Necropolitics, Colonialism, and Indigenous Peoples in Canada

Sophia Martensen
Sociolegal Studies, York University

Abstract

This paper critically engages with Mbembe's (2003) theory of necropolitics within the context of Indigenous Peoples in Canada. Part one of this paper provides a historical overview of the relationship between Indigenous Peoples in Canada and settlers. In the second section, Mbembe's (2003) theory of necropolitics is examined. In the third and final section, this paper applies the necropolitical framework to the social determinants of health and the incarceration of Indigenous Peoples in Canada to argue that the State plays a crucial role in the creation of an Indigenous death-world and maintaining their suffering. Thus, this paper argues that the State is not directly killing Indigenous Peoples, but actively injuring this subset of the population through service delivery and carceral conditions.

Keywords: Necropolitics, colonialism, Indigenous Peoples, social determinants of health, incarceration

INTRODUCTION

Indigenous Peoples[1] in Canada have historically been subjected to Western colonial practices. From the moment contact between settlers and Indigenous Peoples was made, Indigenous Peoples were dispossessed of land. As Patrick Wolfe (2006) suggests, "Land is life—or, at least, land is necessary for life" (p. 387). Therefore, forced removal from Indigenous territories, coupled with other colonial practices such as the residential school system, intermarriage, and cultural genocide, have resulted in a permanent disruption of Indigenous ways of life (see Elias et al., 2012; Van Kirk, 2002; Kingston, 2015). Arguably, colonial practices still linger in Canadian society, but in more discrete ways. For example, the discriminatory practices embedded in the criminal justice system have resulted in the over-policing and over-incarceration of Indigenous Peoples (McKay, 2018). Given this historical background, the purpose of this paper is to apply Achille Mbembe's (2003) theory of necropolitics to the living conditions of Indigenous Peoples in Canada. By doing so, this paper will demonstrate that the State subjects some Indigenous Peoples to suboptimal living conditions through service delivery and carceral conditions, resulting in their label of the "living dead" (Mbembe, 2003, p. 40). To achieve this goal, a brief historical overview of the relationship between Indigenous Peoples in Canada and colonialism will be provided. In the second section, Mbembe's (2003) theory of necropolitics will be examined in-depth. Finally, the necropolitical framework will be applied the current state of Indigenous Peoples in Canada as it pertains to the social determinants of health and incarceration. The application of necropolitics to the current Indigenous context will bring focus to the death-worlds in which Indigenous Peoples live. The term "death-world" (Mbembe, 2003, p. 40) will be used throughout this paper to denote a condition of life characterized by suffering and a state of near-death.

INDIGENOUS HISTORY OF COLONIALISM

The creation of Canada rested on the principle of *terra nullius*, which translates to "barren and deserted" (Borrows, 2010, p. 17). However, as Borrows (2010) indicates,

[1] In this paper, the plural form *Indigenous Peoples* is used to acknowledge the lived histories and experiences of different Indigenous populations in Canada. In some areas of this paper, the term *Indian* is used when it is historically relevant (i.e., the term *Indian* was used under the *Indian Act*).

"Indigenous Peoples had already discovered most [of the] land within their territories and exercised jurisdiction over it prior to the arrival of the Europeans" (p. 17). From an ethnocentric perspective, Indigenous Peoples in Canada were not as civilized as the Europeans because of their alternative form of social organization. In Lockean language, it was believed that Indigenous Peoples were not making proper use of the land because they did not adequately "mix their labour" with it (Borrows, 2010, p. 18). The civilized/savage binary contributed to the belief that the land was truly deserted and justified the dispossession of Indigenous Peoples (Harris, 2004). Therefore, the initial act of hierarchizing human life resulted in centuries of land dispossession, most of which was formalized through legal policy.

The earliest policy about Indigenous affairs was the *Royal Proclamation of 1763*, which stated that 'Indians,' as they were labelled at the time, were to be protected from any land trades (Leslie, 2002; Indigenous and Northern Affairs Canada, 2016). On its face, it appears this piece of legislation was designed to protect Indigenous Peoples' right to claim their land. However, this proclamation was formulated and implemented without the participation of Indigenous Peoples (Leslie, 2002). In 1858, the British Crown lost interest in the administration of Indigenous Peoples and removed all funding related to their regulation (Leslie, 2002; Indian and Northern Affairs Canada, 1975). Consequently, the management and control of Indigenous Peoples fell solely in the hands of the Canadian government. This led to the creation of the *Indian Act* of 1867, which consolidated all pre-confederation legislation and sought to address questions such as "who was an Indian[?]" and "what was a reserve[?]" (Leslie, 2002, p. 25).

The reserve system was a product of the *Indian Act* which sought to sequester Indigenous Peoples outside of mainstream society. In the early twentieth century, reserves functioned according to a pass system that prevented Indigenous Peoples from leaving the reserve and entering the 'civilized world'— at least not without risking legal penalties (Lacchin, 2015). The reserve and pass systems were mechanisms through which the Canadian government confined Indigenous Peoples and prevented the intermingling of 'legitimate' and 'uncivilized' populations. The underlying goal of the *Indian Act* was to promote the assimilation of Indigenous Peoples into the Western way of life and strip them of their agency. The band system that developed from

the *Indian Act* further reinforced the lack of agency exercised by Indigenous Peoples, as non-Indigenous individuals were given the power to govern Indigenous affairs (Menzies, 2007). Over the years, the *Indian Act* has been amended, but the essence of the *Act* has remained the same (Leslie, 2002). This forced displacement continues to impact Indigenous Peoples in Canada in complex ways. As such, systemic racism, structural violence, and social dislocation illuminate that Indigenous Peoples are what Mbembe (2003) describes as "kept alive but in *state of injury*" (p. 21; emphasis in original).

MBEMBE'S THEORY OF NECROPOLITICS

In 2003, Mbembe published an article detailing his theory of necropolitics, which elaborates on Foucault's (2009) concept of biopower. Common to both Mbembe and Foucault is that life is the central target of regulation (Anderson, 2012). While Foucault's notion of biopower is conceptually imprecise, many scholars have elaborated on his work to refine the term and suggest that biopower refers to the technologies and strategies employed to regulate life (Rabinow & Rose, 2006). As Foucault (1990) suggests, "Power would no longer be dealing simply with legal subjects over whom the ultimate domination was death, but with living beings…" (p. 142-143). While Foucault and Mbembe both discuss the regulation of life and death, Mbembe places greater emphasis on the politics of death within a racial and colonial context (Davies, Isakjee, & Dhesi, 2017). Therefore, "life [is] not so much being governed, as much as death itself [is] being sanctioned" (Davies, Isakjee, & Dhesi, 2017, p. 1267). For this reason, it can be argued that necropolitics and biopower are intimately related, rather than two conceptually distinct theories.

In comparison to Foucault's concept of biopower, Mbembe (2003) characterizes necropolitics as

> the various ways in which… weapons are deployed in the interest of maximum destruction of persons and the creation of *death-worlds*, new and unique forms of social existence in which vast populations are subjected to conditions of life conferring upon them the status of *living dead*. (p. 40; emphasis in original)

Put differently, necropolitics describes the ways in which certain bodies are subjected to constant injury (Davies, Isakjee, & Dhesi, 2017). The death-world, according to Mbembe (2003), refers to a state of life characterized by a limited ability to survive due to conditions of suffering. Rather than directly killing certain social groups, the State actively wounds these populations as a means of social control through the distribution of resources, passing of legislation, and other mechanisms that may affect the living conditions of certain subgroups (Davies, Isakjee, & Dhesi, 2017).

To further develop the concept, Mbembe (2003) incorporates Agamben's (2005) notion of the 'state of exception' into his analysis, which describes the way "judicial order can be suspended" (Mbembe, 2003, p. 24). In other words, violence is made permissible in certain circumstances where it is deemed that civilization is under threat, and consequently, the protections afforded by the law are removed. Agamben (2005) argued that the state of exception was related to necessity, in that the suspension of legal order would arise in situations of crisis. However, as Lemke (2011) suggests, "The modern era signifies, accordingly, not a break with the Western tradition but rather a generalization and radicalization of *that which was simply there at the beginning*" (p. 53; emphasis added). Therefore, it can be argued that the state of exception is less of a temporary suspension of law, but "... acquires a permanent spatial arrangement that remains continually outside the normal state of law" (Mbembe, 2003, p. 13; Bernat, 2018). Within the context of Indigenous history, the state of exception can be identified at the moment of first contact. The Europeans perceived Indigenous Peoples native to the land as lacking civility, and consequently, characterized them as savages (Harris, 2004). The perceived lack of social organization made salient the differences between Europeans and Indigenous Peoples and reinforced the civilized/savage binary. As a result, the social order brought by the Europeans was suspended, subjecting Indigenous Peoples to suffering in the name of civilization. Arguably then, Canada may be characterized as permanently arranged to impose injury on Indigenous Peoples, while the civilized continue to benefit from the privileges afforded by law. In other words, the state of exception has become somewhat permanent in Canada to the point where it could be characterized as the norm. While there no longer appears to be a threat to civility, and therefore no longer a need for a state of exception to develop, the suffering imposed on Indigenous Peoples

during first contact has been preserved over time to the extent that Indigenous Peoples continue to live in death-worlds. The social determinants of health and incarceration, for example, illuminate the continued impacts of settler colonialism on Indigenous Peoples in Canada and the preservation of death-worlds, a theme that will be further examined in the next section.

APPLYING NECROPOLITICS TO CANADA IN THE PRESENT DAY

Social Determinants of Health

The social determinants of health are a host of social and economic factors correlated to individual well-being. In Canada, these factors may include employment, housing, education, gender, health services, or culture (Government of Canada, 2018). For the purpose of this article, only health services and housing will be addressed. While the social determinants of health may not themselves cause mortality and morbidity, these factors contribute to individual well-being and can impact health. For Indigenous Peoples in Canada, differences in health may be correlated to experiences with racism, access and/or barriers to health services, and physical environments. Therefore, a conversation about inequalities requires consideration of the contexts in which these inequalities arise.

Through a necropolitical lens, Indigenous Peoples are considered to be more vulnerable to health risks than non-Indigenous populations due to their increased number of lived inequalities stemming from a historical exposure to violent conditions by the State (Cameron et al., 2014). As a result, Indigenous Peoples in Canada tend to have higher rates of mortality and morbidity (Cameron et al., 2014; King, 2011). In a study using the United Nations Human Development Index (HDI), it was found that Indigenous Peoples on reserves ranked 79th and 80th worldwide for societal well-being, while the rest of Canada was ranked as number one (Bennett, Blacksock & De La Ronde, 2005, p. 7; Sinclair & Grekul, 2012). A more recent study of Indigenous health used the Community Well-Being (CWB) index (Government of Canada, 2019). The CWB index analyzes education, labour force activity, income and housing to determine the well-being among Indigenous communities in comparison to non-Indigenous groups in Canada. In this study, the CWB score was calculated over a 35-year period and two major trends were identified. First, it was found that the Indigenous CWB score increased over

the 35-year period. Second, and more importantly, the study revealed that the gap between Indigenous and non-Indigenous communities in Canada was, and continues to be, substantial. Therefore, while the Indigenous CWB score has increased over time, the gap between Indigenous and non-Indigenous communities has remained stable (Government of Canada, 2019). This discouraging statistic is indicative of a disconnect between services offered to Indigenous Peoples and those provided to other social groups in Canada.

In fact, under the *Canada Health Act* (amended in 2017), all populations should receive equal access to healthcare services (Cameron et al., 2014; Government of Canada, 2017). Equal access is defined as the equitable distribution of resources, where services are allocated based on need (Cameron et al., 2014). However, there are several limitations and barriers to the current health services in place for Indigenous Peoples: services are limited, geographically dispersed, and are often not culturally relevant (Cameron et al., 2014). Regarding mental health, Indigenous Peoples face greater psychological distress, depression, and trauma (Boksa, Joober, & Kirmayer, 2015). Unfortunately, services delivered to Indigenous Peoples to address mental health concerns are often lacking because staff are not trained to address the mental health of Indigenous populations in culturally appropriate ways (Kowpak & Gillis, 2015). In addition, Indigenous Peoples face service gaps that prevent access to mental health programming, such as ineffective transportation to remote northern locations, poor inter-agency communication, and a lack of overall funding to such programs (Kowpak & Gillis, 2015).

Moreover, the social determinants of health extend beyond healthcare, and notable inequalities can also be seen with regards to housing. A large proportion of Indigenous Peoples live in isolated locations and poor household conditions. A 2006 Census found that Indigenous Peoples were more likely to be residing in housing that required extensive repairs (Statistics Canada, 2017a). For those living on reserves, nearly half reported needing repairs, and the state of housing on reserves has not changed significantly from 1996 to 2006 (Statistics Canada, 2017a). In an updated 2016 Census, it was reported that one in five Indigenous persons lived in a home that required repairs, demonstrating that the State has not taken a substantive initiative to improve the living conditions of Indigenous Peoples for decades (Statistics Canada, 2017b). Both

healthcare services and housing conditions are two social determinants that affect health among Indigenous Peoples in Canada. Therefore, each of the inequalities expressed in this section is representative of the injury inflicted against Indigenous Peoples.

From a necropolitical perspective, it can be argued that the State is not directly killing Indigenous Peoples, but actively injuring this subset of the population through service delivery and housing conditions. Some of the statistical evidence presented in this section spans over decades, demonstrating the permanency of the injury imposed on Indigenous Peoples and the absence of any significant initiative to improve their conditions of life (Government of Canada, 2019; Statistics Canada, 2017b). The longitudinal trend is indicative of the graduality of injury inflicted on Indigenous Peoples and the way it is maintained as resources continue to be withheld. Also implicit in Mbembe's (2003) theory of necropolitics is a level of constriction. Through the uneven delivery of social programs, housing conditions, and the power imbalance between Indigenous Peoples and the State, this community is deprived of their ability to improve their social situation (Davies, Isakjee, & Dhesi, 2017). By controlling the adequacy of healthcare or housing, the State is in control of which populations live and which die. Put differently, the State plays a substantial role in the creation of death-worlds among Indigenous Peoples. As Mbembe argues (2003), Foucault's theory of biopower would be inadequate to analyze the lived inequalities of Indigenous Peoples in Canada because of the racial and colonial elements involved in the infliction of injury. While both theories address the issues of social control and body regulation, Foucault's theory does not allow for a colonial analysis and does not adequately capture the bodily destruction involved. Consequently, Mbembe's (2003) theory of necropolitics is an appropriate framework for understanding the current Indigenous experience.

Incarceration

While the social determinants of health are one example to illustrate the State's role in creating Indigenous death-worlds, Indigenous experiences within a carceral space are indicative of this as well. The criminal justice system has failed Indigenous Peoples for decades, which is seen in the overrepresentation of Indigenous Peoples in federal and provincial penal institutions. Indigenous Peoples make up a smaller proportion of Canada's overall population, yet

consistently represent a larger proportion of the incarcerated population (Rudin, 2005). In a 2015-2016 report, it was found that Indigenous Peoples represented 4% of Canada's population, yet comprised 22.8% of incarcerated persons (McKay, 2018, p. 9). Indeed, this trend has some provincial variation, however, it remains a Canada-wide issue. For example, the proportion of Indigenous inmates in Saskatchewan is approximately seven times higher than the percentage of Indigenous citizens within that province (Department of Justice, 2019). Trends in over-incarceration do not appear to be improving as the overrepresentation of Indigenous Peoples has either increased or remained stagnant (Department of Justice, 2020). Further, Indigenous offenders are more likely to receive custodial sentences, to be housed in maximum-security institutions, and are less likely to be granted parole (McKay, 2018). The overrepresentation of Indigenous Peoples extends to the younger population as well, as Canada has one of the highest rates for over-incarceration of youth, particularly Indigenous youth (Rudin, 2005).

Within federal and provincial institutions, issues of mental health, addiction, mortality and morbidity are exacerbated. Studies examining mental health and substance abuse of incarcerated populations have found that a majority of inmates possess at least one diagnosis, as defined by the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders, and many entering these institutions report recent drug or alcohol abuse (Kouyoumdjian et al., 2016). The rate of mortality, either self-inflicted or due to other causes, within federal and provincial institutions is higher than the general population (Kouyoumdjian et al., 2016). The services offered within federal and provincial facilities are lacking and fail to address the higher rates of mortality, morbidity, and substance abuse issues among incarcerated populations. Health services for incarcerated groups are delivered by the Ministry of Community Safety and Correctional Services (MCSCS), rather than the Ministry of Health and Long-Term Care (John Howard Society, 2017). This is problematic because the primary focus of the MCSCS is not treatment and rehabilitation, which may prevent the appropriate delivery of services related to well-being and healthcare. Because the MCSCS is not primarily a healthcare delivery unit of the government, the standard of care offered to incarcerated persons may differ from the services offered to non-incarcerated persons (John Howard Society, 2017). Due to these factors, the health needs of

incarcerated populations are not being met, an issue that is exacerbated among Indigenous communities.

Further, some scholars have argued that prisons are a location of wilful neglect, where incarcerated persons are denied the basic means of subsistence (Le Marcis, 2018). As indicated in this paper, many Indigenous Peoples already suffer injury by having limited access to crucial social resources and having a lower quality of life, according to the HDI and CWB index. When Indigenous Peoples are transferred to a penal institution, they continue to be subjected to inferior living conditions, demonstrating the continuity of injury. Provincial and federal facilities are spaces where rates of mortality, morbidity, and mental health and addiction issues are higher than the general population (Cameron et al., 2014; Boksa, Joober, & Kirmayer, 2015; Kouyoumdjian et al., 2016). As Mbembe (2003) indicates, incarcerated persons are "kept alive but in a *state of injury*" (p. 21; emphasis in original). Therefore, the conditions that make death possible are created or continued within a carceral context. Due to the conditions imposed on Indigenous Peoples in a carceral space, it is possible to suggest that penal institutions are a State tool that inflicts injury against Indigenous Peoples. While Foucault has certainly discussed the regulation of bodies within a penal context, his analysis is centred on the improvement of populations rather than the strategies used to destroy bodies. As Jackson (2013) argues,

> While prison may at times be involved in the biopolitical project of disciplining and controlling bodies to create a healthier, more productive citizenship, they are also a site of necropolitics, excluding certain bodies from the body politic in ways that promote mass injury and death. (p. 199)

In other words, prisons can act as a location for both biopolitical and necropolitical projects, the latter to which Indigenous Peoples are disproportionately subjected.

Moreover, Nichols (2014) argues that incarceration serves a colonial function. The use of carceral spaces, in this view, is a contemporary strategy of dispossession that serves to further divide Indigenous populations from their land. As Nichols (2014) suggests, "to speak of the colonial violence of carceral power in North America is precisely to focus attention to how incarceration facilitates dispossession…." (p. 452). If we accept Nichols' argument, Mbembe's

(2003) theory becomes more appropriate to analyze the injury inflicted against Indigenous Peoples within carceral boundaries given the colonial function of penal institutions. However, it would be inappropriate to suggest that the State is situating Indigenous Peoples in death-worlds without comparing their treatment against other populations in Canada. While the argument can be made that non-Indigenous populations are subjected to hazardous conditions through some of the same mechanisms (i.e., access to resources, incarceration), statistical trends seem to indicate that the living conditions of Indigenous populations are often worse, which can be partly attributable to the historical circumstances (i.e., reserve system and the *Indian Act*) that are unique to Indigenous Peoples in Canada. It is important to note that there are other social, political, and economic factors that may offer an explanation for the living conditions of Indigenous Peoples. Therefore, Mbembe's (2003) theory of necropolitics is but one of many frameworks for understanding the way particular groups experience suffering. Nevertheless, the data on incarceration in combination with data on issues of mental health and addiction are evidence of the creation, or arguably the continuation, of death-worlds within a penal context.

CONCLUSION

To conclude, Mbembe's (2003) theory of necropolitics is an ideal analytical tool to explain the way current Indigenous living conditions are substandard in comparison to non-Indigenous groups. Although the present discussion was limited to Indigenous Peoples in Canada, Mbembe's (2003) framework of necropolitics may be applied to understand other groups' experiences with injury within a colonial context. By applying necropolitics to the social determinants of health and the carceral space, this paper argued that the State helps create and maintain death-worlds for Indigenous Peoples by withholding key services and resources. While the federal State extends its arm of control over all citizens residing within its borders, particular control continues to be exercised over Indigenous Peoples in Canada. The State, through the control of resources and services, holds the life of its citizens in its hands and consequently, the power to inflict injury.

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