

# CROSS-RACIAL ENCOUNTERS AND JURIDICAL TRUTHS:

## *(Dis)Aggregating Race in British Columbia's Contact Zone*

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ON 27 AUGUST 1890, Indian Agent William Henry Lomas submitted his annual report to the Superintendent of Indian Affairs, Ottawa. Here, he informed his superiors, as he did each year, of the progress made among the Aborigines of the Cowichan Agency. While there was nothing particularly extraordinary in his recollection, it is precisely the quotidian nature of his comments that warrant closer investigation:

There is little change in the Indians living in Victoria and Nanaimo. Some are hardworking and steady, having considerable amounts in the saving banks; others are constantly fined for being in possession of intoxicants, and the police records for any year will prove that it is almost impossible to prevent the sale of liquor in small quantities to the town Indians. Women go out to white houses to wash and char, and are given occasional drinks of spirits, and in nearly every case become people who will spend all they earn in spirituous liquor, obtaining it at any cost. *A greater part of this traffic is done by the lower class of Chinese, but I am sorry to say that merchants of high standing often connive at the trade, and Indians living at a distance from the cities can often leave with large quantities of liquor in their canoes – sometimes hidden in their boxes of biscuits, sometimes in flasks and soda water bottles, and again in bottles that once contained Worcester sauce.*<sup>2</sup>

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<sup>2</sup> Lomas to Superintendent of Indian Affairs, 27 August 1890, in Canada, *Sessional Papers*, 1891, no. 18, 54, 105 (my emphasis).

Focused on the banalities of the everyday, Lomas's report offers an important glimpse into cross-racial encounters and their flourishing conditions on Canada's west coast. While recognizing that colonialism thrived on interraciality, through labour, mobility, and the circulation of commodities, for example, he viewed these contacts as potentially dangerous, particularly for Aboriginal peoples. Interraciality, he warned, furnished Native communities with opportunities to gain access to and consume intoxicants, thwarting their progress towards modernity and civilization. But for Lomas and others, not all contacts were equally disconcerting. As the quote above suggests, it was encounters between Aboriginal and Chinese populations that proved especially troublesome. Precisely because these races were so putatively different – Aboriginal people were thought to be “undeveloped” and in need of protection and the Chinese were perceived to be “conniving” and “dangerous” – interactions between them, Lomas insisted, were sure to unsettle and possibly even subvert colonial rule.<sup>3</sup>

Narratives of interraciality and heterogeneity, like the one above, raise important questions about what we know and have yet to learn about British Columbia's colonial contact zone.<sup>4</sup> Although the colonial archive is littered with government reports and correspondence that echo Lomas's observations about the persistent and perilous contacts among Chinese, Aboriginal peoples, and those of mixed-race ancestry, genealogies of Indigenous-European relations and of Chinese migration to Canada's west coast have, for the most part, been written as distinct and separate.<sup>5</sup> This is not to suggest that questions about cross-racial encounters have not yet been asked or are entirely new. The Fraser River Gold Rush, as Jean Barman explains, rapidly transformed the demography of Canada's west coast: “British subjects,” she writes, “suddenly found themselves jostling Americans, blacks, Chinese, Germans, Italians, Jews and Spaniards on the streets of Victoria.”<sup>6</sup> Barman and others have offered us critical insights into the prevalence

<sup>3</sup> This argument is developed more fully in my monograph. See Renisa Mawani, *Cartographies of Colonialism* (under review).

<sup>4</sup> I am drawing the term “contact zone” from Mary Louise Pratt. See Pratt, *Imperial Eyes: Travel Writing and Transculturation* (New York: Routledge, 1992), 6–7. Throughout this article, I use the term “colonial” to refer to a set of power relations as opposed to a specific political formation.

<sup>5</sup> In the *Royal Commission on the Liquor Traffic* (Ottawa: S. E. Dawson, 1894) (hereafter *Royal Commission on the Liquor Traffic*), many witnesses and legal authorities lamented the interactions between the Chinese and Aboriginal peoples. This is a point that repeatedly emerges in late nineteenth-century police reports. See Mawani, *Cartographies of Colonialism*, esp. chap. 4.

<sup>6</sup> Jean Barman, *The West beyond the West: A History of British Columbia* (Toronto: University of Toronto Press, 2007), 68–69.

of interracial relations in historical British Columbia.<sup>7</sup> However, we still know little about how migration from China produced new geographical proximities and altered existing configurations of colonial knowledge and power. While we know that cross-racial encounters were pervasive, we still have much to learn about these interactions, the epistemic fields from which they drew, and the forms of governance they inspired.

This article explores some of the ways that Chinese migration to British Columbia shifted terrains of colonial power, creating new anxieties and exigencies for Indian agents, missionaries, and legal authorities. To be clear, I focus less on the *physical encounters* between Chinese and Aboriginal peoples and instead track how the arrival of Chinese migrants, from the late nineteenth century onwards, unsettled the region's racial topography. Frequent contacts between Chinese and Aboriginal peoples, like the ones lamented by Indian Agent Lomas, produced renewed racial knowledges and forms of legality. Chinese migration to British Columbia, I argue, forced colonial agents to redraw boundaries between Aboriginal peoples and Euro-Canadians in ways that generated new meanings of racial difference and new constellations of racism. In the pages that follow, I explore the ways in which colonial authorities responded and reacted to the arrival and presence of the Chinese (including fear, contempt, and resentment) and how these reactions influenced their existing repertoire of colonial knowledges about racial superiority and inferiority. The growing presence of Chinese along Canada's west coast activated concerns about interraciality and racial purity and, in so doing, created conditions in which Indian agents, missionaries, and legal authorities could hone and clarify their existing racial taxonomies. By contrasting migrants from China with Aboriginal peoples and with African Americans south of the border, colonial authorities produced racial differences through a matrix of uneven knowledges, including commonsense, criminal statistics, and legal truths.

While British Columbia's prevailing racial field was undoubtedly shaped by local conditions, the epistemic grids that underpinned it

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<sup>7</sup> Like Barman, Cole Harris has also documented the various racial and ethnic groups that resided in nineteenth-century British Columbia. See Cole Harris, *The Resettlement of British Columbia* (Vancouver: UBC Press, 1997). On interraciality more generally, see also Jean Barman and Bruce McIntyre Watson, "Fort Colville's Fur Trade Families and the Dynamics of Aboriginal Racial Intermixture in the Pacific Northwest," *Pacific Northwest Quarterly* 90, 3 (1999): 140-53; Jean Barman, "What a Difference a Border Makes: Aboriginal Racial Intermixture in the Pacific Northwest," *Journal of the West* 38, 3 (1999): 14-20. What I am arguing here is that we need to explore how these histories were intertwined and the types of racial knowledges and modes of exclusion they engendered.

were also informed by a transnational and circuitous movement of peoples and ideas. To make sense of the growing Chinese presence, authorities often borrowed racial grammars from the United States and constituted new racial epistemologies and points of comparison in the process. These racial distinctions were not merely descriptive but were also highly politicized. The first function of state racism, as Foucault has argued, was aimed at “separating out the groups that exist within a population ... into the subspecies known precisely as races.”<sup>8</sup> Ultimately, racial classifications enabled the colonial state to create and reinscribe differences between seemingly distinct racial groups while at the same time determining biopolitical futures: differentiations between “good”/“bad” and “assimilable”/“unassimilable” populations enabled the state to decide who could remain in the settler regime and under what conditions and who was to be expelled and eliminated.<sup>9</sup> Whereas fears about labour informed these prevailing concerns, the putative threats posed by Chinese labourers and merchants, as Indian Agent Lomas suggests, were not about economic questions alone but about biological ones that centred on the health and longevity of Aboriginal peoples and, ultimately, of the settler regime.

The report of the Royal Commission on Chinese Immigration (1885) and the report of the Royal Commission on the Liquor Traffic (1894) are sites from which it is possible to analyze questions about competing racial truths and colonial racisms.<sup>10</sup> These commissions serve as important sources of legality because they show how law and social policy inform, produce, and draw upon existing “knowledge formats.”<sup>11</sup> Read together, these commissions can tell us about the changing racial fields of heterogeneity and interraciality in British Columbia, the epistemologies that informed the region’s racial topography, and the law’s complicity in their production. How did colonial administrators make sense of the growing population of migrants from China? What sorts of racial vocabularies did they borrow and from where? In what ways were the

<sup>8</sup> Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975-1976* (New York: Picador, 2003), 255.

<sup>9</sup> Biopolitics, as Foucault has argued, is contingent upon distinguishing good races from bad ones. A crucial part of biopolitical futures is life and death. Foucault explains that death is not only biological but may also be political. See Foucault, *Society Must Be Defended*, esp. 254-6. My evocation of expulsion is not biological but social, cultural, and spatial. Aboriginal peoples were expelled onto reserves, for example.

<sup>10</sup> *Royal Commission on Chinese Immigration Report and Evidence* (Ottawa: Queen’s Printer, 1885) (hereafter *Royal Commission on Chinese Immigration*); *Royal Commission on the Liquor Traffic*.

<sup>11</sup> On “knowledge formats,” see Mariana Valverde, *Law’s Dream of a Common Knowledge* (Princeton: Princeton University Press, 2003), esp. intro.

Chinese and their epistemic and material relations forged against other racialized populations, most notably “Negroes” and “Indians”? And how did these comparisons produce renewed forms of racisms? In answering these questions, albeit in a preliminary way, I draw from several statistical tables detailing crime rates as well as from the testimony of select witnesses. My focus on numbers and narratives is twofold: first, to highlight the multiple “knowledge formats” through which juridical racial truths have been historically produced, and second, to explore how epistemologies about racial superiority and inferiority have gained an objectivity and neutrality that persists in our contemporary historical moment.<sup>12</sup> Numbers, as many scholars have now argued, have been perceived as “modern facts” that are situated beyond social, legal, and historical circumstances, a perception that has obscured the *politics* of enumeration.<sup>13</sup>

Historians and others have drawn on the report of the Royal Commission on Chinese Immigration (1885) to document the ways in which early Chinese migrants were constituted as antithetical to whiteness and to white settlement.<sup>14</sup> Although the Royal Commission is filled with numerous examples of how the Chinese were defined against other racial populations as well as the movements of racial knowledges across the Canada–US border, few have explored how the Chinese were inserted into a broader racial field and how their racial identities were forged against others deemed racially inferior. These questions can offer rich insights into the emergence of state racisms and their dynamic, competing, and contested fields. Through comparisons with African Americans and Aboriginal peoples, witnesses who testified before these commissions created a range of disparate and contradictory racial knowledges. These truths were integral to dominant conceptions of the “Chinese” as both a juridical category and as a racially inferior population that was (dis)placed along the margins of historical British

<sup>12</sup> Valverde, *Law's Dream*, 23. For a critique of numbers, see Nickolas Rose, *Powers of Freedom: Reframing Political Thought* (Cambridge: Cambridge University Press, 1999), chap. 6.

<sup>13</sup> Arjun Appadurai, *Modernity At Large: Cultural Dimensions of Globalization* (Minneapolis: University of Minnesota Press, 1996), esp. chap. 6; Mary Poovey, *A History of the Modern Fact: Problems of Knowledge in the Sciences of Wealth and Society* (Chicago: University of Chicago Press, 1998); Rose, *Powers of Freedom*, chap. 6.

<sup>14</sup> There is now a voluminous literature on Chinese migration that draws in part from the *Royal Commission on Chinese Immigration*. The classic texts include, Kay Anderson, *Vancouver's Chinatown: Racial Discourse in Canada, 1875-1980* (Montreal and Kingston: McGill-Queen's University Press, 1991); Patricia E. Roy, *A White Man's Province: British Columbia Politicians and Chinese and Japanese Immigrants, 1858-1914* (Vancouver: UBC Press, 1989); and Peter Ward, *White Canada Forever: Popular Attitudes and Public Policy towards Orientals in British Columbia* (Montreal and Kingston: McGill-Queen's University Press, 1990).

Columbia. In statistical tables and in witness testimony, “Whites,” “Negroes,” “Indians,” and “Chinese” were constituted not only as discrete races but also as populations that were socially, morally, and physically incompatible and thus in need of separation and racial management. What becomes evident when we think comparatively are the ways in which racial categories and their epistemic fields shifted at critical historical junctures when the colonial state was thought to be imperiled. The presumed unassimilability of migrants from China was often undergirded by concerns about white labour as many scholars have argued, but their *foreignness* was also informed by Orientalist truths about the Chinese as a “cunning” and “despotic” race who threatened the state’s efforts to improve and assimilate vulnerable Aboriginal peoples.<sup>15</sup>

By bringing racial heterogeneity and interraciality to the fore, this article is also an attempt to unsettle historiographies of race and racisms in western Canada’s colonial contact zone by locating these discussions within a wider global frame.<sup>16</sup> Too often, scholars writing about British Columbia have approached Canada’s most westerly province as though it were truly at the “edge of empire,” a region physically and intellectually cordoned off from other parts of the world.<sup>17</sup> Although colonialism was always rooted in temporal and spatial specificities, empire was also a *global* phenomenon that linked diverse and disparate geographical locales within a wider terrain of power and knowledge.<sup>18</sup> Colonial authorities in what is now British Columbia drew from a range of racial epistemologies and strategies of management that were often borrowed from other contexts, including the United States.<sup>19</sup> While these truths about race were adapted to the local demands and rhythms of colonial rule, what

<sup>15</sup> Arguments about labour have been prolific. Two examples include Roy, *A White Man’s Province*; Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California*, 2nd ed. (Berkeley: University of California Press, 1995).

<sup>16</sup> Daniel Clayton has described BC history as “positivist in tone and provincial in outlook.” See Clayton, *Islands of Truth: The Imperial Fashioning of Vancouver Island* (Vancouver: UBC Press, 2000), 5.

<sup>17</sup> This is now a familiar description of British Columbia. See Adele Perry, *On the Edge of Empire: Gender, Race, and the Making of British Columbia, 1849–1871* (Toronto: University of Toronto Press, 2007). Cole Harris seems to be emphasizing the specificity of British Columbia in his essay, “How Did Colonialism Dispossess? Comments from an Edge of Empire,” *Annals of the Association of American Geographers* 94 (2004): 165–82. This is precisely what I am arguing against.

<sup>18</sup> See Nicholas Thomas, *Colonialism’s Culture: Anthropology, Travel, and Government* (Princeton: Princeton University Press, 1994), 66.

<sup>19</sup> US history is not often thought of in the context of empire and colonial/postcolonial studies. On this point, see Ann Laura Stoler, ed., *Haunted by Empire: Geographies of Intimacy in North American History* (Durham: Duke University Press, 2006).

such dynamics reveal is the continuous interplay between the local and the global, the universal and the particular. Before examining these movements, let me first offer a few brief and contextualizing comments about colonialism and its racial truths.

#### COLONIAL KNOWLEDGES AND RACIAL TYPOLOGIES

*Knowledge means rising above immediacy, beyond self, into the foreign and distant.* – Edward Said<sup>20</sup>

Colonial knowledges, as anthropologists Bernard Cohn and Nicholas Dirks have long argued, were as central to maintaining British rule and command in India as were military and economic power.<sup>21</sup> Across the British Empire, from India to western Canada, colonial administrators relied on a range of “investigative modalities” to generate truths about colonial populations who were not only geographically distant, as the epigraph from Edward Said suggests, but also close, proximate, and immediate.<sup>22</sup> Surveys, censuses, cartographic practices, and classificatory schemas enabled colonial agents to know and order the foreign and the unknowable and to conceptually and literally map their newly acquired territories. While colonial knowledges, including statistics, often produced “countable abstractions” of people, they also facilitated racial divisions *between* populations, distinguishing those who might optimize or maximize life in the colonies from those who might endanger it.<sup>23</sup> For Edward Said, the production of colonial epistemologies and categories was both contingent upon and generative of modern truths about race, including origins, classifications, and destinies.<sup>24</sup> However, knowledges of racial inferiority and superiority were not neatly organized along the Orient/Occident binary and, thus, were not as consistent or unified as Said initially suggested.<sup>25</sup> On the contrary, racial epistemologies were arranged along a grid of uneven and shifting coordinates that generated a conflictual, contested, and ambiguous field. It was precisely the elasticity

<sup>20</sup> Edward Said, *Orientalism* (New York: Vintage Books, 1979), 32.

<sup>21</sup> Bernard Cohn, *Colonialism and Its Forms of Knowledge* (Princeton: Princeton University Press, 1996), 3. Nicholas Dirks, in Cohn, *Colonialism and Its Forms of Knowledge*, 1–xvii.

<sup>22</sup> Cohn, *Colonialism and Its Forms of Knowledge*, 5.

<sup>23</sup> I have taken the quote “countable abstractions” from Appadurai, *Modernity at Large*, 117.

<sup>24</sup> Said, *Orientalism*, 232–3

<sup>25</sup> There is now a longstanding literature that critiques *Orientalism* for essentializing the Orient/Occident distinction and for glossing other social relations that shifted the content, intensity, and effects of Orientalism. The most famous of these is made by Aijaz Ahmad in *In Theory: Classes, Nations, Literatures* (New York: Verso, 1992), esp. chap. 5.

and uncertainty of racial difference that rendered these distinctions so tenacious and resilient.<sup>26</sup>

Despite many criticisms of his Eurocentric focus, Foucault's speculative insights about state racisms provide us with important conceptual tools for rethinking the colonial encounter and its regimes of racial truth. Colonial readings of Foucault have certainly expanded our understandings of biopolitics and its alternative genealogies; however, there are still conceptual gaps surrounding questions of state racism, or, more accurately, state *racisms*.<sup>27</sup> Although Foucault's comments about "the human race of races, the distinction among races, the hierarchy of races" all imply an underlying heterogeneity, his analytic, as it stands, does little to further our assessments about colonialism and its diverse, and competing, epistemological foundations.<sup>28</sup> The colonies were indeed locales where a racial episteme was cultivated, but racial differences were never ordered against Europeaness alone. As I discuss in the following sections, colonial administrators drew *numerous* distinctions between white and non-white populations. It was precisely through these multiple comparisons that they identified a hierarchy of races, one that carried high political stakes. To be sure, the colonial encounter did not produce a singular, homogenous, or static state racism that was then directed uniformly at the colonized but, rather, generated a range of *state racisms* that distinguished populations through a dynamic repertoire of internal and external differences.<sup>29</sup> In British Columbia, the phenotypical, moral, and cultural characteristics ascribed to "Indianness" and "Chineseness" enabled Indian agents and missionaries to distinguish these populations and to determine their place in the settler regime.

The racial logics deployed by colonial officials along Canada's west coast fractured the colonizer/colonized divide in significant ways. From the nineteenth century onwards, administrators used different modalities of juridical knowledges, including crime statistics, legal cases, and commissions of inquiry, to mark and divide the European not only from the Indian but also from the Chinese. In their attempts to count and

<sup>26</sup> On this point, see Tanyab Mahmud, "Colonialism and Modern Constructions of Race: A Preliminary Inquiry," *University of Miami Law Review* 53 (1998-99): 1228.

<sup>27</sup> See Achille Mbembe, "Necropolitics," *Public Culture* 15, 1 (2003): 11-40; Donald Moore, *Suffering for Territory: Race, Place, and Power in Zimbabwe* (Durham: Duke University Press, 2005), esp. intro.; Ann Laura Stoler, *Race and the Education of Desire: Foucault and the Colonial Order of Things* (Durham: Duke University Press, 1995).

<sup>28</sup> Foucault, *Society Must Be Defended*, 255.

<sup>29</sup> For a very useful discussion of the multiplicity of racisms and the internal and external characteristics of racial essences, see Ann Laura Stoler, "Racial Histories and Their Regimes of Truth," *Political Power and Social Theory* 11 (1997): 183-206.



compile an archive of crime statistics, for instance, judges, police officers, and local bureaucrats generated a racial order that rendered “Whites,” “Indians,” “Chinese,” “Half-Breeds,” and “Negros” as discrete and immutable species whose differences were not only biologically innate and ineradicable but whose *being* was physically, morally, and affectively incompatible. Thus, for Agent Lomas, the “Indian” had a weakness of the will and was prone to drunkenness, while the “Chinaman” had a racial predisposition to corrupt vulnerable Aboriginal peoples through the sale of liquor.<sup>30</sup> Separating the population into races was, in part, about calculating risks by identifying which of these communities might enhance British Columbia’s emerging society and which ones might inhibit it. Whereas missionaries and Indian agents along Canada’s west coast often perceived the future of Native peoples with optimism and believed that many could be improved and eventually assimilated, they viewed the Chinese as antithetical to Western values and as dangerous to both whites and Aboriginal peoples. Many insisted that, unlike Aboriginal peoples, the Chinese were a population that could not easily (or ever) be absorbed into British Columbia.<sup>31</sup>

From the nineteenth century onwards, racial distinctions between native peoples and Europeans were routinely institutionalized in juridical practices. “Lawfare,” as John Comaroff describes the force of law, was central to empire – as a coercive instrument of colonial power, a site of counterinsurgency, and a locus of knowledge production.<sup>32</sup> Not engaging with questions of colonialism directly, Ian Haney-Lopez has used American naturalization cases to illustrate how judges drew upon scientific and commonsense knowledges to make legal distinctions between whites, “Negroes,” and those migrant populations who could not easily fit into the black/white paradigm.<sup>33</sup> What Haney-Lopez illustrates is that law was not only historically implicated in racial knowledge production but also that law’s truths were followed by serious material consequences, enabling judges to determine who had access to racial privilege, property, and, ultimately, citizenship.

<sup>30</sup> On Aboriginal peoples as weak-willed, see Mariana Valverde, *Diseases of the Will: Alcohol and the Dilemmas of Freedom* (Cambridge: Cambridge University Press, 1998), 162–70.

<sup>31</sup> The unassimilability of the Chinese comes up repeatedly in the *Royal Commission on Chinese Immigration*. See also Anderson, *Vancouver’s Chinatown*, 44–55.

<sup>32</sup> On “lawfare,” see John Comaroff, “Colonialism, Culture, and the Law: A Forward,” *Law and Social Inquiry* 26, 2 (2001): 306.

<sup>33</sup> Ian Haney-Lopez, *White by Law: The Legal Construction of Race* (New York: New York University Press, 1996).

Legal knowledges were never produced in the courtroom alone.<sup>34</sup> Commissions of inquiry were also sites of “lawfare,” where truths about racial difference were newly constituted, debated, and, in some cases, legislated.<sup>35</sup> From the nineteenth century onwards, Royal Commissions, as inquiries into specific social problems, were integral to the production and accumulation of legal knowledges, both in the metropole and in administrative and settler colonies.<sup>36</sup> In Canada, commissions enabled the Imperial, Dominion, and, in some cases, the provincial governments to generate information that would not only provide documented “facts” about particular and pressing social and moral issues but that would also eventually form the basis for further inquiry and for legislation and social policy. But these knowledge-producing machines were integral to the making of juridical racial truths as well. Government commissions, as John Comaroff tells us about colonial South Africa, were not in the business of documenting reality but, rather, in the business of creating it. Commissions of inquiry generated ethnological knowledges about the racial populations they investigated, giving “bureaucratic currency and practical reality to the categorical structures and cultural divisions that formed the emerging ethnoscape.”<sup>37</sup> Both the Royal Commission on Chinese Immigration (1885) and the Royal Commission on the Liquor Traffic (1894) drew upon statistics, legal and scientific expertise, and commonsense knowledges to generate racial truths about Chinese, African-American, Aboriginal, and mixed-race communities.<sup>38</sup> By appointing Royal Commissions to investigate Chinese immigration and the liquor trade in Canada, the Dominion government constituted

<sup>34</sup> In Canada, Constance Backhouse and James Walker have written about the legal construction of race in Supreme Court cases. See Constance Backhouse, *Color Coded: A Legal History of Racism in Canada, 1900-1950* (Toronto: University of Toronto Press, 1999); James Walker, *“Race,” Rights and the Law in the Supreme Court of Canada: Historical Case Studies* (Ontario: Wilfred Laurier University Press, 1997). Much of the critical race literature in the United States does not problematize the colonial in discussions of race and law. Mahmud’s “Colonialism and Modern Constructions of Race” is an exception.

<sup>35</sup> See Comaroff, “Colonialism, Culture, and the Law,” 306.

<sup>36</sup> On commissions of inquiry, see Adam Ashforth, *The Politics of Official Discourse in Twentieth-Century South Africa* (Oxford: Clarendon Press, 1990); Oz Frankel, *States of Inquiry: Social Investigations and Nineteenth-Century Print Culture in Britain and the United States* (Baltimore: Johns Hopkins University Press, 2006); Ann Laura Stoler, “Colonial Archives and the Arts of Governance,” *Archival Science* 2, (2002): 87-109.

<sup>37</sup> John Comaroff, “Reflections on the Colonial State, in South Africa and Elsewhere: Factions, Fragments, Facts, and Fictions,” *Social Identities* 4, 3 (1998): 332.

<sup>38</sup> Those of mixed-race ancestry, or “Half-Breeds” as they were commonly called, referred to people of Aboriginal and European ancestry. For a discussion of this juridical category, see Renisa Mawani, “In Between and Out of Place: Racial Hybridity, Liquor, and the Law in Late Nineteenth- and Early Twentieth-Century British Columbia” *Canadian Journal of Law and Society* 15, 2 (2000): 9-38.

each of these as *moral problems* that required not only the accumulation of knowledge but also legal and political solutions aimed at restricting Chinese immigration.

The Royal Commissions each drew upon an “epistemological pluralism” that incorporated the expertise and commonsense views of its witnesses as well as the “objectivity” of numbers, including crime statistics and court data.<sup>39</sup> Although both commissions were, to some extent, informed by prevailing ideas of “unfree labour” that were circulating in the United States and up the west coast, the commissioners and witnesses generated their own racial distinctions – between Chinese and Aboriginal peoples, for example – that were geographically and politically localized.<sup>40</sup> Despite the different substantive foci of the two commissions, there were apparent and important continuities. The Chinese were characterized in both reports as a race that was not only distinct from and inferior to whites but that was also inherently different from and, in some cases, a danger to *internal populations*, including “Negroes” and “Indians.”<sup>41</sup> In the following two sections, I examine these variegated racial knowledges, their movements across the Canada–US border, and the ways in which they galvanized additional juridical “facts” in support of Chinese exclusion.

MOVING BEYOND BLACK AND WHITE:  
THE REPORT OF THE ROYAL COMMISSION  
ON CHINESE IMMIGRATION (1885)

The Royal Commission on Chinese Immigration was appointed by the John A. Macdonald government on 4 July 1884. Macdonald selected Dr. Justice J.H. Gray, of the Supreme Court of Canada, and Dr. Joseph Chapleau, secretary of state, to investigate “all the facts and matters connected with the whole subject of Chinese immigration, its trade relations as well as the social and moral objections taken to the influx of Chinese people into Canada.”<sup>42</sup> Their mandate was to generate “proof”

<sup>39</sup> “Epistemological pluralism” comes from Valverde, *Law’s Dream*, 15. On the interactions between common knowledge and science in law, see also Haney-Lopez, *White by Law*, esp. 5–9.

<sup>40</sup> Writing about Hawaii, Sally Merry has noted that missionaries perceived Chinese men to pose a danger to Native Hawaiians. These discourses, she argues, were imported from California. See Sally Engle Merry, *Colonizing Hawaii: The Cultural Power of Law* (Princeton: Princeton University Press, 2000), 131–36.

<sup>41</sup> In the *Royal Commission on Chinese Immigration*, the foreignness of Chinese migrants was often contrasted against internal Others, including Aboriginal peoples and African Americans. I elaborate on this point in the following two sections.

<sup>42</sup> *Royal Commission on Chinese Immigration*, vii.

of whether legal restrictions on Chinese immigration, similar to those enacted in British Columbia and then disallowed by the courts, were in the best interests of the country.<sup>43</sup> The commissioners fulfilled these directives quickly. Shortly after their report was published, Chapleau himself initiated a bill to “Restrict and Regulate Chinese Immigration into the Dominion of Canada.” The bill, which was approved that same year, enabled the Dominion government to begin its lengthy campaign aimed at restricting and eventually prohibiting migration from China, first through the head taxes and subsequently through the Chinese Immigration Act (1923), which ended large-scale migration to Canada.<sup>44</sup>

Historians and others have used this inquiry to document the ways in which early Chinese migrants were constituted as antithetical to the western values of work and morality. In her important book, *Vancouver’s Chinatown*, Kay Anderson draws from the report to track how politicians and labour organizers in British Columbia constructed the Chinese as a discrete and distinct race. “Almost every one of the forty-eight BC witnesses invited to testify on the Chinese presence in the province,” she writes, “traded freely in the language of racial types, racial instincts, and racial apathy.”<sup>45</sup> While Anderson’s point is a critical one, her own book did not trace “the language of racial types” but, rather, focused specifically on how government officials created Chineseness against Europeanness, both epistemically and geographically. The commissioners and witnesses did view the Chinese as foreign, unassimilable, and inferior, but these racial distinctions were never determined against whiteness alone. Nor were their ideas about race geographically bound. If colonialism opened perilous possibilities for intermixture across racial divides, as Indian Agent Lomas remarked, then the colonial encounter became the formative moment when racial categories were determined across a shifting grid of difference, one that placed the Chinese in a comparative frame that was repeatedly trafficked across the Canada–US border.<sup>46</sup>

Throughout the Royal Commission’s report, migrants from China were constituted in ambivalent and contradictory ways, both as industrious workers whose presence was necessary to build the economy

<sup>43</sup> Ward, *White Canada Forever*, 38.

<sup>44</sup> *Chinese Immigration Act*, SC, 1923, c.38.

<sup>45</sup> Anderson, *Vancouver’s Chinatown*, 45.

<sup>46</sup> There is a growing interest in Canada–US borderlands. See Kornel Chang, “Transpacific Borderlands and Boundaries: Race, Migration and State Formation in the North American Pacific Rim, 1882–1917” (PhD diss., University of Chicago, 2007); Erika Lee, “Enforcing the Borders: Chinese Exclusion along the Borders with Canada and Mexico, 1882–1924,” *Journal of American History* 89, 1 (2002): 54–86.

and infrastructure of a young Canada and as people whose foreignness threatened the emerging nation. To make sense of these recent arrivals and their effects on white settlement, witnesses did not construct racial grammars anew; instead, many drew upon an established archive of racial difference that proliferated in California, Oregon, and Washington and was emergent along Canada's west coast. Those who described labourers from China as racially inferior made their determinations across a range of comparisons that included whites and blacks. In so doing, many inserted the Chinese into an existing configuration of racial knowledges.<sup>47</sup> In some ways this is hardly surprising as the commissioners took much of their evidence from witnesses in San Francisco and in other US cities along the coast. However, my interest is in tracking how knowledges of blackness that pervaded the Royal Commission informed other epistemic connections that were then transformed in the process. The racial lexicon that underwrote the testimony of witnesses enabled Indian agents, missionaries, and legal authorities in British Columbia to characterize the Chinese as a race that not only posed an economic threat to whites but also a biological and moral affront to Aboriginal peoples.

Although the Royal Commission on Chinese Immigration has been the subject of much scholarly debate, one area that has received significantly less attention has been the statistical tables. Like censuses and other enumerative devices, these tables provide important political insights into how populations were racially defined, classified, and ordered, and how these determinations changed over time. Enumeration, as many scholars have argued, figured centrally in colonial biopolitics.<sup>48</sup> While numbers were instrumental in "making up people," and in producing distinct racial bodies, counting also generated aggregates or populations that demanded different modes of governance, ranging from improvement and civilization (Aboriginal peoples) to deportation and expulsion (Chinese migrants).<sup>49</sup> Despite the fact that documenting race carried a presumed objectivity, counting was in and of itself a "formalizing racial governmentality" that operated both bureaucratically and administratively, generating new racial identities, social relations, and configurations of power in the process.<sup>50</sup>

<sup>47</sup> Claire Jean Kim's "field of racial positions" is useful here. See Claire Jean Kim, "The Racial Triangulation of Asian Americans," *Politics and Society* 27, 1 (1999): esp. 106.

<sup>48</sup> Appadurai, *Modernity at Large*, 133.

<sup>49</sup> "Making up people" comes from Ian Hacking's famous essay of the same title. See Ian Hacking, *Historical Ontology* (Cambridge: Harvard University Press, 2002), chap. 6.

<sup>50</sup> David T. Goldberg, *Racial Subjects: Writing on Race in America* (New York: Routledge, 1997), 30-32.

In their investigations into the social and moral objections to Chinese immigration, the commissioners not only canvassed testimony from various constituencies but also solicited crime statistics from local authorities. The tables they produced tell us perhaps less about the criminal propensities of the Chinese relative to the deviant impulses of other races and more about the constitution of nineteenth-century juridical-racial categories and taxonomies. Specifically, the table entitled “Return of Convicts Sentenced in the Supreme Court of British Columbia to the British Columbia Penitentiary” (Table 1) illustrates the racial heterogeneity of the colonial contact zone and its comparative logics. The table was organized along five “races”: “Chinese,” “Indians,” “Half-Breeds,” “Negroes,” and “White.” The taxonomic logic of the table is not entirely clear as the categories were not alphabetically indexed. Reading the table as a grid that descends in order from top to bottom and left to right thus raises questions about prevailing racial orders. Were the categories deliberately arranged in a descending order of civility or through other schematic principles? The outer placement of “Chinese” and “White” not only forged epistemological relations between these populations but also among those in-between.

Although the categorical arrangements are ambiguous, one thing is clear: the racial breakdown did not fully reflect the demographics of British Columbia. In the nineteenth century, Canada’s west coast was home to a large white, Aboriginal, and mixed-race population.<sup>51</sup> The inclusion of “Negroes” is surprising given that the black community in Canada’s most westerly province was relatively marginal, a point that is reflected in the absence of black offenders below.<sup>52</sup> Instead of dismissing this as an error or aberration, I approach the table as an artifact that might provide us with critical insights into local and inchoate taxonomies and the wider forces that shaped them. Although British Columbia did not have a significant black population and slavery did not mark the Canadian nation as it did the United States, the persistent movements

<sup>51</sup> Barman details the racial and ethnic breakdown of the province as follows: For 1871, British/Continental European 23.7 percent (8,576); Asian 4.3 percent (1,548); Aboriginal (est.) 70.8 percent (25,661). For 1881, British 29.6 percent (14,660); Continental European 5.0 percent (2,490); Asian 8.8 percent (4,350); Aboriginal (est.) 51.9 percent (25,661). See Barman, *The West beyond the West*, table 5, 429.

<sup>52</sup> Crawford Killian, *Go Do Some Great Thing: The Black Pioneers of BC* (Vancouver: Douglas and McIntyre, 1978); Robin Winks, *The Blacks in Canada: A History* (Montreal and Kingston: McGill-Queen’s University Press, 1997). A search of the annual reports of the inspector of penitentiaries reveals that the category “black” and/or “Negro” was not used in other provinces. The two provinces that used this category sporadically were Manitoba (1891, 1897) and British Columbia (1895). A term that was used more frequently in other places was “coloured.” See “Annual Report of the Inspector of Penitentiaries,” in Canada, *Sessional Papers*, 1880/1881 – 1900.

TABLE 1:  
*Return of convicts sentenced in the Supreme Court of British Columbia to the British Columbia Penitentiary*

	RACE			CRIME	SENTENCE	SENTENCED	WHERE SENTENCED
	CHINESE	INDIANS	HALF-BREEDS				
1				Larceny	2 years	March 13/80	New Westminster
			1	Shop-breaking	2 years	Aug 23/80	Victoria
			1	Rec'g stolen goods	5 years	Aug 23/80	Victoria
			1	Embezzlement	2 ½ years	Aug 23/80	Victoria
1				House breaking	5 years	Sept 20/80	Richfield
1				Wounding with intent	2 ½ years	Sept 20/80	Richfield
			1	Larceny	2 years	Oct 1/80	Quesnelle
1				Shop-breaking	2 years	Oct 11/80	Clinton
	1			Larceny	3 years	Oct 18/80	Kamloops
		1		Killing cattle	5 years	Oct 18/80	Kamloops
			1	Larceny	5 years	Oct 18/80	Kamloops
1				Assault with intent	7 years	Oct 25/80	Lytton
	1			Larceny	2 years	Oct 25/80	Lytton
1			1	Larceny	2 years	Oct 29/80	Yale
				Stabbing	10 years	Oct 29/80	Yale
1				Aiding, abetting	10 years	Oct 29/80	Yale
	1			Larceny	2 years	Nov 10/80	New Westminster
7	3	1	0				

Source: *Royal Commission on Chinese Immigration (1885)*, 389-93.

<sup>1</sup> The original table published in the *Royal Commission on Chinese Immigration* covers 1880 to 1884. I have only included 1880 and have modified the table to exclude names of offenders/judges. There were no "Negroes" recorded for 1880, 1 for 1881, 1 for 1882, none for 1883, and 3 for 1884.

of workers, labour organizers, and politicians between California and British Columbia contoured emergent racial truths in important ways. Discussions of blackness and of slavery, as I elaborate further on, inadvertently shaped and undergirded debates about the putative threats that “unfree” Chinese labour posed to whites. More significantly, they also informed discussions about the dangerous influences that the “corrupting” Chinese had upon Aboriginal peoples, through the sale of liquor, for instance.

The testimony of witnesses further illustrates the significance of racial grids and cross-racial comparisons. Debates about the Chinese and their perilous effects on labour and white superiority were often located within global conversations about race. James P. Dameron, a lawyer and resident of California, situated his perceptions of the Chinese accordingly. Informed by an article in the *Popular Science Monthly*, he rehearsed a familiar but contentious argument about racial evolution, one that substantiated monogenesis over polygenesis, that the world’s races had only one origin.<sup>53</sup> “Mankind is divided into four different groups,” he explained. “First, the black; next the red; next the brown, and last, the white. Modern scientists have gone on and divided mankind into twelve cases, or twelve different groups.” The origins of these races, whether four or twelve, he insisted, could be traced to Caucasians, who were the most civilized and superior of all.<sup>54</sup> Although the race-crime table did not consistently follow Dameron’s evolutionary model, placed as the outer-most column, whites could indeed be read as the origin of the species.

Informed by a Darwinian logic, Dameron elaborated his points about racial superiority while also highlighting its instability. The Mediterranean and Mongolian races, he conceded, were “the most highly developed, surpassing all other human species in numbers of individuals.”<sup>55</sup> Although the Mongols had reached an elevated stage of progress relative to those of the other races, Dameron was quick to qualify that “the Mediterranean or Indo-Germanic species have, by means of higher development of their brain, surpassed all other races and species in the struggle for life, and have already spread the net of their dominion over the whole globe.” For Dameron, fears about Chinese migration to California were about labour and much more: they represented a crucial struggle over life. These “hardy Mongolians, with

<sup>53</sup> On monogenesis and polygenesis, see Robert Young, *Colonial Desire: Hybridity in Theory, Culture, and Race* (London: Routledge, 1995), 9–13.

<sup>54</sup> *Royal Commission on Chinese Immigration*, 350.

<sup>55</sup> *Ibid.*



their peculiar civilization have met us at the Golden Gate, and have begun the contest for ascendancy,” he explained.<sup>56</sup> Because the Chinese were so eager and willing “to work more hours and live on less, live on what a white laborer would starve on,” to “throw open the country to their immigration,” he cautioned, “the European would in a few years mean to be overrun, so that the white man would have to emigrate, or begin a *war of the races*.”<sup>57</sup> His emphasis on life, race, and war draws striking parallels to Foucault’s claims about biopolitics. For many white colonists, struggles over Chinese labour were indeed biopolitical, raising questions about how these foreigners might affect the lives of whites not only in economic terms but also in moral and biological ones.

At the same time that witnesses like Dameron inserted the Chinese into a global racial field, others located their presence within prevailing concerns about blackness and slavery. Many witnesses who testified made explicit and implicit references contrasting the Chinese with African Americans. While these comparisons have received some attention from American scholars, few have questioned how Chinese migration to Canada was informed by these wider discussions.<sup>58</sup> Given that many Chinese migrated to British Columbia from California, and that Canadian authorities frequently consulted their American counterparts (as the Royal Commission makes clear), we need to think more carefully about these transnational connections and how they shaped racial knowledges and exclusionary practices along Canada’s west coast. As Ann Laura Stoler reminds us, comparison was a cornerstone of colonial politics. “Colonial regimes,” she explains, “were not hegemonic institutions but uneven, imperfect, and even indifferent knowledge acquiring machines.” Thus, “colonial bureaucracies” were “invested in selective comparison with other polities: with highlighting their similarities to some and differences from others.”<sup>59</sup> In nineteenth-century British Columbia, these comparisons between Chineseness and blackness figured prominently in the production of local juridical racial truths.

<sup>56</sup> Ibid., 351.

<sup>57</sup> Ibid. (my emphasis).

<sup>58</sup> See, for example, Moon-Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore: Johns Hopkins University Press, 2006); Kim, “Racial Triangulation”; Lisa Lowe, “The Intimacies of Four Continents,” in *Haunted by Empire: Geographies of Intimacy in North American History*, ed. Ann Laura Stoler (Durham: Duke University Press, 2006), 191–212; Gary Okihiro, *Margins and Mainstreams: Asians in American History and Culture* (Seattle: University of Washington Press, 1994).

<sup>59</sup> Ann Laura Stoler, “Tense and Tender Ties: The Politics of Comparison in North American History and (Post)colonial Studies,” in Stoler, *Haunted by Empire*, 55–56.

In some ways, connections between African Americans and the Chinese were a product of empire's global reach. Both slavery and indentured labour were inextricably linked to the development and expansion of imperialism and capitalism. In the mid-nineteenth century, Chinese migration, as many scholars have argued, enabled authorities in the American west and south to solve a pressing dilemma: to advocate freedom for slaves on the one hand, while maintaining a cheap, surplus, and expendable labour force, on the other.<sup>60</sup> Like African Americans, Chinese labourers, although indentured and thus not fully enslaved, were continually referred to as "slave labour" that was equally if not more demoralizing to white superiority. John Swift, a longtime resident of San Francisco, claimed that the "influx of the Chinese has had a *worse effect upon the respectability and dignity of [white] labor than slavery had in the south.*"<sup>61</sup> Objections to Chinese labour, Swift claimed, were even more intense than was opposition to slavery: "There is a stronger feeling here against the Chinese than there is in the south against negroes [sic]," he opined. For Swift, these distinctions were, in part, about future effects and possibilities: "I would rather have negro slavery today" he explained, "for negroes [unlike Chinese] are born in the country and at least take an interest in it."<sup>62</sup>

The comparative frames that witnesses evoked in their discussions about the Chinese and African Americans, as Swift's testimony suggests, often centred on the question of legal status. In American jurisprudence, racial distinctions were frequently made on a continuum between whiteness (freedom) and blackness (unfreedom). As a result of this binary, US judges were often faced with vexed questions as to how they should classify the "other races."<sup>63</sup> Immigration law became pivotal in securing distinctions between different racial populations. "The law," as historian Mae Ngai explains, "established a quota system that classified the world's population according to nationality and race, ranking them in a hierarchy of desirability for admission into the United States."<sup>64</sup> These legislative enactments not only ordered those racial groups seeking entry into the United States as "good"/"bad" and "desirable"/"undesirable" but also structured their relations with "domestic" racial populations. The "foreignness" of the Chinese became

<sup>60</sup> For discussions of the Chinese in the American south, see Jung, *Coolies and Cane*.

<sup>61</sup> *Royal Commission on Chinese Immigration*, 339 (my emphasis).

<sup>62</sup> *Ibid.*, 339.

<sup>63</sup> Haney-Lopez, *White by Law*.

<sup>64</sup> Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), 17.

an important marker of difference that distinguished Chineseness from whiteness but also from the internal spectre of blackness that so deeply shaped American society.<sup>65</sup>

In his testimony to the Royal Commission, Henry Haight, the former governor of California, evoked this foreign/domestic distinction. “The negroes of California are very respectable, decent people,” he explained.<sup>66</sup> Although Haight insisted that African Americans were “ignorant,” it was their legal status and their seeming permanence that opened up possibilities for development and assimilation. While both blacks and Chinese were inferior to whites, the marked difference between them, Haight and others suggested, had to do with the question of entry point and, ultimately, legality: the Chinese truly did not belong and could be sent back to their country of origin, while “Negroes,” who were initially brought to the United States as slaves were now longtime inhabitants who had nowhere to go back to and, thus, were aspiring to adapt to American life.<sup>67</sup>

In marking the Chinese as foreign and unassimilable, many witnesses emphasized those putative cultural and moral sensibilities that positioned them against African Americans. Mr. Slanson, a court reporter for the *Oregonian*, a leading newspaper in Portland, argued that the Chinese were a detriment to society’s morals. The Chinese, he claimed, would “steal whenever they get a chance, and are very much like the old-time down-South negroes [sic] from a police point of view.”<sup>68</sup> Slanson’s views were not uncontested. Others insisted that the Chinese lacked a morality that could often be found among blacks. For Morris Estee, a lawyer and longtime California resident, the Chinese were “more intelligent” than other races but “would not make good citizens, any more than slaves would make good citizens if they were honest.”<sup>69</sup> In drawing these connections, Estee placed himself in an awkward position. Who was worse, the Chinese coolie or the slave? “In some respects they [Chinese] are inferior to the negro [sic], and in some respects they are far superior,” he explained. While Estee raised questions about the honesty of slaves, he thought them to be morally advanced: “as to their morality, there is no comparison [between the two]: *the negro is vastly more moral than the*

<sup>65</sup> Kim makes a similar point about foreignness. However, by arguing that Asian immigrants were seen as superior to blacks, she glosses over important contradictions that, I would argue, are precisely what sustain racisms. See Kim, “Racial Triangulation,” 109.

<sup>66</sup> *Royal Commission on Chinese Immigration*, 239.

<sup>67</sup> For a similar argument, see Erika Lee, *At America’s Gates: Chinese Immigration during the Exclusion Era, 1882–1943* (Chapel Hill: University of North Carolina Press, 2003), 31.

<sup>68</sup> *Royal Commission on Chinese Immigration*, 175.

<sup>69</sup> *Ibid.*, 345.

*Chinese here.*<sup>70</sup> Questions about Chinese migrants and their putative immorality assumed a parallel logic in British Columbia. Discussions about the Chinese as “cunning,” “deceptive,” and “despotic,” as I discuss in the following section, were mobilized throughout the late nineteenth century to emphasize the threats they posed to Aboriginal peoples and to further justify their exclusion from Canada.

As the testimony above indicates, many witnesses who appeared before the Royal Commission did insert Chinese migrants into a wider logic of race that drew epistemic connections with African Americans. While this racial grammar was undoubtedly linked to global capitalism, slavery, and European superiority, knowledges about Chineseness were localized differently along the Pacific Northwest. In British Columbia, where race and racisms have such different histories, how are we to make sense of this spectre of blackness? Because testimony was elicited from witnesses in California and up the coast, the languages of race that were transported to Canada’s west coast were similar to those flourishing south of the border. Whereas legal authorities counted and calculated criminal cases in ways that took stock of black offenders, as Table 1 indicates, discussions about Chinese labour in Canada were also structured along a universal logic of “free” versus “unfree.” Canadian authorities perceived Chinese labour as threatening to British Columbia’s emerging settler society precisely because the Chinese were thought to be enslaved and indentured workers who were undercutting white ones. In his testimony to the Royal Commission, Malcolm Sproat described the Chinese as a race that was in “abject slavery ... to custom and tradition” and “in a state of low animal apathy.”<sup>71</sup> These “degrees of unfreedom” not only made it difficult if not impossible for the “Canadian unskilled workman” to compete but also activated and renewed an older racial vocabulary that was constituted through the trans-Atlantic slave trade.<sup>72</sup>

Significantly, the racial epistemologies that this grammar generated not only shaped and organized colonial labour relations in California but also in British Columbia, where politicians continually cautioned one another about the demoralizing effects that labour from China would have upon white lives. But Chinese migrants were thought to compromise the nation and its racial futures in other ways as well.

<sup>70</sup> Ibid. (my emphasis).

<sup>71</sup> Ibid., 166–67.

<sup>72</sup> I have borrowed the term “degrees of unfreedom” from Ann Stoler, who is paraphrasing Lisa Lowe’s arguments in the same volume. See Ann Laura Stoler, “Intimidations of Empire: Predicaments of the Tactile and Unseen,” in Stoler, *Haunted by Empire*, 11.

Between his comments about “abject slavery” and “low animal apathy,” Malcolm Sproat explained these threats as follows:

The substantial grievance of the white settlers in the province, from the social and political point of view ... is that while burdened with a mass of uncivilized Indians whose numbers exceed their own, an additional enormous mass of ignorant and debased aliens, male adults without families, and absolutely without any capabilities for citizenship [the Chinese], are forced upon them, in remorseless disregard of their well-being and of the repeated resolutions and acts of their legislature.<sup>73</sup>

The growing Chinese presence may indeed have increased the white man’s racial burden, as Sproat suggests above. However, the Chinese, as Indian Agent Lomas and others cautioned, also endangered the future of white settlement in other ways: large-scale Chinese migration created close interracial proximities that unsettled state initiatives to domesticate and assimilate the “mass of uncivilized Indians.” It is to these points that I now turn.

DISAGGREGATING RACE:  
THE ROYAL COMMISSION  
ON THE LIQUOR TRAFFIC (1894)

By the time the Royal Commission on Chinese Immigration had published its report in 1885, the Chinese had been firmly constituted as a population that was not only inferior to whites but also distinct from and incompatible with other racial populations. The Chinese, as Malcolm Sproat and many others argued, could never successfully be absorbed into British Columbia’s settler society. Not only did they undermine the value of white labour, but, as witnesses who appeared before the Royal Commission on Chinese Immigration (1885) claimed, they manifested other “racial defects,” including a disregard for truth and a propensity to commit crime.<sup>74</sup> By the 1890s, it was precisely these fears about the putative immorality and sinister influences of the Chinese that raised pressing concerns for colonial authorities. This threat was about white settlement and much more: if Chinese migrants continued

<sup>73</sup> *Royal Commission on Chinese Immigration*, 166.

<sup>74</sup> On this point, see John McLaren, “Race and the Criminal Justice System in British Columbia, 1892–1920: Constructing Chinese Crimes,” in *Essays in the History of Canadian Law*. Vol. 8: *In Honor of R.C.B. Risk*, ed. G. Blaine Baker and Jim Phillips, (Toronto: University of Toronto Press, 1999), 423–42.

to enter the country, Indian agents and law enforcers cautioned, their presence would not only corrupt whites but might potentially devastate Aboriginal peoples. As Indian Agent Lomas's annual report warned, the Chinese – labourers and merchants alike – were directly implicated in supplying intoxicants to Aboriginal people, a condition that assailed the very heart of colonial rule.

Concerns about Chinese men supplying liquor to Aboriginal people became commonplace throughout the late nineteenth century. While Indian agents and police constables circulated and exchanged these fears in government memos, correspondence, and legal cases, their sentiments were especially pronounced in the report of the Royal Commission on the Liquor Traffic (1894). Unlike the Royal Commission on Chinese Immigration, which was mandated to investigate the effects of Chinese immigration, an issue that was contentious but not completely divisive, the Royal Commission on the Liquor Traffic was confronted with deciding the vexed question of prohibition, an issue so controversial that even the federal government had long evaded it. Briefly, the Royal Commission was formed in 1891 to assess the practicality of national prohibition at a time when this issue was fiercely contested. Chaired by Sir Joseph Hickson, the commission had several mandates: to determine the extent of the liquor traffic in Canada, to decide upon the implementation of the Canada Temperance Act, and to assess whether a national policy of temperance was desirable and even achievable. Although the commission declared at the outset that its intention was *not* to evaluate the moral aspects of liquor use but, rather, to investigate the commercial and social interests surrounding licensing and law enforcement, its report created and reinforced a prevailing moral order to which racial truths were critical.

Just as in the report presented by the Royal Commission on Chinese Immigration, so in the report presented by the Royal Commission on the Liquor Traffic, numbers figured centrally in the production of racial knowledges. Not only did numbers forge the commission's evidence, providing truths about race, but statistical data was deployed to demonstrate a causal relationship between race and crime, even when these claims could not be numerically supported. In the BC section, commissioners and witnesses evoked race-crime tables as a way of emphasizing the dangers of Chinese immigration. Henry William Sheppard, the superintendent of the Victoria City Police, submitted two numerical tables to the commission extracted from his department's Annual Report for 1891. The tables, one summarizing criminal cases

before the Victoria Police Court and the other documenting convictions (see Table 2 and Table 3 below), were published in the appendices of the Royal Commission's report but served as important reference points in witness testimony. Instead of highlighting other relevant characteristics (such as gender and age, for example), the tables divided those arrested and convicted of various crimes, including drunkenness and supplying liquor to Indians, into three racially distinct taxonomies: "all except Indians and Chinese," "Indians," and "Chinese."<sup>75</sup> Unlike in the report of the Royal Commission on Chinese Immigration, Victoria police authorities were no longer concerned with documenting the offences of "Half-breeds" or "Negros," even though the former had long been accused of supplying intoxicants to Aboriginal peoples;<sup>76</sup> rather, crime, and the liquor problem in particular, were now divided among the province's three most numerically significant populations.

Sheppard presented these tables to the commissioners as though they were "facts" available for government use in their raw form. These numbers implied that Victoria's police authorities did not make any racial determinations but simply gathered and recorded observable racial differences between those convicted of liquor-related and other offences.<sup>77</sup> Despite this seeming impartiality, many scholars have told us that knowledge production does not take place outside of social circumstances but, rather, is in effect a social and political process. Even numbers as knowledge formats are never impartial or neutral but are generated through and require a set of interpretive conditions.<sup>78</sup> As Nikolas Rose has argued, numbers do not simply record a pre-existing reality but are constitutive of it.<sup>79</sup> The aggregation of race, in these tables and others, not only produced and ordered racial identities in hierarchical form but also created social conditions that became central to colonial governance: the need to protect vulnerable Indians from the sinister influences of the Chinese.

Like other knowledge-producing processes in nineteenth-century colonial contexts, the mapping of crime was inextricably linked to the mapping of race.<sup>80</sup> By organizing crime statistics through race, colonial

<sup>75</sup> *Royal Commission on the Liquor Traffic*, app. II, 669. Age, gender, ethnicity, and other factors were recorded in the "Annual Report of the Inspector of Penitentiaries." See note 51.

<sup>76</sup> See Renisa Mawani, "In Between and Out of Place."

<sup>77</sup> Poovey makes the point that numbers appear to be beyond interpretation and analysis. See Poovey, *A History of the Modern Fact*, esp. intro.

<sup>78</sup> See Rose, *Powers of Freedom*, chap. 6.

<sup>79</sup> *Ibid.*, 212.

<sup>80</sup> See Mark Brown, "Race, Science, and the Construction of Native Criminality in Colonial India," *Theoretical Criminology* 5, 3 (2001): 345-68.

TABLE 2:  
*Victoria, BC, convictions for offences committed in 1891*

NATURE OF OFFENCE	COMMITTED BY ALL EXCEPT INDIANS AND CHINESE			TOTAL
	COMMITTED BY INDIANS	COMMITTED BY CHINESE		
Assault	30	8	4	42
Infraction of city by-laws	136	—	39	175
Drunkenness	406	175	1	582
Gambling	29	—	12	41
Infraction of Public Morals Act	36	—	5	41
Supplying intoxicants to Indians	29	—	2	31
Vagrancy	42	—	4	46
Possession of intoxicants	—	35	—	35
Other offences	96	3	12	111
<b>Total</b>	<b>804</b>	<b>221</b>	<b>79</b>	<b>1,104</b>

TABLE 3:  
*Summary of all cases before the Victoria Police Court*

NATURE OF OFFENCE	COMMITTED BY ALL EXCEPT INDIANS AND CHINESE			TOTAL
	COMMITTED BY INDIANS	COMMITTED BY CHINESE		
Convicted in police court	801	221	79	1,104
Sent for trial	31	2	6	39
Discharged	231	28	31	290
Grand total	1,066	251	116	1,433
<b>Total cases before court for drunkenness</b>	<b>423</b>	<b>182</b>	<b>1</b>	<b>606</b>

Source: *Royal Commission on the Liquor Traffic* (1894), app. II, p. 669.



agents, including Victoria's police authorities, were able to constitute distinct populations that were both homogenized and homogenizing, "species" who displayed specific external and internal traits that enabled the colonial state to watch, govern, and in some instances remove them from the emerging settler society (through incarceration, for example). Like the table in the report of the Royal Commission on Chinese Immigration (1885), the above categories were organized racially rather than alphabetically, as "all except Indians and Chinese," "Indians," and "Chinese." These taxonomies constituted the distinctions between Indians, Chinese, and others as real, tangible, and significant, while the categorical arrangements suggested an operative hierarchy that connected these taxonomies in a racially ordered logic. The making of juridical categories was not then a descriptive process of representation but, rather, was established according to specific assumptions about the origins, characteristics, and evolution of human nature. Racial discourse, David Theo Goldberg explains, "includes a set of hypothetical premises about human kinds (eg. 'the great chain of being,' classificatory hierarchies, etc.) and about the differences between them (both mental and physical)."<sup>81</sup> By creating a racial matrix, the Victoria police submitted tables that represented "All except Indians and Chinese," "Indians," and "Chinese" as distinct and knowable races whose racial identities and propensities towards crime were relative and relational. "Indians" and "Chinese" were populations who exhibited not only biological differences that made them distinguishable but also moral and mental traits that rendered them socially and affectively incompatible and, thus, in need of segregation and racial management.

In other numerical tables compiled during the same period, the first category, "all except Indians and Chinese," was a category often used to describe whites. In the report of the Royal Commission on Chinese Immigration, a similar table was submitted by Charles Bloomfield, the Commissioner of the Victoria Police. Detailing those cases that were heard in Victoria's Police Court, Bloomfield's classifications were as follows: "Whites," "Indians," and "Chinese." Below the table was a note: "In this statement, under the heading of whites, are included all others than Chinese and Indians."<sup>82</sup> Here, whiteness was defined through negation, representing a heterogeneity that included other racial populations but that also captured European nationalities and ethnic

<sup>81</sup> David T. Goldberg, *Racist Culture: Philosophy and the Politics of Meaning* (Malden: Blackwell, 1993), 47.

<sup>82</sup> *Royal Commission on Chinese Immigration*, 388.

differences.<sup>83</sup> However, by the turn of the century, “White” became a category in and of itself. Given the growing racial diversity of British Columbia, the negative category of whiteness could no longer adequately contain ethnic and cultural distinctions and, instead, was narrowly defined in ways that signified a range of moral proclivities, including habits, customs, lifestyles, and the ability to self-govern. In British Columbia as in other administrative and settler colonies, whiteness became “a state of being.”<sup>84</sup>

Unlike Europeans, who were deemed to have a nationality and thus a history, those who were classified as “Indians” and “Chinese” were characterized as *racial species* that were marked by few internal differences. Counting, as Arjun Appadurai has told us about the Indian census, not only produced types and classes but also created “homogenous bodies (within categories) because number, in its nature, flattens idiosyncrasies and creates boundaries around those homogenous bodies as it performatively limits their extent.”<sup>85</sup> By counting bodies, police authorities did more than erase and flatten heterogeneity, including regional and linguistic differences. Through their taxonomic schemas, administrators inadvertently placed these racial populations into what Anne McClintock has described as “anachronistic space,” a space that was “prehistoric, atavistic ... irrational,” and outside of history. To be clear, I am in no way suggesting that Aboriginal peoples and Chinese were ascribed the same or even similar racial characteristics. What I am pointing to is how authorities constituted these “races” as static, unchanging, and homogenous populations who, for different reasons, were deemed to be “inherently out of place in the historical time of modernity.”<sup>86</sup> While Aboriginal peoples were outside of history because they were not yet morally developed, the Chinese were thought to be lacking in those characteristics – freedom, civility, and justice – that were emblematic of European modernity.

From the late nineteenth century onwards, colonial administrators frequently drew figurative and literal boundaries between Aboriginal peoples and Chinese, boundaries that were fortified through the problem of intoxicants and intoxication.<sup>87</sup> In the Royal Commission’s report,

<sup>83</sup> Goldberg, *The Racial State*, 181.

<sup>84</sup> *Ibid.*, 171.

<sup>85</sup> Appadurai, *Modernity at Large*, 133.

<sup>86</sup> McClintock, *Imperial Leather: Race, Gender, and Sexuality in the Colonial Contest* (New York: Routledge, 1995), 40.

<sup>87</sup> These literal boundaries are evident in the creation of reserves and of Chinatowns. See Anderson, *Vancouver’s Chinatown*; and Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002).

witnesses traded on commonsense ideas about Aboriginal peoples and Chinese migrants as racially discrete and as differentially and unevenly implicated in British Columbia's illicit liquor problem. While Aboriginal peoples suffered from a weakness of the will that was evident in their over-consumption of alcohol and in their public displays of drunkenness, the Chinese, who many argued did not normally consume liquor, were among those held responsible for the persistent intoxication among Aboriginal communities. "Considering the number of Chinamen and others who try all means in their power to sell intoxicants to the Indians," remarked Indian Agent McTiernan in 1883, "it is surprising that there is not more drunkenness among them."<sup>88</sup>

Numbers alone were unable to substantiate the commission's production of racial truths, however. From the tables above, it is clear that the overwhelming convictions for all offences, including drunkenness and supplying intoxicants to Aboriginal people, were committed by those classified as "all except Indians and Chinese." As Table 1 indicates, 406 offenders in this category were convicted for drunkenness, compared to 175 "Indians" and 1 "Chinese." These figures were consistent with the convictions for supplying intoxicants to Indians: 29 "all except Indians and Chinese" were convicted compared with 2 "Chinese." While this category encompassed whiteness as a negative and flexible category, it also worked politically to obscure white crime. Given the "facts" produced through enumeration, how could authorities continue to deploy racial narratives about "drunken Indians" and "cunning Chinese traffickers"?

In late nineteenth-century British Columbia, the "drunken Indian" had become a well-known "fact" that was rarely questioned or contested. While there was little consideration as to whether this presumed defect was biological, environmental, or developmental, many agreed that Aboriginal peoples might exhibit self-control once they reached the appropriate level of maturity and civility.<sup>89</sup> This idea that Aboriginal people could not withstand the effects of alcohol became commonsense knowledge that informed and legitimized a range of prohibitory statutes, including various sections of the Indian Act, which stated that Aboriginal people needed to be prohibited from consuming liquor and

<sup>88</sup> McTiernan to Superintendent, 15 August 1883, in Canada, *Sessional Papers*, 1884, no. 4, 47, 4-45-46.

<sup>89</sup> On this point, see Robert Campbell, "A 'Fantastic Rigmarole': Deregulating Aboriginal Drinking in British Columbia, 1945-62," *BC Studies* 141 (September 2004): 81-104; Valverde, *Diseases of the Will*.

that sobriety was critical to enfranchisement and citizenship.<sup>90</sup> Many witnesses who appeared before the commission both drew upon and reinforced these “truths.” Take, for example, the testimony of Samuel Drake, the sheriff of Nanaimo. While Drake conceded that an “Indian is a pretty decent fellow when he is sober, as most of them are,” he explained that “when they get drunk they seem to lose all respect for the rights of any other party in their neighborhood.” They are “capable of doing things when they are drunk,” Drake added, “that they would never do when sober.”<sup>91</sup> But while many believed that Aboriginal people could be redeemed through moral training and sobriety, colonial authorities were less convinced about the future prospects of Chinese migrants.

Throughout witness testimony, allegations about the Chinese and their involvement in the illicit liquor trade emerged frequently. Those who were called to testify expressed greater concerns about migrants from China, and their complicity in the the illegal liquor traffic, than they did for any other racial groups. The two commissioners, Judge McDonald and Dr. Reverend J. McLeod, who queried witnesses in British Columbia, routinely asked whether the Chinese consumed liquor and whether they supplied it to Aboriginal people. While some who testified described the Chinese as a “sober race,” others insisted that they were intemperate but were successful in evading the gaze of authorities as “a great deal of their drinking is done in their homes.”<sup>92</sup> Colonial agents were less divided about the role of the Chinese in the sale of liquor, however. Many Indian agents and missionaries lamented that Chinese men were devastating Aboriginal communities by supplying them with intoxicants. As Indian Agent Phair reported to his superiors, there “are two or three Chinamen here [Lillooet] who I believe get their living by selling liquor to Indians but they are so cunning that its [sic] almost an impossibility to prove them guilty.”<sup>93</sup> This rhetoric about “drunken Indians” and “cunning” Chinese was so widely circulated that these racial “truths” overdetermined the numerical evidence submitted by Superintendent Henry Sheppard.

At the commission’s hearings, Judge McDonald questioned Sheppard on his annual report as follows:

I observe there were 406 cases of drunkenness according to your report? – Yes

<sup>90</sup> An Act to Amend and Consolidate the Laws Respecting Indians, 1876, chap. 18, s.79, s. 86.

<sup>91</sup> *Royal Commission on the Liquor Traffic*, 555.

<sup>92</sup> *Ibid.*, 534.

<sup>93</sup> C. Phair to Attorney General, October 1880, British Columbia Archives, GR-0429, box 1, file 9.

I observe the cases of Indians number 231? – Yes

And of those 175 for being drunk? – Yes

In the cases of the Indians, did you try to find out where they got the liquor? – *Yes. The Chinese generally got it for them.*

Did you succeed in making cases? – In a few cases.

You had 29 convictions? – Yes, for supplying them.

Were the persons so convicted licensed? – No.

They were unlicensed? – Yes.

Out of 175 cases of Indians, there were 29 convicted the second time?  
– Yes.<sup>94</sup>

This exchange is interesting for several reasons. First, McDonald's questions were informed by a particular set of racial assumptions. Clearly, he was unconcerned about the documented distribution of liquor offences as displayed in the two tables: that it was mainly whites who were convicted for supplying liquor to Aboriginal people and for intoxication. Instead, his questions seemed to be guided by persistent racial knowledges about “undeveloped” Aboriginal people who were unable to self-regulate and who routinely became intoxicated, and those “duplicitous” Chinese men who were guilty of supplying them with alcohol. These perceptions were reinforced by Sheppard. When he was questioned by Dr. Reverend McLeod, he led the commissioners to conclude that all convictions for supplying liquor to Aboriginal people were made against Chinese men: “I noticed that when you mentioned cases of sale of liquor to Indians, you said there were 29 cases and the persons sold illicitly? – *A Chinaman would meet an Indian and go in and get a bottle of liquor for himself, and he would give it to the Indian.* So they supplied Indians by the bottle? Yes.”<sup>95</sup> For those who read the commission's report without referencing the tables, Sheppard's testimony only confirmed dominant racial truths about the dangers that Chinese men posed to Aboriginal populations. When Judge McDonald asked Wellington Dowler, a clerk employed at the Victoria Police Court, whether “other people are sent into saloons to get liquor for the Indians,” he responded as follows: “Yes, mostly Chinamen. They are the people who violate the law.”<sup>96</sup>

<sup>94</sup> *Royal Commission on the Liquor Traffic*, lines 39269–80, 479 (my emphasis).

<sup>95</sup> *Ibid.*, lines 39302–03, 480 (my emphasis).

<sup>96</sup> *Ibid.*, lines 39192–93, 476.

Although the commissioners and witnesses generated a series of knowledges about racial populations and the liquor problem in British Columbia, these truths about “drunken Indians” and Chinese migrants who worked as immoral entrepreneurs had much deeper epistemological roots. The Royal Commission’s production of racial subjectivities not only generated new ideas about racial difference but also drew from and activated truths that were circulating across the border. The Chinese migrant who threatened white labour and was putatively inferior to African Americans was now demonized for the biological dangers he posed to Aboriginal peoples. While the inherent immorality and dishonesty of the Chinese was distinguished from the “ignorance” of the “Negro” in California, in British Columbia, these qualities of Chineseness were constituted against the presumed vulnerability of Aboriginal peoples. Although fears of Chinese labour continued to underwrite anti-Chinese racism along Canada’s west coast, by the late nineteenth century Indian agents and police authorities lamented the Chinese for other reasons, including their penchant to sell liquor to native peoples. These cross-racial contaminations, many argued, not only threatened the moral and physical well-being of Aboriginal communities but also the longevity of British Columbia’s settler regime. The protection of white and Aboriginal lives could only be accomplished through Chinese exclusion.

## CONCLUSIONS

In *Culture and Imperialism*, Edward Said urges us to speak about the past and present effects of empire through “overlapping territories” and “intertwined histories.”<sup>97</sup> This article has taken Said’s challenge seriously. First, by focusing on the production and proliferation of juridical racial truths in late nineteenth-century British Columbia, I have tried to highlight the “overlapping territories” of Canada and the United States by tracking a transnational and circuitous language of race. Second, drawing from the two Royal Commissions, I have explored, albeit in a preliminary way, one *epistemic* thread in the “intertwined histories” of Aboriginal-Chinese encounters. Large-scale Chinese migration to British Columbia reconfigured colonial relations between Aboriginal peoples and Euro-Canadians, a point made by Indian Agent Lomas in his 1890 Annual Report. These new contacts, proximities, and exigencies, including the illicit sale of liquor, prompted authorities like

<sup>97</sup> Edward Said, *Culture and Imperialism* (New York: Vintage Books, 1994), 61.

Lomas to rethink their prevailing epistemologies of race. Similarly, to make sense of the growing Chinese presence, witnesses who testified before the Royal Commission on Chinese Immigration and the Royal Commission on the Liquor Traffic drew upon a much older racial lexicon of slavery and, in so doing, produced a distinct and localized racial grid. By contrasting the Chinese against African Americans and Aboriginal peoples, witnesses created a new population that was putatively dangerous not only to whites but also to these internal Others.

Said's invitation to explore "overlapping territories" and "intertwined histories" of empire serves as a useful methodological directive for rethinking state racisms. For Foucault, racism is integral to the modern state. The "modern state," he writes, "can scarcely function without becoming involved with racism at some point."<sup>98</sup> By tracking the interdependencies of racial knowledges, their convergences and entanglements, we can begin to unravel the *multiplicity of state racisms* and the contradictory conditions upon which they thrived. Racial thinking, as Ann Laura Stoler reminds us, "harnesses itself to varied progressive projects and shapes the social taxonomies defining who will be excluded from them."<sup>99</sup> In late nineteenth-century British Columbia, these progressive projects not only included the making of a settler regime but also the making of a regime that was premised on the improvement and assimilation of Aboriginal peoples, a project that many argued would be compromised by the Chinese. These charges, as I have suggested above, were underwritten by distinct racial truths that rendered the Aboriginal as "vulnerable" and the Chinese as "cunning" and "despotic." Emphasizing "overlapping territories" and "intertwined histories" thus might offer us critical insights into the multiple, diverse, and contested field of racial knowledges, their inconsistencies and contradictions. The hope is that, by disaggregating the heterogeneity of racial truths, we can begin to understand the logics and structures that have made modern state racisms so resilient.

<sup>98</sup> Foucault, *Society Must Be Defended*, 254.

<sup>99</sup> Stoler, *Race and the Education of Desire*, 9.