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Indigenous languages and the racial hierarchisation of language policy in Canada

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This paper addresses language policy and policy-making in Canada as forms of discourse produced and reproduced within systems of power and racial hierarchies. The analysis of indigenous language policy to be addressed here focuses on the historical, political and legal processes stemming from the Royal Commission on Bilingualism and Biculturalism (1963–1969) to the 1982 Canadian Constitution and its aftermath. Through a critical historical and discursive analysis, we demonstrate how racial hierarchies and language ideologies favoured French and English dominance and reinforced the marginalisation of indigenous groups defined in terms of the socially constructed and assigned category of race. We relate these race-based language policies to contemporary indigenous language struggles in Canada, including the Task Force Report on Aboriginal Languages and Cultures (2005), and describe the logic imposed by colonial constitutional arrangements on indigenous language promotion, revitalisation and mobilisation in Canada.

Keywords: indigenous language; linguistic assimilation; national language policies; neoliberalism; racial hierarchies

Introduction

In Canada, language policy is perhaps best understood in its historical, political and legal context. Language policies have been used in Canada as a way to address state concerns with national unity and control, producing forms of racial exclusion and maintaining a white-settler nation. Accordingly, these policies have functioned to manage racial difference through processes of erasure, forced assimilation and exclusion through the technology of language. In this study, we analyse language policy and policy-making as forms of discourse produced and reproduced within systems of power and racial hierarchies; such hierarchies have led to the marginalisation of particular groups defined in terms of the socially constructed and assigned category of race. We focus on one cluster of such groups in Canada: indigenous peoples, and the unequal power relationships that they have experienced with respect to both settler and other racialised communities, as clearly reflected in language policy-making in Canada. We show, through a critical analysis of race-based policies, how indigenous languages in Canada were subject to exclusion or marginalisation in federal government policy-making, particularly in the latter half of the twentieth century. We also show how the effects of

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these practices have persisted, shaping our understanding of language teaching and learning in Canada.

The social and political context central to our analysis is Canada's colonial and contemporary history and the language ideologies embedded in it. These ideologies have positioned English or French as superior and indigenous languages as 'primitive' and as barriers to 'civilisation' and modernity. In the nineteenth and twentieth centuries, these ideologies were basic to the highly destructive assimilationist policies that governed residential schooling, the effects of which are still being felt today (Barman 1986; Miller 1996; Chrisjohn and Young 1997; Milloy 1999; Castellano 2008). Although residential schools began to disappear in the latter half of the twentieth century, and language issues in Canada came to be shaped by the rise of Quebec nationalism and the progressive language, immigration, multiculturalism and human rights policy-making of the post-Second World War era, indigenous language interests continued to be marginalised in policy priorities shaped by the Canadian state's colonialist and racist underpinnings. Not only did the need for indigenous language protection and promotion remain virtually unacknowledged, but little place for indigenous languages was recognised by those with the power to shape Canadian policy.¹ This marginalisation of indigenous languages continued into the 'Charter Era', when Canada's constitution was repatriated from the UK, and a host of human, political and language rights was entrenched in the *Constitution Act, 1982*.² Although this constitutional document did recognise aboriginal and treaty rights, it made no reference to indigenous language rights, and little progress has been made in this domain since then.

In what follows, we offer a critical examination of language policy-making and the production of racialised language policy discourse, interrogating how language issues have been conceptualised and prioritised by the Canadian state. The discussion is organised as follows: first, we elaborate on the concepts of indigeneity, race and racial hierarchies. We then apply this framework to an analysis of Canadian historical and policy developments from the 1960s to the present day, discussing the Royal Commission on Bilingualism and Biculturalism, indigenous policy-making in the 1960s and its relation to the Red Power movement, and indigenous language policy in the 'Charter Era'. Finally, we summarise our discussion and conclude with some observations about the current state of affairs in Canada as regards indigenous language protection and promotion.

Indigeneity and racial hierarchies in Canada

As social constructs, racial representations are always in flux and situated in social and historical processes (Kubota and Lin 2006, 475). Thus racist ideologies of racial superiority and hierarchical racial classification have long permeated indigenous-white relations in Canada and operated through historically and socially contingent processes of racial exclusion. Reinforced by imperialist and capitalist processes of land dispossession and settler colonialism, these ideologies continue to have a negative impact on indigenous peoples in Canada (Perry 2012). As Backhouse (2001, 21) notes, '[m]any Canadians mistakenly think of their history as primarily "raceless" and as comparatively innocent of racism. Yet our legislators and judges routinely drew racial designations that played havoc with legal entitlements'. Among these designations were those made by the Supreme Court of Canada in the early twentieth century on such matters as what counts as 'Indianness' and whether 'Eskimos' counted as 'Indians' for constitutional purposes (Backhouse 1999, 2001).

One profoundly negative effect of racial ordering and racialised laws and policies related to indigenous people in Canada can be seen in indigenous children's schooling and

their generally poor educational outcomes (Miller 1996, 2004; Backhouse 2001). A key part of educational policy in the nineteenth century was the residential school system. Established in the 1870s, this system served the assimilationist agenda of eradicating indigenous languages and instilling the use by indigenous children of 'civilising' English and French languages in order to bring them into the 'circle of civilisation' (Milloy 1999, xx). Assimilation of indigenous peoples also served the state's material interests by freeing land for settlement and reducing the government's fiscal obligations to indigenous peoples (McIntyre 2009, citing Chrisjohn and Young 1997). This may help to explain how, notwithstanding the awareness of state and church officials, residential schools were chronically understaffed and underfunded and (as documented decades later in the 1996 *Report of the Royal Commission on Aboriginal Peoples*) became sites of physical, sexual and psychological abuse, often including punishment of indigenous children for speaking their home languages, as well as 'systematic malnutrition, inadequate shelter, overcrowding, poor medical care, the spread of lethal and untreated infectious diseases, and the substitution of harsh physical labour for school work' (McIntyre 2009, 4–5; Chrisjohn and Young 1997).

The situation of indigenous languages is arguably far better now than it was in this earlier period as a result of the mobilisation of indigenous peoples in the 1960s and 1970s. This mobilisation was a response to various events and challenges facing indigenous peoples, including broader developments, such as American indigenous groups' growing resistance to federal Indian policy and the launching of the Red Power movement (discussed in more detail later) as well as more local developments. Among the latter was the Canadian Government's 1969 publication of its *White Paper on Indian Policy* in which – having ignored input from indigenous groups – it advanced an assimilationist policy. One response to this policy was *The Unjust Society*, a book by the Cree activist Harold Cardinal, who characterised the policy as a tool for 'cultural genocide' (1969, 1). Another response was the 1972 policy paper *Indian Control of Indian Education*, submitted to the Minister of Indian Affairs and Northern Development by the National Indian Brotherhood (NIB).³ This paper highlighted the importance of sound pedagogy and local indigenous control over education. The mobilisation of indigenous peoples was in part also a response to their exclusion from the mandate of the Royal Commission on Bilingualism and Biculturalism, which we discuss in the next section.

Despite the effects of indigenous mobilisation on the situation of indigenous peoples in Canada, there remain significant gaps in indigenous-centred language policies and legal protections. These together with the racial stratification of Canadian society and the racism that indigenous populations continue to face – as reflected, for example, in substandard educational systems, underrepresentation of indigenous students and indigenous-identified faculty in higher education and the lower average salaries of indigenous people compared to white Canadians (Heer 2012; Perry 2012) – contribute to poor educational outcomes (Friedel 2010; Urban Aboriginal Task Force 2007). In this way, language policies in Canada have come to be constitutive of structural and institutional racism. In the next section, we analyse the emergence of this legal and policy discourse in the context of the Royal Commission on Bilingualism and Biculturalism.

The Royal Commission on Bilingualism and Biculturalism

Articulations of racial hierarchisation that underwrite current Canadian language policies can be traced to the era of liberal policy-making that began in the early 1960s and, in particular, to the Royal Commission on Bilingualism and Biculturalism

(RCBB) (1963–1970), which gave rise to the *Official Languages Act* (1969) and in turn to Canada's policy of multiculturalism (1971). The 1960s were, of course, a time of great social unrest, which ushered in fundamental changes to Canadian values, attitudes and social structures. This period also saw the emergence of a new wave of Canadian nationalism – symbolised by the adoption of a new Canadian flag (1965) and centennial celebrations that reached their apex with Expo 67 – the striking of the Royal Commission on the Status of Women (1967–1968), and paradigmatic changes to immigration policy, which moved from selection criteria based on race or geography to a point system emphasising education and skills. Most relevant here, however, was the rise of Québec nationalist sentiment and the crisis in national unity that it appeared to signal, which drove the federal government to initiate the RCBB. The commission's terms of reference were to:

inquire into and report upon the existing state of bilingualism and biculturalism in Canada and to recommend what steps should be taken to develop the Canadian Confederation on the basis of an equal partnership between the two founding races, taking into account the contribution made by the other ethnic groups to the cultural enrichment of Canada and the measures that should be taken to safeguard that contribution. (RCBB 1967, 173)

If the federal government saw this commission as a way to address the crisis triggered by French-Canadian demands for full equality in Confederation, the historical context within which it was launched ensured that it would be at the intersection of a much broader set of struggles and demands for recognition and rights – one that would challenge the commission's original vision for a bilingual and bicultural Canada. In particular, the absence of any reference to indigenous groups in the terms of reference indicated that the commission's framers had had no intention of addressing the place of indigenous peoples in Canada. Although this erasure would be forcefully challenged by indigenous communities throughout the inquiry, the final reports of the RCBB would ultimately bolster it, reinforcing a white-settler racial order based on English and French communities.

The commission's exclusion of indigenous voices required a concerted appeal to white expertise and complex bureaucratic processes. A careful genealogy (Foucault 1977) of these processes is revealing – particularly because these discourses were re-articulated as the ones about language and culture, making no overt references to racial hierarchies and because they have become part of an utterly normalised rationale for continued indigenous exclusion and marginalisation.

As the RCBB's terms of reference suggest, the commission might be seen, at its base, as an effort to rework the Canadian national narrative from one of Anglo-Celtic hegemony to one of two 'founding' settler groups. The commission's first significant task was a series of preliminary hearings in Ottawa in late 1963, where individuals and representatives of various communities came to speak to the terms of reference. These preliminary hearings were followed by a *Preliminary Report* in early 1965, which reaffirmed the commission's central question as one about the relationship between Canada's 'two founding races' – a perspective that placed indigenous communities on the periphery of the conflict between these two races (RCBB 1965, 128).

As it happens, members of indigenous groups were present from the very start of the commission and decried their erasure from the commission's terms of reference. As a representative from the National Indian Council of Canada stated: 'We respectfully submit that Canada is a tri-lingual country. Our imprint is indelibly on this land ... We feel until we are taking our full share at all levels [of the inquiry] we are in many ways a wasted people' (RCBB 1965, 144). Towards the end of 1963, indigenous groups were

finally invited to submit briefs and turned out for the public hearings, which lasted through most of 1965. The briefs in question came from a range of communities and reflected a diversity of interests and opinions. Yet, they shared a number of concerns. One was related to the need for indigenous communities to assert their own status as ‘first citizens’ or ‘founding races’, who had inhabited Canada long before the English or French, notwithstanding the commission’s characterisation of the latter groups as the (exclusive) ‘founding races’. Another was related to the need to reconceptualise bilingualism so as to emphasise the importance of maintaining indigenous languages while acknowledging the instrumental benefits of fluency in a dominant language like English. A third was highlighting the need for a true ‘equality of opportunity’ and ‘an opportunity to share in all the benefits of Canadian life without loss of identity’ (Indian-Eskimo Association of Canada 1965, 3) in order to further indigenous communities’ goals of addressing poverty, cultural loss and sovereignty. These issues were critical in all of these submissions to the public hearings.

The participation of indigenous groups in the commission did not, however, mean that their perspectives or concerns were adequately considered. This can be seen in many aspects of the hearings and associated commission reports. For example, the commission appeared to exceptionalise and pathologise the problems experienced by these communities, noting its ‘duty to give special attention to the problems of the Eskimos and the Indian in our present world’ (RCBB 1965, 187) and reframing perceived ‘racial’ problems in terms of ‘the cultural problems of Indians and Eskimos’ (*Montreal Star*, 12 June 1964). In addition, while the commission did note concerns about linguicide, observing that ‘[i]n Victoria, an Indian chief stated ... “When my wife, my brother and myself die, no one will speak my people’s language any longer”’ (RCBB 1965, 67), it downplayed these concerns, concluding that ‘opinion is not unanimous’ as regards the need for ‘maintenance of the Indian languages’ (RCBB 1965, 67). These statements foreshadow the discursive shift which would take place during the course of the RCBB whereby anxieties about race and ethnicity would come to be articulated as issues of language and culture.

An even clearer sign of the commission’s tin ear for indigenous groups’ concerns emerged in the reports written for it about indigenous peoples.⁴ In particular, the two-volume main report on this subject, written by the anthropologist Frank Vallee, pursued a very anthropological approach to indigenous language and culture, taking these to be objects to be studied and addressing issues of cultural distinctiveness, ethnic stocks and linguistic groupings. Vallee’s report argued that the range of language groups or ‘stocks’ across the various indigenous communities made ‘the people of Indian and Eskimo ancestry’ something other than ‘an ethnic group equivalent, say, to the French-Canadian, English-Canadian, Ukrainian-Canadian, and the like’, with no common language ‘which serves as a symbol of distinctive identity at the national level’ (Vallee 1966, 68). The tremendous diversity among indigenous languages was accordingly seen not as a sign of the great cultural richness of indigenous communities, but as a barrier to language maintenance and education as well as to the accessing of government services – highlighting the need for the use of a dominant language to serve as a lingua franca. In this way, Eurocentric ideas about language use, monolingualism and linguistic hierarchisation were imposed on indigenous linguistic practices, pathologising these practices. Similarly, a report prepared as a backgrounder for an Arctic ‘tour’ – set up to meet the ‘Eskimos’ – characterised indigenous languages as pre-modern and thus as inevitably in decline. This again justified the use of English as a medium of instruction. As this report explained, English was the medium of instruction because the ‘Eskimo language’ was ‘a language that would not help in providing for employment or leading, ultimately, to higher

education since it has virtually no written literature and is not readily adaptable to modern concepts or activities' (Varjassy 1964a, 16). Thus, an argument was put forward that reflected a 'benevolent racism' (Villenas 2001, 9) and that has in effect facilitated indigenous language loss. In other words, the purported disjuncture between 'primitive' indigenous communities and modern formal education and employment supported the assimilationist logic embedded in this colonial 'benevolence', which would not only underpin the commission's conclusions but also foreshadow the 1969 *White Paper on Indian Policy*.

In sum, the view of indigenous communities reflected in the commission's research was deeply at odds with that which was advanced at the preliminary and public hearings by the communities themselves. The latter view was that true equality with other Canadians was necessary to address the problems that indigenous communities faced but that the status of indigenous peoples as the First Peoples of Canada must also be recognised and their distinct languages and cultures protected. By contrast, the commission's research binarised indigenous and western cultures, belief systems, economic practices and languages, reinforcing the former as 'primitive' and the latter as 'modern'. Indigenous languages, in particular, were not only 'pre-modern' and thus impractical for modern Canadian life but also reflective of a fragmented indigenous population and as such a barrier to both cohesion and communication. These discourses produced expectations about the eventual disappearance of these languages, legitimising the shift to English or to French as inevitable and reinforcing the racial hierarchies of white-settler nationalism.

These racist discourses about 'primitive' indigenous languages, together with discourses about their precarious state, arguably served to pathologise indigenous cultures, thereby justifying their exclusion as 'founding' cultures and providing a strong rationale for assimilation to the dominant English or French cultures. Such racialised assimilationist impulses can be seen in, for example, a confidential internal summary report for the commission, which notes that '[t]he Canadian Indian's cultural problem is completely different than any of the other groups... This problem fundamentally starts with the fact that the Indian culture was not designed for western civilization' (Varjassy 1964b, 5). In this way, discourses that served to culturalise the claimed pathologies of indigenous peoples while avoiding explicit racial hierarchisation nonetheless reprised these racial orderings by seeing indigenous groups' material privations as reflecting cultural deficits in the communities themselves. The exceptionalisation of these cultural deficits also meant that the report could conclude that '[t]he Canadian Indian problem is so complex that an inquiry into the existing situation of this large and important group should be handled by a special Royal Commission' (Varjassy 1964b, 5–6). It would take 30-odd years for the government to heed this advice.

Although indigenous groups had fought to be heard at the preliminary and public hearings of the inquiry, the commission's research and expert findings served to counter the submissions that these groups had made during the hearings. Thus, by the time the first volume of the final report, entitled *The Official Languages*, was published in 1967, indigenous groups had again been erased from the inquiry; and the final report could begin by noting that 'the Commission will not examine the question of the Indians and Eskimos', who 'do not form part of the "founding races"' (RCBB 1967, xxxvi).

Red Power and indigenous policy-making in 1960s Canada

In the previous section, we saw that the RCBB was a turning point in the articulation of settler colonialism and nationalism, through its legitimisation of 'two founding races' and

erasure of the ‘founding indigenous peoples’ from its final report. As it happens, the 1960s represented a more general turning point in the history of Canadian policy-making. This decade – dominated by the social and political concerns of Québec’s Quiet Revolution and Québec nationalism, Canadian nation-building, the cold war and North American militarisation – laid the groundwork for the RCBB and for new law and policy to manage social and cultural difference. As noted earlier, the European dominance entrenched in the RCBB led to the adoption of official European-language bilingualism. At this time, both indigenous peoples and other ethnic groups remained sidelined, and their concerns were excluded from Canadian language laws and policies. However, this exclusion met with resistance from indigenous groups. In other words, their marginalisation in the RCBB process provided indigenous groups with great impetus for mobilisation. Yet, this mobilisation was in fact part of a growing movement, which came to be known as the Red Power movement, and thus part of the historical trajectory of indigenous resistance to settler colonialism and assimilation to the dominant culture occurring over many centuries.

Canada has a long history of oppressive and discriminatory laws and policies related to ‘Indians’, which included the *Gradual Civilization Act* (1857), the *Gradual Enfranchisement Act* (1869), the *Indian Act* (1876), the Indian Register (1951) (which brought together the records of Indians registered under the *Indian Act*) and the system of residential schooling (1874–1977). As it happens, the RCBB emerged at a time when signs were emerging of an evolution in these laws and practices. One such sign was the *Hawthorn-Tremblay Report*, based on research undertaken in 1964 by Harry Hawthorn and Marc-Adélaire Tremblay and published in two volumes as Hawthorn ([1966]/1967). The focus of this report – departing from the language and cultural issues of the day – was economic development in indigenous communities, indigenous people’s socio-economic and legal status, intergovernmental relations, governance and education.

The topic of education formed a major part of the report’s second volume. While schooling was ‘unpleasant, frightening and painful’ for many indigenous children (Hawthorn [1966] 1967, vol. 2, 6), the report noted the importance of instruction in English-language schools for securing employment, increased socio-economic status and integration into Canadian governance and social structures. Among the report’s recommendations was that schools, controlled at the time by churches or by federal or by provincial governments, be integrated into a single system, with churches eventually playing no role, as a precursor to the eradication of residential schools. Other recommendations include recognising the culture or the ‘differences in background’ of students (Hawthorn [1966] 1967, vol. 2, 12) and removing course texts found to be ‘inaccurate, over-generalized and even insulting’ to indigenous students (Hawthorn [1966] 1967, vol. 2, 13).

The Hawthorn Report, though embedded in liberal discourses of inclusion and recognition, was, like the RCBB, very much a product of its time, its mandate restricted by the government overseeing it and its view of the knowledge and discourse relevant for policy and governance likewise limited. Yet, it was still a landmark both in acknowledging the place of indigenous peoples in Canada and in introducing the liberal notion of ‘citizens plus’.⁵ This notion captured the claim that indigenous peoples, as the original inhabitants of Canada, were ‘entitled to *some* form of recognition, even though Canadian citizenship is embraced equally by Aboriginal and non-Aboriginal peoples’ (Turner 2006, 40; emphasis in original) – hence, the idea that they were citizens ‘plus’, enjoying ‘additional’ recognition as indigenous peoples. Nonetheless, the vision that it offered of

the place of indigenous peoples in Canada was arguably too much at odds with their own aspirations for it to meet with their acceptance.

In fact, resistance to this vision took many forms over the next several years. In 1965, the first large demonstration of indigenous peoples took place in Kenora, Ontario, with over 400 participants and the submission of a series of briefs to the Town Hall. At Expo 67 in Montreal, indigenous people from across the country came together in the 'Indian Pavilion'. Soon after, the media began giving greater attention to indigenous issues, as reflected in the broadcasting of a national radio programme called 'Our Native Land' (Canadian Broadcasting Corporation 1984). This media attention not only helped raise public awareness of indigenous issues but also increased Canadians' unease about the grim living conditions of many indigenous peoples, highlighting the need for a response from the state (Palmer 2009; Dyck 2011).

Such a response came with the 1969 White Paper, as described earlier, which was delivered by Jean Chrétien, Minister for Indian and Northern Affairs in the Trudeau Government. Despite whatever good intentions might have been imputed to this policy paper at the time, it proposed radical changes to the management of indigenous affairs in Canada, calling for the elimination of treaty rights, the transfer of federal responsibility for indigenous peoples to the provinces and the elimination of the Department of Indian Affairs and the *Indian Act*.⁶ The basic agenda of the White Paper, like that of many 'Indian' policies before it, was an assimilationist one. This agenda might be seen as having developed organically from liberal ideologies and the principles of equality and equal citizenship, associated in particular with the governing party of the day, as well as from material concerns that have historically driven race-based Canadian colonialism. These concerns included the need for governance structures to accommodate increasing demands for non-indigenous settlement, which drove development and resource extraction on indigenous lands and thus led to indigenous dispossession.

Whatever their source, the White Paper's ideas met with strong opposition from indigenous leaders, who had come together for meetings in Ottawa around the time of the document's release. These leaders were responding not only to the White Paper's assimilationist agenda but also to its complete discounting of the input of indigenous peoples themselves, as provided in consultations for both the Hawthorn Report and the White Paper. Indigenous responses included Cardinal's (1969) *The Unjust Society*, described earlier, and a 1970 document that became known as the Red Paper, whose official title, *Citizens Plus*, echoed the Hawthorn Report's 'special status' recommendation.⁷

But a more general response to the assimilationist agenda of the White Paper and other federal policy-making initiatives can be discerned among indigenous groups. This was their joining together to resist this agenda, notwithstanding their diverse make-up. A key focus of this resistance was the struggle for control over their own territories – a struggle that dominated indigenous mobilisation in the early 1970s and persists to this day. Undoubtedly, the most important of these struggles was that of the Nisga'a people of north-western British Columbia; this resulted in the landmark (1973) Supreme Court of Canada decision, *Calder v. British Columbia*, which established that aboriginal title to land did exist before colonisation. This decision prompted the federal government to pursue a policy of comprehensive land claims negotiations, which still remains in place.

A second goal of indigenous mobilisation was increased control over education and other institutions, in particular to support the teaching of indigenous languages. One reflection of these efforts was the 1972 publication of *Indian Control of Indian Education*, the NIB's own policy document about education (AFN n.d.). In this

document, the NIB voiced concerns about the socio-economic gap between settlers and original inhabitants of Canada. It saw the promotion of indigenous languages and cultural values as the key to indigenous identity formation and school success and argued that greater government funding for indigenous-language instruction, akin to that for French- and English-language instruction, was crucial for these goals. The document noted, in particular, the importance of curricula to reflect ‘Indian culture, values, customs, languages and the Indian contribution to Canadian development’ (NIB/AFN 1972, 9). It also noted the importance of early second language instruction in preparing children for schooling in a dominant language. However, a prerequisite for such instruction is children’s proficiency in their indigenous language (NIB/AFN 1972):

It is generally accepted that pre-school and primary school classes should be taught in the language of the community. Transition to English or French as a second language should be introduced only after the child has a strong grasp of his own language.... While governments are reluctant to invest in any but the two official languages, funds given for studies in native languages and for the development of teaching tools and instructional materials will have both short and long term benefits. (15)

As this document shows, language issues were very much on indigenous peoples’ political agenda, notwithstanding the dominance of concerns about land and economic development.

Towards a new beginning: indigenous language policy in the ‘Charter Era’

The battles fought by indigenous peoples in the 1960s and 1970s, against both old and new assimilationist laws and policies, unquestionably had a profound impact on indigenous communities and their efforts to preserve their languages and cultures. A rather different series of battles, however, began with the advent of a new constitutional era, in which liberal ideals of the day achieved a kind of culmination in the *Constitution Act, 1982*. This document not only articulated, in its *Charter of Rights and Freedoms*, a number of human, political and linguistic rights but also gave constitutional recognition to ‘aboriginal rights’ and ‘treaty rights’ – rights related, respectively, to the status of indigenous groups as indigenous groups and to still-binding treaties that certain indigenous groups had signed with British or Canadian Governments.

Notwithstanding these developments, there are many reasons to see the *Constitution Act, 1982*, as reflecting a kind of racialised ‘colonial constitutionalism’ (Adams 1995, cited in Hall 2013, 389), particularly in the context of the federal consultative policy and legal initiatives discussed earlier. In other words, far from representing any bold advances in the protection of indigenous rights, these new constitutional arrangements have only sustained the racial hierarchies of colonialism.

One domain in which the colonialism of the *Constitution Act, 1982*, emerges most clearly is in the asymmetry that it displays with respect to the protection of the linguistic rights of the two ‘founding’ peoples, on the one hand, and indigenous peoples, on the other. More specifically, Sections 16–23 of the *Charter* further expand on the language rights of French and English speakers already recognised in the *Constitution Act, 1867*, by guaranteeing the ability of members of these two language groups to use their own language and receive government services and education in it in a range of contexts. By contrast, the *Constitution Act, 1982*, while giving constitutional recognition to aboriginal and treaty rights for indigenous peoples,⁸ gave no recognition whatsoever to indigenous language rights, and these have continued to be sidelined in both federal law and policy.

This is despite the work of the Task Force on Aboriginal Languages and Cultures (2003–2005), to be described below, which was struck to provide indigenous perspectives on aboriginal language and culture.

As noted earlier, a Royal Commission on aboriginal peoples was promised at the time of the RCBB, although some 30 years passed before it was actually undertaken in 1991–1996. It took even longer, until 2003, for indigenous peoples to have their voices heard on federal indigenous language policy, with the creation by the Minister of Canadian Heritage of the Task Force on Aboriginal Languages and Cultures, which submitted its report in 2005. In what follows, we shall be analysing the Task Force report as part of the broader discourse on indigenous languages. While the report, as we shall see, does address many of the key issues surrounding the protection and the promotion of indigenous languages, it operates very much within a framework of colonial constitutionalism and offers little thinking outside of this rather cramped constitutional box.

The Task Force can trace its genesis to the exclusion of indigenous peoples and ‘other ethnic groups’ from the terms of the RCBB, as described earlier. Since that time, however, the place of Canada’s many languages had come under the bailiwick of official multiculturalism and aboriginal policy in Canada. In 1987, efforts were made, only shortly before the *Canadian Multiculturalism Act* (1988) came into force, to establish a Canadian Heritage Languages Institute, in order to promote Canadian cultural and racial diversity and, in particular, the use of languages other than French and English. This initiative failed, however, due largely to the lack of grassroots consultation, most conspicuously with indigenous stakeholders. In 1989, heritage language legislation was introduced, but this was considered unacceptable by indigenous groups, who again had not been consulted (Patrick 2007, 42).

The Task Force was accordingly established to correct these past failures. It articulated a number of key themes about indigenous languages, ultimately appealing to the rights discourse already established in the Canadian political-legal sphere. Among these themes was that indigenous languages were intimately tied to traditional knowledge and spirituality; this was, in particular, because they were the medium through which oral traditions and the ‘historic continuity’ of indigenous peoples were transmitted and treaties and other historical events related to the land were interpreted (Task Force on Aboriginal Languages and Cultures [TFALC] 2005, 20). This connection between indigenous languages and traditional knowledge was important in establishing aboriginal and treaty rights, since oral history – conveyed in indigenous languages and constituting ‘a separate way of describing the human experience of this world’ (25) – could, after the landmark Supreme Court case *Delgamuukw v. British Columbia* (1997), now be admitted as evidence in court in establishing these rights.

Another theme of the report was that indigenous languages were closely linked to identity, culture and nationhood. They encoded ‘different philosophies’ that were ‘key to forming Aboriginal identities’ (TFALC 2005, 24) and, as such, necessary to transmit indigenous knowledge and culture, in order to ‘establish and maintain important relationships and pass them on intact to future generations’ (24–25). Languages were thus linked to aboriginal nationhood and to the ‘nation-to-nation relationships’ established through treaty-making in Canada (25–26) and have remained part of establishing new ‘nation-to-nation relationships’ in contemporary rights-based claims.

The report also drew on supranational rights discourses, emphasising that endangered languages had attracted international attention and that support for them and their speakers could be found in reports by the United Nations Educational, Scientific and

Cultural Organization on the subject and in various conventions relating to biological and cultural diversity.

A final key theme of the report was the need for ‘government support of language revitalization grounded in the principle that all First Nation, Inuit and Métis languages must be protected and promoted’ (TFALC 2005, 71). This was related to First Nations, Inuit and Métis rights as entrenched in the *Constitution Act, 1982*. Moreover, institutional support for indigenous languages was consistent not only with support for other languages, as articulated in the *Charter*, but also with support for aboriginal rights, as articulated in Section 35 of the *Constitution Act, 1982*, and with the ‘guiding principle’ of this section that ‘the government has the responsibility to act in a fiduciary capacity with respect to Aboriginal Peoples’ (*R. v. Sparrow* [1990]). The loss of language and culture, whether through government action, in creating and maintaining a system of residential schools, or inaction, in its failure to create policies to protect and promote indigenous languages, arguably reflected breaches of this fiduciary responsibility. All of these considerations motivated the claim that indigenous languages should be funded ‘at a minimum, at the same level as that provided for the French and English languages’ (TFALC 2005, 75).

Significantly, the report grounded many of its recommendations about the protection and the promotion of indigenous language and culture in Canada’s legal and constitutional framework, indicating this framework as a basis – perhaps the only one – for indigenous groups to demand federal support for language protection and promotion. Arguably, this signalled that the logic of colonial constitutionalism led inexorably to the use of the courts to protect and to promote indigenous languages, with such court actions crucially invoking ‘aboriginal rights’ and the claim that residential schooling and other assimilationist policies have played a major role in the ‘un-learning’ of indigenous language and culture. Yet, as we have seen, the Constitution itself is the product of a racist colonial history that has privileged white European settler groups and their languages over other groups, including indigenous groups. And there has been little progress on the articulation of a right to preserve or to develop traditional indigenous languages under the rubric of ‘aboriginal rights’, making the constitutionalisation of such rights at best a work in progress.

Also worth noting is that while constitutional developments have driven the pursuit of such rights-based claims for additional government funding, the Canadian state’s increasing neoliberalisation over the past many years has considerably undermined the success of these claims. This neoliberalisation, as constituted through increased marketisation, competition and commodification and through the promotion of entrepreneurialism, individualism, privatisation and deregulation, has further entrenched the social and economic racialisation of groups through a ‘rolling back’ of the welfare state (Harvey 2005, 3) and through the ‘inclusion’ of these groups in the labour market on the market’s terms rather than their own (Peck 2001, 445). This neoliberalisation is also reflected in the shift from discourses centred on rights to those centred on ‘needs’ and from those emphasising collective rights and group-based identities to those emphasising the rights of individuals as skills-bearing and responsible entrepreneurial subjects. These discursive shifts to ‘needs-based’ literacy initiatives aimed at ‘skills-based’ entrepreneurial training are illustrated in the following examples from federal government websites:

The Department of Canadian Heritage recognizes that initiatives that aim to preserve and revitalize Aboriginal languages must be *flexible* and *responsive to the broad range of community needs, goals, and priorities*, and that a concerted effort will be required to achieve the objective stated above. (Canadian Heritage 2011; italics added)

The aim of the UAS [Urban Aboriginal Strategy] is to promote *self-reliance* and increase life choices for Aboriginal people in key centres across Canada. To accomplish this, UAS projects will focus investments in ...

Promoting job training, skills and entrepreneurship: by bringing federal, provincial and municipal partners together ... building on provinces' expertise in *developing tools and training* in areas like literacy and essential skills. (Aboriginal Affairs and Northern Development Canada 2010; italics added)

Thus language teaching and learning initiatives must be 'flexible' and 'responsive to needs' as consistent with the 'self-reliance' of entrepreneurial subjects and must promote job skills and have specific objectives and measurable outcomes. The key problem with this discourse encountered by aboriginal educators and language activists is that it has shaped how limits on funding for language programmes have been legitimised, justified and accounted for. That is, although funding for aboriginal language teaching, learning, and literacy projects is still available, it has been limited to market-driven, western-hegemonic projects, such as job-based literacy training or language teaching, that can demonstrate improved retention and higher grades relative to mainstream schooling for indigenous populations deemed 'at risk' of not being integrated into the dominant labour market. Although a more-detailed consideration of this process must be left for future research, it seems reasonable to suggest that its long-term effect will be to further entrench the racialised hierarchies that shape Canada, making adequate funding for indigenous language protection and promotion an even more distant goal.

Conclusion

In this paper, we have traced the racist underpinnings of Canadian language policy. Although contemporary discourses of Canadian nationhood purport to celebrate diversity, this liberal multicultural nationalist narrative is founded on a racial hierarchy of exclusion and belonging articulated through policies on language and culture (Kubota 2004). This is exemplified in the racialisation of indigenous language policy in Canada, which is reflected in the asymmetrical manner in which indigenous languages, on the one hand, and French and English, on the other, are treated by the Canadian state. We demonstrated the long history of this racialisation, revealing its roots in assimilationist policies over the last two centuries that were intended to eradicate, exclude and 'integrate' indigenous communities. We also showed how the RCBB enabled the Canadian state to shift the exclusions central to the racial hierarchies of white-settler nationhood onto discourses of language and culture by excluding heritage and indigenous languages from Canada's linguistic ordering and its 'founding peoples' discourse. This has governed language policy and funding in Canada ever since.

In addition, we described subsequent liberal constitutional, legal and policy initiatives related to indigenous communities, which have reproduced the racial hierarchies exemplified in the RCBB and the colonial policies that preceded and followed it. Although indigenous responses to these initiatives have arguably played a key role in the development of more inclusive and less assimilationist policies, indigenous languages in Canada are still hardly on an equal footing with French and English, the languages of Canada's so-called 'two founding peoples'. This remains the case despite the strong message sent by the report of the Task Force on Aboriginal Languages and Cultures on the need for equality between indigenous and settler languages.

Our discussion concluded on a rather pessimistic note. We pointed out that the 'colonial constitutionalism' ushered in by the *Constitution Act, 1982*, has meant that

garnering more support for indigenous language protection and promotion has inevitably involved appealing to the ‘aboriginal rights’ referred to in Section 35 of this document. This remains the case even though Section 35 makes no mention of indigenous languages and the courts have yet to recognise any constitutional obligation on government to protect or to promote these languages. But we also pointed out that in the climate of neoliberalism, with its focus on needs rather than rights and individualism rather than collectivism, the recognition of indigenous language rights and the possibility of increasing funding for their protection and promotion have become even more remote. Only by recognising how language policies operate to embed and reinscribe the racial hierarchies at the heart of Canada’s ongoing national project can we begin to decolonise the exclusion of indigenous languages, cultures, and peoples in Canada.

Notes

1. One notable exception to this was the Quebec state’s establishment in the early 1960s of Inuktitut-language instruction in Inuit schools in Arctic Quebec (see Patrick and Shearwood 1999).
2. *Constitution Act*, 1982, enacted as Schedule B to the *Canada Act, 1982*, (UK) 1982 c. 11.
3. This organisation, now known as the Assembly of First Nations (AFN), was founded in 1967 and became the AFN in 1982.
4. For a fuller discussion of these reports, see Haque (2012, 123–124).
5. This notion was developed in particular in Cairns (2000). For a critique of it from an indigenous perspective, see Turner (2006, chapter 2).
6. It is worth noting, however, that the White Paper was seeking to address the clearly unacceptable state of affairs of indigenous peoples, typified by the *Indian Act*, which imposed an oppressive and highly discriminatory legal regime on First Nations.
7. As leader of the Indian Association of Alberta, which produced the Red Paper, Cardinal was also involved in the drafting of this document.
8. However, what ‘aboriginal title’ consists of and what counts as an ‘aboriginal right’ or a ‘treaty right’ continue to be subject to judicial definition and interpretation.

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