



## Essay

## The Coloniality of drug prohibition

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## ABSTRACT

There have been several recent commentaries which have highlighted the relevance of the postcolonial perspective to drug prohibition and called for the decolonisation of drug policy (Daniels et al., 2021; Hillier, Winkler & Lavallée, 2020; Lasco, 2022; Mills, 2019). While these are significant interventions in the field, sparse drugs scholarship has engaged more directly with well-developed literature and concepts from Critical Indigenous Studies (Moreton-Robinson, 2016) and Indigenous Standpoint Theory (Moreton-Robinson, 2013; Nakata, 2007) and reflected on its applicability to the drug and alcohol field. In contrast to the postcolonial perspective, which understands colonisation as a historical event with contemporary impacts, Indigenous scholarship conceptualises colonisation as an active and ongoing part of how the settler-state continues to impose itself. From this vantage point I explore coloniality as a system of power and reflect on the way prohibition acts as a key arm of the settler-colonial state. The paper explores the way concepts like vulnerability, marginality, overrepresentation, disproportionality and addiction involve colonial violence, knowledge practices and narratives which are central to the way coloniality is maintained and continues to assert itself in contemporary settler societies.

*If there is a war to be fought – and I believe that there is – it should be a war on poverty, on disparity, on dispossession.*

- Tuari Potiki, Speech at UN resolution 70/181, April 2016

There has been much criticism of prohibition among drug scholars. This includes empirical demonstration of its failure to control or reduce drug use in society (Gray, 2001). Beyond demonstrating the failures of prohibition, drug scholars and peer user organisations have also begun accounting for the harms it causes and exacerbates (Malinowska-Sempruch, 2022; VANDU et al., 2021). There have been accounts that historicise the drug war as a race war (Banks, 2003; Cohen, 2006), noting that prohibition is a key form of racial violence: “*Nothing has contributed more to the systematic mass incarceration of people of color in the United States than the War on Drugs*” (Alexander, 2012). There have also been articulations of the war on drugs as a war on the poor (Amundson, Zajicek & Hunt, 2014) and a war on people who use drugs (Buchanan & Young, 2000).

While these critiques represent valuable contributions that have helped to expose the harms of prohibition, less attention has been paid to the foundational structure that has made regimes of prohibition and war (s) on drugs possible: colonisation. There is little accounting for the colonial project and its imposition of the political systems through

which drug laws are enacted and then enforced, and the social systems through which the harms of prohibition are concentrated on marginalised and minoritised groups. Where the field has taken into account racial violence and colonisation it has tended to be via postcolonial and decolonial perspectives that have not emphasised or incorporated Black and Indigenous intellectual traditions. This paper will therefore seek to engage more directly with well-developed literature and concepts from Critical Indigenous Studies (Moreton-Robinson, 2016) and Indigenous Standpoint Theory (Moreton-Robinson, 2013; Nakata, 2007), in order to reflect on its applicability to the drug and alcohol field. The paper will therefore explore the coloniality of prohibition by arguing that it is not just one of the tools of post-colonial governance, but is instead a key arm of the settler-colonial state, and a significant way in which coloniality is maintained and continues to assert itself in contemporary settler societies.

## Notes on place and positionality

Before the paper seeks to articulate the relationship between colonisation and drug policy, it is necessary to make visible the authors’ relationship to these. This is an imperative grounded in my reflection on Indigenous scholarship, which has called on researchers to be

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responsible to the communities impacted by the knowledge they generate and disseminate. Here I draw from the relational ontologies of Indigenous praxis to make transparent the place from which I speak about the topic of my research. For example, Trawlwulwuy scholar [Tynan \(2021\)](#) notes: "Relationality is how the world is known and how we, as Peoples, Country, entities, stories and more-than-human kin know ourselves and our responsibilities to one another". And as Pair-rebenne scholar Walter and Native American researcher Andersen ([Walter & Andersen, 2016](#)) note: "[The] social position of Indigenous researchers differs politically, culturally, racially and often economically from those of researchers from settler backgrounds". Taken together, I see these articulations of relationality and social difference as a call for researchers to be upfront with readers about their position (ality).

I am a non-Indigenous and an uninvited settler on the land on which I work and live, the lands of the Eora and Wallumedegal people. My family migrated to this place, and as a migrant settler I have benefited immeasurably from the stolen lands and wealth of Aboriginal peoples. Though I am non-Indigenous my family background forms a significant part of the place from which I speak about the relevance of coloniality to the subject of my work: drug use and drug policy. I have Armenian ancestry on both sides of my family, and this brings with it an inescapable understanding of genocide, which is a cornerstone of the colonial project. In the years preceding World War I, the Armenian (as well as Greek and Assyrian) people living in the Ottoman Empire were subject to systematic attempts to annihilate them, including, the beheading of public intellectuals, sexual assault of women, forced marches into the Deir ez-Zor desert, and large-scale massacres. As a result of these still palpable acts of genocide in 1915, Armenians desperate to escape this violence fled to many and various parts of the world.

As a result of the way this genocide destabilised the region, facilitating ongoing violence over generations, commemorations of genocide in the diaspora have always been tied to matters of contested land ownership and sovereignty. This is especially so in relation to an area of the South Caucasus known to Armenians as Artsakh, and to the rest of the world as Nagorno-Karabakh, which was forcibly separated from Armenia proper at the fall of the Soviet Union. Ethnic Armenians are Indigenous to Artsakh, having lived, cultivated and created on these ancient Armenian highlands for more than 2500 years. Yet, the region has been under constant threat of violence, including periodic escalations of war, as recently as September 2023, happening as this paper is being written. The genocidal violence of the Ottoman Empire over 100 years ago, and its manifestation in the violence of contemporary Turkic nation-states, is the reason I now live intergenerational Armenian trauma on stolen Aboriginal land.

The story of how my family came to live on stolen land informs the way I understand the colonial project in my life and work, it makes the violence of settler colonial drug law and the way it naturalises deficit discourse surrounding First Nations peoples unnervingly familiar. Having an intimate understanding of genocide in my own family and ancestry has made me acutely aware of the harm this causes, and the need to challenge and disrupt such colonial narratives in the drugs field. As Munanjahli and South Sea Islander scholar Chelsea Watego notes:

I tell these [stories] not to centre myself [but rather] as a means of adhering to an ethics of practice grounded in an Indigenous terms of reference in which knowledge is embodied and relational. In telling my stor[y]... I am not claiming the position of 'knower', but rather showing how I came to know. ([Watego, 2021](#))

As a non-Indigenous researcher writing in a field that has significant real-world and policy implications on the lives of First Nations peoples, what and how I come to know is different to that of colonised peoples – yet in making this visible to the reader I wish to articulate what drives the imperative that guides this paper, to call attention to colonial relations of power in the field in which I work.

## Conceptualising coloniality

### *The postcolonial perspective and drugs*

Emerging in the 1960s and popularised during the 1990s post-colonial (and neocolonial) perspectives have focused on the impacts of processes of colonisation on colonised people, colonising people, and colonial systems and institutions. Postcolonialism has been defined as the "study of the legacy of European imperialism in Europe's former colonies and in Europe itself" ([Bracken, 2007](#)). Some of the key concepts in the field have include discussion of imperialism and the impacts of attempts to violently or economically expand European power; colonialism as a form of social control, and; decolonisation as in relation to processes of dismantling systems of colonial power ([Schwarz & Ray, 2008](#)). As the field has developed related concepts have emerged, including for example hybridity - which refers to the way colonial processes mean that cultures and identities blend together and are not fixed – and subaltern – which refers to the way colonised and other marginalised groups are excluded from hierarchies of power ([Prabhu, 2005](#)).

One of the key contributions of the postcolonial perspectives has been the recognition of colonisation's relationship to state crime and the criminalisation of marginalised people ([Porter & Cunneen, 2021](#)). This has resulted in calls to account for the role of colonisation in establishing and maintaining a range of disciplines relevant to drug regulation, including law ([Watson, 2014](#)), criminology ([Aliverti et al., 2021](#); [Porter, 2019](#)), sociology ([Connell, 2018](#)) and international relations ([Onar & Nicolaïdis, 2013](#)).

Much drug scholarship has responded to or incorporated some of the concerns raised by postcolonial perspectives, including making the connection between the operation of empire and the imperative to regulate drugs through prohibition and subsequent 'war(s) on drugs'. Research has explored how the regulation of drugs has been used in the practice of empire building ([Collins, 2020](#)) and to profit off of the natural resources of the stolen lands and wealth of Indigenous peoples ([Courtwright, 2012](#); [2001](#)). As a result, there has been a growing push to acknowledged colonial 'legacies' in the drug and alcohol field and associated calls to decolonise drug policy and research ([Lasco, 2022](#); [Hillier, Winkler & Lavallée, 2020](#); [Mills, 2019](#)).

Yet, one of the key critiques of postcolonial studies has been the way it presents colonisation as having occurred in the past, and how this then determines its analysis of the *effects* of colonial *legacies*. Reference to 'post' in the postcolonial perspective implies that we are now in a stage that is not colonial, and like references to 'neo' in the neocolonial perspective implies that there is something 'new' about colonial impacts, which ignores the continued and unbroken chain of violence from invasion to contemporary occupation that colonisation represents. Indigenous scholars in particular instead conceptualise colonisation as an active and ongoing part of how the settler-state continues to impose itself, and how it maintains a colonial ordering of society. The distinction is perhaps best embodied in Patrick Wolfe's assessment that "settler colonizers come to stay: invasion [and colonisation] is a structure not an event" ([Wolfe, 1999](#): 2)

This includes the subjugation of Indigenous knowledges and ways of life and the erasure of historical and ongoing forms of Indigenous resistance to colonisation ([Nakata, 2007](#)), including Indigenous resistance to colonial drug policies ([Lasco, 2022](#)). Here, invasion and the violence of frontier occupation is understood to be an early stage of colonisation, which rather than ending simply evolves and adapts in its goal of 'eliminating the native' ([Wolfe, 2006](#)) - whose continued presence is an ongoing reminder of the sovereignty of First Nations peoples and is a threat to the legitimacy of the settler-state ([Giannacopoulos, 2020a](#)). This key learning has begun to be taken up in the critical social sciences, with calls to challenge linear narratives of progress and the idea that colonialism is merely a thing of the past ([Aliverti et al., 2021](#)). In responding to this call to consider colonisation as active and ongoing, the following sections will reflect on the relationship between drug

policy and scholarship and the notion of coloniality as a form of power in the social and legal structures of settler-colonial societies.

### *Coloniality of power*

Though the state is often subject to critique from the postcolonial perspective in how it wields its power (to make laws, to enforce them, and so on), what these accounts often leave in place, what they leave unsettled, is the place from which the state derives the power it wields over its citizens. Scholarship in Critical Indigenous Studies (Moreton-Robinson, 2016) and Indigenous Standpoint Theory (Moreton-Robinson, 2013; Nakata, 2007) has traced the way the settler-colonial state's claim to power is through an initial, but also an ongoing dispossession of First Nations peoples. This is primarily discussed through the articulation of the political rights of First Nations peoples, including the authority to govern (a land and its inhabitants) in the form of Indigenous sovereignty, and the related right for people to make their own decisions about their own lives, often expressed as self-determination (Shrinkhal, 2021). Here the act of dispossession is not located just in the moment of invasion, but also in the legal and social fabric of states that occupy stolen land (Tuck & Yang, 2012). Coloniality of power thus "refers to long-standing patterns of power that emerged [from colonization], but that define culture, labour, intersubjective relations, and knowledge production well beyond the strict limits of colonial administration" (Maldonado Torres 2007, p.243). In this way, attempts to contest the sovereignty of the coloniser are also attempts to contest the structures they put in place to define drugs and to govern the administration of drug use in settler-societies.

Key to coloniality as a concept then is the way it acknowledges that contemporary understandings of race (as biological, hierarchical, etc.) are the product of European imperialism, but also that contemporary processes of racialisation are inseparable from the operation of colonial power (Quijano, 2000, 2007). As it relates to drug prohibition, this shifts the focus from the way drug policy might impact racialised communities to the ways in which drug policy generates the concept of race and is central to the racialisation of communities of colour as 'savage' and 'deviant' groups for which it is legitimate to intervene in the lives of. For example, Daniels and colleagues note that (2021: 2): "The expulsion of drugs was seen as a necessary element in turning 'uncivilized' people into the American vision of civilized, sovereign subjects".

Coloniality conceived as an ongoing system of power thus also goes some way in explaining, for example, overlaps between racialisation and the construction of the 'other' in societies which have been subjected to European colonisation. These processes of 'othering' in such societies, inform the way First Nations peoples the world over are targeted by criminal legal systems (Porter, 2016; Cunneen, 2011) – like those related to prohibition (Brown, 2017; DeBeck et al., 2017), but also the construction of people who use drugs as a highly criminalised (Maher & Dixon, 2017) and pathologised (Conrad & Schneider, 1992; Maher & Dertadian, 2018) group. Aliverti and colleagues have for example noted that:

attention to the colonial and imperial formations underpinning the social construction of the Other is imperative for understanding the roots, development and effects of technologies and apparatuses of crime control and punishment. (Aliverti et al., 2021: 307)

Here it is worth noting that the way Indigenous scholarship emphasises coloniality as a system power means that medicine and medical systems are to be considered as colonial as the prison (Richardson, 2019). That is, carcerality and medicalisation reinforce one another in the colonial project and its dispossession of First Nations peoples (Rowe & Dowse, 2023). With this in mind, forms of medical surveillance can be viewed as part of prohibition and wars on drugs, rather than as separate systems (of control). While drug laws are the most direct example of prohibition, medical surveillance of people who use drugs is born of the logic that there is something pathological (whether medical or criminal)

about certain kinds of drug use, and certain kinds of people who use drugs – a point which I will return to later in a discussion on addiction.

Developments in Critical Indigenous Studies have also drawn on the concept of coloniality to emphasise the need for race scholarship to not only discuss the role of colonial power in constructing the 'other' but also in upholding whiteness as the norm – often making it invisible to those who benefit from whiteness as a system of power (Dyer, 1988). Western epistemologies which centre whiteness thus have the ongoing effect of "manufactured the physical and cultural inferiority of Indigenous peoples" (Battiste, 1998: 21). Moreton-Robinson (2015) has further noted how coloniality constructs whiteness, and thus other(ed) races and groups, in ways that displace Indigenous sovereignty. As a result, proximity to – and by extension distance from – whiteness becomes the primary structuring order for social, legal and economic opportunity in settler-societies. Importantly, this colonial ordering of society is the case for everyone in such a society, with proximity to whiteness also having significant implications for migrants, the working class, queer and gender non-conforming people, as well as non-Indigenous racialised groups. This prompts the need to reflect on and interrogate the relationship between coloniality, whiteness and the legal, medical and social categories that are often an assumed and unquestioned elements of drug policy and drug research.

Developments in the critical social sciences have acknowledged the colonial entanglements of much social theory (Connell, 2015, 2018), and have begun a conversation about the need to engage with Indigenous epistemologies as an imperative for more democratic and innovative theory and knowledge generation (Franko, 2012: 16). These calls to engage with Indigenous scholarship have been especially pronounced in what is now called Australia, which will form the basis of the case studies I will explore in the remainder of the paper.

### *So called Australia*

Local Indigenous scholars often refer to the settler-colonial state that occupies their land as 'what is now called Australia', 'so called Australia', or simply 'the colony' (Watego, 2021). These are turns of phrase that demonstrate a steadfast commitment to Aboriginal and Torres Strait Islander peoples' sovereignty – a language that points out how the settler-colonial state came to be and asserts an acknowledge that its legitimacy is contested by the continued presence of First Nations peoples. These terms form part of strong critiques by First Nations scholars and activists in Australia of the way that social science traditions claiming to be 'critical', and to therefore represent the apparent voiceless of First Nations peoples, too often provide inadequate accounts of colonisation and the experiences of colonised peoples. Indigenous scholars have been critical of the way race scholarship often leaves out or relegates coloniality to a factor in racism, rather than seeing coloniality as providing the conditions under which social relations like race and class can be understood (Watego et al., 2022). This has included critiques of feminist (Moreton-Robinson, 2000) and southern theory which has demonstrated "routine neglect of the writings on First Nation scholars" (Porter, 2019: 130).

These intellectual traditions also have more grounded manifestations in community, including around the way Aboriginal and Torres Strait Islander peoples enact forms of resistance against colonial and racial violence. For instance, tracing back to at least 1994 and as part of an art exhibition by Destiny Deaconin, First Nations peoples in Australia now often spell the word 'Blak'. This is a direct response to and pushing back against the way the slur 'black cunts' has commonly been used by white people against Indigenous peoples – they seek to take the 'c' out of black. This spelling of blak has also taken on other culturally significant meanings, including as a way to differentiate the experience of Aboriginal and Torres Strait Islander peoples from that of the racialised experiences of non-Indigenous communities of colour (Ways, 2021). It is these intellectual traditions and community responses that will guide the reflections I will make on coloniality and drug research in the

sections that follow.

## Reflections on drug research and coloniality

### *Vulnerability, marginality and colonial violence*

Contemporary drug scholarship is replete with references to ‘vulnerable’ groups and the ‘marginality’ of people who use drugs. Very often Indigenous status, as well as other social positions that are socially excluded, are seen to be the *most vulnerable* to drug-related harm. This is relevant to a range of domains of drug-related research. For example, drug literature often notes that “[I]ndigenous populations... continue to be overrepresented in injecting drug use morbidity and mortality-related data [which]... predispose[s] many young [I]ndigenous peoples into pathways of vulnerability” (Wilkes, Wilson & Ward, 2010: 1971) and that “patterns of drug use may enhance sexual vulnerability among Aboriginal women” (Craib et al., 2003: 22). One 2015 review finds that: “Indigenous HIV research demonstrates... a persistent focus on vulnerability and risk, which appears to have driven Indigenous HIV research since the early days of the epidemic” (Negin et al., 2015: 1730).

This terminology often obscures colonial systems of power and the uneven social relations that make some people who use drugs more *vulnerable* to harm or require them to live on the margins of society. Presenting Indigenous status as a vulnerability for drug-related suicide (Penington Institute, 2021), disease transmission (Wilkes, Wilson & Ward, 2010) or ‘risky’ injecting practices (Bryant et al., 2016) does not acknowledge the colonial and racial violence that produces concentrated harm (Watego et al., 2021). For example, in an Australian annual overdose report it states: “The rate of unintentional drug-induced death has been higher for Aboriginal Australians than non-Aboriginal Australians over the entire period for which data are presented in this report” (Penington Institute, 2021: 30). The description above, and others like it, present Indigenous status as a vulnerability to harm without any contextual material about the conditions that produce different outcomes for Aboriginal and non-Aboriginal peoples. As presented, there are several ways that the *cause* of this ‘vulnerability’ may be interpreted – as a result of histories of disadvantage, deriving from some essentialised quality (biological or cultural) that belongs to Aboriginal people but not to non-Aboriginal people, along with other possible descriptors remain plausible explanations – the question is open, left unanswered. Aboriginal and Torres Strait Islander scholarship has consistently made the point that obscuring or omitting mention of the colonial violence that produces this harm towards First Nations peoples is problematic. This means that the way Indigenous peoples are systematically excluded from society should not go uncommented upon in articulations of vulnerability to drug-related harm; or put a different way, drug scholarship should be more explicit that Indigenous peoples are not the problem, colonial violence and systemic racism is.

This has been evidenced through a range of contemporary examples in which processes of drug law reform and policy change have explicitly sought to account for those most vulnerable in society, with the most prominent drug-related example being the expansion of diversionary options for drug-related offences (Hughes et al., 2019). For example, the introduction of diversionary programs for drug offences in Australia have often been argued for on the grounds that they will reduce vulnerability to imprisonment through drug offences for Indigenous peoples, with a 2006 NSW Bureau of Crime Statistics and Research report noting that “One of the most common ways in which Australian State and Territory Governments have sought to reduce rates of Indigenous imprisonment is through the use of diversionary sentencing options and programs” (Snowball & Weatherburn, 2006); while a 2008 Australian Institute of Criminology report states that “the National Drug Strategy... highlights diversionary programs as a way of increasing capacity in Indigenous communities to address these alcohol and drug use problems” (Joudo, 2008: iii).

Yet, Aboriginal and Torres Strait Islander scholars have consistently

argued that policies such as this, which seek to address the apparent vulnerability and marginality of Indigeneity, are better described as examples of “the expansion of police powers and the growth of police resources” (Deslandes et al., 2022: 6). This approach follows the conceptualisation of coloniality outlined above and is based on an analysis that the reason for vulnerability and marginality is not some quality held by or expressed among First Nations peoples, but is instead born of the direct targeting of Aboriginal and Torres Strait Islander communities by the state. In the case of drug offences, there is well established evidence that drug prohibition in settler-colonial societies has resulted in the targeted criminalisation of Indigenous (and other racialised) communities:

there is a racial ordering around who faces the heaviest weight of international drug prohibition... Black, Brown and Indigenous peoples have been disproportionately targeted for drug law enforcement and face discrimination across the criminal system. They face higher arrest, prosecution and incarceration rates for drug offenses than other communities, such as the majority population, despite similar rates of drug use and selling among (and between) different races. (Daniels et al., 2021: 3)

The analysis that expanding police powers cannot address the vulnerability to drug related harm is also borne out by the evidence of the outcomes of drug diversion programs. It has been found that even when such seemingly progressive reforms are introduced Aboriginal and Torres Strait Islander peoples are significantly less likely to receive cautions and more likely to be prosecuted against and subsequently imprisoned (Weatherburn & Thomas, 2022; McGowan & Knaus, 2020). In this example then providing discretionary powers to police to divert people from court or prison amounts to asking the system that makes First Nations peoples vulnerable to harm to be responsible for address this harm. Often couched in the patronizing tone of carceral (and white) feminist concern for the racialised other, this kind of law reform is typically justified on the grounds that it is intended to address the ‘vulnerability’ of Indigeneity, while in practice it operates as a significant example of how this framing is itself a form of colonial violence (Deslandes et al., 2022).

### *Overrepresentation, disproportionality and colonial knowledge practices*

Terminology like the ‘overrepresentation’ of Indigenous peoples in prisons and findings that ‘disproportionate’ numbers of Aboriginal and Torres Strait Islander people use drugs or experience harms, ignore and make invisible the way colonial knowledge practices target colonised people. Indigenous scholars have long critiqued notions of ‘objective’ and ‘representative’ research as a form of epistemic violence (Nakata, 2007), arguing that these are Western epistemologies necessarily tied to the colonial project, which “constantly reaffirms the West’s view of itself as the centre of legitimate knowledge [and] the arbiter of what counts as knowledge” (Tuhiwai Smith 1999: 63). From this vantage point, drug-related surveillance studies and crime statistics are actually best understood as measures of knowledge generated about colonial categories of drugs and the practices of colonial institutions like police. For example, public health studies measure drug use via legal and social categories that are inherently colonial. The legal status of alcohol and tobacco, medicalisation of pharmaceuticals and the criminalisation of illicit substances are the product of the operation of a colonial legal system. These laws about what kinds of substance are acceptable and what kinds are not acceptable are structured by their proximity to whiteness on multiple levels (Dertadian, 2023). For example, the intoxication of First Nations peoples in public is heavily policed, while the alcohol-fuelled violence of young white men is frequently downplayed as larrikinism – an ode to the young white and working-class gangs of early colonial-era Sydney (Whittaker, 2019). While the issues differ in relation to different substances and the way the category of ‘drug’ is understood in different settler-colonial contexts (jurisdictions,

countries, etc.), in relation to contemporary prohibition it is worth recognising that public health studies tend to simply accept and thus seek to measure categories of drug (use) that derive from colonial epistemologies. Uncritically accepting criminalised substances as a stable category (illicit drugs), rather than acknowledging the way these categories structure social relations like race and class, (re)produces colonial knowledge systems about drug use and the people who use them. The fusion between carceral and medical forms of control of people who use drugs is also well demonstrated in these examples.

Deploying notions of proportionality in the measurement of these categories of drug use is also problematic in a context in which First Nations peoples representing such a small portion of the population of the community (3.3 % of Australian population). The assumed utility of reporting on proportions between populations ignores the limited explanatory power of findings of 'disproportionality' among and between small groups or samples. It is also worth acknowledging that the reason First Nations peoples represent a small proportion of the general population and thus can be more easily presented as 'disproportionate' in population-level surveillance studies is due to genocidal practices by the settler-colonial state, which have in the past and continue today to significantly reduce the number of Indigenous peoples in the community (McKinnon, 2019).

Similar issues occur in criminological literature reporting on crime statistics, which consistently find that Aboriginal and Torres Strait Islander peoples are 'overrepresented' in charges for and incarceration related to drug offences (Voce & Sullivan, 2021). Yet this framing ignores the reality that crime statistics are best described as a measure of police activity. Drug use is common in the community and only selectively comes to the attention of the police. Moreover, there is ample evidence of the way police target First Nations peoples and communities. In this light, the 'overrepresentation' of Indigenous peoples in crime statistics for drug offences is more accurately understood as an articulation of the way police target and criminalise Indigenous peoples and their drug use.

Viewed from this vantage point, regimes of surveillance justified by the war on drugs directly informs the overincarceration of Aboriginal and Torres Strait Islander peoples and is an illustrative example of the prison as a key sight of colonial violence. Not only does prohibition provide a justification for overincarceration, the way drug use and being a person who uses drugs is dealt with in carceral institutions has been the subject of much critique, including that drug programs in prison act to extend the social control of colonised and criminalised people. Gomerio poet and legal researcher Alison Whittaker has noted:

Reforms like improving intake procedures that capture drug use to monitor substances used inside prisons have disciplinary and regulatory consequences for people inside... in a way that normalises the restraint of dignity, health and very often, life, of mob inside. These are reforms that keep people inside, expand the reach of police and prisons, and regularise and normalise the use of prisons against us.

- John Barry Memorial Lecture, May 2021

Mauri scholar Tauri and Porou (2014: 28) have noted how prison rehabilitation programs require the removal of Indigenous peoples from their families and communities and enforce non-Indigenous religious beliefs through: the "violence" of the imposition of psycho-therapeutic service mechanism of a Eurocentric drug rehabilitation programme, and removal and isolation from one's Indigenous community in a decidedly 'non-Indigenous' institution.

The way drug programs justify the ongoing removal of First Nations peoples from kin and country, and their placement in carceral institutions has life threatening impacts. Giannacopoulos (2020b: 249–250) notes that the "direct link between settler-colonial legal infrastructures (courts, prisons, police and legislatures) and the violation of Indigenous and black lives" is well illustrated by the deaths in state custody of colonised people. Deaths in custody – as they are often

referred to by First Nations peoples – often involve the targeted policing of the intoxication of Indigenous peoples, or the fatal neglect of the health needs of Indigenous people (Watego et al., 2022) who use drugs.

Several recent examples of deaths in custody in Australia illustrate the link between drug use and state violence in prisons. One such example includes the passing of Yorta Yorta woman Tanya Day. On 5 December 2017, Tanya encountered security staff on a train to Melbourne who harassed her for being 'unruly' - an account that is contested by passengers on the train who report not observing anything out of the ordinary - which subsequently led to her being taken into custody for 'public drunkenness'. While in custody Ms Day sustained an injury on the police cell wall, which was not attended to with a required-by-policy physical check every 30 minutes. Delays in checking on and subsequently treating Tanya's injury eventually resulted in her passing at a local hospital on 22 December. In public comments members of the Day family have said:

At every step of the way, our mum was failed by a system that should have protected her. It is heartbreaking for us to hear that our mum's death was preventable had she not been arrested and taken into police custody. (Human Rights Law Centre, 2020)

In April 2020 the State Government inquest into her passing recommended that "The Victorian Government decriminalise the offence of public drunkenness". This was followed by a campaign spearheaded by the Day family to do just that, and was eventually successfully achieved when the State Government announced that it would do so in November of 2023. Thanks to the sustain efforts of the Day family and Indigenous-led advocacy this ultimately included a guarantee that police would not retain any powers related to public drunkenness (Human Rights Law Centre, 2023). In commenting on the announcement the Day family reflected that:

For as long as Aboriginal people are targeted by police, are locked up and mistreated, and continue to die in police custody, the fight for true and complete justice for our people will be ongoing. (Human Rights Law Centre, 2023)

Examples such as the death in custody of Tanya Day illustrate both how these deaths "are a result of police taking far more Aboriginal people than non-Aboriginal people into custody" (McKinnon, 2019: 11) and of the way prohibition is used to justify the colonial construction of Aboriginal and Torres Strait Islander consumption as 'disordered' and 'disorderly'. This construction echoes the way forms of resistance to racial and colonial violence, such as protest and civil disobedience, are frequently conflated with criminality, in order to generate the myth of black criminality: "notions of black criminality have been instrumental in washing the discourse of the nation as white as snow and preparing the way for repatriation" (Gilroy, 1982: 48). Long since critiqued notions of the 'myth of black criminality' reappear here in the myth of the criminality of the native (Brown, 2001; Stark, 2016), especially in a context in which the people being colonised are described as 'black' and subsequently identify as 'blak'. This is a form of cultural essentialism that has deep roots in the invasion of Australia, but is also closely tied to the way drug consumption among First Nations peoples has been used to justify colonial violence. For instance, there have been long-standing attempts at "constructing the image of the 'degenerate native' the 'drunken Aborigine' the 'urban Aborigine'", which function to make the colonial project "innocent of the destruction of Aboriginal society because the Aborigines are 'drinking themselves to death'" (Langton, 1993: 195).

Drug use is common in the community, and so it is unsurprising that significant proportions of people in police or prison custody also use drugs. While carceral systems are violent for whoever encounters them, the fatal consequences of carcerality is highly concentrated among First Nations peoples. The critical reframing of proportionality and representativeness I am arguing for here requires recognition that First Nations peoples are subject to colonial knowledge practices and

institutions that are hostile to their existence.

### *Addiction, agency and the evolution of the 'savage' native narrative*

The development of the concept of 'addiction' is closely tied to the emergence of prohibitionist policies in settler-colonial states, including in the justification for the war on drugs. Much has been written about how central notions of compromised agency are to addiction as a concept (Davies, 1997; Keane, 2021; Moore & Fraser, 2006), but less has been said about how this compares to, or forms part of, the evolution of colonial narratives about the 'savage mind' of Indigenous peoples (Nakata, 2007). The notion that Aboriginal and Torres Strait Islander peoples were 'unevolved', and therefore 'unpredictable' or otherwise unable to take care of themselves, was foundational to the imperial project the world over, but also to its ongoing justification through protectionist era policies in Australia. These policies involved the establishment of missions, practices of indentured servitude (or slavery), the forced removal of Indigenous children from their families and forced adoption into white families (The Stolen Generation), as well as a range of other forms of controlling the free movement and association of First Nations peoples. One of the ways in which this occurred was through legislation that explicitly targeted opioid use among Aboriginal and Torres Strait Islander peoples, such as the *Aboriginals Protection and Restriction of the Sale of Opium Act 1897 (Qld)*. This legislation and others like it were used to control Indigenous peoples in the workplace by removing basic liberties and providing race-based powers to render them wards of the state (Evans, Saunders & Cronin, 1988).

The early development of addiction as a medical condition involved overlapping elements to that of the colonial 'savage' native narrative outlined above. Indeed, early research on addiction explicitly relied on the 'criminal' subject – a category that targets Indigenous peoples and frequently criminalises Indigeneity (Cunneen & Porter, 2017) – in the generation of the medically 'addicted' subject. For example, research at a prison in Lexington Kentucky (USA), infamously known as the Lexington Narcotic Farm, is foundational to the notion that drug use can create a bio-psychological condition that makes the user 'loose control' (Rafalovich, 2020).

Racialised dimensions have also shaped the medical model of addiction from its inception, including through differentiation around physical/psychological dependence, in which it is argued that distinctions should be made between "normal persons who have become addicted accidentally or... through medical treatment" and people who have "immature, hedonistic, socially inadequate personality" (Kolb, 1962: 5–6). The emergence of the physiological/psychological distinction in addiction science is partly due to the fact that, during the first half of the 20th Century, addiction was generally thought of as an iatrogenic condition that largely impacted white, middle-aged housewives and doctors (Conrad & Schneider, 1980). As moves towards prohibition intensified during the 20th Century so too did the association of addiction with the racialised 'other' as the embodiment of the hedonistic, 'psychopathic drug addict' (Manderson, 1993). It can hardly be considered coincidence that as settler colonial societies began to move away from policy and legislation that explicitly targeted race, strategies of social control and state intervention based on ostensibly colour-blind approaches (Alexander, 2012) (such as addiction) began to be intensified and concentrated that intensification on racialised peoples.

Contemporary developments in modern diagnostic criteria in the DSM for substance use disorder (SUD) also reproduce colonially conceived racialised distinctions. For example, tolerance and withdrawal have recently been decentred in diagnostic practice. When opiate use occurs under the supervision of medical practitioners, tolerance and withdrawal are now instructed to be excluded from consideration of SUD diagnosis.

*The symptoms of dependence, withdrawal and tolerance, which used to be the markers of genuine addiction, have become polysemic signifiers whose*

*meaning is dependent on the absence or presence of medical supervision. Medical authority renders them expected side effects of treatment, while outside the clinical space, when combined with certain social realities, they become signs of compulsive and disordered desire.* (Fraser et al. 2014: 48)

Given the ways in which Indigenous peoples have been systematically excluded from mainstream medicine, it is not hard to see how the same physiological responses to opiate use (tolerance and withdrawal) can be read as 'normal' among white and affluent people with close proximity to medical authority, but as pathological among Indigenous and other racialised peoples. Drug dependence is frequently weaponised against Indigenous peoples, including in forms of police surveillance (such as the Suspect Target Management Plans) (Sentas & Pandolfini, 2017), in coerced treatment as legal intervention (Ransley & Marchetti, 2021), contemporary practices of child removal by the state (Newton, 2020; de Leeuw, Greenwood & Cameron, 2010), as well as in the deaths in custody of First Nations peoples.

The recent death in custody of Gunditjmara, Dja Wurrung, Wiradjuri and Yorta Yorta woman Veronica Nelson illustrates many of the ways in which addiction forms part of regimes of concentrated colonial violence. On 2 January 2020 Veronica was placed in a maximum-security women's prison after being taken into custody on suspicion of shoplifting. Arresting officers and prison staff were aware that she was experiencing opioid withdrawal at the time, and she called for assistance at least nine times – this was met with a request by prison staff that she "be quiet" and an unmet promise that a nurse would be called for assistance. In commenting on public enquiries in which recordings of this treatment were played, her mother Donna Nelson has said, "My daughter's pleas for help haunt me every night, and I can't stop hearing her voice" (Victorian Aboriginal Legal Service, 2023a), while Veronica's partner Uncle Percy Lovett observed that:

The prison guards, doctors and nurses, and all the people in charge neglected her and let her die. They were cruel and racist. They lied to her, laughed at her, and told her to stop asking for help. All while she was dying. They treated her like she wasn't human. (Victorian Aboriginal Legal Service, 2023a)

In the findings of the Inquest into the Passing of Veronica Nelson it states that "Veronica's care and treatment by [corrections] staff... was influenced by drug-use stigma, and... this causally contributed to Veronica's passing" (Inquest into the Passing of Veronica Nelson, 2023). Since the inquest the Nelson family have led the "Pocum's law" reform campaign to overhaul Victorian bail laws, which have a deleterious impact on people experiencing intersectional disadvantage, including addiction. In embarking on this campaign, the Nelson family have noted that:

Veronica should never have even been in jail in the first place. The police officer who arrested her was off duty. She was just walking down the street minding her own business. She wouldn't have been picked up if she was a white woman. The police target us Blackfullas. (Victorian Aboriginal Legal Service, 2023a)

Including her mother reflecting that:

My Pocum [Veronica] should not have been locked up. She should not have begged for her life. She should be here with me today. If we do not change bail laws today, it will be someone else's daughter tomorrow. (Victorian Aboriginal Legal Service, 2023a)

As the example of Veronica's death well demonstrates, addiction often operates as a form of medical surveillance of Indigenous peoples (and other racialised and minoritised groups), one that reinforces carceral logics (Porter, 2019; Tauri & Porou, 2014) by denying the agency of people who use drugs, making them the ideal targets of intervention (Sear & Fraser, 2016; Sear & Fraser, 2014) and justifying cruel treatment by the state. Further, the "Pocum's law" campaign that

emerged in the wake of her death is a requisite example of Indigenous sovereignty and self-determination in action, with the campaign recently:

calling for the Victorian Government to transfer decision-making power, authority, control and resources to Aboriginal communities in both the criminal legal system and the child protection system. That is what self-determination is. ([Victorian Aboriginal Legal Service, 2023b](#))

### Conclusion: on decentring coloniality

In order to respond to and genuinely incorporate Indigenous intellectual traditions in drug scholarship, it is necessary to decentre the colonial knowledge systems and narratives discussed throughout this paper. In this final section I outline key observations that can be gleaned about the coloniality of prohibition and put forward an alternative vision for developing drug policy and scholarship. Though the analysis presented throughout the paper has focused on the Australian context, settler colonialism is a global phenomenon and, despite the importance of local dynamics, these intellectual traditions have international resonance – and so while the conclusions below are most relevant to the Australian context, they are likely to have broader application.

First, the field must recognise that coloniality represents an unbroken chain of violence, from invasion up until present day policies in settler colonial societies, and that therefore Indigenous peoples are not responsible for the violence and social exclusion that they are subject to, and which produces concentrated forms of drug-related harm. Addressing this requires a language that does not reduce disadvantage to race. From this vantage point, vulnerability is better described as targeted state violence, and marginality must always be contextualised as a process of being marginalised or abandoned by settler societies. Making these power relations visible in the way drug scholarship disseminates its findings and generates understandings of the effects of drug policy is imperative to respecting the conceptualisation of colonisation as continuous and ongoing.

Second, drug policy scholarship should heed the call from Indigenous scholars for non-Indigenous researchers to centre the experiences of colonised people, rather than the standard deference to colonial institutions, such as Government departments, the police and courts ([Porter, Ironfield & Hopkins, 2022](#); [Cunneen & Tauri, 2016](#)). This also aligns closely with Sara Ahmed's work on the politics of citation ([Ahmed, 2017](#)) and the need to, where possible, quote, reference, but perhaps more importantly 'think with' Indigenous scholars ([Porter, 2019](#)). This is not simply a matter of referencing Indigenous scholars, but rather about ensuring that the way Indigenous communities understand the relationship between drugs and harm, state intervention and harm, and so on, is what frames research conducted in the field, especially but not exclusively when it is about or directly addresses Indigeneity. Doing so is a necessary step towards destabilising and problematising the knowledge systems that see drug policy through the lens of colonially conceived categories. This is about more than allowing qualitative data to compliment quantitative data, and more about the systems of power that are linked to contemporary knowledge systems – for example, given the racialised history of the concept of addiction, psychiatric diagnosis of substance use disorder cannot be seen as the only way for colonised people to gain access to services and treatment, nor can such diagnosis be seen as a justification for interventions that they do consent to.

Third, the field must recognise that drugs laws have in the past and do currently undermine the sovereignty of First Nations peoples. The anti-colonial position outlined above, and its assertion of the sovereignty of First Nations peoples, is incompatible with requiring that Aboriginal and Torres Strait Islander peoples be subject to drug prohibition. This does not of course mean that there is no need to regulate drugs, their supply and so on, but rather that communities must be

allowed to develop forms of regulation and service provision that are by and for First Nations peoples ([Anthony et al., 2023](#)). Decentering coloniality in the drugs field therefore means committing to and building an evidence base around policies that allow First Nations peoples to govern their own drug consumption, and to reduce the opportunity for such consumption to make them subject to intervention by the state. This is essential for the drugs field to be compatible with the political rights being invoked in Indigenous scholarship, and to be consistent with a recognition of First Nations sovereignty and its practical enactment through self-determination. Given that the relationship between the 'war on drugs' and the expansion of securitised ([Lopez, 2017](#)), surveillance-oriented ([Bardwell et al., 2022](#)) and militarised policing ([Stuurman, 2020](#)) of those most harshly burdened by social inequality is often acknowledged in the drugs field, it is at least worth considering that the carceral logic and its colonial imposition in settler societies may in fact be what is being critiqued in such drug scholarship. After all there is no separating drug policy and policing from the colonial legal system that created it and continues to maintain it ([Giannacopoulos, 2023](#)).

Finally, while being mindful of how drugs research positions Indigenous peoples is important, this cannot be the limit of attempts to decentre the colonial. Coloniality is foundational to the legal and social systems of settler-colonial societies, and it is therefore also significant to incorporate these learnings into drug research more broadly, including in relation to non-Indigenous groups in settler colonial societies. This might mean critical reflection on how drugs laws are made and what drug use is criminalised through colonial legal processes; how non-Indigenous racialised and classed peoples are positioned in relation to the colonial project; and the relationship between drug use and whiteness, including the need to make visible the whiteness of people who participate in drug research. After all, colonial systems of power that dispossess and marginalise also have the potential to normalise ([Dertadian, 2023](#)) and even advantage ([Dertadian, Caruana & Maher, 2023](#)) those who can demonstrate proximity to whiteness.

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**George Christopher Dertadian:** Writing – original draft.

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