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Indigenous Injustice

Throughout all time, Indigenous people have not been treated well anywhere. Canada and Australia are great examples of this, as both places were conquered by the British, who decided to destroy the way of living for those who are Indigenous. They stripped so much from them, leading to years of intergenerational trauma, and ruining the way of life they had. Now, these government systems are no longer using residential schools to do so, but they have created a cycle in which Indigenous people are bound to end up in correctional facilities, even if the crimes they committed are fictitious. So, why are Indigenous people in these institutions? What have Indigenous people done to be sent to prisons much more often than the rest of the population? This question can be answered truly with a few key components. Language barriers, mistrust of the legal system, along with institutional and systemic racism, have caused many Indigenous people to be sent to prisons for absolutely no reason.

Language barriers cause many issues for Indigenous people. Say one is in a foreign country and they get arrested. They can't plead their case to the officers since they can't speak the language, but they know they did not commit the crime. When they get arrested, they are put in an interrogation room without being able to speak their case. This is how Indigenous people feel in Canada, especially back when English was not forced into them. Language barriers can cause many different problems in the different stages of the judicial system. Many issues surround the fact that Indigenous people rely on translators to communicate with their lawyers.

This can lead to those that are accused having a difficult time conversating with the police and their lawyers, thus making it hard for the lawyers to build a case for them. Many cases of defence lawyers working with Indigenous people have shown that the lawyers have trouble communicating with their clients. Indigenous people that are accused of things against their language or culture are discriminated against by lawyers as such, because these lawyers do not know anything about the topic and do not want to learn about it. Some defence lawyers also feel that they have trouble believing what their client is saying is truthful, because of the stigma behind Indigenous peoples, along with the fact that translators are not always the best. In many instances, if the Indigenous person cannot speak English, police officers will tell the person to admit to the crime by telling them what to say. This means that in court, police officers can say that the person suspected of the crime admitted to doing so, but in reality, they did not. They were doing what the officers told them to. In one instance, a 27-year-old man named Rupert Maxwell Stuart was charged in 1959 with the rape and murder of a nine-year-old in Australia. He was an Indigenous man there. Mr. Stuart could only speak Aranda, an Aboriginal language in Australia. It was said that Mr. Stuart had confessed under the custody of the police. At the beginning of the trial, Mr. Stuart tried to appeal his confession to the prosecution obtained from the police. The only statement Mr. Stuart had to say was, "I cannot read or write. Never been to school. I did not see the little girl. I did not kill her. Police hit me. Choked me. Make me say these words. They say I killed her. That is what I want to say" (Roach 1). The police forced Mr. Stuart to admit that he killed the child, when he never did, and they would not let him go until he said he was guilty. This is a case in which an Indigenous person was wrongfully accused, and with the language barrier that Stuart had, he could barely express his innocents. With the very few English words he did know, he was able to communicate how he was wrongfully accused.

During his trial, however, jury members had trouble understanding what his argument was against the cops, thus his testimony was not helpful in his case. With language barriers locking up so many individuals, it causes numerous reasons to mistrust the legal system.

"Indigenous people are not only more vulnerable to being wrongfully convicted, but also less likely to get help after they've been wrongfully convicted" (Fontaine 1). In federal prisons, those who are Indigenous have more trouble trusting the legal system, because of everything they get put through by them. Indigenous people are more likely to get incarcerated in prisons for doing nothing. In many instances, there have been falsely accused Indigenous people that are sent to prison for not committing a crime. An expert who works with those wrongfully accused, Amanda Carling, says that in cases where people have said they are innocent, 21 out of 80 cases of them were Indigenous. Also, the system that is currently in place by the government does not help those with Fetal Alcohol Spectrum Disorder (FASD). People with FASD are more common in Indigenous communities, as the Canadian government says. 1.2% of Indigenous youth are diagnosed with FASD, while only 0.1% of the rest of the Canadian population is diagnosed with it (Government of Canada). This is a problem, as those with FASD are more likely to do a false confession, meaning they admit to doing something wrong, even if they do not. These confessions lead to people being sent to criminal institutions for nothing wrong. Those with FASD do not understand the severity of admitting to crimes, and anyone is bound to break down and admit when getting yelled at. After getting sent to a criminal institution, these people will be abused and won't be treated like the other inmates. This leads to so many people mistrusting the system and being unable to return to it for help. This can lead to many potential problems, including the fact that those who mistrust the system will never trust the police again, thus not going to them for help. Another statement that could be made is that Indigenous people do not

trust the system, as the system has already failed them even if they have not been wrongfully convicted. Residential schools were a system in place that was supposed to give proper education to Indigenous youth, as the parents were told. They were not given as such, leading to many years of intergenerational trauma, resulting in many problems. This system failed them, and now we have a new system in place for those convicted of crimes, that's not locking up the right people. This proves that there is systemic racism within the justice system.

Many Indigenous people face different types of institutional and systemic racism within the justice system. In criminal institutions, Indigenous people are more likely to be placed in maximum security facilities, along with being subjected to more force from correctional officers, put into structured intervention, and more likely to be labelled as gang members over white offenders. Indigenous people are also incarcerated more than any other ethnicity with a whopping 32% of all those incarcerated in Canada being Indigenous. This added to the fact that because those incarcerated live in such horrid conditions, many Indigenous people commit suicide in criminal institutions. Out of six people who committed suicide in 2021 in a criminal institution, five of them were Indigenous (The Canadian Press 1). The Canadian government has even stated that Indigenous people tend to get treated worse. According to the Government of Canada website, compared to other ethnicities sent to correctional facilities, Indigenous people tend to be jailed younger, denied bail more frequently, granted parole less often, leading to being released later than their initial sentence, overrepresented in segregation, overrepresented in remand custody, and are more likely to be classified as a higher risk offender (Government of Canada). The Government of Canada understands that these are all problems that Indigenous people face in prisons, however, they are not doing anything to stop it from happening. Recommendations have been made for Indigenous people to have healing lodges, and to allow

Indigenous offenders in their communities, but have never been followed up by the Correctional Service of Canada or CSC. One of the goals of the TRC was to incorporate Indigenous beliefs of having community-based punishments in the court system of Canada. The Canadian Government says that they are in the progress of working toward this goal. There have also been many cases in which it is shown that systemic racism was present within the judicial system. An Indigenous man from Nova Scotia, named Donald Marshall Jr, was wrongfully convicted of murder, and was sentenced for life. He served 11 years in prison before he was exonerated by a royal commission in 1990. He never committed this crime but due to systemic racism, it led to his wrongful imprisonment. Two other cases were dependent on a pathologist, Charles Smith, who lied about the autopsies of two children saying that Indigenous people had killed them (Fontaine 1). These convictions can be related to racism within the system. All of these people were wrongfully convicted, as the first idea stated in this essay, and all of them were victims of racism within the system. The system accused them of facts that were either based on a pathologist who lied, or by a government that would not believe the story of the people convicted. In some cases, both were present. These are only a few cases that are about Indigenous people facing racism as such. Many more exist that have the same story; Indigenous people are assumed to have done a crime without real proof.

Indigenous people have been sentenced to many wrongfully convictions and it does not seem to be stopping. After losing so much from the British, Indigenous people are constantly losing more and more with what they face from the legal system. Not being able to speak the language that officers do, having no trust in the legal system, along with institutional and systemic racism, cause Indigenous people to face so much harm from the judicial system. This system was meant to harm them more than anything and never to prove Indigenous people

innocent. Language barriers faced lead to unfair trials, mistrust in the legal system refrains people from wanting to go to it for help, and racism from many different parts of the system leads Indigenous people to be locked up more than they need to be. People who do crimes are not allowed parole or allowed to have bail. Those who do not commit crimes are wrongfully committed, leading to them being locked up either way. To answer the big questions that were stated at the beginning of the essay, Indigenous people are in criminal institutions because they first, cannot speak the language to help state their case, second, do not trust the legal system to help them, thus not going to it for help, and lastly, face so much systemic and institutional racism that they are not allowed to leave the prisons after entering them.

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