

Sexual Violence against Indigenous Women: Policies, Human Rights and the Myth of Development

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I. Introduction

“Settlers are able to repress what they would rather not be reminded of- that the land is stolen-and simultaneously, if Aboriginal people are waste and if the inquest can confirm that their lives are indeed wasted lives, settlers confirm themselves as the rightful owners.” Sherene Razack.¹

This paper is a preliminary attempt to point at the ways in which definitions of sexual violence in Canada, particularly in development contexts, undermine Indigenous women’s experiences of sexual violence domestically. My work stems from my engagement with decolonial, Indigenous feminist and intersectional literature and my professional experience as a junior gender analyst at the Department of Foreign Affairs Trade and Development (DFATD).

Canada is deeply involved in the development rhetoric. Now in an amalgamated department that includes a political side (Foreign Affairs), an economic force (Trade) and an aid and development agency (Development), Canada poses itself as a major donor and contributor of development projects worldwide. Yet, post-amalgamation, the development agenda works in coordination with the political and economic sides, which look after Canada’s interests.² These

¹ Sherene Razack, “Timely Deaths: Medicalizing the Deaths of Aboriginal People in Police Custody.” *Law, Culture and the Humanities*, 2011, 358.

² DFATD. “Our Priorities.” Retrieved from <http://www.international.gc.ca/departement-ministere/priorities-priorites.aspx?lang=eng>, 2014, n.p.

primarily include economic profits for Canada through extractive industries;³ nonetheless, human rights approaches, which have been traditionally used by Canada's development agency (previously known as Canadian International Development Agency-CIDA), are now being put to the services of political and economic diplomacy.

The issue of sexual violence becomes relevant in two different ways. First, through how sexual violence is defined by mainstream policy, international law and human rights approaches. Second, through Canada's international agenda on gender equality vis-à-vis the situation of Indigenous women domestically. Thus, this paper will address the first one, the issue of definition, as a preliminary approach to challenging the way in which current characterizations of sexual violence affect women of colour, particularly Indigenous women.

II. Understanding Sexual Violence in the Policy Context.

"Typically and traditionally, the state apparatus has not treated gender issues and gender crimes with an equitable and appropriate level of importance, until such time as public and political pressure induce policy and procedural change. Moreover, it is important to recognize that although policies and procedures may have altered within the institution, many of the prevailing ideologies, norms, values and beliefs continue to be produced and reproduced by practitioners within the criminal justice system."

James F. Hodgson and Debra S. Kelley.⁴

³ Mining Watch, "Brief: The Canadian International Institute for Extractive Industries and Development (CIIEID)." Retrieved from <http://www.miningwatch.ca/article/brief-canadian-international-institute-extractive-industries-and-development-ciieid>, 2014, n.p.

⁴ James F. Hodgson and Debra S. Kelley, ed. *Sexual Violence: Policies, Practices, and Challenges in the United States and Canada*, (Westport, Connecticut London: Praeger, 2012), 5.

At different points in time and in different places sexual violence has been deemed to be private and not under the State's jurisdiction. Feminists groups (of various kinds) across the world have made it an issue, which has resulted in important legal gains, including rape-shields in the context of Canada.⁵ Whether it is marital rape, domestic violence, rape by strangers, date-rape, sexual harassment, verbal harassment, and murder, among others, the topic stirs important discussions in legal, policy and civil society circles.

Although the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) covers sexual violence in different sections of the Convention and follow-up recommendations (including recommendation 1, which includes sexual violence as an expression of gender-based discrimination⁶), there is ambiguity in terms of what exactly constitutes "sexual violence." For instance, article 2, 5 and 10 discuss sexual violence in the context of pornography and women's sexual objectification; article 6 refers to trafficking and rape during war; and article 11 discusses sexual harassment in the workplace.⁷ Thus, what is sexual violence, and what exactly does it entail? Definition is a wider issue affecting different segments of the literature; in fact, sexual violence is often defined as "rape" or unwanted advances of a sexual nature. Policy and mainstream feminist literature pay little consideration to other factors that, in my view, influence Indigenous women's experience of sexual violence, such as colonialism, State violence, capital exploitation, land-grabbing, etc.

Sexual violence is a timely topic. Not only is Canada experiencing increasing mobilization due to the multiple and persistent rapes, disappearances and murders of Indigenous

⁵ Kristin Bumiller, *In An Abusive State: How Neoliberalism Appropriated the Feminist Movement Against Sexual Violence*, (Durham and London: Duke University Press, 2008), 15.

⁶ CEDAW, General Recommendations. Retrieved from <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article1>, n.d., n.p.

⁷ CEDAW, General Recommendations, <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article1>, n.d., n.p.

women across the country, but Indigenous and non-Indigenous NGOs and grassroots organizations have gotten involved in the discussion. For instance, the Canadian Network of Women's Shelters and Transition Houses (CNWSTH) believes that Canada needs a national strategy to deal with violence against women,⁸ in general. CNWSTH acknowledges the marginalization of Indigenous women in Canada, and proposes culturally-sensitive approaches to assist abused Indigenous women.⁹ The Assembly of First Nations (AFN) agrees with the national strategy, and it is currently supporting the Native Women's Association of Canada's petition for a national inquiry.¹⁰ Yet, the AFN rejects the idea that violence against Indigenous women will stop by funding more police or increased legal interventions; instead, they advocate for community-based initiatives.¹¹ At the same time the Native Women's Association of Canada is calling the Canadian Government to launch an inquiry on missing and murdered Indigenous women, an effort that until now has been futile.¹²

Yet, this is not a uniform or homogenous process. Other organizations, such as Families of Sisters in Spirit (FSIS), a grassroots organization based in Ottawa, do not support the inquiry and have pointed out a number of issues with State-centric approaches.¹³ A major concern for them is that they view the Canadian State as the primary perpetrator of violence against

⁸ CNWSTH, *The Case for a National Action Plan on VAW*. Retrieved from http://endvaw.ca/sites/default/files/the_case_for_a_national_action_plan_on_vaw.pdf, 2014, 4.

⁹ Ibid, 21-22.

¹⁰ Native Women's Association of Canada, "A National Inquiry is Needed." Retrieved from http://www.nwac.ca/sites/default/files/download/NWAC/2012%20NWAC%20Inquiry%20Petition_FINAL.pdf, n.d., n.p.

¹¹ Assembly of First Nations, *Demanding Justice and Fulfilling Rights: a Strategy to End Violence Against Indigenous Women and Girls*. Retrieved from http://www.afn.ca/uploads/files/missing_and_murdered_indigenous_women/afn_draft_strategy_to_ensure_rights_of_indigenous_women_&_girls_e.pdf, n.d., 3.

¹² NWAC, "NWAC Petition-A National Inquiry is Needed." Retrieved from <http://www.nwac.ca/nwac-petition-national-inquiry-needed>, 2014, n.p.

¹³ Indigenous Waves, "Colleen Cardinal from Families of Sisters in Spirit on MMIW, the problems of a National Inquiry and Colonial Violence against Indigenous Women." Retrieved from <http://indigenouswaves.com/2014/03/28/colleen-cardinal-from-families-of-sisters-in-spirit-on-mmiw-the-problems-of-a-national-inquiry-and-colonial-violence-against-indigenous-women/>, (podcast), 2014, n.p.

Indigenous women; thus, calling for a government-led inquiry is an oxymoron. Several policy and legal disappointments have led FSIS to believe that change has to come from Indigenous peoples, particularly women, who have experienced violence in multifaceted ways. They are not the only ones. Last year the hashtags #itstartswithus,¹⁴ #itendshere,¹⁵ and #Iamnotnext¹⁶ involved a number of twitter followers and participants, who called for community engagement on the issue of violence against Indigenous women with a non-state-centric focus.

To add complexity to the issue, the recent discussions around bill c-36 (colloquially called the anti-prostitution bill)¹⁷ has resulted in a problematic government-led consultation process, and numerous disagreements among feminists, NGOs, and sex workers, among others. Being in a high-risk profession¹⁸ by choice, some sex workers (Indigenous and otherwise) have pointed out that bill c-36 violates their rights and safety, and the recommendations proposed by CNWSTH, AFN, NWAC, and other organizations fail to include them in a dignified manner, while making moral arguments to prevent sex-workers from acquiring rights and enjoying social-security provisions.¹⁹

The primary issue with how sexual violence is conceptualized in policy, the media and human rights-centric circles is that the definitions do not transcend the actual physical aspect of

¹⁴ "HONOURING THE LIVES OF MISSING AND MURDERED INDIGENOUS WOMEN." Retrieved from <http://www.itstartswithus-mmiw.com/>, n.d., n.p.

¹⁵ INW Collective, "#ITENDSHERE: THE FULL SERIES," *Nation Rising*. Retrieved from <http://nationsrising.org/itendshere-the-full-series/>, 2014, n.p.

¹⁶ The Huffington Post Canada, "'I'm Not Next' Responds To 'Am I Next?,' Reiterates Inquiry Call," retrieved from http://www.huffingtonpost.ca/2014/09/16/im-not-next-missing-murdered-inquiry_n_5830830.html, 2014, n.p.

¹⁷ Josh Wingrove, *Canada's new Prostitution Laws: Everything you Need to Know*. Retrieved from <http://www.theglobeandmail.com/news/politics/canadas-new-prostitution-laws-everything-you-need-to-know/article19610318/>, 2014, n.p.

¹⁸ "High Risk" defined as prone to violence from customers, diseases, and other factors. This is not a "moral" qualification. Work with people and the public often includes an element of risk.

¹⁹ KweToday, #ENDDMAND: *Why Bill#C36 is Like Working at MacDonal'd's (If Purchasing Burgers were Criminal)*. Retrieved from <http://kwetoday.com/2014/06/04/endeddemand-why-bill-c36-is-like-working-at-macdonalds-if-purchasing-burgers-were-criminal/>, 2014, n.p.

rape and murder. The question is, should sexual violence be understood in this way? And if so, how does this definition impact the experiences of women of colour, particularly Indigenous women?

While using the existing definitions of sexual violence as rape and unwanted physical contact, Amnesty International's *Maze of Injustice* report, argues that Indigenous women are strongly affected by sexual violence.²⁰ In Canada Indigenous women are five times more likely to suffer sexual violence,²¹ while in the United States the same women are nine times more prone to be sexually attacked.²² Now, it is important to also recognize that most of the data available in Canada is not necessarily current. In 2010 the Conservative Government made the traditional long-form census a "voluntary" procedure, which has strongly impacted the ability of researchers to track important trends, such as those of violence against women.²³ Statistics are favoured in policy discussions in Western countries and are used to produce legal and policy change.²⁴ Hence, the unavailability of data severely affects many communities' ability to produce change within the machinery of the State.

Jodi Beniuk argues that the State benefits from creating policy barriers, so minorities cannot access processes or resources easily.²⁵ In this sense, policy has been often used to maintain the status quo, and protect the interests of particular members of political and economic

²⁰ Amnesty International. *Maze of Injustice Report: The failure to protect Indigenous women from sexual violence*. Retrieved from <http://www.amnestyusa.org/pdfs/MazeOfInjustice.pdf>, 2007, 2-5.

²¹ Native Women's Association of Canada, *Tool Kit*. Retrieved from <http://www.nwac.ca/programs/violence-prevention-toolkit>, 2010, 4-5.

²² Amnesty International, 36.

²³ Tavia Grant, "Damage from cancelled census as bad as feared, researchers say," *The Globe and Mail*. Retrieved from <http://www.theglobeandmail.com/news/politics/cities-footing-the-bill-for-data-gap-after-long-form-census-scrapped/article22695286/>, January 29, 2015, n.p.

²⁴ Ruth Lister, *Understanding theories and concepts in social policy*, (Portland, OR; Briston: Policy Press, 2012), 2-3.

²⁵ Jodi Beniuk, "Indigenous Women as the Other: An Analysis of the Missing Women's Commission of Inquiring." *The Arbutus Review*. Vol.. 3. No. 2, 2012, 91.

elites. Such a view of public policy has led numerous groups, including Indigenous peoples around the world to be skeptical not only of the State, but of International organizations such as the United Nations (UN), the World Bank (WB) or the International Monetary Fund (IMF). In Canada, and other countries, Indigenous populations have been the subject of “regulatory techniques.” These techniques are the ways in which the State implements policy.²⁶ Ruth Lister suggests three main techniques, “classification” (medicalization of social conditions; i.e. “Indigenous peoples alcoholism”), “normalization” (individuals are differentiated according to desired norms; i.e. Indigenous women as squaws) and “surveillance” (gazing normalization that allows punishment; i.e. overrepresentation of Indigenous women in Canadian jails).

What Lister suggests in terms of policy is particularly relevant to the research on violence against Indigenous women. For instance, Canada’s commitment and ratification of CEDAW and the Beijing Platform are considered to be drivers of domestic policy. The problem is that if policy has been characterized by regulating minorities, such as Indigenous peoples, where do human-rights approaches (i.e. CEDAW and Beijing Platform) fit in the policy process? Is there a contradiction between protecting rights and regulating people? Or does the State “grant” rights to further regulate?

III. Understanding Violence.

“One of the most immediate questions people ask is why do Indigenous women, specifically, experience more violence? The answer is simple: it is because we are

Indigenous and we are women.” Tasha Beeds.²⁷

²⁶ Lister, 123.

²⁷ Tasha Beeds, “In the Spirit of our Ancestors,” #Itendswithus, <http://nationsrising.org/in-the-spirit-of-our-ancestors/>, 2014, n.p.

In Canada sexual violence is defined in legalistic terms that describe isolated actions (like rape or sexual harassment) often perpetrated by a man against a woman. Yet, mainstream attempts to provide more “comprehensive” approaches, often fall short because they lack a consideration of intersectionality and the experiences of women of colour. For instance, in an effort to depart from the definition of sexual violence as purely physical rape, Harbele and Grace argue that “sexual violence [...] could describe forms of molestation that do not include penetration.”²⁸ The challenge with describing sexual violence as isolated events is that then we fail to make connections between rape and harassment, and the systems that enable sexual violence to thrive. Likewise, we overlook the power relations that put Indigenous women, and other women of colour, under particular risk of suffering sexual violence.

In the recent blog series #Itendshere honouring Loretta Saunders, an Inuit woman and PhD student at Saint Mary's University who was brutally murdered at the beginning of 2014, the authors connect sexual violence and murder of Indigenous women to a broader picture of colonial violence. Leanne Simpson, one of the contributors explains,

“Gender violence and murdered and missing Indigenous women are a symptom of settler colonialism, white supremacy and genocide. They are symptoms of the dispossession of Indigenous peoples from our territories.”²⁹

Literature from across disciplines shows that the sphere of public policy has failed to encompass the multifaceted oppressions that Indigenous women experience not only in Canada, but across the world. Today, saying that violence against Indigenous women happens because of

²⁸ Renée J. Harbele and Victoria Grace, ed., *Theorizing Sexual Violence*, (New York: Routledge, 2009), 4.

²⁹ Leanne Simpson, *Not Murdered and Not Missing*, #Itendshere. Retrieved from <http://nationsrising.org/itendshere-the-full-series/>, 2014, n.p.

their womanhood and their Indigeneity, requires further analysis of how gender, sexuality and Indigeneity intersect with colonial violence and epistemic, social and economic marginalization.

In engaging with decolonial, Indigenous feminist and intersectional literature, I have identified five essential areas that, if considered as part of women's experiences of sexual violence, would challenge the way policy circles deal with the matter. These areas are not all encompassing or exhaustive; instead, they represent an attempt to engage in rethinking power relations and their impact on sexual violence against Indigenous women.

1) Colonialism, Race and Coloniality.

The key aspect of these relationships is the connections between colonialism and racism as systems that sustain the *coloniality of power*. Anibal Quijano and Michael Ennis see colonization as a process through which the idea of "race" became the basis of social organization.³⁰ "Race" did not only serve the political purposes of social classification and hierarchization,³¹ but it further served capitalism as a way to distribute labour and exploit Indigenous resources.³²

What is more, colonialism and the idea of "race" would shape the colonizer and the colonized for time to come. Racial hierarchization, according to Quijano and Ennis, also supported racial, political, economic and epistemic Eurocentrism.³³ Eurocentrism, as a doctrine that preaches biological/natural racial differentiation, the superiority of the male-white-Western-European and a notion of linear "development" towards modernity,³⁴ has influenced not only the State apparatuses and development discourses (one has only to look at the literature offered by

³⁰ Anibal Quijano and Michael Ennis. "Coloniality of Power, Eurocentrism, and Latin America." *Nepantla: Views from South* 1.3. 2000, 534.

³¹ Ibid, 534.

³² Ibid, 536-537.

³³ Ibid, 541.

³⁴ Ibid, 542.

Modernization theorists like W.W. Rostow or authors like Samuel Huntington), but also those who were colonized.

One of the main contributions that Quijano and Ennis have to offer to the theorization on the oppression of Indigenous women, is the idea of *coloniality*. Coloniality goes beyond the racial classification and imposes power relations around every aspect of a colonized person's life including authority, sexuality, labour, epistemology, etc.³⁵ The key difference between colonialism and coloniality appears in that colonialism in itself does not include power relations based on race, these are developed through coloniality.³⁶ Walter Mignolo suggests that the power of *coloniality* lays in how colonized peoples conceive themselves according to the categories created and imposed by the colonizer.³⁷ In fact, in their work Quijano and Ennis identify four realms that represent the "pattern of coloniality of power;" these are the economy and labour, authority, gender and sexuality and epistemology and the creation of knowledge.³⁸

Epistemologically speaking *coloniality* expresses itself in diverse ways; for instance, through the notion of "the Indian" as inferior, without past, without knowledge and as a dependent of the colonizer. *Coloniality* makes Indigenous populations vulnerable by subjecting them to racial, sexual, economic and political violence, while suppressing their pre-colonial identity and forcing them into Eurocentric categories, which continue to be reproduced.³⁹

³⁵ Maria Lugones, "The Coloniality of Gender." Retrieved from https://globalstudies.trinity.duke.edu/wp-content/themes/cgsh/materials/WKO/v2d2_Lugones.pdf, 2008, p. 3.

³⁶ Ibid, p.3.

³⁷ Walter Mignolo, "Geopolitics of Sensing and Knowing. On Transversal (De)Coloniality, Border Thinking, and Epistemic Disobedience." *Postcolonial Studies*, Vol 14 no. 3., 2011, 276.

³⁸ Walter Mignolo, "Coloniality, the Darker Side of Western Modernity." *The Darker Side of Western Modernity*, (Duke: Duke University Press, 2011), 8.

³⁹ Nelson Maldonado-Torres, "On the Coloniality of Being. Contributions to the Development of a Concept." *Cultural Studies*, 21:2, 2007, 247.

María Lugones takes the concept further and shows the extent to which *coloniality* makes women of colour invisible. In her analysis, Lugones proposes that it is important to understand women of colour in three main ways. First, gender and biological sex, just like “race,” are inventions of the colonial imagination.⁴⁰ Next, patriarchy is not a “natural” and “universal” category.⁴¹ Finally, failure to acknowledge how race and gender are fused, lead us to the faulty assumption that women of colour do not exist or that their oppressions are those of privileged, white women.⁴²

2) Sex, Heteronormativity and Gender

Sex and gender are closely interrelated with colonial definitions of race. In fact, numerous reports quote the intersection of sex, gender and race as the primary reason why Indigenous women suffer more violence than other women around the world.⁴³ Lugones’ point about gender and sex as fictional categories is something that has been picked up by other authors, particularly in view of the *third gender*. In this regard, Lugones argues, “[the term] does not mean that there are three genders. It is rather a way of breaking the sex and gender bipolarity. The ‘third’ gender is emblematic of other possible combinations...”⁴⁴ In many societies around the world, including those permeated by colonialism, it can be very hard to conceive the idea of a ‘third’ gender because we have been epistemologically and socially conditioned through education, religion and social norms to see the world through colonial binaries. However, Deborah Miranda presents us with the story of “Las Joyas” and their extermination in California, to show how sex,

⁴⁰ Maria Lugones, “Towards a Decolonial Feminism.” *Hypatia* Vol. 25, no. 4., 2010, 6.

⁴¹ *Ibid*, 8.

⁴² *Ibid*, 4.

⁴³ Amnesty International, 15-16; NWAC, 4-5.

⁴⁴ “Towards a Decolonial Feminism,” 11.

heteronormativity and gender continue to be a source of physical, political and epistemological domination in today's societies and Indigenous communities.

The extermination of Indigenous groups in California was not only a brutal process of genocide, but also encompassed *gendercide*. Miranda defines *gendercide* as "...an attack on a group of victims based on the victims' gender/sex."⁴⁵ In California, the Spaniards exercised *gendercide* against primarily, although probably not exclusively, against "Las Joyas" (men who dressed and worked as women).⁴⁶ Originally called 'aqi within their communities, Miranda argues that the name "Joyas" probably derived from the Spanish word "Jotos" (faggots).⁴⁷ "Las Joyas" were not only revered members of their communities because of their sexual power, but also their spiritual one. In fact, Miranda locates them as the primary caretakers of death rituals.⁴⁸ The *gendercide* of "Las Joyas" did not only make Indigenous communities spiritually vulnerable, but also forced them into heteronormativity.⁴⁹ Thus, Miranda argues that it is possible that one of the reasons why some Indigenous communities adopted homophobic behaviours that did not exist before colonization was for their own survival.⁵⁰

The ways in which Indigenous women are oppressed through heteronormativity, biological ideas of sex and binaries of gender, cannot be separated from the process of colonization, and how *coloniality* is expressed. In fact, Surely Carreiro suggests that how these processes intersect is the source of sexual violence against women of colour.⁵¹ This is relevant because violence

⁴⁵ Deborah Miranda, "Extermination of the Joyas. Gendercide in Spanish California." *GLQ, A Journal of Lesbian and Gay Studies*, Volume 16, Number 1-2, 2010, 258.

⁴⁶ *Ibid*, 265.

⁴⁷ *Ibid*, 267

⁴⁸ *Ibid*, 269, 276.

⁴⁹ *Ibid*, 267.

⁵⁰ *Ibid*, 267.

⁵¹ Sueli Carneiro, "Ennegrecer al feminismo. La Situacion de la mujer Negra en America Latina desde una perspectiva de Genero." In *Feminismos Disidentes en America Latina y el Caribe*, 2005, 21-22.

against women of colour, and Indigenous women, is often categorized in terms of their heterosexuality, and their relation to Western archetypes of womanhood and femininity.

3) Neoliberal Capitalism, Globalization and the State

Policy circles, international bodies such as the UN and human rights organizations like Amnesty International and Human Rights Watch have identified poverty as one of the main drivers of violence against women in the so-called Third World.⁵² Consequently, several organizations talk about development and the eradication of gender-based violence as a matter of access to economic resources. By economic resources, though, they often mean access to the capitalist market. For instance, DFATD is currently championing Women's Economic Empowerment programming through women's vocational training, access to markets, private property and credit.⁵³ Whereas DFATD does not work explicitly with Indigenous women, it does work with a variety of women from different groups in Third World countries. What is wrong with such development ideas? Why are they problematic?

Both policy and development frameworks tend to be uncritical of neoliberal capitalism and the role of the state in perpetuating inequalities, pushing for assimilation and encouraging the dispensability of Indigenous women's bodies. This also comes along with an unwillingness to challenge the very processes that colonization has endorsed, not to mention a resistance to acknowledge that colonialism is still an issue that permeates the Indigenous experience.

⁵² I use the term Third World, rather than the preferred "developing world," in a political way to signify that making the name sound "politically correct" does not change the realities on these countries.

⁵³ DFATD, "Women's Economic Empowerment: Guidance Note." Retrieved from <http://www.international.gc.ca/development-developpement/priorities-priorites/weegn-aefno.aspx?lang=eng>, 2014, n.p.

Today, mainstream policy-makers and development officers deem capitalism as the *de facto* and unquestionable economic system. What does neoliberal capitalism feed off? And what does it do to women of colour? are often pushed aside in policy discourses particularly those that argue for the liberalization of economic systems for the purposes of development in Third World countries, such as those coming from the WB and the IMF. Unfortunately, an in-depth discussion of the capitalist system is beyond the scope of this research, but it is important to mention how these systems of oppression work with the State and ultimately affect Indigenous women's experiences of violence.

Wendy Brown defines neoliberalism as "a normative and constructive project in that involves developing institutional discourses and practices that produce market as the central plank organizing all dimensions of human life."⁵⁴ Neoliberal capitalism is a racialized process of domination that goes hand in hand with colonization; but it is also a process that incorporates "often contradictory effects and practices."⁵⁵ Quijano and Ennis explain that as race became a social stratification tool of the colonial regimes, capitalism was strengthened, maintained and normalized.⁵⁶ White colonizers, and in countries like Mexico mestizo populations, have benefited from the unpaid labour of Indigenous peoples and black slaves.⁵⁷ The so-called "economic development" of the West came at the expense of the dispensability of bodies of

⁵⁴Quoted in Jessica Dempsey, K. Gould and Juanita Soundberg, "Changing Land Tenure, Defining Subjects. Neoliberalism and Property Regimes on Native Reserves." In *Rethinking the Great White North. Race, Nature, and the Historical Geographies of Whiteness in Canada*, Eds., Andrew Baldwin, Laura Cameron and Audrey Kobayashi. (Vancouver: UBC Press, 2011.), 239.

⁵⁵ Isabel Altamirano-Jiménez. *Indigenous Encounters with Neoliberalism. Place, Women and the Environment in Canada and Mexico*, (Victoria: UBC Press, 2013), 69.

⁵⁶ Quijano and Ennis, 536-537.

⁵⁷ Ibid, 537.

colour, many of which were women.⁵⁸ This system of exploitation although colonial continues to permeate racial labour stratification in some countries.⁵⁹

Resources are key to an accurate picture of how neoliberal capitalism continue to place Indigenous women in a position of dispensability and vulnerability. In discussing the criminal system and how Aboriginal peoples are mistreated by police forces in Canada, Sherene Razack describes that the violence lived by Indigenous communities results from a long-lasting fight over land and resources.⁶⁰ For the purpose of appropriation, settler colonialism in Canada has made Indigenous populations into “unable beings,” who cannot take care of themselves and cannot have stewardship over the land or its resources.⁶¹

Nonetheless, neoliberal capitalism extracts from Indigenous women more than just resources. Kuokkannen points out that Indigenous women, the primary members of the subsistence sector, are the most affected group by neoliberal policies that liberalize trade and that endorse corporatism.⁶² In her analysis she describes capitalism as a process that seeks capital accumulation at all costs and that relies on patriarchies and racism to reproduce itself.⁶³ Kuokkannen explains,

“Male violence is not just analogous to the force of the state: it is part of the state, authorized by the state [...] Patriarchy is linked to force, which in turn is linked to the state. The state is not only patriarchal and colonial, but

⁵⁸ Quijano, 539.

⁵⁹ Ibid, 540.

⁶⁰ Razack, 356.

⁶¹ Ibid, 353.

⁶² Rauna Kuokkannen. “Globalization as Racialized Violence: The Case of Indigenous Women.” *International Feminist Journal of Politics*, 10(2), 2008, 216-217.

⁶³ Ibid, 221.

also deeply implicated in capitalist and more recently, neo-liberal ideologies.”⁶⁴

On top of the division of labour identified by Quijano and Ennis, Kuokkannen sees globalization as an all-encompassing process that goes after Indigenous land, undermines self-determination and appropriates Indigenous knowledge.⁶⁵ Thus, the processes of capitalism and globalization are closely interrelated to the areas explained above, and feed each other to create a web of conditions that prevent Indigenous women from being safe from different types of violence, including sexual, physical and economic.

A very basic, but often forgotten, aspect of neoliberal capitalist violence is the devaluation and racialization of women’s work.⁶⁶ It is not surprising then that Indigenous women face violence as a result not only of their identity as women and as Indigenous, but also as poor.⁶⁷ Mignolo contributes to this discussion through the concept of “dispensable bodies.” In here, he goes back to Quijano and Ennis’ notion of racialized division of labour to argue that the reproduction of this racialization feeds capital accumulation.⁶⁸ Such need for resources and production deems some lives more worthy than others. Andrea Smith further speaks about this idea by explaining that among non-Indigenous societies there is an “... ideology of Native women’s bodies as rapable [...]”⁶⁹ In fact, Smith makes a strong link between Canada, the U.S. and Mexico in calling out the number of missing and murder Indigenous women and pointing

⁶⁴ Kuokkannen, 223.

⁶⁵ Ibid, 217.

⁶⁶ Georgina Méndez-Torrez, “Miradas de Genero de las mujeres indigenas en Ecuador, Colombia y Mexico.” In *Participacion y Politicas de Mujeres Indigenas en Contextos Latinoamericanos recientes*, 2009, 64.

⁶⁷ Clorinda Cuminao-Rojo. “Mujeres Mapuche: voces y escritura de un posible feminismo.” En *Participacion y Politicas de Mujeres Indigenas en Contextos Latinoamericanos recientes*, 2009, 113.

⁶⁸ Walter Mignolo. “Dispensable and Bare Lives: Coloniality and the Hidden Political/Economic Agenda of Modernity.” *Human Architecture: Journal of the Sociology of Self-Knowledge*, VII (2), 2009, 76.

⁶⁹ Andrea Smith. *Sexual Violence and American Indian Genocide*. (Cambridge: South End Press. 2005), 30.

out that, despite their distinct colonial histories, the shared experiences of Indigenous women in these countries speak to common elements in how violence against them is perpetrated.⁷⁰ An important observation raised by Mignolo is that ‘poverty’ has been defined through the lenses of modernity and capitalism; the poor, are those at the bottom of the racial scale, who are, in reality, dispensable. The capitalist system makes use of the ‘poor’ to justify further accumulation, and the State views them as the recipients of well-intended development.⁷¹

Neoliberal capitalism has not survived alone. Instead, the support of the State apparatus has been basic for its reproduction. Isabel Altamirano-Jimenez challenges the traditional economic argument about the natural survival of neoliberalism by pointing out that, "Neoliberalism is not driven by an external, invisible hand, but by specific actors, sites, institutions, networks, the State, and discourses all of which have material effects in different places."⁷² For instance, resource appropriation in the early years of the capitalist system during colonization, was supported through policies and procedures that facilitated the removal of Indigenous bodies. Chandra Talpade Mohanty therefore places these two systems in one, through the concept of the neoliberal State.⁷³ The neoliberal State advertises its benefits to all of us, such as mobility and communications, but these services are not widely available to everyone and are often possible through the further marginalization of the poor.⁷⁴

Whereas Mohanty provides a general overview of the ways in which the neoliberal State exploits and oppresses people, Kuokkannen cites violence and assimilation as two of the major

⁷⁰ Smith, 30.

⁷¹ Mignolo, 76.

⁷² Altamirano-Jiménez, 70.

⁷³ Chandra Talpade Mohanty. "Transnational feminist crossings: On neoliberalism and radical critique." *Signs: Journal of Women in Culture and Society* 38, (4): 2013, 970.

⁷⁴ *Ibid*, 970.

tools provided by the state to the neoliberal capitalist system,⁷⁵ in which violence committed against Indigenous women is executed through the patriarchal systems that are part of the State.⁷⁶

The scary part of the neoliberal project is that it is ingrained in the machinery of the state, and it permeates the very processes that aim to “improve” or “change” the conditions of Indigenous women. Blackwell, Bumiller, Altamirano-Jiménez and Mohanty address the core of the issue. First, neoliberalism is seen as a “friend” to human rights, gender equality and cultural rights. The relationship is sold as that of a natural process of capitalist-neoliberal-democratic-govermentality.⁷⁷ Next, neoliberalism has coopted resistance. Mohanty speaks to the “domestication” of those movements that aim to negotiate, change or resist the State, such as different forms of feminisms and anti-racism movements.⁷⁸ Bumiller speaks about how mainstream White-feminism sought to engage the state to tackle sexual violence. Nonetheless, aside from all the oppressions that this kind of feminism has perpetuated (which will be discussed later), some movements decided to enter a “partnership” with the State to secure criminal prosecution and rape-shield policies. However, Bumiller explains, “...the feminist alliance with the state has produced something far more significant than unintended consequences—a joining of forces with a neoliberal project of social control.”⁷⁹ In terms of Indigeneity, Altamirano-Jiménez points out that the articulation of Indigenous rights as “cultural” rights does not challenge neoliberalism; instead, it creates a dynamic of management,

⁷⁵ Kuokkannen, 218.

⁷⁶ Ibid, 223.

⁷⁷ M. Blackwell, “The practice of autonomy in the age of neoliberalism: Strategies from indigenous women's organising in Mexico.” *JOURNAL OF LATIN AMERICAN STUDIES* 44, (4): 2012, 704.

⁷⁸ Mohanty, 971.

⁷⁹ Bumiller, 15.

where neoliberalism and the state create a highly-contained space for displays of culture, and redefine Indigenous people's identity, sense of place and articulations of rights.⁸⁰

4) Epistemology, Knowledge and Sense of Being

The ways in which colonialism, capitalism and the neoliberal State intersect have reshaped (and often undermined) Indigenous epistemologies and ontologies. The two areas are what Quijano and Ennis describe as the *coloniality of being* and *coloniality of knowledge*.⁸¹ In regards to the *coloniality of being* Maldonado-Torres argues that its impact was far reaching in how the colonized came to understand themselves and their notions of "being."⁸² This is better articulated by Emma Chirix, who explores the concept of "subjectivity," by analyzing how Mayan women reproduce racialized attitudes that were imposed by the colonizer, but that have become widely spread in their communities.⁸³ Chirix argues that racist and sexist attitudes towards Indigenous women are a product of colonial relations, but they have become strongly ingrained in some Indigenous communities, who have adopted such views. The author further argues that racism is not innate, it is rather a complex process of education and re-production of stereotypes and the dismissal of non-Indigenous values.⁸⁴ The problem in here is that oppressions are internalized, and as Chirix mentions, once discrimination is assumed, Indigenous women tend to think they deserve violence.⁸⁵

Kim Anderson shares this experience and demonstrates that ontologies of Indigeneity were transformed through a series of forceful stereotypes that have marked many Indigenous

⁸⁰ Altamirano-Jimenez, 70-72.

⁸¹ "The Dark Side of Western Modernity," 8.

⁸² Maldonado-Torres, 242.

⁸³ Emma Chirix, "Subjetividad y racismo: la mirada de los otros y sus efectos." En *Los Desafíos de la Diversidad-Relaciones Interétnicas: Identidad, Género y Justicia*, 2004, 19.

⁸⁴ *Ibid*, 22.

⁸⁵ *Ibid*, 23.

women for life. Anderson describes two very popular colonial stereotypes in Canada. First, is that of the "Indian princess," which holds an erotic appeal and is welcoming and friendly to the colonizer.⁸⁶ Its antithesis is represented by that of the "easy squaw," an imagery that has deemed Indigenous women as rape-deserving.⁸⁷

Both Chirix and Anderson make straight forward connections between the *coloniality of being* and sexual violence against Indigenous women. Non-Indigenous communities have also learned to see Indigenous women according to the stereotypes, which increases the likelihood of people exercising some kind of violence against those who are stereotyped. Thus, Anderson argues that those women who seek justice for the violence they have experienced are repeatedly deemed unworthy of such a right.⁸⁸

In terms of the *coloniality of knowledge* Aileen Moreton-Robinson presents her personal experience as an Indigenous woman and as an academic to demonstrate how colonial Eurocentrism works. In describing how some white-male-privileged academics disregard Indigenous women's work, she argues that within the academy patriarchal whiteness has declared itself as the ultimate and universal source of knowledge.⁸⁹ The attitude that she observes displayed in the academy, nonetheless, is present in different social structures, and, as she notes, has prevented Indigenous women from acquiring any kind of power.⁹⁰ This, in itself, is epistemic violence.

⁸⁶ Kim Anderson, *A Recognition of Being. Reconstructing Native Womanhood*, (Toronto: Sumach/Canadian Scholars' Press, 2000), 101.

⁸⁷ Ibid, 104.

⁸⁸ Ibid, 110.

⁸⁹ Aileen Moreton-Robinson, "The White Man's Burden," *Australian Feminist Studies*, 26:70, 2011, 414.

⁹⁰ Ibid, 419.

Epistemic violence is prevalent in colonial societies, and it deems Indigenous women untrustworthy and unable to tell their own stories or act as agents. One of the latest examples is presented by Dempsey, Gould and Sundberg. The authors describe the Canadian Conservative Government's approach to the development of Indigenous peoples. Government advisors Flanagan and Alcántara have suggested that Indigenous lands in Canada are not properly managed, which is a detriment to the economic development not only of the communities, but also of Canada as a whole.⁹¹ Flanagan and Alcántara make use of epistemic violence by implying that white-Western-privilege has the answers to land “mismanagement” and by treating neoliberal development arguments as "common sense," which is said to be lacking among Indigenous leadership.⁹² Whereas it could seem that this is a practice perpetuated only by conservative governments, the reality of things is that different parties have engaged in similar assimilationist policies and have infantilized Indigenous communities when it comes to economic policy. Arguably, the difference is that other parties have been less blunt about it.

On a more personal level, women of colour regularly experience epistemic violence. Jennifer Jagire calls for the decolonization of feminist movements, through the "recovery" of African knowledge.⁹³ Jagire suggests that Indigenous knowledge systems have been subjugated, oppressed and neglected, but they have also being abused and appropriated by the colonizers.⁹⁴ These processes happen in various ways. For instance, the conceptualization and theorization of Indigenous issues from non-Indigenous perspectives, as Velasquez Nimatuj describes, is a

⁹¹ Dempsey et al., 235.

⁹² Ibid, 248.

⁹³ Jennifer Jagire, "Indigenous African Knowledges and African Feminism: Resisting Eurocentric Ways of Knowing." *Ruptures: Anti-colonial & Anti-racist Feminist Theorizing*. Njoki Wane, Jennifer Jagire and Zahra Murad, eds., 2013, 77-79.

⁹⁴ Ibid, 81.

common practice among academics.⁹⁵ Further, these same elitist circles prevent Indigenous communities from learning what is being written about them (without them) and from using the same (or different) epistemic tools to seek different results.⁹⁶ Beniuk further points out that the so-called "universal scientific knowledge" is an affront to Indigenous epistemologies because it neglects, mocks and undermines other ways of knowing and the experiences of those who have been colonized.⁹⁷

In terms of sexual violence, epistemic violence is relevant because it encompasses a notion of having agency to be recognized and to have the power to tell one's own story. Epistemic violence has left many Indigenous communities with the idea that Indigenous peoples have no past and no sources of knowledge. Thus, there may be a sense of not having agency to tackle their own problems and resist oppression and violence. Further, as Eglá Martínez-Salazar explains, epistemic violence is expressed in the very discourses that rule Indigenous lives. The use of language and symbols are powerful ways to convey violence, and their use provides a window of opportunity to perpetuate violence against Indigenous women with impunity.⁹⁸

5) The Oppressions of Patriarchy (ies), Feminism(s) and Anti-Racist Movements

Finally, a common theme in the literature is that of patriarchies, feminisms and anti-racism movements. Whereas mainstream white-Western feminism has constantly blamed the oppression of women on patriarchy, defining what patriarchy is and whether or not it affects all

⁹⁵ Irma Alicia Velasquez Nimatuj, "Desafío Maya: "Objetos de estudio" o sujetos intelectuales?" *Latin American Studies Association Forum* Winter 2012/ Volume XLIII/Issue I, 2012, II.

⁹⁶ Ibid, II.

⁹⁷ Beniuk, 11.

⁹⁸ Eglá Martínez-Salazar, *Global Coloniality of Power in Guatemala. Racism, Genocide, Citizenship*, (Baltimore: Lexington Books, 2012), 210.

women equally has been a challenge.⁹⁹ Edwards, for instance, defines patriarchy as a “sex/gender order” that makes use of several systems and tools to control women.¹⁰⁰ However, several authors associate this definition with mainstream feminisms, which are the struggle of white, heterosexual, privileged women against the structures created by white, heterosexual, privileged men.¹⁰¹ Thus, some of the definitions of patriarchy neglect to accurately describe how women of colour experience ‘the rule of men,’¹⁰² in between white supremacy, colonialism and heteronormativity. Raising questions about patriarchy is essential to discussions of sexual violence against Indigenous women because although some authors attribute the perpetuation of violence to physical advances made by men,¹⁰³ this violence has to be recognized as a symptom of a broader net of violence(s) perpetrated against Indigenous women. Thus, the questions become, how do patriarchy oppress Indigenous women (much of which was explored in other sections)? And how are Indigenous women oppressed by other movements?

Kimberle Crenshaw, often credited with one of the most important theorizations of intersectionality, highlights the difficulties of fully understanding the oppressions of women of colour through the lens of mainstream white-Western feminism and anti-racist movements. She argues that both movements have suppressed minority experiences in order to highlight one type of struggle.¹⁰⁴ For her, neither group could see how the intersections of race, gender and sex

⁹⁹ Malise Rosbech, “What is Patriarchy.” Retrieved from

http://www.newleftproject.org/index.php/site/article_comments/what_is_patriarchy, 2013, n.p.

¹⁰⁰ Caroline Sweetman, ed. Violence Against Women. Oxfam Focus on Gender. Oxford: Oxfam, 1998., 3.

¹⁰¹ Aida Hernández Castillo, “The emergence of indigenous feminism in latin america.” *Signs: Journal of Women in Culture and Society* 35, (3): 2010, 541; Angela Ixkic Bastian Duarte, “ Full access from the margins of Latin American feminism: Indigenous and lesbian feminisms.” *Signs: Journal of Women in Culture and Society* 38, (1): 2012, 153; Carreiro, 22; Grace Josephine Mildred Wuttunee Oullette. *The fourth world: An indigenous perspective on feminism and aboriginal women's activism*, (Halifax, N.S: Fernwood Pub. Co., 2012), 15.

¹⁰² Rosbech, n.p.

¹⁰³ Harbele and Grace, 113.

¹⁰⁴ Kimberle Crenshaw Williams, “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Colour,” *Stanford Law Review* 43(6), 1991, 1252, 1258.

made the experience of women of colour radically different from that of men of colour or white women.¹⁰⁵

In fact, Clorinda Cuminao Rojo points out that the difficulties experienced with white-Western mainstream feminists has resulted in resistance among Mapuche women to identify as feminists.¹⁰⁶ Mapuche women have been largely marginalized in mainstream feminist movements, and have also found that these circles prioritize individual rights over collective rights. Such an approach forces them to neglect one part of their identity, which is an affront to their Indigeneity.¹⁰⁷

In view of the challenges that indigenous women have faced with mainstream feminist movements, Indigenous feminism has emerged as a form of resistance. Aída Hernández Castillo sees Indigenous feminism as a space, which encourages individuals to join a community of solidarity without neglecting their identities.¹⁰⁸ Angela Ixkic Bastián Duarte points out that Indigenous feminism challenges mainstream feminism in two important ways. First, it is skeptical of notions of “liberal individuality” adopted by mainstream feminism. Next, it questions liberal notions of “equality,” which many Indigenous women have categorized as irrelevant, or simply wrong.¹⁰⁹

Even so, mainstream feminist movements are not the only source of oppression for Indigenous women. The complex layers of identity often held by Indigenous women can make them a target of patriarchal violence not only from white-Western apparatuses, but also within

¹⁰⁵ Ibid, 1262.

¹⁰⁶ Cuminao-Rojo, 111.

¹⁰⁷ Cuminao-Rojo, 122.

¹⁰⁸ Aida Hernández Castillo, “The emergence of indigenous feminism in Latin America.” *Signs: Journal of Women in Culture and Society* 35(3), (2010), 539.

¹⁰⁹ Angela Ixkic Bastian Duarte, “Full access from the margins of Latin American feminism: Indigenous and lesbian feminisms.” *Signs: Journal of Women in Culture and Society* 38 (1), (2012), 154, 161.

their own communities. Martha Sánchez Nestor writes that Indigenous women movements in Mexico have been accused of dividing the broader movement in favour of the rights of Indigenous women. Sánchez Nestor argues that Indigenous women movements do not want to crush the collective fight of their communities; instead, they want to make sure that the resistance is strengthened by guaranteeing the rights of Indigenous women within and outside broader movements.¹¹⁰ Méndez-Torres further acknowledges that within Indigenous grassroots movements, Indigenous women have to continuously re-negotiate their place and leadership.¹¹¹ These encounters with feminisms and anti-racism movements not only present challenges to Indigenous women and other women of colour in the construction of their identity, but they continue to perpetuate their oppression and violence against them by constraining support and spaces for resistance.

IV. Redefining Sexual Violence and Going Forward.

“Rights are radical tools for those who have never had them.”

Ratna Kapur.¹¹²

Taking into account the above areas of influence, and in the spirit of recognizing that the experiences of Indigenous women are intersectional and deeply marked by colonialism, I have defined sexual violence in the following manner:

Sexual violence is a symptom of how different systems of oppression collide and result in the rape and harassment of Indigenous women. Indigenous women live this type of violence as a by-product of historical and contemporary colonial relations. Hence, their experiences are often

¹¹⁰ Martha Sanchez Nestor, “Mujeres Indigenas en Mexico; accion y pensamiento, construyendo otras mujeres en nosotras mismas.” *Feminismos Disidentes en America Latina y El Caribe*, 2005, 52.

¹¹¹ Méndez-Torres, 24.

¹¹² Ratna Kapur, “Human Rights in the 21st Century: Take a Walk on the Dark Side.” *Sydney Law Review*, Vol. 28, 2006, 682.

“boxed” into the moral and epistemic categories of Eurocentric understandings of sex, gender and heteronormativity. Likewise, sexual violence is an indicator of how capitalism, neoliberalism and globalization have continuously taken over Indigenous women’s lands, bodies and labour by making them “dispensable” and “rapable” with the State’s blessing. Further, sexual violence is the result of epistemic violence perpetrated by those who reject or/and appropriate the collective knowledge systems that Indigenous peoples have developed over millennia, making them, in this way, subjects of development. Finally, sexual violence is not only the result of patriarchal oppression(s), but it is also a consequence of the failure of feminists and anti-racist movements to find grounds for solidarity and resistance.

Although this definition focuses on Indigenous women, it could pertain to the experiences of other women of colour. Further, this exercise is important for future work to reflect not only on sexual violence, but on how we think about policy and human rights approaches in general. Policy is an important vehicle of values, assumptions, implicit theories and interests that flow from the different parts of the State.¹¹³ Much of the policy work done traditionally in Western countries, and those relying on the colonial model of statehood and governance, has served powerful interests. For instance, Hodgson and Kelley, acknowledge that law and policy spheres are an expression of white-male-middle-class-Christian privilege in Canada.¹¹⁴

Similarly, to critique human rights in today’s neoliberal environment, where they have been incorporated into the neoliberal rhetoric,¹¹⁵ is often considered to be some sort of liberal

¹¹³ Leslie Pal. 2011. *Beyond Policy Analysis: Public Issue Management in Turbulent Times*. Toronto: Nelson Education. 1-44.

¹¹⁴ Hodgson and Kelley, 3-4.

¹¹⁵ Blackwell, 704.

blasphemy. Nonetheless, there is no agreement neither among scholars, nor among Indigenous activists, about the role of human rights discourses in resistance and liberation movements. For example, Georgina Sánchez-Ramírez argues that Indigenous women have used human rights and women's rights discourses to break away from gender-based violence.¹¹⁶ Likewise, she deems human rights discourses the source of political opportunities for Indigenous women.¹¹⁷

But these views do not go without criticisms. Ratna Kapur sustains that the notion of human rights is strongly flawed in a very important way: human rights violations are perpetrated in the name of these rights.¹¹⁸ Further, Corntassel and Bryce suggest that rights discourses are closely tied to the State, and do not reflect the needs of Indigenous communities, and their commitments to their lands.¹¹⁹ The authors also support the view that the notion of rights is too conditional on the State's willingness to give, protect and honour those rights.¹²⁰

So are human rights approaches relevant or useful? In here I am not trying to make an argument against human rights *per se*, one cannot simply say that the right to life, to recognition before the law, to gender equality and others, is wrong. What is more, Kapur clearly explains that despite the challenges, the human rights language is powerful in view that the rhetoric is available to those who have never had rights.¹²¹ Thus, exercises, like the one presented in this paper, allow scholars to critically engage with concepts while challenging mainstream notions of policy and human rights. This work is needed in view that the numbers of women of colour

¹¹⁶ Georgina Sanchez-Ramirez. "Notes on the sexual rights of indigenous women in Chiapas." *Women's Health Journal* 17, (2): 2011, n.p.

¹¹⁷ Ibid, n.p.

¹¹⁸ Kapur, 665.

¹¹⁹ Jeff Corntassel and Cheryl Bryce, "Practicing sustainable self-determination: Indigenous approaches to cultural restoration and revitalization." *The Brown Journal of World Affairs* 18, (2): 2012, 152.

¹²⁰ Ibid, 152.

¹²¹ Kapur, 682.

exposed to sexual violence, as defined in this paper, continues to grow despite laws and conventions that assert their rights. Hence, a shift in the paradigm is needed.

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