Carmela Murdocca*
To Right Historical Wrongs: Race, Gender, and Sentencing in Canada. Vancouver: UBC Press, 2013. 280pp.

In 1996, Bill C-41 set out sentencing principles and objectives for the first time in Canadian law. The legislation aimed to strike a balance between judicial discretion sentencing and ameliorating the high rates of incarceration, especially of Aboriginal peoples. Indeed, section 718.2(e) of the *Criminal Code* directs sentencing judges to consider the unique circumstances of Aboriginal peoples' lives. Three years later, the Supreme Court of Canada clarified this principle in *R v Gladue*. The justices asserted the obligation of sentencing courts to attend to the impacts of colonialism on Aboriginal peoples and to seek out non-carceral sanctions whenever possible.

Despite such progressive possibilities, in the years since *Gladue*, section 718.2(e) has not yielded substantive justice for Aboriginal peoples. In *To Right Historical Wrongs: Race, Gender, and Sentencing in Canada,* Carmela Murdocca provides a compelling analysis of why section 718.2(e) has failed to decolonize Canada's sentencing practices. The book brings together key elements of Murdocca's impressive scholarship and provides a far-reaching critique of sentencing law reforms. She draws us into the fire of how sentencing laws and practices reproduce rather than remedy a white settler state.

Over a decade ago, I heard Carmela Murdocca speak about the reproduction of Canada's national identity through sentencing practices. Since then, I have followed her academic career, and I have had great respect for her intersectional analysis of how law never fully yields its power to address historical wrongs" of colonialism.

Murdocca brings together an impressive range of materials to document how race and gender subjectivities "play out in the context of criminalization, sentencing, and reparative justice" (p. 23). In chapter 1, Murdocca outlines the (contested) rise of restorative and reparative justice in the global and national context between Indigenous peoples and their colonizers. Murdocca rightly points out that section 718.2(e) "is still tethered to a retributive approach to punishment" (p. 29). But more than that, Murdocca illuminates the practice of sentencing law as a form of ahistorical racial governance that deploys a paradigm of cultural inferiority. Chapter 2 outlines the "talk of Bill C-41" (p. 62), and how statistical claims of over-incarceration obfuscate the state's hand in the use of mass incarceration, and returns the "ontological property" (p. 65) of crime and victimization to Aboriginal communities through restorative justice. Murdocca uncovers the *opposition* of Aboriginal women's organizations to alternatives to incarceration, as traditional justice practices "have serious and violent implications for women in their communities" (p. 65). In chapter 3, a close examination of the legal terrain of *Gladue* exposes the gendered implications of section 718.2(e). Jamie Lynn Gladue—convicted of manslaughter in the death of her abusive common-law husband—was constructed through legal practice as a person ineligible for a non-carceral sentence, not only

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due to the seriousness of her offence, but also because her Aboriginality "was a question of evidence" (p. 88). One of the strongest elements of Murdocca's analysis is the evidentiary absence of Jamie Lynn Gladue's victimization—and indeed the normalization of violence against Aboriginal women through the application of section 718.2(e). Thus, the legal discourses of the *Gladue* decision reveal how the Court excludes gender from its evaluation of the impacts of colonialism. Chapter 4 grapples with the question of why section 718.2(e)—intended to address "systemic discrimination and widespread racism by the courts" (p. 113)—cannot be extended to the unique circumstances of the lives of criminalized Black women and men. Through a textual analysis of court transcripts in the cases of *R v Hamilton* and *R v Mason*—involving two young Black women convicted drug trafficking—Murdocca exposes how the practice of sentencing law works to reproduce the identity of the essential (Aboriginal) colonial subject and to disallow Black peoples in Canada from claiming harms through Canada's slave histories.

In my view, chapter 4 is the most important chapter in the book. Here, Murdocca grapples with an intersectional analysis that lays bare how law's use of social context as a mitigating strategy continues to pathologize the racialized subject (e.g., how she chooses to "make do" in her circumstances of single motherhood and poverty). Despite the depth of her critique, she reminds us, at the end of the book, of the importance of retaining what little authority we have in the legal field to challenge the state's capacity to punish. As the Canadian state moves relentlessly toward greater use of incarceration and regressive law reforms, key appeal court decisions are reaffirming the principles of *Gladue* beyond sentencing and into the juridical spaces of bail and parole hearings. The analytical depth of Murdocca's study of textual documents and key sentencing decisions provides us with the way forward, showing us how to think about sentencing practices as bound up in "racial governance" for Aboriginal and Black peoples.

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Review of Lisa Guenther

Solitary Confinement: Social Death and its Afterlives. Minneapolis: University of Minnesota Press, 2013. 321 pp.

Lisa Guenther opens her book, *Solitary Confinement: Social Death and its Afterlives,* by remarking that "[t]here are many ways to destroy a person, but one of the simplest and most devastating is through prolonged solitary confinement."[1] Drawing on the work of philosophers such as Edmund Husserl, Frantz Fanon, Maurice Merleau-Ponty, and Emmanuel Levinas, Guenther's analysis develops "a critical

[1] Guenther, xi.

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