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Race, Space, and Prostitution: The Making of Settler Colonial Canada

Robyn Bourgeois

This article examines the fundamental role that prostitution has played in securing settler colonial domination over Indigenous peoples and lands in the historical and ongoing making of the Canadian nation-state. Using the theoretical and methodological framework developed by critical anti-racist feminist scholar Sherene Razack, this article offers a spatial analysis tracing how prostitution has been deployed, repeatedly and in distinctly racialized and gendered ways, to secure settler colonial domination in Canada. This analysis focuses on four key examples: (1) early settlement in British Columbia; (2) the Indian Act; (3) the Pass System; and, more recently, (4) Vancouver's Missing Women. It also focuses on how these settler colonial deployments of prostitution contributed (and, in some ways, continue to contribute) not only to violence against Indigenous women and girls but also to the justification, legitimation, and erasure of this violence and, thus, its normalization within settler colonial society.

Le présent article examine le rôle fondamental qu'a joué la prostitution dans la domination colonialiste exercée sur les peuples autochtones et sur leurs terres au cours de l'histoire du Canada et de son développement comme État-nation. À partir du cadre théorique et méthodologique mis en place par la théoricienne Sherene Razack, féministe critique antiraciste, l'auteure fait une analyse territoriale des façons dont la prostitution a été déployée à répétition, et par diverses méthodes clairement racialisées et sexospécifiques, pour assurer une domination colonialiste au Canada. Cette analyse donne plusieurs exemples clés tirés du passé colonial du Canada, y compris les débuts de l'ère coloniale en Colombie-Britannique, les interdictions du potlatch dans la Loi sur les Indiens, la criminalisation de la prostitution et le système de laissez-passer, sans oublier l'exemple plus contemporain des femmes disparues à Vancouver. L'article montre aussi comment l'encadrement colonialiste de la prostitution a contribué (et, d'une certaine façon, continue de contribuer) non seulement à la violence faite aux femmes et aux filles autochtones, mais aussi à la justification, à la légitimation et à l'effacement de cette violence pour la rendre banale au sein de la société colonialiste.

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“You look easy, you know, ‘cause you’re Indian’ ...”. Walking down most city streets guarantees a proposition. I’ve stopped counting the johns who honk their horns, then pull over and wait for me to jump in their vehicle. Some are more polite than others. One young man exposed himself as he flagged me to join him. Others lean over, anxious to open the passenger door as I pass by.

—Morningstar Mercredi¹

At its peak, the Home Invasion Task Force had between eight and twelve investigators—all highly competent detectives normally assigned to various sections of the Investigation Division. This group received funding and equipment from several outside sources ... As time passed, I would peer into their office longingly, trying to imagine how different our investigation would be if we had the same type of support from management, if we had the same type of enthusiasm and full-time commitment from experienced investigators, if we had the same engagement and commitment from the community. New detectives dreamed of being asked to join the Home Invasion Task Force; those same people avoided Project Amelia like the plague, uninterested in searching for a bunch of missing “whores,” as several referred to them.

—Lorimer Shenher²

One of the most pressing issues facing the current Canadian governmental inquiry into the contemporary phenomenon commonly referred to as “missing and murdered indigenous”³

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1. Morningstar Mercredi, *Morningstar: A Warrior's Spirit* (Regina: Coteau Books, 2006) at 129.
 2. Lorimer Shenher, *That Lonely Section of Hell: The Botched Investigation of a Serial Killer Who Almost Got Away* (Vancouver: Greystone Books, 2015) at 102–03.
 3. Throughout this article, I use the term “Indigenous” to refer collectively to First Nation, Métis, and Inuit people in Canada. While this term is often capitalized to reflect its use as a proper noun, I opt to employ the lower case to signal usage as an adjective describing our status as the original inhabitants of the lands now occupied by Canada. We as Indigenous nations have our own proper nouns for ourselves: nehiyawak (the Cree); Anishinaabe; Mi’kmaq, and so on. “Indigenous” is a name originating in settler colonial language and does not reflect the names we gave ourselves. For this reason, I use Indigenous only as an adjective to describe us collectively in the colonizer’s language. I also endeavour to resist pan-indigeneity by identifying specific nations, communities, and groups whenever applicable. The term “Indian” is used strategically in this document to indicate those with status under the federal *Indian Act* and, thus, to signal state understandings and uses of indigeneity. Finally, I have not applied these conventions to quoted materials (that is, changing Aboriginal to Indigenous) in order to maintain the authorial integrity of their original construction.

women and girls”⁴ is prostitution.⁵ It is pressing not only because many of the missing and murdered were involved in prostitution at the time of their death or disappearance but also because of the disproportionately high number of indigenous women and girls who end up, at some point in their lives, being involved in the sex trade. Despite the fact that indigenous women represent just over 4 percent of the population of Canada, it is estimated, for example, that they make up anywhere from 70 to 90 percent of the highly dangerous and low-paid street-based survival sex trade in major urban centres across Canada.⁶ It is also pressing because of the dominant Canadian societal perception that indigenous women are innately promiscuous and sexually available, as communicated in the passage quoted from indigenous writer and performer Morningstar Mercredi above—a belief reinforced by mainstream Canadian media coverage of missing and murdered indigenous women and girls, which has overemphasized the actual or perceived involvement of these women and girls in the sex trade.⁷ In turn, as revealed by the quote from Lorimer Shenher, the first Vancouver police officer appointed to investigate the deaths and disappearances of Vancouver’s missing and murdered indigenous women and girls, this has translated into a virtually non-existent and grossly inadequate state response to the violence inflicted on indigenous women and girls in Canada. Combined with the high rates of violence experienced by those involved in the sex trade, all of these factors make prostitution an issue that carries serious and significant life and death consequences for indigenous women and girls across Canada.⁸

Prostitution is a controversial issue for indigenous women and their communities, and, much like the rest of society, indigenous women predominantly occupy

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4. Throughout this article, my use of the term “indigenous women and girls” is inclusive of cisgendered, two-spirit, and transgender women and girls.
 5. While the deaths and disappearances of indigenous women and girls are by no means a new phenomenon in Canadian society, the recent societal and political focus is. Naming missing and murdered indigenous women and girls as a contemporary phenomenon, here, is intended to draw attention to the relatively recent dominant Canadian societal and political response to the deaths and disappearances of indigenous women and girls, which only developed since the 1980s and just focused on cases since then.
 6. Ontario Native Women’s Association, *Sex Trafficking of Indigenous Women in Ontario* (February 2016) at 5 <<http://www.onwa.ca/upload/documents/report-sex-trafficking-of-indigenous-wom.pdf>>.
 7. See e.g. Dara Culhane, “Their Spirits Live within Us: Aboriginal Women in Downtown Eastside Vancouver Emerging into Visibility” (2003) 27:3–4 *American Indian Quarterly* 593; David Hugill, *Missing Women, Missing News: Covering Crisis in Vancouver’s Downtown Eastside* (Black Point, NS: Fernwood Publishing, 2010); Yasmin Jiwani & Mary Lynn Young, “Missing and Murdered Women: Reproducing Marginality in News Discourse” (2006) 31:4 *Canadian Journal of Communication* 895.
 8. Native Women’s Association of Canada, *Sexual Exploitation and Trafficking of Aboriginal Women and Girls: Literature Review and Key Informant Interviews* (October 2014) at 9–11 <https://www.nwac.ca/wpcontent/uploads/2015/05/2014_NWAC_Human_Trafficking_and_Sexual_Exploitation_Report.pdf>.

the seemingly polarized political positions of prostitution understood as a form of violence that needs to be abolished and prostitution that represents a legitimate form of work requiring formal protections. While both sides understand that the violence inflicted on indigenous women and girls involved in the sex trade is rooted in settler colonialism and its systems of white supremacy and heteropatriarchy, they diverge in their understanding of the connection between colonialism and prostitution. Those who advance the framework of sex work tend to emphasize colonial Canadian state prostitution laws as undermining the sovereignty and self-determination that indigenous peoples exercise over their bodies and, thus, by extension, the sovereignty and self-determination that indigenous peoples exercise over their lands.⁹ They argue that recognizing and respecting the agency of indigenous women to choose sex work alongside the decriminalization of prostitution and its protection as a legitimate form of work will help end colonial domination and contribute to more safety for those who choose to be involved in the sex trade.¹⁰ By comparison, those who advance the framework of prostitution as violence argue that because prostitution is an institutional extension of settler colonial domination, racism, and sexism, only its abolition can secure the safety of indigenous women and girls in Canada.¹¹

This article represents my contribution to these important and urgently needed political debates about prostitution, settler colonialism, and violence against indigenous women and girls in Canada. Given the primacy of land (and, thus, space) to settler colonial domination, I draw on critical anti-racist feminist scholar Sherene

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9. See e.g. Jessica Yee, "Supporting Aboriginal Sex Workers' Struggles" (2009) 43:1 *Canadian Dimension* 45; Sarah Hunt, "Decolonizing Sex Work: Developing an Intersectional Indigenous Approach" in Emily van der Meulen, Elya M Dursin & Victoria Love, eds, *Selling Sex: Experience, Advocacy, and Research on Sex Work in Canada* (Vancouver: UBC Press, 2013) 82.
 10. See e.g. Naomi Sayers & Sarah Hunt, "Abolition of Sex Work Won't End Violence against Native Women", *Globe and Mail* (22 January 2015) <<https://www.theglobeandmail.com/opinion/abolition-of-sex-work-wont-end-violence-against-native-women/article22572753/?arc404=true>>; Hunt, *supra* note 9 at 93–96.
 11. See e.g. Jackie Lynne, "Colonialism and the Sexual Exploitation of Canada's First Nations Women" (Paper presented at the American Psychological Association 106th Annual Convention, San Francisco, 17 August 1998) <<http://www.prostitutionresearch.com/Lynne%20colonialism%20and%20the%20sexual%20exploitation%20of%20canada%27s%20first%20nations%20women.pdf>>; Native Women's Association of Canada, *Understanding NWAC's Position on Prostitution* (November 2012) <https://nwac.ca/wpcontent/uploads/2015/05/2012_NWACs_Position_on_Prostitution.pdf>; Native Women's Association of Canada, Press Release, "Women Are Not For Sale: The Abolition of Prostitution" (24 March 2014), <<https://www.nwac.ca/2014/03/women-are-not-for-sale-the-abolition-of-prostitution/>>; Cherry Smiley, "Real Change for Aboriginal Women Begins with the End of Prostitution", *Globe and Mail* (14 January 2015) <<https://beta.theglobeandmail.com/globe-debate/real-change-for-aboriginal-women-begins-with-the-end-of-prostitution/article22442349/>>.

Razack's space-based analytical and methodological framework for understanding prostitution to examine its interconnections with settler colonialism.¹² Using key historical and contemporary examples selected for their use of the law to actualize settler colonial control over indigenous peoples, this analysis demonstrates that prostitution has repeatedly served as an institutional mechanism of settler colonial domination, playing a fundamental role in the making of dominant white settler subjects and securing the hierarchal organizing of the material and lived conditions of society that they control and from which they benefit most. To do this, prostitution has been used, again and again, to dehumanize indigenous women and girls and to attempt to undermine and eliminate indigenous sovereignty and self-determination, with violence serving as an indispensable tool for protecting the ideological and material supremacy of white settlers and forcing compliance by indigenous peoples.

Prostitution, Space, and Violence: Razack's Analytic and Methodological Framework

The analysis developed in this article relies heavily on the analytic and methodological framework advanced by Razack in her 1998 article for this journal called "Race, Space, and Prostitution: The Making of the Bourgeois Subject." In it, Razack problematizes the dominant feminist conceptualizations of prostitution—as in the case of indigenous women, bifurcated between the political polar positions of work and violence—for their singular focus on gender relations.¹³ In the case of those who conceptualize prostitution as work, she contends that the operations of a universal female devoid of race or class help emphasize "sex work" as acts of agency and transgression in ways that not only contradict the lived experiences of many racialized and poor women but also obscure experiences of violence. "Middle-class respectability," Razack writes,

has depended on white women as guardians of morality who do not participate as social actors in the public sphere. Subversion, for women regulated by such discourses, can take the form of rejecting the role of moral guardian and inhabiting instead the position of the autonomous man—that is, the man who is able to participate in the public sphere and to pursue his own desires.¹⁴

From this perspective, sex work is understood as a "story of women's agency and resistance to patriarchy," with "[w]omen who engage in prostitution transgress[ing] the boundaries of their assigned gender role as the guardian of morality."¹⁵ However, women of colour and poor women, Razack contends,

12. Sherene H Razack, "Race, Space, and Prostitution: The Making of the Bourgeois Subject" (1998) 10:2 *Canadian Journal of Women and the Law* 338 [Razack, "Race, Space, and Prostitution"].

13. *Ibid* at 339.

14. *Ibid* at 346.

15. *Ibid* at 347.

are less likely to conceptualize subversion on these terms. The processes of sexualization and racialization that regulate these women presume them to be sexually available and aggressive as well as being participants in the public sphere of work. They struggle [instead] for the right to be seen as having moral virtue and for the right to have a private sphere.¹⁶

Moreover, “[r]acialized and poor women (each differently racialized), presumed to be sexually available outside of marriage (in discourses of slavery and colonialism, for instance), are already thought to inhabit the space of prostitution.”¹⁷ In this way, she argues, “[t]heir choice to inhabit what is already presumed of them cannot be read as transgressive but as conforming to the structures of patriarchy, capitalism, and imperialism.”¹⁸

Dominant feminist articulations surrounding sex work, Razack claims, also obscure violence through a capitalist understanding of the encounter/relationship/action involved in prostitution. From this position, transgression “by demanding money (a market transaction) for sex,” an activity deemed by dominant society to be “a private and unpaid activity,” results in “prostitutes encounter[ing] considerable violence—a situation that begins with the state’s regulation of morality through the criminalizing of prostitution.”¹⁹ This argument, she points out, requires two prior conceptual moves: “First, a man’s use of a woman’s body is considered to be about the expression of a bodily need and the pursuit of sexual pleasure,”²⁰ and, second, “it depends on the idea that selling one’s body to be used by another for sex is the same as selling one’s labour.”²¹ Razack argues that both make violence in prostitution “discursive (for example, the depiction of prostitutes as racially and sexually degenerate as being violence ...) or originat[ing] in law” and “*not* com[ing] from the men who are customers or from the pimps, and it is not endemic to the act of prostitution.”²² Furthermore, she suggests that the “contract” involved in buying sex “reduces our vision to the two parties who engage in it and inhibits our asking about what else the contract has made possible (besides an exchange) and what has made it possible.”²³ The contract is also dominantly accepted as “consent,” making the violence inflicted on women’s bodies in prostitution perceived as permissible.²⁴

For these reasons, Razack argues against “subversion—a refusal of the hegemonic discourses that regulate us differently as women and a deliberate taking up of

16. *Ibid* at 346.

17. *Ibid* at 348.

18. *Ibid*.

19. *Ibid* at 347.

20. *Ibid*.

21. *Ibid*.

22. *Ibid* at 347–48 [emphasis added].

23. *Ibid* at 350.

24. *Ibid*.

prohibited positions—[as] the basis of our politics unless we have worked out how various women are regulated differently and how hegemonic discourses combine to secure the dominance of white, male, and middle-class elites.”²⁵ “We cannot disturb the structures of dominance,” she writes

in a piecemeal fashion: in the case of white women, by refusing to be the good girls (inhabiting the bad girl space or declaring that bad girls don’t exist) and, in the case of racialized and poor women, by trying to climb out of the bad girl space into respectability. Either strategy, and they can look the same in practice, keeps in place the good girl/bad girl dichotomy and renders invisible the specificity of the women whose bodies are used in prostitution. More importantly, neither subversion disturbs the making of the bourgeois subject.²⁶

While Razack aligns herself with feminists who conceptualize prostitution as violence, she also critiques their dominant paradigms for rooting this violence in gender relations where, if race and class appear at all, they “are analyzed as making an original situation worse; prostitution is thus conceptualized as an *effect* of sexual power relations, which is exacerbated by racism.”²⁷ This monocausal explanation, Razack contends, continues to rely on a universal womanhood that hinders our ability to understand how women are differently situated in the social world due to dominant systems of oppression like racism, colonialism, and class.

Razack’s alternative understanding of prostitution extends from the position that dominant interlocking systems of oppression including patriarchy, white supremacy, and capitalism operate in and through one another to establish a global elite.²⁸ She stresses that “anti-subordination”—“the pursuit of strategies to end women’s oppression”—should be the focus of our social justice efforts, and this demands examining and addressing the manifestations of these interlocking dominant systems of oppression.²⁹ As Razack explains,

[t]o pursue the goal of anti-subordination, we need to understand the multiple systems that prostitution upholds as well as how these multiple systems produce and sustain prostitution. When we understand prostitution only in terms of what men do to women, with race and class as complications, we fail to consider hierarchical relations among women and how the system of prostitution may benefit women who are not prostitutes. In so doing, we miscalculate what it takes to end prostitution or even what it takes to secure less oppressive conditions for prostitutes.³⁰

25. *Ibid* at 346.

26. *Ibid* at 346–47.

27. *Ibid* at 354.

28. *Ibid* at 339.

29. *Ibid* at 340.

30. *Ibid*.

To expose the operations of these dominant systems of oppression through prostitution, Razack proposes a spatial methodology, “one that draws on a relational analysis of bodies and spaces: how social relations constitute the bodies and spaces of prostitution and how those bodies and spaces constitute hegemonic male subjects.”³¹ Moreover, as Razack explains, “a spatial analysis of prostitution deepens our understanding of [how] the ... securing of a dominant masculinity is also the securing of white middle-class elites.”³² This methodology extends from the argument that “actual spaces express relations of domination—relations mapped as degrees of belonging to the nation state.”³³ In other words, “there is a spatial ordering of how much we can care ... [w]e care less about the bodies in degenerate spaces and often define out of existence the violence enacted on those bodies.”³⁴

Prostitution and the creation and elimination of spaces of prostitution, Razack argues, has played a fundamental role in establishing the dominance of white, male, middle-class subjects since the Victorian era. Drawing on the work of French theorist Michel Foucault, Razack contends that this new elite subject developed an identity premised on demarcating himself from those perceived as degenerate and inferior: women, the working-class, racialized others.³⁵ However, with “[t]he boundaries between the respectable and the degenerate ... not so easily maintained,” dominant subjects and systems of oppression have focused on disciplining “individual bodies” and protecting “[b]ourgeois bodies, the home, the class, and, ultimately, the nation ... from the contamination of the lower orders.”³⁶ In addition to demanding self-control, self-discipline, and the order of dominant subjects, this arrangement has required that dominant social spaces “be cleansed of [imagined] degeneracy, abnormalcy, and excess,” believed to “weaken the vigorous bourgeois body and state.”³⁷ Achieved through spatial segregation of bodies marked as degenerate in spaces marked as degenerate, the permeability of these boundaries, often in close proximity, has required constant effort by dominant subjects to be maintained.³⁸

Spatial segregation, however, did not eliminate contact between dominant subjects and degenerate bodies; instead, “it resulted in [t]ransgression—the controlled excursion into the periphery.”³⁹ As Razack explains,

It was not enough to seal off the disorder and disease. It was also necessary to repeatedly affirm that bourgeois subjects could journey into those regions

31. *Ibid* at 340–41.

32. *Ibid* at 341.

33. *Ibid* at 358.

34. *Ibid*.

35. *Ibid* at 360.

36. *Ibid*.

37. *Ibid* at 360–61.

38. *Ibid* at 361.

39. *Ibid* at 362.

and emerge unscathed in order for those subjects to deny the permeability of their body politic and to position themselves as invincible.

In this way, Razack argues that prostitution “is the violence that enables dominant subjects to allay their fears about the true nature of their relationship with subordinate others.”⁴⁰ “In prostitution,” she writes, “bourgeois men actually encountered the subjects of their gaze and what was normally enacted on the pages of their studies, namely, the pathologizing, relentless categorizing, and controlling of degenerate bodies, found physical expression.”⁴¹ Through transgression into spaces of prostitution, this elite “entered a space in which they had license to abandon the rules and regulations of bourgeois life, if only, paradoxically, to affirm them.”⁴² “Their temporary abandonment of societal norms,” Razack explains, “does not weaken these men’s claims of respectability but, rather, puts the mark of degeneracy on ... [the bodies and spaces of prostitution] and thus reaffirms the men’s position within the dominant group.”⁴³ Given what is at stake here, violence has played a fundamental role in this process, existing not only discursively (that is, depictions of the inferiority of prostitutes) but also materially, with “[t]he fear of disorder” and the “ambivalence and anxiety associated with boundary loss” enacted on the bodies of prostitution.⁴⁴ Thus, through transgression, violence became not only “necessary to the process of objectification” but also “necessary to convince bourgeois males of their own [superior] identities.”⁴⁵

As a result of the interlocking nature of dominant systems of oppression, Razack contends that prostitution has been indispensable not only in securing a dominant white, male, middle-class elite but also in regulating and securing a hierarchy among women and within racialized groups. For example, patriarchal domination and respectability within white middle-class homes, she notes, relies on establishing the superiority of male-dominated spaces through the juxtaposition against degenerate spaces, and the spaces and bodies of prostitution have been especially useful here.⁴⁶ However, this juxtaposition also enables the location of “purity and respectability in the bodies of middle-class women who, as madonnas and agents of salvation, could keep the home pure while their counterparts in the slums could take up the slack.”⁴⁷ Feminine respectability and a woman’s status, as such, came to depend

40. *Ibid* at 359.

41. *Ibid* at 364.

42. *Ibid*.

43. *Ibid* at 357.

44. *Ibid* at 364.

45. *Ibid* at 359.

46. *Ibid* at 361.

47. *Ibid* at 363.

on proving that one was not a prostitute.⁴⁸ Yet, according to Razack, the ability of racialized and poor women to establish themselves as not being prostitutes is a virtual impossibility. Presumed to be sexually available outside of marriage in dominant society, these women are already thought to inhabit the space of prostitution, and, for this reason, “[r]acialized bodies can seldom leave the space of prostitution in the white imagination; it is a space worn on the body.”⁴⁹ This division amongst women (white, middle-class and racialized/poor women), she makes clear, is “not only symbolic but real”: “Women in prostitution are integrally connected to women who are not engaged in prostitution, but not in the sense that as women we all suffer sexual violence. We are connected because the violence directed at some of us enables others to live lives of lesser violence.”⁵⁰ Similarly, the interlocking nature of dominant systems of oppression, Razack contends, also ensures that patriarchal and class-based hierarchies can be established within racialized groups through prostitution. Racialized men, she notes, can “secure a little bourgeois prestige when they pay prostitutes for sex”: “They can, through this act, ‘white’ themselves” by enacting dominant hegemonic masculinity.⁵¹ Consequently, Razack concludes, “[p]rostitution is ... always about racial, class, and male dominance, and it is always violent.”⁵²

By tracing the connections between what the white imagination constructs as respectable and degenerate bodies and spaces, Razack’s analytic and methodological framework exposes the fundamental role that prostitution plays in securing dominant interlocking systems of oppression as well as its operation as a form of violence. In the following section, I apply the elements of Razack’s framework to the colonial context of Canada to trace the ways in which settler colonial domination has worked, and continues to work, in collusion with prostitution to undermine indigenous sovereignty and self-determination through the specific and violent targeting of indigenous women and girls.

Pimp Nation: Indigenous Women, Prostitution, and the Making of Settler Colonial Canada

Razack’s conceptual and methodological framework organized around space offers a powerful strategy for examining the deadly intersections between settler colonialism, indigenous women, prostitution, and violence in Canada. It lends itself readily to the colonial context in Canada since settler colonialism is inherently about space; the theft and occupation of indigenous lands and the attendant displacement and elimination of

48. *Ibid* at 366.

49. *Ibid* at 356.

50. *Ibid* at 363, 359–60.

51. *Ibid* at 371.

52. *Ibid* at 360.

indigenous people from these lands is the cornerstone of settler colonial domination. Moreover, with its attention to dominant systems of oppression, Razack's framework is aligned with how indigenous women have theorized prostitution, whether in terms of sex work or violence, as connected to colonialism, racism, and sexism. In this section, I use this framework to excavate and illuminate the relations between race, space, and prostitution in existing scholarly and mainstream accounts of key events in Canada's settler colonial history: (1) early settlement in British Columbia; (2) the *Indian Act*;⁵³ and (3) the Pass System. Alongside these more historical examples, this section will also offer an analysis of a more contemporary example: (4) Vancouver's Missing Women. My goal here is to not only demonstrate the continuing validity of Razack's framework but also to further establish an ongoing pattern connecting prostitution with the dominant systems of oppression and violence in settler colonial Canadian society.

The Wild West: Prostitution and Early Colonial Settlement in British Columbia

Historian Adele Perry's study of the interplay of race and gender during the early years of colonial settlement in British Columbia offers a starting point for this spatial interrogation of the interconnectedness of prostitution and colonial domination.⁵⁴ Morality, according to Perry, fundamentally structured discourses, relationships, and actions in white settler society in mid-nineteenth-century British Columbia. Spatially isolated from Britain (the empire's core), British Columbia was perceived within the white settler colonial imagination as "hover[ing] dangerously at the precipice of Victorian social norms and ideals."⁵⁵ The immediate proximity of Indigenous and other non-white peoples to these white settlements, Perry contends, ensured that race was a focal point for white settler colonial morality and moral regulation. Driven by a sense of white racial fragility and fear inflamed by being drastically outnumbered by indigenous peoples in their newly claimed/stolen spaces, Perry demonstrates that white settlers (both men and women) crafted and enacted discourses and strategies based in morality to firmly establish and "police" the boundaries of whiteness in the colony. This was achieved by establishing and treating Indigenous and racialized bodies as morally ambiguous and dangerous to the respectability and moral superiority of dominant white settlers and their societies in British Columbia. At the same time, this morality-based strategy was explicitly gendered, intended to replicate white settler patriarchy in the colony.⁵⁶

53. RSC 1985, c I-5 [*Indian Act*].

54. Adele Perry, *On the Edge of Empire: Gender, Race, and the Making of British Columbia, 1849–1871* (Toronto: University of Toronto Press, 2001).

55. *Ibid.* at 3.

56. *Ibid.*

Perry's work suggests that prostitution played a critical role in establishing the perceived inherent moral inferiority of indigenous women and femininity and, thus, their diminished and marginal social standing within the white settler colonial order. Within the patriarchal structures imposed on these settler colonial spaces, prostitution, Perry claims, was a highly effectual means for defining respectable and unrespectable femininity in British Columbia and readily coalesced with racist white settler colonial perceptions that Indigenous women were hypersexual and, consequently, inherently sexual available.⁵⁷ These dominant perceptions were justified, according to Perry, by white settler claims that indigenous societies, especially along the North Coast, did not promote "chastity."⁵⁸ While establishing the moral supremacy of white settler society, the conflation of indigenous women with prostitution involved explicitly gendered racial dimensions in that it positioned indigenous femininity as the "grotesque" against which the ideals of Western white femininity could be confirmed as superior.⁵⁹

This ideological and discursive violence of conflating indigenous femininity with prostitution carried significant consequences for indigenous women and their nations/communities. This conflation, Perry argues, ensured that "[t]he sex trade was associated with First Nations gift-giving ceremonies, seasonal migration, social organization, and gender norms."⁶⁰ Armed with this ideology and discourses of deviant and destructive indigenous femininity, white settler moral reformers targeted indigenous populations for colonial intervention, including encouraging colonial governments to pass laws to regulate indigenous women. For example, Perry contends that the conflation of indigenous femininity with prostitution was so strong in this contested colonial space of British Columbia that mixed-race relationships involving white men and indigenous women were constructed in colonial discourses as prostitution.⁶¹ Such "relationships were constructed as especially dangerous for white men, whose appropriate behaviour and identity would guarantee an orderly settler colony."⁶² "White men who married First Nations women," Perry writes, were "seen as dangerously flirting with relinquishing their place among the responsible gender and, more profoundly, the civilized race," and, thus, they were in danger of being "deracinated" or ejected from the white race through racialization.⁶³ Indeed, some "[w]hite men who engaged in mixed-race relationships ceased to be white and became nearly and sometimes entirely Aboriginal."⁶⁴

57. *Ibid* at 54.

58. *Ibid* at 52.

59. *Ibid* at 51.

60. *Ibid* at 54.

61. *Ibid* at 66.

62. *Ibid* at 69.

63. *Ibid* at 70.

64. *Ibid* at 71.

As Perry suggests, “white men who cleaved themselves too closely to Aboriginal women” were perceived as “violat[ing] white notions of racial distance and superiority.”⁶⁵ In other words, mixed-race relationships, in Razack’s terminology, violated the temporariness of the transgression into deviance (that was required to establish white settler male dominance) by making it apparently permanent. Some white settler moral reformers, Perry contends, deemed “mixed-race relationships as fundamentally unredeemable and aimed to discourage them or, more radically, racially segregate urban space.”⁶⁶ Other settler moral reformers “worked to assimilate white-Aboriginal relationships to European sexual and social norms”⁶⁷ and turned to the law to “render mixed-raced relationships compatible with European values of Christianity, monogamy, and legality” through the imposition of Western heteropatriarchal marriage laws.⁶⁸ While Perry notes that colonial governments experienced significant challenges in imposing these laws on mixed-race relationships,⁶⁹ they nonetheless represented an attempt at undermining indigenous sovereignty by imposing colonial laws on indigenous women. At the same time, these laws were directed at protecting the superiority of white masculinity and, by extension, white settler spaces by making mixed-race relationships morally respectable through the imposition of heteropatriarchal marriage and, thus, returning these permanently “transgressed” white men to the settler colonial order. These legal efforts, as such, represented an attempt to reinforce the boundaries between superior white settler bodies and spaces and inferior indigenous bodies against the racial murkiness posed by mixed-race relationships. And all of this was made possible through racist, gendered ideologies and discourses conflating indigenous femininity with prostitution.

Legislated Domination: Prostitution and the Indian Act

The *Indian Act* presents another example of how colonial domination over indigenous bodies and lands has been secured through prostitution. Enacted in 1876 and in place to this day, the *Indian Act* regulates almost every aspect of indigenous life in Canada, including not only (and not surprisingly) indigenous land access and use but also determines indigenous identity, giving the Government of Canada authority to decide who is considered to be a legal “Indian” and, therefore, who possesses legal claim to treaty rights and obligations that must be honoured by the Canadian state.⁷⁰ The *Indian Act* represents a significant legislation of settler colonial domination

65. *Ibid.*

66. *Ibid* at 97.

67. *Ibid.*

68. *Ibid* at 98; see also 98–102.

69. *Ibid* at 98.

70. *Indian Act*, *supra* note 53.

through attempting, and, in many cases (but not all), succeeding, in undermining and dismantling indigenous sovereignty and self-determination and securing Canadian governmental access and control over indigenous lands—both in terms of the land white settlers have occupied and the land that was allotted to Indians.

Prostitution has played a central role in some of the key provisions of the *Indian Act*. For example, it served as the justification for increased criminalization of indigenous women only, first through the *Indian Act* and then through Canada's *Criminal Code*.⁷¹ "Just as the Indian Act rendered alcohol consumption a crime only if the accused was Aboriginal," writes historian Lesley Erickson, "it also designated prostitution-related offences involving Aboriginal men and women as a special category of crime."⁷² Amendments made to the *Indian Act* in the 1880s first prohibited white settlers from allowing "Indian women or prostitutes" on their property or within their domiciles and then criminalized Indian people for keeping, frequenting, or being found in a "disorderly" dwelling where prostitution was taking place.⁷³ While these provisions targeted both white and indigenous groups, Erickson notes that the prosecution of white men carried the additional legal requirement of establishing their behaviour as habitual and an established pattern, thus making it easier to criminalize, punish, and regulate indigenous peoples for similar acts involving prostitution.⁷⁴

This settler colonial legal hierarchy was further reinforced through Canada's first *Criminal Code* in 1892,⁷⁵ which established indigenous engagement in prostitution as "an offense against morality" and an indictable offence, while simultaneously treating the same behaviour by white settlers as a summary offence that fell under the rubric of "common nuisances."⁷⁶ As historian Sarah Carter notes, this legislation made it easier to convict indigenous women on prostitution charges than other women in Canada.⁷⁷ Such laws, Erickson contends, "reflected fears about miscegenation and a desire to preserve racial boundaries. The legislation also reinforced stereotypes of Aboriginal women as dangerous and dissolute and did much to link

71. See e.g. Lesley Erickson, *Westward Bound: Sex, Violence, the Law, and the Making of a Settler Society* (Vancouver: UBC Press, 2011); Sarah Carter, *Capturing Women: the Manipulation of Cultural Imagery in Canada's Prairie West* (Montreal & Kingston: McGill-Queen's University Press, 1997) [Carter, *Capturing Women*]; Sarah Carter, "Categories and Terrains of Exclusion: Constructing the 'Indian Woman' in the Early Settlement Era in Western Canada" in Mary-Ellen Kelm & Lorna Townsend, eds, *In the Days of Our Grandmothers: A Reader in Aboriginal Women's History in Canada* (Toronto: University of Toronto Press, 2006) 146 [Carter, "Categories and Terrains of Exclusion"]; *Criminal Code*, RSC 1985, c C-46.

72. Erickson, *supra* note 71 at 62.

73. *Ibid.*

74. *Ibid* at 62–63.

75. *Criminal Code*, SC 1892, c 29, as amended by *Criminal Code* 1985, *supra* note 71.

76. Erickson, *supra* note 71 at 62–63.

77. Carter, *Capturing Women*, *supra* note 71 at 15.

prostitution and Aboriginal women in the minds of white settlers.”⁷⁸ Significantly, Erickson’s analysis of Prairie law during the late 1880s and early 1900s shows that the conflation of indigenous femininity with prostitution was not only used by perpetrators to their legal advantage but also by colonial courts to dismiss violence perpetrated against indigenous women and girls.⁷⁹ Indeed, as Erickson writes,

[t]he diverse records consulted here suggest that the confluence of various trends—particularly the lenient treatment of Aboriginal men found guilty of committing serious acts of violence and the criminalization of Aboriginal women through prostitution, liquor, and trespassing laws—helped to create the conditions by which Aboriginal women’s complaints of physical and sexual violence fell, and continue to fall, on deaf ears.⁸⁰

A spatial analysis of this example exposes some important considerations about the connection between colonialism, prostitution, and violence. As a colonial entity dependent on occupying stolen indigenous lands for its very existence, Canada logically organized its regulation of prostitution involving indigenous females in spatial terms. The *Indian Act* amendments, as the first quoted passage from Erickson above makes clear, attempted to regulate prostitution through targeting space—“keeping Indian women and prostitutes” out of white settler spaces and preventing Indian peoples from engaging in prostitution or operating spaces of prostitution in their spaces. Again, these legal provisions provided for the extension of settler colonial laws (regulation and control) over Indian bodies and spaces, thus undermining indigenous sovereignty and self-determination. At the same time, they contributed to securing white settler social dominance and virtually unfettered access to indigenous lands.

Indeed, the primacy of securing colonial white heteropatriarchy is reflected, as Erickson’s passage demonstrates, in that the first amendments regulating indigenous females and prostitution were actually directed at white settlers and ensuring their compliance with preserving the “purity” of white spaces. It is also worth noting that while these laws regulate the activities and movements of Indian women/peoples, there is no such comparable regulation of the movements of white settlers or prohibitions on being in Indian spaces. And all of this, once again, depends on the equivocation of Indian women and prostitution. Enhanced criminalization through these provisions not only confirms Indian women as being inherently prostitutes but also establishes the severity of their deviance and, thus, the threat they pose to white settler society. This ideology, in turn, justifies colonial Canadian state legal control over Indian bodies and spaces. It also sets up the transgression whereby white settler johns can journey freely into Indian spaces and use the bodies of Indian

78. Erickson, *supra* note 71 at 63.

79. *Ibid* at 45.

80. *Ibid* at 77.

women in prostitution to reaffirm their dominance, all the while punishing Indian women through the law for playing their essential role in this process. Worst of all, as Erickson's work shows, this ideology provides justification for the exoneration of perpetrators of violence against indigenous women, thus excusing, erasing, and normalizing this violence in settler colonial Canadian society.

Another important colonial targeting of indigenous women and, by extension, indigenous nations and lands through prostitution in the *Indian Act* is represented by the potlatch ban. The potlatch, as historians Olive Dickason (Métis) and William Newbigging explain, are ceremonial feasts held predominantly by indigenous nations on the west coast of Turtle Island (the term many indigenous groups use to refer to the lands occupied by the Canadian nation-state), which involve alliance building, knowledge sharing, and the redistribution of wealth, both within and across nations.⁸¹ In April 1884, the Canadian government of Sir John A. McDonald amended the *Indian Act*, making participation in a potlatch a misdemeanour offence punishable by imprisonment for two to six months.⁸² According to historian Arthur J. Ray, this ban was made possible, in part, through prostitution.⁸³ He argues that the arrangement of marriages during potlatch were, through the *Indian Act*, equated with prostitution.⁸⁴ "West coast families," he writes, "arranged the marriages of their children because inheritance determined a person's titles and privileges and those of his or her relatives"; however, these "traditional marriage customs gave the impression that young girls were being 'sold' for the goods exchanged when the marriage pledges were made and the unions celebrated."⁸⁵ Moreover, Ray claims that "some Native women engaged in prostitution to raise money to pay for family-sponsored potlatches," and, as such, Indian agents and missionaries cited prostitution as an example of its evils and called for its abolition.⁸⁶

Representing an important act of indigenous sovereignty and self-determination, the elimination of the potlatch was critical to extending settler colonial Canadian state control over indigenous bodies and spaces. The potlatch, as legal scholar D. Bruce Johnsen notes, provided a key opportunity for indigenous nations to "enforce exclusive tribal property rights to identified territories and their natural resources,"⁸⁷ making its suppression integral to protecting the Canadian state's access to both. The

81. Olive Patricia Dickason & William Newbigging, *A Concise History of Canada's First Nations*, 2nd ed (Toronto: Oxford University Press, 2010) at 349.

82. Arthur J Ray, *I Have Lived Here since the World Began: An Illustrated History of Canada's Native People* (Toronto: Key Porter Books, 2010) at 226.

83. *Ibid* at 224–26.

84. *Ibid* at 224.

85. *Ibid*.

86. *Ibid* at 224–26.

87. D Bruce Johnsen, "The Potlatch as Fractional Reserve Banking" in Terry L Anderson, ed, *Unlocking the Wealth of Indian Nations* (forthcoming) 4 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2736543>.

potential effects of the ban also included undermining indigenous wealth,⁸⁸ patterns of kinship, alliance making, inheritance,⁸⁹ and the transmission of cultural practices and knowledge.⁹⁰ Painting the ban in moral terms not only reinforced the equivocation between indigenous femininity and prostitution (thus reaffirming their inherent deviance of indigenous women and, by extension, that of all indigenous peoples) but also secured the supremacy of white settlers by positioning this legal intervention as a “humanitarian” effort intended to protect indigenous women and girls from abuse.⁹¹ Yet the extension of this protection was confined to indigenous bodies and spaces, leaving white settlers (white settler men) unfettered access to indigenous women’s bodies, thus preserving their ability to reassert their dominance.

The Pass System

The Pass System presents another example of the spatial organization of colonial domination enabled through prostitution. Implemented in 1885 by the Government of Canada, the Pass System attempted to control the movement of “Indian” people from the “Indian” spaces of the reserve by requiring they seek permission from their governmentally appointed Indian agent in order to leave their reserve—a requirement that remained in place until the 1940s.⁹² While rooted in the desire to suppress indigenous resistance following the Métis and indigenous “North West rebellion” of 1885,⁹³ historian Sarah Carter argues that the Pass System was also rationalized, in part, through prostitution: “A central rationale for the pass system,” she writes, “was to keep away from towns and villages Aboriginal women ‘of abandoned character who were there for the worst purposes’ [prostitution].”⁹⁴ As with the other examples presented in this article, the dominant colonial discourse, Carter contends, portrayed all indigenous women as “immoral” and “corrupting” influences who were readily coded within these discourses as prostitutes.⁹⁵ As Carter explains, “Aboriginal women were seen as particular threats to morality and health,”⁹⁶ and, as such, “could be restricted through [this] new disciplinary regime” enacted through the Pass System.⁹⁷

88. *Ibid* at 4–5.

89. JR Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, 3rd ed (Toronto: University of Toronto Press, 2000) at 263.

90. *Ibid*.

91. *Ibid*.

92. Dickason & Newbigging, *supra* note 81 at 348.

93. *Ibid*.

94. Carter, “Categories and Terrains of Exclusion”, *supra* note 71 at 158.

95. *Ibid*.

96. *Ibid*.

97. *Ibid* at 159.

Here too, Razack's spatial analysis elucidates the complicity of prostitution with dominant colonial systems of oppression. At its core, the Pass System was designed to regulate the movement of Indian bodies and contain these bodies to their appropriate Indian spaces—and, consequently, out of settler colonial spaces. It infringed on indigenous sovereignty and self-determination not only by imposing settler colonial governmental control over Indian peoples on what the government had legally deemed their (“Indian”) land but also by attempting to permanently disrupt Indian use of non-Indian/settler colonial land. Through discourses of prostitution, the settler colonial Canadian state established indigenous women as inherently deviant and, by extension, the “Indian” spaces they occupied as well. Through this construction of indigenous femininity and spaces, the settler colonial Canadian state not only justified the regulation of indigenous movement but also further established the moral superiority of non-indigenous/settler colonial spaces and, therefore, the need to protect these spaces from the inferior and immoral contamination posed by indigenous peoples, especially indigenous women. At the same time, this provision, yet again, protects the conditions of transgression by leaving white settler uses of Indian women's bodies in prostitution unacknowledged and, thus, unrestricted.

*That Lonely Section of Hell: Vancouver's Missing Women*⁹⁸

How could sixty-eight women go missing and/or be murdered from a single community in the heart of one of the nation's largest and most prosperous Canadian cities before their disappearances and deaths were considered worthy of a formal response by the Canadian state?⁹⁹ This is what happened. In the late 1970s, women began disappearing from Vancouver's Downtown Eastside, a neighborhood that, as the name of its annual festival suggests, is the “heart of the city.”¹⁰⁰ Located immediately next to the economic and tourist downtown core of the city, the Downtown Eastside includes an unusual collection of neighborhoods with seemingly disparate connectivity. In addition to including the trendy and heavily gentrified tourist hub of Gastown, it also includes the city's historic Chinatown, the war memorial-centred space of Victory Square, an industrial district, the three historically working-class neighborhoods of Oppenheimer, Strathcona, and Thornton Park, and Vancouver's Skid Row.

98. I borrow the phrase “That Lonely Section of Hell,” from the title of the book authored by the first “missing women” Vancouver Police Department investigator, Lorimer Shenher. See Shenher, *supra* note 2.

99. City of Vancouver, *Downtown Eastside: Local Area Profile* (2013) at 2 <<http://vancouver.ca/files/cov/profile-dtes-local-area-2013.pdf>>.

100. See Heart of the City Festival <<http://www.heartofthecityfestival.com/>>.

Recognizing a clear and apparently intensifying pattern of predatory violence targeting women from the Downtown Eastside, indigenous women and community organizations began holding annual Valentine's Day memorials in 1991. In a mix of indigenous ceremonial practice and direct non-violent political action, these memorials occupied the streets of the Downtown Eastside to remember missing and murdered women from the community and, in front of the headquarters of the Vancouver Police Department, to demand immediate action to address this violence. It was not until 1998 that the Canadian state launched an official investigation that ultimately resulted in the arrest of serial murderer Robert Pickton, a white pig farmer. Picton was convicted of second-degree murder in six of these cases but has been linked through DNA to at least twenty-one more cases and is suspected in many more.¹⁰¹ Representing a responsiveness rate (or, perhaps more accurately, an unresponsiveness rate) of nearly two decades from the first case, this inaction cost sixty-eight women their lives.

How could this come to be? To answer this complex question, Razack's spatialized framework offers a way to understand how prostitution and dominant systems of oppression contributed. To demonstrate the usefulness of this framework, I offer a reading of the pre-eminent state account that addresses both the violence and the official response to it—the final report of Government of British Columbia's Missing Women Commission of Inquiry (MWCI). As a document authorized, mandated, and produced with the participation of the Canadian state (in this case, represented primarily by the provincial government of British Columbia, the Royal Canadian Mounted Police, and the Vancouver Police Department), this report represents a critical opportunity for "insider" access to information pertaining to the actions of the Canadian state as well as the ideological infrastructure that underpins these actions. Strategically, it also provides an opportunity to demonstrate how, "in their own words," dominant systems of oppression and violence can operate within the Canadian state. In addition to demonstrating the veracity of Razack's framework, the discussion that follows exposes how the Canadian state continues to perpetuate the same pattern of settler colonial domination and violence that, for centuries, has secured its ongoing and unfettered access to indigenous lands and control over indigenous bodies through prostitution.

The MWCI was established through an Order in Council issued by the lieutenant governor in council for the province of British Columbia on 27 September 2010. It was mandated to "inquire into and make findings of fact" with respect to police investigations conducted between 23 January 1997 (the date on which the First Nations Summit, an indigenous governing body representing the interests of the First Nations in British Columbia, first provided the Vancouver Police Department

101. Lori Culbert, "Pickton Murders: Explosive Evidence the Jury Never Heard", *Vancouver Sun* (8 May 2010) <<http://www.vancouver.sun.com/news/Pickton+murders+Explosive+evidence+jury+never+heard/3360225/story.html>>.

with a list of missing women), 5 February 2002, which was the date of the arrest of Robert Pickton, as well as 27 January 1998, when the decision of the Criminal Justice Branch of the province of British Columbia was issued entering a stay of proceedings on numerous charges against Pickton in relation to the attempted murder of a woman the previous year.¹⁰² The MWCI, which was headed by former attorney general for the province, Wally Oppal, was also tasked with making “recommended changes considered necessary” with regard to (1) initiating and conducting investigations of missing women and suspected multiple homicides in British Columbia and (2) homicide investigations in British Columbia involving more than one investigative organization, including the coordination of such investigations.¹⁰³

Alongside the formal evidentiary hearings conducted in a downtown Vancouver courtroom between 11 October 2011 and 6 June 2012, the inquiry process included pre-hearing conferences held in both Vancouver and the northern BC city of Prince George to seek public input on the inquiry process as well as community forums in several northern BC communities (including Prince George) along the “Highway of Tears” (Yellowhead Highway 16), where similar patterns of predatory violence perpetrated predominantly against indigenous women and girls occurred during the same time frame as the missing women from the Downtown Eastside in September 2011. According to the MWCI, the purpose of these “community forums” was to “give members of the communities an opportunity to provide input to the Commission on issues within its mandate.”¹⁰⁴ After hearing from witnesses including families and friends of the missing women, frontline service providers in the Downtown Eastside, and representatives of the Canadian state, and conducting a study of existing knowledge related to the violence experienced by the missing women, a final report was developed and delivered to the public on 17 December 2012.

The primary overall title for the final report is “Forsaken,” and, in terms of Razack’s spatial framework, this word choice has some significant implications. As an adjective, forsaken refers to being deserted or abandoned, but it is also composed of the verb “forsake,” meaning “to quit or leave entirely; abandon; desert.”¹⁰⁵ The etymology of the word suggests its origins in Middle English (circa 1100–1500) where it was used to mean denial and rejection.¹⁰⁶ What is interesting about these

102. See Missing Women Commission of Inquiry (MWCI), “Terms of Reference” s 4(a) <<http://www.missingwomeninquiry.ca/terms-of-reference/>> [MWCI, “Terms of Reference”].

103. *Ibid.*

104. MWCI, Media Release, “Dates and Venues Announced for Missing Women Commission of Inquiry Community Forums in Northern B.C.” (25 August 2011) <<http://www.missingwomeninquiry.ca/media-releases/page/3/>>.

105. See *Dictionary.com Unabridged* (based on the *Random House Unabridged Dictionary*) (2018), *sub verbo* “foreskaen” <<http://www.dictionary.com/browse/forsaken?s=t>>.

106. *Ibid.*

simple definitions is their implications in terms of unnamed subjects and objects. In other words, the definitions suggest that some subject or group of subjects “turns their back on”—rejects, denies, and abandons—another group and/or object. This discursive ambiguity is significant because not only does it effectively elide the actions of those doing the abandoning, rejecting, and denying, but it also blurs the distinction between people and things, both of which can be forsaken. Its discursive and ideological spatial implications are equally important; its meaning is structured around a symbolic and/or material space of alterity that comes into meaning through the act of abandonment—by someone (or groups of someones) opting to deny, reject, and leave behind that space occupied by those forsaken. In other words, as Razack’s framework suggests, those who forsake are responsible for the creation of those forsaken and the spaces they occupy.

This choice of title represented the core argument underpinning the MWCI’s final report; the missing women were “forsaken twice: once by society at large and then again by the police.”¹⁰⁷ “The pattern of predatory violence,” the report claims “was clear and should have been met with a swift and severe response by accountable and professional institutions, but it was not.”¹⁰⁸ In other words, the Canadian state failed to respond adequately or appropriately to address this violence, a fact that was readily apparent to many. At the same time, the MWCI stresses the importance of “recogniz[ing] the role that our collective complacency, of public and political indifference played in contributing to the abandonment of this group of women.”¹⁰⁹ As the report makes clear, addressing both factors is critical to unpacking our “collective responsibility” and developing meaningful strategies directed at the “eradication of ... indifference” and renewing our “commitment to meeting the needs of the vulnerable and marginalized members of our community.”¹¹⁰

As suggested by Razack’s framework, the MWCI identified the deadly combination of the space of the Downtown Eastside, prostitution, and dominant systems of oppression as playing a fundamental role in our collective forsaking of the missing women. The lives and deaths of the women, the report notes, were spatially defined by the Downtown Eastside, as a space “often depicted as a place of chaos and criminality” and “typifie[d]” in “a few areas” by “[a]n open drug market and street-level sex trade.”¹¹¹ The report also establishes that the Downtown Eastside operates as a “collection zone” for people marginalized and excluded through the simultaneous operation of dominant systems of oppression, including colonialism, racism, class

107. MWCI, *Forsaken: The Report of the Missing Women Commission of Inquiry*, by Wally T Oppal, vol 1 (Vancouver: Government of British Columbia, 19 November 2012) at 4 <<http://www.missingwomeninquiry.ca/wpcontent/uploads/2010/10/Forsaken-Vol-1-web-RGB.pdf>> [MWCI, *Forsaken*, vol 1].

108. *Ibid.*

109. *Ibid* at 5.

110. *Ibid* at 6.

111. *Ibid* at 79.

exploitation, and ablesism related predominantly to mental health and addictions.¹¹² Existing research supports these claims; for many people in Canada, the Downtown Eastside represents a space of overwhelming degeneracy and deviance. It is a space known for abject poverty, often denoted by the catch phrase “Canada’s poorest postal code.”¹¹³

With a population of around 18,500,¹¹⁴ the Downtown Eastside has a median income of around \$13,700 (compared to almost \$50,000 for the city of Vancouver),¹¹⁵ and more than 50 percent of its residents live below the low income cut-off, which is the standard measure of poverty in Canada.¹¹⁶ Almost 1,900 (or 10 percent) of these residents were counted as “homeless” in 2016.¹¹⁷ Given this extreme poverty, it is also no surprise that the Downtown Eastside also exists as a space of crime, prostitution, drug addiction, and violence within Canada’s mainstream white settler colonial imagination, as demonstrated by the many scholarly analyses of mainstream media coverage of the Missing Women cases.¹¹⁸ The Downtown Eastside is also dominantly understood as a racialized space, playing home to Vancouver’s Chinatown as well as Canada’s “largest urban reserve.”¹¹⁹ Indeed, one-seventh of the population of the Downtown Eastside is indigenous, seven times higher than their representation within the population of Vancouver as whole¹²⁰ and almost double their representation in the Canadian population (around 4 percent). Finally, given the disproportionate number of men living in the community, the Downtown Eastside has long been understood as an explicitly masculine space.¹²¹ As a symbolically and materially liminal societal space predominantly defined through dominant systems of oppression

112. *Ibid* at 80.

113. Chad Skelton, “Is Vancouver’s Downtown Eastside Really ‘Canada’s Poorest Postal Code?’”, *Vancouver Sun* (10 February 2010) <<http://vancouver.sun.com/news/staff-blogs/is-vancouver-downtown-eastside-really-canadas-poorest-postal-code>>.

114. City of Vancouver, *supra* note 99 at 6.

115. *Ibid* at 12.

116. *Ibid* at 11.

117. Matt Thomson, *Vancouver Homeless Count 2016* (Vancouver: M Thomson Consulting, 2016) at 5 <<http://vancouver.ca/files/cov/homeless-count-2016-report.pdf>>.

118. See e.g. Culhane, *supra* note 7; Hugill, *supra* note 7; Jiwani & Young, *supra* note 7.

119. Gordon W Roe, “Fixed in Place: Vancouver’s Downtown Eastside and the Community of Clients” (2009–10) 164 *BC Studies* 75 at 81.

120. *Ibid* at 81.

121. See Ryan McNeil et al, “Negotiating Place and Gendered Violence in Canada’s Largest Open Drug Scene” (2014) 25:3 *International Journal of Drug Policy* 608; Jeff Sommers, “Men at the Margin: Masculinity and Space in Downtown Vancouver, 1950–1986” (1998) 19:4 *Urban Geography* 287; Cory Dobson, “Ideological Constructions of Place: The Conflict over Vancouver’s Downtown Eastside” (Paper delivered at the Adequate and Affordable Housing for All, University of Toronto, Centre for Urban and Community Studies, 24 June 2004) <http://www.urbancentre.utoronto.ca/pdfs/housingconference/Dobson_Ideological_Construc.pdf>.

as innately deviant and dysfunctional, the MWCI's report makes clear that, for the missing women, the Downtown Eastside also represents "a vulnerable and marginalized place" where they were overexposed to multiple forms of violence.¹²²

As with the previous examples presented in this article, Canadian societal and state responses to the missing women cases operated around the conflation between indigenous femininity and prostitution. As the report makes clear, the missing women were societally defined by prostitution, including by representatives of the Canadian state (as the opening quote from the former lead missing women case detective Lorimer Shener suggests). Reiterating the perspective advanced by those scholars who have examined the media coverage surrounding the missing women, "the public story about the missing and murdered women ... focuses almost exclusively on individual stories of women being driven to survival sex work by drug addiction and personal tragedies of violence and abuse."¹²³ This perspective also serves as the foundation for the police response: "Police profiles of the women ... identify a number of common, but limited, characteristics: they have been or were involved in the sex trade at the time of their disappearances; and they were known to have substance abuse issues, either drug or alcohol addiction."¹²⁴ Indeed, the report even notes that the "unforgiving shorthand" of referring to the missing women as "sex trade workers," "STW's," or "prostitutes"¹²⁵ was a practice common to the processes of the MWCI itself.¹²⁵ Simultaneously, the report establishes the indigeneity of the missing women, noting that despite representing about 3 percent of the Canadian population at the time of the writing of the report, indigenous women accounted for 33 percent of the missing and murdered women from the Downtown Eastside¹²⁶—an overrepresentation explained by the MWCI as the consequence of "the legacy of colonialism in Canada."¹²⁷ While the report accurately notes that the indigeneity of the missing women was often unnamed in mainstream Canadian media coverage,¹²⁸ it ignores how this indigeneity was commonly signified in these accounts¹²⁹ or, as I argue, how the uptake of the missing women cases, as part of indigenous women's political activism surrounding missing and murdered indigenous women and girls, also established the collective indigeneity of these women for dominant Canadian society.

This equivocation between indigenous femininity and prostitution is explicitly demonstrated in the outright refusals of the Canadian state to take action on both accounts; in pursuing official investigations, the reports of families and friends of the

122. MWCI, *Foresaken*, vol 1, *supra* note 107 at 79.

123. *Ibid* at 82.

124. *Ibid* at 32.

125. *Ibid* at 32.

126. *Ibid* at 94.

127. *Ibid* at 94–98.

128. *Ibid* at 98.

129. See Jiwani & Young, *supra* note 7.

missing women were refused by police representatives on the basis that the women they were reporting as missing were involved in prostitution and/or indigenous.¹³⁰ Indeed, the MWCI concludes that there was “systemic bias in the police response” to the missing women due to racism, sexism, and “faulty-stereotyping of street-involved women in the DTES [Downtown Eastside].”¹³¹ “Law enforcement agencies,” the report explains, “mirror the society they serve,” and “[t]hus the historic and continuing racism and sexism within Canadian society is likely to be reproduced in discriminatory policies and practices within law enforcement, unless and until steps are taken to actively work toward bias-free policing.”¹³² This final point is important because, as the MWCI notes, these systems operate through invisibility:

[I]t is difficult for police services to perceive how gender bias and racism can have a serious and detrimental impact by hindering the initiation and conduct of investigations, as often the investigators and their supervisors are unaware of bias and are doing what they perceive to be their best.¹³³

Moreover, “the difficulty in understanding these forms of discrimination is that they centre on omissions—that is, *the failure to act*.”¹³⁴ In other words, racist and sexist perspectives related to the location of the missing women within the material and symbolic space of Vancouver’s Downtown Eastside—a space dominantly understood in Canadian society as innately deviant because of its simultaneous existence as a space of indigeneity and prostitution (alongside abject poverty, criminality, mental illness, and addiction)—provided the rationale and justification for state inaction—inaction that cost at least sixty-eight women their lives.

In line with the question that opens this section, one of the most profound statements made in the final report of the MWCI is this: “The public deserves to know the plain truth about how and why it is that Canada’s worst case of serial murder occurred while the killer was a person of interest for the Vancouver Police Department and the Royal Canadian Mounted Police.”¹³⁵ Serial murder played a fundamental role in the cases and in the state’s response to this violence, and Razack’s analytic emphasis on spaces and transgression offers some significant insights here. At the level of the violence, Pickton’s movements and actions exemplify Razack’s concept of transgression: he made temporary excursions from his family farm in a prosperous

130. See e.g. MWCI, *Forsaken: The Report of the Missing Women Commission of Inquiry*, by Wally T Oppal, vol 2a (Vancouver: Government of British Columbia, 19 November 2012) at 85, 102, 204.

131. MWCI, *Forsaken: The Report of the Missing Women Commission of Inquiry*, by Wally T Oppal, vol 2b (Vancouver: Government of British Columbia, 19 November 2012) at 289–90.

132. MWCI, *Forsaken*, vol 1, *supra* note 107 at 120.

133. *Ibid*.

134. *Ibid* [emphasis in original].

135. *Ibid* at 5.

suburban community into what he and dominant white settler Canadian society understood as a space of deviance and degeneracy—the Downtown Eastside. It has been reported that Pickton perceived the women as representing the worst of society, and he felt a personal responsibility to “rid the world of its evil ways.”¹³⁶ Going into this space of deviance, degeneracy, and human decay and emerging unscathed, as Razack suggests, reaffirmed for Pickton and others his status as a dominant subject. These feelings of superiority were likely amplified for Pickton by the perception that he had “outsmarted” the women, demonstrated by his ability to successfully entice them away from their familiar community space of Vancouver’s Downtown Eastside and into his space on the farm, where he could reaffirm his dominance by using and abusing their bodies and then utterly obliterating them from existence. As experts on serial murderers make clear, every step of Pickton’s process would have been directed at manipulation, domination, and control—in other words, establishing his superiority not only to his victims but also to all of those people who will view his violence and “witness” his superiority.¹³⁷

In emphasizing the movement of a serial killer, I am in no way suggesting that this pattern of transgression involving Vancouver’s Downtown Eastside is only engaged in by an “abnormal” or “deviant” subsection of society; instead, the actions of this serial killer are in line with the dominant pattern of establishing heteropatriarchal, white racial and settler colonial dominance and middle-/upper-class supremacy in our societies. The movement of predominantly white johns into the deviant space of Vancouver’s Downtown Eastside to make use of “deviant bodies” in any way they see fit and emerge unscathed secures their status as dominant subjects. In turn, the use and abuse of these bodies in this space, and, indeed, the very existence/production of these bodies and spaces as deviant, secures the status of those (1) who do not live in the space of the Downtown Eastside; (2) who do not have to sell their bodies for survival; (3) whose partners abuse the bodies of others and not theirs; and (4) who police these deviant bodies and spaces (to name just a few). Downtown Eastside residents have also drawn our attention to what they refer to as “poor-nography”—organized and often paid for transgressions—where middle-/upper-class tourists visit and experience the deviance of the Downtown Eastside,¹³⁸ observing the bodies in these spaces as if touring a zoo of caged exotic animals.¹³⁹

136. Lori Culbert, “Pickton Said He Fought the World’s ‘Evil’: Letters”, *National Post* (10 December 2007) <<http://www.pressreader.com/canada/national-post-latestedition/20071210/281522221748420>>.

137. See e.g. John Douglas & Mark Olshaker, *Mindhunter: Inside the FBI’s Elite Serial Crime Unit* (New York: Simon and Schuster, 2017 [1995]) at 113.

138. William K Carroll & RS Ratner, “Media Strategies and Political Projects: A Comparative Study of Social Movements” (1999) 24:1 *Canadian Journal of Sociology* 1 at 24.

139. “Tours of the Downtown Eastside: ‘Poverty Pimping’ or Compassion Building?”, *CTV News* (11 August 2016) <<http://bc.ctvnews.ca/tours-of-the-downtown-eastside-poverty-pimping-or-compassion-building-1.3025595>>.

In closing, I want to note that this pattern of settler colonial domination and violence through prostitution and deviant spaces is at work in the report itself. While the MWCI recognizes that “eradicating the problem of violence against women involves addressing the root causes of marginalization, notably sexism, racism and the ongoing pervasive effects of the colonization of Aboriginal peoples—all of which contribute to the poverty and insecurity in which many women live”—and that “[t]hose issues and concerns are most worthy of consideration,” the report makes clear that this was “beyond the scope of the Inquiry.”¹⁴⁰ As this statement indicates there were explicit imposed limits to the extent that the Canadian state was willing to address the operations of the dominant systems of oppression within its responses to this violence. At the same time, while the MWCI was willing to identify, name, and examine the operations of dominant interlocking systems of oppression in their final report, their recommendations do little to dismantle these dominant systems of oppression. In particular, other than making space for the inclusion of indigenous knowledge keepers within the dominant state system, the MWCI makes no recommendations that are directed at decolonization and the regeneration of indigenous sovereignty and determination.

Despite recognizing how Canada’s historical and ongoing acts of settler colonialism are responsible for the violence experienced by the missing women, the MWCI makes no recommendations to lessen this burden of social suffering for indigenous women and girls and, indeed, for all indigenous peoples. Likewise, the report makes no recommendations designed to directly lessen the social suffering of women involved in prostitution and, instead, aims to secure their inclusion and participation within the dominant system. Significantly, the narrow state-imposed mandate focused on policing not only limits the extent to which the actions of the Canadian state could be examined but also provides the opportunity to re-establish and strengthen the authority of Canadian police forces and, by extension, the Canadian state over both groups. And, thus, Vancouver’s Downtown Eastside continues to operate as dominant society’s wastebin for what it deems human waste—albeit with virulent gentrification quickly closing in around it. And in this “lonely section of hell” in Canadian society, women continue to go missing and be murdered.

Conclusion

What remains uninterrogated is the source of the attitudes that make it acceptable to abuse and murder prostitutes.¹⁴¹

—Sherene Razack

140. MWCI, *Foresaken*, vol 1, *supra* note 107 at 5.

141. Razack, “Race, Space, and Prostitution”, *supra* note 12 at 375.

What makes it acceptable to abuse and murder indigenous women and girls? In a settler colonial nation-state like Canada, the “source of the attitudes” that make this permissible is the dominant ideologies of racism and heteropatriarchy; since indigenous females are understood—constructed and perceived—as being inferior and, ultimately, less than human, the violence inflicted against them is made invisible through the normalization and exoneration of the perpetrators. And while this seems to establish the lives of indigenous women and girls as “superfluous” or mattering less to the Canadian nation-state, make no mistake: this violence—their deaths—serves a critical purpose in (re-)establishing and (re-)securing settler colonial domination over indigenous peoples and, by extension, indigenous lands. Prostitution, as the spatial analysis advanced in this article makes clear, is complicit with the goals of settler domination; it re-establishes dominant white settler subjects through processes of denigration and dehumanization of indigenous women and girls and provides the rationale for extending settler colonial domination through laws and policy. Prostitution also upholds the rationale that enables settlers to believe their historical and ongoing land theft is legitimate. Moreover, prostitution serves to exonerate perpetrators of violence against indigenous women and girls while simultaneously justifying Canadian inaction in response to this violence. In other words, prostitution not only contributes to undermining and eliminating indigenous sovereignty and self-determination (including access to land and resources), but it also contributes to making it acceptable to murder indigenous women and girls. For this reason, it is absolutely critical that we understand how the racialization of space and prostitution operate, and Sherene Razack’s framework provides the best analytical and methodological tool for doing this.

About the Contributor / Quelques mots sur notre collaboratrice

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