some key issues pertaining to how Canada's current national anti-trafficking response reproduces and sustains structures and practices of colonization that overlooks and places Indigenous women and girls in high-risk positions of becoming and remaining victims of domestic sex trafficking, it is a preliminary study restricted in its scope and application in the following ways:

White Settler Perspective

I entered into this research and writing of this paper from the perspective of a white, female settler privileged by her class, race, geography, and economic and academic status. Knowing this, I recognize that I “hold no pretension that such a perspective affords a definitive understanding of the realities of racism, sexism, colonization, or human trafficking in Canada” (Nonomura, 2020, p. 5). Instead, I hope my work and research may contribute and support efforts to decolonize the current national anti-trafficking approach.

Reference to Indigenous Women, Girls, and People

This paper refers to all Indigenous women, girls, and people instead of differentiating between First Nations, Métis, Inuit, and the different tribes and bands (Indigenous People). It should be noted that each of their experiences, challenges, and realities could be similar yet different and unique (MMIWG Final Report, 2019; Joseph, 2018; Sethi, 2019, p. 227).

Data Collection

Assessing the extent to which Indigenous women and girls are subjected to domestic human trafficking for the purposes of sexual exploitation is extremely difficult as there is no strategy on a national level to gather data (Sethi, 2019, p. 228). Most data is collected either through incidents reported to law enforcement, convictions, and issuance of temporary resident permits to suspected international trafficked victims into Canada (Public Safety Canada, 2013, p. 4; Public Safety Canada, 2018, p. 4). The hidden and underground nature of this offence, in addition to manipulation / threats made by traffickers, fear, shame, and / or mistrust of authorities (Sethi 2019, p. 228; Public Safety Canada, 2013, p. 4; Public Safety Canada, 2018, p. 4), makes it difficult to clearly understand the scope of domestic sex trafficking of Indigenous females throughout the review and analysis of relevant literature for this paper.

COVID Restrictions

Due to the restrictions of COVID in Canada that resulted in the closure and reduction of support services coupled with federal and provincial “stay-at-home” orders,

this research was unable to utilize surveys that would have allowed for Indigenous, victim, and / or survivor direct feedback and input.

Limited Assessment of Canada's National Anti-Trafficking Response

Due to the word count attached to this paper, an extensive evaluation could not be completed of Canada's national anti-trafficking response and how it reproduces and sustains structures and practices of colonization that overlooks and places Indigenous females in high-risk positions of becoming and remaining victims of domestic sex trafficking. This paper seeks to focus on two key elements while acknowledging the need for further research and work on this topic.

Chapter 4 – Mechanisms of Canada’s National Anti-Trafficking Approach

To understand how Canada’s anti-trafficking approach reproduces and sustains structures and practices of colonization that overlooks and places Indigenous females in high-risk positions of becoming and remaining victims of domestic sex trafficking, an explanation must be provided of its core components. While not an intensive depiction, this section will provide a brief overview of the four main mechanisms of Canada’s national anti-trafficking approach.

Legislation

In compliance with Canada’s ratification of the United Nation’s Palermo’s Protocol, human trafficking legislation was added to its Criminal Code in 2005 (Canadian Criminal Code, 1985). This addition specified six offences prohibiting trafficking in persons (Section 279.01), trafficking of a minor (Section 279.011), receiving material benefits associated with trafficking in persons (Section 279.02(1) and 270.02(02), and withholding or destroying travel or identification documents (Section 279.03(1) and 279.03(2)) for the purpose of committing or facilitating trafficking (Canadian Criminal Code, 1985). One commits the act of human trafficking when one “recruits, transports, transfers, receives, holds, conceals, or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation.” (Canada Criminal Code, 1985, Section 279.01). Unique to this legal definition is the idea that exercising “control, direction, or influence over the movements of a person” refers to having a power over the victim that is likened to the ideas of ownership and possession rather than the actual transportation and movement of the

individual from one location to another (Government of British Columbia, 2014; Sikka, 2010, p. 204; Bougeois, 2015, p. 1437). In addition to the human trafficking specific offences, a trafficker can also be charged with other offenses such as procurement, aggravated and sexual assault, threats, kidnapping, extortion, confinement, and criminal organization offences (Canadian Criminal Code, 1985; Public Safety Canada, 2018a).

According to this legislation, human trafficking must happen for the purposes of exploitation. This is the defining and critical feature of Canada's human trafficking legal definition (Cha, 2018, p. 22; Government of BC, 2014; Sikka, 2010, p. 204; Bougeois, 2015, p. 1437). Section 279.04 of the Canadian Criminal Code states that a person exploits another person if they cause "someone to provide or offer work or services out of fear that refusal will endanger one's security or that of a loved one" (Cha, 2018, p. 22; Government of British Columbia, 2014; Canadian Criminal Code, 1985). A court of law may consider several factors when determining whether the accused committed exploitation. These include whether the accused used or threatened to use force or another form of coercion, employed deception, or abused a position of trust, power, or authority (Cha, 2018, p. 22; OWJN, 2018). While this legal definition allows for both physical and psychological factors to be considered when determining if one feared for their safety, it should be noted that the obligation to prove this falls upon the victim and not the accused (Gonzalez, 2021; Kaye and Hastie, 2015, p. 96; Bougeois, 2015, p. 1438). In situations where consent is initially given, if the victim is being controlled or exploited, then their consent is no longer valid (Cha, 2018, p. 22; RCMP, 2010, p. 43; OWJN, 2018). While this legalisation is a necessary part of Canada's national anti-

trafficking response, a lot of confusion surrounds its interpretation and application, leaving populations, like Indigenous females, unprotected and vulnerable.

Human Trafficking National Coordination Centre

When the legal and legislative framework specific to human trafficking was developed, it quickly became clear that few law enforcement officers had knowledge about this crime. Therefore, in 2005, the Human Trafficking National Coordination Centre was launched with the purpose to “provide a focal point for law enforcement in human trafficking activities” (Public Safety Canada, 2015). Mandated with the responsibility to coordinate federal human trafficking initiatives and activities, it has done so based upon the four international “pillars” of prevention, protection, prosecution, and partnership in collaboration with domestic and international partner agencies, provincial and municipal law enforcement bodies, NGOs, and the community at large (Public Safety Canada, 2015). To accomplish this mandate, the Human Trafficking National Coordination Centre is structured around six priorities:

- (1) Develop tools, protocols and guidelines to facilitate human trafficking investigations;
- (2) coordinate national awareness / training and anti-trafficking initiatives;
- (3) identify and maintain lines of communication;
- (4) identify issues for integrated coordination and provide support;
- (5) develop and maintain national partnerships and coordinated international initiatives; and
- (6) coordinate intelligence and facilitate the dissemination of all sources of information / intelligence to operational units across the country, promoting the

advancement of intelligence in support of law enforcement (Public Safety Canada, 2015; Bougeois, 2015, p. 1431; NWAC, 2014, p. 36).

Credited with providing training and / or awareness to over 54,000 people in law enforcement, government, NGOS, and to the public across Canada while also distributing over 17,800 Human Trafficking Awareness Tools Kits and awareness material, the Human Trafficking National Coordination Centre has struggled to incorporate Indigenous cultural and colonial awareness and considerations into their resources and work (Public Safety Canada, 2015; OJWN, 2018; NWAC, 2014, p. 37). This has resulted in Indigenous females continuing to be overlooked while increasing their risk of becoming and remaining victims of domestic sex trafficking in Canada.

Federal Human Trafficking Task Force

Founded by the Canadian government, the Federal Human Trafficking Task Force is led by Public Safety Canada and is comprised of key federal departments and agencies such as the RCMP, Status of Women Canada, Justice Canada, and Indigenous Services Canada (Public Safety Canada, 2018, p. 8; Public Safety Canada, 2018a). This Task Force “provides a dedicated focal point for federal anti-human trafficking efforts” by being responsible for the implementation of the National Action Plan and providing annual reports on its progress to the public (Public Safety Canada, 2018, p. 8; Public Safety Canada, 2018a). While dedicated to information sharing and collaboration with provincial and territorial stakeholders, the Federal Human Trafficking Task Force has limited its effectiveness by excluding NGOs, civil actors, specialized / cultural groups, victims, and

survivors from being permanent members of this committee (Public Safety Canada, 2018; Cha, 2018, p. 26) and helping to direct the vision, focus, and efforts of its work.

National Action Plans

At present, Public Safety Canada has developed two successive National Action Plans - the first was implemented between 2012 to 2016 and the second commenced in 2019 and will end in 2024. Both National Action Plans focus on “consolidat(ing) ongoing efforts of the federal government to combat human trafficking and introduce aggressive new initiatives to prevent human trafficking, identify victims, protect the most vulnerable, and prosecute perpetrators” (Public Safety Canada, 2018a). With the original National Action Plan concentrating on the four international “pillars”, the current National Action Plan has added a fifth pillar entitled “empowerment” (Public Safety Canada, 2012; Public Safety Canada, 2019). This pillar seeks to empower youth and vulnerable populations to protect themselves while providing the tools needed for victims to regain their dignity and independence (Public Safety Canada, 2019, p. 8). Despite these objectives, these National Action Plans have been criticized for an imbalance of funding distributed to law enforcement agencies and prevention initiatives at the expense of services and support for victim protection, survivor rehabilitation, and culturally sensitive initiatives (Cha, 2018, p 25). As well, it has been noted that both National Action Plans have failed to sufficiently and suitably meet the complex needs of Indigenous women and girls and their communities as it pertains to the intersections between colonization and human trafficking. As these plans place a heavier emphasis on international trafficking into Canada versus domestic trafficking (Bougeois, 2015, p. 1432, 1433), Indigenous females

remain largely overlooked and unprotected despite being increasingly mentioned in these National Action Plans, their annual progress reports, and evaluations.

Chapter 5: Colonial Structures and Practices of Control and Oppression and Canada's National Anti-Trafficking Response

While many Canadians have been educated to regard colonization as an event that happened over 100 years ago, in actuality, harmful and destructive colonial structures and practices against Indigenous Peoples were not only created and normalized but have been reproduced and sustained all throughout Canada's history and into present-day society and systems. One such system is Canada's national anti-trafficking response. The following two chapters will look specifically at how the structures and practices of control and oppression and then sexism, patriarchy, and sexual violence were established and maintained through the initial act and ongoing legacy of colonization. It will then focus on how these particular structures and practices have been reproduced and sustained in Canada's national anti-trafficking response through its intentional use and reliance on a criminal justice system that is directed and enforced by the RCMP (chapter 5) and then by its use of harmful stereotypes of Indigenous females in relation to the Canadian concept of the "ideal / typical victim" (chapter 6).

The Creation and Normalization of the Colonial Structures and Practices of Control and Oppression

One way that the colonial structures and practices of control and oppression were established and implemented was through the creation and use of the NWMP (now called the RCMP). The following section will look at why the NWMP and subsequently, its criminal justice system, was created. It will use the examples of dispossession, the Pass System, and residential schools to show how the NWMP were initially used as a weapon

against Indigenous people to control and oppress them. It will then move into the legacy of these two structures and practices by showing how, throughout current Canadian history, law enforcement and the criminal justice system has been used to control and oppress Indigenous women and girls through incarceration and police brutality. This legacy, plus the historical roots of colonization, has resulted in a complex and fragile relationship between law enforcement, the criminal justice system, and Indigenous females based not only upon oppression and control, but also their abuse, significant intergenerational trauma, their increased vulnerability, and a complete mistrust of these two institutions.

The Creation of the NWMP

In 1870, much of contemporary Nunavut, the Northwest Territories, northern Quebec, northern Ontario, Manitoba, Saskatchewan, and Alberta were transferred from the Hudson Bay Fur Trading Company to the newly formed Canadian government. In their quest for colonial domination of this new, harsh, and rebellious Confederation, this government developed a strategy that would attract European settlers to populate this new nation while encouraging industrial development (Truth and Reconciliation Commission of Canada, 2015, p. 51; FemNorthNet, 2016, p. 4). To entice European immigrants to come, they were promised tracts of land for agricultural development, homesteads, resource extraction, and urban expansion. Industrial development focused on building a continental railway that would connect and bring these colonists to the new settlements and would eventually lure the remaining provinces into the Confederation (Truth and Reconciliation Commission of Canada, 2015, p. 51; MMIWG Final Report,

2019, p. 253). Standing in the government's way were the original inhabitants of Canada - 40,000 Indigenous people who were living in established and functioning communities. To obtain the land for these projects and make room for the settlers, this federal government used the "Doctrine of Discovery" and deceptive, one-side treaties that provided them with land titles, rights, and access to all the resource rich lands in Canada that had originally belonged to the Indigenous People (Truth and Reconciliation Commission of Canada, 2015, p. 51-53; MMIWG Final Report, 2019, p. 245-56; Joseph, 2018, p. 24-25; FemNorthNet, 2016, p. 2-4) and at the expense its original inhabitants. This resulted in immense profit, benefits, and personal gain for this government and its settlers. In turn, Indigenous People were forced onto reserves – regions of land set aside for the exclusive use of that particular nation. These reserves were located on the poorest agricultural and resource lands and disrupted their traditional economies and patterns of subsistence. It also resulted in the weakening of cultural and familial bonds, loss of their economic self-sufficiency, destruction of community cohesion and leadership, decline in standards of health, and an increased dependence on government transfer payments; events that have contributed to the vulnerability of Indigenous People historically and in current Canadian society. (Bougeois, 2015, p. 1449-1451, MMIWG Final Report, 2019, p. 52; Joseph, 2018, p. 26-27).

To safeguard and ensure the success of this colonial strategy, the NWMP was established in 1873 as a law enforcement agency that combined military, police, and criminal justice functions (MMIWG Final Report, 2019, p. 253). Their main responsibility was to protect and serve this colonial state and maintain order while safeguarding Canada's settlement and industrial nation building strategy and corresponding policies.

The NWMP was specifically created to serve the representatives, administrators, and settlers of this new Confederation and not the original inhabitants of the land (MMIWG Final Report, 2019, p. 628). To fulfill their function, they would have to engage tactics of control and oppression against Indigenous people thus establishing and normalizing these two colonial structures. Dispossession, the Pass System, and residential schools are examples of how the NWMP were initially used as a weapon against Indigenous people to control and oppress them.

Dispossession and the NWMP

The NWMP was used as “the muscle” to obtain the land that was promised to settlers as they immigrated to Canada. Delegated immense power by the government, the NWMP was used to remove Indigenous People off their land and “resettle” them onto reserves. Reserves were a deliberate course of action taken by the government and enforced by the NWMP to intentionally control, oppress, segregate, confine, and contain Indigenous People (FemNorthNet, 2016, p. 6; Joseph, 2018, p. 24) as nation building goals were pursued. This dispossession and the use of law enforcement assisted in creating and normalizing the two colonial structures of control and oppression against Indigenous communities.

The Pass Act and the NWMP

Alongside Indian Agents, NWMP helped promote and endorse the “Pass System”. Despite there being no legal basis for it, the Pass System required Indigenous people to acquire a “permit to pass” to leave the reserve, to enter a town or village, and to visit their

children at a residential school. For those found off the reserve without a pass, the NWMP would arrest and prosecute them either for vagrancy under the Criminal Code or trespassing under the Indian Act (Joseph, 2018, p. 50-52; Bougeois, 2018, p. 387-388).

As shared by Métis scholar and activist Howard Adams:

“Indians suffered brutality under the Mounties, who frequently paraded through native settlements in order to intimidate the people and remind the natives they had to ‘stay in their place.’ The Mounties were not ambassadors of goodwill or uniformed men sent to protect Indians; they were the colonizer’s occupational forces and hence the oppressors of Indians and Métis.” (MMIWG Final Report, 2019, p. 258)

Law enforcement and the criminal justice system were used to implement and enforce the Pass System therefore constructing and normalizing colonial structures of control and oppression.

Residential Schools and the NWMP

Residential schools were meant to aid with the assimilation process by “kill(ing) the Indian in the child” (Joseph, 2018, p. 53). As stipulated in the Indian Act of 1884, all Indigenous children under the age of sixteen were required to attend and reside at residential schools (Joseph, 2018, p. 52-53). Failure to comply and any attempts of resistance would result in the full force of the law enacted. As a show of this force, the NWMP was used to restrain and threaten family members, withhold rations or supplies, and to seize, without consent, children to deliver them to these schools (Amnesty International Canada, 2004, p. 11; MMIWG Final Report, 2019, p. 259). As shared in a

report commissioned by the RCMP in regard to residential schools, “[t]he police were not perceived as a source for help but rather as an authority figure who takes members of the community away from the reserve and makes arrests for wrong – doing.” (Human Rights Watch, 2013, p. 29). Law enforcement and the criminal justice system were used to control and oppress Indigenous people in Canada’s attempt to assimilate Indigenous children into white settler culture.

These colonial structures and practices of control and oppression have persisted establishing a stronghold throughout Canada’s current history because of law enforcement and the criminal justice system’s involvement in the high rates of incarcerated Indigenous women based upon a presumption of their criminality and social-economic conditions in addition to the normalization of police brutality towards them.

Incarceration of Indigenous Women and the Criminal Justice System

Indigenous women are more likely to become negatively involved with the criminal justice system than non-Indigenous women. Although only 4% of the entire Canadian population, Indigenous women make up nearly 40% of all federally sentenced women (MMIWG Final Report, 2019, p. 628; Baskin, 2019, p. 2). They are currently considered to be the fastest growing inmate population, as in the last decade, the number of Indigenous women in federal correctional institutions has increased between 60% to 90% (MMIWG Final Report, 2019, p. 628; Baskin, 2019, p. 2). There are two reasons for this:

Presumption of Criminality

Many Indigenous women in Canada are extremely reluctant to engage with the criminal justice system due to prior experiences where they have been assumed to be the criminal instead of the victim in violent situations. Instead of fostering an environment of safety and protection, many Indigenous females share that utilizing the criminal justice system by reporting and reaching out to law enforcement officers will further endanger them as the police often presume they are already guilty (MMIWG Final Report, 2019, p. 628, 632, 634, 663; Amnesty International Canada, 2004, p. 11).

This presumption of their criminality usually results in them being implicated in some form for the situation that they are trying to report, charged with additional crimes, and / or arrested. This is seen in statistics such as 90% of incarcerated Indigenous women in Canada have a history of being a victim to intimate partner violence while 68% have a history of domestic sexual abuse. 61% of Indigenous women who have reported intimate partner violence experience physical and sexual violence while 53% of Indigenous women report that they have feared for their lives while in this situation (MMIWG Final Report, 2019, p. 635, 636). While staggering statistics, it is important to note that these statistics demonstrate that time and time again, many Indigenous women in Canada are criminalized and incarcerated for protecting themselves, defending their children, and / or reacting to the violence and criminal acts that are being thrust upon them (MMIWG Final Report, 2019, p. 626, 636). They are criminalized for the very thing the criminal justice system is supposed to protect them from therefore sustaining and encouraging these colonization structures and practices of control and oppression towards Indigenous women.

Criminalization Linked to Socio–Economic Conditions

Indigenous females in Canada may also be criminalized when they react to the reality of poor socio–economic conditions in their lives that are a result of colonization (Sikka, 2010, p. 208). Socio-economic factors such as poverty, food insecurity, addictions, mental health challenges, and violence are all part of Canada’s past and present colonial legacy (MMIWG Final Report, 2019, p. 636). If an Indigenous woman commits a non-violent crime, it usually centers around theft under and over \$5,000, trafficking of stolen goods, and fraud. Considering this, statistics show that 37% of Indigenous women living outside of their reserves are experiencing abject poverty. 30% to 70% are enduring food insecurity while 40% are living in housing conditions that are overcrowded (MMIWG Final Report, 2019, p. 637). These statistics demonstrate that many Indigenous women are incarcerated for engaging in non-violent crimes because of the socio–economic marginalization they have experienced and endured due to the history and ongoing legacy of colonization. Many times, these crimes are committed because of their need for daily survival thus subjecting them again to these colonial structures and practices of control and oppression.

Violence and Law Enforcement

As part of the legacy associated to the colonial structures of control and oppression, Indigenous women and girls have often been the victims of violence at the hands of law enforcement. Connected to the presumption of their criminality by many law enforcement officers, too many Indigenous females have routinely experienced harassment, sexual harassment, physical and sexual assaults, excessive use of force (for

example: being peppered sprayed, being tasered, etc.), and cross-gendered body and strip searches as part of routine stops and in detention centers (MMIWG Final Report, 2019, p. 663; Human Rights Watch, 2013). This violence also happens indirectly through their racial and gender profiling, the failure of law enforcement to take their complaints and reports seriously, failure to investigate crimes against them, being subject to discriminatory and derogatory name-calling, and law enforcement retaliation (Human Rights Watch, 2013; Amnesty International Canada, 2004, p. 11, 13; MMIWG Final Report, 2019, p. 626, 664, 648, 654). This type of behavior of law enforcement towards Indigenous women and girls has normalized their expectation that they will be controlled, oppressed, mistreated, and abused by police officers if they reach out to report a crime and / or seek help and protection. In turn, many Indigenous females refuse to contact, report, and / seek help from these two institutions because of their fear of police brutality and the real possibility of them being abused (Human Rights Watch, 2013, p. 66; MMIWG Final Report, 2019, p. 628, 663). This has resulted in a very complex, fragile, and tense relationship between law enforcement, the criminal justice system, and Indigenous women and girls that dates back over 100 years.

Structures of Control and Oppression and Canada's National Anti-Trafficking Response

Central to Canada's national anti-trafficking approach is its heavy focus and reliance upon a criminal justice system meant to ensure public safety from those who violate the law established within its Criminal Code (Correctional Service Canada, 2009, p. 2). Through this lens, this criminal justice response has had an increasing emphasis in

Canada's national anti-trafficking approach directly as an enforcement initiative that is based upon criminal definitions, legislation, investigations, prosecutions, and convictions. Within this system, law enforcement and police agencies have been elevated to key players and mandated with the responsibilities of identifying potential victims, investigating potential human trafficking situations, providing preliminary aspects of victim support during the investigation, and obtaining criminal convictions (Department of State, 2020, p. 143, 144; Kaye and Winterdyk, 2014, p. 34; Cha, 2018, p. 26; RCMP, 2010, p. 4, 9).

While a criminal justice approach led by law enforcement remains an important aspect of any national anti-trafficking response model, in Canada specifically, its heavy emphasis assists in reproducing and sustaining the colonial structures and patterns of control and oppression that has plagued Indigenous women and girls for far too long. While some law enforcement may be eager for Indigenous females to officially disclose and report their situation of domestic sex trafficking to them, seek their protection, and engage the criminal justice system to its full capacity, Indigenous women and girls are fearful and extremely reluctant to do so based upon this long standing, complex, fragile, and tense relationship they have with these two institutions. Law enforcement and the criminal justice system have played and continue to play a fundamental role in creating and maintaining colonial structures and patterns of control and oppression that foster a deep mistrust between them and Indigenous peoples, especially women and girls. Kassandra Churcher, the National Executive Director of the Canadian Association of Elizabeth Fry Societies described their situation in this way:

“Indigenous women must rely on a justice system that is in no way reflective or adaptive to their cultural history and reality. Canada’s long history of colonialism and abuse... is the core of this issue, of course. When a First Nations, Métis, or Inuit woman appears in court, they go before the same justice system that established the reserve system, the residential school system, and continues the removal of children from their families, and they ask that court for justice.” (MMIWG Final Report, 2019, p. 627).

Therefore, Indigenous women and girls will continue to be reluctant to trust these two institutions, as they have been used to control and oppress them resulting in their intergenerational trauma, social-economical marginalization, and vulnerable status. They will also continue to be disinclined to seek the protection and help of law enforcement and the criminal justice system in disclosing any domestic sex trafficking situation and information as it was these two institutions that were used to enforce colonial policies that resulted in their dispossession, attempted assimilation, continued incarceration, ongoing presumption of criminality, control, and oppression. Because of the colonial roots and the ongoing legacy of this complex relationship, law enforcement, the criminal justice system, and their place within Canada’s national anti-trafficking approach will struggle to detect and protect Indigenous females from situations of domestic human trafficking for the purposes of sexual exploitation. Instead, Indigenous women and girls will continue to be overlooked, under-identified, and placed in positions of high-risk of becoming and remaining victims of domestic human trafficking.

Chapter 6: Colonial Structures and Practices of Sexism, Patriarchal, and Sexual Violence and Canada's National Anti-Trafficking Response

The colonial structures of sexism and patriarchy were also established through the initial and ongoing act of colonization. This section will look at how these two specific colonial structures and practices evolved by first providing a brief overview of the traditional roles Indigenous women had in their communities and how they were dismantled through the introduction of the Victorian notion of gender roles, womanhood, and sexual purity and by the denial of their status through the Indian Act. It will then focus on how the creation and regularization of a sexist and patriarchal colonial structure and pattern paved the way for the normalization of sexual violence against Indigenous women and girls. This discussion will focus on two colonial undertakings: the use of the “squaw” stereotype to commodify and normalize sexual violence and the conflation of Indigenous femininity with the notion of prostitute and prostitution.

The Creation and Normalization of the Colonial Structures and Practices of Sexism and Patriarchy

Traditional Roles of Indigenous Women

Before colonization, Indigenous women inhabited an egalitarian society in which they were highly respected and valued (Baskin, 2019, p. 3, 4). Within their communities, they held roles that projected power and authority while allowing them to be agents of influence in governance, leadership, community life, culture, and collective identity. Their community roles and positions were not only a normal part of Indigenous life, but it was

expected and accepted. Some examples of the roles that Indigenous women played within their societies are as follows:

Indigenous Women as Teachers

As teachers, Indigenous women were instrumental in preserving knowledge and traditions by sharing the stories, beliefs, and values of their culture to future generations (MMIWG Final Report, 2019, p. 145, 146; Baskin, 2019, p. 3).

Indigenous Women in Leadership

Indigenous women occupied positions in governance such as chiefs, elders, clan mothers, and advisors. In these roles, they gave advice and / or made decisions on justice, family, cultural practices, the community's unity, and well-being (MMIWG Final Report, p. 146, 166, 167; Baskin, 2019, p. 3).

Indigenous Women as Providers

Indigenous women provided for their communities in a variety of ways. In many Indigenous societies, they ensured food security as they were gatherers, hunters / trappers, and farmers (often considered women's work). They enabled socio-economic security through their ability to turn raw materials into items that were not only essential to the community's daily survival but in which they used to trade with visitors and fur traders in order to supplement their family's income (MMIWG Final Report, 2019, p. 158, 164, 165; Baskin, 2019, p. 4).

Indigenous Women as Protectors

In many Indigenous societies, women were warriors who fought alongside their men to protect their communities, their loved ones, and their way of life (Baskin, 2019, p. 3). They also acted as midwives in which they provided pre-natal care, attended births, treated sick children, counselled individuals and people in disputes, and attended those dying (MMIWG Final Report, p. 169).

For colonizers to secure the land and resources needed for its nation-building project, Indigenous women needed to be dehumanized. One way of accomplishing this was to attack and undermine their importance, their identity, and their roles within their communities by importing a patriarchal practice and sexist structure that would demean and displace them in their traditional roles (MMIWG Final Report, 2019, p. 173; Baskin, 2019, p 5). This was accomplished through actions such as the introduction of Victorian notions of gender roles, womanhood, and purity standards as well as denying Indigenous women status through the Indian Act.

Victorian Notions of Gender Roles, Womanhood, and Purity Standards

This first example focuses on how, through the church, educational institutions, and the broader Canadian settler society, a sexist and patriarchal colonial structure and practice was introduced based upon the Victorian notion of gender roles, womanhood, and purity standards. Expected to be good, respectable, virtuous, and pious, this Victorian model forced women to reside in the private sphere due to their “inherent qualities of femininity” that were based upon their assumed selfishness, dependence, submission, passivity, and emotion. Men, on the other hand, were encouraged to

embrace the public domain due to their presumed superiority in the areas of self-interest, independence, aggression, action, and reason (Victorian Era, 2020; Victorian Women: The Gender of Oppression, no date). In this model, a Victorian woman was deemed weak and in constant need of protection, therefore making marriage and the bearing of children the only natural position in life that she was meant to strive for. She could not pursue employment, own her own property, have a voice in legal matters, and all her possessions and rights belonged to her father and then her husband (Victorian Era, 2020; Victorian Women: The Gender of Oppression, no date). As men developed and implemented this notion, a Victorian woman was expected to possess ladylike feminine qualities, innocence, to be chaste, and to demonstrate absolute purity while cheerfully embracing her role as a domestic manager and helpmate to her husband (Victorian Era, 2020; Victorian Women: The Gender of Oppression, no date). This Victorian notion of gender roles, womanhood, and purity standards created a patriarchal and sexist structure and pattern in which men, at that time, were valued more than women.

The introduction of this colonial structure and practice to Indigenous People resulted in their women being forced into the Victorian role of housewife while the men were pushed towards the economic realm. Because of that, Indigenous men were encouraged and assisted in omitting and separating their women from their traditional roles and community positions, therefore devaluing and dismantling their authority, power, and influence (Baskin, 2019, p. 12; Simpson, 2017, p. 89, 104; MMIWG Final Report, 2019, p. 264, 285, 238). No longer were they teachers, leaders, providers, and protectors in their community. Instead, they were expected to be innocent and chaste, demonstrating absolute purity while embracing this new role of domesticity and helper

(Simpson, 2017, p. 89, 104, 109). Indigenous women were also pushed out of the public sphere and into the private domain. This was no longer an egalitarian society. It was a society where the establishment of a patriarchal and sexist structure and pattern fractured and undermined Indigenous women's identity, traditional roles, and positions within their community.

Indian Act – Denial of Indigenous Women Status

This second example focuses on how the Indian Act was used to create and implement a sexist and patriarchal structure and practice to “strip Indigenous persons from their lands and was openly aimed at the elimination of Indigenous people as a legal and social act.” (Kaye, 2017, p. 49). One way it accomplished this was by defining who was or was not Indian. Between 1876 and 1986, if an Indian woman married a non-Indian male, she and her children would automatically lose their status. This stipulation did not apply to Indian men who married a non-Indian female. As well, if an Indian woman married an Indian man from another community, she was transferred to her husband's community. She no longer had status within her community and her new status was conditional on her husband's. In addition, an Indian child would lose their Indian status at the age of eighteen if their mother and grandmother acquired status through marriage, regardless of their lineage through their father (Joseph, 2018, p. 19-23; Bougeois, 2015, p. 1456-57; Bougeois, 2018, p. 383; MMIWG Final Report, 2019, p. 250-251). Federal law supported this sexist and patriarchal policy by also mandating that being Indian was no longer based upon the maternal lineage but the paternal lineage (Joseph, 2018, p. 21). This stipulation in the Indian Act helped to establish a structure and practice of

sexism and patriarchy that thrived on disrespecting, undermining, and dismantling the traditional community roles of Indigenous women through the transformation of their community structures and attitudes.

The Normalization and Justification of Sexual Violence against Indigenous Woman and Girls

The creation and implementation of a sexist and patriarchal colonial structure and pattern in Indigenous society paved the way for the normalization and justification of sexual violence towards Indigenous women and girls. This was established through the following two actions: traditional roles being replaced by sexist stereotypes that commodified and normalized sexual violence and the conflation of Indigenous femininity with the notion of prostitute and prostitution.

Sexist Stereotypes of Indigenous Women and Girls

To justify taking Indigenous land through the “Doctrine of Discovery” and one-sided treaties, the Canadian government removed the respectability, value, and acceptance that was attached to the traditional community roles of Indigenous females and replaced it with the sexist stereotype of the “squaw”. This stereotype ruthlessly promoted the idea that an Indigenous woman was faceless, and therefore inhuman and inferior. As a squaw, she was depicted as being lustful, immoral, unfeeling, dirty, unfit, lewd, and licentious. She was labeled as being prone to drunkenness, stupidity, thievery, and susceptible to being bribed and corrupted (MMIWG Final Report, 2019, p. 386; Green, 1975, p. 711; Sikka, 2010, p. 207). In different Indigenous dialects, this word meant “vagina” and

“female genitalia” and represented what colonizers wanted to do to Indigenous women (WNCCEIB, no date). As a squaw, she was considered sexually available, lacking value, and was commodified for the violent consumption and ownership of white male settlers (MMIWG Final Report, 2019, p. 386; Green, 1975, p. 711; Sikka, 2010, p. 207; NWAC, 2018, p. 3). These stereotypes that were being promoted, as their traditional roles in the community were being attacked, helped to justify, legitimize, and condone many forms of sexual violence against Indigenous females by white settler men because of the inherent violability attached to them. It has, therefore, aided the colonial structures and patterns of sexism and patriarchy by normalizing and justifying sexual violence towards Indigenous women and girls as a natural consequence of being a “squaw”.

Indigenous Femininity and the Notion of Prostitute and Prostitution

The justification of sexual violence towards Indigenous females was further normalized through the conflation of Indigenous femininity and the notion of prostitute and prostitution during the act and ongoing process of colonization. The Victorian notion of gender roles, womanhood, and purity was in stark contrast to the concept and reality of Indigenous femininity. Instead of being weak, submissive, passive, and dependent on men within the private sphere, Indigenous femininity exuded empowerment, strength, independence, and personal autonomy, while accepting and encouraging females to be in the public domain (Baskin, 2019, p. 5). This natural disposition and their resistance to the Victorian model resulted in the conflation of Indigenous femininity with the concept of prostitutes and prostitution.

In colonial and Victorian purity standards, a prostitute was the epitome of depravity, incivility, criminality, and “otherness” and needed to be controlled and suppressed (Victorian Women: The Gender of Oppression, no date). In 1879, punitive provisions regarding prostitution were included in the Indian Act that were amended in 1884 and then admitted into the Canadian Criminal Code in 1892 (Kaye, 2017, p. 52; Simpson, 2017, p. 108; Bougeois, 2018, p. 384, 385). These provisions reinforced and labelled only Indigenous females as prostitutes while associating her residence as a “house of prostitution” and limiting her ability to appear in the public sphere (Kaye, 2017, p. 52; Simpson, 2017, p. 108; Bougeois, 2018, p. 384, 385). If a white settler man was found to be in the company of an Indigenous “prostitute”, this was viewed as behavior that was habitual on the male settler’s part and treated as a summary offence that fell under the scope of “common nuisances”. If an Indigenous woman was charged with engagement in the act of prostitution, it was deemed an “offense against morality” and therefore, an indictable offence (Bougeois, 2018, p. 384). This legislation “reinforced stereotypes of Aboriginal women as dangerous and dissolute and did much to link prostitution and Aboriginal women in the minds of white settlers” (Bougeois, 2018, p. 384-385). It used the criminal justice system to dismiss violence against Indigenous women and girls thus helping to normalize sexual violence towards them. These anti-prostitution policies were yet another attempt to reinforce the sexist and patriarchal colonial structures through the domestication of Indigenous women and destruction of their traditional community roles (Kaye, 2017, p. 50). This conflation has helped the colonial structures and patterns of sexism and patriarchy by normalizing and justifying sexual violence towards Indigenous

women and girls as an accepted consequence of them “naturally” being prostitutes and inherently violable as such.

These colonial structures and practices of sexism and patriarchy, resulting in the normalization and justification of sexual violence against Indigenous women and girls, has persisted throughout contemporary Canadian history through the creation of current and accepted images of Indigenous females.

Current Images and Stereotypes of Indigenous Women and Girls

Incorporating and utilizing the squaw stereotype in conjunction with the conflation of their femininity with prostitute and prostitution, negative images and beliefs about Indigenous women and girls continue to be adapted and widely accepted into mainstream Canadian society. Playing off the squaw stereotype as being lustful, inferior, unfit, criminal, dysfunction, and utterly violable, this current picture continues to normalize ideas that Indigenous females are oversexed thus making them easily available and sexually willing. It promotes the idea that these “dirty and drunken Indians” are willingly engaging in the sex industry despite the impact and legacy of intergenerational trauma resulting from colonization in their lives. Their “apparent willingness and desire” to participate in the sex industry automatically grants permission and makes it right for sex buyers to do what they want to them, regardless of how illegal, demeaning, and exploitative it is (Sethi, 2019, p. 232, 233; Nonomura, 2020, p. 14; Amnesty International Canada, 2004, p. 8, 10; MMIWG Final Report, 2019, p. 386, 663; Green, 1975, p. 711; Sikka, 2010, p. 207). These current images not only commodified but also objectified Indigenous women and girls as having no human value or worth beyond another’s sexual gratification.

Structures of Sexism and Patriarchy, the Normalization of Sexual Violence, and Canada's National Anti-Trafficking Response

Central to Canada's current national anti-trafficking response is the image of the "ideal / typical victim" that has been crafted and used to determine, identify, and therefore protect and help individuals from becoming and remaining victims of human trafficking for the purposes of sexual exploitation within this country. Originally constructed and promoted through the RCMP's *Human Trafficking in Canada* report (2010) and subsequent publications, popular stereotypes of trafficked victims in Canada centres around the notion that this is an international problem affecting non-Canadians in Canada. As such, an image of a typical victim has been constructed as young, female, and foreign (usually from Asia and Eastern Europe). It projects the idea that victims are usually deceived and / or forced into Canada by international criminal organizations for the purpose of working and being transported from strip clubs, escort services, and massage parlors across the country for the purpose of sexual exploitation. It promotes the idea that victims are typically trafficked and exploited because they are poor, uneducated, tradition bound, and minors in need of guidance (Sikka, 2010, p. 205; Cha, 2008, p. 37; Kaye and Winterdyk, 2014, p. 30; RCMP, 2010; RCMP, 2014). As such, victims that fit into this "ideal image" are considered innocent and deserving of being rescued, helped, and protected by the government, law enforcement and / or civil society.

Despite law enforcement beginning to acknowledge that Indigenous females are susceptible to domestic sex trafficking due to the intergenerational trauma of colonization and its impact on their daily lives, this image of the ideal victim still drives the notion of who are the real victims in Canada. This typical victim stereotype assists in reproducing

and sustaining the colonial structures and patterns of sexism, patriarchy, and sexual violence in its national anti-trafficking approach by pitting the ideal victim concept against the stereotype of the “squaw” and “natural prostitute” and keeping Indigenous females outside the realm of the “deserving victim”.

The Ideal Victim versus the Squaw and Natural Prostitute

The image of the ideal victim excludes Indigenous women and girls from being considered, recognized, and identified as victims. As already explained, the typical victim is believed to be foreigners who are forced by criminal organizations into Canada and then escorted all throughout the country to work in exotic dance clubs, escort services, and massage parlors for the purpose of sexual exploitation (Sikka, 2010, p. 205; Cha, 208, p. 37; Kaye and Winterdyk, 2014, p. 30; RCMP, 2010; RCMP, 2014). Through the colonial structure and practice of sexism and patriarchy resulting in the normalization of sexual violence, Indigenous victims of domestic sex trafficking are often not considered to be real victims. It is assumed that by their very nature, they are willing participants in the sex industry due to the normalization of discriminatory ideas based upon the “squaw” stereotype, the conflation of Indigenous femininity with the concept of prostitution, and the current erroneous images associating Indigenous females with having no human value beyond another’s sexual gratification. This has resulted in them being overlooked, under-identified, and therefore, susceptible to becoming and remaining victims of domestic sex trafficking within Canada’s current national human trafficking approach.

The Deserving Victim

The image of a typical victim in Canada also promotes the idea that some victims are more “legitimate and worthy of assistance than others.” (Cha, 2018, p. 15). Through the creation and ongoing colonial structure and patterns of sexism and patriarchy that has resulted in the normalization of sexual violence towards them, Indigenous women and girls are not seen as being “deserving” victims. Because of the squaw stereotype, the conflation of Indigenous femininity with the concept of prostitute and prostitution, and the current inaccurate images associating Indigenous females with being oversexed and willing participants in the sex industry, they are not normally viewed as being actual victims of domestic sex trafficking who deserves support and assistance. Instead, the government, law enforcement, and Canadian society usually do not perceive it as being the exploitation or trafficking of an Indigenous woman or girl because the idea of them being a regular partaker who chooses to engage in the sex industry has been normalized and accepted in mainstream society. Their sexual exploitation and trafficking situation is justified and excused as a natural consequence of the high-risk lifestyle they have “chosen” because they are presumed to be squaws and natural prostitutes (Cha, 2018, p. 16; Sikka, 2010, p. 202; Ferland, et al., 2012, p. 21). Their victimization is minimized because sex trafficking and exploitation are seen instead as reflecting who they are and the moral failings of their culture and ethnicity (Nonomura, 2020, p. 12) and therefore, not a real human trafficking and / or exploitation situation. Their exploitation and trafficking is not rationalized because it is assumed that they have chosen to be out there and are just getting what they deserve (Ferland, et al., 2012, p. 21; Sikka, 2010, p. 201). Rarely is this connected to the structures and practices of colonization that have caused

immense intergenerational trauma, socio-economic marginalization, and increased vulnerability. This has resulted in them continuing to be overlooked, under-identified, and denied protection and help because it is deemed that they do not fit the mold of being a “deserving victim”. This, therefore, continues to make Indigenous women and girls susceptible to becoming and remaining victims of domestic sex trafficking within Canada’s current national anti-human trafficking response.

Conclusion

While Canada has made significant steps in developing and implementing a national anti-trafficking response, it has incorporated colonial structures and practices that have had quite the opposite effect of preventing and protecting Indigenous women and girls from becoming and remaining victims of domestic sex trafficking. Through the colonial structures and practices of control and oppression, a long and complex history and relationship has been established between law enforcement, the criminal justice system, and Indigenous females based upon their mistrust and an unwillingness to turn to these two institutions for help and protection. The colonial structures of sexism and patriarchy that has resulted in the normalization of sexual violence towards them has also established negative stereotypes of Indigenous women and girls that pits them against Canada’s image of an ideal victim and keeps them outside the realm of being viewed as victims deserving of being identified, supported, and given protection. These colonial structures and practices are therefore, being reproduced and sustained in Canada’s current national anti-human trafficking approach. While further research needs to be completed on this topic, it is clear that this national anti-trafficking response, with its

incorporation of these colonial structures, assists in making Indigenous women and girls vulnerable to domestic sex trafficking in Canada instead of protecting them.

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