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Negotiations of Space:
The Indigenous Prisoner and Discourse

Introduction

The prison traditionally acts as a site for exile, where the offending individual is removed from society and punished through the deprivation of liberty. Recent developments have, however, begun to portray the prison in a different light. The past two decades of correctional history in particular have been marked by the renewed interest of correctional agencies in the practice of offender rehabilitation. Indeed, so greatly has the perspective changed since Martinson's infamous conclusion that, "with few and isolated exceptions, the rehabilitative efforts … have had no appreciable effect on recidivism,"[1] many have heralded it as one of the most significant shifts in modern corrections.[2] This renewed interest in offender rehabilitation has clear implications for the prison, whereby it now becomes a place for engagement between the prisoner and correctional agencies through the practice of directed interventions and treatment. Thus, contrary to its traditional function, the prison appears to have shifted from being a site of exclusion to a place of inclusion.

Complementing this shift towards inclusive correctional practice is a further directed move by correctional agencies towards Indigenous offenders. Notably, the history of colonisation and resulting social and institutional biases, have led to Indigenous populations

across Western nations being incarcerated at a much higher rate than non-Indigenous populations. Using an Australian example, figures from the state of Victoria show that the adult Aboriginal offender is 11.5 times more likely to face imprisonment upon sentencing than a non-Aboriginal offender.[3] In the past decade correctional agencies have begun to acknowledge their role in the over-representation problem, and are attempting to address this issue by becoming "culturally appropriate." The result of this recognition is that all correctional practice undertaken in relation to Indigenous populations must be reconfigured so as to be appropriate to these populations' specific needs. The correctional system must be inclusive of the Indigenous populations in correctional practice.

This article will use the optic of the inclusive correctional system to explore the theoretical space of the Indigenous offender. First, the current space of the Indigenous offender will be outlined through an examination of the value and limitations of postcolonial and settler-colonial theories. It will be argued that although these theories are the most common basis for interpreting the space of the Indigenous subject, they limit rather than develop this space. Seeking to address this problem, the next section will examine the feasibility of the Eurocentric Foucauldian frameworks of power and governance for theoretical expansion. By exploring the relationship between both the Australian and New Zealand Indigenous offender and their correctional agencies, a space for the Indigenous offender beyond traditional boundaries will be evidenced. Finally, moving away from a focus on external frameworks of interpretation, the agency of the individual will be considered, and a new way of conceptualising the space of the Indigenous offender will be provided.

The problems with tradition: Postcolonial theories marked space

Postcolonial theory provides the most common avenue for Western researchers when exploring the space of the Indigenous subject. Through its psychoanalytical approach to

subjectivity, post-colonial theory offers a legitimate optic for examining the resonating effects of colonisation in contemporary society. It deconstructs the meaning of colonial discourse, reflects on the current repercussions of this process, and provides space for the voice of the "other" to be heard. However postcolonialism is problematic.

Patrick Wolfe's work on settler-colonialism exposes the limits placed on the space of the Indigenous subject by postcolonialism.[4] Wolfe contends that in settler societies such as Australia and New Zealand, the term *post*colonial is inappropriate as it fails to acknowledge the continuity of the colonial process. As Wolfe states, "[t]he colonizers come to stay—invasion is a structure not an event."[5] Wolfe also argues that in settler societies there is a unique relationship between the settler and the land, where the "native" has become "superfluous." The consequence of this relationship is that, "[w]here survival is a matter of not being assimilated, positionality is not just the central issue—it *is* the issue."[6] Taken in conjunction, Wolfe's arguments suggest that the boundaries of postcolonialism are marked by the insistence of Western researchers, such as Williams and Chrisman, that "the era of formal colonial control is over."[7] Postcolonialism masks the space of the contemporary Indigenous subject through its discourse of completion, and marks the boundaries by reference only to the echoes of a colonial past.

Wolfe's work is not however without its own critics.[8] In particular, Merlan contests the function of settler-colonial theory's view that colonialism exists as continuity in structure.[9] Merlan asserts that by maintaining that continuity exists (without accepting change to the structure), the space of the Indigenous subject cannot move beyond the "binary logic of radical difference."[10] Continuity fixes the positions of those involved. Thus if colonisation is as static a structure as Wolfe presents—if the focus remains on land, the native remains superfluous, and the central issue of the structure remains assimilation—then the space of the

Indigenous subject once again becomes limited by the framework. The Indigenous subject must remain in their oppositional "position" or face extermination.

Wolfe's work—and the responses to it—signifies the need to see the space of the Indigenous subject as framed both within and beyond colonisation as it existed in the past. Through its refusal to accept the *post-* in postcolonial, Wolfe's work demonstrates that the boundaries of opposition set by postcolonial theory are too narrow. However, rather than eradicating these markers, the counter theories have merely shifted their location. Postcolonial and settler-colonial theories have fixed the space of the Indigenous subject as either oppositional to an echoing past, or oppositional to a contemporary structure. The implications of this process for the Indigenous offender are clear. By limiting the Indigenous subject's space to colonisation's apparent infinite centrality, the move by correctional agencies to become inclusive in practice can amount to nothing more than another attempt at colonisation. The prison, correctional agencies, and correctional practice can only be conceptualised by these theories as extensions of the Western colonial structure. Therefore, presented with this apparent attempt at colonial practice, the Indigenous prisoner remains bound to a very narrow choice: oppose this modern form of colonisation, or comply, and face extermination through assimilation. The space of the Indigenous offender, as an extension of the Indigenous subject, also becomes one of positionality and opposition. However, are the boundaries of postcolonial and settler-colonial theories so entrenched that there is no space for other possibilities? By using the Eurocentric Foucauldian frameworks of power and governance, this article will propose that this is not the case.

Facing criticisms: Foucault's Eurocentric frameworks

The Eurocentric nature of Foucault's work has been a prime target for those who approach the Indigenous subject with a colonial focus. Young goes so far as to say that "Foucault's

work appears to be so scrupulously Eurocentric that you begin to wonder whether there isn't a deliberate strategy involved."[11] The ramifications of this form of criticism are clear within the current exploration. *Prima facie*, Young's criticism is concerned with the "curiously circumspect" way in which Foucault's work avoids the exploration of power in the "arenas of race and colonialism."[12] It is, however, reasonable to contend that Foucault's work avoided these topics because his subjects were white, Western individuals and institutions, and therefore race and colonialism were not directly of concern. The heart of Young's criticism must therefore lie deeper. Young appears to posit that a Eurocentric focus is a form of colonial misappropriation: that the colonial machine has been bound up in Western thought to the extent that even when the Indigenous person is absent, colonialism remains at the forefront. Hence, by choosing to explore the space of the Indigenous prisoner within a Eurocentric framework, specifically because the framework was not created in relation to race and colonialism, this article could be criticised as not actually exploring Indigenous space, but rather colonising it.

However, this article contends that Young's argument has resorted once more to the simple binary of coloniser/colonised by suggesting that all Western practice/thought is premised on colonialism, and that exploring the space of the Indigenous prisoner within this framework is an act of colonisation. This simplification implies that the Indigenous subject will not succeed in this space, that they will effect no change, and that their conceptual identity will instead be assimilated by Western thought. One conclusion which may be drawn from this implication is that the space of the Indigenous subject is hindered by an uncertainty in the subject's ability to face Western theoretical frameworks and emerge uncolonised. This is theoretical paternalism; and its result has been the shrouding of the Indigenous subject's space from further development.

A paradox has now emerged. Young suggests that acts of contemporary colonialism occur when the colonisation process of the past is ignored. However, his choice to discuss colonialism in reference to past and present Western action reinforces the issue with colonial terminology: the term colonisation implies the ability of the West to extend and retain authority over the Indigenous people. By refocusing on colonisation, the consequences of colonial action have been reinstated. Therefore, although Young's work would suggest that in order to refrain from contemporary colonial action one should remain focused on colonisation, the choice to remain focused on colonisation is itself potentially colonial in approach. The Indigenous subject's space will remain bound to the ability of the West to extend and retain authority over them if colonisation remains in focus. Consequently the dilemma becomes: should one take this theoretically paternalistic approach and limit the space of the Indigenous prisoner on the basis that they should be "shielded" from other Western thought (which will apparently succeed in assimilation); or is it more appropriate to explore the effect of the Indigenous subject on Western development, to examine the possibility that the subject may not only resist Western thought, but change its foundations? This article proceeds on the basis of the latter position.

The Foucauldian framework: Sovereignty, discipline and governmentality

Foucault demonstrates that the penal sphere has long been the space of sovereignty and disciplinary power. Accordingly, any interpretation or implementation of a correctional mechanism, such as culturally appropriate offender rehabilitation, can be understood as an extension of the exercise of one or both of these types of power. Beginning with sovereignty, Foucault conceptualised this form of power as existing prior to the seventeenth century.[13] He proposed that sovereign power focuses on the body of the subject and the body of the monarch—that this form of power had a very physical and visible existence. In fact, to

Foucault, it was the physical presence of the sovereign which was vital to maintaining order. Therefore, in the context of punishment, the exercise of sovereign power is understood as vengeance by the sovereign, on the subject's body, for acts committed against the corporeal body of sovereignty. Power is understood in its harsh reality as coming from above (sovereign) and applied below (subject).

Whilst still proposing that the exercise of sovereignty is important, Foucault also suggested that an additional understanding of power is necessary for all those exercises of power which fall outside sovereignty. These he termed disciplinary power. With the birth of "the prison" in the late eighteenth century and the move away from public torture and sovereign rule, the body's quintessence had decreased in this relationship of power.[14] The control over the individual which was attained through sovereign rule could no longer be accomplished. The mode of operation required change, and the investment was consequently redirected inside, to the soul. The soul therefore became a product of disciplinary power, a "prison of the body."[15] Unlike the body, the soul did not require power to be applied from the outside; it acts as its own pressure, mobilising, training, constraining and controlling the body internally through surveillance. Hence, whilst never replacing the importance of sovereignty, disciplinary power provided, for Foucault, a more appropriate way to interpret power relationships in the context of the prison.

In his later work Foucault further extended his attention to consider all those exercises of power which did not fall within the domain of either sovereignty or disciplinary power. These he termed governmentality. Foucault's theory of governmentality was essentially based on two assertions. First, he argued that the "task" of governmentality was to develop upward and downward continuity between the "art-of-self-government," the "art of properly governing a family," and the "science of ruling the state."[16] Second, he proposed that it was through the establishment of economy, which he defined as "the correct manner of managing

individuals, goods and wealth within the family… and of making the family fortunes prosper,"[17] that such continuity can be achieved. Therefore, the theory suggested that it was through the different mechanisms and technologies (economy) used at every social level (government—government institutions—non-government institutions—family—individual) that continuity can occur between the individual and the government, without an overbearing presence of control being required. Furthermore, he proposed that it was through this combination of economy and continuity that an arrangement of things can take place which allows the individual to choose, or become capable of taking on new and improving forms of being, identity, and ways of life. Therefore this conceptualisation of government can be clearly differentiated from the political construct forming the basis of the modern state's government (as an institution), as Foucault approaches governance as an activity which can take place both within and beyond the state.[18]

Finally, Foucault proposed that rather than seeing a system of replacement, from sovereignty to disciplinary power, and now from disciplinary power to governmentality, a triangle of sovereignty-discipline-governmentality exists, where each focuses on the population, but does so in a different way.[19] It therefore follows that whilst the prison has traditionally been conceptualised as the domain of sovereignty and disciplinary power, it may also be a site for the exercise of governmental power, or governmentality. Hence, given that the changes to the correctional system discussed above themselves appear in contrast to tradition, perhaps governmentality, as the least conventional way of interpreting correctional space, offers the most appropriate avenue for the current exploration.

Indigenous governmentality

Foucault's governmentality thesis is in its infancy, and as such is subject to interpretation. As previously discussed, governmentality refers to the power relation which sees different

mechanisms and technologies (economy) being used at every social level (government—government institutions—non-government institutions—family—individual) so that continuity can occur between the individual and government. Moreover such continuity should be both upward in direction, where individuals manage themselves in such a way that they positively affect all that surrounds them, leading to a prosperous state; and also downward in direction, where the state manages itself in such a way that it allows new ways of being for individuals to consider for their own self-management, which are in line with both the state's and the individual's interests. Thus an arrangement of things can take place which allows the individual to choose, or become capable of taking on new and improving forms of being, identity, and ways of life. Stenson's recent work on realist governmentality theory clarifies how this process of continuity and economy can be applied.[20] Stenson argues that rather than interpreting this interaction between the individual and the state in relation to the concept of liberal governance, where the centrality of the state is removed, one must see that the sovereignty of the state remains intact.[21] Hence, underlying continuity is "the struggle for control of populations… ultimately though the monopolisation of the threat or use of coercive force in the name of transcendent law and state authority."[22] The application of the Treaty of Waitangi by New Zealand correctional agencies will now be used as a foil for exploring the feasibility of this framework in relation to the Indigenous subject.

The Treaty of Waitangi is surrounded by controversy concerning its translation. The English version claims that sovereignty was surrendered by the Maori people, and the Maori translation says that only governance was submitted to. Non-government literature focuses on the use of this Treaty to exemplify the New Zealand government's inability to provide adequately for, and maintain, the Maori people and their culture. Larsen, Robertson, Hillman and Hudson argue that a failure to accept the Maori meaning of the Treaty has resulted in repeated decisions by the government that reinforce monoculturalism.[23] In contrast,

government literature contends that although sovereignty has not been released, it has become a priority of the New Zealand government to acknowledge that the Maori people should be entitled to uphold their culture, that the government should make all attempts to maintain this culture, and should in no way diminish it through assimilation.[24] The correctional sphere acts as one of the avenues through which the New Zealand government has attempted to implement this understanding of the Treaty.

What is interesting about the Treaty of Waitangi is how this almost two-centuries-old document can be recruited into the contemporary rationalities and strategies of governance. Such recruitment would suggest a secondary purpose to the Treaty, something beyond its significance as the first form of agreement between the Maori people and the State, and its negotiation of sovereignty. In Foucauldian terms, the recruitment of the Treaty can be understood as another way through which the Maori are being drawn up into the process of better self-governance. The Treaty provides and facilitates the conditions in which they may maintain their own culture, and therefore retain their "own way" of being. The Treaty becomes a tactic of governmental power because it facilitates self-improvement, health, welfare, and so on. Thus, in this example, the combination of economy and continuity can be seen through the use of the Treaty by correctional agencies when facilitating the conditions for Indigenous offenders.

However, this example also shows that there is a problem with the "economy" and "continuity" combination process. The conceptualisation of "economy," the correct management of individuals for prosperous outcomes, is clearly more applicable to the process of downward continuity than it is for upward continuity. The New Zealand example demonstrates how the Treaty of Waitangi—and the concepts of self-government and improvement embodied within it—has been used in the science of ruling the state in order to facilitate the conditions at various levels of contact (correctional agency) for individuals

(Indigenous offenders) to take on new ways of being. However, there is insufficient indication of the role of the subject within this process. The space determined by the individual through upward continuity, or the translation of the art of self-government to the science of ruling the state, remains unexplained.

Ethics and care-of-the-self provide some indications of the subject's role in the shaping of governance. Foucault contends that to be an ethical subject one must attend to or care for oneself in such a way that it becomes a form of living.[25] Through this act of attendance, the ethical subject establishes him- or herself within the correct position in society, and in doing so allows for the rest of the society in which s/he resides (family, community and so on) to function as they should. However, this development is still limited by the original problem of clarification. Although Foucault's writing couches the concepts of ethics and care-of-the-self within the terms of upward continuity, indicating that these concepts are extensions and clarifications of the upward process, even within these developments the combination process remains unclear. It would appear that Foucault presents the role of the subject as allowing oneself to be shaped by downward continuity: that subjects' only impact is in whether they choose to take up their "correct" position in society, or cause ripples in the downward flow. This article contends that this is a failing of Foucault's work. By limiting the upward continuity of the subject to take place only at the end of the downward process, Foucault falls short of showing how the individual subject, through the "art-of-self-governance," can change the "science-of-ruling-the-state." It is clearly inappropriate (and colonial) to explore the space of the Indigenous subject within this limited framework of governmentality, ethics and care-of-the-self. Instead, what is required is an examination of how the Indigenous subject can help reconceptualise this Western framework, and clarify the process of upward continuity.

Recent work by O'Malley has begun to problematise the upward continuity process in relation to Indigenous people.[26] O'Malley makes a pertinent point when he notes that although Foucault's theories of power relationships stress that power is never exercised by one on another, but rather is an interaction within which resistance is a key player, this understanding does not appear to have been wholly incorporated into his theory of governmentality. O'Malley contends that, instead, "resistance" has been replaced by "failure" (of programme, or approach), and by such "failure" it loses its strength in the relationship, as it simply becomes a part of a programme. Thus while "failure" of an individual to incorporate programmes and approaches into their own art of self-government does become the impetus for rethinking and reconstructing programmes, the individual loses his/her ability to provide continuing input into the broader relationship. The individual is no longer considered a constant source of "resistance" within this space, only an end which will either succeed or fail. It is due to this diminished relationship that O'Malley further contends that this understanding of "failure" is inappropriate for the Indigenous population. O'Malley posits that Indigenous populations have a key influence on the science of ruling the state, as all interactions with these populations in recent years have forced acknowledgement of the need to work alongside their cultural framework.

However, whilst O'Malley's work demonstrates the problems of applying Foucault's theory to the Indigenous population, he works too abstractly with these concepts, and fails to provide a clear explanation of how to reconfigure Foucault's framework of upward continuity to take into account these new concepts of "failure" (waiting for application to occur before reacting) and "resistance" (active participation at all times). O'Malley's work helps to clarify the problem of the framework, but not the solution.

It is proposed that the solution resides in the recognition that the term "upward continuity," when conceptualised as the inverse of "downward continuity," is inappropriate

for describing the process by which the Indigenous subject shapes the form of governance. Whilst downward continuity can be visualised as working through a funnel form, as the science of ruling the state pours itself through spaces and works its way down in a circular directed fashion of facilitating conditions and arranging things, this direction is inconceivable in reverse. It is unfathomable to contend that a single individual's influence (regardless of race or culture) can work its way back up in a directed flow and affect each space until the science of ruling the state is changed. Instead the impact of the Indigenous subject on this framework means that rather than understanding upward continuity as a *process* of directed upward flow or movement, it is more appropriate to understand it as the relationship of *response* with the individual at each of these sites for facilitation. Rather than seeing individuals as waiting to spur the entire downward process into reverse, it is more appropriate to see them continuously and systematically responding at each intersection of the downward process, choosing to become capable of taking on improved ways of self-governance at each point. The Indigenous subject forces upward continuity to be reconceptualised as a continuity of response, and not a continuity of directed upward flow. Thus an element can be added to the theoretical space of the Indigenous subject. The subject can influence, impact on, and indeed force Western theoretical frameworks to be reconceptualised. It is now important to examine if the general space of the Indigenous subject is reflective of the space which exists for the Indigenous offender.

From theory to practice: The Australian and New Zealand Indigenous offender

Upon first examination, the Australian correctional literature appears to demonstrate how "resistance" works in the context of governmentality. There is an apparent admission of the way that governmentality has worked through downward continuity in the past - how facilitation for the conditions of life have been determined *for* the Indigenous population,

rather than *with* them. Thus the Victorian Aboriginal Justice Agreement acknowledges correctional agencies' institutional racism, commenting on the problem of reinforcing societies' norms which are determined by the non-Indigenous community.[27] Similarly, the New South Wales Aboriginal Strategic Justice Agreement acknowledges responsibility for addressing the underlying causes of crime in Aboriginal communities.[28] It is confidently acknowledged by these agencies that although this was the original approach taken, a change is now required, as the Aboriginal people possess the ability to determine and solve their own problems.[29] Thus, "resistance" is reinstated in the Australian context, such that through acknowledgement of the ability of the Aboriginal people to solve their own problems, upward continuity can be established in their response to programme development at every stage. Indeed, even if problems have no short term "solution" as such, the ability to "address" those problems from an Indigenous approach is significant. The process of "solving their own problems" establishes the role of Indigenous people in the power relationship and accordingly, governance must be shaped in such a way that it allows for issues to be addressed from an Indigenous approach.

However, whilst such acknowledgements might, on the surface, present a somewhat smooth way through which upward continuity can take place, some recent correctional literature has identified issues which complicate this process. Specifically, what has begun to be expressed in the literature is the common finding that many Aboriginal people suffer from low-self esteem, which along with other factors, is a result of a disconnection from their own identity and culture.[30] Moreover, some Aboriginal people feel that they do not know their identity and culture, especially those who form part of the stolen generation. Both Clark and Hollingsworth express the complexity of Aboriginal identity, and how in many cases it has come to the point where it is no longer clearly linked to culture.[31] Therefore, it becomes pertinent to question how these correctional agencies are able to provide culturally

appropriate programmes for Aboriginal people, when the connection between identity and culture has not been defined by the Aboriginal people themselves. In the light of this question, it is necessary to refrain from viewing the relationships of "resistance" and "failure" as totalities. Thus while "resistance" appears to have been portrayed through acknowledgement of Aboriginal self-determination, and through the development of culturally appropriate programmes designed to address issues of Aboriginal identity and culture, elements of "failure" also exist. Through the choice of correctional agencies to pursue programmes whose conceptual framework is questionable, the relationship also demonstrates the idea that change to such programmes is only likely to occur once they succeed or fail. Hence it is proposed that Australia demonstrates the spectrum of "resistance" and "failure," predominantly portraying "resistance," but at times expressing elements of "failure."

In addition to exemplifying the development of the Indigenous prisoner, the Australian case reinforces the necessity to view the space of the subject outside the boundaries of colonialism. A colonial approach would not account for the necessity to work *with* Indigenous culture, only against it. Even when elements of "failure" exist, and the Indigenous prisoner is viewed as an end with the potential to succeed or fail, the approach is reflexive and immersed in Indigenous culture, rather than based on Western understandings alone. However, it would be inappropriate to suggest that the Australian example provides all that is needed to explore the space of the Indigenous offender in Foucauldian thought. It is vital that in this development new boundaries are not marked through the singularity of the term "Indigenous." One population's approach should not be viewed as a sufficient demonstration of the different approaches which could be taken by the myriad populations that exist. This paper is intended as a beginning to the very long process of reconceptualising the Indigenous subject, and as such can not undertake the necessary examination of how each

unique Indigenous population changes this Western framework, and practice. However, by additionally exploring New Zealand's Indigenous offender population, this section seeks to emphasise the necessity to break from the singularity of the Indigenous term and expose further developments in this space.

New Zealand offers perhaps the clearest example of how governmentality involves an aspect of Indigenous "resistance," and how such "resistance" can in fact be better understood as Indigenous downward continuity. Like Australia, New Zealand also facilitates this process through acknowledgement of how downward continuity has existed in the past, completely separate from the individual's concept of governance.[32] However, New Zealand's approach differentiates itself from Australia's, as New Zealand chooses to go beyond simple acknowledgements of diversity and ability, and extends itself to accept Maori culture as "equal."[33] Hence McFarland-Nathan stresses that in the New Zealand Department of Corrections' use of the term culture, they refer to "the shared system of beliefs, social organization and ritual that are the basis of the various populations and groups making up human society."[34] Culture is something that is shared by all groups in society and is experienced in innumerable ways. What is important about this extension is that, rather than merely making an allowance for the Indigenous population to "solve their own problems," this approach creates balance. The New Zealand approach presents itself as one which provides for the concept of governance to be determined simultaneously from the "science of ruling the state," and from the individual "art of self-governance." Indeed it is contended that in the case of New Zealand, it is appropriate to see two simultaneously existing instances of downward continuity, one instigated by the Indigenous population, and one by the non-Indigenous, which work alongside and in constant response to one another.

What can be taken from these examples of governmentality is that the Indigenous prisoner enjoys a mutuality of impact which could not be accounted for in the space

established by the binary of coloniser/colonised. By choosing to resist, or allow the ways of being that are being presented by correctional agencies, the Indigenous offender impacts on the practice of the Western institution. Through their responses at each intersection, Indigenous offenders also present the correctional agencies with more appropriate ways of being (practice). Therefore, by exploring the space of the Indigenous prisoner outside colonial boundaries, significant theoretical developments can be derived in relation to both the space of the Indigenous subject and the Foucauldian framework.

However, whilst this section has succeeded in identifying the space that can exist for the Indigenous offender in Foucauldian theory, it cannot truly account for how, or if, this space is actually approached. Accordingly, the final section will attempt to address this issue by exploring the concept of agency and the role of discourse, and what this implies for the interaction of the subject with theoretical space.

Open negotiation: Space, discourse and agency

Recent work by Ashcroft on the effect of discourse—defined as "a way of speaking about experience"[35]—provides a useful foil for better understanding the interaction between the Indigenous subject and theoretical space. Ashcroft provides two propositions which question the totalising effect of discourse on the space of the subject of which it speaks. First, he argues that the belief that there is a dominant discourse, or universally prevailing world-view at a particular time and place, is flawed. Rather, at any given time, there are multiple contesting discourses which exist.[36] This idea can be evidenced by the exploration undertaken, whereby this paper has already shown that although postcolonial and settler-colonial theories may provide the most commonly used, or dominant, discourse about the Indigenous subject, a contesting discourse of the Indigenous prisoner can simultaneously be found in Foucauldian frameworks. Second, Ashcroft contends that as a result of these

contesting discourses existing alongside and in reference to one another, "hairline fractures open up"[37] at the boundaries of each, rendering them negotiable. Thus the existence of a Foucauldian framework capable of conceptualising the space of an Indigenous prisoner causes fractures in the boundaries of postcolonial discourse, as it renders these boundaries provisional to explorations of colonial relations. What then are the implications for the Indigenous offender, if the dominant ways of speaking about their experience and space can be shown in a different light as fractured or provisional at best?

By drawing further on Ashcroft's work, the implications of contesting discourses on the space of the Indigenous offender can be clarified. Ashcroft proposes that through their co-existence, contesting discourses allow the individual to engage with the process of establishing the ways of speaking about experience. Rather than simply having their experience inscribed for them by a single discourse, the individual can choose to reflect upon the different ways of speaking offered by several contesting discourses, and decide whether, and in what way, they will accept, resist or reshape them. Accordingly, while postcolonial and settler-colonial theories offer the Indigenous prisoner space through the writing of experience in relation to colonisation and the Foucauldian framework offers space in relation to complex power relations and interactions, how this space is approached is determined by the agency of the individual. The theoretical space of the Indigenous prisoner is one of constant negotiation within, against, and between the boundaries of theories and discourse.

Conclusion

Using the optic of the changing face of correctional agencies, this paper has explored the theoretical space that exists for the Indigenous prisoner. The boundaries set by the prominence of postcolonial, and to a lesser extent settler-colonial theory, in Western research were examined. It was found that by fixing the Indigenous subject as oppositional to either a

colonial past or present, these theories leave no space for the subject to develop beyond the binary of coloniser/colonised. Consequently, the frameworks have made the space of the Indigenous subject "colonial bound" and thus limit the space of the Indigenous prisoner as oppositional to a colonial correctional system. Whilst these theories should not be replaced, the colonial relations' boundary needs to be lifted, and new developments are necessary.

Addressing this call, the Foucauldian framework of governmentality, ethics and care-of-the-self was put forward as a possible tool for expanding the space of the Indigenous prisoner. In applying this tool, several small advancements were made. Left unquestioned, the Foucauldian framework failed to demonstrate how the individual could shape governance. However, the unique quality of the Indigenous subject, reflected in the need of governments to work with and within their cultural frameworks at all times, demonstrated that this failing was one of conceptualisation. The Indigenous subject was shown to influence and impact upon Western theoretical frameworks through the need to reconceptualise the concepts of "upward continuity," "resistance" and "failure." It is necessary to interpret upward continuity not as a continuity of directed upward flow or movement, but a continuity of response where the individual is involved at each of the sites for facilitation. Subsequently, when this theoretical development was explored through the examples of Australian and New Zealand Indigenous offenders and the correctional system, further expansion was found to occur. The space which exists for the Indigenous prisoner in Foucauldian thought is one of mutual impact.

Finally, reflecting on the recent work of Ashcroft, this paper determined that whilst it is possible to explore the space that can exist for the Indigenous prisoner, how this space is approached remains within the control of the individual. Through negotiating their own way of speaking about experience within, against, and between the boundaries of existing

discourse, individual Indigenous prisoners determine their own space in theory. The space of

Indigenous offenders is, largely, that of their own making.

Notes

[1] Robert Martinson, "What Works? Questions and Answers about Prison Reform" (*The Public Interest* 35, 1974), 22-54.

[2] Paul Gendreau, "Offender Rehabilitation: What We Know and What Needs to be Done" (*Criminal Justice and Behavior* 23.1, 1996), 144-161; Tony Ward, "The Management of Risk and Design of Good Lives" (*Australian Psychologist* 37.3, 2002), 172-179; Tony Ward and Mark Brown, "The Risk-Need Model of Offender Rehabilitation: A Critical Analysis" in Tony Ward, D. Richard Laws and Stephen Hudson, eds., *Sexual Deviance: Issues and Controversies* (Thousand Oaks, CA: Sage, 2003), 338-353; Tony Ward and Claire Stuart, "Criminogenic Needs and Human Needs: A Theoretical Model" (*Psychology, Crime and Law* 9.2, 2003), 125-143.

[3] Department of Justice and Department of Human Services, *Victorian Aboriginal Justice Agreement* (Melbourne: Victorian Department of Justice, 2004).

[4] Patrick Wolfe, "On Being Woken Up: The Dreamtime in Anthropology and in Australian Settler Culture" (*Comparative Studies in Society and History* 33.2, 1991), 197-224; "Nation and Miscegenation: Discursive Continuity in the Post-Mabo Era" (*Social Analysis* 36, 1994), 93-152; "History and Imperialism: A Century of Theory, from Marx to Postcolonialism" (*The American Historical Review* 102.2, 1997), 388-420; *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London: Cassell, 1999); "Race and Racialisation: Some Thoughts" (*Postcolonial Studies* 5.1, 1999), 51-62.

[5] Wolfe (1999), 2.

[6] Wolfe (1999), 3, original emphasis.

[7] Patrick Williams and Laura Chrisman, "Colonial Discourse and Post-Colonial Theory: An Introduction" in Williams and Chrisman, eds., *Colonial Discourse and Post-Colonial Theory: A Reader* (New York: Harvester Wheatsheaf, 1993), 3.

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